

By the Council for Healthy Communities and Representatives
Brutus, Trovillion and Heyman

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, 946.516,
8 946.518, and 946.520, F.S.; conforming internal
9 cross references; deleting obsolete provisions;
10 clarifying a definition; changing a reporting
11 date; amending s. 957.04, F.S., to conform a
12 cross reference; providing legislative findings
13 with regard to fulfillment of an important
14 state interest; creating s. 946.525, F.S.,
15 relating to participation by the corporation in
16 state group health insurance and prescription
17 drug coverage programs; providing for
18 participation by the corporation board of
19 directors in said programs; providing for a
20 fee; providing conditions for submission of
21 proposals and for review thereof; providing
22 terms and conditions for enrollment; providing
23 for applicability; providing for rules;
24 requiring certain letters and rulings with
25 regard to the State Group Self-Insurance
26 Program; requiring notification to the
27 Legislature; providing a contingent effective
28 date.

29
30 Be It Enacted by the Legislature of the State of Florida:

31

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

3 946.502 Legislative intent with respect to operation
4 of correctional work programs.--

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

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

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

19 Section 2. Section 946.5025, Florida Statutes, is
20 amended to read:

21 946.5025 Authorization of corporation to enter into
22 contracts.--The corporation established under this part
23 ~~chapter~~ may enter into contracts to operate correctional work
24 programs with any county or municipal authority that operates
25 a correctional facility or with a contractor authorized under
26 chapter 944 or chapter 957 to operate a private correctional
27 facility. The corporation has the same powers, privileges, and
28 immunities in carrying out such contracts as it has under this
29 chapter.

30 Section 3. Section 946.5026, Florida Statutes, is
31 amended to read:

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

6 Section 4. Section 946.503, Florida Statutes, is
7 amended to read:

8 946.503 Definitions to be used with respect to
9 correctional work programs.--As used in this part ~~ss.~~
10 ~~946.502-946.518~~, the term:

11 (1) "Corporation" means the private nonprofit
12 corporation established pursuant to s. 946.504(1), or a
13 private nonprofit corporation whose sole member is the private
14 nonprofit corporation established pursuant to s. 946.504(1),
15 whose board of directors consists of directors, at least 51
16 percent of whom are also directors on the board of directors
17 of the private nonprofit corporation established pursuant to
18 s. 946.504(1), to carry out this part ~~ss. 946.502-946.518~~.

19 (2) "Correctional work program" means any program
20 presently a part of the prison industries program operated by
21 the department or any other correctional work program carried
22 on at any state correctional facility presently or in the
23 future, but the term does not include any program authorized
24 by s. 945.091 or s. 946.40.

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

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

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

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

1 Section 5. Section 946.506, Florida Statutes, is
2 amended to read:
3 946.506 Modification or termination of correctional
4 work program by the corporation.--This part does Sections
5 ~~946.502-946.518~~ do not prevent the corporation from modifying,
6 altering, or terminating any correctional work program, once
7 assumed, so long as the corporation is otherwise carrying out
8 the provisions of this part ~~ss. 946.502-946.518~~.

9 Section 6. Subsection (1) of section 946.509, Florida
10 Statutes, is amended to read:

11 946.509 Insurance of property leased or acquired by
12 the corporation.--

13 (1) The State Risk Management Trust Fund created under
14 s. 284.30 shall insure all property eligible for coverage
15 under part I of chapter 284 which is leased by the department
16 to the corporation or which is subsequently acquired and owned
17 or leased by the corporation and subject to the reversionary
18 ownership interest of the state established in s. 946.505.

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

21 946.511 Provision of inmate labor to operate
22 correctional work programs; policies and procedures.--

23 (1) Inmates shall be evaluated and identified during
24 the reception process to determine basic literacy, employment
25 skills, academic skills, vocational skills, and remedial and
26 rehabilitative needs. The evaluation shall prescribe
27 education, work, and work-training for each inmate. Assignment
28 to programs shall be based on the evaluation and the length of
29 time the inmate will be in the custody of the department.
30 Assignment to programs shall be reviewed every 6 months to
31 ensure proper placement based on bed space availability.

1 Assignment of inmates shall be governed by the following
2 objectives and priorities:
3 (a) Inmates shall be assigned to meet the needs of the
4 work requirements of the Department of Corrections, including
5 essential operational functions and revenue-generating
6 contracts.
7 (b) Inmates shall be assigned to correctional
8 education.
9 (c) Inmates shall be assigned to meet all other work
10 requirements of the department, including remaining
11 operational functions and nonrevenue-generating contracts.
12

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

21 Section 8. Subsections (1) and (2) of section 946.514,
22 Florida Statutes, are amended to read:

23 946.514 Civil rights of inmates; inmates not state
24 employees; liability of corporation for inmate injuries.--

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

28 (2) No inmate compensated under this part ~~ss.~~
29 ~~946.502-946.517~~ or by the corporation or the department shall
30 be considered as an employee of the state, the department, or
31 the corporation.

