As Introduced

131st General Assembly Regular Session 2015-2016

H. B. No. 82

Representative Hambley
Cosponsors: Representatives Amstutz, Becker, Ginter, Johnson, T., Koehler,
Maag, Thompson

A BILL

То	amend sections 9.06, 307.93, 341.35, and 753.03	1
	of the Revised Code to permit a county, a group	2
	of counties, or a group of counties and	3
	municipalities to contract for the private	4
	operation and management of a correctional	5
	facility that houses felon inmates.	6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 9.06, 307.93, 341.35, and 753.03	7
of the Revised Code be amended to read as follows:	8
Sec. 9.06. (A)(1) The department of rehabilitation and	9
correction may contract for the private operation and management	10
pursuant to this section of the initial intensive program prison	11
established pursuant to section 5120.033 of the Revised Code, if	12
one or more intensive program prisons are established under that	13
section, and may contract for the private operation and	14
management of any other facility under this section. Counties	15
and municipal corporations to the extent authorized in sections	16
307.93, 341.35, 753.03, and 753.15 of the Revised Code may	17
contract for the private operation and management of a facility	18

under this section. A contract entered into under this section	19
shall be for an initial term specified in the contract with an	20
option to renew for additional periods of two years.	21
(2) The department of rehabilitation and correction, by	22
rule, shall adopt minimum criteria and specifications that a	23
person or entity, other than a person or entity that satisfies	24
the criteria set forth in division (A)(3)(a) of this section and	25
subject to division (I) of this section, must satisfy in order	26
to apply to operate and manage as a contractor pursuant to this	27
section the initial intensive program prison established	28
pursuant to section 5120.033 of the Revised Code, if one or more	29
intensive program prisons are established under that section.	30
(3) Subject to division (I) of this section, any person or	31
entity that applies to operate and manage a facility as a	32
contractor pursuant to this section shall satisfy one or more of	33
the following criteria:	34
(a) The person or entity, at the time of the application,	35
operates and manages one or more facilities accredited by the	36
American correctional association.	37
(b) The person or entity satisfies all of the minimum	38
criteria and specifications adopted by the department of	39
rehabilitation and correction pursuant to division (A)(2) of	40
this section, provided that this alternative shall be available	41
only in relation to the initial intensive program prison	42
established pursuant to section 5120.033 of the Revised Code, if	43
one or more intensive program prisons are established under that	44
section.	45

(4) Subject to division (I) of this section, before a

public entity may enter into a contract under this section, the

46

contractor shall convincingly demonstrate to the public entity	48
that it can operate the facility with the inmate capacity	49
required by the public entity and provide the services required	50
in this section and realize at least a five per cent savings	51
over the projected cost to the public entity of providing these	52
same services to operate the facility that is the subject of the	53
contract. No out-of-state prisoners may be housed in any	54
facility that is the subject of a contract entered into under	55
this section.	56
(B) Subject to division (I) of this section, any contract	57
entered into under this section shall include all of the	58
following:	59
(1) A requirement that, if the contractor applied pursuant	60
to division (A)(3)(b) of this section, the contractor continue	61
complying with the applicable criteria and specifications	62
adopted by the department of rehabilitation and correction	63
pursuant to division (A)(2) of this section;	64
(2) A requirement that all of the following conditions be	65
met:	66
(a) The contractor begins the process of accrediting the	67
facility with the American correctional association no later	68
than sixty days after the facility receives its first inmate.	69
(b) The contractor receives accreditation of the facility	70
within twelve months after the date the contractor applies to	71
the American correctional association for accreditation.	72
(c) Once the accreditation is received, the contractor	73
maintains it for the duration of the contract term.	74
(d) If the contractor does not comply with divisions (B)	75
(2)(a) to (c) of this section, the contractor is in violation of	76

the contract, and the public entity may revoke the contract at 77 its discretion.

