

By the Committee on Criminal Justice and Senator Silver

307-2031-00

1 A bill to be entitled
2 An act relating to correctional work programs;
3 amending s. 946.502, F.S., relating to
4 legislative intent with respect to the
5 operation of correctional work programs;
6 conforming references and deleting obsolete
7 provisions; amending s. 946.5025, F.S.;
8 conforming a cross-reference; amending s.
9 946.5026, F.S.; clarifying the application of
10 sovereign immunity with respect to the
11 corporation that operates correctional work
12 programs; amending s. 946.503, F.S.; redefining
13 the term "corporation" for purposes of part II
14 of ch. 946, F.S.; amending s. 946.504, F.S.;
15 revising requirements for the lease of
16 facilities by the corporation; deleting a
17 requirement that a lease be approved by the
18 Attorney General; deleting certain limitations
19 on the transfer of operating loses and
20 requirements for employing personnel of the
21 Department of Corrections; amending s. 946.506,
22 F.S., relating to modification or termination
23 of correctional programs; conforming
24 references; amending s. 946.509, F.S.;
25 providing for insurance of property leased by
26 the corporation; amending s. 946.511, F.S.;
27 authorizing revenue-generating contracts
28 between the corporation and private-sector
29 businesses; amending s. 946.514, F.S., relating
30 to civil rights of inmates; conforming
31 references; amending s. 946.515, F.S.;

1 conforming a reference to clarify the
2 application of requirements for the use of
3 goods and services produced in correctional
4 work programs; amending s. 946.516, F.S.;
5 revising the date of the annual report
6 submitted to the Governor and Legislature by
7 the corporation; amending s. 946.518, F.S.,
8 relating to the sale of goods made by
9 prisoners; conforming references; amending s.
10 946.520, F.S.; providing for the assignment of
11 inmates to the private-sector business
12 authorized to operate correctional work
13 programs; amending s. 957.04, F.S.; conforming
14 a cross-reference; providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Subsections (2), (3), and (4) of section
19 946.502, Florida Statutes, are amended to read:

20 946.502 Legislative intent with respect to operation
21 of correctional work programs.--

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

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

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1 (4) It is further the intent of the Legislature that
2 the state shall have a continuing interest in assuring
3 continuity and stability in the operation of correctional work
4 programs and that this part ~~ss. 946.502-946.518~~ be construed
5 in furtherance of such goals.

6 Section 2. Section 946.5025, Florida Statutes, is
7 amended to read:

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

17 Section 3. Section 946.5026, Florida Statutes, is
18 amended to read:

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

24 Section 4. Section 946.503, Florida Statutes, is
25 amended to read:

26 946.503 Definitions to be used with respect to
27 correctional work programs.--As used in this part ~~ss.~~
28 ~~946.502-946.518~~, the term:

29 (1) "Corporation" means the private nonprofit
30 corporation established pursuant to s. 946.504(1), or a
31 private nonprofit corporation whose sole member is the private

1 nonprofit corporation established pursuant to s. 946.504(1),
2 and whose board of directors is identical to the board of
3 directors of the private nonprofit corporation established
4 pursuant to s. 946.504(1),to carry out this part ~~ss.~~
5 ~~946.502-946.518.~~

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

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

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

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

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

19 Section 5. Section 946.504, Florida Statutes, is
20 amended to read:

21 946.504 Organization of corporation to operate
22 correctional work programs; lease of facilities.--

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

1 of at least 20 years, for the lease of the lands that are
2 currently under sublease with the department and used by the
3 corporation for correctional work programs and that are
4 identified as subject to lease numbers 3513, 2946, 2675, 2937,
5 2673, and 2671 with the Board of Trustees of the Internal
6 Improvement Trust Fund. Any additional improvements to such
7 property leased by the corporation from the Board of Trustees
8 must have the prior approval of the Board of Trustees of the
9 Internal Improvement Trust Fund.

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

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

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

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

4 1. The members of the corporation were appointed by
5 the Governor and confirmed by the Senate;

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

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

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

15 (b)(c) All leases of land shall be subject to the
16 approval of the Board of Trustees of the Internal Improvement
17 Trust Fund.

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

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

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

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

1 property equal to the pro rata portion of the state's original
2 investment of the then-fair-market value of the construction.
3 The lien must also specify that the Department of Corrections'
4 financial interest is proportionately reduced and subsequently
5 vacated over a 20-year period of depreciation. The contract
6 must include a provision that as a condition of receipt of
7 state funding for this purpose, the corporation agrees that,
8 if it disposes of the property before the state's interest is
9 vacated, the corporation will refund the proportionate share
10 of the state's initial investment, as adjusted by
11 depreciation.

12 Section 6. Section 946.506, Florida Statutes, is
13 amended to read:

14 946.506 Modification or termination of correctional
15 work program by the corporation.--This part does Sections
16 ~~946.502-946.518~~ do not prevent the corporation from modifying,
17 altering, or terminating any correctional work program, once
18 assumed, so long as the corporation is otherwise carrying out
19 the provisions of this part ~~ss. 946.502-946.518~~.

20 Section 7. Subsection (1) of section 946.509, Florida
21 Statutes, is amended to read:

22 946.509 Insurance of property leased or acquired by
23 the corporation.--

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

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1 Section 8. Subsection (1) of section 946.511, Florida
2 Statutes, is amended to read:

3 946.511 Provision of inmate labor to operate
4 correctional work programs; policies and procedures.--

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

16 (a) Inmates shall be assigned to meet the needs of the
17 work requirements of the Department of Corrections, including
18 essential operational functions and revenue-generating
19 contracts.

