

By the Committee on Corrections and Representative
Trovillion

1 A bill to be entitled
2 An act relating to operations of correctional
3 work programs; revising provisions relating to
4 leased or managed work programs to conform to
5 current operations and applications; amending
6 ss. 946.502, 946.5025, 946.5026, 946.503,
7 946.506, 946.509, 946.511, 946.514, 946.515,
8 946.516, 946.518, and 946.520, F.S.; conforming
9 internal cross references; deleting obsolete
10 language; clarifying a definition; changing a
11 reporting date; amending s. 946.504, F.S.;
12 deleting certain obsolete work program lease
13 requirements; deleting a requirement that the
14 Department of Corrections remit certain funds
15 to a corporation established for correctional
16 work program purposes; deleting a prohibition
17 against transferring operating losses to the
18 corporation; deleting a requirement that the
19 corporation employ certain department
20 personnel; amending s. 957.04, F.S., to conform
21 a cross reference; providing an effective date.

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

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25 Section 1. Subsections (2), (3), and (4) of section
26 946.502, Florida Statutes, are amended to read:

27 946.502 Legislative intent with respect to operation
28 of correctional work programs.--

29 (2) It is further the intent of the Legislature that,
30 once one such nonprofit corporation is organized, no other
31 nonprofit corporation be organized for the purpose of carrying

1 out this part ~~ss. 946.502-946.518~~. In carrying out this part
2 ~~ss. 946.502-946.518~~, the corporation is not an "agency" within
3 the meaning of s. 20.03(11).

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

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

12 Section 2. Section 946.5025, Florida Statutes, is
13 amended to read:

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

23 Section 3. Section 946.5026, Florida Statutes, is
24 amended to read:

25 946.5026 Sovereign immunity in tort actions.--The
26 provisions of s. 768.28 shall be applicable to the corporation
27 established under this part ~~pursuant to s. 946.504(1)~~, which
28 is deemed to be a corporation primarily acting as an
29 instrumentality of the state.

30 Section 4. Section 946.503, Florida Statutes, is
31 amended to read:

1 946.503 Definitions to be used with respect to
2 correctional work programs.--As used in this part ~~ss.~~
3 ~~946.502-946.518~~, the term:
4 (1) "Corporation" means the private nonprofit
5 corporation established pursuant to s. 946.504(1), or a
6 private nonprofit corporation whose sole member is the private
7 nonprofit corporation established pursuant to s. 946.504(1),
8 whose board of directors is identical to the board of
9 directors of the private nonprofit corporation established
10 pursuant to s. 946.504(1),to carry out this part ~~ss.~~
11 ~~946.502-946.518~~.
12 (2) "Correctional work program" means any program
13 presently a part of the prison industries program operated by
14 the department or any other correctional work program carried
15 on at any state correctional facility presently or in the
16 future, but the term does not include any program authorized
17 by s. 945.091 or s. 946.40.
18 (3) "Department" means the Department of Corrections.
19 (4) "Facilities" means the buildings and land used in
20 the operation of an industry program on state property.
21 (5) "Inmate" means any person incarcerated within any
22 state, county, municipal, or private correctional facility.
23 (6) "Private correctional facility" means a facility
24 authorized by chapter 944 or chapter 957.
25 Section 5. Section 946.504, Florida Statutes, is
26 amended to read:
27 946.504 Organization of corporation to operate
28 correctional work programs; lease of facilities.--
29 (1) The department shall lease buildings and land to
30 the nonprofit corporation authorized to operate the
31 correctional work programs, the members of which are appointed

1 by the Governor and confirmed by the Senate. The same
2 appointment process shall be followed to fill any vacancy. The
3 corporation shall be organized pursuant to chapter 617 and
4 shall possess all the powers granted by that chapter. The
5 Board of Trustees of the Internal Improvement Trust Fund shall
6 enter into leases directly with the corporation, for a period
7 of at least 20 years, for the lease of the lands that are
8 currently under sublease with the department and used by the
9 corporation for correctional work programs and that are
10 identified as subject to lease numbers 3513, 2946, 2675, 2937,
11 2673, and 2671 with the Board of Trustees of the Internal
12 Improvement Trust Fund. Any additional improvements to such
13 property leased by the corporation from the Board of Trustees
14 must have the prior approval of the Board of Trustees of the
15 Internal Improvement Trust Fund.

