

By: Representative Scott

To: Corrections;
Accountability, Efficiency,
Transparency

HOUSE BILL NO. 439

1 AN ACT TO AMEND SECTION 47-5-109.1, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT ANY INTERESTED THIRD PARTY WHO SUBMITS A PROPOSAL
3 TO ADMINISTER INMATE CANTEEN SERVICES FOR THE DEPARTMENT OF
4 CORRECTIONS MUST DESCRIBE FULLY HOW SUCH INMATE CANTEEN SERVICES
5 ARE TO BE PRICED IN ORDER TO HELP ENSURE THAT PRICES CHARGED BY
6 THE CANTEEN ARE REASONABLE AND FAIR TO THOSE PURCHASING THROUGH
7 THE CANTEEN SYSTEM; TO PROVIDE THAT ANY ADJUSTMENTS IN THE PRICING
8 OF INMATE CANTEEN SERVICES MUST EITHER BE APPROVED OR DISAPPROVED
9 BY THE COMMISSIONER OF CORRECTIONS; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 47-5-109.1, Mississippi Code of 1972, is
12 amended as follows:

13 47-5-109.1. (1) The Department of Corrections shall
14 contract for the administration of inmate canteen services to a
15 third party. Such contract shall comply with the procedures set
16 forth in this section:

17 (a) The Department of Corrections shall cause to be
18 prepared a request for proposals. This request for proposals
19 shall be prepared for distribution to any interested third party.
20 Notice of the department's intention to seek proposals shall be
21 published in a newspaper of general circulation at least one time



22 per week for three (3) weeks before closing the period for
23 interested parties to respond. Additional forms of notice may
24 also be used. The newspaper notice shall inform the interested
25 parties of the service to be contracted, existence of a request
26 for proposals, how it can be obtained, when a proposal must be
27 submitted, and to whom the proposal must be submitted. All
28 requests for proposals shall describe clearly what service is to
29 be contracted, and shall fully explain the criteria upon which an
30 evaluation of proposals shall be based. The criteria to be used
31 for evaluations shall, at a minimum, include:

32 (i) Require interested third parties to describe
33 their qualifications to provide inmate canteen services to
34 correctional facilities in widely dispersed geographical regions;
35 and

36 (ii) Describe the department's expectations with
37 regard to commissions, pricing and quality assurance for inmate
38 canteen services.

39 In regard to pricing for inmate canteen services, as
40 prescribed under subparagraph (ii) of this paragraph, the request
41 for proposals shall require any interested third party to describe
42 fully their proposed sampling methods for setting prices at inmate
43 canteen services to ensure that prices charged by the canteens are
44 reasonable and fair to those purchasing through the canteen
45 system. If the Department of Corrections allows a comparison of
46 convenience store prices to be the basis for selecting canteen



47 prices, the request for proposals shall require interested third
48 parties to specify in their proposals the proposed locations,
49 types and number of stores and products to be sampled in order to
50 ensure that sufficient data is collected to determine the
51 variation and central tendency of product prices. In establishing
52 individual product prices, the administrator of inmate canteen
53 services shall select the measure of central tendency that best
54 fits the distribution of sample price data. Should the
55 administrator of inmate canteen services determine that prices
56 should be adjusted, the request for proposals shall require any
57 interested third parties to keep all records pertaining to
58 requested price adjustments, including supporting sample data and
59 calculation of central tendency and corresponding documentation of
60 the commissioner's action, of either approval or disapproval, on
61 the request for the price adjustment. Any approved price
62 adjustment that is an increase for inmate canteen services shall
63 be submitted by the commissioner to the PEER Committee and the
64 Inmate Welfare Fund Committee thirty (30) days before such
65 adjustment is implemented.

66 (b) All proposals submitted by interested parties shall
67 be evaluated by the Inmate Welfare Fund Committee, as established
68 in Section 47-5-158, which shall apply the same criteria to all
69 proposals when conducting an evaluation. The results and
70 recommendations of the evaluation shall be presented to the
71 Department of Corrections for review. All evaluations presented



72 to the department shall be retained by the department for at least
73 three (3) years. The department may accept or reject any
74 recommendation of the committee, or it may conduct further inquiry
75 into the proposals. Any further inquiry shall be clearly
76 documented and all methods and recommendations shall be retained
77 by the department and shall spread upon its minutes its choice of
78 the administrator for inmate canteen services and its reasons for
79 making the choice.

80 (c) (i) The department shall be responsible for
81 preparing a contract that shall be in accordance with all
82 provisions of this section and all other provisions of law. The
83 contract shall also include a requirement that the contractor
84 shall consent to an evaluation of its performance. Such
85 evaluation shall occur after the first six (6) months of the
86 contract, and shall be reviewed at times the department determines
87 to be necessary. The contract shall clearly describe the
88 standards upon which the contractor shall be evaluated.

89 (ii) The PEER Committee, at the request of the
90 House or Senate Corrections Committee and with funds specifically
91 appropriated by the Legislature for such purpose, shall contract
92 with an accounting firm or with other professionals to conduct a
93 compliance audit of the services provided by the contractor. Such
94 audit shall review the compliance with the performance standards
95 required for inclusion in the administrator's contract. Such



96 audit shall be delivered to the Legislature no later than January
97 1.

98 (2) Contracts for the administration of inmate canteen
99 services shall commence at the beginning of the calendar year and
100 shall end on the last day of a calendar year. This shall not
101 apply to contracts provided for in subsection (3) of this section.

102 (3) If the Department of Corrections determines that it is
103 necessary to not renew the contract of an administrator, or finds
104 it necessary to terminate a contract with or without cause as
105 provided for in the contract of the administrator of inmate
106 canteen services, the department is authorized to select an
107 administrator for inmate canteen services without complying with
108 the bid requirements in subsections (1) and (2) of this section.
109 Such contracts shall be for the balance of the calendar year in
110 which the nonrenewal or termination occurred, and may be for an
111 additional calendar year if the department determines that the
112 best interests of the inmates are served by such. Any contract
113 negotiated on an interim basis shall include a detailed transition
114 plan which shall ensure the orderly transfer of responsibilities
115 between contractors.

116 (4) Except for contracts executed under the authority of
117 subsection (3) of this section, the department shall select
118 administrators of inmate canteen services at least six (6) months
119 before the expiration of the current administrator's contract.
120 The period between the selection of the new administrator of



121 inmate canteen services and the effective date of the new contract
122 shall be known as the transition period. The Department of
123 Corrections shall furnish the Legislature and Governor with copies
124 of all transition plans and keep them informed of progression on
125 such plans.

126 **SECTION 2.** This act shall take effect and be in force from
127 and after July 1, 2018.

