

By Representative Peaden

1 A bill to be entitled
2 An act relating to correctional work programs;
3 amending s. 212.08, F.S., relating to specified
4 exemptions from retail sale, rental, use,
5 consumption, distribution, and storage taxes;
6 providing an exemption for products sold by the
7 corporation authorized to operate correctional
8 work programs; providing for applicability of
9 the exemption retroactive to July 1, 1983;
10 amending s. 283.31, F.S., relating to records
11 of executive agency publications; removing
12 requirement for financial and performance
13 audits of the corporation by the Auditor
14 General of the corporation; amending s.
15 946.503, F.S.; redefining "facilities" with
16 respect to correctional work programs; amending
17 s. 946.504, F.S., relating to lease of
18 facilities by the Department of Corrections to
19 corporation authorized to operate correctional
20 work programs, to conform; prohibiting the
21 department from producing commodities or
22 services utilizing inmate labor which are
23 substantially similar to those produced in
24 correctional work programs of the corporation
25 without the corporation's written consent;
26 amending s. 946.505, F.S., relating to
27 reversion of property to the department upon
28 dissolution of corporation or termination of
29 lease, and reenacting s. 946.509(1), F.S.,
30 relating to insurance of property leased or
31 acquired by the corporation, to incorporate

1 said amendment in a reference; providing for
2 reversion of certain facilities subsequently
3 constructed or otherwise acquired after the
4 original lease; amending s. 946.511, F.S.;
5 revising objectives and priorities for
6 assignment of inmates to programs to specify
7 priority with respect to essential operational
8 functions and revenue-generating contracts;
9 amending s. 946.512, F.S., relating to inmate
10 compensation plan, and reenacting s.
11 946.513(1), F.S., relating to disposition of
12 compensation received for private employment of
13 inmates, to incorporate said amendment in a
14 reference; providing for certain payments to
15 the Correctional Work Program Trust Fund in
16 lieu of the Grants and Donations Trust Fund;
17 removing provision for annual appropriation;
18 amending s. 946.515, F.S., and reenacting s.
19 946.518, F.S., relating to prohibitions on sale
20 of goods by prisoners, to incorporate said
21 amendment in a reference; permitting the
22 furnishing or sale of services or items
23 produced by the corporation when not otherwise
24 prohibited by law; amending s. 946.516, F.S.;
25 requiring a performance audit in 1999 of the
26 corporation by the Office of Program Policy
27 Analysis and Government Accountability instead
28 of financial and performance audits by the
29 Auditor General; repealing s. 945.04(4), F.S.,
30 relating to certain requirements for
31 assignments of inmates within a specified

1 period of their release dates, and report by
2 the department thereon; repealing s. 946.009,
3 F.S., relating to operational guidelines for
4 correctional work programs; providing an
5 effective date.

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7 Be It Enacted by the Legislature of the State of Florida:

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9 Section 1. Paragraph (nn) is added to subsection (7)
10 of section 212.08, Florida Statutes, to read:

11 212.08 Sales, rental, use, consumption, distribution,
12 and storage tax; specified exemptions.--The sale at retail,
13 the rental, the use, the consumption, the distribution, and
14 the storage to be used or consumed in this state of the
15 following are hereby specifically exempt from the tax imposed
16 by this part.

17 (7) MISCELLANEOUS EXEMPTIONS.--

18 (nn) Nonprofit corporation conducting the correctional
19 work programs.--Products sold pursuant to s. 946.515 by the
20 corporation organized pursuant to part II of chapter 946 are
21 exempt from the tax imposed by this chapter. This exemption
22 applies retroactively to July 1, 1983.