20 (b) Inmates shall be assigned to correctional
21 education.

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

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26 As used in this subsection, the term "revenue-generating
27 contracts" includes contracts with the Department of
28 Transportation, the corporation authorized to conduct the
29 correctional work programs under this part ~~¶¶~~, the corporation
30 and private sector businesses operating programs authorized
31 under s. 946.523 ~~s. 946.006(3)~~, and federal, state, or local

1 governmental entities or subdivisions authorized under s.
2 944.10(7).

3 Section 9. Subsections (1) and (2) of section 946.514,
4 Florida Statutes, are amended to read:

5 946.514 Civil rights of inmates; inmates not state
6 employees; liability of corporation for inmate injuries.--

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

10 (2) No inmate compensated under this part ~~ss.~~
11 ~~946.502-946.517~~ or by the corporation or the department shall
12 be considered as an employee of the state, the department, or
13 the corporation.

14 Section 10. Subsection (7) of section 946.515, Florida
15 Statutes, is amended to read:

16 946.515 Use of goods and services produced in
17 correctional work programs.--

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

20 Section 11. Subsection (1) of section 946.516, Florida
21 Statutes, is amended to read:

22 946.516 Report to Governor, Legislature, and Auditor
23 General by the corporation; Department of Corrections report;
24 annual financial audit.--

25 (1) The corporation shall submit to the Governor and
26 the Legislature, on or before July ~~January~~ 1 of each year, a
27 report on the status of the correctional work programs,
28 including, but not limited to, the proposed use of the profits
29 from such programs, a breakdown of the amount of noninmate
30 labor used, work subcontracted to other vendors, use of
31 consultants, finished goods purchased for resale, and the

1 number of inmates working in the correctional work programs at
2 the time of such report. In addition, the corporation shall
3 submit to the department, the Governor, the Legislature, and
4 the Auditor General an annual financial audit report and such
5 other information as may be requested by the Legislature,
6 together with recommendations relating to provisions for
7 reasonable tax incentives to private enterprises which employ
8 inmates, parolees, or former inmates who have participated in
9 correctional work programs.

10 Section 12. Section 946.518, Florida Statutes, is
11 amended to read:

12 946.518 Sale of goods made by prisoners; when
13 prohibited, when permitted.--Goods, wares, or merchandise
14 manufactured or mined in whole or in part by prisoners (except
15 prisoners on parole or probation) may not be sold or offered
16 for sale in this state by any person or by any federal
17 authority or state or political subdivision thereof; however,
18 this section does and ~~s. 946.21~~ do not forbid the sale,
19 exchange, or disposition of such goods within the limitations
20 set forth in ~~s. 946.006(3)~~, s. 946.515, s. 946.523, or s.
21 946.524 ~~s. 946.519~~.

22 Section 13. Section 946.520, Florida Statutes, is
23 amended to read:

24 946.520 Assignment of inmates by Department of
25 Corrections.--

26 (1) The department shall exert its best efforts to
27 assign inmates to the corporation, or the private sector
28 business authorized under ~~part I~~ of this part ~~chapter~~, who
29 have not less than 1 nor more than 5 years remaining before
30 their tentative release dates. Beginning January 1, 1998, the
31 department shall maintain the assignment of at least 60

1 percent of inmates to all correctional work programs
2 collectively to the corporation, or to the private sector
3 business authorized under ~~part I of this part chapter~~, who
4 have less than 10 years remaining before their tentative
5 release dates. This 60-percent requirement does not apply to
6 any correctional work program, or private sector business
7 authorized under ~~part I of this part chapter~~, within an
8 institution for any year in which, as of January 1 of that
9 year, the average years remaining before the tentative release
10 date of all inmates assigned to that institution exceeds 12
11 years.

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

21 Section 14. Paragraph (f) of subsection (1) of section
22 957.04, Florida Statutes, is amended to read:

23 957.04 Contract requirements.--

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

27 (f) Require the contractor to be responsible for a
28 range of dental, medical, and psychological services; diet;
29 education; and work programs at least equal to those provided
30 by the department in comparable facilities. The work and
31 education programs must be designed to reduce recidivism, and

1 include opportunities to participate in such work programs as
2 authorized pursuant to s. 946.523 ~~s. 946.006~~.

3 Section 15. This act shall take effect upon becoming a
4 law.

5
6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 Senate Bill 1946

- 9 - Corrects a statutory reference to more accurately define
10 the part of the chapter that describes the PRIDE
Corporation. Also deletes obsolete language.
- 11 - Deletes obsolete language that was only relevant at the
12 time of the initial transfer of the prison industries
from the Department of Corrections to PRIDE.
- 13 - Provides that the State Property Insurance Trust Fund
14 may insure PRIDE's leased properties (equipment and
machinery) as well as it's owned properties.
- 15 - Deletes obsolete statutory references and amends other
16 statutory references to more clearly define the part of
the chapter that describes the corporation.
- 17 - Amends references to the different parts of chapter 946,
18 F.S. Clarifies that both PRIDE and PIE are in the same
"part" of chapter 946, F.S., and that inmate assignment
19 provisions apply to both PRIDE and PIE participants.
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