

CS for SB 1910

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**THE STATE SENATE**  
**Tuesday, February 28, 2006**

**Committee Substitute for**  
**Senate Bill No. 1910**

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1910 - By: CORN of the Senate and BLACKWELL of the House.

[ corrections - Director of Corrections - correctional officers - petty cash - inmate savings - prison industry - private prison contractors - effective date - emergency ]

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

SECTION 1. AMENDATORY 57 O.S. 2001, Section 510, as last amended by Section 8, Chapter 168, O.S.L. 2004 (57 O.S. Supp. 2005, Section 510), is amended to read as follows:

Section 510. A. The Director of the Department of Corrections shall have the following specific powers and duties relating to the penal institutions:

1. To appoint, subject to the approval of the State Board of Corrections, a warden or superintendent for each penal institution, who shall qualify for the position by character, personality, ability, training, and successful administrative experience in the correctional field; and if the person is not the incumbent warden or superintendent of a penal institution, the person shall have a college degree with a major in the behavioral sciences. As used in this section, "major in the behavioral sciences" means a major in

1 psychology, sociology, criminology, education, corrections, human  
2 relations, guidance and counseling, administration, criminal justice  
3 administration, or penology;

4 2. To fix the duties of the wardens and superintendents and to  
5 appoint and fix the duties and compensation of such other personnel  
6 for each institution as may be necessary for the proper operation  
7 thereof. However, correctional officers and guards hired after  
8 November 1, 1995, shall be subject to the following qualifications:

- 9 a. the minimum age for service shall be twenty-one (21)  
10 years of age. The Director shall have the authority  
11 to establish the maximum age for correctional officers  
12 entering service,
- 13 b. possession of a minimum of thirty (30) semester hours  
14 from an accredited college or university, or  
15 possession of a high school diploma acquired from an  
16 accredited high school or GED equivalent testing  
17 program and graduation from a training course  
18 conducted by or approved by the Department and  
19 certified by the Council on Law Enforcement Education  
20 and Training either prior to employment or during the  
21 first six (6) months of employment,
- 22 ~~c. be a resident of this state during employment,~~
- 23 ~~d.~~ be of good moral character,

- 1           ~~e.~~
- 2           d.   before going on duty alone, satisfactory completion of
- 3                   an adequate training program for correctional officers
- 4                   and guards, as prescribed and approved by the State
- 5                   Board of Corrections,
- 6           ~~f.~~
- 7           e.   satisfactory completion of minimum testing or
- 8                   professional evaluation through the Merit System of
- 9                   Personnel Administration to determine the fitness of
- 10                  the individual to serve in the position written
- 11                  evaluations shall be submitted to the Department of
- 12                  Corrections, and
- 13           ~~g.~~
- 14           f.   satisfactory completion of a physical in keeping with
- 15                   the conditions of the job description on an annual
- 16                   basis and along the guidelines as established by the
- 17                   Department of Corrections;

18           3. To designate as peace officers qualified personnel in any

19 Department of Corrections job classifications. The Director shall

20 designate as peace officers correctional officers who are employed

21 in positions requiring said designation. The peace officer

22 authority of employees designated as peace officers shall be limited

23 to: maintaining custody of prisoners; preventing attempted escapes;

1 pursuing, recapturing and incarcerating escapees and parole or  
2 probation violators and arresting such escapees, parole or probation  
3 violators, serving warrants, and performing any duties specifically  
4 required for the job descriptions. Such powers and duties of peace  
5 officers may be exercised for the purpose of maintaining custody,  
6 security, and control of any prisoner being transported outside this  
7 state as authorized by the Uniform Criminal Extradition Act. To  
8 become qualified for designation as peace officers, employees shall  
9 meet the training and screening requirements conducted by the  
10 Department and certified by the Council on Law Enforcement Education  
11 and Training within twelve (12) months of employment or, in the case  
12 of employees designated as peace officers on or before July 1, 1997,  
13 by July 1, 1998, and shall not be subject to Section 3311 of Title  
14 70 of the Oklahoma Statutes;

15 4. To maintain such industries, factories, plants, shops,  
16 farms, and other enterprises and operations, hereinafter referred to  
17 as prison industries, at each institution as the State Board of  
18 Corrections deems necessary or appropriate to employ the prisoners  
19 or teach skills, or to sustain the institution; and as provided for  
20 by policies established by the State Board of Corrections, to allow  
21 compensation for the work of the prisoners, and to provide for  
22 apportionment of inmate wages, the amounts thus allowed to be kept  
23 in accounts by the Board for the prisoners and given to the inmates

1 upon discharge from the institution, or upon an order paid to their  
2 families or dependents or used for the personal needs of the  
3 prisoners. Any industry that employs prisoners shall be deemed a  
4 "State Prison Industry" if the prisoners are paid from state funds  
5 including the proceeds of goods sold as authorized by Section 123f  
6 of Title 74 of the Oklahoma Statutes. Any industry in which wages  
7 of prisoners are paid by a nongovernmental person, group, or  
8 corporation, except those industries employing prisoners in work-  
9 release centers under the authority of the Department of Corrections  
10 shall be deemed a "Private Prison Industry";