23 Section 2. Section 283.31, Florida Statutes, is
24 amended to read:

25 283.31 Records of executive agency publications.--Each
26 agency shall maintain a record of any publication the printing
27 of which costs in excess of the threshold amount provided in
28 s. 287.017 for CATEGORY THREE, at least part of which is paid
29 for by state funds appropriated by the Legislature. Such
30 record shall also contain the following: written
31 justification of the need for such publication, purpose of

1 such publication, legislative or administrative authority,
2 sources of funding, frequency and number of issues, and
3 reasons for deciding to have the publication printed in-house,
4 by another agency or the Legislature, or purchased on bid. In
5 addition, such record shall contain the comparative costs of
6 alternative printing methods when such costs were a factor in
7 deciding upon a method. Compliance with the provisions of this
8 section shall be included within the scope of audits performed
9 by the Auditor General on each agency, and such audits shall
10 be performed not less than once every 3 years. ~~The Auditor
11 General shall also conduct a financial-related and performance
12 audit of the corporation operating the correctional industry
13 program. Such audit shall be conducted once every 3 years,
14 and the first audit shall be for the period July 1, 1988,
15 through June 30, 1990, to be completed prior to the 1991
16 regular legislative session. Such audit shall include a
17 review of the printing that the corporation has done for state
18 agencies. This review shall include the cost of materials
19 used, the cost of labor, the cost of overhead, the amount of
20 profit made by the corporation for such printing, and whether
21 the state agencies that contract with the corporation for
22 printing are prudently determining the price paid for such
23 printing. Such audits shall be completed no later than the
24 first day of the regular legislative session.~~

25 Section 3. Subsection (4) of section 946.503, Florida
26 Statutes, 1996 Supplement, is amended to read:

27 946.503 Definitions to be used with respect to
28 correctional work programs.--As used in ss. 946.502-946.518,
29 the term:
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1 (4) "Facilities" means the buildings and~~land~~
2 ~~equipment, and other chattels~~ used in the operation of an
3 industry program on state property.

4 Section 4. Subsections (1) and (4) of section 946.504,
5 Florida Statutes, 1996 Supplement, are amended to read:

6 946.504 Organization of corporation to operate
7 correctional work programs; lease of facilities.--

8 (1) The department shall lease ~~the~~ buildings and
9 ~~land, furnishings, equipment, and other chattels used in the~~
10 ~~operation of each correctional work program operated by the~~
11 ~~department to the~~ a nonprofit corporation authorized to
12 operate the correctional work programs, the members of which
13 are appointed by the Governor and confirmed by the Senate.
14 The same appointment process shall be followed to fill any
15 vacancy. The corporation shall be organized pursuant to
16 chapter 617 and shall possess all the powers granted by that
17 chapter.

18 (4) If the department leases a single correctional
19 work program at any correctional institution to the
20 corporation, the corporation shall lease all such correctional
21 work programs at that institution. The department shall not
22 produce commodities or services utilizing inmate labor in this
23 state in correctional work programs operated under part I if
24 the corporation operating the correctional work programs under
25 part II is currently producing or has submitted a business
26 plan to the department to produce substantially similar
27 commodities or services in its correctional work programs
28 without the written consent of the corporation.

29 Section 5. Subsection (1) of section 946.505, Florida
30 Statutes, is amended to read:

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1 946.505 Reversion upon dissolution of corporation or
2 termination of lease.--

3 (1) In the event the corporation is dissolved or its
4 lease of any correctional work program expires or is otherwise
5 terminated, all property relating to such correctional work
6 program which ceases to function because of such termination
7 or dissolution, including all ~~funds~~, buildings, land,
8 furnishings, equipment, and other chattels originally leased
9 from the department, as well as any subsequently constructed
10 ~~purchased~~ or otherwise acquired facilities ~~by the corporation~~
11 in connection with its continued operation of that program,
12 automatically reverts to full ownership by the department
13 unless the corporation intends to utilize such property in
14 another correctional work program. Such a reversionary
15 ownership interest of the state in any and all such
16 after-acquired facilities ~~property~~ by the corporation is in
17 furtherance of the goals established in s. 946.502(4), and
18 such a present ownership interest by the state is a continuing
19 and insurable state interest.

