

GL

VETO #243

CHAPTER _____

LAWS OF 20 06

SENATE BILL _____

ASSEMBLY BILL 830-B

STATE OF NEW YORK

S. 543--B

A. 830--B

2005-2006 Regular Sessions

SENATE - ASSEMBLY

January 18, 2005

IN SENATE -- Introduced by Sen. NOZZOLIO -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Crime Victims, Crime and Correction in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. ORTIZ, BRADLEY, ZEBROWSKI -- Multi-Sponsored by -- M. of A. COLTON, GOTTFRIED, HOYT, JACOBS, JOHN, MAYERSOHN, WEISENBERG -- read once and referred to the Committee on Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Correction in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law, in relation to custody and supervision of persons in state and local correctional facilities

DATE RECEIVED BY GOVERNOR:

JUL 14 2006

ACTION MUST BE TAKEN BY:

JUL 26 2006

DATE GOVERNOR'S ACTION TAKEN:

JUL 26 2006

000001

SENATE VOTE ___ Y ___ N

HOME RULE MESSAGE ___ Y ___ N

DATE _____

ASSEMBLY VOTE ___ Y ___ N

DATE _____



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 243

JUL 26 2006

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 830-B, entitled:

"AN ACT to amend the correction law, in relation to custody and supervision of persons in state and local correctional facilities"

NOT APPROVED

This bill would amend the Correction Law to mandate that the custody and supervision of inmates of local and State correctional facilities shall be performed solely by police officers or peace officers in the competitive, non-competitive or exempt class of the civil service. The bill would further prohibit the private ownership or operation of correctional facilities, and would take effect 90 days after it shall have become a law.

I support the sponsors' objective of ensuring that correctional facilities in New York State continue to be operated by state and local governments. Indeed, in recent years I have approved bills pertaining to the oversight, management and operation of correctional facilities in Westchester County and New York City. I am constrained to veto this bill, however, due to a serious technical flaw that would have the effect of preventing the elected sheriffs of the State from performing their responsibilities regarding the custody and supervision of inmates. The bill would provide that such custody and supervision shall be performed solely by police officers or peace officers in the competitive, non-competitive or exempt class of the civil service. Pursuant to Civil Service Law § 40, members of these classes are in the "classified service." However, I am advised by the Department of Civil Service that the elected sheriffs of the State are members of the "unclassified service" (Civil Service Law § 35), and would therefore be barred by the bill's provisions from exercising custody and supervision of inmates in local jails.

The bill is disapproved.

000003

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A830B

SPONSOR: Ortiz (MS)

TITLE OF BILL: An act to amend the correction law, in relation to custody and supervision of persons in state and local correctional facilities

PURPOSE OF THE BILL: To specifically preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards.

JUSTIFICATION: In the effort forced upon state and local governments to cut operating costs, some are turning to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that as part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

SUMMARY OF SPECIFIC PROVISIONS: The correction law is amended by adding two new sections 120 and 121 to provide that the duty of maintaining the custody and supervision of persons detained or confined in a correctional facility shall be performed by peace officers who shall be in the competitive, non-competitive or exempt class of the civil service of New York state as determined by the state or applicable local civil service commission. This duty shall not be delegated, transferred or assigned.

FISCAL IMPLICATIONS FOR STATE & LOCAL GOVERNMENTS: Because this bill simply codifies existing practice, there are no costs associated with its enactment.

EXISTING LAW: While the sheriff or commissioner of correction is responsible for the detention and custody of inmates, existing statutes do not specifically prohibit the hiring of private guards.

PRIOR LEGISLATIVE HISTORY: 1996- A.8696/S. 5965-B - Passed the Assembly, substituted for the Senate companion, ordered to third reading and then recommitted to Rules.

1997/98 - A.401/S. 5558 - Referred to Crime Victims, Crime and Correction.

1999/00 - A.9008-A/S.7073 - Referred to Corrections, Reported, Referred to Rules: Passed Assembly and Senate, Vetoed by the Governor Veto memo #86.

2001/02 - A.6190/S.7826 - Referred to Corrections, Reported, Referred to Rules: Passed Assembly: Died in Senate, returned to Assembly; Committed to Rules; Sub. for S.7826, passed Assembly, Delivered to Senate, Passed Senate, Vetoed by Governor.

2003/04 - A.7428-A Vetoed by Governor Memo #185.

EFFECTIVE DATE: This act shall take effect on the ninetieth day after it which it shall have become a law.



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ELIOT SPITZER
Attorney General

Legislative Bureau

TO: COUNSEL TO THE GOVERNOR

Re: SENATE

ASSEMBLY **830-B**

Inasmuch as this bill does not appear to relate to the functions of the Department of Law, I am not commenting thereon. However, if there is a particular aspect of the bill upon which you wish comment, please advise me.

ELIOT SPITZER
ATTORNEY GENERAL

Date : June 19, 2006

000006

SENATE:Introduced by:
OrtizASSEMBLY:
No. 830-B

Law: Correction

Sections: 120, 121

Division of the Budget recommendation on the above bill:

Approve: _____ Veto: X No Objection: _____ No Recommendation: _____1. Subject and Purpose:

This bill prohibits the private ownership or operation of correctional facilities and prohibits the hiring of private security guards to supervise and maintain custody of inmates in state and local correctional facilities.

2. Summary of Provisions:

This bill amends correction law by adding two new sections that would:

- Ensure that the supervision and maintenance of inmates in custody at state and local correctional facilities, including drug treatment campuses, continue to be provided exclusively by peace officers who are in the competitive, non-competitive or exempt class of New York State's civil service system
- Prohibit the private ownership or operation of State and local correctional facilities.

This bill will take effect ninety days after it becomes a law.

