

By the Committee on Appropriations; and Senator Clary

309-2358-04

1 A bill to be entitled
2 An act relating to the operational authority
3 for state correctional facilities; amending s.
4 20.315, F.S., relating to the Florida
5 Corrections Commission; requiring the
6 commission to resolve certain disputes between
7 the Department of Corrections and a contractor;
8 deleting obsolete provisions concerning the
9 staff of the commission; amending s. 287.042,
10 F.S.; authorizing the Department of Management
11 Services to enter into certain contracts,
12 acquire contractual rights and obligations, and
13 manage and enforce compliance with contracts of
14 the Correctional Privatization Commission;
15 amending s. 394.9151, F.S.; authorizing the
16 Department of Children and Family Services to
17 contract with the Department of Management
18 Services for the operation of facilities for
19 sexually violent predators; amending s. 943.13,
20 F.S., relating to the qualifications for
21 correctional officers; conforming provisions to
22 changes made by the act; amending ss. 944.02,
23 944.115, 944.72, 944.8041, and 945.215, F.S.,
24 relating to the state correctional system;
25 requiring the Department of Management Services
26 to assume the duties and responsibilities of
27 the Correctional Privatization Commission;
28 amending s. 957.01, F.S.; redesignating ch.
29 957, F.S., as the "Correctional Privatization
30 Act"; amending ss. 957.02, 957.04, 957.06,
31 957.07, 957.08, 957.13, 957.14, 957.15, and

1 957.16, F.S., and repealing s. 957.03, F.S.;

2 providing contract requirements for the

3 Department of Management Services with respect

4 to the operation of private correctional

5 facilities; specifying duties of the Florida

6 Corrections Commission; providing for the

7 Department of Management Services to be the

8 successor agency to the Correctional

9 Privatization Commission with respect to

10 contracts under ch. 957, F.S., which are in

11 effect on a specified date; requiring certain

12 cooperative agreements between the Department

13 of Management Services, contractors, and the

14 Department of Corrections; specifying duties of

15 the Department of Management Services with

16 respect to the operation, maintenance, and

17 lease-purchase of private correctional

18 facilities and contract termination; providing

19 for the modification and execution of

20 agreements with contractors to conform to

21 changes made by the act; providing an effective

22 date.

23

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

25

26 Section 1. Paragraphs (b) and (e) of subsections (6)

27 of section 20.315, Florida Statutes, are amended to read:

28 20.315 Department of Corrections.--There is created a

29 Department of Corrections.

30 (6) FLORIDA CORRECTIONS COMMISSION.--

31 (b) The primary functions of the commission are to:

1 1. Recommend major correctional policies for the
2 Governor's approval, and assure that approved policies and any
3 revisions thereto are properly executed.

4 2. Periodically review the status of the state
5 correctional system and recommend improvements therein to the
6 Governor and the Legislature.

7 3. Annually perform an in-depth review of
8 community-based intermediate sanctions and recommend to the
9 Governor and the Legislature intergovernmental approaches
10 through the Community Corrections Partnership Act for planning
11 and implementing such sanctions and programs.

12 4. Perform an in-depth evaluation of the annual budget
13 request of the Department of Corrections, the comprehensive
14 correctional master plan, and the tentative construction
15 program for compliance with all applicable laws and
16 established departmental policies. The commission may not
17 consider individual construction projects, but shall consider
18 methods of accomplishing the department's goals in the most
19 effective, efficient, and businesslike manner.

20 5. Routinely monitor the financial status of the
21 Department of Corrections to assure that the department is
22 managing revenue and any applicable bond proceeds responsibly
23 and in accordance with law and established policy.

24 6. Evaluate, at least quarterly, the efficiency,
25 productivity, and management of the Department of Corrections,
26 using performance and production standards developed by the
27 department under former subsection (18).

28 7. Provide public education on corrections and
29 criminal justice issues.

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1 8. Report to the President of the Senate, the Speaker
2 of the House of Representatives, and the Governor by November
3 1 of each year.

4 9. Resolved disputes between the Department of
5 Corrections and the contractors for the private correctional
6 facilities entered into under chapter 957 when a contractor
7 proposes to waive a rule, policy, or procedure concerning
8 operation standards.

