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1997 Regular Session

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(PRE-FILED)

HB 1446/96 - JUD

CF 7lr1483

By: Delegates Taylor, Vallario, Dewberry, Hurson, Arnick, Busch, Curran, Harrison, Hixson, Kopp, Menes, Owings, and Rawlings

Requested: September 17, 1996

Introduced and read first time: January 8, 1997

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 1997

CHAPTER ____

1 AN ACT concerning

2 Court Administration - Collection of Fees - Public-Private Partnership

3 FOR the purpose of establishing a pilot program to allow a private contractor to collect
 4 certain court costs, fines, restitution payments, probation fees, and other judicial
 5 fees; authorizing the ~~State Court Administrator~~ Department of Public Safety and
 6 Correctional Services to enter into certain contracts; establishing a deadline for the
 7 contract required by this Act; providing that a contract shall be awarded through
 8 competitive sealed proposals; requiring a request for proposal to comply with
 9 certain requirements; establishing rules concerning the reimbursement of a private
 10 contractor; ~~requiring a private contractor to offer employment to certain~~
 11 ~~government employees~~; establishing program requirements for a private contractor;
 12 establishing a priority for the disbursement of money; ~~authorizing the appointment~~
 13 ~~of a standing master to hold hearings concerning collection matters~~; ~~establishing~~
 14 ~~procedures for the standing master~~; ~~authorizing the standing master to issue a~~
 15 ~~report~~; ~~authorizing a private contractor to collect certain fees~~ requiring private
 16 contractors to offer employment to employees who are affected by the transfer of
 17 collection responsibilities under this Act, on certain terms, for a certain duration,
 18 and at a certain salary and benefit level; requiring a private contractor to adopt a
 19 certain grievance procedure for certain employees; requiring the Secretary of Public
 20 Safety and Correctional Services to assist certain employees in identifying certain
 21 positions to which the employee may transfer; providing that an employee who
 22 declines an offer of employment under this Act is considered laid off and is entitled
 23 to certain rights; providing that certain current State employees who are employed
 24 by the contractors may return to State service at the termination of the Program
 25 under certain conditions; requiring the cooperation of State government units;
 26 requiring a certain report; providing for the expansion of the pilot program to an

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1 additional county; providing for the termination of this Act; and generally relating
2 to the collection of judicial fees.

3 BY adding to

4 Article - Courts and Judicial Proceedings
5 Section 7-406
6 Annotated Code of Maryland
7 (1995 Replacement Volume and 1996 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article - Courts and Judicial Proceedings**

11 7-406.

12 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ~~BALTIMORE~~
13 ~~CITY~~ HARFORD COUNTY AND MONTGOMERY COUNTY THERE IS A PILOT PROGRAM
14 TO ALLOW A PRIVATE CONTRACTOR TO COLLECT THE FOLLOWING:

15 (1) EXCEPT FOR MOTOR VEHICLE OFFENSES THAT ARE NOT REFERRED
16 TO THE DIVISION OF PAROLE AND PROBATION OF THE DEPARTMENT OF PUBLIC
17 SAFETY AND CORRECTIONAL SERVICES, FOR CRIMINAL CASES IN THE DISTRICT
18 COURT AND CIRCUIT COURT SYSTEMS:

19 (I) COURT COSTS, INCLUDING CRIMINAL INJURIES
20 COMPENSATION COSTS;

21 (II) FINES;

22 (III) RESTITUTION PAYMENTS; AND

23 (IV) ANY OTHER FEE ORDERED BY A COURT TO BE PAID TO A
24 VICTIM OF A CRIME; AND

25 (2) PROBATION FEES.

26 (B) ~~THE STATE COURT ADMINISTRATOR~~ DEPARTMENT OF PUBLIC SAFETY
27 AND CORRECTIONAL SERVICES, WITH THE ADVICE OF THE CHIEF JUDGE OF THE
28 COURT OF APPEALS, THE CHIEF JUDGE OF THE DISTRICT COURT, AND THE
29 ~~DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES~~ STATE COURT
30 ADMINISTRATOR, MAY ENTER INTO CONTRACTS WITH PRIVATE CONTRACTORS TO
31 ALLOW A PRIVATE CONTRACTOR TO COLLECT ~~ALL~~ MONEY OWED UNDER
32 SUBSECTION (A) OF THIS SECTION.

