

By: Representative Evans

To: Penitentiary;  
Appropriations

HOUSE BILL NO. 1244

1 AN ACT TO AMEND SECTION 47-5-1207, MISSISSIPPI CODE OF 1972,  
2 TO TRANSFER THE AUTHORITY TO CONSTRUCT PRIVATE CORRECTIONAL  
3 FACILITIES FROM THE STATE PRISON EMERGENCY CONSTRUCTION AND  
4 MANAGEMENT BOARD TO THE LEGISLATURE; TO AMEND SECTION 47-4-1,  
5 47-4-3 AND 47-5-1211, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
6 THERETO; AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 SECTION 1. Section 47-5-1207, Mississippi Code of 1972, is  
9 amended as follows:

10 47-5-1207. (1) The State Prison Emergency Construction and  
11 Management Board shall select a suitable site or sites for a  
12 public or private facility not to exceed one thousand (1,000) beds  
13 in any of the following counties: Lauderdale, Quitman, Perry and  
14 Sharkey.

15 (2) The State Prison Emergency Construction and Management  
16 Board may contract for the construction, lease, acquisition,  
17 improvement, operation and management of a private correctional  
18 facility in Marshall County or Wilkinson County for the private  
19 incarceration of not more than one thousand (1,000) state inmates  
20 at the facility; however, from and after July 1, 2001, any  
21 agreement to contract for the construction, lease, acquisition,  
22 improvement, operation or management of a private correctional  
23 facility shall be subject to the approval of the legislature.

24 (3) The State Prison Emergency Construction and Management  
25 Board may contract with any county industrial or economic  
26 development authority or district for the construction, lease,  
27 acquisition, improvement, operation and management of a private

28 correctional facility to be sited or constructed under Laws, 1994  
29 First Extraordinary Session, Chapter 26.

30 (4) The State Prison Emergency Construction and Management  
31 Board may contract for the construction, lease, acquisition,  
32 improvement and operation of two (2) private restitution centers,  
33 one of which may be in Bolivar County. The capacity of each  
34 restitution center shall not exceed seventy-five (75) state  
35 inmates.

36 (5) (a) The State Prison Emergency Construction and  
37 Management Board may contract for the special needs facility and  
38 services authorized in Sections 47-5-1101 through 47-5-1123.

39 (b) No later than September 15, 1994, the Joint  
40 Legislative Committee on Performance Evaluation and Expenditure  
41 Review shall determine the state medical cost per inmate day to  
42 use as a basis for measuring the validity of ten percent (10%)  
43 savings of the contractor cost.

44 (6) Each private contractor and private facility housing  
45 state inmates must meet the requirements of Section 47-5-1211  
46 through Section 47-5-1227.

47 (7) No additional emergency prisons shall be located in any  
48 city and/or county, except upon the submission to the State Prison  
49 Emergency Construction and Management Board, of a resolution  
50 signed by a majority of the governing authorities of the city  
51 and/or county, wherein the proposed prison site is to be located,  
52 approving and/or requesting that a prison facility be located at  
53 the proposed site. However, requests for approval of a private  
54 facility must comply with Section (2) of this act.

55 SECTION 2. Section 47-4-1, Mississippi Code of 1972, is  
56 amended as follows:

57 47-4-1. (1) Except as otherwise provided in Section  
58 47-5-1207(2), it is lawful for there to be located within  
59 Wilkinson County and Leflore County a correctional facility  
60 operated entirely by a private entity pursuant to a contractual

61 agreement between such private entity and the federal government,  
62 any state, or a political subdivision of any state to provide  
63 correctional services to any such public entity for the  
64 confinement of inmates subject to the jurisdiction of such public  
65 entity. Any person confined in such a facility pursuant to the  
66 laws of the jurisdiction from which he is sent shall be considered  
67 lawfully confined within this state. The private entity shall  
68 assume complete responsibility for the inmates and shall be liable  
69 to the State of Mississippi for any illegal or tortious actions of  
70 such inmates.

71 (2) The Department of Corrections shall contract with the  
72 "Delta Correctional Facility Authority," a public body authorized  
73 in Chapter 852, Local and Private Laws of 1992, for the private  
74 incarceration of not more than one thousand (1,000) state inmates  
75 at a facility in Leflore County. Any contract must comply with  
76 the requirements of Section 47-5-1211 through Section 47-5-1227.

77 (3) It is lawful for any county to contract with a private  
78 entity for the purpose of providing correctional services for the  
79 confinement of federal inmates subject to the jurisdiction of the  
80 United States. Any person confined in such a facility pursuant to  
81 the laws of the United States shall be considered lawfully  
82 confined within this state. The private entity shall assume  
83 complete responsibility for the inmates and shall be liable to the  
84 county or the State of Mississippi, as the case may be, for any  
85 illegal or tortious actions of the inmates.

86 (4) It is lawful for there to be located within any county a  
87 correctional facility operated entirely by a private entity and  
88 the federal government to provide correctional services to the  
89 United States for the confinement of federal inmates subject to  
90 the jurisdiction of the United States. Any person confined in a  
91 facility pursuant to the laws of the United States shall be  
92 considered lawfully confined within this state. The private  
93 entity shall assume complete responsibility for the inmates and

94 shall be liable to the State of Mississippi for any illegal or  
95 tortious actions of the inmates.

