



Ninety-Seventh Legislature - First Session - 2001
Committee Statement
LB 751

Hearing Date: 3/1/2001
Committee On: Judiciary

Introducers: (Schimek, Chambers)
Title: Adopt the Private Prison Contracting Act

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

8	Yes	Senators Baker, Bourne, Brashear, Chambers, Connealy, Pedersen, Robak, Tyson
	No	
	Present, not voting	
	Absent	

Proponents:

Senator DiAnna Schimek
Steve King
Steve Grabowski

Representing:

Introducer
Department of Correctional Services
Nebraska Fraternal Order of Police

Opponents:

Representing:

Neutral:

Bill Arfmann
Joshua Miller

Representing:

AFSCME Local 61
AFSCME

Summary of purpose and/or changes:

LB 751 would authorize the Department of Correctional Services (Department) to contract with private entities to provide for incarceration, supervision, and residential treatment of Nebraska inmates.

LB 751 requires that each private facility adhere to or, complies with minimum requirements, including standards regarding internal and perimeter security, discipline of inmates, classification, educational and vocational training programs, and proper food, clothing,

housing and health care. LB 751 also specifies that each contract awarded include provisions pertaining to inmate drug testing, training requirements, among other issues.

The private contractor shall not have authority to determine inmate release, parole, or issues regarding work release. The bill also specifies that a contract permitting employees of the contractor to use force and possess firearms does not convey peace officer status to such employees.

The Department shall maintain a file of all potential contractors with various information regarding them. The Department shall select a contractor from such file and shall inform the potential contractors when a contractor is chosen among them.

LB 751 lists various factors for the Department to consider when choosing a contractor, including experience, capacity to perform work, and past performance. The Director of the Department shall make the decision regarding selection of a contractor and shall be supported in his or her decision by the Department of Administrative Services (DAS) and the Attorney General. Both DAS and the Attorney General shall have an opportunity to review, and object to, any proposed contract. Each contract shall be for two years, with an option for two-year renewals of such contract. The Governor shall approve each contract.

No contract shall be awarded unless the contractor possesses the necessary qualifications and experience, the necessary personnel and the ability to comply with the financial terms of the contract and the ability to comply with court orders and Department standards. Each contractor shall obtain insurance, or provide self-insurance, to compensate or indemnify the State.

State laws regarding public employees do not bind the contractors. Regarding criminal laws, any laws that apply to State correctional institutions shall apply to private institutions.

The Department shall monitor contractors' compliance with the terms of a contract and the standards of the private prisons. The Director of the Department shall have access to all parts of the contractor's facility, except for the contractor's financial records. The Director has the authority to enforce compliance with standards and may impose a fine.

Each contractor shall acquire and maintain accreditation by the American Correctional Association of its facility within two years.

The Department shall have the authority to determine the location of a facility. The Department also has the option of purchasing the facility at the beginning of each fiscal year. The Department may adjust the cost once each fiscal year, subject to appropriations. The Department may also cancel the contract for cause.

LB 751 places limits on private contractors' ability to house inmates from federal prisons and other states. Such limits include prohibition against releasing inmates into Nebraska, housing misdemeanor offenders in Nebraska, and other limits.

Employees of private contractors shall be searched, by fingerprint records, for past felony convictions. The FBI or the State Patrol shall conduct such searches. Each employee or potential employee shall pay up to \$50 for the search. The contractor may reimburse such costs.

Explanation of amendments, if any:

The committee amendment eliminates the provisions of the bill that provided for private prison contractors to receive and house federal inmates or inmates from other states. The amendment inserts a new section in the bill to specify that a private prison in Nebraska shall not receive or house federal inmates or inmates from another state.

The amendment also makes minor drafting changes to the bill. All such changes further the bill's intent.

Senator Kermit A. Brashear, Chairperson