33 (C) THE COLLECTION OF ~~ALL~~ MONEY UNDER SUBSECTION (A) OF THIS
34 SECTION MAY BE TRANSFERRED TO ONE OR MORE PRIVATE CONTRACTORS BY
35 JULY 1, 1998.

36 (D) (1) CONTRACTS SHALL BE AWARDED THROUGH COMPETITIVE SEALED
37 PROPOSALS.

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1 (2) A REQUEST FOR PROPOSAL TO TRANSFER COLLECTION ACTIVITIES
2 SHALL:

3 (I) COMPLY WITH THE PROVISIONS OF DIVISION II OF THE STATE
4 FINANCE AND PROCUREMENT ARTICLE;

5 (II) SET FORTH THE GOALS OF THE PRIVATIZATION; AND

6 (III) SPECIFY THE INCENTIVES THAT WILL BE AVAILABLE TO THE
7 CONTRACTOR.

8 ~~(E) REIMBURSEMENT FOR A PRIVATE CONTRACTOR SHALL BE BASED ON A~~
9 ~~PERCENTAGE OF THE TOTAL AMOUNT OF MONEY COLLECTED BY THE PRIVATE~~
10 ~~CONTRACTOR.~~

11 (E) REIMBURSEMENT FOR A PRIVATE CONTRACTOR UNDER THIS PROGRAM
12 MAY BE BASED ON:

13 (1) FOR RESTITUTION PAYMENTS, A DELINQUENCY FEE IMPOSED, IN
14 ADDITION TO THE RESTITUTION AWARDED, BY THE COURT ON RESTITUTION
15 PAYMENTS; AND

16 (2) FOR ALL OTHER COSTS, FINES, AND FEES PROVIDED UNDER
17 SUBSECTION (A) OF THIS SECTION:

18 (I) A DELINQUENCY FEE IMPOSED ON THOSE PAYMENTS;

19 (II) A PERCENTAGE OF THE TOTAL AMOUNT OF MONEY
20 COLLECTED BY THE PRIVATE CONTRACTOR; OR

21 (III) A COMBINATION OF PAYMENT MECHANISMS.

22 ~~(F) (1) PRIVATE CONTRACTORS SHALL OFFER EMPLOYMENT TO A~~
23 ~~GOVERNMENT EMPLOYEE WHO LOSES EMPLOYMENT BECAUSE OF THE TRANSFER~~
24 ~~OF COLLECTION RESPONSIBILITIES.~~

25 ~~(2) A PRIVATE CONTRACTOR SHALL OFFER EMPLOYMENT UNDER THIS~~
26 ~~SUBSECTION:~~

27 ~~(I) ON TERMS DEEMED FAIR AND EQUITABLE BY THE STATE~~
28 ~~COURT ADMINISTRATOR;~~

29 ~~(II) FOR AT LEAST 2 YEARS, UNLESS THERE IS CAUSE FOR EARLIER~~
30 ~~DISMISSAL; AND~~

31 ~~(III) AT A BENEFIT LEVEL COMPARABLE TO THAT OF THE~~
32 ~~CONTRACTOR'S OTHER SIMILARLY SITUATED EMPLOYEES.~~

33 (F) (1) PRIVATE CONTRACTORS SHALL OFFER EMPLOYMENT ON TERMS
34 CONSIDERED BY THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL
35 SERVICES TO BE FAIR AND EQUITABLE TO ANY EMPLOYEES WHO ARE AFFECTED BY
36 THE TRANSFER OF COLLECTION RESPONSIBILITIES UNDER THIS SECTION AND TO
37 RETAIN ANY EMPLOYEES WHO ACCEPT THE OFFER;

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1 (I) FOR THE DURATION OF THE PILOT PROGRAM, UNLESS THERE
 2 IS CAUSE FOR DISMISSAL; AND

3 (II) AT A SALARY AND BENEFIT LEVEL COMPARABLE TO THE
 4 SALARY AND BENEFITS TO WHICH THEY WERE ENTITLED AT THE TIME OF THE
 5 TRANSFER.