9 (e) The commission shall appoint an executive director
10 and an assistant executive director, who shall serve under the
11 direction, supervision, and control of the commission. The
12 executive director, with the consent of the commission, shall
13 employ such staff as are necessary to perform adequately the
14 functions of the commission, within budgetary limitations. All
15 employees of the commission are exempt from part II of chapter
16 110 and serve at the pleasure of the commission. The salaries
17 and benefits of all employees of the commission shall be set
18 in accordance with the Selected Exempt Service rules; however,
19 the commission shall have complete authority for fixing the
20 salaries of the executive director and the assistant executive
21 director. ~~The executive director and staff of the Task Force~~
22 ~~for Review of the Criminal Justice and Corrections System,~~
23 ~~created under chapter 93-404, Laws of Florida, shall serve as~~
24 ~~the staff for the commission until the commission hires an~~
25 ~~executive director.~~

26 Section 2. Subsection (17) is added to section
27 287.042, Florida Statutes, to read:

28 287.042 Powers, duties, and functions.--The department
29 shall have the following powers, duties, and functions:

30 (17)(a) To enter into contracts pursuant to chapter
31 957, and to acquire the contractual rights and assume the

1 contractual obligations of the Correctional Privatization
2 Commission in contracts previously entered into pursuant to
3 chapter 957, for the designing, financing, acquiring, leasing,
4 constructing, or operating of private correctional facilities.
5 The department shall enter into a contract or contracts with
6 one contractor per facility for the designing, acquiring,
7 financing, leasing, constructing, and operating of that
8 facility or may, if specifically authorized by the
9 Legislature, separately contract for any such services.

10 (b) To manage and enforce compliance with existing or
11 future contracts entered into pursuant to chapter 957.

12
13 The department may not delegate the responsibilities conferred
14 by this subsection.

15 Section 3. Section 394.9151, Florida Statutes, is
16 amended to read:

17 394.9151 Contract authority.--The Department of
18 Children and Family Services may contract with a private
19 entity or state agency for use of and operation of facilities
20 to comply with the requirements of this act. The Department of
21 Children and Family Services may also contract with the
22 Department of Management Services ~~Correctional Privatization~~
23 ~~Commission as defined in chapter 957~~ to issue a request for
24 proposals and monitor contract compliance for these services.

25 Section 4. Section 943.13, Florida Statutes, is
26 amended to read:

27 943.13 Officers' minimum qualifications for employment
28 or appointment.--On or after October 1, 1984, any person
29 employed or appointed as a full-time, part-time, or auxiliary
30 law enforcement officer or correctional officer; on or after
31 October 1, 1986, any person employed as a full-time,

1 part-time, or auxiliary correctional probation officer; and on
2 or after October 1, 1986, any person employed as a full-time,
3 part-time, or auxiliary correctional officer by a private
4 entity under contract to the Department of Corrections, to a
5 county commission, or to the Department of Management Services

6 ~~Correctional Privatization Commission~~ shall:

7 (1) Be at least 19 years of age.

8 (2) Be a citizen of the United States, notwithstanding
9 any law of the state to the contrary.

10 (3) Be a high school graduate or its "equivalent" as
11 the commission has defined the term by rule.

12 (4) Not have been convicted of any felony or of a
13 misdemeanor involving perjury or a false statement, or have
14 received a dishonorable discharge from any of the Armed Forces
15 of the United States. Any person who, after July 1, 1981,
16 pleads guilty or nolo contendere to or is found guilty of any
17 felony or of a misdemeanor involving perjury or a false
18 statement is not eligible for employment or appointment as an
19 officer, notwithstanding suspension of sentence or withholding
20 of adjudication. Notwithstanding this subsection, any person
21 who has pled nolo contendere to a misdemeanor involving a
22 false statement, prior to December 1, 1985, and has had such
23 record sealed or expunged shall not be deemed ineligible for
24 employment or appointment as an officer.

25 (5) Have documentation of his or her processed
26 fingerprints on file with the employing agency or, if a
27 private correctional officer, have documentation of his or her
28 processed fingerprints on file with the Department of
29 Corrections or the Criminal Justice Standards and Training
30 Commission. If administrative delays are caused by the
31 department or the Federal Bureau of Investigation and the

1 person has complied with subsections (1)-(4) and (6)-(9), he
2 or she may be employed or appointed for a period not to exceed
3 1 calendar year from the date he or she was employed or
4 appointed or until return of the processed fingerprints
5 documenting noncompliance with subsections (1)-(4) or
6 subsection (7), whichever occurs first.