11 5. To assign residences at each institution to institutional  
12 personnel and their families;

13 6. To provide for the education, training, vocational  
14 education, rehabilitation, and recreation of prisoners;

15 7. To regulate the operation of canteens for prisoners;

16 8. To prescribe rules for the conduct, management, and  
17 operation of each institution, including rules for the demeanor of  
18 prisoners, the punishment of recalcitrant prisoners, the treatment  
19 of incorrigible prisoners, and the disposal of property or  
20 contraband seized from inmates or offenders under the supervision of  
21 the Department;

22 9. To transfer prisoners from one institution to another;

1        10. To transfer to a state hospital for the mentally ill for  
2 care and treatment, any prisoner who appears to be mentally ill.  
3 The prisoner shall be returned to the institution when the  
4 superintendent of the hospital certifies that the prisoner has been  
5 restored to mental health;

6        11. To establish procedures that ensure inmates are educated  
7 and provided with the opportunity to execute advanced directives for  
8 health care in compliance with Section 3101.2 of Title 63 of the  
9 Oklahoma Statutes. The procedures shall ensure that any inmate  
10 executing an advanced directive for health care is competent and  
11 executes the directive with informed consent;

12       12. To maintain courses of training and instruction for  
13 employees at each institution;

14       13. To maintain a program of research and statistics;

15       14. To provide for the periodic audit, at least once annually,  
16 of all funds and accounts of each institution and the funds of each  
17 prisoner;

18       15. To provide, subject to rules established by the State Board  
19 of Corrections, for the utilization of inmate labor for any agency  
20 of the state, city, town, or subdivision of this state, upon the  
21 duly authorized request for such labor by the agency. The inmate  
22 labor shall not be used to reduce employees or replace regular  
23 maintenance or operations of the agency. The inmate labor shall be

1 used solely for public or state purposes. No inmate labor shall be  
2 used for private use or purpose. Insofar as it is practicable, all  
3 inmate labor shall be of such a nature and designed to assist and  
4 aid in the rehabilitation of inmates performing the labor;

5 16. To provide clerical services for, and keep and preserve the  
6 files and records of, the Pardon and Parole Board; make  
7 investigations and inquiries as to prisoners at the institutions who  
8 are to be, or who might be, considered for parole or other clemency;  
9 assist prisoners who are to be, or who might be, considered for  
10 parole or discharge in obtaining suitable employment in the event of  
11 parole or discharge; report to the Pardon and Parole Board, for  
12 recommendation to the Governor, violations of terms and conditions  
13 of paroles; upon request of the Governor, make investigations and  
14 inquiries as to persons who are to be, or who might be, considered  
15 for reprieves or leaves of absence; report to the Pardon and Parole  
16 Board, for recommendation to the Governor, whether a parolee is  
17 entitled to a pardon, when the terms and conditions of the parole  
18 have been completed; make presentence investigations for, and make  
19 reports thereof to, trial judges in criminal cases before sentences  
20 are pronounced; supervise persons undergoing suspended sentences, or  
21 who are on probation or parole; and develop and operate, subject to  
22 the policies and guidelines of the Board, work-release centers,

1 community treatment facilities or prerelease programs at appropriate  
2 sites throughout this state;

3 17. To establish an employee tuition assistance program and  
4 promulgate rules in accordance with the Administrative Procedures  
5 Act for the operation of the program. The rules shall include, but  
6 not be limited to, program purposes, eligibility requirements, use  
7 of tuition assistance, service commitment to the Department,  
8 reimbursement of tuition assistance funds for failure to complete  
9 course work or service commitment, amounts of tuition assistance and  
10 limitations, and record keeping;

11 18. To establish an employee recruitment and referral incentive  
12 program and promulgate rules in accordance with the Administrative  
13 Procedures Act for the operation of the program. The rules shall  
14 include, but not be limited to, program purposes, pay incentives for  
15 employees, eligibility requirements, payment conditions and amounts,  
16 payment methods, and record keeping;

17 19. To provide reintegration referral services to any person  
18 discharged from the state custody who has volunteered to receive  
19 reintegration referral services. The Director may assign staff to  
20 refer persons discharged from state custody to services. The  
21 Director shall promulgate rules for the referral process. All  
22 reintegration referral services shall be subject to the availability  
23 of funds; and

1           20. To conduct continual planning and research and periodically  
2 evaluate the effectiveness of the various correctional programs  
3 instituted by the Department; manage the designing, building, and  
4 maintaining of all the capital improvements of the Department;  
5 establish and maintain current and efficient business, bookkeeping,  
6 and accounting practices and procedures for the operations of all  
7 institutions and facilities, and for the Department's fiscal  
8 affairs; conduct initial orientation and continuing in-service  
9 training for the Department employees; provide public information  
10 services; inspect and examine the condition and management of state  
11 penal and correctional institutions; investigate complaints  
12 concerning the management of prisons or alleged mistreatment of  
13 inmates thereof; and hear and investigate complaints as to  
14 misfeasance or nonfeasance of employees of the Department.

