

**SENATE BILL NO. 99**

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

**BY SENATOR BUNDE**

**Introduced: 3/4/03**

**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; and providing for an effective date."**

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

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

9 LEGISLATIVE INTENT. It is the intent of the legislature in sec. 2 of this Act to  
10 secure additional correctional facility space and services through a privately operated  
11 correctional facility in Alaska. The legislature expects the Department of Corrections to  
12 contract with the City of Whittier for privately operated correctional facility space and  
13 services similar to those currently acquired for medium-custody and close-custody Alaska

1 prisoners in a privately operated prison outside the state. The legislature anticipates a  
 2 privately operated correctional facility will bring competitive management styles and  
 3 operations to Alaska.

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

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

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

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

23 (1) the agreement must cover a minimum of 1,200 prison beds, and, subject to  
 24 (2) of this subsection, the payments by the Department of Corrections

25 (A) may not exceed a total per diem cost of \$94 an inmate a day or 85  
 26 percent of the inmate cost a day to the state for the construction and operation by the  
 27 state of equivalent facilities; the per diem cost shall be adjusted for

28 (i) changes in the cost of living from the effective date of this  
 29 Act until the facility opens;

30 (ii) costs not incurred until full occupancy;

31 (B) must be sufficient to cover

1 (i) a capital component consisting of the cost for the  
2 development and construction of the facility, including all debt service; and

3 (ii) an operating component consisting of the operating costs,  
4 not including inmate transportation, based on per diem operating charges for a  
5 minimum 1,200 prison beds;

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

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

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

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

25 \* **Sec. 3.** Sections 1 - 3, ch. 32, SLA 2001, are repealed.

26 \* **Sec. 4.** This Act takes effect July 1, 2003.