

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 1879

By: Hamilton and Settle of
the House

and

Haney and Hobson of the
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Department of Corrections; making a supplemental appropriation to the Department of Corrections; making an appropriation to the Special Cash Fund; stating finding; authorizing certain transfers; making an appropriation for certain purposes; specifying amount; providing for general contractor for projects; prescribing procedures for construction of projects; exempting certain purchases from certain requirements; prescribing procedures; authorizing acquisition of certain property by Oklahoma Capitol Improvement Authority; specifying certain construction projects; providing for ownership of assets; providing for issuance of obligations; providing for use of proceeds; stating intent; providing for payment to Oklahoma Department of Corrections; providing for payment of certain costs; prescribing procedures for issuance of obligations; providing for use of funds; providing for tax exemption; providing for investment of funds; amending Section 4, Chapter 267, O.S.L. 1996, as amended by Section 8 of Enrolled House Bill No. 1883 of the 1st Session of the 46th Oklahoma Legislature, which relates to budgetary limitations; increasing authorized full-time-equivalent employees; making appropriation nonfiscal; providing for noncodification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. There is hereby appropriated to the Oklahoma Department of Corrections from the General Revenue Fund of the State Treasury for the fiscal year ending June 30, 1996, the sum of Three Million Four Hundred Thousand Dollars (\$3,400,000.00) or so much thereof as may be necessary to provide emergency bed space.

SECTION 2. There is hereby appropriated to the Special Cash Fund of the State Treasury from any monies not otherwise appropriated from the Cash-flow Reserve Fund of the State Treasury, designated by the Office of State Finance as the "096 Fund", the sum of Thirty-seven Million Nine Hundred Sixty-two Thousand Three Hundred Twenty-five Dollars (\$37,962,325.00). Pursuant to paragraph 4 of Section 10.1 of Title 62 of the Oklahoma Statutes, the Legislature finds that the monies appropriated by this section are not necessary for the current year cash-flow needs. Pursuant to Section 10.3 of Title 62 of the Oklahoma Statutes, in the event of a monthly shortfall of revenues, the Director of the Office of State Finance shall transfer from the Special Cash Fund of the State Treasury to the Cash-flow Reserve Fund an amount necessary to avert the shortfall.

SECTION 3. There is hereby appropriated to the Department of Corrections from any monies not otherwise appropriated from the Special Cash Fund of the State Treasury, the sum of Eighteen Million Dollars (\$18,000,000.00) or so much thereof as may be necessary to perform the duties imposed upon the Department of Corrections by law. From the funds appropriated in this section, the Department of Corrections shall expend so much thereof as may be necessary to construct a two hundred (200) bed medium security housing unit at the Lexington Assessment and Reception Center, at the Oklahoma State Reformatory, and at the Joseph Harp Correctional Center. The Department of Corrections shall begin to expend such sums for construction of the housing units as soon as possible.

SECTION 4. The Department of Central Services shall be the primary or general contractor for all construction and repair projects listed in Section 3 of this act. It shall be the responsibility of the Department of Central Services, with the assistance of the Department of Corrections, to oversee such construction and repair in the most economical and expeditious manner possible. Due to the emergency nature of the need for such construction and repair, the public notice and bidding procedures to be followed pursuant to the appropriations made by Section 3 of Req. No. 10163Page 2

this act and notwithstanding any existing provisions of the statutes of the State of Oklahoma are as follows:

A. The Director of Central Services shall select the architectural and engineering consultant services from Oklahoma firms provided the Director shall first seek state agency personnel to perform the services required. All agencies, boards and commissions of the state are directed to provide available personnel, equipment and supplies upon written request by the Director of Central Services for use in the repair and construction authorized by Section 3 of this act to the extent that any agency director deems that complying with such request will not be a detriment to the operation of the agency, board or commission.

The Department of Central Services shall be exempted from the provisions of subsections C, D and E of Section 62 of Title 61 of the Oklahoma Statutes, which relate to selection, notification, contracts and fees for consultants. This exemption shall apply solely to the projects authorized by Section 3 of this act. Further, the Director of Central Services shall be satisfied before awarding a contract for the above projects that percentage fees charged by consultants are no higher than awarded on similar previous construction projects.

All material for construction, renovation and repair shall be fireproof material insofar as possible.

B. Construction and repair work shall be carried out by utilization of inmate labor to the maximum extent possible and by utilization of qualified state employee labor to the maximum extent feasible. Inmate labor shall be used only if no extra compensation is allowed.

C. The bid notices, required to be mailed and published not less than twenty (20) days prior to the time set for opening bids, as specified in Section 104 of Title 61 of the Oklahoma Statutes, may be given at such other times and in such manner as the Director of Central Services shall specify by written order which shall be recorded in the official records of the Department of Central Services. Consistent with the time constraints imposed by

Req. No. 10163Page 3

the emergency the method of notification specified by the Director of Central Services shall be reasonably calculated to inform as large a number of prospective bidders as is practical of the proposed contracts. Such notice as the Director of Central Services may order shall be given not less than three (3) working days prior to the time set for opening bids. The notice specified by the Director may be given by mail, by publication, by personal or telephonic communication, or by any combination of such means as the Director may specify.

