

Representative Jacob L. Anderegg proposes the following substitute bill:

COUNTY JAIL CONTRACTING AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This bill modifies the provisions regarding the incarceration of state parole inmates or state probationary inmates in a county correctional facility.

Highlighted Provisions:

This bill:

- ▶ provides that a county may release a number of inmates from a county correctional facility if the state does not appropriate funds as specified;

- ▶ delays the dates by which the Commission on Criminal and Juvenile Justice must compile information from reporting counties and then report to the Division of Finance; and

- ▶ delays by two weeks the statutory deadlines related to setting the final state daily incarceration rate.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 **64-13e-104**, as last amended by Laws of Utah 2012, Chapter 51

27 **64-13e-105**, as last amended by Laws of Utah 2013, Chapter 310



29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **64-13e-104** is amended to read:

31 **64-13e-104. Housing of state probationary inmates or state parole inmates --**

32 **Payment.**

33 (1) (a) A county shall accept and house a state probationary inmate or a state parole
34 inmate in a county correctional facility, subject to available resources.

35 ~~[(b) If a county is unable to accept a person due to lack of resources, the county shall~~
36 ~~negotiate with another county to accept and house the person.]~~

37 (b) A county may release a number of inmates from a county correctional facility, but
38 not to exceed the number of state probationary inmates and state parole inmates in excess of
39 the number of inmates funded by the appropriation authorized in Subsection (2) if:

40 (i) the state does not fully comply with the provisions of Subsection (9) for the most
41 current fiscal year; or

42 (ii) funds appropriated by the Legislature for this purpose are less than 50% of the
43 average actual state daily incarceration rate.

44 (2) Within funds appropriated by the Legislature for this purpose, the Division of
45 Finance shall pay a county that houses a state probationary inmate or a state parole inmate at a
46 rate of 50% of the final state daily incarceration rate.

47 (3) Funds appropriated by the Legislature under Subsection (2):

48 (a) are nonlapsing;

49 (b) may only be used for the purposes described in Subsection (2); and

50 (c) may not be used for:

51 (i) the costs of administering the payment described in this section; or

52 (ii) payment of contract costs under Section **64-13e-103**.

53 (4) The costs described in Subsection (3)(c)(i) shall be covered by legislative
54 appropriation.

55 (5) (a) The Division of Finance shall administer the payment described in Subsection
56 (2).

57 (b) In accordance with Subsection (9), CCJJ shall, by rule made pursuant to Title 63G,
58 Chapter 3, Utah Administrative Rulemaking Act, establish procedures for the calculation of the
59 payment described in Subsection (2).

60 (c) Notwithstanding any other provision of this section, CCJJ shall adjust the amount
61 of the payments described in Subsection (7)(b), on a pro rata basis, to ensure that the total
62 amount of the payments made does not exceed the amount appropriated by the Legislature for
63 the payments.

64 (6) Counties that receive the payment described in Subsection (2) shall, on at least a
65 monthly basis, submit a report to CCJJ that includes:

66 (a) the number of state probationary inmates and state parole inmates the county
67 housed under this section; and

68 (b) the total number of state probationary inmate days of incarceration and state parole
69 inmate days of incarceration that were provided by the county.

70 (7) (a) On or before September [†] 30 of each year, CCJJ shall compile the information
71 from the reports described in Subsection (6) that relate to the preceding state fiscal year and
72 provide a copy of the compilation to each county that submitted a report.

73 (b) On or before [~~September 30~~] October 15 of each year, CCJJ shall inform the
74 Division of Finance and each county of the exact amount of the payment described in this
75 section that shall be made to each county.

76 (8) On or before December 15 of each year, the Division of Finance shall distribute the
77 payment described in Subsection (7)(b) in a single payment to each county.

78 (9) The amount paid to each county under Subsection (8) shall be calculated on a pro
79 rata basis, based on the average number of state probationary inmate days of incarceration and
80 the average state parole inmate days of incarceration that were provided by each county for the
81 preceding five state fiscal years.

82 Section 2. Section **64-13e-105** is amended to read:

83 **64-13e-105. Procedures for setting the final state daily incarceration rate.**

84 (1) (a) Before September [†] 15 of each year, the department shall calculate, and
85 inform the counties and CCJJ of the average actual state daily incarceration rate for the most
86 recent three years for which the data is available.

87 (b) The actual state daily incarceration rates used to calculate the average rate

88 described in Subsection (1)(a) may not be less than the rates presented to the Executive
89 Appropriations Committee of the Legislature for purposes of setting the appropriation for the
90 department's budget.

91 (2) Before September [~~15~~] 30 of each year, the following parties shall meet to review
92 and discuss the average actual state daily incarceration rate, described in Subsection (1) and the
93 compilation described in Subsection ~~64-13e-104~~(7):

94 (a) as designated by the Utah Sheriffs Association:

95 (i) one sheriff of a county that is currently under contract with the department to house
96 state inmates; and

97 (ii) one sheriff of a county that is currently receiving reimbursement from the
98 department for housing state probationary inmates or state parole inmates;

99 (b) the executive director of the department or the executive director's designee;

100 (c) as designated by the Utah Association of Counties:

101 (i) one member of the legislative body of one county that is currently under contract
102 with the department to house state inmates; and

103 (ii) one member of the legislative body of one county that is currently receiving
104 reimbursement from the department for housing state probationary inmates or state parole
105 inmates;

106 (d) the executive director of the Commission on Criminal and Juvenile Justice or the
107 executive director's designee; and

108 (e) the executive director of the Governor's Office of Management and Budget or the
109 executive director's designee.

110 (3) (a) The average actual state daily incarceration rate, reviewed and discussed under
111 Subsection (2), may not be used for purposes of calculating payment or reimbursement under
112 this chapter, unless approved by the Legislature in the annual appropriations act.

113 (b) Nothing in this chapter prohibits the Legislature from setting the final state daily
114 incarceration rate at an amount higher or lower than:

115 (i) the average actual state incarceration rate; or

116 (ii) the final state daily incarceration rate that was used during the preceding fiscal year.