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

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

3 (4) If the department leases a single correctional
4 work program at any correctional institution to the
5 corporation, the corporation shall lease all such correctional
6 work programs at that institution.

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

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

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

14 3. The articles of incorporation contain a provision
15 that prohibits any director from voting on any matter that
16 comes before the board of directors that would result in a
17 direct monetary gain to any director or any entity in which
18 any director has an interest.

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

21 (b)(c) All leases of land shall be subject to the
22 approval of the Board of Trustees of the Internal Improvement
23 Trust Fund.

24 ~~(6)(a) Upon the effective date of each lease of each~~
25 ~~correctional work program, the department shall cause to be~~
26 ~~remitted to the corporation all funds appropriated for,~~
27 ~~associated with, or budgeted for the operation of that~~
28 ~~correctional work program, as agreed upon among the~~
29 ~~department, the Department of Management Services, and the~~
30 ~~corporation.~~

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

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

7 (6)(8) Notwithstanding any provision to the contrary,
8 the corporation is authorized to use tax-exempt financing
9 through the issuance of tax-exempt bonds, certificates of
10 participation, lease-purchase agreements, or other tax-exempt
11 financing methods for the purpose of constructing facilities
12 or making capital improvements for correctional work programs
13 and prison industry enhancement programs on state-owned land
14 within state correctional institutions. Such tax-exempt
15 financing may be funded by the General Appropriations Act. If
16 the corporation obtains tax-exempt financing, the state
17 retains a secured interest by holding a lien against any
18 structure or improvement for which tax-exempt financing or
19 state funds are used. The corporation shall include a
20 provision in its financing contract requiring that a lien be
21 filed by the Department of Corrections, on behalf of the
22 state, in order to procure the issuance of tax-exempt bonds or
23 certificates of participation; to enter into lease-purchase
24 agreements; or to obtain any other tax-exempt financing
25 methods for the construction or renovation of facilities
26 related to correctional work programs or prison industry
27 enhancement programs. The lien shall be against the property
28 where any facility or structure is located which has been
29 constructed or substantially renovated, in whole or in part,
30 through the use of state funds. However, there is no
31 requirement for the Department of Corrections to file a lien

1 if the amount of state funds does not exceed \$25,000 or 10
2 percent of the contract amount, whichever is less. The lien
3 must be recorded, upon the execution of the contract
4 authorizing such construction or renovation, in the county
5 where the property is located. The lien must specify that the
6 Department of Corrections has a financial interest in the
7 property equal to the pro rata portion of the state's original
8 investment of the then-fair-market value of the construction.
9 The lien must also specify that the Department of Corrections'
10 financial interest is proportionately reduced and subsequently
11 vacated over a 20-year period of depreciation. The contract
12 must include a provision that as a condition of receipt of
13 state funding for this purpose, the corporation agrees that,
14 if it disposes of the property before the state's interest is
15 vacated, the corporation will refund the proportionate share
16 of the state's initial investment, as adjusted by
17 depreciation.

18 Section 6. Section 946.506, Florida Statutes, is
19 amended to read:

20 946.506 Modification or termination of correctional
21 work program by the corporation.--This part does Sections
22 ~~946.502-946.518~~ do not prevent the corporation from modifying,
23 altering, or terminating any correctional work program, once
24 assumed, so long as the corporation is otherwise carrying out
25 the provisions of this part ~~ss. 946.502-946.518~~.

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

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

30 (1) The State Property Insurance Trust Fund created
31 under s. 284.01 shall insure all property eligible for

1 coverage under part I of chapter 284 which is leased by the
2 department to the corporation or which is subsequently
3 acquired and owned or leased by the corporation and subject to
4 the reversionary ownership interest of the state established
5 in s. 946.505.

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

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

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

25 (b) Inmates shall be assigned to correctional
26 education.

27 (c) Inmates shall be assigned to meet all other work
28 requirements of the department, including remaining
29 operational functions and nonrevenue-generating contracts.
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1 As used in this subsection, the term "revenue-generating
2 contracts" includes contracts with the Department of
3 Transportation, the corporation authorized to conduct the
4 correctional work programs under this part ~~##~~, the corporation
5 and private sector businesses operating programs authorized
6 under s. 946.523 ~~946.006(3)~~, and federal, state, or local
7 governmental entities or subdivisions authorized under s.
8 944.10(7).