7 (6) Have passed a physical examination by a licensed
8 physician or physician assistant, based on specifications
9 established by the commission.

10 (7) Have a good moral character as determined by a
11 background investigation under procedures established by the
12 commission.

13 (8) Execute and submit to the employing agency or, if
14 a private correctional officer, submit to the appropriate
15 governmental entity an affidavit-of-applicant form, adopted by
16 the commission, attesting to his or her compliance with
17 subsections (1)-(7). The affidavit shall be executed under
18 oath and constitutes an official statement within the purview
19 of s. 837.06. The affidavit shall include conspicuous language
20 that the intentional false execution of the affidavit
21 constitutes a misdemeanor of the second degree. The affidavit
22 shall be retained by the employing agency.

23 (9) Complete a commission-approved basic recruit
24 training program for the applicable criminal justice
25 discipline, unless exempt under this subsection. An applicant
26 who has:

27 (a) Completed a comparable basic recruit training
28 program for the applicable criminal justice discipline in
29 another state or for the Federal Government; and

30 (b) Served as a full-time sworn officer in another
31 state or for the Federal Government for at least 1 year

1 provided there is no more than an 8-year break in employment,
2 as measured from the separation date of the most recent
3 qualifying employment to the time a complete application is
4 submitted for an exemption under this section,

5
6 is exempt in accordance with s. 943.131(2) from completing the
7 commission-approved basic recruit training program.

8 (10) Achieve an acceptable score on the officer
9 certification examination for the applicable criminal justice
10 discipline.

11 (11) Comply with the continuing training or education
12 requirements of s. 943.135.

13 Section 5. Subsection (4) of section 944.02, Florida
14 Statutes, is amended to read:

15 944.02 Definitions.--The following words and phrases
16 used in this chapter shall, unless the context clearly
17 indicates otherwise, have the following meanings:

18 (4) "Elderly offender" means a prisoner age 50 or
19 older in a state correctional institution or facility operated
20 by the Department of Corrections or the Department of
21 Management Services ~~Correctional Privatization Commission~~.

22 Section 6. Subsection (1) and paragraph (b) of
23 subsection (2) of section 944.115, Florida Statutes, are
24 amended to read:

25 944.115 Smoking prohibited inside state correctional
26 facilities.--

27 (1) The purpose of this section is to protect the
28 health, comfort, and environment of employees of the
29 Department of Corrections, employees of privately operated
30 correctional facilities, ~~employees of the Correctional~~
31 ~~Privatization Commission~~, and inmates by prohibiting inmates

1 from using tobacco products inside any office or building
2 within state correctional facilities, and by ensuring that
3 employees and visitors do not use tobacco products inside any
4 office or building within state correctional facilities.
5 Scientific evidence links the use of tobacco products with
6 numerous significant health risks. The use of tobacco products
7 by inmates, employees, or visitors is contrary to efforts by
8 the Department of Corrections to reduce the cost of inmate
9 health care and to limit unnecessary litigation. The
10 Department of Corrections and the private vendors operating
11 correctional facilities shall make smoking-cessation
12 assistance available to inmates in order to implement this
13 section. The Department of Corrections and the private vendors
14 operating correctional facilities shall implement this section
15 as soon as possible, and all provisions of this section must
16 be fully implemented by January 1, 2000.

17 (2) As used in this section, the term:

18 (b) "Employee" means an employee of the department or
19 a private vendor in a contractual relationship with either the
20 Department of Corrections or the Department of Management
21 Services ~~Correctional Privatization Commission~~, and includes
22 persons such as contractors, volunteers, or law enforcement
23 officers who are within a state correctional facility to
24 perform a professional service.

25 Section 7. Subsection (1) of section 944.72, Florida
26 Statutes, is amended to read:

27 944.72 Privately Operated Institutions Inmate Welfare
28 Trust Fund.--

29 (1) There is hereby created in the Department of
30 Corrections the Privately Operated Institutions Inmate Welfare
31 Trust Fund. The purpose of the trust fund shall be the benefit

1 and welfare of inmates incarcerated in private correctional
2 facilities under contract with the department pursuant to
3 chapter 944 or the Department of Management Services
4 ~~Correctional Privatization Commission~~ pursuant to chapter 957.
5 Moneys shall be deposited in the trust fund and expenditures
6 made from the trust fund as provided in s. 945.215.