3. Legislative History:

Similar bills were passed by both houses and vetoed by the Governor: in 2000, A.9008-A/S.7073 vetoed by Governor- memo #86; in 2002, A.6190/S.7826 vetoed by Governor- memo #25; and in 2003, S.4734-A/A.7428-A vetoed by Governor-memo #185

4. Arguments in Support:

Competitively bid contracts with State and local governments often result in the least costly bid receiving approval. In those instances, the winning bidder can undercut its competition by cost-cutting essential needs. This is particularly unwise when considering the safety and security concerns that are an absolute necessity for operating a correctional facility. As a result, private companies may not be adequately trained to provide security in a correctional facility. This could result in private employees that are compensated less than civil service employees, which may draw a less qualified pool of applicants to fill security positions.

Additionally, in a correctional setting where around-the-clock supervision is essential for the safety of inmates, staff and the surrounding community, there are additional risks with using

private employees. One such risk is private employees are not subject to the Taylor Law, which means that they could legally organize strikes in the workplace, posing a tremendous public security threat.

This bill is careful to protect the wide range of peace and police officers who manage all levels of security of inmates in custody (investigators hired by district attorneys, special investigators in the statewide organized crime task force, etc) from being included in the prohibition language. The exclusion of certain categories of police and peace officers has been a factor in the failure of this bill to be approved in previous years.

5. Arguments in Opposition:

The ability to afford State taxpayers with the most cost effective means of providing a service is the responsibility of State and local officials. Meeting this public trust requires the flexibility to prepare and present options that work in the best interest of New York State taxpayers. Prohibiting private companies from providing security services at state and local correctional facilities would seriously limit the State's flexibility in making operational and fiscal decisions concerning correctional facilities.

This bill affects local corrections departments as well. As local circumstances dictate, there may be the need to employ private contractors to adequately staff a correctional facility. Local officials, entrusted with the public safety responsibilities, should be permitted to make the best management decisions for their facilities.

This bill is unnecessary as demonstrated by the absence of any significant moves to privatize New York State or local prisons during the long history of this legislation. Moreover, the repeated addition of more exceptions, in response to specific circumstances and practices noted in three veto messages, suggests an inherent risk that this particular bill has not foreseen all of the possible critical exceptions that may be warranted, even under continued governmental operation of state and local correctional facilities.

6. Other State Agencies Interested:

The Department of Correctional Services, the Division of Parole, the Division of Criminal Justice Services, and the State Commission of Correction would be interested in this bill.

7. Other Interested Groups:

The New York State Association of Counties (NYSAC) opposes this bill. Other local government associations and agencies, including NYS Sheriff's Association, NYS Deputies Association, local sheriff departments and the NYC Department of Correction, would be interested in this bill. Various State unions that work in correctional facilities including the New York State Correctional Officer Police Benevolent Association (NYSCOPBA), Council-82, CSEA, PEF and OMCE would be interested in this bill.

8. Budget Implications:

Restricting the ability of New York State and localities to privatize the operation of a correctional facility has no immediate fiscal impact. However, such restriction would limit the Executive's flexibility to implement potential cost-saving options in the future.

9. Recommendation:

This bill prohibits the private ownership or management of state and local correctional facilities and prohibits the hiring of private security guards to supervise and maintain the correctional facilities. Restricting the ability of New York State and localities to privatize the operation of a correctional facility eliminates the possibility of implementing potentially cost-saving measures in the future. This would be a disservice to State taxpayers who expect State and local officials to implement the most cost effective means of providing a service. Therefore, the Division of Budget recommends veto of this bill.



STATE OF NEW YORK
DEPARTMENT OF CIVIL SERVICE
ALBANY, NEW YORK 12239
www.cs.state.ny.us

GEORGE E. PATAKI
GOVERNOR

DANIEL E. WALL
COMMISSIONER

JOHN F. BARR
EXECUTIVE
DEPUTY COMMISSIONER

MEMORANDUM

TO: Honorable Richard Platkin
Counsel to the Governor

FROM: Brian S. Reichenbach
Counsel

SUBJECT: A830-B (Introduced by M.of A. Ortiz)

DATE: June 21, 2006

STATUTES INVOLVED: Sections 120 and 121 of the Correction Law (New)

EFFECTIVE DATE: Immediately

RECOMMENDATION: NO OBJECTION

DISCUSSION:

This bill would amend the correction law, in relation to custody and supervision of persons in state and local correctional facilities by mandating the officers be of the competitive, non-competitive or exempt class of the civil service of New York. This bill has no significant negative impact upon the operations of the Department of Civil Service and does not affect the administration of the Civil Service Law, therefore, we have no objection to this legislation.



STATE OF NEW YORK • EXECUTIVE DEPARTMENT

STATE COMMISSION OF CORRECTION

80 WOLF ROAD, 4TH FLOOR
ALBANY, NEW YORK 12205-2670
(518) 485-2346
FAX (518) 485-2467

CHAIRMAN/COMMISSIONER
Alan J. Croce

COMMISSIONERS
Frederick C. Lamy
Frances T. Sullivan

June 23, 2006

Richard Platkin, Esq.
Counsel to the Governor
Executive Chamber
State Capitol
Albany, NY 12224

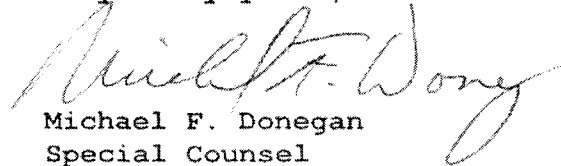
Re: A.830-B

Dear Mt. Platkin:

The Commission of Correction has no comment on the above referenced bill which requires that the custody and supervision of state and local inmates be exercised by certain police officers and peace officers and also prohibits private ownership or operation of state or local correctional facilities.

Thank you for the opportunity to comment on this bill.