- (3) A requirement that the contractor comply with all 79 rules promulgated by the department of rehabilitation and 80 correction that apply to the operation and management of 81 correctional facilities, including the minimum standards for 82 jails in Ohio and policies regarding the use of force and the 83 use of deadly force, although the public entity may require more 84 stringent standards, and comply with any applicable laws, rules, 85 or regulations of the federal, state, and local governments, 86 including, but not limited to, sanitation, food service, safety, 87 and health regulations. The contractor shall be required to send 88 copies of reports of inspections completed by the appropriate 89 authorities regarding compliance with rules and regulations to 90 the director of rehabilitation and correction or the director's 91 designee and, if contracting with a local public entity, to the 92 governing authority of that entity. 93
- (4) A requirement that the contractor report for

 investigation all crimes in connection with the facility to the

 public entity, to all local law enforcement agencies with

 jurisdiction over the place at which the facility is located,

 and, for a crime committed at a state correctional institution,

 to the state highway patrol;

 94

 95

 96

 97

 98

 99
- (5) A requirement that the contractor immediately report

 all escapes from the facility, and the apprehension of all

 escapees, by telephone and in writing to all local law

 enforcement agencies with jurisdiction over the place at which

 the facility is located, to the prosecuting attorney of the

 county in which the facility is located, to the state highway

 patrol, to a daily newspaper having general circulation in the

county in which the facility is located, and, if the facility is	107
a state correctional institution, to the department of	108
rehabilitation and correction. The written notice may be by	109
either facsimile transmission or mail. A failure to comply with	110
this requirement regarding an escape is a violation of section	111
2921.22 of the Revised Code.	112
(6) A requirement that, if the facility is a state	113
correctional institution, the contractor provide a written	114
report within specified time limits to the director of	115
rehabilitation and correction or the director's designee of all	116
unusual incidents at the facility as defined in rules	117
promulgated by the department of rehabilitation and correction	118
or, if the facility is a local correctional institution, that	119
the contractor provide a written report of all unusual incidents	120
at the facility to the governing authority of the local public	121
entity;	122
(7) A requirement that the contractor maintain proper	123
(7) A requirement that the contractor maintain proper	123
(7) A requirement that the contractor maintain proper control of inmates' personal funds pursuant to rules promulgated	123 124
(7) A requirement that the contractor maintain proper control of inmates' personal funds pursuant to rules promulgated by the department of rehabilitation and correction for state	123 124 125
(7) A requirement that the contractor maintain proper control of inmates' personal funds pursuant to rules promulgated by the department of rehabilitation and correction for state correctional institutions or pursuant to the minimum standards	123 124 125 126
(7) A requirement that the contractor maintain proper control of inmates' personal funds pursuant to rules promulgated by the department of rehabilitation and correction for state correctional institutions or pursuant to the minimum standards for jails along with any additional standards established by the	123 124 125 126 127
(7) A requirement that the contractor maintain proper control of inmates' personal funds pursuant to rules promulgated by the department of rehabilitation and correction for state correctional institutions or pursuant to the minimum standards for jails along with any additional standards established by the local public entity for local correctional institutions and that	123 124 125 126 127 128
(7) A requirement that the contractor maintain proper control of inmates' personal funds pursuant to rules promulgated by the department of rehabilitation and correction for state correctional institutions or pursuant to the minimum standards for jails along with any additional standards established by the local public entity for local correctional institutions and that records pertaining to these funds be made available to	123 124 125 126 127 128 129
(7) A requirement that the contractor maintain proper control of inmates' personal funds pursuant to rules promulgated by the department of rehabilitation and correction for state correctional institutions or pursuant to the minimum standards for jails along with any additional standards established by the local public entity for local correctional institutions and that records pertaining to these funds be made available to representatives of the public entity for review or audit;	123 124 125 126 127 128 129 130
(7) A requirement that the contractor maintain proper control of inmates' personal funds pursuant to rules promulgated by the department of rehabilitation and correction for state correctional institutions or pursuant to the minimum standards for jails along with any additional standards established by the local public entity for local correctional institutions and that records pertaining to these funds be made available to representatives of the public entity for review or audit; (8) A requirement that the contractor prepare and	123 124 125 126 127 128 129 130
(7) A requirement that the contractor maintain proper control of inmates' personal funds pursuant to rules promulgated by the department of rehabilitation and correction for state correctional institutions or pursuant to the minimum standards for jails along with any additional standards established by the local public entity for local correctional institutions and that records pertaining to these funds be made available to representatives of the public entity for review or audit; (8) A requirement that the contractor prepare and distribute to the director of rehabilitation and correction or,	123 124 125 126 127 128 129 130 131
(7) A requirement that the contractor maintain proper control of inmates' personal funds pursuant to rules promulgated by the department of rehabilitation and correction for state correctional institutions or pursuant to the minimum standards for jails along with any additional standards established by the local public entity for local correctional institutions and that records pertaining to these funds be made available to representatives of the public entity for review or audit; (8) A requirement that the contractor prepare and distribute to the director of rehabilitation and correction or, if contracting with a local public entity, to the governing	123 124 125 126 127 128 129 130 131 132 133