6 (2) A PRIVATE CONTRACTOR SHALL ADOPT A GRIEVANCE PROCEDURE
 7 FOR EMPLOYEES WHO ARE RETAINED BY THE PRIVATE CONTRACTOR UNDER
 8 PARAGRAPH (1) OF THIS SUBSECTION.

9 (3) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
 10 SHALL ASSIST AN EMPLOYEE WHO DECLINES AN OFFER OF EMPLOYMENT WITH A
 11 PRIVATE CONTRACTOR TO IDENTIFY A COMPARABLE POSITION IN THE STATE
 12 PERSONNEL MANAGEMENT SYSTEM TO WHICH THE EMPLOYEE MAY TRANSFER.

13 (4) AN EMPLOYEE WHO DECLINES AN OFFER OF EMPLOYMENT WITH A
 14 PRIVATE CONTRACTOR UNDER THIS SECTION SHALL BE CONSIDERED LAID OFF
 15 AND SHALL BE ENTITLED TO ALL RIGHTS SPECIFIED UNDER TITLE 11, SUBTITLE 2 OF
 16 THE STATE PERSONNEL AND PENSIONS ARTICLE.

17 (G) UNDER THE PROGRAM, A PRIVATE CONTRACTOR SHALL:

18 (1) HAVE AUTHORITY TO COLLECT MONEY ~~IMMEDIATELY AFTER IT IS~~
 19 ~~DETERMINED THAT MONEY IS OWED~~ AFTER A FINAL JUDGMENT AT THE TIME
 20 PROVIDED BY THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
 21 IN THE REQUEST FOR PROPOSALS, BUT NO SOONER THAN 30 DAYS AFTER A
 22 PAYMENT IS IN ARREARS;

23 (2) HAVE AUTHORITY TO COLLECT MONEY OWED UNDER THIS
 24 SECTION AS A JUDGMENT IN A CIVIL ACTION;

25 (3) ~~BE PRESENT AT ALL RELEVANT COURT PROCEEDINGS TO:~~

26 ~~(I)~~ OBTAIN NECESSARY INFORMATION FROM THE DEPARTMENT
 27 OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OR THE STATE COURT
 28 ADMINISTRATOR AS PROVIDED IN THE REQUEST FOR PROPOSALS; AND

29 ~~(II)~~ (4) ESTABLISH A PAYMENT PLAN THAT INCLUDES
 30 PROCEDURES CONCERNING NONPAYMENT; AND

31 ~~(4)~~ (5) DISBURSE MONEY COLLECTED FROM A DEFENDANT TO THE
 32 APPROPRIATE PERSON IN THE FOLLOWING PRIORITY:

33 ~~(I)~~ RESTITUTION PAYMENTS;

34 ~~(II)~~ OTHER THAN RESTITUTION PAYMENTS, FEES ORDERED BY A
 35 COURT TO BE PAID TO A VICTIM OF A CRIME;

36 ~~(III)~~ FINES;

37 ~~(IV)~~ PROBATION FEES, INCLUDING SUPERVISION AND DRUG
 38 TESTING FEES; AND

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1 ~~(V) COURT COSTS, INCLUDING CRIMINAL INJURIES~~
2 ~~COMPENSATION COSTS, PROVIDED THAT RESTITUTION PAYMENTS AND FEES OTHER~~
3 ~~THAN RESTITUTION PAYMENTS ORDERED BY A COURT TO BE PAID TO A VICTIM OF~~
4 ~~CRIME SHALL BE THE HIGHEST PRIORITY.~~

5 ~~(H) (1) IN MONTGOMERY COUNTY AND BALTIMORE CITY THE~~
6 ~~ADMINISTRATIVE JUDGE OF THE CIRCUIT COURT OR THE ADMINISTRATIVE JUDGE~~
7 ~~OF THE DISTRICT COURT:~~