Very truly yours,


Michael F. Donegan
Special Counsel

000011



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

GLENN S. GOORD
COMMISSIONER

June 20, 2006

Honorable Richard Platkin
Counsel to the Governor
Executive Chamber
State Capitol
Albany, New York 12244

RE: A830

Dear Mr. Platkin:

With regard to the above-referenced bill, A830, the Department of Correctional Services has no objection to this legislation, since in essence it represents a reinforcement of the present legal restriction against the private operation of a jail or correctional facility in New York State.

Furthermore, a number of amendments have been made to this bill since it was first introduced several years ago to clarify all potential ambiguities. Hence, all present Department practices regarding the deployment of its work force, as well as all contractual relationships, will be completely unaffected if this bill is signed into law.

Should you have any questions, please do not hesitate to contact me .

God Bless America,

Glenn S. Goord
Commissioner

cc: John R. Patterson, Jr., Executive Deputy Commissioner
Anthony J. Annucci, Deputy Commissioner & Counsel

000012

**STATE OF NEW YORK
DIVISION OF CRIMINAL JUSTICE SERVICES**

June 15, 2006
Via E-mail

Honorable Richard Platkin
Counsel to the Governor
Executive Chamber
State Capitol - Room 225
Albany, NY 12224

RE: Assembly Bill Number 830-B
No Position

Dear Mr. Platkin:

This is in response to your request for comment on the above-referenced legislation which amends the Correction Law to specify that the custody and supervision of persons confined in correctional facilities shall be performed by certain police officers or peace officers in the competitive class of the civil service of New York State.

It does not appear that this legislation will have any impact on the operations of the Division. Accordingly, the Division of Criminal Justice Services takes **no position on A.830-B.**

Thank you for the opportunity to comment on this legislation.

Very truly yours,

Gina L. Bianchi
Deputy Commissioner and Counsel

000013



Memorandum

NEW YORK STATE POLICE

June 15, 2006

To: Honorable Richard Platkin
Counsel to the Governor

From: Glenn Valle
Counsel to the Division of State Police

Subject: TEN DAY BILL – A830-B

AN ACT to amend the correction law, in relation to custody and supervision of persons in state and local correctional facilities

POSITION:

The Division of State Police takes no position on this legislation.

000014

New York State Sheriffs' Association, Inc.

27 Elk Street, Albany, New York 12207
Phone: (518) 434-9091 Fax: (518) 434-9093
E-mail: sheriff@nysheriffs.org

Peter Kehoe, Executive Director
Thomas A. Mitchell, Counsel



OFFICERS

- Daniel Middaugh, President
Oneida County
- Reuel Todd, 1st V.P.
Oswego County
- Michael Amato, 2nd V.P.
Montgomery County
- Gary Maha, 3rd V.P.
Genesee County
- Richard Tweddell, Secretary
Steuben County
- Thomas Beilein, Treasurer
Niagara County
- Carl DuBois, Sgt.-at-Arms
Orange County

EXECUTIVE COMMITTEE

- John M. York, Chairman
Livingston County
- Thomas Loughren, Vice-Chairman
Chenango County
- Joseph Gerace
Chataaugus County
- John Burns
Jefferson County
- Kevin Walsh
Onondaga County
- Phillip Poveio
Ontario County
- Donald Mundy
Otsego County

TRUSTEES

- Ronald I. Cary
Madison County
- Leo Connolly
Seneca County
- Richard Pisciotti
Wayne County

LEGISLATIVE COMMITTEE

- James Kralik, Chairman
Rockland County
- David Harder, Vice Chairman
Broome County
- James Campbell
Albany County
- Dennis John
Cattaraugus County
- Christopher Moss
Chemung County
- David Harrison, Jr.
Columbia County
- Adrian Anderson
Dutchess County
- Timothy Howard
Erie County
- Jack Pelkey
Franklin County
- Thomas Lorey
Fulton County
- Patrick O'Flynn
Monroe County
- John T. Mahar
Rensselaer County
- John S. Bates, Jr.
Schoharie County
- Leo Connolly
Seneca County
- Vincent DeMarco
Suffolk County
- Michael Schiff
Sullivan County
- Richard Bockelmann
Ulster County
- Larry Cleveland
Warren County
- Farris Heimann
Wyoming County

June 7, 2006

Hon. George E. Pataki
Governor of the State of New York
Executive Chamber, The Capitol
Albany, New York 12224

RE: A 830 - Establishing certain requirements regarding custody and supervision of State and local inmates

Dear Governor Pataki:

While this Association supports the expressed goal of the sponsors of this bill, i.e. precluding the privatization of correctional institutions in this State, the bill, as written, creates an irreconcilable conflict with other statutes.

Detainees and sentenced inmates in local correctional facilities are, by law, committed to the custody of the Sheriff under such laws as Corrections Law §500-c and Criminal Procedure Law §530.40. This bill provides that the duty of maintaining custody and supervision of persons detained or confined shall only be performed by persons in the competitive, non-competitive or exempt classes (page 2, lines 5-6). Those classes are in the "classified service". (Civil Service Law §40). New York's 55 elected Sheriffs are in the "unclassified service". (Civil Service Law §35). Therefore, although the Corrections Law and Criminal Procedure Law provide that local inmates are committed to the Sheriffs custody, this bill would prohibit the Sheriff from taking custody.

This conflict has, in the past, been pointed out to supporters of the bill and for some inexplicable reason they have declined to correct the language so as to achieve their intended result, which we support, without creating this conflict, which we cannot support.

Very truly yours,

PETER R. KEHOE
Executive Director

PRK/clr

000015

OTC 7/14/06



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd., Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



July 18, 2006

President
Larry Flanagan Jr.

