

SENATE BILL NO. 438—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 22, 2007

Referred to Committee on Judiciary

SUMMARY—Authorizes a board of county commissioners to contract with a private entity for the detention of prisoners. (BDR 16-1354)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to correctional institutions; authorizing a board of county commissioners, with the concurrence of the sheriff, to enter into an agreement with a private entity for the detention of the prisoners of the county; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires at least one county jail to be built in each county and
2 authorizes each board of county commissioners to enter into agreements with other
3 counties or cities for the construction, operation or maintenance of a jail or for the
4 detention of the prisoners of the county. (NRS 211.010) **Section 10** of this bill
5 authorizes a board of county commissioners, with the concurrence of the sheriff, to
6 enter into an agreement with a private entity for the detention of the prisoners of the
7 county. **Section 6** of this bill prohibits a board of county commissioners from
8 entering into a contract with a private entity for such a purpose under certain
9 circumstances. **Section 7** of this bill establishes certain restrictions on a contract
10 entered into between a board of county commissioners and a private entity. **Section**
11 **8** of this bill provides that employees of a private entity that provide security may
12 only use force under certain circumstances. **Section 9** of this bill prohibits the
13 authorization or delegation of certain authority or responsibilities to a private entity.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 211 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Correctional services” includes the following functions, services and activities when provided with regard to the private facility:*

1. The operation of the private facility, including management, custody of prisoners and security.

2. Services for food, medical attention, transportation and sanitation, a commissary and other ancillary services.

3. Development and implementation of systems for classification, management and information and other similar services.

4. Education, training and programs for employment.

5. Counseling, treatment programs and other programs for the special needs of the prisoners.

Sec. 4. *“Private entity” means a person with a contractual agreement with the board of county commissioners of a county to provide correctional services to prisoners at the private facility.*

Sec. 5. *“Private facility” means a correctional facility proposed for operation or construction by a private entity pursuant to an agreement with the board of county commissioners of a county, including, without limitation, any physical improvement, any preliminary plan, study or survey related thereto, the land or the right to land, and any furnishings, machines, vehicles, apparatus or equipment used in connection therewith.*

Sec. 6. *The board of county commissioners of a county may not enter a contract for correctional services unless the private entity provides:*

1. Evidence of his qualifications, experience and ability to comply with applicable court orders and correctional standards.

2. A plan of indemnification for liability, including indemnity for civil rights claims. The plan must protect the State from all claims and losses incurred as a result of the contract. The provisions of this subsection do not deprive a private entity or the county of the benefits of any law that limits its exposure to liability or damages.

3. Evidence of past performance of similar contracts, including audited financial statements for the past 5 years or for



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1 *each of the years the private entity has been in operation, if less*
2 *than 5 years, and other financial information as requested.*

3 *4. Management personnel necessary to carry out the terms of*
4 *the contract.*

5 *Sec. 7. A contract entered into pursuant to NRS 211.010,*
6 *including contracts for the provision of correctional services, the*
7 *lease or use of public lands or a public building for use in the*
8 *operation of the private facility must provide:*

9 *1. Internal and perimeter security to protect the public,*
10 *employees and prisoners.*

11 *2. Work or training opportunities for prisoners while they are*
12 *incarcerated. The private entity must not benefit financially from*
13 *the labor of the prisoners.*

14 *3. Discipline for prisoners in accordance with applicable*
15 *standards and procedures.*

16 *4. Food, clothing, housing and medical care for prisoners.*

17 *Sec. 8. 1. Employees of a private entity that provide*
18 *security may only use force and exercise their power and authority*
19 *while:*

20 *(a) On the grounds of the private facility under the supervision*
21 *of the contractor.*

22 *(b) Transporting prisoners.*

23 *(c) Pursuing escapees from the private facility.*

24 *2. The provisions of chapter 212 of NRS apply to the:*

25 *(a) Guards or correctional officers employed by the private*
26 *entity; and*

27 *(b) Prisoners assigned to the private facility, or to a program*
28 *for which the private entity is providing correctional services,*