(9) A requirement that the public entity appoint and

supervise a full-time contract monitor, that the contractor	137
provide suitable office space for the contract monitor at the	138
facility, and that the contractor allow the contract monitor	139
unrestricted access to all parts of the facility and all records	140
of the facility except the contractor's financial records;	141
(10) A requirement that if the facility is a state	142
correctional institution designated department of rehabilitation	143
and correction staff members be allowed access to the facility	144
in accordance with rules promulgated by the department;	145
(11) A requirement that the contractor provide internal	146
and perimeter security as agreed upon in the contract;	147
(12) If the facility is a state correctional institution,	148
a requirement that the contractor impose discipline on inmates	149
housed in the facility only in accordance with rules promulgated	150
by the department of rehabilitation and correction;	151
(13) A requirement that the facility be staffed at all	152
times with a staffing pattern approved by the public entity and	153
adequate both to ensure supervision of inmates and maintenance	154
of security within the facility and to provide for programs,	155
transportation, security, and other operational needs. In	156
determining security needs, the contractor shall be required to	157
consider, among other things, the proximity of the facility to	158
neighborhoods and schools.	159
(14) If the contract is with a local public entity, a	160
requirement that the contractor provide services and programs,	161
consistent with the minimum standards for jails promulgated by	162
the department of rehabilitation and correction under section	163
5120.10 of the Revised Code;	164
(15) A clear statement that no immunity from liability	165

granted to the state, and no immunity from liability granted to	166
political subdivisions under Chapter 2744. of the Revised Code,	167
shall extend to the contractor or any of the contractor's	168
employees;	169
(16) A statement that all documents and records relevant	170
to the facility shall be maintained in the same manner required	171
for, and subject to the same laws, rules, and regulations as	172
apply to, the records of the public entity;	173
(17) Authorization for the public entity to impose a fine	174
on the contractor from a schedule of fines included in the	175
contract for the contractor's failure to perform its contractual	176
duties or to cancel the contract, as the public entity considers	177
appropriate. If a fine is imposed, the public entity may reduce	178
the payment owed to the contractor pursuant to any invoice in	179
the amount of the imposed fine.	180
(18) A statement that all services provided or goods	181
produced at the facility shall be subject to the same	182
regulations, and the same distribution limitations, as apply to	183
goods and services produced at other correctional institutions;	184
(19) If the facility is a state correctional institution,	185
authorization for the department to establish one or more prison	186
industries at the facility;	187
(20) A requirement that, if the facility is an intensive	188
program prison established pursuant to section 5120.033 of the	189
Revised Code, the facility shall comply with all criteria for	190
intensive program prisons of that type that are set forth in	191
that section;	192
(21) If the facility is a state correctional institution,	193
a requirement that the contractor provide clothing for all	194

inmates housed in the facility that is conspicuous in its color,	195
style, or color and style, that conspicuously identifies its	196
wearer as an inmate, and that is readily distinguishable from	197
clothing of a nature that normally is worn outside the facility	198
by non-inmates, that the contractor require all inmates housed	199
in the facility to wear the clothing so provided, and that the	200
contractor not permit any inmate, while inside or on the	201
premises of the facility or while being transported to or from	202
the facility, to wear any clothing of a nature that does not	203
conspicuously identify its wearer as an inmate and that normally	204
is worn outside the facility by non-inmates.	205
(C) No contract entered into under this section may	206
require, authorize, or imply a delegation of the authority or	207
responsibility of the public entity to a contractor for any of	208
the following:	209
(1) Developing or implementing procedures for calculating	210
inmate release and parole eligibility dates and recommending the	211
granting or denying of parole, although the contractor may	212
submit written reports that have been prepared in the ordinary	213
course of business;	214
(2) Developing or implementing procedures for calculating	215
and awarding earned credits, approving the type of work inmates	216
may perform and the wage or earned credits, if any, that may be	217
awarded to inmates engaging in that work, and granting, denying,	218
or revoking earned credits;	219
(3) For inmates serving a term imposed for a felony	220
offense committed prior to July 1, 1996, or for a misdemeanor	221
offense, developing or implementing procedures for calculating	222
and awarding good time, approving the good time, if any, that	223