7 Section 8. Section 944.8041, Florida Statutes, is
8 amended to read:

9 944.8041 Elderly offenders; annual review.--For the
10 purpose of providing information to the Legislature on elderly
11 offenders within the correctional system, the Florida
12 Corrections Commission and the Correctional Medical Authority
13 shall each submit annually a report on the status and
14 treatment of elderly offenders in the state-administered and
15 private state correctional systems, as well as such
16 information on the River Junction Correctional Institution.
17 In order to adequately prepare the reports, the Department of
18 Corrections and the Department of Management Services
19 ~~Correctional Privatization Commission~~ shall grant access to
20 the Florida Corrections Commission and the Correctional
21 Medical Authority which includes access to the facilities,
22 offenders, and any information the agencies require to
23 complete their reports. The review shall also include an
24 examination of promising geriatric policies, practices, and
25 programs currently implemented in other correctional systems
26 within the United States. The reports, with specific findings
27 and recommendations for implementation, shall be submitted to
28 the President of the Senate and the Speaker of the House of
29 Representatives on or before December 31 of each year.

30 Section 9. Paragraphs (a) and (c) of subsection (2) of
31 section 945.215, Florida Statutes, are amended to read:

1 945.215 Inmate welfare and employee benefit trust
2 funds.--

3 (2) PRIVATELY OPERATED INSTITUTIONS INMATE WELFARE
4 TRUST FUND; PRIVATE CORRECTIONAL FACILITIES.--

5 (a) For purposes of this subsection, privately
6 operated institutions or private correctional facilities are
7 those correctional facilities under contract with the
8 department pursuant to chapter 944 or the Department of
9 Management Services ~~Correctional Privatization Commission~~
10 pursuant to chapter 957.

11 (c) The Department of Management Services ~~Correctional~~
12 ~~Privatization Commission~~ shall annually compile a report that
13 documents Privately Operated Institutions Inmate Welfare Trust
14 Fund receipts and expenditures at each private correctional
15 facility. This report must specifically identify receipt
16 sources and expenditures. The Department of Management
17 Services ~~Correctional Privatization Commission~~ shall compile
18 this report for the prior fiscal year and shall submit the
19 report by September 1 of each year to the chairs of the
20 appropriate substantive and fiscal committees of the Senate
21 and House of Representatives and to the Executive Office of
22 the Governor.

23 Section 10. Section 957.01, Florida Statutes, is
24 amended to read:

25 957.01 Short title.--This chapter may be cited as the
26 "Correctional Privatization ~~Commission~~ Act."

27 Section 11. Section 957.02, Florida Statutes, is
28 amended to read:

29 957.02 Definitions.--As used in this chapter, +

30 (1) ~~"Commission" means the Correctional Privatization~~
31 ~~Commission.~~

1 ~~(2)~~"department" means the Department of Corrections.

2 Section 12. Section 957.03, Florida Statutes, is
3 repealed.

4 Section 13. Section 957.04, Florida Statutes, is
5 amended to read:

6 957.04 Contract requirements.--

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

10 (a) Be negotiated with the firm found most qualified.
11 However, a contract for private correctional services may not
12 be entered into by the Department of Management Services
13 ~~commission~~ unless the Department of Management Services
14 ~~commission~~ determines that the contractor has demonstrated
15 that it has:

16 1. The qualifications, experience, and management
17 personnel necessary to carry out the terms of the contract.

18 2. The ability to expedite the siting, design, and
19 construction of correctional facilities.

20 3. The ability to comply with applicable laws, court
21 orders, and national correctional standards.

22 (b) Indemnify the state and the department, including
23 their officials and agents, against any and all liability,
24 including, but not limited to, civil rights liability. Proof
25 of satisfactory insurance is required in an amount to be
26 determined by the Department of Management Services
27 ~~commission, following consultation with the Division of Risk~~
28 ~~Management of the Department of Financial Services. Not less~~
29 ~~than 30 days prior to the release of each request for~~
30 ~~proposals by the commission, the commission shall request the~~
31 ~~written recommendation of the division regarding~~

1 ~~indemnification of the state and the department under this~~
2 ~~paragraph. Within 15 days after such request, the division~~
3 ~~shall provide a written recommendation to the commission~~
4 ~~regarding the amount and manner of such indemnification. The~~
5 ~~commission shall adopt the division's recommendation unless,~~
6 ~~based on substantial competent evidence, the commission~~
7 ~~determines a different amount and manner of indemnification is~~
8 ~~sufficient.~~

9 (c) Require that the contractor seek, obtain, and
10 maintain accreditation by the American Correctional
11 Association for the facility under that contract. Compliance
12 with amendments to the accreditation standards of the
13 association is required upon the approval of such amendments
14 by the commission.