15           B. When an employee of the Department of Corrections has been  
16 charged with a violation of the rules of the Department or with a  
17 felony pursuant to the provisions of a state or federal statute, the  
18 Director may, in the Director's discretion, suspend the charged  
19 employee, in accordance with the Oklahoma Personnel Act and/or the  
20 Merit System of Personnel Administration Rules, pending the hearing  
21 and final determination of the charges. Notice of suspension shall  
22 be given by the Director, in accordance with the provisions of the  
23 Oklahoma Personnel Act. If after completion of the investigation of

1 the charges, it is determined that such charges are without merit or  
2 are not sustained before the Oklahoma Merit Protection Commission or  
3 in a court of law, the employee shall be reinstated and shall be  
4 entitled to receive all lost pay and benefits.

5 This subsection shall in no way deprive an employee of the right  
6 of appeal according to the Oklahoma Personnel Act.

7 SECTION 2. AMENDATORY 57 O.S. 2001, Section 513.1, is  
8 amended to read as follows:

9 Section 513.1 Maximum amounts in petty cash funds.

10 The maximum amounts that may be maintained in petty cash funds,  
11 established in accordance with the provisions of Section 513 of this  
12 title, are as specified below:

	Maximum Amount
13 Department of Corrections	\$1,000.00
14 <del>Quachita</del> <u>Jim E. Hamilton</u> Correctional Center	
15 (Hodgen)	\$2,000.00
16 Mack H. Alford Correctional Center	\$2,500.00
17 Howard C. McLeod Correctional Center (Farris)	\$2,000.00
18 Lexington Assessment and Reception Center	\$2,500.00
19 Oklahoma State Penitentiary (McAlester)	\$8,000.00
20 Oklahoma State Reformatory (Granite)	\$3,000.00
21 R.B. "Dick" Conner Correctional Center (Hominy)	\$3,000.00
22 Joe Harp Correctional Center (Lexington)	\$3,000.00

1	Jess Dunn Correctional Center (Taft)	\$3,500.00
2	James Crabtree Correctional Center (Helena)	\$2,000.00
3	Mabel Bassett Correctional Center (Oklahoma City)	\$2,000.00
4	John Lilley Correctional Center (Boley)	\$2,000.00
5	Oklahoma City Community Corrections Center	\$2,000.00
6	Clara Waters Community Corrections Center	
7	(Oklahoma City)	\$2,000.00
8	Kate Barnard Community Corrections Center	
9	(Oklahoma City)	\$2,000.00
10	Tulsa Community Corrections Center	\$2,000.00
11	Muskogee Community Corrections Center	\$2,000.00
12	Lawton Community Corrections Center	\$2,000.00
13	Enid Community Corrections Center	\$2,000.00
14	<u>Union City Community Corrections Center</u>	<u>\$2,000.00</u>
15	Jackie Brannon Correctional Center	\$3,000.00
16	William S. Key Correctional Center (Fort Supply)	\$3,000.00
17	Dr. Eddie Walter Warrior Correctional Center	
18	(Taft)	\$3,000.00
19	Northeast Oklahoma Correctional Center (Vinita)	\$3,000.00
20	Charles E. "Bill" Johnson Correctional Center	\$3,000.00

21 SECTION 3. AMENDATORY 57 O.S. 2001, Section 549, as last  
22 amended by Section 3, Chapter 159, O.S.L. 2005 (57 O.S. Supp. 2005,  
23 Section 549), is amended to read as follows:

1 Section 549. A. The State Board of Corrections shall have the  
2 following powers and duties with respect to the operation of prison  
3 industries, the Construction Division, and administration of inmate  
4 trust funds:

5 1. The power to make leases or other contracts consistent with  
6 the operation of prison industries, and to set aside land or  
7 facilities for the use of such industry;

8 2. The power to establish conditions for expenditures by the  
9 Department of Corrections from the Industries Revolving Fund;

10 3. The power to negotiate wages and working conditions on  
11 behalf of prisoners working in prison industries or prisoners  
12 working in the Construction Division. Pay grades for the  
13 Construction Division "on-the-job training" inmate crews shall be as  
14 follows:

15 a. Pay Grade "A" - Inmate Worker,

16 b. Pay Grade "B" - Inmate Worker,

17 c. Pay Grade "C" - Apprentice,

18 d. Pay Grade "D" - Skilled Craft;

19 4. The power to collect wages and other receipted funds on  
20 behalf of the inmate, to apportion inmate wages and funds in  
21 accordance with the law; and the duty to preserve those wages and  
22 funds reserved for the inmate in an account for his or her benefit,  
23 and to establish procedures by which the inmate can draw funds from

1 this account under the conditions and limitations and for the  
2 purposes allowed by law;

3 5. The duty to establish the percentages of such wages and  
4 other receipted funds which shall be available for apportionment to  
5 inmate savings; to the inmate for his or her personal use; to the  
6 lawful dependents of the inmate, if any; to the victim of the  
7 inmate's crime; for payment of creditors; for payment of costs and  
8 expenses for criminal actions against such inmate; and to the  
9 Department of Corrections for costs of incarceration. Provided,  
10 that not less than twenty percent (20%) of such wages and funds  
11 shall be placed in an account, and shall be payable to the prisoner  
12 upon his or her discharge ~~or upon assignment to a prerelease~~  
13 ~~program~~. Funds from this account may be used by the inmate for fees  
14 or costs in filing a civil or criminal action as defined in Section  
15 151 et seq. of Title 28 of the Oklahoma Statutes or for federal  
16 action as defined in Section 1911 et seq. of Title 28 of the United  
17 States Code, 28 U.S.C., Section 1911 et seq.; and

