

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1239

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 41-1609.01, Arizona Revised Statutes, is amended  
3 to read:

4 41-1609.01. ~~Adult incarceration contracts; criteria~~

5 A. On publication, any request for proposals shall be provided to  
6 the joint legislative budget committee for its review.

7 B. To be considered for an award of a contract, the ~~proposer~~  
8 PROPOSING ENTITY must demonstrate that it has:

9 1. The qualifications, operations and management experience and  
10 experienced personnel necessary to carry out the terms of the contract.

11 2. The ability to comply with applicable correctional standards and  
12 any specific court order, if required.

13 3. A demonstrated history of successful operation and management of  
14 other secure facilities. IF THE PROPOSING ENTITY DOES NOT HAVE A  
15 DEMONSTRATED HISTORY OF SUCCESSFUL OPERATION AND MANAGEMENT OF OTHER SECURE  
16 FACILITIES, THE PROPOSING ENTITY MAY USE A DEMONSTRATED HISTORY OF  
17 SUCCESSFUL OPERATION AND MANAGEMENT OF OTHER SECURE FACILITIES BY THE  
18 PROPOSING ENTITY'S PERSONNEL.

19 C. The ~~proposer~~ PROPOSING ENTITY of a contract for correctional  
20 services must agree that this state may cancel the contract at any time  
21 after the first year of operation, without penalty to this state, on giving  
22 ninety days' written notice.

23 D. A contract may provide for annual contract price or cost  
24 adjustments, except that any adjustments may be made only once each year  
25 effective on the anniversary of the effective date of the contract. If any  
26 adjustment is made pursuant to the terms of the contract, it shall be

1 applied to the total payments made to the contractor for the previous  
2 contract year and shall not exceed the ~~per cent~~ PERCENT of change in the  
3 average consumer price index as published by the United States department  
4 of labor, bureau of labor statistics between that figure for the latest  
5 calendar year and the next previous calendar year.

6 E. Any price or cost adjustments to a contract different than those  
7 authorized in subsection D of this section may be made only if the  
8 legislature specifically authorizes the adjustments and appropriates monies  
9 for that purpose, if required.

10 F. An award of a contract shall not be made unless an acceptable  
11 proposal is received pursuant to any request for proposals. For the  
12 purposes of this subsection, "acceptable proposal" means a proposal that  
13 substantially meets all of the requirements or conditions set forth in this  
14 section and that meets all of the requirements in the request for  
15 proposals.

16 G. A proposal shall not be accepted unless the proposal offers cost  
17 savings to this state.

18 H. A proposal shall not be accepted unless the proposal offers a  
19 level and quality of services that are at least functionally equal to those  
20 that would be provided by this state.

21 I. Notwithstanding section 41-2546, a contract to provide  
22 correctional services as described in this section may be for an initial  
23 period of not more than ten years.

24 J. The initial contract may include an option to renew for two  
25 subsequent renewal periods of not more than five years each.

26 K. A contract for correctional services described in this section  
27 shall not be entered into unless the following requirements are met:

28 1. The contractor provides audited financial statements for the  
29 previous five years, or for each of the years the contractor has been in  
30 operation, if fewer than five years, and provides other financial  
31 information as requested.

32 2. The contractor provides an adequate plan of insurance,  
33 specifically including coverage or insurance for civil rights claims and

1 liabilities as approved by the risk management division of the department  
2 of administration.

3 3. The contractor agrees to be liable for the costs of any  
4 emergency, public safety or security services provided to the contractor by  
5 ~~the~~ THIS state or any political subdivision of ~~the~~ THIS state and to  
6 reimburse ~~the~~ THIS state or any political subdivision of ~~the~~ THIS state for  
7 the cost of any such services.

8 L. The sovereign immunity of this state does not apply to the  
9 contractor. Neither the contractor nor the insurer of the contractor may  
10 plead the defense of sovereign immunity in any action arising out of the  
11 performance of the contract.

12 M. A contract for correctional services shall not authorize, allow  
13 or imply a delegation of authority or responsibility to a prison contractor  
14 for any of the following:

15 1. Developing and implementing procedures for calculating inmate  
16 release dates.

17 2. Developing and implementing procedures for calculating and  
18 awarding sentence credits.

19 3. Approving the type of work inmates may perform and the wages or  
20 sentence credits that may be given to inmates engaging in the work.

21 4. Granting, denying or revoking sentence credits, placing an inmate  
22 under less restrictive custody or more restrictive custody or taking any  
23 disciplinary actions.

24 Sec. 2. Short title

25 This act shall be known as the "Private Prison Contract Reform Act".

26 Amend title to conform

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