

By: Allen

H.B. No. 51

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of a select committee to study prison  
3 privatization.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. CREATION. The select committee on prison  
6 privatization is created.

7 SECTION 2. COMPOSITION. (a) The select committee is  
8 composed of:

9 (1) three members appointed by the governor;

10 (2) three members of the senate appointed by the  
11 lieutenant governor; and

12 (3) three members of the house of representatives  
13 appointed by the speaker of the house of representatives.

14 (b) Each individual required to make an appointment under  
15 Subsection (a) of this section shall make the appointment as soon as  
16 possible after the effective date of this Act, but not later than  
17 January 15, 2004.

18 (c) The governor shall designate one member of the select  
19 committee to serve as the presiding officer of the committee.

20 SECTION 3. DUTIES. (a) The select committee shall prepare  
21 a report that, for the purposes of comparing cost-effectiveness and  
22 program effectiveness of prison facilities operated by the Texas  
23 Department of Criminal Justice and prison facilities operated by or  
24 potentially operated by private contractors, analyzes the

1 following issues:

2 (1) the best possible methods and processes for  
3 administering and monitoring contracts for prison privatization;

4 (2) whether an existing agency of the state or a new  
5 agency should administer future prison privatization contracts;

6 (3) the probable cost savings to the state if prison  
7 privatization is increased;

8 (4) the standards that should be used to compare  
9 program effectiveness and the best methods for comparing costs for  
10 provision of programs by the Texas Department of Criminal Justice  
11 and costs for provision of programs by contractors;

12 (5) the history of prison privatization efforts in  
13 this state and in other populous states, with special emphasis on  
14 subissues related to program effectiveness, performance records,  
15 cost savings, ethical concerns, and impact on relevant communities;

16 (6) as to potential contractors, the backgrounds and  
17 past performances of those contractors;

18 (7) which facilities or services currently primarily  
19 provided by the Texas Department of Criminal Justice could best be  
20 performed by a contractor; and

21 (8) whether ethical standards could be adopted to  
22 protect the state from corruption or ethical conflicts.

23 (a-1) The Legislative Budget Board, the comptroller, and  
24 the state auditor shall comply with requests for assistance from  
25 the select committee as necessary to assist the committee in  
26 performing the committee's duties under this Act.

27 (b) In addition to the issues described by Subsection (a) of

1 this section, the report must analyze the impact that the  
2 privatization of a Texas Department of Criminal Justice facility or  
3 function would have on the community in which the function is  
4 performed or the facility is located, including economic impact,  
5 workforce impact, and impact on community facilities and services.

6 (b-1) The presiding officer of the select committee shall  
7 instruct the members of the committee that in analyzing the issues  
8 described by Subsection (a) of this section, the members if  
9 possible shall compare the past and the predicted performances of  
10 private contractors with the past and predicted performances of the  
11 Texas Department of Criminal Justice.

12 (c) In addition to the information required by Subsections  
13 (a) and (b) of this section, the report must contain a qualitative  
14 and quantitative comparison of the performance of vendors operating  
15 facilities under Subtitle G, Title 4, Government Code, and the  
16 performance of facilities operated by the Texas Department of  
17 Criminal Justice that provide the same level of programs and  
18 services. The report must analyze programs and services provided  
19 not just for inmates in the general population, but also for inmates  
20 in geriatric programs, in-prison therapeutic facilities,  
21 administrative segregation, and other programs not provided to  
22 inmates in the general population. The comparison must provide  
23 information on the operations of each vendor and comparable  
24 department programs and facilities, including information about  
25 treatment programs implemented, numbers of escapes, major  
26 disciplinary events, and other matters determined to be important  
27 by the select committee.

1           (d) The select committee shall present copies of the report  
2 not later than December 1, 2004, to the governor, the lieutenant  
3 governor, and the speaker of the house of representatives.

4           (e) In preparing the report under this section, the select  
5 committee shall pay particular attention to identifying overhead  
6 costs to the Texas Department of Criminal Justice and overhead  
7 costs to private contractors, and shall present that information in  
8 a manner that provides for meaningful comparisons of costs of  
9 providing correctional services. The overhead costs described by  
10 this subsection include medical costs, transportation costs,  
11 facilities and maintenance costs, and similar costs. The report  
12 must also identify any increase in costs to the Texas Department of  
13 Criminal Justice for items described by this subsection in the  
14 event that some or all of the functions described by those items are  
15 performed under contract.

16           SECTION 4. HEARINGS. The select committee, for the purpose  
17 of gathering information necessary for the preparation of the  
18 report required by Section 3 of this Act, shall hold at least four  
19 public hearings. At least one of the hearings must be held in a  
20 municipality with a population greater than one million and at  
21 least two of the hearings must be held in a municipality or county  
22 in which more than one division of the Texas Department of Criminal  
23 Justice operates a facility or performs a function.

24           SECTION 5. FUNDS TRANSFER. The Texas Department of  
25 Criminal Justice shall enter into a memorandum of understanding  
26 with the select committee to provide the committee with not less  
27 than \$200,000 from the department's budget for the biennium ending

1 August 31, 2005. The select committee shall use funds received from  
2 the department under this section to hire technical assistance that  
3 is professional and unbiased and that will assist the committee in  
4 performing its duties under this Act. The department and the select  
5 committee shall enter into the memorandum of understanding not  
6 later than January 31, 2004. The memorandum must specify that the  
7 funds will be transferred to the select committee according to a  
8 schedule established by the select committee.

9 SECTION 5A. CONFLICTS PROHIBITED. A member of the select  
10 committee or an employee of or person who contracts with the  
11 committee may not have a direct financial interest in an entity that  
12 contracts for the provision of prison beds or other correctional  
13 services with:

14 (1) this state or a political subdivision of this  
15 state;

16 (2) another state or a political subdivision of  
17 another state; or

18 (3) the federal government.

19 SECTION 6. EXPIRATION. The select committee is abolished  
20 and this Act expires December 31, 2004.

21 SECTION 7. EFFECTIVE DATE. This Act takes effect  
22 immediately if it receives a vote of two-thirds of all the members  
23 elected to each house, as provided by Section 39, Article III, Texas  
24 Constitution. If this Act does not receive the vote necessary for  
25 immediate effect, this Act takes effect on the 91st day after the  
26 last day of the legislative session.