18 6. The power to invest funds held by the Department of  
19 Corrections on behalf of each inmate in an interest-bearing account  
20 with the interest accruing and payable to the Crime Victims  
21 Compensation Fund, as provided in Section 142.17 of Title 21 of the  
22 Oklahoma Statutes. The interest from each inmate's savings account  
23 shall be payable to the Crime Victims Compensation Fund, at such

1 intervals as may be determined by the Board, in addition to any  
2 other payments to such fund required by the inmate's sentence or  
3 otherwise by law. An inmate shall not have the right, use or  
4 control of any interest derived from any funds placed in a mandatory  
5 savings account.

6 B. The State Board of Corrections shall cause to be placed in  
7 an account income from the inmate's employment and any other income  
8 or benefits accruing to or payable to and for the benefit of said  
9 inmate, including any workers' compensation or Social Security  
10 benefits.

11 1. From this account the State Board of Corrections may charge  
12 for costs of incarceration any inmate working in private prison  
13 industries or any other inmate for costs of incarceration not to  
14 exceed fifty percent (50%) of any deposits made to said account,  
15 unless said deposits were from a workers' compensation benefit.

16 2. From this account, the State Board of Corrections may charge  
17 any inmate for costs of incarceration, an amount equivalent to one  
18 hundred percent (100%) of any deposits from a workers' compensation  
19 benefit to said account.

20 3. The Department of Corrections shall pay into the Crime  
21 Victims Compensation Revolving Fund, Section 142.17 of Title 21 of  
22 the Oklahoma Statutes, an amount equal to five percent (5%) of the  
23 gross wages earned by inmates working in a private prison industries

1 program, said amount to be paid from the amount deducted for cost of  
2 incarceration.

3 4. Withdrawals and deposits shall be made according to rules  
4 and regulations established by the State Board of Corrections.

5 C. The Department of Corrections may assess costs of  
6 incarceration against all inmates beginning on September 1, 1992.  
7 Such costs shall be a debt of the inmate owed to the Department of  
8 Corrections and may be collected as provided by law for collection  
9 of any other civil debt. In addition to the provisions of this  
10 section authorizing expenditure of inmate trust funds for costs of  
11 incarceration, any monies received for costs of incarceration shall  
12 be deposited in the Department of Corrections Revolving Fund.

13 SECTION 4. AMENDATORY 57 O.S. 2001, Section 549.1, as  
14 amended by Section 1, Chapter 59, O.S.L. 2003 (57 O.S. Supp. 2005,  
15 Section 549.1), is amended to read as follows:

16 Section 549.1 A. The Department of Corrections is authorized  
17 to purchase in the manner prescribed by law, facilities, equipment,  
18 raw materials and supplies, and to engage the supervisory personnel  
19 necessary to establish and maintain for this state at the penal  
20 institutions, now or hereafter under the control of the State Board  
21 of Corrections, industries and agricultural programs for the  
22 utilization of services of prisoners in the manufacture or  
23 production of such articles or products as may be needed for the

1 construction, operation, maintenance or use of any office,  
2 department, institution or agency supported in whole or in part by  
3 this state and the political subdivisions thereof.

4 B. All articles and services provided by the Department of  
5 Corrections in the state correctional institutions, and not required  
6 for use therein, shall be purchased as required by all offices,  
7 departments, institutions, agencies, counties, schools, colleges,  
8 universities, or political subdivisions or any agency thereof of  
9 this state which are supported in whole or in part by this state, if  
10 such article or service is the lowest and best bid, and no such  
11 article or product may be purchased by any such office, department,  
12 institution, agency, county, school, college, university, or  
13 political subdivisions or agency thereof from any other source  
14 unless excepted from the provisions as hereinafter provided.  
15 Purchases made by the above-described state agencies may be made by  
16 submitting the proper requisition through the Office of Public  
17 Affairs or by direct order to the prison industries program of the  
18 Department of Corrections.

19 C. If a requisition is received by the ~~Office of Public Affairs~~  
20 Department of Central Services or a direct order is received by the  
21 Prison Industries Program of the Department of Corrections from a  
22 state agency for any product or service provided by the Department  
23 of Corrections and such product or service is also available from a

1 severely handicapped person or a qualified nonprofit agency for the  
2 severely handicapped as provided in Sections 3001 et seq. of Title  
3 74 of the Oklahoma Statutes at a comparable price, then the product  
4 or service shall be purchased from such severely handicapped person  
5 or qualified nonprofit agency for the severely handicapped. If the  
6 product or service is not available within the time period required  
7 by the purchasing state agency, then such product or service shall  
8 be purchased from the Department of Corrections under the provisions  
9 of this section.

