

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Trovillion offered the following:

Amendment to Amendment (665917) (with title amendment)

On page 10, line 1, of the amendment

insert: Section 3. Subsections (2), (3), and (4) of section 946.502, Florida Statutes, are amended to read:

946.502 Legislative intent with respect to operation of correctional work programs.--

(2) It is further the intent of the Legislature that, once one such nonprofit corporation is organized, no other nonprofit corporation be organized for the purpose of carrying out this part ss. 946.502-946.518. In carrying out this part ss. 946.502-946.518, the corporation is not an "agency" within the meaning of s. 20.03(11).

(3) It is further the intent of the Legislature that, ~~by July 1, 1985,~~ the corporation shall lease ~~have leased~~ all correctional work programs from the department.

(4) It is further the intent of the Legislature that the state shall have a continuing interest in assuring continuity and stability in the operation of correctional work

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1 programs and that this part ~~ss. 946.502-946.518~~ be construed
2 in furtherance of such goals.

3 Section 4. Section 946.5025, Florida Statutes, is
4 amended to read:

5 946.5025 Authorization of corporation to enter into
6 contracts.--The corporation established under this part
7 ~~chapter~~ may enter into contracts to operate correctional work
8 programs with any county or municipal authority that operates
9 a correctional facility or with a contractor authorized under
10 chapter 944 or chapter 957 to operate a private correctional
11 facility. The corporation has the same powers, privileges, and
12 immunities in carrying out such contracts as it has under this
13 chapter.

14 Section 5. Section 946.5026, Florida Statutes, is
15 amended to read:

16 946.5026 Sovereign immunity in tort actions.--The
17 provisions of s. 768.28 shall be applicable to the corporation
18 established under this part ~~pursuant to s. 946.504(1)~~, which
19 is deemed to be a corporation primarily acting as an
20 instrumentality of the state.

21 Section 6. Section 946.503, Florida Statutes, is
22 amended to read:

23 946.503 Definitions to be used with respect to
24 correctional work programs.--As used in this part ~~ss.~~
25 ~~946.502-946.518~~, the term:

26 (1) "Corporation" means the private nonprofit
27 corporation established pursuant to s. 946.504(1), or a
28 private nonprofit corporation whose sole member is the private
29 nonprofit corporation established pursuant to s. 946.504(1),
30 whose board of directors is identical to the board of
31 directors of the private nonprofit corporation established

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1 pursuant to s. 946.504(1), to carry out this part ss-
2 ~~946.502-946.518.~~

3 (2) "Correctional work program" means any program
4 presently a part of the prison industries program operated by
5 the department or any other correctional work program carried
6 on at any state correctional facility presently or in the
7 future, but the term does not include any program authorized
8 by s. 945.091 or s. 946.40.

9 (3) "Department" means the Department of Corrections.

10 (4) "Facilities" means the buildings and land used in
11 the operation of an industry program on state property.

12 (5) "Inmate" means any person incarcerated within any
13 state, county, municipal, or private correctional facility.

14 (6) "Private correctional facility" means a facility
15 authorized by chapter 944 or chapter 957.

16 Section 7. Section 946.504, Florida Statutes, is
17 amended to read:

18 946.504 Organization of corporation to operate
19 correctional work programs; lease of facilities.--

20 (1) The department shall lease buildings and land to
21 the nonprofit corporation authorized to operate the
22 correctional work programs, the members of which are appointed
23 by the Governor and confirmed by the Senate. The same
24 appointment process shall be followed to fill any vacancy. The
25 corporation shall be organized pursuant to chapter 617 and
26 shall possess all the powers granted by that chapter. The
27 Board of Trustees of the Internal Improvement Trust Fund shall
28 enter into leases directly with the corporation, for a period
29 of at least 20 years, for the lease of the lands that are
30 currently under sublease with the department and used by the
31 corporation for correctional work programs and that are

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1 identified as subject to lease numbers 3513, 2946, 2675, 2937,
2 2673, and 2671 with the Board of Trustees of the Internal
3 Improvement Trust Fund. Any additional improvements to such
4 property leased by the corporation from the Board of Trustees
5 must have the prior approval of the Board of Trustees of the
6 Internal Improvement Trust Fund.

7 (2) No sublease for land from any other agency of
8 state government shall be in excess of that amount for which
9 the department is obligated to pay under any lease agreement
10 with any other agency of state government.