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

11 946.514 Civil rights of inmates; inmates not state
12 employees; liability of corporation for inmate injuries.--

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

16 (2) No inmate compensated under this part ~~ss.~~
17 ~~946.502-946.517~~ or by the corporation or the department shall
18 be considered as an employee of the state, the department, or
19 the corporation.

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

22 946.515 Use of goods and services produced in
23 correctional work programs.--

24 (7) The provisions of s.~~ss. 946.21~~ and 946.518 do not
25 apply to this section.

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

28 946.516 Report to Governor, Legislature, and Auditor
29 General by the corporation; Department of Corrections report;
30 annual financial audit.--

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1 (1) The corporation shall submit to the Governor and
2 the Legislature, on or before July ~~January~~ 1 of each year, a
3 report on the status of the correctional work programs,
4 including, but not limited to, the proposed use of the profits
5 from such programs, a breakdown of the amount of noninmate
6 labor used, work subcontracted to other vendors, use of
7 consultants, finished goods purchased for resale, and the
8 number of inmates working in the correctional work programs at
9 the time of such report. In addition, the corporation shall
10 submit to the department, the Governor, the Legislature, and
11 the Auditor General an annual financial audit report and such
12 other information as may be requested by the Legislature,
13 together with recommendations relating to provisions for
14 reasonable tax incentives to private enterprises which employ
15 inmates, parolees, or former inmates who have participated in
16 correctional work programs.

17 Section 12. Section 946.518, Florida Statutes, is
18 amended to read:

19 946.518 Sale of goods made by prisoners; when
20 prohibited, when permitted.--Goods, wares, or merchandise
21 manufactured or mined in whole or in part by prisoners (except
22 prisoners on parole or probation) may not be sold or offered
23 for sale in this state by any person or by any federal
24 authority or state or political subdivision thereof; however,
25 this section does ~~and s. 946.21 do~~ not forbid the sale,
26 exchange, or disposition of such goods within the limitations
27 set forth in ~~s. 946.006(3)~~, s. 946.515, s. 946.523, or s.
28 946.524 ~~946.519~~.

29 Section 13. Section 946.520, Florida Statutes, is
30 amended to read:

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1 946.520 Assignment of inmates by Department of
2 Corrections.--

3 (1) The department shall exert its best efforts to
4 assign inmates to the corporation, or the private sector
5 business authorized under this part ~~of this chapter~~, who
6 have not less than 1 nor more than 5 years remaining before
7 their tentative release dates. Beginning January 1, 1998, the
8 department shall maintain the assignment of at least 60
9 percent of inmates to all correctional work programs
10 collectively to the corporation, or to the private sector
11 business authorized under this part ~~of this chapter~~, who
12 have less than 10 years remaining before their tentative
13 release dates. This 60-percent requirement does not apply to
14 any correctional work program, or private sector business
15 authorized under this part ~~of this chapter~~, within an
16 institution for any year in which, as of January 1 of that
17 year, the average years remaining before the tentative release
18 date of all inmates assigned to that institution exceeds 12
19 years.

20 (2) The department may not remove an inmate once
21 assigned to the corporation or to the private sector business
22 authorized under this part ~~of this chapter~~, except upon
23 request of or consent of such corporation or private sector
24 business or for the purposes of population management, for
25 inmate conduct that may subject the inmate to disciplinary
26 confinement or loss of gain-time, or for security and safety
27 concerns specifically set forth in writing to the corporation
28 or private sector business.

29 Section 14. Paragraph (f) of subsection (1) of section
30 957.04, Florida Statutes, is amended to read:

31 957.04 Contract requirements.--

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

4 (f) Require the contractor to be responsible for a
5 range of dental, medical, and psychological services; diet;
6 education; and work programs at least equal to those provided
7 by the department in comparable facilities. The work and
8 education programs must be designed to reduce recidivism, and
9 include opportunities to participate in such work programs as
10 authorized pursuant to s. 946.523 ~~946.006~~.

11 Section 15. This act shall take effect upon becoming a
12 law.

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15 HOUSE SUMMARY

16 Revises and clarifies provisions relating to correctional
17 work programs operated by a private nonprofit
18 corporation. See bill for details.

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