Executive Vice President
Brian Shanagher

Recording Secretary
Diane Davis

Treasurer
John Telisky

Vice President,
Northern Region
Lyndon Johnson

Vice President,
Mid-Hudson Region
Kevin Walker

Vice President,
Law Enforcement
Keith D. Zulko

Vice President,
Central Region
Tom Haas

Vice President,
Western Region
Al Mothershed

Vice President,
Southern Region
Willie Perez

Hon. George E. Pataki
Governor of the State of New York
Executive Chamber
New York State Capitol
Albany, NY 12224

Re: A.830-B/S.543-B

Dear Governor Pataki:

On behalf of the New York State Correctional Officers and Police Benevolent Association, Inc. ("NYSCOPBA"), which represents more than 20,000 members from various State law enforcement titles, including State correctional officers, I respectfully request that you sign into law the above-referenced legislation which would require that the custody and supervision of persons committed or sentenced to State or local correctional facilities be maintained by statutorily designated police officers and peace officers.

This legislation adds two new sections to the Correction Law for purposes of codifying the current practice of requiring that the custody and supervision of persons detained or confined in a State or local correctional facility be performed by police and peace officers of New York State. Although you have vetoed similar proposals in the past, the bill has been drafted so as to address your concerns. For example, the legislation exempts certain civilian or part-time employees, such as teachers, counselors and managers, who perform limited supervisory duties which are incidental to their principal employment responsibilities. Moreover, language is contained within the bill to ensure that existing practices of the Division of Parole and the New York City Mayor's Office and Department of Corrections are not infringed upon.

There are significant public policy concerns which make this bill's enactment critical. Maintaining the custody and supervision of inmates confined to State and local correctional facilities is a function currently performed by statutorily recognized police and peace officers who are subject to mandatory training and education requirements. The employees of a private firm charged with maintaining the custody and supervision of State and local inmates would not be peace officers or police officers under New York law and, therefore, would not be subject

Hon. George E. Pataki

July 18, 2006

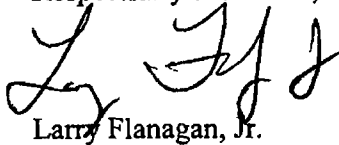
Page 2

to similar education and training mandates, bringing into question the ability of these individuals to maintain a safe environment for staff and inmates alike. Moreover, employees of a private prison firm would not have the expertise and knowledge that can only be developed through on-the-job work experiences, expertise and knowledge that is integral to performing the job of a State or local correctional officer.

In addition to the public policy considerations discussed above which support the enactment of this legislation, there is precedent for this bill becoming law. In 1997, legislation was signed into law which requires the supervision and custody of persons detained in the Westchester County Correctional Facility to be performed by the Westchester County Department of Correction, thereby prohibiting the privatization of such facility (*see* Chapter 583 of the Laws of 1997). Moreover, during the 2002 Legislative Session, legislation was signed into law which prohibits the privatization of New York City correctional facilities (*see* Chapter 535 of the Laws of 2002). This legislation will simply extend the Westchester County and New York City prohibitions on a statewide basis.

For these reasons, on behalf of NYSCOPBA, I strongly support the enactment of this legislation and request that you sign it into law.

Respectfully submitted,



Larry Flanagan, Jr.
NYSCOPBA President

000017

DTG 7/14/06

LAW ENFORCEMENT OFFICERS UNION



LEGISLATIVE SUPPORT MEMO

PRISON ANTI-PRIVITIZATION A830B/S543B

The Law Enforcement Officers Union, Council 82 AFSCME, represents NYS Correction Lieutenants and county Correction Officers. These dedicated men and women are the backbone of the State's correctional system. This bill would insure that facilities at all levels of the system continue to be staffed by trained peace officers who have chosen this type of work as their career.

Currently, sixty percent of the cost of operating a correctional facility are personnel costs. Private corporations who build and \ or operate correctional facilities view incarceration as a profitable business and inmates as raw material. The evidence clearly shows that in pursuit of their profits they cut staffing and training and utilize force as a means to maintain control. Under-staffing facilities with untrained, low paid workers results in significant security problems and increased incidents of escape. In the end, incarceration for profit puts both the inmates and the people who staff private facilities in danger.

This legislation would insure that New York State does not allow this to occur. The correction officers we represent are highly trained professionals who put their lives on the line every day to keep their facilities safe and secure. They should not be replaced by workers who do not have peace officer status nor the training to handle today's younger, more violent inmate population.

The manner in which a state incarcerates people is a reflection of its value system. Prisons are not factories or fast food restaurants and they should not be run by private corporations as if they were. The very nature of what a correctional facility is dictates that they remain under governmental control and are staffed by trained professionals who are responsible to that government.

Respectfully submitted,

James F. Lyman
President

AFSCME COUNCIL 82, AFL-CIO
63 COLVIN AVENUE, ALBANY, NEW YORK 12206 (518) 489-8424
www.council82.org



LAW ENFORCEMENT OFFICERS UNION



LEGISLATIVE SUPPORT MEMO

PRISON ANTI-PRIVITIZATION A830B/S543B

The Law Enforcement Officers Union, Council 82 AFSCME, represents NYS Correction Lieutenants and county Correction Officers. These dedicated men and women are the backbone of the State's correctional system. This bill would insure that facilities at all levels of the system continue to be staffed by trained peace officers who have chosen this type of work as their career.

Currently, sixty percent of the cost of operating a correctional facility are personnel costs. Private corporations who build and \ or operate correctional facilities view incarceration as a profitable business and inmates as raw material. The evidence clearly shows that in pursuit of their profits they cut staffing and training and utilize force as a means to maintain control. Under-staffing facilities with untrained, low paid workers results in significant security problems and increased incidents of escape. In the end, incarceration for profit puts both the inmates and the people who staff private facilities in danger.

