

1 A bill to be entitled

2 An act relating to the operational authority for state  
3 correctional facilities; amending s. 20.315, F.S.,  
4 relating to the Florida Corrections Commission; requiring  
5 the commission to resolve certain disputes between the  
6 Department of Corrections and a contractor; deleting  
7 obsolete provisions concerning the staff of the  
8 commission; amending s. 287.042, F.S.; authorizing the  
9 Department of Management Services to enter into certain  
10 contracts, acquire contractual rights and obligations, and  
11 manage and enforce compliance with contracts of the  
12 Correctional Privatization Commission; amending s.  
13 394.9151, F.S.; authorizing the Department of Children and  
14 Family Services to contract with the Department of  
15 Management Services for the operation of facilities for  
16 sexually violent predators; amending s. 943.13, F.S.,  
17 relating to the qualifications for correctional officers;  
18 conforming provisions to changes made by the act; amending  
19 ss. 944.02, 944.115, 944.72, 944.8041, and 945.215, F.S.,  
20 relating to the state correctional system; requiring the  
21 Department of Management Services to assume the duties and  
22 responsibilities of the Correctional Privatization  
23 Commission; amending s. 957.01, F.S.; redesignating ch.  
24 957, F.S., as the "Correctional Privatization Act";  
25 amending ss. 957.02, 957.04, 957.06, 957.07, 957.08,  
26 957.13, 957.14, 957.15, and 957.16, F.S., and repealing s.  
27 957.03, F.S.; providing contract requirements for the  
28 Department of Management Services with respect to the  
29 operation of private correctional facilities; specifying

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30 duties of the Florida Corrections Commission; providing  
 31 for the Department of Management Services to be the  
 32 successor agency to the Correctional Privatization  
 33 Commission with respect to contracts under ch. 957, F.S.,  
 34 which are in effect on a specified date; requiring certain  
 35 cooperative agreements between the Department of  
 36 Management Services, contractors, and the Department of  
 37 Corrections; specifying duties of the Department of  
 38 Management Services with respect to the operation,  
 39 maintenance, and lease-purchase of private correctional  
 40 facilities and contract termination; providing for the  
 41 modification and execution of agreements with contractors  
 42 to conform to changes made by the act; amending s.  
 43 944.516, F.S.; authorizing the department to charge  
 44 inmates a monthly administrative processing fee for  
 45 banking services; specifying a maximum amount; providing  
 46 for deposit and use of such fees; providing effective  
 47 dates.

48  
 49 Be It Enacted by the Legislature of the State of Florida:

50  
 51 Section 1. Paragraphs (b) and (e) of subsection (6) of  
 52 section 20.315, Florida Statutes, are amended to read:

53 20.315 Department of Corrections.--There is created a  
 54 Department of Corrections.

55 (6) FLORIDA CORRECTIONS COMMISSION.--

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

57 1. Recommend major correctional policies for the  
 58 Governor's approval, and assure that approved policies and any

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59 revisions thereto are properly executed.

60 2. Periodically review the status of the state  
61 correctional system and recommend improvements therein to the  
62 Governor and the Legislature.

63 3. Annually perform an in-depth review of community-based  
64 intermediate sanctions and recommend to the Governor and the  
65 Legislature intergovernmental approaches through the Community  
66 Corrections Partnership Act for planning and implementing such  
67 sanctions and programs.

68 4. Perform an in-depth evaluation of the annual budget  
69 request of the Department of Corrections, the comprehensive  
70 correctional master plan, and the tentative construction program  
71 for compliance with all applicable laws and established  
72 departmental policies. The commission may not consider  
73 individual construction projects, but shall consider methods of  
74 accomplishing the department's goals in the most effective,  
75 efficient, and businesslike manner.

76 5. Routinely monitor the financial status of the  
77 Department of Corrections to assure that the department is  
78 managing revenue and any applicable bond proceeds responsibly  
79 and in accordance with law and established policy.

80 6. Evaluate, at least quarterly, the efficiency,  
81 productivity, and management of the Department of Corrections,  
82 using performance and production standards developed by the  
83 department under former subsection (18).

84 7. Provide public education on corrections and criminal  
85 justice issues.

86 8. Report to the President of the Senate, the Speaker of  
87 the House of Representatives, and the Governor by November 1 of

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88 each year.

89 9. Resolve disputes between the Department of Corrections  
 90 and the contractors for the private correctional facilities  
 91 entered into under chapter 957 when a contractor proposes to  
 92 waive a rule, policy, or procedure concerning operation  
 93 standards.