may be awarded to inmates engaging in work, and granting,

denying, or revoking good time;	225
(4) Classifying an inmate or placing an inmate in a more	226
or a less restrictive custody than the custody ordered by the	227
<pre>public entity;</pre>	228
(5) Approving inmates for work release;	229
(6) Contracting for local or long distance telephone	230
services for inmates or receiving commissions from those	231
services at a facility that is owned by or operated under a	232
contract with the department.	233
(D) A contractor that has been approved to operate a	234
facility under this section, and a person or entity that enters	235
into a contract for specialized services, as described in	236
division (I) of this section, relative to an intensive program	237
prison established pursuant to section 5120.033 of the Revised	238
Code to be operated by a contractor that has been approved to	239
operate the prison under this section, shall provide an adequate	240
policy of insurance specifically including, but not limited to,	241
insurance for civil rights claims as determined by a risk	242
management or actuarial firm with demonstrated experience in	243
public liability for state governments. The insurance policy	244
shall provide that the state, including all state agencies, and	245
all political subdivisions of the state with jurisdiction over	246
the facility or in which a facility is located are named as	247
insured, and that the state and its political subdivisions shall	248
be sent any notice of cancellation. The contractor may not self-	249
insure.	250
A contractor that has been approved to operate a facility	251
under this section, and a person or entity that enters into a	252
contract for specialized services, as described in division (I)	253

of this section, relative to an intensive program prison	254
established pursuant to section 5120.033 of the Revised Code to	255
be operated by a contractor that has been approved to operate	256
the prison under this section, shall indemnify and hold harmless	257
the state, its officers, agents, and employees, and any local	258
government entity in the state having jurisdiction over the	259
facility or ownership of the facility, shall reimburse the state	260
for its costs in defending the state or any of its officers,	261
agents, or employees, and shall reimburse any local government	262
entity of that nature for its costs in defending the local	263
government entity, from all of the following:	264
(1) Any claims or losses for services rendered by the	265
contractor, person, or entity performing or supplying services	266
in connection with the performance of the contract;	267
(2) Any failure of the contractor, person, or entity or	268
its officers or employees to adhere to the laws, rules,	269
regulations, or terms agreed to in the contract;	270
(3) Any constitutional, federal, state, or civil rights	271
claim brought against the state related to the facility operated	272
and managed by the contractor;	273
(4) Any claims, losses, demands, or causes of action	274
arising out of the contractor's, person's, or entity's	275
activities in this state;	276
(5) Any attorney's fees or court costs arising from any	277
habeas corpus actions or other inmate suits that may arise from	278
any event that occurred at the facility or was a result of such	279
an event, or arise over the conditions, management, or operation	280
of the facility, which fees and costs shall include, but not be	281
limited to, attorney's fees for the state's representation and	282

for any court-appointed representation of any inmate, and the 283 costs of any special judge who may be appointed to hear those 284 actions or suits. 285

(E) Private correctional officers of a contractor 286 operating and managing a facility pursuant to a contract entered 287 into under this section may carry and use firearms in the course 288

- operating and managing a facility pursuant to a contract entered 287 into under this section may carry and use firearms in the course 288 of their employment only after being certified as satisfactorily 289 completing an approved training program as described in division 290 (A) of section 109.78 of the Revised Code. 291
- (F) Upon notification by the contractor of an escape from, 292 or of a disturbance at, the facility that is the subject of a 293 contract entered into under this section, the department of 294 rehabilitation and correction and state and local law 295 enforcement agencies shall use all reasonable means to recapture 296 escapees or quell any disturbance. Any cost incurred by the 297 state or its political subdivisions relating to the apprehension 298 of an escapee or the quelling of a disturbance at the facility 299 shall be chargeable to and borne by the contractor. The 300 contractor shall also reimburse the state or its political 301 subdivisions for all reasonable costs incurred relating to the 302 temporary detention of the escapee following recapture. 303
- (G) Any offense that would be a crime if committed at a 304 state correctional institution or jail, workhouse, prison, or 305 other correctional facility shall be a crime if committed by or 306 with regard to inmates at facilities operated pursuant to a 307 contract entered into under this section.
- (H) A contractor operating and managing a facility 309 pursuant to a contract entered into under this section shall pay 310 any inmate workers at the facility at the rate approved by the 311 public entity. Inmates working at the facility shall not be 312