15 (d) Require that the proposed facilities and the
16 management plans for the inmates meet applicable American
17 Correctional Association standards and the requirements of all
18 applicable court orders and state law.

19 (e) Establish operations standards for correctional
20 facilities subject to the contract. However, if the department
21 and the contractor disagree with an operations standard, the
22 contractor ~~The commission~~ may propose to waive any rule,
23 policy, or procedure of the department related to the
24 operations standards of correctional facilities which is that
25 ~~are~~ inconsistent with the mission of the contractor ~~commission~~
26 to establish cost-effective, privately operated correctional
27 facilities. The Florida Corrections Commission shall be
28 responsible for considering all proposals from the contractor
29 to waive any rule, policy, or procedure and shall render a
30 final decision granting or denying such request.

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

8 (g) Require the selection and appointment of a
9 full-time contract monitor. The contract monitor shall be
10 appointed and supervised by the Department of Management
11 Services ~~commission~~. The contractor is required to reimburse
12 the Department of Management Services ~~commission~~ for the
13 salary and expenses of the contract monitor. It is the
14 obligation of the contractor to provide suitable office space
15 for the contract monitor at the correctional facility. The
16 contract monitor shall have unlimited access to the
17 correctional facility.

18 (h) Be for a period of 3 years and may be renewed for
19 successive 2-year periods thereafter. However, the state is
20 not obligated for any payments to the contractor beyond
21 current annual appropriations.

22 (2) Each contract entered into for the design and
23 construction of a private correctional facility or juvenile
24 commitment facility must include:

25 (a) Notwithstanding any provision of chapter 255 to
26 the contrary, a specific provision authorizing the use of
27 tax-exempt financing through the issuance of tax-exempt bonds,
28 certificates of participation, lease-purchase agreements, or
29 other tax-exempt financing methods. Pursuant to s. 255.25,
30 approval is hereby provided for the lease-purchase of up to
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1 two private correctional facilities and any other facility
2 authorized by the General Appropriations Act.

3 (b) A specific provision requiring the design and
4 construction of the proposed facilities to meet the applicable
5 standards of the American Correctional Association and the
6 requirements of all applicable court orders and state law.

7 (c) A specific provision requiring the contractor, and
8 not the Department of Management Services ~~commission~~, to
9 obtain the financing required to design and construct the
10 private correctional facility or juvenile commitment facility
11 built under this chapter.

12 (d) A specific provision stating that the state is not
13 obligated for any payments that exceed the amount of the
14 current annual appropriation.

15 (3)(a) Each contract for the designing, financing,
16 acquiring, leasing, constructing, and operating of a private
17 correctional facility shall be subject to ss. 255.2502 and
18 255.2503.

19 (b) Each contract for the designing, financing,
20 acquiring, leasing, and constructing of a private juvenile
21 commitment facility shall be subject to ss. 255.2502 and
22 255.2503.

23 (4) A contract entered into under this chapter does
24 not accord third-party beneficiary status to any inmate or
25 juvenile offender or to any member of the general public.

26 (5) Each contract entered into by the Department of
27 Management Services ~~commission~~ must include substantial
28 minority participation unless demonstrated by evidence, after
29 a good faith effort, as impractical and must also include any
30 other requirements the Department of Management Services

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1 ~~commission~~ considers necessary and appropriate for carrying
2 out the purposes of this chapter.

3 (6) Notwithstanding s. 253.025(7), the Board of
4 Trustees of the Internal Improvement Trust Fund need not
5 approve a lease-purchase agreement negotiated by the
6 Department of Management Services ~~commission~~ if the Department
7 of Management Services ~~commission~~ finds that there is a need
8 to expedite the lease-purchase.