94 (e) The commission shall appoint an executive director and  
 95 an assistant executive director, who shall serve under the  
 96 direction, supervision, and control of the commission. The  
 97 executive director, with the consent of the commission, shall  
 98 employ such staff as are necessary to perform adequately the  
 99 functions of the commission, within budgetary limitations. All  
 100 employees of the commission are exempt from part II of chapter  
 101 110 and serve at the pleasure of the commission. The salaries  
 102 and benefits of all employees of the commission shall be set in  
 103 accordance with the Selected Exempt Service rules; however, the  
 104 commission shall have complete authority for fixing the salaries  
 105 of the executive director and the assistant executive director.  
 106 ~~The executive director and staff of the Task Force for Review of~~  
 107 ~~the Criminal Justice and Corrections System, created under~~  
 108 ~~chapter 93-404, Laws of Florida, shall serve as the staff for~~  
 109 ~~the commission until the commission hires an executive director.~~

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

112 287.042 Powers, duties, and functions.--The department  
 113 shall have the following powers, duties, and functions:

114 (17)(a) To enter into contracts pursuant to chapter 957,  
 115 and to acquire the contractual rights and assume the contractual  
 116 obligations of the Correctional Privatization Commission in

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117 contracts previously entered into pursuant to chapter 957, for  
 118 the designing, financing, acquiring, leasing, constructing, or  
 119 operating of private correctional facilities. The department  
 120 shall enter into a contract or contracts with one contractor per  
 121 facility for the designing, acquiring, financing, leasing,  
 122 constructing, and operating of that facility or may, if  
 123 specifically authorized by the Legislature, separately contract  
 124 for any such services.

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

127  
 128 The department may not delegate the responsibilities conferred  
 129 by this subsection.

130 Section 3. Section 394.9151, Florida Statutes, is amended  
 131 to read:

132 394.9151 Contract authority.--The Department of Children  
 133 and Family Services may contract with a private entity or state  
 134 agency for use of and operation of facilities to comply with the  
 135 requirements of this act. The Department of Children and Family  
 136 Services may also contract with the Department of Management  
 137 Services ~~Correctional Privatization Commission as defined in~~  
 138 ~~chapter 957~~ to issue a request for proposals and monitor  
 139 contract compliance for these services.

140 Section 4. Section 943.13, Florida Statutes, is amended to  
 141 read:

142 943.13 Officers' minimum qualifications for employment or  
 143 appointment.--On or after October 1, 1984, any person employed  
 144 or appointed as a full-time, part-time, or auxiliary law  
 145 enforcement officer or correctional officer; on or after October

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146 1, 1986, any person employed as a full-time, part-time, or  
 147 auxiliary correctional probation officer; and on or after  
 148 October 1, 1986, any person employed as a full-time, part-time,  
 149 or auxiliary correctional officer by a private entity under  
 150 contract to the Department of Corrections, to a county  
 151 commission, or to the Department of Management Services  
 152 ~~Correctional Privatization Commission~~ shall:

- 153 (1) Be at least 19 years of age.
- 154 (2) Be a citizen of the United States, notwithstanding any  
 155 law of the state to the contrary.
- 156 (3) Be a high school graduate or its "equivalent" as the  
 157 commission has defined the term by rule.
- 158 (4) Not have been convicted of any felony or of a  
 159 misdemeanor involving perjury or a false statement, or have  
 160 received a dishonorable discharge from any of the Armed Forces  
 161 of the United States. Any person who, after July 1, 1981, pleads  
 162 guilty or nolo contendere to or is found guilty of any felony or  
 163 of a misdemeanor involving perjury or a false statement is not  
 164 eligible for employment or appointment as an officer,  
 165 notwithstanding suspension of sentence or withholding of  
 166 adjudication. Notwithstanding this subsection, any person who  
 167 has pled nolo contendere to a misdemeanor involving a false  
 168 statement, prior to December 1, 1985, and has had such record  
 169 sealed or expunged shall not be deemed ineligible for employment  
 170 or appointment as an officer.
- 171 (5) Have documentation of his or her processed  
 172 fingerprints on file with the employing agency or, if a private  
 173 correctional officer, have documentation of his or her processed  
 174 fingerprints on file with the Department of Corrections or the

175 Criminal Justice Standards and Training Commission. If  
 176 administrative delays are caused by the department or the  
 177 Federal Bureau of Investigation and the person has complied with  
 178 subsections (1)-(4) and(6)-(9), he or she may be employed or  
 179 appointed for a period not to exceed 1 calendar year from the  
 180 date he or she was employed or appointed or until return of the  
 181 processed fingerprints documenting noncompliance with  
 182 subsections (1)-(4) or subsection (7), whichever occurs first.

183 (6) Have passed a physical examination by a licensed  
 184 physician or physician assistant, based on specifications  
 185 established by the commission.

186 (7) Have a good moral character as determined by a  
 187 background investigation under procedures established by the  
 188 commission.

