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Bill Analysis

Legislative Service Commission

H.B. 229

123rd General Assembly
(As Introduced)

Reps. Willamowski, Taylor, Allen, Bender, Hartnett, Metelsky, Opfer, Patton, Pringle, Sulzer, Healy

BILL SUMMARY

- Eliminates the statutory authority for the private operation of state or local correctional facilities housing Ohio prisoners.
- Eliminates the provisions requiring the private operation of (1) a Department of Rehabilitation and Correction medium/minimum security prison and (2) the initial Department of Rehabilitation and Correction intensive program prison for fourth degree felony OMVI offenders.
- Declares an emergency.

CONTENT AND OPERATION

Existing law

Current law (1) *requires* the Department of Rehabilitation and Correction to contract for the private operation and management of the initial intensive program prison (a prison for prisoners sentenced to a mandatory prison term for a fourth degree felony OMVI offense) and a medium/minimum security prison and (2) *authorizes* the Department to contract for the private operation and management of *any other state correctional institution*. Current law also allows counties and municipal corporations to contract for the private operation and management of a correctional facility, but only if it houses misdemeanor inmates. These contracts must be for an initial term of not more than two years, with an option to renew for additional periods of two years, and no out-of-state prisoners may be housed in an institution or facility subject to these contracts. Before the Department, or a county or municipal corporation, enters into any of these contracts, the contractor involved must convincingly demonstrate that it can operate the correctional institution or facility involved with the inmate capacity required and can provide

the services required and *realize at least a 5% savings* over the projected cost to the Department, or the county or municipal corporation, of providing the same services to operate the correctional institution or facility. Any contractor who applies to operate and manage a correctional institution or facility generally must be accredited by the American Correctional Association, must retain that accreditation throughout the contract term, and, at the time of application, must operate and manage one or more facilities accredited by the Association. The contractor also must seek, obtain, and maintain accreditation from the Association for the correctional institution or facility involved during the contract term. (Secs. 9.06(A)(1), (3), and (4) and (B)(1) and (2), 341.35, 735.03, 5120.03(C), and 5120.033(B) and (C); Section 22 of Am. Sub. S.B. 230 of the 122nd General Assembly; and Section 174 of Am. Sub. H.B. 117 of the 121st General Assembly.)

Changes proposed by the bill

Repealed provisions and related prohibition

The bill repeals the provisions described under "**Existing law**," above, and removes other statutory references to these provisions (secs. 9.06, 9.07(D)(8), 307.93(H), 341.01, 341.34(B)(1)(b), (2)(b), and (3), 341.35, 735.03, 753.15(B), 753.21(B)(1)(b), (2)(b), and (3), 2929.13(G)(2), 5120.03(C), 5120.033(B) and (C), and 5120.38; Sections 3, 4, 5, and 7 of the bill, which amend Section 22 of Am. Sub. S.B. 230, 122nd G.A., or outright repeal Section 174 of Am. Sub. H.B. 117, 121st G.A.).

The bill further prohibits, on and after its effective date, the state, the Department of Rehabilitation and Correction (DRC), any other state agency, a county or municipal corporation, or an affiliation of political subdivisions, from entering into any contract or agreement with any person or entity for the private operation or management of any jail or prison, as these terms are defined in the Penalties and Sentencing (PS) Law (sec. 9.08). The PS Law defines "jail" to mean a jail, workhouse, minimum security jail, or other residential facility used for the confinement of alleged or convicted offenders that is operated by a political subdivision or combination of political subdivisions and "prison" to mean a residential facility used for the confinement of convicted felony offenders that is under DRC's control, but not including a violation sanction center (sec. 2929.01(V) and (CC), not in the bill).

Declaration by General Assembly

In the bill, the General Assembly declares that, if prior to the bill's effective date, DRC, any county or municipal corporation, or any affiliation of political subdivisions has entered into a contract for the private operation and management

of any state or local correctional institution or facility, then, on and after that effective date, as a matter of public safety and welfare, the *contract is void, invalid, and unenforceable*, and the private operation and management of the institution or facility that is the subject of the contract must be terminated (Section 6 of the bill, first paragraph). In the bill, the General Assembly further declares that its purpose in amending, enacting, and repealing the Revised Code sections in the bill, and in amending or repealing provisions of Am. Sub. S.B. 230 of the 122nd General Assembly and Am. Sub. H.B. 117 of the 121st General Assembly in the bill, is to eliminate (1) all statutory authority for the state, a county or municipal corporation, or an affiliation of political subdivisions to contract for the private operation and management of correctional institutions or facilities for Ohio prisoners and (2) statutory provisions of three acts that required DRC to contract for the private operation and management of specified state correctional institutions housing Ohio prisoners (Section 6 of the bill, second paragraph).¹

Unaffected law

The bill does not apply to or affect the provisions of current law that (1) allow a county, municipal corporation, combination of counties, combination of municipal corporations, or combination of one or more counties and one or more municipal corporations, under specified conditions, to operate a correctional facility that houses out-of-state prisoners under a contract with an out-of-state jurisdiction or (2) authorize a private contractor to operate and manage a correctional facility for housing out-of-state prisoners, but only if the contractor enters into a contract, complying with certain conditions, with a local public entity for the operation and management of the facility (sec. 9.07).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-09-99	pp. 274-275

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¹ The acts are Am. Sub. H.B. 293 and Am. Sub. S.B. 230 of the 122nd General Assembly and Am. Sub. H.B. 117 of the 121st General Assembly.