29 *↳ to the same extent that those provisions would apply if the*
30 *services provided by the private entity were being provided by the*
31 *county jail.*

32 *Sec. 9. A contract for correctional services must not*
33 *authorize, allow or imply a delegation of authority or*
34 *responsibility of the board of county commissioners of a county to*
35 *a private entity for:*

36 *1. Developing and implementing procedures for calculating*
37 *dates for release of prisoners or eligibility for parole.*

38 *2. Developing and implementing procedures for calculating*
39 *and awarding credits against the term of imprisonment.*

40 *3. Approving prisoners for furlough and work release.*

41 *4. Approving the work prisoners may perform and the wages*
42 *or credits that may be given the prisoners who are engaged in such*
43 *work.*

44 *5. Granting, denying or revoking credits against the term of*
45 *imprisonment.*



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Sec. 10. NRS 211.010 is hereby amended to read as follows:

211.010 1. Except as otherwise provided in subsection 2, at least one county jail must be built or provided in each county, and maintained in good repair at the expense of the county. The county jail required by this section is not required to be located in conjunction with the office of the sheriff that is maintained at the county seat if the board of county commissioners determines that a different location in the county would better serve the needs of the county. Upon such a determination, the county jail may be located at any place in the county.

2. The board of county commissioners of a county, with the concurrence of the sheriff, may enter into an agreement with ~~any~~:

(a) Any other county or city in this State, in accordance with the provisions of NRS 277.080 to 277.180, inclusive, for the construction, operation or maintenance of a jail or the detention of the prisoners of the county ~~H~~; and

(b) Any private entity for financing, acquiring, constructing or operating a private facility.

Sec. 11. NRS 211.020 is hereby amended to read as follows:

211.020 The board of county commissioners:

1. ~~Hs~~ Except as otherwise provided in this subsection, is responsible for building, inspecting and repairing any county or branch county jail located in its county. *This subsection does not apply to a private facility.*

2. Once every 3 months, shall inquire into the security of the jail and the treatment and condition of the prisoners.

3. Shall take all necessary precautions against escape, sickness or infection.

Sec. 12. NRS 211.030 is hereby amended to read as follows:

211.030 1. The sheriff is the custodian of the jail in his county, and of the prisoners therein, and shall keep the jail personally, or by his deputy, or by a jailer or jailers appointed by him for that purpose, for whose acts he is responsible.

2. All jailers employed or appointed by the sheriff are entitled to receive a fair and adequate monthly compensation, to be paid out of the county treasury, for their services.

3. *This section does not apply to a private facility.*

Sec. 13. NRS 211.115 is hereby amended to read as follows:

211.115 1. In a county in which a metropolitan police department is established, the governing body of any participating city may:

~~H~~ (a) Establish a department of detention and may appoint a person to administer the detention facilities; or

~~H~~ (b) Appoint a person to administer its jail.

2. *This section does not apply to a private facility.*



1 **Sec. 14.** The preliminary chapter of NRS is hereby amended
2 by adding thereto a new section to read as follows:

3 *Whenever used in the Statutes of Nevada and Nevada Revised*
4 *Statutes:*

5 1. *Except as otherwise provided in NRS 211.020, 211.030,*
6 *211.115 and 248.050, the terms “detention facility,” “jail of the*
7 *county,” “county jail” and “jail” include a private facility as*
8 *defined in section 5 of this act.*

9 2. *The terms “branch county jail” and “city jail” do not*
10 *include a private facility as defined in section 5 of this act.*

11 **Sec. 15.** NRS 248.050 is hereby amended to read as follows:

12 248.050 ~~{The}~~ *Except as otherwise provided in this section,*
13 *the* sheriff of each county shall have the custody of the jail of his
14 county and the prisoners in the same, and shall appoint the keeper
15 thereof, for whose conduct he shall be responsible, and whom he
16 may remove at pleasure. *This section does not apply to a private*
17 *facility as defined in section 5 of this act.*