This legislation would insure that New York State does not allow this to occur. The correction officers we represent are highly trained professionals who put their lives on the line every day to keep their facilities safe and secure. They should not be replaced by workers who do not have peace officer status nor the training to handle today's younger, more violent inmate population.

The manner in which a state incarcerates people is a reflection of its value system. Prisons are not factories or fast food restaurants and they should not be run by private corporations as if they were. The very nature of what a correctional facility is dictates that they remain under governmental control and are staffed by trained professionals who are responsible to that government.

Respectfully submitted,

James F. Lyman
President

AFSCME COUNCIL 82, AFL-CIO
63 COLVIN AVENUE, ALBANY, NEW YORK 12206 (518) 489-8424
www.council82.org



A-830-B



ASSOCIATION OF TOWNS OF THE STATE OF NEW YORK

G. JEFFREY HABER
EXECUTIVE DIRECTOR

146 State Street Albany New York 12207-1671
Phone: (518) 465-7933 • Fax: (518) 465-0724

Serving Towns Since 1933

July 5 2006

Honorable Richard M. Platkin
Counsel to the Governor
Executive Chamber
State Capitol
Albany, New York 12224

Memorandum of No Position

A 830-B Ortiz (MS)
S 543-B NOZZOLIO

AN ACT to amend the correction law, in relation to custody and supervision of persons in state and local correctional facilities

Dear Sir:

This is in response to your request for comments and recommendations on the above numbered bill.

This bill amends the Corrections law to specifically preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards.

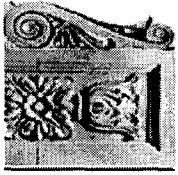
The Association of Towns offers no position on this bill.

Respectfully submitted,

/s/ G. Jeffrey Haber

G. Jeffrey Haber
Executive Director

000020



Dana Renda/NYEC
07/17/2006 10:06 AM

To Jerry Connolly/NYEC@NYEC
cc
bcc
Subject Assoc. of Counties.....A830B

Per Adriano Bongiorno.....OPPOSE Bill

Takes away local flexibility

Dear Governor Pataki,

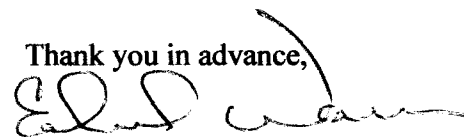
I am writing to urge you to sign into law **A. 830 Ortiz / S.543 Nozzolio**. This legislation: would preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards. This bill would also codify existing practice.

In the effort forced upon state and local governments to cut operating costs, some states have turned to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that a part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

I applaud the fact that you outlawed private prisons in NYC (2002) and hope you agree with the fairness that this legislation would offer. New York State can not afford to have untrained private security guards watching over New York's most dangerous convicted felons:

- a. Contracting may jeopardize public and inmate safety through inadequate staff levels or training.
- b. Contracting may limit the ability of the government to respond to emergencies, such as strikes, riots, fires, or escapes.
- c. Contracting increases the risk of strikes, which may not be illegal for contractor personnel.
- d. Contracting would cause high employee turnover at transition.

Please demonstrate your support for this legislation and all New York State citizens by signing this very important legislation into law.

Thank you in advance,

EDWARD WEREEN

000022

PT 6 7/14/06
2

Dear Governor Pataki,

I am writing to urge you to sign into law **A. 830 Ortiz / S.543 Nozzolio**. This legislation: would preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards. This bill would also codify existing practice.

In the effort forced upon state and local governments to cut operating costs, some states have turned to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that a part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

I applaud the fact that you outlawed private prisons in NYC (2002) and hope you agree with the fairness that this legislation would offer. New York State can not afford to have untrained private security guards watching over New York's most dangerous convicted felons:

- a. Contracting may jeopardize public and inmate safety through inadequate staff levels or training.
- b. Contracting may limit the ability of the government to respond to emergencies, such as strikes, riots, fires, or escapes.
- c. Contracting increases the risk of strikes, which may not be illegal for contractor personnel.
- d. Contracting would cause high employee turnover at transition.

Please demonstrate your support for this legislation and all New York State citizens by signing this very important legislation into law.

Thank you in advance,

David Corbire

Correction Officer

000023

Dear Governor Pataki,

I am writing to urge you to sign into law **A. 830 Ortiz / S.543 Nozzolio**. This legislation: would preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards. This bill would also codify existing practice.

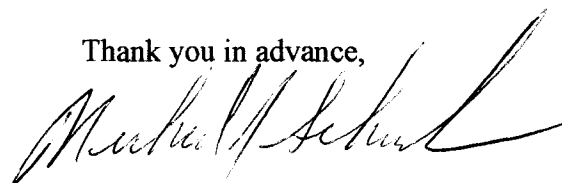
In the effort forced upon state and local governments to cut operating costs, some states have turned to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that a part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

I applaud the fact that you outlawed private prisons in NYC (2002) and hope you agree with the fairness that this legislation would offer. New York State can not afford to have untrained private security guards watching over New York's most dangerous convicted felons:

- a. Contracting may jeopardize public and inmate safety through inadequate staff levels or training.
- b. Contracting may limit the ability of the government to respond to emergencies, such as strikes, riots, fires, or escapes.
- c. Contracting increases the risk of strikes, which may not be illegal for contractor personnel.
- d. Contracting would cause high employee turnover at transition.

Please demonstrate your support for this legislation and all New York State citizens by signing this very important legislation into law.

Thank you in advance,



Dear Governor Pataki,

I am writing to urge you to sign into law **A. 830 Ortiz / S.543 Nozzolio**. This legislation: would preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards. This bill would also codify existing practice.