10 D. All offices, departments, institutions, agencies, counties,  
11 cities, districts or political subdivisions, schools, colleges, or  
12 universities, or any agency thereof, or any agencies of this state,  
13 which are supported in whole or in part by this state, may purchase  
14 the goods or services produced by the prison industries of the  
15 Department of Corrections through their properly authorized  
16 purchasing authority, or they may place a direct order without  
17 competitive bid, with the prison industries of the Oklahoma  
18 Department of Corrections.

19 E. Not-for-profit corporations or charitable agencies chartered  
20 in Oklahoma or other states may purchase such goods and services.  
21 Units of the federal government and units of government in other  
22 states may also purchase such goods and services. All entities  
23 which contract with the state, its political units, its agencies,

1 its public institutions, not-for-profit corporations or charitable  
2 agencies chartered in Oklahoma may purchase goods or services from  
3 the Department of Corrections which are used in the performance of  
4 such contracts. Any church located in the State of Oklahoma may  
5 also purchase goods and services produced by the prison industries  
6 of the Department of Corrections. Nothing shall prohibit the  
7 Department from bidding on portions of a state contract which are  
8 subcontracted by the primary contractor.

9 F. Others are prohibited from purchasing such goods and  
10 services, with the exception that all surplus agricultural products  
11 may be sold on the open market or bartered and exchanged for other  
12 food, feed or seed products of comparable value. The Department of  
13 Corrections shall keep complete and accurate records of any such  
14 barters or exchanges in such form and manner as the Office of Public  
15 Affairs may prescribe. A copy of such records shall be filed with  
16 the ~~Office of Public Affairs~~ Department of Central Services no later  
17 than March 1 of each year for all barters or exchanges occurring in  
18 the previous calendar year.

19 G. Products manufactured by the Department of Corrections shall  
20 be of styles, patterns, designs and quantities specified by the  
21 Department of Corrections except where the same have been or may be  
22 specified by the ~~Office of Public Affairs~~ Department of Central

1 Services. Products shall be provided at a fair market price for  
2 comparable quality.

3 H. State agencies shall make maximum utilization of such  
4 products and no similar products shall be purchased by state  
5 agencies from any other source than the Department of Corrections  
6 except as provided in subsection C of this section, unless the  
7 Department of Corrections certifies to the Central Purchasing  
8 Director that it is not able to provide products, and no claim  
9 therefor shall be paid without such certification.

10 I. Exceptions from the mandatory provisions hereof may be made  
11 in any case where, in the opinion of the ~~Office of Public Affairs~~  
12 Department of Central Services, the article or product does not meet  
13 the reasonable requirements of or for such offices, departments,  
14 institutions or agencies, or in any case where the requisitions made  
15 cannot be reasonably complied with. No such offices, departments,  
16 institutions or agencies, shall be allowed to evade the intent and  
17 meaning of this section by slight variations from standards adopted  
18 by the ~~Office of Public Affairs~~ Department of Central Services, when  
19 the articles, services or products produced or manufactured by the  
20 Oklahoma Department of Corrections, in accordance with established  
21 standards, are reasonably adapted to the actual needs of such  
22 offices, departments, institutions or agencies.

1 J. In the event of disagreement between the Department of  
2 Corrections and the Central Purchasing Director on fairness of  
3 price, ability to comply to specifications, reasonableness of  
4 specifications and timeliness of delivery of products the matter  
5 will be resolved by the Central Purchasing Director of Public  
6 Affairs.

7 K. The ~~Office of Public Affairs~~ Department of Central Services  
8 shall cooperate with the Department of Corrections in seeking to  
9 promote for use in state agencies and by all other eligible  
10 customers, the products manufactured and services provided by the  
11 prison industries.

12 L. The Department of Corrections shall prepare catalogs  
13 containing the description of all goods and services provided, with  
14 the pricing of each item. Copies of such catalog shall be sent by  
15 the Department of Corrections to all offices, departments,  
16 institutions and agencies of this state, and shall be available for  
17 distribution to all other eligible customers.

18 SECTION 5. AMENDATORY 57 O.S. 2001, Section 561.1, as  
19 last amended by Section 47, Chapter 3, O.S.L. 2003 (57 O.S. Supp.  
20 2005, Section 561.1), is amended to read as follows:

21 Section 561.1 A. Prior to entering into a contract with any  
22 private prison contractor for construction or operation, or both, of  
23 a correctional facility, the Department of Corrections shall

1 establish a process for requesting proposals or negotiated contracts  
2 from such contractors. The Department of Corrections shall develop  
3 criteria for the process by which a contractor for the construction  
4 or operation, or both, of a private prison is to be awarded a  
5 contract. The criteria shall be subject to approval by the Board of  
6 Corrections. The criteria for selection of a site for a proposed  
7 facility to be constructed or operated, or both, by a private  
8 contractor shall include, but shall not be limited to, the  
9 availability of medical services, support services, transportation  
10 services and the availability of potential employees who would be  
11 qualified to perform required functions at a state correctional  
12 facility.