considered employees of the contractor.	313
(I) In contracting for the private operation and	314
management pursuant to division (A) of this section of any	315
intensive program prison established pursuant to section	316
5120.033 of the Revised Code, the department of rehabilitation	317
and correction may enter into a contract with a contractor for	318
the general operation and management of the prison and may enter	319
into one or more separate contracts with other persons or	320
entities for the provision of specialized services for persons	321
confined in the prison, including, but not limited to, security	322
or training services or medical, counseling, educational, or	323
similar treatment programs. If, pursuant to this division, the	324
department enters into a contract with a contractor for the	325
general operation and management of the prison and also enters	326
into one or more specialized service contracts with other	327
persons or entities, all of the following apply:	328
(1) The contract for the general operation and management	329
shall comply with all requirements and criteria set forth in	330
this section, and all provisions of this section apply in	331
relation to the prison operated and managed pursuant to the	332
contract.	333
(2) Divisions (A)(2), (B), and (C) of this section do not	334
apply in relation to any specialized services contract, except	335
to the extent that the provisions of those divisions clearly are	336
relevant to the specialized services to be provided under the	337
specialized services contract. Division (D) of this section	338
applies in relation to each specialized services contract.	339
(J) If, on or after the effective date of this amendment	340
June 30, 2011, a contractor enters into a contract with the	341
department of rehabilitation and correction under this section	342

for the operation and management of any facility described in	343
Section 753.10 of the act in which this amendment was adopted,	344
if the contract provides for the sale of the facility to the	345
contractor, if the facility is sold to the contractor subsequent	346
to the execution of the contract, and if the contractor is	347
privately operating and managing the facility, notwithstanding	348
the contractor's private operation and management of the	349
facility, all of the following apply:	350
(1) Except as expressly provided to the contrary in this	351
section, the facility being privately operated and managed by	352
the contractor shall be considered for purposes of the Revised	353
Code as being under the control of, or under the jurisdiction	354
of, the department of rehabilitation and correction.	355
(2) Any reference in this section to "state correctional	356
institution," any reference in Chapter 2967. of the Revised Code	357
to "state correctional institution," other than the definition	358
of that term set forth in section 2967.01 of the Revised Code,	359
or to "prison," and any reference in Chapter 2929., 5120.,	360
5145., 5147., or 5149. or any other provision of the Revised	361
Code to "state correctional institution" or "prison" shall be	362
considered to include a reference to the facility being	363
privately operated and managed by the contractor, unless the	364
context makes the inclusion of that facility clearly	365
inapplicable.	366
(3) Upon the sale and conveyance of the facility, the	367
facility shall be returned to the tax list and duplicate	368
maintained by the county auditor, and the facility shall be	369
subject to all real property taxes and assessments. No exemption	370
from real property taxation pursuant to Chapter 5709. of the	371

Revised Code shall apply to the facility conveyed. The gross

receipts and income of the contractor to whom the facility is 373 conveyed that are derived from operating and managing the 374 facility under this section shall be subject to gross receipts 375 and income taxes levied by the state and its subdivisions, 376 including the taxes levied pursuant to Chapters 718., 5747., 377 5748., and 5751. of the Revised Code. Unless exempted under 378 another section of the Revised Code, transactions involving a 379 contractor as a consumer or purchaser are subject to any tax 380 levied under Chapters 5739. and 5741. of the Revised Code. 381

- (4) After the sale and conveyance of the facility, all of
 the following apply:
 382
- (a) Before the contractor may resell or otherwise transfer 384 the facility and the real property on which it is situated, any 385 surrounding land that also was transferred under the contract, 386 or both the facility and real property on which it is situated 387 plus the surrounding land that was transferred under the 388 contract, the contractor first must offer the state the 389 opportunity to repurchase the facility, real property, and 390 surrounding land that is to be resold or transferred and must 391 sell the facility, real property, and surrounding land to the 392 state if the state so desires, pursuant to and in accordance 393 394 with the repurchase clause included in the contract.
- (b) Upon the default by the contractor of any financial 395 agreement for the purchase of the facility and the real property 396 on which it is situated, any surrounding land that also was 397 transferred under the contract, or both the facility and real 398 property on which it is situated plus the surrounding land that 399 was transferred under the contract, upon the default by the 400 contractor of any other term in the contract, or upon the 401 financial insolvency of the contractor or inability of the 402

