HOUSE BILL NO. 1244

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

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

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

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

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

(3) The State Prison Emergency Construction and Management Board may contract with any county industrial or economic development authority or district for the construction, lease, acquisition, improvement, operation and management of a private
correctional facility to be sited or constructed under Laws, 1994
First Extraordinary Session, Chapter 26.

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

(5) (a) The State Prison Emergency Construction and
Management Board may contract for the special needs facility and
services authorized in Sections 47-5-1101 through 47-5-1123.
  (b) No later than September 15, 1994, the Joint
Legislative Committee on Performance Evaluation and Expenditure
Review shall determine the state medical cost per inmate day to
use as a basis for measuring the validity of ten percent (10%)
savings of the contractor cost.

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

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

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

47-4-1. (1) Except as otherwise provided in Section
47-5-1207(2), it is lawful for there to be located within
Wilkinson County and Leflore County a correctional facility
operated entirely by a private entity pursuant to a contractual
agreement between such private entity and the federal government, any state, or a political subdivision of any state to provide correctional services to any such public entity for the confinement of inmates subject to the jurisdiction of such public entity. Any person confined in such a facility pursuant to the laws of the jurisdiction from which he is sent shall be considered lawfully confined within this state. The private entity shall assume complete responsibility for the inmates and shall be liable to the State of Mississippi for any illegal or tortious actions of such inmates.

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

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

(4) It is lawful for there to be located within any county a correctional facility operated entirely by a private entity and the federal government to provide correctional services to the United States for the confinement of federal inmates subject to the jurisdiction of the United States. Any person confined in a facility pursuant to the laws of the United States shall be considered lawfully confined within this state. The private entity shall assume complete responsibility for the inmates and
shall be liable to the State of Mississippi for any illegal or
tortious actions of the inmates.

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

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

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

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

47-4-3. (1) Except as otherwise provided in Section
47-5-1207(2), before a private correctional facility may be
located in the county, the board of supervisors shall by
resolution duly adopted and entered on its minutes specify the
location of the facility, the nature and size of the facility, the
type of inmates to be incarcerated and the identity of the private
entity which will operate the facility. The board shall publish a
notice as hereinafter set forth in a newspaper having general
circulation in such county. Such notice shall include location of
the facility, the nature and size of the facility, the type of
inmates to be incarcerated and the identity of the entity which
will operate the facility. Such notice shall include a brief
summary of the provisions of this section pertaining to the
petition for an election on the question of the location of the
private correctional facility in such county. Such notice shall
be published not less than one (1) time each week for at least
three (3) consecutive weeks in at least one (1) newspaper having
general circulation in the county.

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

(3) If no petition as prescribed in subsection (2) of this
section is filed with the board of supervisors within sixty (60)
days of the date of the last publication of the notice, the board
of supervisors shall by a resolution duly adopted and entered on
its minutes, state that no petition was timely filed and the board
may give final approval to the location of the facility.

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

47-5-1211. (1) A contract for private correctional
facilities or services shall not be entered into unless the
contractor has demonstrated that it has:
   (a) The qualifications, experience and management
personnel necessary to carry out the terms of the contract.
   (b) The ability to expedite the siting, design and
construction of correctional facilities.
   (c) The ability to comply with applicable laws, court
orders and national correctional standards.
   (d) Demonstrated history of successful operation and
management of other correctional facilities.

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

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

   (b) The Joint Legislative Committee on Performance
Evaluation and Expenditure Review shall contract annually with a
certified public accounting firm to establish a state inmate cost
per day for a comparable state facility. The state inmate cost
per day shall be certified annually. The certified cost shall be
used as the basis for measuring the validity of the ten percent
(10%) savings of the contractor costs.
(4) The rates and benefits for correctional services shall be negotiated based upon American Correction Association standards, state law and court orders.

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