20 (2) Notwithstanding any provision of subsection (1),
21 the ownership of any permanent enhancements made to facilities
22 or work programs is vested in the department.

23 Section 6. For the purpose of incorporating the
24 amendment to section 946.505(1), Florida Statutes, in a
25 reference thereto, subsection (1) of section 946.509, Florida
26 Statutes, is reenacted to read:

27 946.509 Insurance of property leased or acquired by
28 the corporation.--

29 (1) The State Property Insurance Trust Fund created
30 under s. 284.01 shall insure all property eligible for
31 coverage under part I of chapter 284 which is leased by the

1 department to the corporation or which is subsequently
2 acquired and owned by the corporation and subject to the
3 reversionary ownership interest of the state established in s.
4 946.505.

5 Section 7. Subsection (1) of section 946.511, Florida
6 Statutes, is amended to read:

7 946.511 Provision of inmate labor to operate
8 correctional work programs; policies and procedures.--

9 (1) Inmates shall be evaluated and identified during
10 the reception process to determine basic literacy, employment
11 skills, academic skills, vocational skills, and remedial and
12 rehabilitative needs. The evaluation shall prescribe
13 education, work, and work-training for each inmate. Assignment
14 to programs shall be based on the evaluation and the length of
15 time the inmate will be in the custody of the department.
16 Assignment to programs shall be reviewed every 6 months to
17 ensure proper placement based on bed space availability.
18 Assignment of inmates ~~to correctional work programs,~~
19 ~~institutional labor, and public agency work programs~~ shall be
20 governed by the following objectives and priorities:

21 (a) Inmates shall be assigned to meet the needs of the
22 work requirements of the Department of Corrections, including
23 essential operational functions and revenue-generating
24 existing Department of Transportation contracts, such as lease
25 agreements with the corporation operating the correctional
26 industry programs.

27 (b) Inmates shall be assigned to correctional
28 education ~~and the corporation operating the correctional~~
29 ~~industry program.~~

30 (c) Inmates shall be assigned to meet all other work
31 requirements of the department, including remaining

1 operational functions and nonrevenue-generating contracts
2 ~~public works.~~

3 Section 8. Section 946.512, Florida Statutes, is
4 amended to read:

5 946.512 Inmate compensation plan.--The corporation
6 shall establish a compensation plan which provides for a
7 specific amount to be paid to the department to be credited to
8 an account for an inmate performing labor and a portion shall
9 be used to make any court-ordered payments, including
10 restitution to the victim, and a specific amount to be paid to
11 the department's Correctional Work Program Trust Fund to be
12 used as provided in s. 946.32 ~~Grants and Donations Trust Fund.~~
13 Such funds, excluding victim restitution payments,
14 court-ordered payments, and the amount credited to the account
15 of the inmate, shall be deposited in the department's
16 Correctional Work Program Trust Fund to be used as provided in
17 s. 946.32 ~~Grants and Donations Trust Fund. The funds shall be~~
18 ~~appropriated annually.~~

19 Section 9. For the purpose of incorporating the
20 amendment to section 946.512, Florida Statutes, in a reference
21 thereto, subsection (1) of section 946.513, Florida Statutes,
22 is reenacted to read:

23 946.513 Private employment of inmates; disposition of
24 compensation received.--

25 (1) Notwithstanding the provisions of any other law,
26 an inmate may be employed by the corporation or by any other
27 private entity operating on the grounds of a correctional
28 institution prior to the last 24 months of his confinement.
29 Compensation received for such employment shall be credited by
30 the department to an account for the inmate and shall be used
31 to make any court-ordered payments, including restitution to

1 the victim. The department rules shall provide that a portion
2 of such compensation be credited by the department in the
3 manner provided in s. 946.512.

