

SUBJECT: Creating a select committee to study prison privatization

COMMITTEE: Government Reform — favorable, without amendment

VOTE: 5 ayes — Swinford, Allen, Casteel, R. Cook, T. Smith

0 nays

2 absent — Gallego, Callegari

WITNESSES: For — None

Against — Sathya Gosselin, American Civil Liberties Union of Texas, Prison and Jail Accountability Project

DIGEST: HB 51 would create a select committee on prison privatization to report to the governor, lieutenant governor, and House speaker on issues surrounding prison facilities operated by private contractors.

The report would have to compare the cost-effectiveness and program effectiveness of prisons operated by the Texas Department of Criminal Justice (TDCJ) and those operated by private contractors and would have to include many issues listed in the bill, including the best methods for administering and monitoring contracts for prison privatization, the probable cost savings to the state if privatization were increased, and the history of privatization with emphasis on program effectiveness, performance records, cost savings, ethical concerns, and relevant communities. The report would have to analyze the impact of privatizing a TDCJ facility or function on the community where the facility was located or the function was performed. It also would have to compare the performance of vendors who already operate private correctional facilities in Texas and the performance of similar TDCJ facilities.

The select committee would have to hold at least four public hearings. One would have to be held in a city with a population greater than 1 million, and at least two hearings would have to be in cities or counties in which more than one division of TDCJ operates a facility or performs a function.

The committee would comprise one member appointed by the governor; three members appointed by the lieutenant governor; three members appointed by the House speaker; one member employed by the Legislative Budget Board (LBB) and appointed by the board's executive director; one member employed by and appointed by the comptroller; and one member employed by and appointed by the state auditor.

TDCJ would have to give the committee at least \$200,000 from its fiscal 2005 budget to hire unbiased and professional technical assistance to write the report. The report would have to be presented to state leaders by November 1, 2004.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect on the 91st day after the last day of the special session.

**SUPPORTERS
SAY:**

HB 51 would give the state the necessary information to decide whether private prisons should be expanded in Texas. Texas has had private correctional facilities for more than a decade without adequately studying their effectiveness and desirability. HB 51 would remedy this by establishing a select committee to study and report on prison privatization. The bill would not expand private prisons, nor would it lead automatically to expansion during the next legislative session. It simply would give the governor and the Legislature information necessary to consider that option in the future.

Evaluating private prisons and comparing them to state facilities is a complicated task that would be accomplished best by the objective, unbiased committee established by the bill. HB 51 would give the governor, lieutenant governor, and House speaker — all state leaders entrusted with establishing sound policy for Texas — the necessary flexibility to make appointments to the committee without restrictions. These leaders would ensure that the committee was unbiased and objective and had no conflicts of interest. HB 51 would ensure that the committee had the necessary expertise and objectivity by including on the committee employees of the LBB, comptroller, and state auditor, and by requiring that the committee hire professional and unbiased technical assistance.

HB 51 spells out the topics the report would have to include to ensure that the Legislature and governor would receive all relevant information. The bill would ensure consideration of the concerns of affected citizens by requiring public hearings, including at least two in areas where TDCJ has a presence, and by requiring that the committee analyze the community and workforce impact of privatization.

TDCJ is a large agency with an all-funds biennial budget of about \$5 billion, so it should not be difficult for the agency to find \$200,000 to transfer to the select committee for the study.

While other studies examining prison privatization exist, they do not focus on Texas to the extent contemplated by HB 51.

**OPPONENTS
SAY:**

It would be better to structure the select committee so that its members had to possess a high level of relevant professional expertise and diverse viewpoints and had no financial ties to the private prison industry. For example, the bill could require that the committee include professionals with expertise in education, substance abuse treatment, mental health and mental retardation, organized labor, victims' and prisoners' rights, prisoners' families groups, and the civil rights community. To prevent conflicts of interest and to ensure that the committee's report was unbiased, HB 51 should prohibit the appointment of people with financial ties to the private prison industry.

Requiring TDCJ to supply \$200,000 for the proposed study could mean that important corrections needs would go unfunded in the coming biennium.

**OTHER
OPPONENTS
SAY:**

HB 51 could cause an unnecessary expenditure of state funds, since many studies on the cost-effectiveness of private prisons already exist.