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HOUSE BILL 123

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

JERRY LEE ALWIN

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO CORRECTIONS; PROVIDING EXPRESS STATUTORY AUTHORITY
FOR THE PRIVATE OPERATION OF ANY ADULT CORRECTIONAL FACILITY;
AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 33-1-17 NMSA 1978 (being Laws 1985,
Chapter 149, Section 1, as amended) is amended to read:

"33-1-17. PRIVATE CONTRACT. --

A. The corrections department may contract for the
operation of any adult [~~female~~] facility or for housing adult
[~~female~~] inmates in a private facility with a person or entity
in the business of providing correctional or jail services to
government entities.

B. The corrections department may contract with a
person or entity in the business of providing correctional or

Underscored material = new
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1 jail services to government entities for:

2 (1) a correctional facility in Guadalupe county
3 of not less than five hundred fifty and not more than two
4 thousand two hundred beds;

5 (2) a correctional facility in Lea, Chaves or
6 Santa Fe county of not less than one thousand two hundred and
7 not more than two thousand two hundred beds;

8 (3) design and construction of a support
9 services building, a laundry and an infirmary at the
10 penitentiary of New Mexico in Santa Fe; or

11 (4) construction of a public facility to house
12 a special incarceration alternative program for adult male and
13 adult female felony offenders.

14 C. The authorization in Subsection B of this section
15 for a correctional facility in Guadalupe county and a
16 correctional facility in Lea, Chaves or Santa Fe county is
17 contingent upon construction of both facilities, so that one of
18 the facilities shall not be constructed unless both of the
19 facilities are constructed, as nearly as practicable,
20 simultaneously.

21 D. The corrections department shall solicit
22 proposals and award any contract under this section in
23 accordance with the provisions of the Procurement Code. The
24 contract shall include such terms and conditions as the
25 corrections department may require after consultation with the

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1 general services department; provided that the terms and
2 conditions shall include provisions:

3 (1) setting forth comprehensive standards for
4 conditions of incarceration;

5 (2) that the contractor assumes all liability
6 caused by or arising out of all aspects of the provision or
7 operation of the facility;

8 (3) for liability insurance or other proof of
9 financial responsibility acceptable to the general services
10 department covering the contractor and its officers, employees
11 and agents in an amount sufficient to cover all liability caused
12 by or arising out of all aspects of the provision or operation
13 of the facility;

14 (4) for termination for cause upon ninety days'
15 notice to the contractor for failure to meet contract provisions
16 when such failure seriously affects the availability or
17 operation of the facility;

18 (5) that venue for the enforcement of the
19 contract shall be in the district court for Santa Fe county;

20 (6) that continuation of the contract is
21 subject to the availability of funds; and

22 (7) that compliance with the contract shall be
23 monitored by the corrections department and the contract may be
24 terminated for noncompliance.

25 E. When the contractor begins operation of a

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1 facility for which private contractor operation is authorized,
2 his employees performing the functions of correctional officers
3 shall be deemed correctional officers for the purposes of
4 Sections 33-1-10 and 33-1-11 NMSA 1978 but for no other purpose
5 of state law, unless specifically stated.

6 F. Any contract awarded pursuant to this section may
7 include terms to provide for the renovation of the facility or
8 for the construction of new buildings. Work performed pursuant
9 to such terms and conditions shall not be considered a capital
10 project as defined in Section 15-3-23.3 NMSA 1978 or a state
11 public works project as defined in Section 13-1-91 NMSA 1978 nor
12 shall it be subject to the requirements of Section 13-1-150 NMSA
13 1978 or of the Capital Program Act, review by the staff
14 architect of the property control division of the general
15 services department pursuant to Section 15-3-20 NMSA 1978 or
16 regulation by the director of that division pursuant to Section
17 15-3-11 NMSA 1978.

18 G. Any contract entered into by the corrections
19 department with a private contractor to operate an existing
20 facility shall include a provision securing the right of all
21 persons employed by that facility prior to the effective date of
22 that contract to be employed by that contractor in any position
23 for which they qualify before that position is offered to any
24 person not employed by that facility prior to that date."

25 Section 2. EFFECTIVE DATE. --The effective date of the

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provisions of this act is July 1, 1996.

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From: Dolores Phelps (Dolores D. Phelps)

To: JLYNCH

Date: 1/31/96 1: 20pm

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