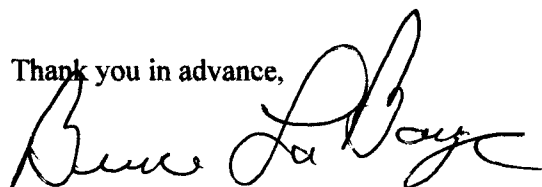
In the effort forced upon state and local governments to cut operating costs, some states have turned to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that a part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

I applaud the fact that you outlawed private prisons in NYC (2002) and hope you agree with the fairness that this legislation would offer. New York State can not afford to have untrained private security guards watching over New York's most dangerous convicted felons:

- a. Contracting may jeopardize public and inmate safety through inadequate staff levels or training.
- b. Contracting may limit the ability of the government to respond to emergencies, such as strikes, riots, fires, or escapes.
- c. Contracting increases the risk of strikes, which may not be illegal for contractor personnel.
- d. Contracting would cause high employee turnover at transition.

Please demonstrate your support for this legislation and all New York State citizens by signing this very important legislation into law.

Thank you in advance,



000025

Dear Governor Pataki,

I am writing to urge you to sign into law **A. 830 Ortiz / S.543 Nozzolio**. This legislation: would preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards. This bill would also codify existing practice.

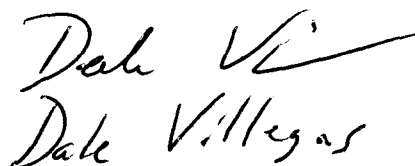
In the effort forced upon state and local governments to cut operating costs, some states have turned to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that a part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

I applaud the fact that you outlawed private prisons in NYC (2002) and hope you agree with the fairness that this legislation would offer. New York State can not afford to have untrained private security guards watching over New York's most dangerous convicted felons:

- a. Contracting may jeopardize public and inmate safety through inadequate staff levels or training.
- b. Contracting may limit the ability of the government to respond to emergencies, such as strikes, riots, fires, or escapes.
- c. Contracting increases the risk of strikes, which may not be illegal for contractor personnel.
- d. Contracting would cause high employee turnover at transition.

Please demonstrate your support for this legislation and all New York State citizens by signing this very important legislation into law.

Thank you in advance,


Dale Villegas

000026

V243

Dear Governor Pataki,

I am writing to urge you to sign into law **A. 830 Ortiz / S.543 Nozzolio**. This legislation: would preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards. This bill would also codify existing practice.

In the effort forced upon state and local governments to cut operating costs, some states have turned to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that a part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

I applaud the fact that you outlawed private prisons in NYC (2002) and hope you agree with the fairness that this legislation would offer. New York State can not afford to have untrained private security guards watching over New York's most dangerous convicted felons:

- a. Contracting may jeopardize public and inmate safety through inadequate staff levels or training.
- b. Contracting may limit the ability of the government to respond to emergencies, such as strikes, riots, fires, or escapes.
- c. Contracting increases the risk of strikes, which may not be illegal for contractor personnel.
- d. Contracting would cause high employee turnover at transition.

Please demonstrate your support for this legislation and all New York State citizens by signing this very important legislation into law.

Thank you in advance,



000027

V243

Dear Governor Pataki,

I am writing to urge you to sign into law **A. 830 Ortiz / S.543 Nozzolio**. This legislation: would preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards. This bill would also codify existing practice.

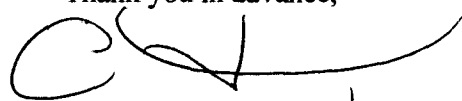
In the effort forced upon state and local governments to cut operating costs, some states have turned to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that a part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

I applaud the fact that you outlawed private prisons in NYC (2002) and hope you agree with the fairness that this legislation would offer. New York State can not afford to have untrained private security guards watching over New York's most dangerous convicted felons:

- a. Contracting may jeopardize public and inmate safety through inadequate staff levels or training.
- b. Contracting may limit the ability of the government to respond to emergencies, such as strikes, riots, fires, or escapes.
- c. Contracting increases the risk of strikes, which may not be illegal for contractor personnel.
- d. Contracting would cause high employee turnover at transition.

Please demonstrate your support for this legislation and all New York State citizens by signing this very important legislation into law.

Thank you in advance,


Arthur Freitas
174 Colton Ave
Lackawanna, NY
14218-2426

000028

1243

Dear Governor Pataki,

I am writing to urge you to sign into law **A. 830 Ortiz / S.543 Nozzolio**. This legislation: would preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards. This bill would also codify existing practice.

In the effort forced upon state and local governments to cut operating costs, some states have turned to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that a part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

I applaud the fact that you outlawed private prisons in NYC (2002) and hope you agree with the fairness that this legislation would offer. New York State can not afford to have untrained private security guards watching over New York's most dangerous convicted felons:

- a. Contracting may jeopardize public and inmate safety through inadequate staff levels or training.
- b. Contracting may limit the ability of the government to respond to emergencies, such as strikes, riots, fires, or escapes.
- c. Contracting increases the risk of strikes, which may not be illegal for contractor personnel.
- d. Contracting would cause high employee turnover at transition.

Please demonstrate your support for this legislation and all New York State citizens by signing this very important legislation into law.

Thank you in advance,

Kenneth Winters
30 Pennsylvania Ave

000029 Port Jervis, N.Y. 12771-2129

V 243

Dear Governor Pataki,

I am writing to urge you to sign into law **A. 830 Ortiz / S.543 Nozzolio**. This legislation: would preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards. This bill would also codify existing practice.

In the effort forced upon state and local governments to cut operating costs, some states have turned to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that a part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

I applaud the fact that you outlawed private prisons in NYC (2002) and hope you agree with the fairness that this legislation would offer. New York State can not afford to have untrained private security guards watching over New York's most dangerous convicted felons:

- a. Contracting may jeopardize public and inmate safety through inadequate staff levels or training.
- b. Contracting may limit the ability of the government to respond to emergencies, such as strikes, riots, fires, or escapes.
- c. Contracting increases the risk of strikes, which may not be illegal for contractor personnel.
- d. Contracting would cause high employee turnover at transition.

