

CHAPTER 41

CORRECTIONS

HOUSE BILL 04-1100

BY REPRESENTATIVE(S) Young, Cadman, Clapp, Crane, Decker, Fairbank, Harvey, Hefley, Lee, May M., Rhodes, Spence, and Stafford;
also SENATOR(S) Owen, and Arnold.

AN ACT**CONCERNING COLORADO'S PROCESS FOR PLANNING PRIVATE PRISONS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 17-1-201 (1), Colorado Revised Statutes, is amended to read:

17-1-201. Duties of department. (1) The department shall adopt rules and implement a process to issue requests for COMPETITIVE proposals for the use and development of private contract prisons.

SECTION 2. The introductory portions to 17-1-202 (1) and (1) (a), Colorado Revised Statutes, are amended to read:

17-1-202. Requests for competitive proposals and contract requirements. (1) Before entering into any contract for designing, financing, acquiring, constructing, or operating a private contract prison or any contract for any combination of these functions, the department may issue a request for COMPETITIVE proposals. The department's rules, at a minimum, shall require that any contract proposed and awarded by the executive director pursuant to this part 2 shall be governed by the following principles:

(a) A contract shall be negotiated with the contractor WHICH, IN THE DETERMINATION OF THE DEPARTMENT, IS found to be the most qualified AND THE MOST COMPETITIVE UNDER THE CIRCUMSTANCES; except that a contract for private correctional facilities shall not be executed unless the executive director of the department of corrections determines that the contractor has demonstrated compliance with the following standards:

SECTION 3. Part 2 of article 1 of title 17, Colorado Revised Statutes, is amended

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

BY THE ADDITION OF A NEW SECTION to read:

17-1-202.5. Private prison planning process. (1) IN ANY FISCAL YEAR, IF THE GENERAL ASSEMBLY DETERMINES THAT THE AMOUNT OF MONEYS CREDITED TO THE CAPITAL CONSTRUCTION FUND, CREATED IN SECTION 24-75-302, C.R.S., IS NOT SUFFICIENT TO PAY FOR THE DESIGN AND CONSTRUCTION OF A CORRECTIONAL FACILITY FOR ADULT OFFENDERS THAT IS DEEMED NECESSARY TO SATISFY FUTURE PRISON BED PROJECTIONS AND NEEDS, THE DEPARTMENT MAY REQUEST COMPETITIVE PROPOSALS FROM PRIVATE PRISON PROVIDERS THREE YEARS BEFORE DESIRED OCCUPANCY OF THE CORRECTIONAL FACILITY.

(2) (a) THE DEPARTMENT, DURING THE REQUEST FOR COMPETITIVE PROPOSALS PROCESS DESCRIBED IN SUBSECTION (1) OF THIS SECTION, SHALL DETERMINE THE LEVEL OF SECURITY, THE DESIRED LOCATION, AND THE NUMBER OF BEDS NECESSARY FOR THE FACILITY, AS WELL AS OTHER CRITERIA APPLICABLE TO THE APPROPRIATE CONDITIONS OF CONFINEMENT TO BE MAINTAINED AT THE FACILITY. THE DEPARTMENT SHALL BE UNDER NO OBLIGATION OR DUTY TO PLACE OFFENDERS IN A FACILITY COVERED BY THIS SECTION.

(b) THE DEPARTMENT IN ALL INSTANCES SHALL ENSURE THAT REQUESTS FOR COMPETITIVE PROPOSALS ADEQUATELY INFORM PROSPECTIVE CONTRACTORS THAT THE DEPARTMENT WILL GIVE PRIORITY TO PROPOSALS THAT SATISFY THE REQUIREMENTS OF SECTION 17-1-202 AND THAT ARE COMPETITIVE TO THE EXTENT THEY CONTAIN TERMS THAT ARE MOST FAVORABLE TO THE DEPARTMENT. THE DEPARTMENT SHALL, TO THE EXTENT POSSIBLE, ALSO TAKE STEPS TO PROVIDE A COMPETITIVE MARKET ENVIRONMENT FOR PROSPECTIVE CONTRACTORS AND TO AVOID DECREASED COMPETITION AND THE CREATION OF A MONOPOLY IN THE MARKET.

(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE OR PERMIT THE DEPARTMENT TO LEND OR PLEDGE THE CREDIT OR FAITH OF THE DEPARTMENT OR OF THE STATE IN ANY MANNER THAT WOULD VIOLATE SECTION 1 OF ARTICLE XI OF THE COLORADO CONSTITUTION.

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 4, 2004, if adjournment sine die is on May 5, 2004); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: March 17, 2004