D. The requirement of Section 106 of Title 61 of the Oklahoma Statutes that a complete set of bidding documents be on file for a period of at least twenty (20) days prior to the date set for opening bids may be reduced by the order of the Director of Central Services. A complete set of bidding documents regarding the proposed public construction contract shall be on file in the main office of the awarding public agency at least three (3) working days prior to the date set for opening bids.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 177.1 of Title 73, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Capitol Improvement Authority is authorized to acquire real property, together with improvements located thereon, and personal property for the construction of:

1. A two hundred (200) bed medium security housing unit at the Lexington Assessment and Reception Center;
2. A two hundred (200) bed medium security housing unit at the Oklahoma State Reformatory; and
3. A two hundred (200) bed medium security housing unit at the Joseph Harp Correctional Center.

B. The Authority may hold title to the real property and improvements until such time as any obligations issued for this purpose are retired or defeased and may lease the real property and improvements to the Oklahoma Department of Corrections. Upon final redemption or defeasance of the obligations created pursuant to this section, title to the real property and improvements shall

be transferred from the Oklahoma Capitol Improvement Authority to the Oklahoma Department of Corrections.

C. For the purpose of paying the costs for acquisition of the real property and improvements and personal property authorized in subsection A of this section, and for the purpose authorized in subsection D of this section, the Authority is hereby authorized to borrow monies on the credit of the income and revenues to be derived from the leasing of such real property and improvements and, in anticipation of the collection of such income and revenues, to issue negotiable obligations in an amount not to exceed Twenty-one Million Dollars (\$21,000,000.00). An amount not to exceed Eighteen Million Dollars (\$18,000,000.00) of the total proceeds from the sale of such obligations shall be expended for construction of the housing units specified in subsection A of this section. The balance of the proceeds may be used for the payment of issuance costs and the establishment of a fund for reserves. It is the intent of the Legislature to appropriate to the Oklahoma Department of Corrections sufficient monies to make rental payments for the purposes of retiring the obligations created pursuant to this section. The Oklahoma Capitol Improvement Authority shall, as soon as practical after issuance of the obligations authorized by this section, pay to the Oklahoma Department of Corrections from proceeds of the issuance an amount equal to the amount actually expended by the Oklahoma Department of Corrections for construction of housing units pursuant to the appropriation made by Section 3 of this act as of the date upon which the payment is made by the Oklahoma Capitol Improvement Authority.

D. To the extent funds are available from the proceeds of the borrowing authorized by subsection C of this section, the Oklahoma Capitol Improvement Authority shall provide for the payment of professional fees and associated costs approved by the Oklahoma Department of Corrections.

E. The Authority may issue obligations in one or more series and in conjunction with other issues of the Authority. The Authority is authorized to hire bond counsel, financial

consultants, and such other professionals as it may deem necessary to provide for the efficient sale of the obligations and may utilize a portion of the proceeds of any borrowing to create such reserves as may be deemed necessary and to pay costs associated with the issuance and administration of such obligations.

F. The obligations authorized under this section may be sold at either competitive or negotiated sale, as determined by the Authority, and in such form and at such prices as may be authorized by the Authority. The Authority may enter into agreements with such credit enhancers and liquidity providers as may be determined necessary to efficiently market the obligations. The obligations may mature and have such provisions for redemption as shall be determined by the Authority, but in no event shall the final maturity of such obligations occur later than twenty (20) years from the first principal maturity date.

G. Any interest earnings on funds or accounts created for the purposes of this section may be utilized as partial payment of the annual debt service or for the purposes directed by the Authority.

H. The obligations issued under this section, the transfer thereof and the interest earned on such obligations, including any profit derived from the sale thereof, shall not be subject to taxation of any kind by the State of Oklahoma, or by any county, municipality or political subdivision therein.

I. The Authority may direct the investment of all monies in any funds or accounts created in connection with the offering of the obligations authorized under this section. Such investments shall be made in a manner consistent with the investment guidelines of the State Treasurer. The Authority may place additional restrictions on the investment of such monies if necessary to enhance the marketability of the obligations.

SECTION 6. AMENDATORY Section 4, Chapter 267, O.S.L. 1996, as amended by Section 8 of Enrolled House Bill No. 1883 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 8. The duties and compensation of employees, not otherwise prescribed by law, necessary to perform the duties

imposed upon the Department of Corrections by law shall be set by the Director. The salary of the Director shall not exceed Seventy-four Thousand One Hundred Eighty Dollars (\$74,180.00) per annum, payable monthly for the fiscal year ending June 30, 1997. The Department of Corrections for the fiscal year ending June 30, 1997, shall be subject to the following budgetary limitations on full-time-equivalent employees and expenditures excluding expenditures for capital and special projects, except as may be authorized pursuant to the provisions of Section 3603 of Title 74 of the Oklahoma Statutes:

<u>Budgetary Limitation</u>	<u>Amount</u>
Full-time-equivalent Employees	5,312.0
	<u>5,321.0</u>
Lease-Purchase Agreements	\$2,200,000.00

SECTION 7. The appropriations made by this act shall not be subject to fiscal year limitations and shall be available for encumbrance and expenditure purposes for a period of thirty (30) months from the date this act is approved.

SECTION 8. NONCODIFICATION The provisions of Section 4 of this act shall not be codified in the Oklahoma Statutes.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-1-10163 MAH