

HOUSE BILL NO. 55

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES HAWKER AND ROKEBERG, Kohring

Introduced: 1/21/03

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act expressing legislative intent regarding privately operated correctional facility**
2 **space and services; relating to the development and financing of privately operated**
3 **correctional facility space and services; authorizing the Department of Corrections to**
4 **enter into an agreement for the confinement and care of prisoners in privately operated**
5 **correctional facility space; authorizing the Department of Corrections to enter into**
6 **agreements with municipalities to expand existing correctional facilities; and providing**
7 **for an effective date."**

8 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

9 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
10 to read:

11 LEGISLATIVE INTENT. It is the intent of the legislature in secs. 2 and 3 of this Act
12 to secure additional correctional facility space and services through a privately operated
13 correctional facility in Alaska. The legislature expects the Department of Corrections to

1 contract with the City of Whittier for privately operated correctional facility space and
 2 services similar to those currently acquired for medium-custody and close-custody Alaska
 3 prisoners in a privately operated prison outside the state. The legislature anticipates a
 4 privately operated correctional facility will bring competitive management styles and
 5 operations to Alaska. The legislature expects that the initial per diem cost at a privately
 6 operated facility (excluding costs related to major medical, prescription medication, and
 7 transportation of prisoners and other services excluded in contracts for Alaska prisoner care
 8 and custody in privately operated facilities outside the state, but including the capital costs for
 9 construction of the facility, including debt service) will be 18 - 20 percent less than the current
 10 average per diem rate for all state facilities as reported to the federal government for
 11 reimbursement purposes and should be approximately \$91 to \$94 in current dollars.

12 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
 13 read:

14 **AUTHORIZATION TO CONTRACT FOR CORRECTIONAL FACILITY SPACE**
 15 **AND SERVICES WITH THIRD-PARTY CONTRACTOR FOR OPERATION.** (a) The
 16 Department of Corrections is authorized to enter into an agreement with the City of Whittier
 17 for the purpose of acquiring correctional facility space and services for a minimum of 25
 18 years for persons who are committed to the custody of the commissioner of corrections.

19 (b) The agreement entered into under this section is predicated on and must provide
 20 for an agreement between the City of Whittier and one or more private third-party contractors
 21 under which private, for profit or nonprofit third-party contractors construct and operate the
 22 facility by providing for custody, care, and discipline services for persons committed to the
 23 custody of the commissioner of corrections under authority of state law. In the agreement
 24 with the City of Whittier, the commissioner of corrections shall require that the city procure
 25 one or more private third-party operators through a competitive bid process. The procurement
 26 requirements of this subsection are satisfied if the City of Whittier, in exercise of its powers
 27 under AS 29.35.010(15) for procurement of land, design, construction, and operation of a
 28 facility, follows its municipal ordinances and resolutions and procurement procedures.

29 (c) The authorization given by (a) of this section is subject to the following
 30 conditions:

31 (1) the agreement must cover a minimum of 1,200 prison beds, and, subject to

1 (2) of this subsection, the payments by the Department of Corrections must be sufficient to
2 cover

3 (A) a capital component consisting of the cost for the development and
4 construction of the facility, including all debt service; and

5 (B) an operating component consisting of the operating costs based on
6 per diem operating charges for a minimum 1,200 prison beds; for a period of five
7 years from initial operation of the facility, the operating component must include a
8 reasonable adjustment for costs not incurred until full occupancy;

9 (2) the agreement must provide that the obligation of the Department of
10 Corrections to make payments under the agreement is subject to annual appropriation of funds
11 by the legislature;

12 (3) the agreement must contain terms providing that the commissioner of
13 corrections may direct the City of Whittier, after notice and reasonable opportunity to cure, to
14 terminate its contract with a private third-party contractor operating the facility in accordance
15 with the provisions of (b) of this section, and to procure a replacement third-party contractor
16 if the commissioner finds that the private third-party contractor has failed to provide or cause
17 to be provided the degree of custody, care, and discipline required by terms of the agreement
18 and that the private third-party contractor has been given notice and reasonable opportunity to
19 cure as provided in the third-party contractor's agreement with the City of Whittier;

20 (4) the commissioner's authority to enter into the agreement is subject to the
21 condition that the contract between the city and the operator requires the operator to provide
22 culturally relevant reformation services to incarcerated Alaska Natives.

23 (d) Nothing in secs. 2 and 3 of this Act is intended to prevent the City of Whittier
24 from issuing bonds as permitted for municipalities under state law, including AS 29.47.390,
25 to finance construction of the facility. The bonds may be secured by and payable from
26 revenues of the facility, including those described in (c) of this section. Revenues of the
27 facility are not revenues of the City of Whittier for purposes of AS 29.47.390.

28 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 **AUTHORIZATION TO LEASE CORRECTIONAL FACILITY SPACE WITH**
31 **MUNICIPALITIES.** (a) To relieve overcrowding of existing correctional facilities in the

1 state, the Department of Corrections may enter into agreements with the following
2 municipalities for expanded correctional facilities:

3 (1) Fairbanks North Star Borough - expansion of the existing Fairbanks
4 Correctional Center by up to 100 beds;

5 (2) Matanuska-Susitna Borough - expansion of the existing Mat-Su Pre-trial
6 Facility by up to 107 beds;

7 (3) Bethel - expansion of the existing Yukon Kuskokwim Correctional Center
8 by up to 96 beds;

9 (4) Seward - expansion of the existing Spring Creek Correctional Center by up
10 to 150 beds.

11 (b) The authorizations given by (a) of this section are subject to the following
12 conditions:

13 (1) the average capital costs for all beds may not exceed \$155,000 a bed,
14 adjusted for inflation at the rate of three percent a year from the effective date of this Act;

15 (2) if expansion of an existing facility is authorized, the state shall enter into a
16 joint ownership agreement with the municipality of the expanded facility, enter onto a long-
17 term lease not to exceed 25 years of the municipality's interest in the facility, and operate the
18 facility; payments under the lease may not exceed \$16,700 a bed.

19 * **Sec. 4.** Sections 1 - 3, ch. 32, SLA 2001, are repealed.

20 * **Sec. 5.** This Act takes effect July 1, 2003.