contractor to meet its contractual obligations, the state may	403
repurchase the facility, real property, and surrounding land, if	404
the state so desires, pursuant to and in accordance with the	405
repurchase clause included in the contract.	406
(c) If the contract entered into under this section for	407
the operation and management of a state correctional institution	408
is terminated, both of the following apply:	409
(i) The operation and management responsibilities of the	410
state correctional institution shall be transferred to another	411
contractor under the same terms and conditions as applied to the	412
original contractor or to the department of rehabilitation and	413
correction.	414
(ii) The department of rehabilitation and correction or	415
the new contractor, whichever is applicable, may enter into an	416
agreement with the terminated contractor to purchase the	417
terminated contractor's equipment, supplies, furnishings, and	418
consumables.	419
(K) Any action asserting that section 9.06 of the Revised	420
Code or—section Section 753.10 of the act in which this	421
amendment was adopted violates any provision of the Ohio	422
constitution Constitution and any claim asserting that any	423
action taken by the governor or the department of administrative	424
services or the department of rehabilitation and correction	425
pursuant to section 9.06 of the Revised Code or section Section	426
753.10 of the act in which this amendment was adopted violates	427
any provision of the Ohio-constitution Constitution or any	428
provision of the Revised Code shall be brought in the court of	429
common pleas of Franklin county. The court shall give any action	430
filed pursuant to this division priority over all other civil	431
cases pending on its docket and expeditiously make a	432

determination on the claim. If an appeal is taken from any final	433
order issued in a case brought pursuant to this division, the	434
court of appeals shall give the case priority over all other	435
civil cases pending on its docket and expeditiously make a	436
determination on the appeal.	437
(L) As used in this section:	438
(1) "Public entity" means the department of rehabilitation	439
and correction, or a county or municipal corporation or a	440
combination of counties and municipal corporations, that has	441
jurisdiction over a facility that is the subject of a contract	442
entered into under this section.	443
(2) "Local public entity" means a county or municipal	444
corporation, or a combination of counties and municipal	445
corporations, that has jurisdiction over a jail, workhouse, or	446
other correctional facility used only for misdemeanants that is	447
the subject of a contract entered into under this section.	448
(3) "Governing authority of a local public entity" means,	449
for a county, the board of county commissioners; for a municipal	450
corporation, the legislative authority; for a combination of	451
counties and municipal corporations, all the boards of county	452
commissioners and municipal legislative authorities that joined	453
to create the facility.	454
(4) "Contractor" means a person or entity that enters into	455
a contract under this section to operate and manage a jail,	456
workhouse, or other correctional facility.	457
(5) "Facility" means any of the following:	458
(a) The specific county, multicounty, municipal,	459
municipal-county, or multicounty-municipal jail, workhouse,	460

prison, or other type of correctional institution or facility

used only for misdemeanants that is the subject of a contract	462
entered into under this section;	463
(b) Any state correctional institution that is the subject	464
of a contract entered into under this section, including any	465
facility described in Section 753.10 of the act in which this	466
amendment was adopted at any time prior to or after any sale to	467
a contractor of the state's right, title, and interest in the	468
facility, the land situated thereon, and specified surrounding	469
land.	470
(6) "Person or entity" in the case of a contract for the	471
private operation and management of a state correctional	472
institution, includes an employee organization, as defined in	473
section 4117.01 of the Revised Code, that represents employees	474
at state correctional institutions.	475
Sec. 307.93. (A) The boards of county commissioners of two	476
or more adjacent counties may contract for the joint	477
establishment of a multicounty correctional center, and the	478
board of county commissioners of a county or the boards of two	479
or more counties may contract with any municipal corporation or	480
municipal corporations located in that county or those counties	481
for the joint establishment of a municipal-county or	482
multicounty-municipal correctional center. The center shall	483
augment county and, where applicable, municipal jail programs	484
and facilities by providing custody and rehabilitative programs	485
for those persons under the charge of the sheriff of any of the	486
contracting counties or of the officer or officers of the	487
contracting municipal corporation or municipal corporations	488
having charge of persons incarcerated in the municipal jail,	489
workhouse, or other correctional facility who, in the opinion of	490
the sentencing court, need programs of custody and	491