13 B. Any contract between the Department of Corrections and a  
14 private prison contractor, whereby the contractor provides for the  
15 housing, care, and control of inmates in a nondepartmental facility  
16 operated by the contractor, shall contain, in addition to other  
17 provisions, terms and conditions:

18 1. Requiring the contractor to provide said services in a  
19 facility which meets accreditation standards established by the  
20 American Corrections Association;

21 2. Requiring the contractor to receive accreditation for said  
22 facility from the American Corrections Association, within three (3)  
23 years of commencement of operations of the facility;

1           3. Requiring the contractor to obtain written authorization  
2 from the governing board of any municipality in which the facility  
3 is to be located, or if the facility is not to be located within a  
4 municipality, written authorization from the board of county  
5 commissioners of the county in which the facility is to be located;  
6 and

7           4. Granting the Department the option at the beginning of each  
8 fiscal year pursuant to an agreement, to purchase any such facility,  
9 with or without inventory or other personal property, at a  
10 predetermined price, which shall be negotiated and included in a  
11 schedule or a formula to be contained in the original agreement.  
12 Such agreements relating to a correctional facility, the  
13 construction of which was financed or is to be financed by  
14 obligations issued from a local governmental entity the repayment of  
15 which is to be made in whole or in part from rentals from the State  
16 of Oklahoma or the Department of Corrections, shall be submitted to  
17 the Oklahoma Bond Oversight Commissions as provided in subsection I  
18 of this section.

19           C. A contractor proposing to enter a contract with the  
20 Department of Corrections for construction or operation, or both, of  
21 a correctional facility pursuant to this section must demonstrate:

22           1. The qualifications and the operations and management  
23 experience to carry out the terms of the contract; and

1           2. The ability to comply with the standards of the American  
2 Correctional Association and with specific court orders.

3           D. In addition to meeting the requirements specified in the  
4 requests for proposals, a proposal for the construction and  
5 operation of a correctional facility must:

6           1. Provide for regular, on-site monitoring by the Department of  
7 Corrections;

8           2. Acknowledge that payment by the state is subject to the  
9 availability of appropriations;

10          3. Provide for payment of a maximum amount per fiscal year;

11          4. Demonstrate a cost benefit to the State of Oklahoma when  
12 compared to the level and quality of programs provided by state-  
13 operated facilities that have similar types of inmates at an  
14 operational cost not more than the cost of housing inmates in  
15 similar facilities and providing similar programs to those types of  
16 inmates in state-operated facilities. The Department of Corrections  
17 shall be responsible for determining the cost/benefit of the  
18 proposal;

19          5. Permit the state to terminate the contract for cause;

20          6. Contain a proposed per diem operational cost per inmate for  
21 the initial year and subsequent years of operations;

22          7. Subject to appropriations, provide that cost adjustments may  
23 be made only once each fiscal year, to take effect at the beginning

1 of the next fiscal year using as the maximum percentage increase, if  
2 any, an increase not to exceed the previous year's Consumer Price  
3 Index for All Urban Consumers (CPI-U) as prepared by the United  
4 States Bureau of Labor Statistics;

5 8. Have an initial contract term of not more than one (1) year,  
6 with an option to renew for additional periods not to exceed twenty  
7 (20) years;

8 9. If the proposal includes construction of a facility, contain  
9 a performance bond approved by the Department that is adequate and  
10 appropriate for the proposed contract;

11 10. Provide for assumption of liability by the private vendor  
12 for all claims arising from the services performed under the  
13 contract by the private vendor;

14 11. Provide for an adequate plan of insurance for the private  
15 vendor and its officers, guards, employees, and agents against all  
16 claims, including claims based on violations of civil rights arising  
17 from the services performed under the contract by the private  
18 vendor;

19 12. Provide for an adequate plan of insurance to protect the  
20 state against all claims arising from the services performed under  
21 the contract by the private vendor and to protect the state from  
22 actions by a third party against the private vendor, its officer,  
23 guards, employees, and agents as a result of the contract;

1           13. Provide plans for the purchase and assumption of operations  
2 by the state in the event of the bankruptcy of the private vendor;  
3 and

4           14. Contain comprehensive standards for conditions of  
5 confinement.

6           E. ~~As of the end~~ At the beginning of each fiscal year, the  
7 Department of Corrections shall determine the budgeted average daily  
8 cost per inmate. There shall be a separate computation of budgeted  
9 average daily cost for maximum security, medium security, minimum  
10 security, and community facilities. This information shall be  
11 presented to the Board of Corrections for informational purposes  
12 only. After the close of each fiscal year, the Department shall  
13 determine the actual average daily cost per inmate for the  
14 operational costs at each major category of correctional facility.  
15 There shall be a separate computation of the average daily rate for  
16 maximum security, medium security, minimum security, and ~~work center~~  
17 community facilities. The Department ~~of Corrections~~ shall present  
18 ~~the daily rate computations~~ to the Board of Corrections. ~~The Board~~  
19 ~~of Corrections~~ at its January meeting comparative data on budgeted  
20 daily cost versus actual daily cost, and, after appropriate review  
21 and analysis, the Board shall adopt as a final action of the Board,  
22 ~~at its regularly scheduled meeting in the month of August,~~ an

1 average daily ~~rate~~ cost per inmate by facility category for the  
2 immediately preceding fiscal year.