8 ~~(I) MAY APPOINT A STANDING MASTER TO HEAR ISSUES~~
9 ~~RELATING TO COLLECTION MATTERS UNDER THE PROGRAM; AND~~

10 ~~(II) SHALL PRESCRIBE THE COMPENSATION, FEES, AND COSTS OF~~
11 ~~THE MASTER.~~

12 ~~(2) A HEARING AND PROCEDURES RELATING TO COLLECTION~~
13 ~~MATTERS UNDER THIS SECTION SHALL BE CONDUCTED AS PROVIDED UNDER THE~~
14 ~~MARYLAND RULES.~~

15 ~~(3) THE REPORT PREPARED BY A MASTER MAY RECOMMEND~~
16 ~~ADDITIONAL TERMS OF PROBATION IF THE DEFENDANT IS FOUND TO HAVE~~
17 ~~VIOLATED A TERM OF PROBATION BY FAILING TO PAY ANY MONEY OWED AND MAY~~
18 ~~INCLUDE ONE OR MORE OF THE FOLLOWING RECOMMENDATIONS:~~

19 ~~(I) A RECOMMENDATION THAT, EXCEPT FOR RESTITUTION~~
20 ~~PAYMENTS, A DEBT BE REDUCED OR DISCHARGED;~~

21 ~~(II) A RECOMMENDATION FOR CONTEMPT PROCEEDINGS OR~~
22 ~~OTHER SANCTIONS; AND~~

23 ~~(III) A RECOMMENDATION THAT AN ORDER OF RESTITUTION BE~~
24 ~~RECORDED AND INDEXED AS A MONEY JUDGMENT.~~

25 ~~(H) (H) EACH UNIT OF STATE GOVERNMENT AFFECTED BY THE PROGRAM~~
26 ~~ESTABLISHED BY THIS SECTION SHALL COOPERATE WITH THE DEPARTMENT OF~~
27 ~~PUBLIC SAFETY AND CORRECTIONAL SERVICES AND THE STATE COURT~~
28 ~~ADMINISTRATOR IN IMPLEMENTING THE PROGRAM.~~

29 SECTION 2. AND BE IT FURTHER ENACTED, That an individual who is a
30 State employee as of November 1, 1997, who is hired by a private contractor under
31 Section 1 of this Act, and who remains employed by the contractor as of the termination
32 of the Privatization Program established under Section 1 of this Act:

33 (1) may return to State service at any time while the pilot program is in
34 existence and on the termination of the Pilot Program at a grade and step comparable to
35 the grade and step that the employee would have attained but for the implementation of
36 the pilot program with full restoration of benefits and seniority rights; and

37 (2) notwithstanding limits under §§ 22-216 and 23-214 of the State
38 Personnel and Pensions Article, may be reinstated as a member of the Employees'
39 Pension System or the Employees' Retirement System in accordance with their
40 membership as a State employee and be entitled to the restoration of any service credit to

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1 which the individual was entitled before employment with the private contractor whether
2 or not the individual was vested under those systems.

3 SECTION 2- ~~3~~. AND BE IT FURTHER ENACTED, That on or before October 1,
4 1998 and annually thereafter, the Department of Public Safety and Correctional Services,
5 in consultation with the State Court Administrator, shall report to the Chief Judge of the
6 Court of Appeals of Maryland, the Chief Judge of the District Court, the Governor, and
7 the General Assembly, subject to § 2-1312 of the State Government Article, on the
8 operation and performance of the pilot program. The report shall assess the program's
9 effectiveness and success in enhancing collection through privatization. The Department
10 of Public Safety and Correctional Services, in consultation with the State Court
11 Administrator, shall include in the report plans for improving the effectiveness and
12 success of the program.

13 SECTION 4. AND BE IT FURTHER ENACTED, That, if necessary to reach a
14 minimum caseload to attract potential pilot program contractor bids under this Act, the
15 Department of Public Safety and Correctional Services, in consultation with the State
16 Court Administrator, may add one additional county to the pilot program. The
17 Department of Public Safety and Correctional Services and the State Court
18 Administrator shall consult with the Administrative Judge and the Chief Clerk of the
19 proposed county or of Baltimore City prior to adding the county or Baltimore City to the
20 pilot program.

21 SECTION 3- ~~5~~. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 July 1, 1997. It shall remain effective for a period of 4 years and, at the end of June 30,
23 2001, with no further action required by the General Assembly, this Act shall be
24 abrogated and of no further force and effect.