

Bill No. CS for SB 1318

Amendment No. Barcode 894238

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Crist moved the following amendment:

Senate Amendment (with title amendment)

On page 22, line 8, delete that line

and insert:

Section 6. 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

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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 7. 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 8. 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 9. 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 at least 51 percent of the board of which contains members

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1 of the board of directors of the private nonprofit corporation
 2 established pursuant to s. 946.504(1), to carry out this part
 3 ~~ss. 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 10. Section 946.506, Florida Statutes, is
 18 amended to read:

19 946.506 Modification or termination of correctional
 20 work program by the corporation.--This part does Sections
 21 ~~946.502-946.518 do~~ not prevent the corporation from modifying,
 22 altering, or terminating any correctional work program, once
 23 assumed, so long as the corporation is otherwise carrying out
 24 the provisions of this part ~~ss. 946.502-946.518.~~

25 Section 11. Subsection (1) of section 946.509, Florida
 26 Statutes, is amended to read:

27 946.509 Insurance of property leased or acquired by
 28 the corporation.--

29 (1) The State Risk Management Trust Fund created under
 30 s. 284.30 shall insure all property eligible for coverage
 31 under part I of chapter 284 which is leased by the department

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1 to the corporation or which is subsequently acquired and owned
2 or leased by the corporation and subject to the reversionary
3 ownership interest of the state established in s. 946.505.

4 Section 12. Subsection (1) of section 946.511, Florida
5 Statutes, is amended to read:

6 946.511 Provision of inmate labor to operate
7 correctional work programs; policies and procedures.--

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

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

23 (b) Inmates shall be assigned to correctional
24 education.

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

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29 As used in this subsection, the term "revenue-generating
30 contracts" includes contracts with the Department of
31 Transportation, the corporation authorized to conduct the

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1 correctional work programs under this part ~~FF~~, the corporation
 2 and private sector businesses operating programs authorized
 3 under s. 946.523 ~~946.006(3)~~, and federal, state, or local
 4 governmental entities or subdivisions authorized under s.
 5 944.10(7).

6 Section 13. Subsections (1) and (2) of section
 7 946.514, Florida Statutes, are amended to read:

8 946.514 Civil rights of inmates; inmates not state
 9 employees; liability of corporation for inmate injuries.--

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

13 (2) No inmate compensated under this part ~~ss.~~
 14 ~~946.502-946.517~~ or by the corporation or the department shall
 15 be considered as an employee of the state, the department, or
 16 the corporation.

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

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

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

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1 the Auditor General an annual financial audit report and such
2 other information as may be requested by the Legislature,
3 together with recommendations relating to provisions for
4 reasonable tax incentives to private enterprises which employ
5 inmates, parolees, or former inmates who have participated in
6 correctional work programs.

7 Section 15. Section 946.518, Florida Statutes, is
8 amended to read:

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

18 Section 16. Section 946.520, Florida Statutes, is
19 amended to read:

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

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

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

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

17 Section 17. Paragraph (f) of subsection (1) of section
18 957.04, Florida Statutes, is amended to read:

19 957.04 Contract requirements.--

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

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

30 Section 18. The Legislature finds that a proper and
31 legitimate state purpose is served when employees of the

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1 corporation established under this part, which is primarily an
2 instrumentality of the state and carries out a vital state
3 purpose under the direction of a board of directors which is
4 appointed by the Governor and confirmed by the Senate, are
5 given additional choices for the basic protections afforded by
6 group health and prescription drug coverage programs that also
7 permit the continued operation of a competitive marketplace
8 and assure that affordable and available coverage is extended
9 to all interested parties. Therefore, the Legislature
10 determines and declares that s. 946.525 fulfills an important
11 state interest.

12 Section 19. Section 946.525, Florida Statutes, is
13 created to read:

14 946.525 Participation by the corporation in the state
15 group health insurance and prescription drug programs.

16 (1) The board of directors of the corporation
17 established under this part may apply for participation in the
18 state group health insurance program authorized in s. 110.123
19 and the prescription drug coverage program authorized by s.
20 110.12315 by submitting an application along with a \$500
21 nonrefundable fee to the Department of Management Services.

22 (2) As a prerequisite to the adoption of a resolution
23 for participation in the state group health insurance and
24 prescription drug coverage program, the corporation shall seek
25 proposals to provide health insurance and prescription drug
26 coverage which coverages are equivalent to those offered
27 currently by the corporation and coverages equivalent to the
28 state group health insurance and prescription drug coverage
29 program. The corporation shall review and consider all
30 responsive proposals prior to the adoption of any resolution
31 for participation in the state group health insurance and

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1 prescription drug coverage program.

2 (3) If the Department of Management Services
3 determines that the corporation is eligible to enroll, the
4 corporation must agree to the following terms and conditions:

5 (a) The minimum enrollment or contractual period will
6 be 3 years.

7 (b) The corporation must pay to the Department of
8 Management Services an initial administrative fee not less
9 than \$2.61 per enrollee per month, or such other amount
10 established annually to fully reimburse the Department of
11 Management Services for its costs.

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

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

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

18 (f) If the corporation fails to make the payments
19 required by this section to fully reimburse the state, the
20 Department of Revenue or the Department of Banking and Finance
21 shall, upon the request of the Department of Management
22 Services, deduct the amount owed by the employer from any
23 funds to be distributed by it to the corporation. The amounts
24 so deducted shall be transferred to the Department of
25 Management Services for further distribution to the trust
26 funds in accordance with this chapter.

27 (g) The corporation shall furnish the Department of
28 Management Services any information requested by the
29 Department of Management Services which the Department of
30 Management Services considers necessary to administer the
31 state group health insurance program and the prescription drug

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1 program.

2 (4) The provisions of ss. 624.436-624-446 do not apply
3 to the State Group Insurance Program or to this section.

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

6 Section 20. The Department of Management Services
7 shall request from the Internal Revenue Service, by October 1,
8 2001, a written determination letter and a favorable private
9 letter ruling, stating that the State Group Self-Insurance
10 Program, as amended by section 946.525, Florida Statutes, is a
11 facially qualified plan. The department shall notify the
12 President of the Senate and the Speaker of the House of
13 Representatives within 30 days after the receipt of the
14 favorable or unfavorable letters.

15 Section 21. This act shall take effect upon becoming a
16 law, except that sections 1-5 shall take effect October 1,
17 2001, and except that section 19 shall take effect only when
18 the Department of Management Services receives the favorable
19 letters requested by section 20. If the favorable letters are
20 not received, section 19 shall not take effect.

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

24 And the title is amended as follows:

25 On page 2, line 5, delete that line

26

27 and insert:

28 facilities; revising provisions relating to
29 leased or managed correctional work programs to
30 conform to current operations and applications;
31 amending ss. 946.502, 946.5025, 946.5026,

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1 946.503, 946.506, 946.509, 946.511, 946.514,
2 946.516, 946.518, 946.520, F.S.; conforming
3 internal cross-references; deleting obsolete
4 provisions; clarifying a definition; changing a
5 reporting date; amending s. 957.04, F.S., to
6 conform a cross-reference; providing a
7 declaration of important state interest;
8 creating s. 946.525, F.S.; establishing
9 participation requirements; providing effective
10 dates and a conditional effective date.

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