

By: Senator(s) Huggins, Gordon

To: Local and Private

SENATE BILL NO. 3211

1 AN ACT TO DELETE THE SEPTEMBER 30, 2004, REPEAL DATE ON THE  
2 LEGISLATION THAT AUTHORIZES THE GRENADA COUNTY BOARD OF  
3 SUPERVISORS TO CONTRACT WITH A PRIVATE ENTITY FOR THE  
4 CONSTRUCTION, LEASE, ACQUISITION, IMPROVEMENT, OPERATION AND  
5 MANAGEMENT OF A PRIVATE COUNTY JAIL; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Chapter 999, Local and Private Laws of 1997, is  
8 amended as follows:

9 Section 1. The Grenada County Board of Supervisors, in its  
10 discretion, may contract with a private entity for the  
11 construction, lease, acquisition, improvement, operation and  
12 management of a private county jail.

13 Section 2. (1) A contract for the private operation of a  
14 county jail shall not be entered into unless the contractor has  
15 demonstrated that it has:

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

18 (b) The ability to expedite the siting, design and  
19 construction of a private county jail.

20 (c) The ability to comply with applicable federal and  
21 state laws, court orders and national correctional standards.

22 (d) A history of successful operation and management of  
23 other private county jails.

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

26 (3) (a) A contract for private incarceration shall not be  
27 entered into unless the cost of the private operation, including  
28 the county's cost for monitoring the private operation, offers a

29 cost savings of at least ten percent (10%) to the board of  
30 supervisors for at least the same level and quality of service  
31 offered by the sheriff.

32 (b) The board of supervisors shall contract annually  
33 with a certified public accounting firm to establish a county  
34 offender cost per day for a comparable county jail. The county  
35 offender cost per day shall be certified annually. The certified  
36 cost shall be used as the basis for measuring the validity of the  
37 ten percent (10%) savings of the contractor costs.

38 (4) The rates and benefits for correctional services shall  
39 be negotiated based upon American Correction Association  
40 Standards, state law and court orders.

41 Section 3. The initial contract for the operation of a jail  
42 or for incarceration of offenders therein shall be for a period of  
43 not more than five (5) years with an option to renew for an  
44 additional period of two (2) years. Contracts for construction,  
45 purchase or lease of a jail shall not exceed a term of twenty (20)  
46 years. The contracts shall provide that the contractor shall  
47 convey the jail to the county, at the option of the county, for a  
48 total consideration of One Dollar (\$1.00). Any contract for  
49 housing shall be subject to annual appropriation by the board of  
50 supervisors.

51 Section 4. (1) A contractor's employees serving as  
52 "jailers" shall be allowed to use force only while on the grounds  
53 of a jail, while transporting offenders, and while pursuing  
54 escapees from a jail.

55 (2) Private jailers may use only such nondeadly force as the  
56 circumstances require in the following situations: to prevent the  
57 commission of a felony or misdemeanor, including escape; to defend  
58 oneself or others against physical assault; to prevent serious  
59 damage to property; to enforce institutional regulations and  
60 orders; and to prevent or quell a riot.

61 (3) Private jailers, who have been appropriately certified  
62 as determined by the contracting agency and trained pursuant to  
63 the provisions of subsection (4), shall have the right to carry  
64 and use firearms and shall exercise such authority and may use  
65 deadly force to prevent an act that could result in death or  
66 serious bodily injury to oneself or to another person.

67 (4) Private jailers shall be trained in the use of force and  
68 the use of firearms in accordance with American Correction  
69 Association Standards, and shall be trained, at the private  
70 contractor's expense, for at least the minimum number of hours  
71 that public personnel are currently trained.

72 Section 5. All employees of a jail operated pursuant to this  
73 act must receive, at a minimum, the same quality and quantity of  
74 training as that required by the state for sheriffs and deputy  
75 sheriffs. All training expenses shall be the responsibility of  
76 the contractor.

77 Section 6. A contract for jail services shall not be entered  
78 into unless the following requirements are met:

79 (a) In addition to fire and casualty insurance, the  
80 contractor shall provide at least Five Million Dollars  
81 (\$5,000,000.00) of liability insurance, specifically including  
82 insurance for civil rights claims. The liability insurance shall  
83 be issued by an insurance company with a rating of at least an A-  
84 according to A.M. Best Standards. In determining the adequacy of  
85 such insurance, the board of supervisors shall determine whether:

86 (i) The insurance is adequate to protect the  
87 county from any and all actions by a third party against the  
88 contractor or the county as a result of the contract;

89 (ii) The insurance is adequate to protect the  
90 county against any and all claims arising as a result of any  
91 occurrence during the term of the contract;

92 (iii) The insurance is adequate to assure the  
93 contractor's ability to fulfill its contract with the county in

94 all respects, and to assure that the contractor is not limited in  
95 this ability because of financial liability which results from  
96 judgments; and

97 (iv) The insurance is adequate to satisfy such  
98 other requirements specified by an independent risk  
99 management/actuarial firm.

100 (b) The sovereign immunity of the state or the county  
101 shall not apply to the contractor. Neither the contractor nor the  
102 insurer of the contractor may plead the defense of sovereign  
103 immunity in any action arising out of the performance of the  
104 contract.

105 (c) The contractor shall post a performance bond to  
106 assure the contractor's faithful performance of the specifications  
107 and conditions of the contract. The bond is required throughout  
108 the term of the contract. The terms and conditions must be  
109 approved by the board of supervisors and the approval is a  
110 condition precedent to the contract taking effect.

111 (d) The contractor shall defend any suit or claim  
112 brought against Grenada County arising out of any act or omission  
113 in the operation of a private jail and shall hold the county  
114 harmless from the claim or suit. The contractor shall be solely  
115 responsible for the payment of any legal or other costs relative  
116 to any such claim or suit. The contractor shall reimburse the  
117 county for any costs that it may incur as a result of the claim or  
118 suit immediately upon being submitted a statement therefor by the  
119 board of supervisors.

120 The duties and obligations of the contractor pursuant to this  
121 subsection shall include, but not be limited to, any claim or suit  
122 brought under any federal or state civil rights or offenders'  
123 rights statutes or pursuant to any rights recognized by common law  
124 or case law, or federal or state constitutions.

125 Any suit brought or claim made arising out of any act or  
126 omission in the operation of a private jail shall be made or  
127 brought against the contractor and not the board of supervisors.

128 Section 7. A plan shall be developed and certified by the  
129 commissioner which demonstrates the method by which the county  
130 would resume control of the jail upon contract termination.

131 Section 8. (1) A public official or an employee of the  
132 county, who has duties or responsibilities related to the  
133 contracting, constructing, leasing, acquiring or operating a  
134 private jail, may not become an employee, consultant or contract  
135 vendor to a private entity which provides the jail or services to  
136 the county within one (1) year after the termination of his  
137 service or employment.

138 (2) Any person violating this section shall be guilty of a  
139 misdemeanor and punished by a fine of not less than Five Hundred  
140 Dollars (\$500.00) but not more than One Thousand Dollars  
141 (\$1,000.00).

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143 **SECTION 2.** This act shall take effect and be in force from  
144 and after its passage.