3 F. If a request for proposal process is utilized and no  
4 proposals conform to the established criteria, the Department shall  
5 prepare an additional request for proposals. The Department of  
6 Corrections shall evaluate the proposals within thirty (30) days of  
7 receipt from the prospective contractor. The Department of  
8 Corrections shall specifically determine whether a proposal meets  
9 the requirements of paragraph 4 of subsection D of this section by  
10 comparing the daily rate for housing and care of inmates pursuant to  
11 any proposed contract with a private contractor to the daily rate  
12 for housing and care of inmates at the comparable type of facility  
13 operated by the Department of Corrections using the information  
14 provided pursuant to paragraph 6 of subsection D of this section.  
15 The Department shall evaluate proposals taking into account any  
16 direct or indirect costs that would continue to be paid by the  
17 Department of Corrections including, but not limited to,  
18 transportation, records management, discipline, general  
19 administration, management of inmate trust funds, and major medical  
20 coverage. Such costs shall be added to the proposed per diem of the  
21 private vendor when comparing the total per diem costs of the state  
22 operating facilities.

1 G. If the Department of Corrections proposes to enter into a  
2 contract for the construction or the operation, or both, of a  
3 private prison, the Department shall compare both the capital costs  
4 and the operating costs for the facility to the imputed capital  
5 costs and the projected operating costs of a comparable facility  
6 constructed and operated by the Department of Corrections.

7 H. The Department of Corrections shall deliver to the Board of  
8 Corrections the top three qualified prospective private prison  
9 contractors identified pursuant to this section and pursuant to  
10 Section 561 of this title together with the information reviewed and  
11 analyzed by the Department of Corrections during analysis of the  
12 proposals as required by this section. The Board of Corrections  
13 shall evaluate the information provided and shall make a final  
14 decision selecting the contractor within fifteen (15) days of  
15 receipt of the information.

16 I. Any contract subject to the provisions of this section  
17 entered into by the Board of Corrections shall be subject to the  
18 approval of the Legislative and Executive Bond Oversight Commissions  
19 in the same manner as provided by law for the review of issuance of  
20 obligations by State Governmental Entities as prescribed by Section  
21 695.8 of Title 62 of the Oklahoma Statutes.

22 J. Before submission of the proposed contract to the  
23 Legislative and Executive Bond Oversight Commissions, and prior to

1 the date as of which the proposed contract is executed by the Board  
2 of Corrections, the Attorney General and the Director of the  
3 Department of Central Services shall review the proposed final  
4 version of the contract. The Attorney General and the Director of  
5 the Department of Central Services shall have a period of fifteen  
6 (15) days from receipt of the proposed final version of the contract  
7 to approve the contract and execute the document. If either the  
8 Attorney General or the Director of the Department of Central  
9 Services has objections to the proposed contract, the objections  
10 shall be communicated in writing to the Department of Corrections.  
11 The Department of Corrections shall take appropriate action  
12 regarding the objections and shall resubmit the proposed contract  
13 for additional review. The Attorney General and the Department of  
14 Central Services shall have an additional fifteen-day period to  
15 approve the proposed contract and to execute the document. Failure  
16 of the Attorney General or the Director of the Department of Central  
17 Services, respectively, to act within the fifteen-day period shall  
18 constitute approval of the respective official to the proposed final  
19 version of the contract. The contract shall contain a separate  
20 signature block or line for signature by the Attorney General and  
21 the Department of Central Services. The contract shall contain a  
22 statement to be executed by the Attorney General and the Director of  
23 the Department of Central Services that each one of them,

1 respectively, has reviewed the proposed contract for compliance with  
2 the provisions of this section and Section 561 of this title, and  
3 all other applicable provisions of law and that the contract  
4 conforms with those requirements. Neither the private prison  
5 contractor nor the Board of Corrections shall execute the contract  
6 until the document has been executed by the Attorney General and the  
7 Director of the Department of Central Services as required by this  
8 subsection unless the approval of the respective official has been  
9 made as a result of failure to take action within the fifteen-day  
10 period prescribed by this subsection.

11 SECTION 6. AMENDATORY 57 O.S. 2001, Section 563.3, as  
12 amended by Section 2, Chapter 476, O.S.L. 2005 (57 O.S. Supp. 2005,  
13 Section 563.3), is amended to read as follows:

14 Section 563.3 A. A private prison contractor which does not  
15 have a contract with the Department of Corrections, but which houses  
16 federal inmates or inmates of another state, within two (2) months  
17 of commencing operations and thereafter as required by the  
18 Department of Corrections, shall:

19 1. Obtain from the Department of Corrections approval of all  
20 emergency response plans and the internal and perimeter security of  
21 the facility of the private prison contractor. All emergency plans  
22 for the private prison facility shall be approved by the Department  
23 of Corrections annually on July 1 and within thirty (30) days of any

1 subsequent change or modification to any plan. Such approval shall  
2 be given only if the Director of the Department of Corrections  
3 determines that the security and emergency response plan are  
4 adequate to protect the public;

