

Bill No. CS for SB 2108

Amendment No.

CHAMBER ACTION

Senate

House

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Senator Silver moved the following amendment:

Senate Amendment (with title amendment)

On page 8, between lines 10 and 11,

insert:

Section 2. 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

Bill No. CS for SB 2108

Amendment No. ____

1 continuity and stability in the operation of correctional work
2 programs and that this part ~~ss. 946.502-946.518~~ be construed
3 in furtherance of such goals.

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

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

15 Section 4. Section 946.5026, Florida Statutes, is
16 amended to read:

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

22 Section 5. Section 946.503, Florida Statutes, is
23 amended to read:

24 946.503 Definitions to be used with respect to
25 correctional work programs.--As used in this part ~~ss.~~
26 ~~946.502-946.518~~, the term:

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

Bill No. CS for SB 2108

Amendment No. ____

1 directors of the private nonprofit corporation established
2 pursuant to s. 946.504(1), to carry out this part ~~ss.~~
3 ~~946.502-946.518.~~

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

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

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

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

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

17 Section 6. Section 946.504, Florida Statutes, is
18 amended to read:

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

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

Bill No. CS for SB 2108

Amendment No. ____

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

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

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

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

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

Bill No. CS for SB 2108

Amendment No. ____

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

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

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

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

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

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

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

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

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

Bill No. CS for SB 2108

Amendment No. ____

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

Bill No. CS for SB 2108

Amendment No. ____

1 vacated over a 20-year period of depreciation. The contract
2 must include a provision that as a condition of receipt of
3 state funding for this purpose, the corporation agrees that,
4 if it disposes of the property before the state's interest is
5 vacated, the corporation will refund the proportionate share
6 of the state's initial investment, as adjusted by
7 depreciation.

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

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

16 Section 8. Subsection (1) of section 946.509, Florida
17 Statutes, is amended to read:

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

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

27 Section 9. Subsection (1) of section 946.511, Florida
28 Statutes, is amended to read:

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

31 (1) Inmates shall be evaluated and identified during

Bill No. CS for SB 2108

Amendment No. ____

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

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

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

17 (c) Inmates shall be assigned to meet all other work
18 requirements of the department, including remaining
19 operational functions and nonrevenue-generating contracts.
20

21 As used in this subsection, the term "revenue-generating
22 contracts" includes contracts with the Department of
23 Transportation, the corporation authorized to conduct the
24 correctional work programs under this part ~~FF~~, the corporation
25 and private sector businesses operating programs authorized
26 under s. 946.523 ~~s. 946.006(3)~~, and federal, state, or local
27 governmental entities or subdivisions authorized under s.
28 944.10(7).

29 Section 10. Subsections (1) and (2) of section
30 946.514, Florida Statutes, are amended to read:

31 946.514 Civil rights of inmates; inmates not state

Bill No. CS for SB 2108

Amendment No. ____

1 employees; liability of corporation for inmate injuries.--

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

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

9 Section 11. Subsection (7) of section 946.515, Florida
 10 Statutes, is amended to read:

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

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

15 Section 12. Subsection (1) of section 946.516, Florida
 16 Statutes, is amended to read:

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

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

Bill No. CS for SB 2108

Amendment No. ____

1 together with recommendations relating to provisions for
2 reasonable tax incentives to private enterprises which employ
3 inmates, parolees, or former inmates who have participated in
4 correctional work programs.

5 Section 13. Section 946.518, Florida Statutes, is
6 amended to read:

7 946.518 Sale of goods made by prisoners; when
8 prohibited, when permitted.--Goods, wares, or merchandise
9 manufactured or mined in whole or in part by prisoners (except
10 prisoners on parole or probation) may not be sold or offered
11 for sale in this state by any person or by any federal
12 authority or state or political subdivision thereof; however,
13 this section does ~~and s. 946.21 do~~ not forbid the sale,
14 exchange, or disposition of such goods within the limitations
15 set forth in ~~s. 946.006(3)~~, s. 946.515, s. 946.523, or s.
16 946.524 ~~s. 946.519~~.

17 Section 14. Section 946.520, Florida Statutes, is
18 amended to read:

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

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

Bill No. CS for SB 2108

Amendment No. ____

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

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

16 Section 15. Paragraph (f) of subsection (1) of section
17 957.04, Florida Statutes, is amended to read:

18 957.04 Contract requirements.--

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

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

29
30 (Redesignate subsequent sections.)

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Bill No. CS for SB 2108

Amendment No. ____

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

2 And the title is amended as follows:

3 On page 2, line 7, after the semicolon,

4

5 insert:

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

Bill No. CS for SB 2108

Amendment No. ____

1 businesses; amending s. 946.514, F.S., relating
2 to civil rights of inmates; conforming
3 references; amending s. 946.515, F.S.;
4 conforming a reference to clarify the
5 application of requirements for the use of
6 goods and services produced in correctional
7 work programs; amending s. 946.516, F.S.;
8 revising the date of the annual report
9 submitted to the Governor and Legislature by
10 the corporation; amending s. 946.518, F.S.,
11 relating to the sale of goods made by
12 prisoners; conforming references; amending s.
13 946.520, F.S.; providing for the assignment of
14 inmates to the private-sector business
15 authorized to operate correctional work
16 programs; amending s. 957.04, F.S.; conforming
17 a cross-reference;
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