

SUBJECT: Proceeds from commissaries in jails and private detention facilities

COMMITTEE: County Affairs — Committee substitute recommended

VOTE: 6 ayes — R. Allen, W. Smith, Casteel, Laney, Olivo, Otto

0 nays

3 absent — Coleman, Farabee, Naishtat

WITNESSES: For — Reed Smith, GEO Group, Inc.

Against — Dan Smith, Sheriff's Legislative Committee; Keith Charcton

On — Donald Lee, Texas Conference of Urban Counties

BACKGROUND: Under the Local Government Code, sec. 351.0415, a sheriff of a county may operate, or contract with another person to operate, a commissary for the use of the prisoners in the county jail. The commissary must be operated in accordance with rules adopted by the Commission on Jail Standards.

The sheriff is responsible for control of the funds and maintaining the commissary account. The sheriff may use commissary proceeds only to:

- fund, staff, and equip a program addressing the social needs of the county prisoners, including an educational or recreational program and religious or rehabilitative counseling;
- supply county prisoners with clothing, writing materials, and hygiene supplies;
- establish, staff, and equip the commissary operation; or
- fund, staff, and equip a library for the educational use of county prisoners.

Under sec. 351.04155, however, in a county with a population of 1 million or more that contains two municipalities with populations of 300,000 or more (Tarrant County):

- the sheriff does not have exclusive control over the commissary funds;
- the sheriff may not make disbursements from the commissary proceeds unless the sheriff receives approval for the disbursement from the commissioners court of the county;
- the sheriff must provide to the county commissioners court each contract the sheriff makes relating to the commissary within 10 days after the date the contract is made; and
- bids to renew contracts are subject to the approval of the county commissioners court.

DIGEST:

CSHB 2198 would allow the sheriff or a sheriff's designee to spend proceeds from the commissary to pay staff responsible for managing inmate's commissary accounts. This money also could be used to fund programs that improve the well-being, health, safety, and security of the inmates and the facility. The bill also specifies that the commissioners court could not use commissary proceeds to fund the budgetary operating expenses of a county jail.

CSHB 2198 also would allow the sheriff to designate a private vendor operating a detention facility under contract with the county to operate a commissary. The private vendor would have to be annually examined by an independent auditor.

If the sheriff contracted with another person to operate the commissary the, the sheriff or the sheriff's designee would have to consider:

- whether the contract should provide for a fixed rate of return combined with a sales growth incentive;
- the menu items offered by the provider and the price of those items;
- the value, as measured by a best value standard;
- benefits to inmates and the commissary;
- safety and security procedures to be performed by the provider; and
- the performance record of the provider, including service availability, reliability, and efficiency.

The bill also would amend sec. 351.04155 to make it applicable to a county with a population of 1 million or more that contained two municipalities with populations of 200,000 or more and was adjacent to a county with a population of 1 million or more, which would include Dallas County as well as Tarrant County. In addition, purchases using

commissary proceeds made by sheriffs in these counties would be subject to competitive purchasing procedures.

The bill would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

Proceeds from commissary funds typically are used for education, recreation, and other programs that improve the overall quality of life of an inmate. Current law allows county jails and private prisons to spend proceeds from a commissary on a very narrow set of items. In many cases, private commissaries generate more money than they can spend for recreational equipment, clothing, education, and other approved items under the current law. CSHB 2198 would expand the list of items that could be purchased with these funds so that these extra proceeds may be used to improve the living conditions of the inmate.

**OPPONENTS  
SAY:**

The bill inappropriately would allow commissary funds to be used for items such as physical plant improvements that should be funded by the county.

**NOTES:**

The committee substitute would allow the sheriff to designate an individual other than a private vendor to operate the commissary. The original bill would have expanded the possible uses for commissary proceeds. It also would have allowed the sheriff to designate only a vendor that was operating a detention facility under contract with the county to operate the commissary. The substitute also added a list of things a sheriff should consider when entering into a contract with a vendor and would amend section 351.04155 of the Local Government Code to apply to Dallas County.