5 2. Show, to the satisfaction of the Department of Corrections,  
6 that adequate food, housing and medical care shall be available for  
7 inmates, that the facility will have the necessary qualified  
8 personnel to operate the facility, that the financial condition of  
9 the private prison contractor is such that the facility can be  
10 operated adequately, and that the facility has the ability to comply  
11 with applicable court orders and American Correctional Association  
12 standards;

13 3. Furnish to the Department of Corrections satisfactory proof  
14 that the private prison contractor has obtained insurance or is  
15 self-insured, in such a manner and in such an amount as the Director  
16 of the Department of Corrections, after consulting with the Risk  
17 Management Administration, may deem necessary and adequate to  
18 reimburse this state or a political subdivision of this state, for  
19 expenses arising from any incident which occurs at said prison or  
20 which requires intervention by this state or a political subdivision  
21 of this state. Such insurance, in addition, shall be in an amount  
22 sufficient to indemnify this state and its officers and employees,  
23 for any liability or other loss, including property damage,

1 judgments, costs, ~~attorneys~~ attorney fees or other expenses arising  
2 from the operation of the facility, and such facility shall in any  
3 event and regardless of the amount of insurance available indemnify  
4 and hold harmless this state and its officers and employees, for any  
5 and all acts of prison inmates, and/or all officers, employees and  
6 stockholders of such private prison contractor for any liability  
7 arising out of acts of said inmates, officers, employees and  
8 stockholders of such private prison contractor in relation to the  
9 operation of the facility. The insurance required by this paragraph  
10 shall not provide coverage for more than one facility. If the  
11 private prison contractor owns or operates more than one facility,  
12 separate insurance coverage shall be obtained or provided for each  
13 facility;

14 4. Obtain written authorization from the governing board of any  
15 municipality in which the facility is to be located, or if the  
16 facility is not to be located within a municipality, written  
17 authorization from the board of county commissioners of the county  
18 in which the facility is to be located; and

19 5. Require and obtain a felony record search of fingerprints of  
20 every employee or prospective employee of the private prison  
21 contractor. The search shall be based on fingerprints and shall be  
22 conducted either by the Federal Bureau of Investigation or the  
23 Oklahoma State Bureau of Investigation. If the search is conducted

1 by the Oklahoma State Bureau of Investigation, the Bureau shall  
2 require the person to pay a search fee not to exceed Fifty Dollars  
3 (\$50.00) or the cost of the search, whichever is the lesser amount.  
4 The fees shall be deposited in the OSBI Revolving Fund. The private  
5 prison contractor is hereby authorized to reimburse employees for  
6 the cost of the search. The Oklahoma State Bureau of Investigation  
7 may contact the Federal Bureau of Investigation as regards the  
8 information requested, to obtain any felony convictions of the  
9 person involved. The record required by this paragraph shall  
10 include the name of the person, whether or not said person has been  
11 convicted of any felony offense, a list of any felony convictions,  
12 and the dates of such convictions. The search records of each  
13 employee shall be maintained by the contractor for as long as the  
14 employee works for the contractor. The records shall be subject to  
15 inspection by the Department of Corrections.

16 B. A private prison contractor which does not have a contract  
17 with the Department of Corrections, but which houses federal inmates  
18 or inmates of another state shall attain accreditation by the  
19 American Correctional Association within three (3) years of  
20 commencing operation of the facility and thereafter shall maintain  
21 such accreditation.

22 C. The Department of Corrections shall monitor the performance  
23 of the private prison contractor and the continued compliance of the

1 private prison contractor with the provisions of subsections A and B  
2 of this section. If at any time after commencing operations, a  
3 private prison contractor, that is subject to the provisions of  
4 subsection A of this section, fails to comply with any of said  
5 provisions, the Director of the Department of Corrections may order  
6 the facility to cease operations. If a private prison contractor  
7 fails to attain or maintain the accreditation required by subsection  
8 B of this section, the Director of the Department of Corrections  
9 shall order the facility to take corrective action pursuant to the  
10 Department of Corrections monitoring plan and, if corrective action  
11 is not pursued with due diligence, shall order the facility to cease  
12 operations. This order may be enforced by injunction issued by a  
13 district court of this state.

14 D. The Department of Corrections may charge the private prison  
15 contractor a reasonable fee for any services provided by the  
16 Department staff to include, but not limited to, the costs of  
17 monitoring compliance with the provisions of paragraphs 1 and 2 of  
18 subsection A of this section. The fee shall not exceed the cost  
19 incurred in performing the monitoring.

20 E. The Department of Corrections shall promulgate and adopt  
21 rules for the implementation of this section.

1 F. All fees collected by the Department of Corrections pursuant  
2 to this section shall be deposited with the State Treasurer to the  
3 credit of the Department of Corrections Revolving Fund.

4 SECTION 7. This act shall become effective July 1, 2006.

5 SECTION 8. It being immediately necessary for the preservation  
6 of the public peace, health and safety, an emergency is hereby  
7 declared to exist, by reason whereof this act shall take effect and  
8 be in full force from and after its passage and approval.

9 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-22-06 - DO  
10 PASS, As Amended and Coauthored.