11 (3) The corporation shall negotiate with the
12 Department of Management Services to reach and enter into an
13 agreement for the lease of each correctional work program
14 proposed by the corporation. The facilities to be leased and
15 the amount of rental for such facilities shall be agreed upon
16 by the Department of Management Services and the corporation,
17 with consultation with the department. The length of such
18 lease shall be mutually agreed upon among the department, ~~the~~
19 ~~Department of Management Services, and the corporation+~~
20 ~~however, the initial lease may not exceed 7 years. The~~
21 ~~department shall continue to manage and operate the various~~
22 ~~correctional work programs until the lease between the~~
23 ~~department and the corporation is effective.~~

24 (4) If the department leases a single correctional
25 work program at any correctional institution to the
26 corporation, the corporation shall lease all such correctional
27 work programs at that institution.

28 (5)(a) Prior to entering into any lease or other
29 separate contract or agreement between the department and the
30 corporation, the department shall determine that:

31 1. The members of the corporation were appointed by

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1 the Governor and confirmed by the Senate;

2 2. The articles of incorporation of the corporation
3 have been approved by the Governor; and

4 3. The articles of incorporation contain a provision
5 that prohibits any director from voting on any matter that
6 comes before the board of directors that would result in a
7 direct monetary gain to any director or any entity in which
8 any director has an interest.

9 ~~(b) The lease must be submitted to the Attorney
10 General for his or her approval as to form and legality.~~

11 (b)(c) All leases of land shall be subject to the
12 approval of the Board of Trustees of the Internal Improvement
13 Trust Fund.

14 ~~(6)(a) Upon the effective date of each lease of each
15 correctional work program, the department shall cause to be
16 remitted to the corporation all funds appropriated for,
17 associated with, or budgeted for the operation of that
18 correctional work program, as agreed upon among the
19 department, the Department of Management Services, and the
20 corporation.~~

21 ~~(b) No operating loss of any type may be transferred
22 to the corporation.~~

23 ~~(7) When it leases any correctional work program, the
24 corporation shall exercise a reasonable effort to employ the
25 personnel of the department who are currently involved in the
26 correctional work programs being leased to the corporation.~~

27 (6)(8) Notwithstanding any provision to the contrary,
28 the corporation is authorized to use tax-exempt financing
29 through the issuance of tax-exempt bonds, certificates of
30 participation, lease-purchase agreements, or other tax-exempt
31 financing methods for the purpose of constructing facilities

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1 or making capital improvements for correctional work programs
2 and prison industry enhancement programs on state-owned land
3 within state correctional institutions. Such tax-exempt
4 financing may be funded by the General Appropriations Act. If
5 the corporation obtains tax-exempt financing, the state
6 retains a secured interest by holding a lien against any
7 structure or improvement for which tax-exempt financing or
8 state funds are used. The corporation shall include a
9 provision in its financing contract requiring that a lien be
10 filed by the Department of Corrections, on behalf of the
11 state, in order to procure the issuance of tax-exempt bonds or
12 certificates of participation; to enter into lease-purchase
13 agreements; or to obtain any other tax-exempt financing
14 methods for the construction or renovation of facilities
15 related to correctional work programs or prison industry
16 enhancement programs. The lien shall be against the property
17 where any facility or structure is located which has been
18 constructed or substantially renovated, in whole or in part,
19 through the use of state funds. However, there is no
20 requirement for the Department of Corrections to file a lien
21 if the amount of state funds does not exceed \$25,000 or 10
22 percent of the contract amount, whichever is less. The lien
23 must be recorded, upon the execution of the contract
24 authorizing such construction or renovation, in the county
25 where the property is located. The lien must specify that the
26 Department of Corrections has a financial interest in the
27 property equal to the pro rata portion of the state's original
28 investment of the then-fair-market value of the construction.
29 The lien must also specify that the Department of Corrections'
30 financial interest is proportionately reduced and subsequently
31 vacated over a 20-year period of depreciation. The contract

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1 must include a provision that as a condition of receipt of
2 state funding for this purpose, the corporation agrees that,
3 if it disposes of the property before the state's interest is
4 vacated, the corporation will refund the proportionate share
5 of the state's initial investment, as adjusted by
6 depreciation.

7 Section 8. Section 946.506, Florida Statutes, is
8 amended to read:

9 946.506 Modification or termination of correctional
10 work program by the corporation.--This part does Sections
11 ~~946.502-946.518~~ do not prevent the corporation from modifying,
12 altering, or terminating any correctional work program, once
13 assumed, so long as the corporation is otherwise carrying out
14 the provisions of this part ~~ss. 946.502-946.518~~.