Please demonstrate your support for this legislation and all New York State citizens by signing this very important legislation into law.

Thank you in advance,

Jay Diggs

7/24/06

000030

DTG 2/14/06

Dear Governor Pataki,

I am writing to urge you to sign into law **A. 830 Ortiz / S.543 Nozzolio**. This legislation: would preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards. This bill would also codify existing practice.

In the effort forced upon state and local governments to cut operating costs, some states have turned to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that a part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

I applaud the fact that you outlawed private prisons in NYC (2002) and hope you agree with the fairness that this legislation would offer. New York State can not afford to have untrained private security guards watching over New York's most dangerous convicted felons:

- a. Contracting may jeopardize public and inmate safety through inadequate staff levels or training.
- b. Contracting may limit the ability of the government to respond to emergencies, such as strikes, riots, fires, or escapes.
- c. Contracting increases the risk of strikes, which may not be illegal for contractor personnel.
- d. Contracting would cause high employee turnover at transition.

Please demonstrate your support for this legislation and all New York State citizens by signing this very important legislation into law.

Thank you in advance/

Edward Hill
Edward Hillton

000031

Dear Governor Pataki,

I am writing to urge you to sign into law **A. 830 Ortiz / S.543 Nozzolio**. This legislation: would preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards. This bill would also codify existing practice.

In the effort forced upon state and local governments to cut operating costs, some states have turned to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that a part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

I applaud the fact that you outlawed private prisons in NYC (2002) and hope you agree with the fairness that this legislation would offer. New York State can not afford to have untrained private security guards watching over New York's most dangerous convicted felons:

- a. Contracting may jeopardize public and inmate safety through inadequate staff levels or training.
- b. Contracting may limit the ability of the government to respond to emergencies, such as strikes, riots, fires, or escapes.
- c. Contracting increases the risk of strikes, which may not be illegal for contractor personnel.
- d. Contracting would cause high employee turnover at transition.

Please demonstrate your support for this legislation and all New York State citizens by signing this very important legislation into law.

Thank you in advance,

000032

Randy Dekster

7/12/2006 4:45 PM

Dear Governor Pataki,

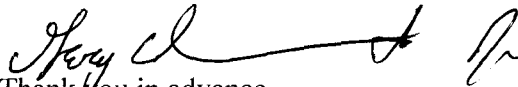
I am writing to urge you to sign into law **A. 830 Ortiz / S.543 Nozzolio**. This legislation: would preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards. This bill would also codify existing practice.

In the effort forced upon state and local governments to cut operating costs, some states have turned to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that a part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

I applaud the fact that you outlawed private prisons in NYC (2002) and hope you agree with the fairness that this legislation would offer. New York State can not afford to have untrained private security guards watching over New York's most dangerous convicted felons:

- a. Contracting may jeopardize public and inmate safety through inadequate staff levels or training.
- b. Contracting may limit the ability of the government to respond to emergencies, such as strikes, riots, fires, or escapes.
- c. Contracting increases the risk of strikes, which may not be illegal for contractor personnel.
- d. Contracting would cause high employee turnover at transition.

Please demonstrate your support for this legislation and all New York State citizens by signing this very important legislation into law.


Thank you in advance,
Gary Dammermuth JR

000033

7-16-06

OTC 7/17/06

Dear Governor Pataki,

I am writing to urge you to sign into law **A. 830 Ortiz / S.543 Nozzolio**. This legislation: would preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards. This bill would also codify existing practice.

In the effort forced upon state and local governments to cut operating costs, some states have turned to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that a part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

I applaud the fact that you outlawed private prisons in NYC (2002) and hope you agree with the fairness that this legislation would offer. New York State can not afford to have untrained private security guards watching over New York's most dangerous convicted felons:

- a. Contracting may jeopardize public and inmate safety through inadequate staff levels or training.
- b. Contracting may limit the ability of the government to respond to emergencies, such as strikes, riots, fires, or escapes.
- c. Contracting increases the risk of strikes, which may not be illegal for contractor personnel.
- d. Contracting would cause high employee turnover at transition.

Please demonstrate your support for this legislation and all New York State citizens by signing this very important legislation into law.

Thank you in advance,



000034

ATG 7/14/06

Dear Governor Pataki,

I am writing to urge you to sign into law **A. 830 Ortiz / S.543 Nozzolio**. This legislation: would preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards. This bill would also codify existing practice.

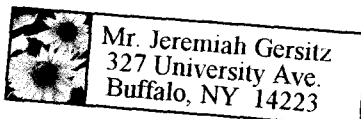
In the effort forced upon state and local governments to cut operating costs, some states have turned to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that a part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

I applaud the fact that you outlawed private prisons in NYC (2002) and hope you agree with the fairness that this legislation would offer. New York State can not afford to have untrained private security guards watching over New York's most dangerous convicted felons:

- a. Contracting may jeopardize public and inmate safety through inadequate staff levels or training.
- b. Contracting may limit the ability of the government to respond to emergencies, such as strikes, riots, fires, or escapes.
- c. Contracting increases the risk of strikes, which may not be illegal for contractor personnel.
- d. Contracting would cause high employee turnover at transition.

Please demonstrate your support for this legislation and all New York State citizens by signing this very important legislation into law.

