

By the Committee on Criminal Justice and Senators Mitchell, Lawson, Diaz de la Portilla and Wasserman Schultz

307-1625-01

1                                   A bill to be entitled  
2           An act relating to the Correctional  
3           Privatization Commission; amending s. 957.03,  
4           F.S.; prohibiting the executive director, a  
5           member, or an employee of the commission from  
6           acting as a consultant for a criminal justice  
7           entity; providing penalties; providing for the  
8           commission and its staff to be under the  
9           control of the Department of Management  
10          Services; amending ss. 957.07, 957.11, F.S;  
11          providing for the Office of Program Policy  
12          Analysis and Government Accountability rather  
13          than the Auditor General to certify certain  
14          cost savings and evaluate contracts and private  
15          contractors that construct and operate prisons;  
16          providing an effective date.

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

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20           Section 1. Paragraph (e) of subsection (3) and  
21 subsection (6) of section 957.03, Florida Statutes, are  
22 amended to read:

23           957.03 Correctional Privatization Commission.--

24           (3) TERMS, ORGANIZATION, AND MEETINGS.--

25           (e) The commission may employ an executive director  
26 and such staff as is necessary, within the limits of  
27 legislative appropriation. The commission may retain such  
28 consultants as it deems necessary to accomplish its mission.  
29 Neither the executive director nor any consultant retained by  
30 the commission may have been an employee or a contract vendor  
31 of or a consultant to the department or the Department of

1 Juvenile Justice, or an employee or a contract vendor of or a  
2 consultant to a bidder, for 2 years prior to employment with  
3 the commission and may not become an employee or a contract  
4 vendor of or a consultant to the department or the Department  
5 of Juvenile Justice, or an employee or a contract vendor of or  
6 a consultant to a bidder, for 2 years following termination of  
7 employment with the commission. The executive director, a  
8 commissioner, or an employee of the commission may not act as  
9 a consultant for any entity involved in the criminal justice  
10 system while a member of or employed by the commission. Any  
11 violation of this prohibition is punishable as provided in s.  
12 112.317.

13 (6) SUPPORT BY DEPARTMENT OF MANAGEMENT SERVICES.--The  
14 commission shall be a separate budget entity, and the  
15 executive director shall be its chief administrative officer.  
16 The Department of Management Services shall provide  
17 administrative support and service to the commission to the  
18 extent requested by the executive director. The commission and  
19 its staff are ~~not~~ subject to the control, supervision, and ~~or~~  
20 direction of ~~by~~ the Department of Management Services ~~in any~~  
21 ~~manner~~, including, but not limited to, personnel, purchasing,  
22 and budgetary matters, and ~~except~~ to the extent ~~as~~ provided in  
23 chapters 110, 216, 255, 282, and 287 for agencies of the  
24 executive branch. The executive director may designate a  
25 maximum of two policymaking or managerial positions as being  
26 exempt from the Career Service System. These two positions may  
27 be provided for as members of the Senior Management Service.

28 Section 2. Section 957.07, Florida Statutes, is  
29 amended to read:

30 957.07 Cost-saving requirements.--The commission may  
31 not enter into a contract or series of contracts unless the

1 commission determines that the contract or series of contracts  
2 in total for the facility will result in a cost savings to the  
3 state of at least 7 percent over the public provision of a  
4 similar facility. Such cost savings as determined by the  
5 commission must be based upon the actual costs associated with  
6 the construction and operation of similar facilities or  
7 services as certified to the commission by the Office of  
8 Program Policy Analysis and Government Accountability Auditor  
9 ~~General~~. In certifying the actual costs for the determination  
10 of the cost savings required by this section, the Office of  
11 Program Policy Analysis and Government Accountability Auditor  
12 ~~General~~ shall calculate all of the cost components that  
13 determine the inmate per diem in correctional facilities of a  
14 substantially similar size, type, and location that are  
15 operated by the department, including all administrative costs  
16 associated with central administration. Services that are  
17 provided to the department by other governmental agencies at  
18 no direct cost to the department shall be assigned an  
19 equivalent cost and included in the per diem. Reasonable  
20 projections of payments of any kind to the state or any  
21 political subdivision thereof for which the private entity  
22 would be liable because of its status as private rather than a  
23 public entity, including, but not limited to, corporate income  
24 and sales tax payments, shall be included as cost savings in  
25 all such determinations. In addition, the costs associated  
26 with the appointment and activities of each contract monitor  
27 shall be included in such determination. In counties where the  
28 Department of Corrections pays its employees a competitive  
29 area differential, the cost for the public provision of a  
30 similar correctional facility may include the competitive area  
31 differential paid by the department. The Office of Program

1 Policy Analysis and Government Accountability ~~Auditor General~~  
2 shall provide a report detailing the state cost to design,  
3 finance, acquire, lease, construct, and operate a facility  
4 similar to the private correctional facility on a per diem  
5 basis. This report shall be provided to the commission in  
6 sufficient time that it may be included in the request for  
7 proposals.

8 Section 3. Section 957.11, Florida Statutes, is  
9 amended to read:

10 957.11 Evaluation of costs and benefits of  
11 contracts.--The Office of Program Policy Analysis and  
12 Government Accountability ~~Auditor General~~ shall develop and  
13 implement an evaluation of the costs and benefits of each  
14 contract entered into under this chapter. This evaluation must  
15 include a comparison of the costs and benefits of constructing  
16 and operating prisons by the state versus by private  
17 contractors. The Office of Program Policy Analysis and  
18 Government Accountability ~~Auditor General~~ shall also evaluate  
19 the performance of the private contractor at the end of the  
20 term of each management contract and make recommendations to  
21 the Speaker of the House of Representatives and the President  
22 of the Senate on whether to continue the contract.

23 Section 4. This act shall take effect July 1, 2001.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 832

The CS/SB 832 would not abolish the Correctional Privatization Commission. The CS would:

1. Prohibit the commission's members and staff from also working as paid consultants for businesses and other entities involved in the criminal justice industry and provide penalties for violations;
2. Require the Department of Management Services to oversee the operations of the commission, including but not limited to personnel, purchasing, and budget, in addition to the support services the Department of Management Services now provides; and
3. Empower the Office Program Policy Analysis and Governmental Accountability to review and evaluate the performance of the commission and the vendors the commission contracts with, rather than assigning that task to the Auditor General's Office.