15 Section 9. Subsection (1) of section 946.509, Florida
16 Statutes, is amended to read:

17 946.509 Insurance of property leased or acquired by
18 the corporation.--

19 (1) The State Property Insurance Trust Fund created
20 under s. 284.01 shall insure all property eligible for
21 coverage under part I of chapter 284 which is leased by the
22 department to the corporation or which is subsequently
23 acquired and owned or leased by the corporation and subject to
24 the reversionary ownership interest of the state established
25 in s. 946.505.

26 Section 10. Subsection (1) of section 946.511, Florida
27 Statutes, is amended to read:

28 946.511 Provision of inmate labor to operate
29 correctional work programs; policies and procedures.--

30 (1) Inmates shall be evaluated and identified during
31 the reception process to determine basic literacy, employment

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1 skills, academic skills, vocational skills, and remedial and
2 rehabilitative needs. The evaluation shall prescribe
3 education, work, and work-training for each inmate. Assignment
4 to programs shall be based on the evaluation and the length of
5 time the inmate will be in the custody of the department.
6 Assignment to programs shall be reviewed every 6 months to
7 ensure proper placement based on bed space availability.
8 Assignment of inmates shall be governed by the following
9 objectives and priorities:

10 (a) Inmates shall be assigned to meet the needs of the
11 work requirements of the Department of Corrections, including
12 essential operational functions and revenue-generating
13 contracts.

14 (b) Inmates shall be assigned to correctional
15 education.

16 (c) Inmates shall be assigned to meet all other work
17 requirements of the department, including remaining
18 operational functions and nonrevenue-generating contracts.

19
20 As used in this subsection, the term "revenue-generating
21 contracts" includes contracts with the Department of
22 Transportation, the corporation authorized to conduct the
23 correctional work programs under this part ~~FF~~, the corporation
24 and private sector businesses operating programs authorized
25 under s. 946.523 ~~946.006(3)~~, and federal, state, or local
26 governmental entities or subdivisions authorized under s.
27 944.10(7).

28 Section 11. Subsections (1) and (2) of section
29 946.514, Florida Statutes, are amended to read:

30 946.514 Civil rights of inmates; inmates not state
31 employees; liability of corporation for inmate injuries.--

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1 (1) Nothing contained in this part ~~ss. 946.502-946.517~~
2 is intended to restore in whole or in part the civil rights of
3 inmates.

4 (2) No inmate compensated under this part ~~ss.~~
5 ~~946.502-946.517~~ or by the corporation or the department shall
6 be considered as an employee of the state, the department, or
7 the corporation.

8 Section 12. Subsection (7) of section 946.515, Florida
9 Statutes, is amended to read:

10 946.515 Use of goods and services produced in
11 correctional work programs.--

12 (7) The provisions of s.ss. 946.21 and 946.518 do not
13 apply to this section.

14 Section 13. Subsection (1) of section 946.516, Florida
15 Statutes, is amended to read:

16 946.516 Report to Governor, Legislature, and Auditor
17 General by the corporation; Department of Corrections report;
18 annual financial audit.--

19 (1) The corporation shall submit to the Governor and
20 the Legislature, on or before July ~~January~~ 1 of each year, a
21 report on the status of the correctional work programs,
22 including, but not limited to, the proposed use of the profits
23 from such programs, a breakdown of the amount of noninmate
24 labor used, work subcontracted to other vendors, use of
25 consultants, finished goods purchased for resale, and the
26 number of inmates working in the correctional work programs at
27 the time of such report. In addition, the corporation shall
28 submit to the department, the Governor, the Legislature, and
29 the Auditor General an annual financial audit report and such
30 other information as may be requested by the Legislature,
31 together with recommendations relating to provisions for

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1 reasonable tax incentives to private enterprises which employ
2 inmates, parolees, or former inmates who have participated in
3 correctional work programs.

4 Section 14. Section 946.518, Florida Statutes, is
5 amended to read:

6 946.518 Sale of goods made by prisoners; when
7 prohibited, when permitted.--Goods, wares, or merchandise
8 manufactured or mined in whole or in part by prisoners (except
9 prisoners on parole or probation) may not be sold or offered
10 for sale in this state by any person or by any federal
11 authority or state or political subdivision thereof; however,
12 this section does and ~~s. 946.21~~ do not forbid the sale,
13 exchange, or disposition of such goods within the limitations
14 set forth in ~~s. 946.006(3)~~, s. 946.515, s. 946.523, or s.
15 946.524 ~~946.519~~.