Thank you in advance,



000035



"Leo, Chris"
<cleo@nyscopba.org>
07/06/2006 11:08 AM

To <Legislative.Secretary@chamber.state.ny.us>
cc
bcc
Subject RE: a830

Dear Governor Pataki,

I am writing to urge you to sign into law **A. 830 Ortiz / S.543 Nozzolio**. This legislation: would preserve as a non-transferable governmental responsibility the duty to maintain custody and supervision of persons committed or sentenced to state and local correctional facilities by prohibiting the replacement of state and local correction officers by private guards. This bill would also codify existing practice.

In the effort forced upon state and local governments to cut operating costs, some states have turned to the privatization of prisons. Inevitably, hungry, bottom line adventurers appear ready to take the public money. The Immigration and Naturalization Service recently canceled a contract with a private company after an investigation by I.N.S. found that a part of the process of cutting costs, the government had on its hands untrained \$8.00 an hour guards, totally unaware of their responsibilities in an emergency. Furthermore, an analysis shows that where a private system is run fairly well, there are little or no savings to the government. Nor do we know how well privatization will function in time of crisis. At the same time, we must not forget that private employees are not subject to the Taylor Law.

I applaud the fact that you outlawed private prisons in NYC (2002) and hope you agree with the fairness that this legislation would offer. New York State can not afford to have untrained private security guards watching over New York's most dangerous convicted felons:

- a. Contracting may jeopardize public and inmate safety through inadequate staff levels or training.
- b. Contracting may limit the ability of the government to respond to emergencies, such as strikes, riots, fires, or escapes.
- c. Contracting increases the risk of strikes, which may not be illegal for contractor personnel.
- d. Contracting would cause high employee turnover at transition.

Please demonstrate your support for this legislation and all New York State citizens by signing this very important legislation into law.

Thank you in advance,

Chris Leo
Legislative Director
NYSCOPBA
518-427-1551 Ext.245

000036

STATE OF NEW YORK

S. 543--B

A. 830--B

2005-2006 Regular Sessions

SENATE - ASSEMBLY

January 18, 2005

IN SENATE -- Introduced by Sen. NOZZOLIO -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Crime Victims, Crime and Correction in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. ORTIZ, BRADLEY, ZEBROWSKI -- Multi-Sponsored by -- M. of A. COLTON, GOTTFRIED, HOYT, JACOBS, JOHN, MAYERSOHN, WEISENBERG -- read once and referred to the Committee on Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Correction in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law, in relation to custody and supervision of persons in state and local correctional facilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The correction law is amended by adding two new sections
2 120 and 121 to read as follows:
3 § 120. Custody and supervision of persons in correctional facilities.
4 1. Except as provided in subdivisions two, three and four of this
5 section, the duty of maintaining the custody and supervision of persons
6 detained or confined in a correctional facility as defined in subdivi-
7 sion four of section two of this chapter, including a drug treatment
8 campus as defined in subdivision twenty of section two of this chapter,
9 or a local correctional facility as defined in subdivision sixteen of
10 section two of this chapter shall be performed solely by police officers

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD04202-04-6

S. 543--B

2

A. 830--B

1 designated in paragraph (a), (b), (c), (d), (e), (g), (j) or (m) of
 2 subdivision thirty-four of section 1.20 of the criminal procedure law or
 3 peace officers designated in subdivision twenty-five of section 2.10 of
 4 the criminal procedure law, which persons, whether employed full-time or
 5 part-time, shall be in the competitive, non-competitive or exempt class
 6 of the civil service of New York state as determined by the state or
 7 applicable local civil service commission.

8 2. Nothing in this section shall limit in any way the authority of the
 9 commissioner, or any county or the city of New York, to enter into any
 10 contract authorized by subdivision eighteen of section two, section
 11 seventy-two-a, section seventy-three, section ninety-five, article
 12 five-A or article twenty-six of this chapter, or to limit the responsi-
 13 bility of the state division of parole to supervise inmates or parolees
 14 while away from an institution pursuant to section seventy-two-a,
 15 section seventy-three or article twenty-six of this chapter or while
 16 confined at a drug treatment campus as defined in subdivision twenty of
 17 section two of this chapter.

18 3. Subdivision one of this section shall be inapplicable to any person
 19 who is or may be employed in a correctional facility as defined in
 20 subdivision four of section two of this chapter or a local correctional
 21 facility as defined in subdivision sixteen of section two of this chap-
 22 ter or who contracts or may contract to provide services at such a
 23 correctional facility, who, in either case, is (a) not a correction
 24 officer or deputy sheriff, and (b) does not have, as their primary job
 25 responsibility, the duty of maintaining the supervision of persons
 26 detained or confined in a correctional facility but who provides such
 27 supervision as a secondary, ancillary or incidental part of their prima-
 28 ry employment responsibilities. An employee who meets the criteria
 29 provided by paragraphs (a) and (b) of this subdivision may include, but
 30 not be limited to, food service, janitorial or maintenance staff of such
 31 a correctional facility or persons who provide health care, substance
 32 abuse treatment, counseling, religious, educational or vocational
 33 services at such a correctional facility.

34 4. Nothing in this section shall be construed to limit or affect the
 35 existing authority of the mayor of the city of New York and the commis-
 36 sioner of the department of correction of the city of New York to
 37 appoint non-uniformed persons whose duties include overall security of
 38 the department of correction of the city of New York to positions of
 39 authority.

40 § 121. Private ownership or operation of correctional facilities.
 41 Except as otherwise provided in subdivisions two, three and four of
 42 section one hundred twenty of this article or in federal law, the
 43 private operation or management of a correctional facility as defined in
 44 subdivision four of section two of this chapter or a local correctional
 45 facility, as defined in subdivision sixteen of section two of this chap-
 46 ter, the private ownership or operation of a facility for housing state
 47 or local inmates or the private ownership or operation of a facility for
 48 the incarceration of other state's inmates is prohibited.

49 § 2. This act shall take effect on the ninetieth day after it shall
 50 have become a law.