1 Section 9. Subsection (1) of section 946.516, Florida
2 Statutes, is amended to read:

3 946.516 Report to Governor, Legislature, and Auditor
4 General by the corporation; Department of Corrections report;
5 annual financial audit.--

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

22 Section 10. Section 946.518, Florida Statutes, is
23 amended to read:

24 946.518 Sale of goods made by prisoners; when
25 prohibited, when permitted.--Goods, wares, or merchandise
26 manufactured or mined in whole or in part by prisoners (except
27 prisoners on parole or probation) may not be sold or offered
28 for sale in this state by any person or by any federal
29 authority or state or political subdivision thereof; however,
30 this section does not forbid the sale, exchange, or
31

1 disposition of such goods within the limitations set forth in
2 s. 946.515, s. 946.523, or s. 946.524.

3 Section 11. Section 946.520, Florida Statutes, is
4 amended to read:

5 946.520 Assignment of inmates by Department of
6 Corrections.--

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

24 (2) The department may not remove an inmate once
25 assigned to the corporation or to the private sector business
26 authorized under this part ~~of this chapter~~, except upon
27 request of or consent of such corporation or private sector
28 business or for the purposes of population management, for
29 inmate conduct that may subject the inmate to disciplinary
30 confinement or loss of gain-time, or for security and safety
31

1 concerns specifically set forth in writing to the corporation
2 or private sector business.

3 Section 12. Paragraph (f) of subsection (1) of section
4 957.04, Florida Statutes, is amended to read:

5 957.04 Contract requirements.--

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

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

16 Section 13. The Legislature finds that a proper and
17 legitimate state purpose is served when employees of the
18 corporation established under this part, which is primarily an
19 instrumentality of the state and carries out a vital state
20 purpose under the direction of a board of directors which is
21 appointed by the Governor and confirmed by the Senate, are
22 given additional choices for the basic protections afforded by
23 group health insurance and prescription drug coverage programs
24 that also permit the continued operation of a competitive
25 marketplace and assure that affordable and available coverage
26 is extended to all interested parties. Therefore, the
27 Legislature determines and declares that s. 946.525, Florida
28 Statutes, fulfills an important state interest.

29 Section 14. Section 946.525, Florida Statutes, is
30 created to read:

31

1 946.525 Participation by the corporation in state
2 group health insurance and prescription drug programs.--
3 (1) The board of directors of the corporation
4 established under this part may apply for participation in the
5 state group health insurance program authorized in s. 110.123
6 and the prescription drug coverage program authorized by s.
7 110.12315 by submitting an application along with a \$500
8 nonrefundable fee to the Department of Management Services.
9 (2) As a prerequisite to the adoption of a resolution
10 for participation in the state group health insurance program
11 and the prescription drug coverage program, the corporation
12 shall seek proposals to provide health insurance and
13 prescription drug coverage which coverages are equivalent to
14 those offered currently by the corporation and coverages
15 equivalent to the state group health insurance program and the
16 prescription drug coverage program. The corporation shall
17 review and consider all responsive proposals prior to the
18 adoption of any resolution for participation in the state
19 group health insurance program and the prescription drug
20 coverage program.
21 (3) If the Department of Management Services
22 determines that the corporation is eligible to enroll, the
23 corporation shall agree to the following terms and conditions:
24 (a) The minimum enrollment or contractual period shall
25 be 3 years.
26 (b) The corporation shall pay to the Department of
27 Management Services an initial administrative fee of not less
28 than \$2.61 per enrollee per month, or such other amount
29 established annually to fully reimburse the Department of
30 Management Services for its costs.
31

1 (c) Termination of participation of the corporation
2 requires written notice 1 year before the termination date.

3 (d) If participation is terminated, the corporation
4 may not reapply for participation for a period of 2 years.

5 (e) The corporation shall reimburse the state for 100
6 percent of its costs, including administrative costs.

7 (f) If the corporation fails to make the payments
8 required by this section to fully reimburse the state, the
9 Department of Revenue or the Department of Banking and Finance
10 shall, upon the request of the Department of Management
11 Services, deduct the amount owed by the employer from any
12 funds to be distributed by it to the corporation. The amounts
13 so deducted shall be transferred to the Department of
14 Management Services for further distribution to the trust
15 funds in accordance with this chapter.

16 (g) The corporation shall furnish the Department of
17 Management Services any information requested by the
18 department which the department considers necessary to
19 administer the state group health insurance program and the
20 prescription drug coverage program.

21 (4) The provisions of ss. 624.436-624.446 do not apply
22 to the state group insurance program or to this section.

23 (5) The Department of Management Services may adopt
24 rules necessary to administer this section.

25 Section 15. The Department of Management Services
26 shall request from the Internal Revenue Service, by October 1,
27 2001, a written determination letter and a favorable private
28 letter ruling, stating that the State Group Self-Insurance
29 Program, as amended by s. 946.525, Florida Statutes, as
30 created in this act, is a facially qualified plan. The
31 department shall notify the President of the Senate and the

1 Speaker of the House of Representatives within 30 days after
2 the receipt of the favorable or unfavorable letters.

3 Section 16. This act shall take effect upon becoming a
4 law, except that section 14 shall take effect only when the
5 Department of Management Services receives the favorable
6 letters requested by section 15. If the favorable letters are
7 not received, section 14 shall not take effect.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31