

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1239 - SB 1515

March 16, 2023

SUMMARY OF BILL: Prohibits the Commissioner of the Department of Correction (DOC) and a local governmental entity from entering into, renewing, or extending a contract for correctional services with a private prison contractor. Deletes the *Private Prison Contracting Act of 1986* upon the expiration of the last contract with a prison contractor.

Requires inmates housed within a facility operated by a private prison contractor be transferred by the DOC or local governmental entity, as applicable, to a suitable correctional facility or jail upon expiration of each contract.

Requires the Commissioner of DOC to prescribe rules in accordance with the *Uniform Administrative Procedures Act*, to facilitate the winding down of the *Private Prison Contracting Act of 1986*, including rules regarding the transfer of inmates and prisoners, the transfer of records and the manner in which to utilize funds that may become available as the result of the termination of contracts to improve the correctional system at both the state and local levels.

FISCAL IMPACT:

Increase State Expenditures – Exceeds \$2,225,500/FY23-24 and Subsequent Years

Other Fiscal Impact – Additional fiscal impacts will be realized. The precise amount and timing of any net fiscal impact to state and local government is unable to be determined with reasonable certainty.

Assumptions:

- Pursuant to Tenn. Code Ann. § 41-24-102(5), a prison contractor is defined as any entity entering into a contractual agreement with the Commissioner of the DOC to provide correctional services to inmates under the custody of the DOC.
- Based on information previously provided by the DOC, South Central Correctional Facility is the only state-owned correctional facility operated by a private contractor. It has a capacity for 1,676 inmates.
- The contract allocation for South Central Correction Facility for FY22-23 is \$42,283,866, with an expiration date of June 30, 2023.
- Pursuant to Tenn. Code Ann. § 41-24-105(c), prior to renewing a contract for correctional services with a private prison contractor, the performance of the contractor is required to be compared to the performance of the state for similar services as set out

in the contract. In order to renew such contract, the services provided are required to be the same quality as the state at a cost of five percent less than the state.

- It is reasonably assumed the current contract allocation for South Central Correction Facility is at least five percent less than what it will cost the state to manage the facility.
- The increase in state expenditures as a result of the proposed legislation is estimated to exceed \$2,225,467 [$(\$42,283,866 / 0.95) - \$42,283,866$] in FY23-24 and subsequent years.
- Based on information provided by the DOC, three facilities have a county government contract for prison services with a capacity for 6,104 inmates.
- The expiration of the current contracts are as follows:
 - Trousdale Turner Correctional Center – July 5, 2026;
 - Whiteville Correctional Facility – June 30, 2026; and
 - Hardeman County Correctional Facility – June 30, 2024.
- Upon the expiration of the last contract, the proposed legislation will require DOC to lease or purchase property to house inmates and to contract or hire staff for the provision of correctional services and operation of facilities for approximately 6,104.
- The weighted average operational costs per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The proposed legislation will result in a total recurring decrease in local revenue estimated to be \$116,178,515 ($\52.11 per day x 365.25 days x 6,104 inmates) beginning upon expiration of such contracts.
- The proposed legislation will result in a corresponding total decrease in local expenditures estimated to be \$116,178,515.
- This legislation may result in an increase in local revenue and corresponding local expenditures if inmates are transferred from one local facility to another local facility upon expiration of a contract.
- The precise amount and timing of such net impacts on specific local governments statewide is dependent on multiple variables including but not limited to any transfer of inmates from a closing facility to an open local facility, and therefore cannot be reasonably determined.
- The precise fiscal impact of the proposed legislation to state expenditures is dependent upon multiple unknown variables, including: any negotiated contract to lease or purchase infrastructure, the party of any contract, the negotiated rate in any contract for operational services, any staff hired to provide such services, and any county government involvement in any portion of the restructuring process. As such, the precise timing and fiscal impact resulting from the proposed legislation is unable to be determined with reasonable certainty.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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