

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1038

Short Title: Regional Prisons Act of 1995/Funds.

(Public)

Sponsors: Representatives Pate; Aldridge, Brawley, J. Brown, Buchanan, Cansler, Capps, Carpenter, Cocklereece, Culp, Cummings, Davis, Eddins, Grady, Hiatt, Ives, Kiser, Owens, Rayfield, Russell, Sexton, Sharpe, Sherrill, Warner, Weatherly, and G. Wilson.

Referred to: Appropriations Subcommittee on Justice and Public Safety.

May 8, 1995

A BILL TO BE ENTITLED

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2 **AN ACT TO APPROPRIATE FUNDS FOR THE ESTABLISHMENT OF SIX NEW**
3 **REGIONAL CORRECTIONAL FACILITIES TO CONSOLIDATE THE**
4 **POPULATIONS OF PRISON FIELD UNITS WITHIN THE DEPARTMENT OF**
5 **CORRECTION, TO PROVIDE FOR THE CONTRACTING OF PRIVATE**
6 **PRISONS, TO PROVIDE FOR ANY SUITABLE FACILITIES REMAINING AT**
7 **THE FIELD UNITS AFTER CONSOLIDATION TO BE USED TO HOUSE**
8 **PRISONERS ON WORK RELEASE, AND TO PROVIDE THAT PROFITS FROM**
9 **PRISON ENTERPRISES NOW GOING TO THE GENERAL FUND SHALL BE**
10 **USED TO ASSIST IN THE OPERATION OF THESE WORK RELEASE**
11 **FACILITIES.**

12 The General Assembly of North Carolina enacts:

13 Section 1. The Department of Correction shall consolidate the populations of
14 prison field units into six new regional prison facilities. The field units consolidated shall
15 include those units that the Government Performance Audit Committee, the Governor,
16 and the General Assembly have recommended be closed. Of the six new facilities, one
17 medium custody 700-bed unit and two close custody 700-bed units shall be constructed
18 with funds appropriated to the Office of State Construction of the Department of

1 Administration in Section 5 of this act. The remaining three facilities shall be 700-bed
2 medium custody facilities provided pursuant to contracts between the Department of
3 Correction and private for-profit or nonprofit firms for the provision and operation of
4 confinement facilities, as authorized in Section 4 of this act.

5 Sec. 2. The Department of Correction shall provide for any suitable facilities
6 at any of the prison field units consolidated pursuant to this act to be made available to
7 the county in which the facility is located to house prisoners on work release. Pursuant to
8 its authority under G.S. 148-33.1(f), the Department of Correction shall arrange for
9 disbursement to the county of the work release earnings of prisoners housed in any such
10 facilities to assist in funding the operation of the facility.

11 Sec. 3. G.S. 148-2(b) reads as rewritten:

12 "(b) All revenues from the sale of articles and commodities manufactured or
13 produced by prison enterprises shall be deposited with the State Treasurer to be kept and
14 maintained as a special revolving working-capital fund designated "Prison Enterprises
15 Fund." Revenue in the Prison Enterprises Fund shall be applied first to capital and
16 operating expenditures, including salaries and wages of supervisory personnel, necessary
17 to develop and operate prison industrial and forestry enterprises to provide diversified
18 employment for prisoners, and incentive wages for non-Prison Enterprises Inmates. Of
19 the remaining revenue in the Fund, five percent (5%) of the net profits, before expansion
20 costs, shall be credited to the Crime Victims Compensation Fund established in G.S.
21 15B-23 as soon as practicable after profits have been determined for the previous year,
22 and at the direction of the Governor, the remainder shall be used for other purposes
23 within the State prison system ~~or shall be transferred to the General Fund~~ and to assist in the
24 operation of county work release facilities. The provisions of this section shall not apply
25 to revenues generated from private prison enterprises conducted pursuant to G.S. 148-70
26 except for lease and rental income."

27 Sec. 4. G.S. 148-37 is amended by adding a new subsection to read:

28 "(g) The Secretary of Correction may contract with private for-profit or nonprofit
29 firms for the provision and operation of confinement facilities in the State to house State
30 prisoners when to do so would most economically and effectively promote the purposes
31 served by the Department of Correction. Contracts entered under the authority of this
32 subsection shall be for a period not to exceed 10 years, shall be renewable from time to
33 time for a period not to exceed 10 years, and are subject to the approval of the Council of
34 State and the Department of Administration. Contracts made under the authority of this
35 subsection may provide the State with an option to purchase the confinement facility or
36 may provide for the purchase of the confinement facility by the State. Prisoners housed in
37 private confinement facilities pursuant to this subsection shall remain subject to the rules
38 adopted for the conduct of persons committed to the State prison system. The Secretary
39 of Correction may review and approve the design and construction of private
40 confinement facilities before housing State prisoners in these facilities. The rules
41 regarding good time, gain time, and earned credits, discipline, classification, extension of
42 the limits of confinement, transfers, housing arrangements, and eligibility for parole shall
43 apply to inmates housed in private confinement facilities pursuant to this subsection. The