96 A person convicted of simple assault on an employee of a  
97 private correctional facility while such employee is acting within  
98 the scope of his or her duty or employment shall be punished by a  
99 fine of not more than One Thousand Dollars (\$1,000.00) or by  
100 imprisonment for not more than five (5) years, or both.

101 A person convicted of aggravated assault on an employee of a  
102 private correctional facility while such employee is acting within  
103 the scope of his or her duty or employment shall be punished by a  
104 fine of not more than Five Thousand Dollars (\$5,000.00) or by  
105 imprisonment for not more than thirty (30) years, or both.

106 (5) If a private entity houses state inmates, the private  
107 entity shall not displace state inmate beds with federal inmate  
108 beds unless the private entity has obtained prior written approval  
109 from the Commissioner of Corrections.

110 SECTION 3. Section 47-4-3, Mississippi Code of 1972, is  
111 amended as follows:

112 47-4-3. (1) Except as otherwise provided in Section  
113 47-5-1207(2), before a private correctional facility may be  
114 located in the county, the board of supervisors shall by  
115 resolution duly adopted and entered on its minutes specify the  
116 location of the facility, the nature and size of the facility, the  
117 type of inmates to be incarcerated and the identity of the private  
118 entity which will operate the facility. The board shall publish a  
119 notice as hereinafter set forth in a newspaper having general  
120 circulation in such county. Such notice shall include location of  
121 the facility, the nature and size of the facility, the type of  
122 inmates to be incarcerated and the identity of the entity which  
123 will operate the facility. Such notice shall include a brief  
124 summary of the provisions of this section pertaining to the  
125 petition for an election on the question of the location of the  
126 private correctional facility in such county. Such notice shall

127 be published not less than one (1) time each week for at least  
128 three (3) consecutive weeks in at least one (1) newspaper having  
129 general circulation in the county.

130 (2) If a petition signed by twenty percent (20%), or fifteen  
131 hundred (1500), whichever is less, of the qualified electors of  
132 the county is filed within sixty (60) days of the date of the last  
133 publication of the notice with the board of supervisors requesting  
134 that an election be called on the question of locating such  
135 facility, then the board of supervisors shall adopt a resolution  
136 calling an election to be held within such county upon the  
137 question of the location of such facility. Such election shall be  
138 held, as far as practicable, in the same manner as other elections  
139 are held in counties. At such election, all qualified electors of  
140 the county may vote, and the ballots used at such election shall  
141 have printed thereon a brief statement of the facility to be  
142 constructed and the words "For the construction of the private  
143 correctional facility in (here insert county name) County" and  
144 "Against the construction of the private correctional facility in  
145 (here insert county name) County." The voter shall vote by  
146 placing a cross (x) or check mark (✓) opposite his choice on the  
147 proposition. When the results of the election on the question of  
148 the construction of the facility shall have been canvassed by the  
149 election commissioners of the county and certified by them to the  
150 board of supervisors, it shall be the duty of the board of  
151 supervisors to determine and adjudicate whether or not a majority  
152 of the qualified electors who voted thereon in such election voted  
153 in favor of the construction of the facility in such county. If a  
154 majority of the qualified electors who voted in such election vote  
155 against the construction of the facility, then the facility shall  
156 not be constructed in the county.

157 (3) If no petition as prescribed in subsection (2) of this  
158 section is filed with the board of supervisors within sixty (60)  
159 days of the date of the last publication of the notice, the board

160 of supervisors shall by a resolution duly adopted and entered on  
161 its minutes, state that no petition was timely filed and the board  
162 may give final approval to the location of the facility.

163 SECTION 4. Section 47-5-1211, Mississippi Code of 1972, is  
164 amended as follows:

165 47-5-1211. (1) A contract for private correctional  
166 facilities or services shall not be entered into unless the  
167 contractor has demonstrated that it has:

168 (a) The qualifications, experience and management  
169 personnel necessary to carry out the terms of the contract.

170 (b) The ability to expedite the siting, design and  
171 construction of correctional facilities.

172 (c) The ability to comply with applicable laws, court  
173 orders and national correctional standards.

174 (d) Demonstrated history of successful operation and  
175 management of other correctional facilities.

176 (2) A facility shall at all times comply with all federal  
177 and state laws, and all applicable court orders.

178 (3) (a) Except as otherwise provided in Section  
179 47-5-1207(2), no contract for private incarceration shall be  
180 entered into unless the cost of the private operation, including  
181 the state's cost for monitoring the private operation, offers a  
182 cost savings of at least ten percent (10%) to the Department of  
183 Corrections for at least the same level and quality of service  
184 offered by the Department of Corrections.

185 (b) The Joint Legislative Committee on Performance  
186 Evaluation and Expenditure Review shall contract annually with a  
187 certified public accounting firm to establish a state inmate cost  
188 per day for a comparable state facility. The state inmate cost  
189 per day shall be certified annually. The certified cost shall be  
190 used as the basis for measuring the validity of the ten percent  
191 (10%) savings of the contractor costs.

192           (4) The rates and benefits for correctional services shall  
193 be negotiated based upon American Correction Association  
194 standards, state law and court orders.

195           SECTION 5. This act shall take effect and be in force from  
196 and after July 1, 2001.