

By: Representative Kinkade

To: Corrections

HOUSE BILL NO. 1127
(As Passed the House)

1 AN ACT TO AMEND SECTIONS 47-5-1211 AND 47-5-1213, MISSISSIPPI
2 CODE OF 1972, IN ORDER TO PROVIDE FOR THE DEPARTMENT OF
3 CORRECTIONS TO CONTRACT WITH PRIVATE ENTITIES FOR THE OPERATION,
4 MAINTENANCE, CONSTRUCTION, PURCHASE AND/OR LEASE OF FACILITIES FOR
5 A TERM NOT TO EXCEED 20 YEARS; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 47-5-1211, Mississippi Code of 1972, is
8 amended as follows:

9 47-5-1211. (1) A contract between the department and a
10 contractor for private correctional facilities or services shall
11 not be entered into unless the contractor has demonstrated that it
12 has:

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

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

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



19 (d) Demonstrated history of successful operation and
20 management of other correctional facilities.

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

23 (3) (a) No contract between the department and a contractor
24 for private incarceration shall be entered into unless the cost of
25 the private operation, including the state's cost for monitoring
26 the private operation, offers a cost savings of at least ten
27 percent (10%), which shall be calculated over the life of the
28 contract entered into pursuant to Section 47-5-1213, to the
29 department * * * for at least the same level and quality of
30 service offered by the department * * * and such costs savings
31 analysis may take into effect scheduled rental payments and
32 operating payments to be paid over the term of the contract.

33 (b) Beginning in 2012, and every two (2) years
34 thereafter, the Joint Legislative Committee on Performance
35 Evaluation and Expenditure Review (PEER) shall contract with a
36 certified public accounting firm to establish a state inmate cost
37 per day using financial information of the department * * * for
38 the most recently completed fiscal year. The state inmate cost
39 per day shall be certified as required by this section. The
40 certified cost in existence at the time a contract is entered into
41 pursuant to Section 47-5-1213 shall be used as the basis for
42 measuring the validity of the ten percent (10%) savings of the
43 contractor costs calculated over the term of the contract.



44 (c) Prior to engaging a certified public accountant,
45 the PEER Committee, in conjunction with the department * * *,
46 shall develop a current cost-based model, which may take into
47 effect scheduled rental payments and operating payments to be over
48 the term of the contract, that will serve as a basis for the
49 report produced as authorized by this section.

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

53 (5) For the purposes of this section, "department" means the
54 Department of Corrections and "contractor" means any private
55 entity authorized to do business in the state and meets the
56 qualifications specified in this section.

57 **SECTION 2.** Section 47-5-1213, Mississippi Code of 1972, is
58 amended as follows:

59 47-5-1213. (1) * * * A contract for the operation,
60 maintenance, construction, purchase and/or lease of a facility or
61 for incarceration of inmates therein, entered into by the
62 department pursuant to Section 47-5-1211 * * * may be for a period
63 of not more than * * * twenty (20) years. * * * Contracts for the
64 lease of a facility shall provide that the contractor shall convey
65 the facility to the state, at the option of the state, for a total
66 consideration of One Dollar (\$1.00). Any contract for housing
67 shall be subject to annual appropriation by the Legislature.



68 (2) For the purposes of this section, "department" means the
69 Department of Corrections and "contractor" means any private
70 entity authorized to do business in the state and meets the
71 qualifications specified in Section 47-5-1211.

72 **SECTION 3.** This act shall take effect and be in force from
73 and after July 1, 2018, and shall hereby stand repealed June 30,
74 2018.