16 Section 15. Section 946.520, Florida Statutes, is
17 amended to read:

18 946.520 Assignment of inmates by Department of
19 Corrections.--

20 (1) The department shall exert its best efforts to
21 assign inmates to the corporation, or the private sector
22 business authorized under this part ~~of this chapter~~, who
23 have not less than 1 nor more than 5 years remaining before
24 their tentative release dates. Beginning January 1, 1998, the
25 department shall maintain the assignment of at least 60
26 percent of inmates to all correctional work programs
27 collectively to the corporation, or to the private sector
28 business authorized under this part ~~of this chapter~~, who
29 have less than 10 years remaining before their tentative
30 release dates. This 60-percent requirement does not apply to
31 any correctional work program, or private sector business

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1 authorized under this part ~~of this chapter~~, within an
2 institution for any year in which, as of January 1 of that
3 year, the average years remaining before the tentative release
4 date of all inmates assigned to that institution exceeds 12
5 years.

6 (2) The department may not remove an inmate once
7 assigned to the corporation or to the private sector business
8 authorized under this part ~~of this chapter~~, except upon
9 request of or consent of such corporation or private sector
10 business or for the purposes of population management, for
11 inmate conduct that may subject the inmate to disciplinary
12 confinement or loss of gain-time, or for security and safety
13 concerns specifically set forth in writing to the corporation
14 or private sector business.

15 Section 16. Paragraph (f) of subsection (1) of section
16 957.04, Florida Statutes, is amended to read:

17 957.04 Contract requirements.--

18 (1) A contract entered into under this chapter for the
19 operation of private correctional facilities shall maximize
20 the cost savings of such facilities and shall:

21 (f) Require the contractor to be responsible for a
22 range of dental, medical, and psychological services; diet;
23 education; and work programs at least equal to those provided
24 by the department in comparable facilities. The work and
25 education programs must be designed to reduce recidivism, and
26 include opportunities to participate in such work programs as
27 authorized pursuant to s. 946.523 ~~946.006~~.

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30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

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1 On page 11, line 4, of the amendment
2 remove from the bill: all of said lines
3
4 and insert in lieu thereof:
5 An act relating to Corrections; amending s.
6 945.215, F.S.; revising and clarifying
7 authorized uses of moneys in the Inmates
8 Welfare Trust Fund; providing limitations;
9 providing health care of inmates in the state
10 correctional system; providing legislative
11 intent with respect to the Correctional Managed
12 Health Care Pilot Program; requiring that the
13 Correctional Medical Authority inspect
14 facilities operated under the pilot program and
15 report to the Governor and Legislature;
16 establishing the Correctional Managed Health
17 Care Pilot Program; specifying the correctional
18 facilities to be included in the pilot program;
19 requiring the Department of Corrections to
20 contract with a private health care vendor for
21 the purpose of providing health care services;
22 providing procedures under which the private
23 vendor may deviate from procedures or protocols
24 adopted by the department; providing for a
25 criminal history check of individuals employed
26 by or contracting with the health care vendor;
27 providing that sovereign immunity does not
28 apply to any vendor performing services under
29 the pilot program; requiring that the vendor
30 and any subcontractor indemnify the state and
31 the department against any liability; requiring

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1 that the population of inmates served under the
2 pilot program be similar to other inmates in
3 the state correctional system; providing for
4 the prime vendor pharmaceutical contract to be
5 available to the health care vendor operating
6 the pilot program; providing operations of
7 correctional work programs; revising provisions
8 relating to leased or managed work programs to
9 conform to current operations and applications;
10 amending ss. 946.502, 946.5025, 946.5026,
11 946.503, 946.506, 946.509, 946.511, 946.514,
12 946.515, 946.516, 946.518, and 946.520, F.S.;
13 conforming internal cross references; deleting
14 obsolete language; clarifying a definition;
15 changing a reporting date; amending s. 946.504,
16 F.S.; deleting certain obsolete work program
17 lease requirements; deleting a requirement that
18 the Department of Corrections remit certain
19 funds to a corporation established for
20 correctional work program purposes; deleting a
21 prohibition against transferring operating
22 losses to the corporation; deleting a
23 requirement that the corporation employ certain
24 department personnel; amending s. 957.04, F.S.,
25 to conform a cross reference; providing an
26 effective date.

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