4 Section 10. Subsection (1) of section 946.515, Florida
5 Statutes, 1996 Supplement, is amended to read:

6 946.515 Use of goods and services produced in
7 correctional work programs.--

8 (1) Any service or item manufactured, processed,
9 grown, or produced by the corporation in a correctional work
10 program may be furnished or sold to any legislative,
11 executive, or judicial agency of the state, any political
12 subdivision, any other state, any foreign entity or agent
13 thereof, any agency of the Federal Government, to any contract
14 vendor for such agencies or any subcontractor of the contract
15 vendor, or to any person, firm, or business entity if not
16 prohibited ~~authorized~~ by federal law.

17 Section 11. For the purpose of incorporating the
18 amendment to section 946.515(1), Florida Statutes, 1996
19 Supplement, in a reference thereto, section 946.518, Florida
20 Statutes, 1996 Supplement, is reenacted to read:

21 946.518 Sale of goods made by prisoners; when
22 prohibited, when permitted.--Goods, wares, or merchandise
23 manufactured or mined in whole or in part by prisoners (except
24 prisoners on parole or probation) may not be sold or offered
25 for sale in this state by any person or by any federal
26 authority or state or political subdivision thereof; however,
27 this section and s. 946.21 do not forbid the sale, exchange,
28 or disposition of such goods within the limitations set forth
29 in s. 946.006(3), s. 946.515, or s. 946.519.

30 Section 12. Subsection (3) of section 946.516, Florida
31 Statutes, 1996 Supplement, is amended to read:

1 946.516 Report to Governor and Legislature by the
2 corporation; Department of Corrections report; report to
3 Governor and Legislature by Office of Program Policy Analysis
4 and Government Accountability Auditor General.--

5 (3) The Office of Program Policy Analysis and
6 Government Accountability Auditor General shall ~~biennially~~
7 conduct a ~~financial and~~ performance audit of the corporation
8 in 1999, which shall be conducted in conjunction with an
9 independent audit conducted by the auditors of the
10 corporation. The Office of Program Policy Analysis and
11 Government Accountability Auditor General shall conduct
12 additional audits upon the request of the Joint Legislative
13 Auditing Committee.

14 Section 13. Subsection (4) of section 945.04, Florida
15 Statutes, as created by chapter 95-283, Laws of Florida, is
16 hereby repealed.

17 Section 14. Section 946.009, Florida Statutes, 1996
18 Supplement, as amended by chapters 95-325 and 96-278, Laws of
19 Florida, is hereby repealed.

20 Section 15. This act shall take effect upon becoming a
21 law.

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HOUSE SUMMARY

Provides an exemption from the retail sale, rental, use, consumption, distribution, and storage taxes for products sold by the corporation authorized to operate correctional work programs, retroactively applicable from July 1, 1983. Removes requirement for financial and performance audits of the corporation by the Auditor General of the corporation. Repeals specified provisions relating to certain requirements for assignments of inmates within a specified period of their release dates, and report by the department thereon.

Redefines "facilities" with respect to correctional work programs and revises specified provisions relating to lease of facilities by the Department of Corrections to the corporation authorized to operate correctional work programs, to conform. Prohibits the department from producing commodities or services utilizing inmate labor which are substantially similar to those produced in correctional work programs of the corporation without the corporation's written consent. Revises provisions relating to reversion of property to the department upon dissolution of corporation or termination of lease to provide for reversion of facilities subsequently constructed or otherwise acquired after the original lease. Revises objectives and priorities for assignment of inmates to programs to specify priority with respect to essential operational functions and revenue-generating contracts. Provides for certain inmate compensation payments to the Correctional Work Program Trust Fund in lieu of the Grants and Donations Trust Fund, and removes provision for annual appropriation. Permits the furnishing or sale of services or items produced by the corporation when not otherwise prohibited by law. Requires a performance audit in 1999 of the corporation by the Office of Program Policy Analysis and Government Accountability instead of financial and performance audits by the Auditor General. Repeals specified provisions relating to operational guidelines for correctional work programs.