

By: Madden

H.B. No. 2198

Substitute the following for H.B. No. 2198:

By: Allen of Dallas

C.S.H.B. No. 2198

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to commissary operation in county jails and privately  
3 operated detention facilities.

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

5 SECTION 1. Section 351.0415, Local Government Code, is  
6 amended to read as follows:

7 Sec. 351.0415. COMMISSARY OPERATION BY SHERIFF OR PRIVATE  
8 VENDOR. (a) The sheriff of a county or the sheriff's designee,  
9 including a private vendor operating a detention facility under  
10 contract with the county, may operate, or contract with another  
11 person to operate, a commissary for the use of the inmates  
12 [prisoners] committed to the county jail or to a detention facility  
13 operated by the private vendor, as appropriate. The commissary  
14 must be operated in accordance with rules adopted by the Commission  
15 on Jail Standards.

16 (b) The sheriff or the sheriff's designee:

17 (1) has exclusive control of the commissary funds;

18 (2) shall maintain commissary accounts showing the  
19 amount of proceeds from the commissary operation and the amount and  
20 purpose of disbursements made from the proceeds; and

21 (3) shall accept new bids to renew contracts of  
22 commissary suppliers every five years.

23 (c) The sheriff or the sheriff's designee may use commissary  
24 proceeds only to:

1 (1) fund, staff, and equip a program addressing the  
2 social needs of the inmates [~~county prisoners~~], including an  
3 educational or recreational program and religious or  
4 rehabilitative counseling;

5 (2) supply inmates [~~county prisoners~~] with clothing,  
6 writing materials, and hygiene supplies;

7 (3) establish, staff, and equip the commissary  
8 operation and fund the salaries of staff responsible for managing  
9 the inmates' commissary accounts; [~~or~~]

10 (4) fund, staff, and equip both an educational and a  
11 law library for the educational use of inmates; or

12 (5) fund physical plant improvements, technology,  
13 equipment, programs, services, and activities that provide for the  
14 well-being, health, safety, and security of the inmates and the  
15 facility [~~county prisoners~~].

16 (d) For a jail under the supervision of the sheriff, at [~~At~~]  
17 least once each county fiscal year, or more often if the  
18 commissioners court desires, the auditor shall, without advance  
19 notice, fully examine the jail commissary accounts. The auditor  
20 shall verify the correctness of the accounts and report the  
21 findings of the examination to the commissioners court of the  
22 county at its next term beginning after the date the audit is  
23 completed.

24 (e) A private vendor operating a detention facility under  
25 contract with the county shall ensure that the facility commissary  
26 accounts are annually examined by an independent auditor.

27 (f) When entering into a contract under Subsection (a), the

1 sheriff or the sheriff's designee shall consider the following:

2 (1) whether the contract should provide for a fixed  
3 rate of return combined with a sales growth incentive;

4 (2) the menu items offered by the provider and the  
5 price of those items;

6 (3) the value, as measured by a best value standard,  
7 and benefits to inmates and the commissary, as offered by the  
8 provider;

9 (4) safety and security procedures to be performed by  
10 the provider; and

11 (5) the performance record of the provider, including  
12 service availability, reliability, and efficiency.

13 (g) Commissary proceeds may be used only for the purposes  
14 described in Subsection (c). A commissioners court may not use  
15 commissary proceeds to fund the budgetary operating expenses of a  
16 county jail.

17 SECTION 2. Section 351.04155, Local Government Code, is  
18 amended by amending Subsection (a) and adding Subsection (c) to  
19 read as follows:

20 (a) This section applies only to a county that:

21 (1) has a population of one million or more; ~~and~~

22 (2) has two municipalities with a population of  
23 200,000 ~~[300,000]~~ or more; and

24 (3) is adjacent to a county with a population of one  
25 million or more.

26 (c) A purchase made by the sheriff using commissary proceeds  
27 is subject to the competitive purchasing procedures contained in

1 Subchapter C, Chapter 262. For the purpose of complying with that  
2 subchapter, a reference in that subchapter to "commissioners court"  
3 means the sheriff and a reference to "the county official who makes  
4 purchases for the county" means the sheriff or the sheriff's  
5 designee.

6 SECTION 3. This Act takes effect September 1, 2005.