1 operators of private confinement facilities may adopt any other rules as may be necessary
2 for the operation of those facilities with the written approval of the Secretary of
3 Correction. Custodial officials employed by a private confinement facility are agents of
4 the Secretary of Correction and may use those procedures for use of force authorized by
5 the Secretary of Correction to defend themselves, to enforce the observance of discipline
6 in compliance with confinement facility rules, to secure the person of a prisoner, and to
7 prevent escape. Private firms under this subsection shall employ inmate disciplinary and
8 grievance policies of the North Carolina Department of Correction."

9 Sec. 5. There is appropriated from the General Fund to the Office of State
10 Construction of the Department of Administration the sum of one hundred twelve million
11 nine hundred sixty-six thousand nine hundred dollars (\$112,966,900) for the 1995-96
12 fiscal year for the construction of three new prison facilities pursuant to Section 1 of this
13 act.

14 Sec. 6. There is appropriated from the General Fund to the Department of
15 Correction the sum of forty-five million five hundred seventy-six thousand ninety dollars
16 (\$45,576,090) for the 1996-97 fiscal year to enter contracts with private for-profit or
17 nonprofit firms for the provision of three private confinement facilities pursuant to
18 Section 1 of this act.

19 Sec. 7. The Office of State Construction of the Department of Administration
20 may contract for and supervise all aspects of administration, technical assistance, design,
21 construction, or demolition of facilities in order to implement the providing of the three
22 prison facilities to be constructed by the Office of State Construction with funds
23 appropriated in Section 5 of this act.

24 The facilities to be constructed with funds appropriated in Section 5 of this act
25 shall be constructed in accordance with the provisions of general law applicable to the
26 construction of State facilities. If the Secretary of Administration, after consultation with
27 the Secretary of Correction, finds that the delivery of facilities must be expedited for
28 good cause, the Office of State Construction of the Department of Administration shall be
29 exempt from the following statutes and rules implementing those statutes, to the extent
30 necessary to expedite delivery: G.S. 143-135.26, 143-128, 143-129, 143-131, 143-132,
31 143-134, 113A-1 through 113A-10, 113A-50 through 113A-66, 133-1.1(g), and 143-
32 408.1 through 143-408.7.

33 Prior to exercising the exemptions allowable under this section, the Secretary
34 of Administration shall give reasonable notice in writing of the Department's intent to
35 exercise the exemptions to the Speaker of the House of Representatives, the President Pro
36 Tempore of the Senate, the Chairs of the House and Senate Appropriations Committees,
37 the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public
38 Safety, and the Fiscal Research Division. The written notice shall contain at least the
39 following information: (i) the specific statutory requirement or requirements from which
40 the Department intends to exempt itself; (ii) the reason the exemption is necessary to
41 expedite delivery of facilities; (iii) the way in which the Department anticipates the
42 exemption will expedite the delivery of facilities; and (iv) a brief summary of the
43 proposed contract for the project which is to be exempted.

1 The Office of State Construction of the Department of Administration shall
2 have a verifiable ten percent (10%) goal for participation by minority- and women-owned
3 businesses. All contracts for the design, construction, or demolition of facilities shall
4 include a penalty for failure to complete the work by a specified date.

5 The Office of State Construction of the Department of Administration shall
6 involve the Department of Correction in all aspects of the projects to the extent that such
7 involvement relates to the Department's program needs and to its responsibility for the
8 care of the prison population.

9 The Office of State Construction of the Department of Administration shall
10 provide quarterly reports to the Chairs of the Appropriations Committee and the Base
11 Budget Committee in the Senate, the Chairs of the Appropriations Committee in the
12 House of Representatives, the Joint Legislative Commission on Governmental
13 Operations, and the Fiscal Research Division as to any changes in projects and
14 allocations made under this act. The report shall include any changes in the projects and
15 allocations made pursuant to this act, information on which contractors have been
16 selected, what contracts have been entered into, the projected and actual occupancy dates
17 of facilities contracted for, the number of beds to be constructed on each project, the
18 location of each project, and the projected and actual cost of each project.

19 The Department of Insurance and the Department of Correction shall report
20 quarterly to the Joint Legislative Commission on Governmental Operations on their
21 involvement in the construction program.

22 Sec. 8. This act becomes effective July 1, 1995.