9 (7)(a) Notwithstanding s. 253.025 or s. 287.057,
10 whenever the Department of Management Services ~~commission~~
11 finds it to be in the best interest of timely site
12 acquisition, it may contract without the need for competitive
13 selection with one or more appraisers whose names are
14 contained on the list of approved appraisers maintained by the
15 Division of State Lands of the Department of Environmental
16 Protection in accordance with s. 253.025(6)(b). In those
17 instances when the Department of Management Services
18 ~~commission~~ directly contracts for appraisal services, it shall
19 also contract with an approved appraiser who is not employed
20 by the same appraisal firm for review services.

21 (b) Notwithstanding s. 253.025(6), the Department of
22 Management Services ~~commission~~ may negotiate and enter into
23 lease-purchase agreements before an appraisal is obtained. Any
24 such agreement must state that the final purchase price cannot
25 exceed the maximum value allowed by law.

26 (8) The Department of Management Services shall be the
27 successor agency for the Correctional Privatization Commission
28 in all contracts entered into pursuant to this chapter which
29 are in effect on July 1, 2004.~~Buildings and other~~
30 ~~improvements to real property which are financed under~~
31 ~~paragraph (2)(a) and which are leased to the Correctional~~

1 ~~Privatization Commission are considered to be owned by the~~
2 ~~Correctional Privatization Commission for the purposes of this~~
3 ~~section whereby the terms of the lease, the buildings, and~~
4 ~~other improvements will become the property of the state at~~
5 ~~the expiration of the lease. For any facility that is bid and~~
6 ~~built under the authority of requests for proposals made by~~
7 ~~the Correctional Privatization Commission between December~~
8 ~~1993 and October 1994 and that is operated by a private~~
9 ~~vendor, a payment in lieu of taxes, from funds appropriated~~
10 ~~for the Correctional Privatization Commission, shall be paid~~
11 ~~until the expiration of the lease to local taxing authorities~~
12 ~~in the local government in which the facility is located in an~~
13 ~~amount equal to the ad valorem taxes assessed by counties,~~
14 ~~municipalities, school districts, and special districts.~~

15 Section 14. Subsections (2) and (7) of section 957.06,
16 Florida Statutes, are amended to read:

17 957.06 Powers and duties not delegable to
18 contractor.--A contract entered into under this chapter does
19 not authorize, allow, or imply a delegation of authority to
20 the contractor to:

21 (2) Choose the facility to which an inmate is
22 initially assigned or subsequently transferred. The contractor
23 may request, in writing, that an inmate be transferred to a
24 facility operated by the department. The Department of
25 Management Services ~~commission~~, the contractor, and a
26 ~~representative of~~ the department shall develop and implement a
27 cooperative agreement for transferring inmates between a
28 correctional facility operated by the department and a private
29 correctional facility. The department, the Department of
30 Management Services ~~commission~~, and the contractor must comply
31 with the cooperative agreement.

1 (7) Develop and implement requirements that inmates
2 engage in any type of work, ~~except to the extent that those~~
3 ~~requirements are accepted by the commission.~~

4 Section 15. Subsection (1) and paragraph (d) of
5 subsection (5) of section 957.07, Florida Statutes, are
6 amended to read:

7 957.07 Cost-saving requirements.--

8 (1) The Department of Management Services ~~commission~~
9 may not enter into a contract or series of contracts unless
10 the department ~~commission~~ determines that the contract or
11 series of contracts in total for the facility will result in a
12 cost savings to the state of at least 7 percent over the
13 public provision of a similar facility. Such cost savings as
14 determined by the Department of Management Services ~~commission~~
15 must be based upon the actual costs associated with the
16 construction and operation of similar facilities or services
17 as determined by the Department of Corrections and certified
18 by the Auditor General. The Department of Corrections shall
19 calculate all of the cost components that determine the inmate
20 per diem in correctional facilities of a substantially similar
21 size, type, and location that are operated by the Department
22 of Corrections, including administrative costs associated with
23 central administration. Services that are provided to the
24 Department of Corrections by other governmental agencies at no
25 direct cost to the department shall be assigned an equivalent
26 cost and included in the per diem.

27 (5)

28 (d) If a private vendor chooses not to renew the
29 contract at the appropriated level, the Department of
30 Management Services ~~commission~~ shall terminate the contract as
31 provided in s. 957.14.

