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Decision Pending in Effort by PBA to Halt Renewed Bidding on Prison Privatization

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A decision is expected soon from Leon County Circuit Judge Jackie Fulford to a request by the Florida Police Benevolent Association to halt the reopened bidding to privatize 29 correctional facilities in South Florida.

The PBA sought the emergency stay after the Department of Corrections announced late Thursday the bid process would continue despite the state's contention that no contract would be signed until the litigation was completed.

Fulford said at the end of the late Friday afternoon emergency hearing she would rule later in the day. However, no ruling was released by midnight.

Union attorneys argued the state didn't need to reopen the bids, which they said was putting undue stress on Corrections employees.

Assistant Attorney General Jon Glogau, meanwhile, questioned the PBA's decision to try to block the bid process, since a hearing had already been scheduled for Nov. 16 to deal with the state's appeal.

More importantly, he said, there were no grounds to stay the appeal because the union isn't affected by the bid process if no contract results.

"Nothing affects them until the contract is signed," Glogau said. "How are they affected by opening the bids?"

"If the agency is poised to enter a contract, we can have a hearing at that point," he added.

Attorney Stephen Turner, representing the union, said state lawmakers should follow Fulford's initial order and return the push for privatization as a stand-alone bill in the 2012 session. He said the current timetable is for privatization management of the facilities being turned over June 1, 2012, a month before the end of the current fiscal year.

"There is no possible benefit or gain," Turner said.

James Baiardi, a corrections officer who is a named plaintiff in the case, said the planned privatization has caused him to lose sleep amid the emotional stress of what the change could mean for his family.

"The best scenario is me moving four hours away," Baiardi said as testified during the hearing by telephone.

He added that other guards were expressing similar concerns.

The decision to restart the bidding was made after Attorney General Pam Bondi filed an appeal Monday to contest Fulford's Sept. 30 ruling that the prison privatization effort legislators approved in the 2011 session violated Florida's Constitution.

According to a release from the Department of Corrections, the bids are due Thursday but the agency won't sign a contract until the litigation is completed.

Corrections spokeswoman Gretl Plessinger said the agency decided to be cautious and delay the contract signing.

In her Sept. 30 decision, Fulford sided with PBA attorneys who argued that lawmakers should have put the potential privatization of the prisons in South Florida into a separate bill, rather than as a proviso to the budget.

The proviso required the Department of Corrections to accept bids from companies seeking to privatize state prisons, making the change from public to private if the contracts would save at least 7 percent from the current prison costs. Legislators estimated the state could have saved \$11 million by privatizing the correctional facilities.

With Fulford's Sept. 30 ruling, the Department of Corrections suspended a planned Oct. 4 bid opening from companies seeking to manage all or some of the correctional facilities.

The fight with the state over prison privatization comes for the PBA as it battles the International Brotherhood of Teamsters over which union will be the bargaining unit for the majority of the state's nearly 20,000 correctional and probation officers.

Voting began Oct. 18 and the results are expected to be known after Nov. 15.

Last week, the state Commission on Ethics rejected the Teamsters' charge that political contributions spurred Gov. Rick Scott to push for the prison privatization.

The union noted that Boca Raton-based GEO Group and Nashville-based Corrections Corp. of America, both major players in the prison privatization bidding process, gave a combined \$30,000 for Scott's inaugural fund.

The two companies have also contributed nearly \$1 million in contributions to state candidates and political parties in the 2010 election cycle.

Meanwhile, the state has more than \$7 million invested in the two companies.

Below is the Nov. 3 release from the Department of Corrections:

"On September 30, 2011, the Circuit Court for the Second Judicial Circuit entered an order declaring unconstitutional budget Proviso language requiring the Department of Corrections to privatize Region IV and enjoining the Department from taking further steps to implement the privatization procurement.

"On Monday, October 31, 2011, the Attorney General's Office filed an appeal, which had the effect of staying the Circuit Court's Order in accordance with Rule 9.310(b)(2), Florida Rules of Appellate Procedure.

"Therefore, in order to comply with the now operative Proviso language, the Department has reopened the procurement process with proposals due Thursday, November 10, 2011, at 2:00 p.m. The Department will evaluate the proposals. However, out of respect for the ongoing litigation, the agency will not sign a contract until the litigation is complete."

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