rehabilitation not available at the county or municipal jail and	492
by providing custody and rehabilitative programs in accordance	493
with division (C) of this section, if applicable. The contract	494
may include, but need not be limited to, provisions regarding	495
the acquisition, construction, maintenance, repair, termination	496
of operations, and administration of the center. The contract	497
shall prescribe the manner of funding of, and debt assumption	498
for, the center and the standards and procedures to be followed	499
in the operation of the center. Except as provided in division	500
(H) of this section, the contracting counties and municipal	501
corporations shall form a corrections commission to oversee the	502
administration of the center. Members of the commission shall	503
consist of the sheriff of each participating county, a member of	504
the board of county commissioners of each participating county,	505
the chief of police of each participating municipal corporation,	506
and the mayor or city manager of each participating municipal	507
corporation. Any of the foregoing officers may appoint a	508
designee to serve in the officer's place on the corrections	509
commission. The standards and procedures shall be formulated and	510
agreed to by the commission and may be amended at any time	511
during the life of the contract by agreement of the parties to	512
the contract upon the advice of the commission. The standards	513
and procedures formulated by the commission shall include, but	514
need not be limited to, designation of the person in charge of	515
the center, designation of a fiscal agent, the categories of	516
employees to be employed at the center, the appointing authority	517
of the center, and the standards of treatment and security to be	518
maintained at the center. The person in charge of, and all	519
persons employed to work at, the center shall have all the	520
powers of police officers that are necessary for the proper	521
performance of the duties relating to their positions at the	522
center.	523

(B)(1) Upon the establishment of a corrections commission	524
under division (A) of this section, the judges specified in this	525
division shall form a judicial advisory board for the purpose of	526
making recommendations to the corrections commission on issues	527
of bed allocation, expansion of the center that the corrections	528
commission oversees, and other issues concerning the	529
administration of sentences or any other matter determined to be	530
appropriate by the board. The judges who shall form the judicial	531
advisory board for a corrections commission are the	532
administrative judge of the general division of the court of	533
common pleas of each county participating in the corrections	534
center, the presiding judge of the municipal court of each	535
municipal corporation participating in the corrections center,	536
and the presiding judge of each county court of each county	537
participating in the corrections center. If the number of the	538
foregoing members of the board is even, the county auditor or	539
the county auditor of the most populous county if the board	540
serves more than one county shall also be a member of the board.	541
Any of the foregoing judges may appoint a designee to serve in	542
the judge's place on the judicial advisory board, provided that	543
the designee shall be a judge of the same court as the judge who	544
makes the appointment. The judicial advisory board for a	545
corrections commission shall meet with the corrections	546
commission at least once each year.	547

(2) Each board of county commissioners that enters a 548 contract under division (A) of this section may appoint a 549 building commission pursuant to section 153.21 of the Revised 550 Code. If any commissions are appointed, they shall function 551 jointly in the construction of a multicounty or multicounty- 552 municipal correctional center with all the powers and duties 553 authorized by law. 554

(C) Prior to the acceptance for custody and rehabilitation	555
into a center established under this section of any persons who	556
are designated by the department of rehabilitation and	557
correction, who plead guilty to or are convicted of a felony of	558
the fourth or fifth degree, and who satisfy the other	559
requirements listed in section 5120.161 of the Revised Code, the	560
corrections commission of a center established under this	561
section shall enter into an agreement with the department of	562
rehabilitation and correction under section 5120.161 of the	563
Revised Code for the custody and rehabilitation in the center of	564
persons who are designated by the department, who plead guilty	565
to or are convicted of a felony of the fourth or fifth degree,	566
and who satisfy the other requirements listed in that section,	567
in exchange for a per diem fee per person. Persons incarcerated	568
in the center pursuant to an agreement entered into under this	569
division shall be subject to supervision and control in the	570
manner described in section 5120.161 of the Revised Code. This	571
division does not affect the authority of a court to directly	572
sentence a person who is convicted of or pleads guilty to a	573
felony to the center in accordance with section 2929.16 of the	574
Revised Code.	575

(D) Pursuant to section 2929.37 of the Revised Code, each 576 board of county commissioners and the legislative authority of 577 each municipal corporation that enters into a contract under 578 division (A) of this section may require a person who was 579 convicted of an offense, who is under the charge of the sheriff 580 of their county or of the officer or officers of the contracting 581 municipal corporation or municipal corporations having charge of 582 persons incarcerated in the municipal jail, workhouse, or other 583 correctional facility, and who is confined in the multicounty, 584 municipal-county, or multicounty-municipal correctional center 585

H. B. No. 82 Page 21
As Introduced

as provided in that division, to reimburse the applicable county
or municipal corporation for its expenses incurred by reason of
the person's confinement in the center.