1 Section 16. Section 957.08, Florida Statutes, is
2 amended to read:

3 957.08 Capacity requirements.--The Department of of
4 Corrections shall transfer and assign prisoners, ~~at a rate to~~
5 ~~be determined by the commission,~~ to each private correctional
6 facility opened pursuant to this chapter in an amount not less
7 than 90 percent or more than 100 percent of the capacity of
8 the facility pursuant to the contract with the Department of
9 Management Services ~~commission~~. The prisoners transferred by
10 the Department of Corrections shall represent a cross section
11 of the general inmate population, based on the grade of
12 custody or the offense of conviction, at the most comparable
13 facility operated by the department.

14 Section 17. Subsection (2) of section 957.13, Florida
15 Statutes, is amended to read:

16 957.13 Background checks.--

17 (2) The Florida Department of Law Enforcement may, to
18 the extent provided for by federal law, provide for the
19 exchange of state, multistate, and federal criminal history
20 records of individuals who apply for employment at a private
21 correctional facility ~~with the Correctional Privatization~~
22 ~~Commission~~ for the purpose of conducting background checks as
23 required by law or contract ~~the commission~~.

24 Section 18. Section 957.14, Florida Statutes, is
25 amended to read:

26 957.14 Contract termination and control of a
27 correctional facility by the department.--A detailed plan
28 shall be provided by a private vendor under which the
29 department shall assume temporary control of a private
30 correctional facility upon termination of the contract. The
31 Department of Management Services ~~commission~~ may terminate the

1 contract with cause after written notice of material
2 deficiencies and after 60 workdays in order to correct the
3 material deficiencies. If any event occurs that involves the
4 noncompliance with or violation of contract terms and that
5 presents a serious threat to the safety, health, or security
6 of the inmates, employees, or the public, the department may
7 temporarily assume control of the private correctional
8 facility, with the approval of the Department of Management
9 Services ~~commission~~. A plan shall also be provided by a
10 private vendor for the purchase and temporary assumption of
11 operations of a correctional facility by the department in the
12 event of bankruptcy or the financial insolvency of the private
13 vendor. The private vendor shall provide an emergency plan to
14 address inmate disturbances, employee work stoppages, strikes,
15 or other serious events in accordance with standards of the
16 American Correctional Association.

17 Section 19. Section 957.15, Florida Statutes, is
18 amended to read:

19 957.15 Funding of contracts for operation,
20 maintenance, and lease-purchase of private correctional
21 facilities.--The request for appropriation of funds to make
22 payments pursuant to contracts entered into by the Department
23 of Management Services ~~commission~~ for the operation,
24 maintenance, and lease-purchase of the private correctional
25 facilities authorized by this chapter shall be made by the
26 Department of Management Services ~~commission~~ in a request to
27 the department. The department shall include such request in
28 its budget request to the Legislature as a separately
29 identified item and shall forward the request of the
30 Department of Management Services ~~commission~~ without change.
31 After an appropriation has been made by the Legislature to the

1 department for the private correctional facilities ~~commission~~,
2 the department shall have no authority over such funds other
3 than to pay from such appropriation to the appropriate private
4 vendor such amounts as are certified for payment by the
5 Department of Management Services ~~commission~~.

6 Section 20. Section 957.16, Florida Statutes, is
7 amended to read:

8 957.16 Expanding capacity.--The Department of
9 Management Services ~~commission~~ is authorized to modify and
10 execute agreements with contractors to expand up to the total
11 capacity of contracted correctional facilities. Total
12 capacity means the design capacity of all contracted
13 correctional facilities increased by one-half as described
14 under s. 944.023(1)(b). Any additional beds authorized under
15 this section must comply with the cost-saving requirements set
16 forth in s. 957.07. Any additional beds authorized as a result
17 of expanded capacity under this section are contingent upon
18 specified appropriations.

19 Section 21. This act shall take effect July 1, 2004.
20

21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
22 COMMITTEE SUBSTITUTE FOR
23 Senate Bill 1268

24 The committee substitute differs from the original bill by:

25 (1) abolishing the Correctional Privatization Commission and
26 transferring its duties and responsibilities to the Department
27 of Management Services and the Florida Corrections Commission;
28 and,

29 (2) requiring the Department of Management Services to monitor
30 and conduct the contractual responsibilities for the five
31 privately operated correctional facilities in Florida.