588

- (E) Notwithstanding any contrary provision in this section 589 or section 2929.18, 2929.28, or 2929.37 of the Revised Code, the 590 corrections commission of a center may establish a policy that 591 complies with section 2929.38 of the Revised Code and that 592 requires any person who is not indigent and who is confined in 593 the multicounty, municipal-county, or multicounty-municipal 594 595 correctional center to pay a reception fee, a fee for medical treatment or service requested by and provided to that person, 596 or the fee for a random drug test assessed under division (E) of 597 section 341.26 of the Revised Code. 598
- (F)(1) The corrections commission of a center established 599 under this section may establish a commissary for the center. 600 The commissary may be established either in-house or by another 601 arrangement. If a commissary is established, all persons 602 incarcerated in the center shall receive commissary privileges. 603 A person's purchases from the commissary shall be deducted from 604 the person's account record in the center's business office. The 605 commissary shall provide for the distribution to indigent 606 persons incarcerated in the center of necessary hygiene articles 607 and writing materials. 608
- (2) If a commissary is established, the corrections

 commission of a center established under this section shall

 establish a commissary fund for the center. The management of

 funds in the commissary fund shall be strictly controlled in

 accordance with procedures adopted by the auditor of state.

 Commissary fund revenue over and above operating costs and

 funds in the commissary fund shall be considered profits. All profits from the

 619

commissary fund shall be used to purchase supplies and equipment

for the benefit of persons incarcerated in the center and to pay

617

salary and benefits for employees of the center, or for any

618

other persons, who work in or are employed for the sole purpose

619

of providing service to the commissary. The corrections

620

commission shall adopt rules and regulations for the operation

621

of any commissary fund it establishes.

- (G) In lieu of forming a corrections commission to 623 administer a multicounty correctional center or a municipal-624 county or multicounty-municipal correctional center, the boards 625 of county commissioners and the legislative authorities of the 626 municipal corporations contracting to establish the center may 627 also agree to contract for the private operation and management 628 of the center as provided in section 9.06 of the Revised Code, 629 but only if the center houses only misdemeanant inmates. In 630 order to enter into a contract under section 9.06 of the Revised 631 Code, all the boards and legislative authorities establishing 632 the center shall approve and be parties to the contract. 633
- (H) If a person who is convicted of or pleads guilty to an 634 offense is sentenced to a term in a multicounty correctional 635 center or a municipal-county or multicounty-municipal 636 correctional center or is incarcerated in the center in the 637 manner described in division (C) of this section, or if a person 638 who is arrested for an offense, and who has been denied bail or 639 has had bail set and has not been released on bail is confined 640 in a multicounty correctional center or a municipal-county or 641 multicounty-municipal correctional center pending trial, at the 642 time of reception and at other times the officer, officers, or 643 other person in charge of the operation of the center determines 644 to be appropriate, the officer, officers, or other person in 645 charge of the operation of the center may cause the convicted or 646

accused offender to be examined and tested for tuberculosis, HIV	647
infection, hepatitis, including but not limited to hepatitis A,	648
B, and C, and other contagious diseases. The officer, officers,	649
or other person in charge of the operation of the center may	650
cause a convicted or accused offender in the center who refuses	651
to be tested or treated for tuberculosis, HIV infection,	652
hepatitis, including but not limited to hepatitis A, B, and C,	653
or another contagious disease to be tested and treated	654
involuntarily.	655
(I) As used in this section, "multicounty-municipal" means	656
more than one county and a municipal corporation, or more than	657
one municipal corporation and a county, or more than one	658
municipal corporation and more than one county.	659
Sec. 341.35. The board of county commissioners of a county	660
with a county jail, workhouse, minimum security misdemeanant	661
jail, or other correctional facility may enter into a contract	662
under section 9.06 of the Revised Code for the private operation	663
and management of that facility, but only if the facility is	664
used to house only misdemeanant inmates.	665
Sec. 753.03. A municipal legislative authority may, by	666
ordinance, provide for the keeping of persons convicted and	667
sentenced for misdemeanors, during the term of their	668
imprisonment, at such place as the legislative authority	669
determines, provided that the place selected is in substantial	670
compliance with the minimum standards for jails in Ohio	671
promulgated by the department of rehabilitation and correction.	672
The legislative authority may enter into a contract under	673
section 9.06 of the Revised Code for the private operation and	674
management of any municipal correctional facility, but only if	675

the facility is used to house only misdemeanant inmates, except

H. B. No. 82 As Introduced	Page 24
as permitted under division (G) of section 307.93 of the Revised	677
Code for a municipal-county or multicounty-municipal correction	678
center.	679
Section 2. That existing sections 9.06, 307.93, 341.35,	680
and 753.03 of the Revised Code are hereby repealed.	681