189 (8) Execute and submit to the employing agency or, if a  
 190 private correctional officer, submit to the appropriate  
 191 governmental entity an affidavit-of-applicant form, adopted by  
 192 the commission, attesting to his or her compliance with  
 193 subsections (1)-(7). The affidavit shall be executed under oath  
 194 and constitutes an official statement within the purview of s.  
 195 837.06. The affidavit shall include conspicuous language that  
 196 the intentional false execution of the affidavit constitutes a  
 197 misdemeanor of the second degree. The affidavit shall be  
 198 retained by the employing agency.

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

202 (a) Completed a comparable basic recruit training program  
 203 for the applicable criminal justice discipline in another state

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204 or for the Federal Government; and

205 (b) Served as a full-time sworn officer in another state  
 206 or for the Federal Government for at least 1 year provided there  
 207 is no more than an 8-year break in employment, as measured from  
 208 the separation date of the most recent qualifying employment to  
 209 the time a complete application is submitted for an exemption  
 210 under this section,

211  
 212 is exempt in accordance with s. 943.131(2) from completing the  
 213 commission-approved basic recruit training program.

214 (10) Achieve an acceptable score on the officer  
 215 certification examination for the applicable criminal justice  
 216 discipline.

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

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

221 944.02 Definitions.--The following words and phrases used  
 222 in this chapter shall, unless the context clearly indicates  
 223 otherwise, have the following meanings:

224 (4) "Elderly offender" means a prisoner age 50 or older in  
 225 a state correctional institution or facility operated by the  
 226 Department of Corrections or the Department of Management  
 227 Services ~~Correctional Privatization Commission~~.

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

230 944.115 Smoking prohibited inside state correctional  
 231 facilities.--

232 (1) The purpose of this section is to protect the health,



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233 comfort, and environment of employees of the Department of  
 234 Corrections, employees of privately operated correctional  
 235 facilities, ~~employees of the Correctional Privatization~~  
 236 ~~Commission~~, and inmates by prohibiting inmates from using  
 237 tobacco products inside any office or building within state  
 238 correctional facilities, and by ensuring that employees and  
 239 visitors do not use tobacco products inside any office or  
 240 building within state correctional facilities. Scientific  
 241 evidence links the use of tobacco products with numerous  
 242 significant health risks. The use of tobacco products by  
 243 inmates, employees, or visitors is contrary to efforts by the  
 244 Department of Corrections to reduce the cost of inmate health  
 245 care and to limit unnecessary litigation. The Department of  
 246 Corrections and the private vendors operating correctional  
 247 facilities shall make smoking-cessation assistance available to  
 248 inmates in order to implement this section. The Department of  
 249 Corrections and the private vendors operating correctional  
 250 facilities shall implement this section as soon as possible, and  
 251 all provisions of this section must be fully implemented by  
 252 January 1, 2000.

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

254 (b) "Employee" means an employee of the department or a  
 255 private vendor in a contractual relationship with either the  
 256 Department of Corrections or the Department of Management  
 257 Services ~~Correctional Privatization Commission~~, and includes  
 258 persons such as contractors, volunteers, or law enforcement  
 259 officers who are within a state correctional facility to perform  
 260 a professional service.

261 Section 7. Subsection (1) of section 944.72, Florida

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262 Statutes, is amended to read:

263 944.72 Privately Operated Institutions Inmate Welfare  
 264 Trust Fund.--

265 (1) There is hereby created in the Department of  
 266 Corrections the Privately Operated Institutions Inmate Welfare  
 267 Trust Fund. The purpose of the trust fund shall be the benefit  
 268 and welfare of inmates incarcerated in private correctional  
 269 facilities under contract with the department pursuant to  
 270 chapter 944 or the Department of Management Services  
 271 ~~Correctional Privatization Commission~~ pursuant to chapter 957.  
 272 Moneys shall be deposited in the trust fund and expenditures  
 273 made from the trust fund as provided in s. 945.215.

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

276 944.8041 Elderly offenders; annual review.--For the  
 277 purpose of providing information to the Legislature on elderly  
 278 offenders within the correctional system, the Florida  
 279 Corrections Commission and the Correctional Medical Authority  
 280 shall each submit annually a report on the status and treatment  
 281 of elderly offenders in the state-administered and private state  
 282 correctional systems, as well as such information on the River  
 283 Junction Correctional Institution. In order to adequately  
 284 prepare the reports, the Department of Corrections and the  
 285 Department of Management Services ~~Correctional Privatization~~  
 286 ~~Commission~~ shall grant access to the Florida Corrections  
 287 Commission and the Correctional Medical Authority which includes  
 288 access to the facilities, offenders, and any information the  
 289 agencies require to complete their reports. The review shall  
 290 also include an examination of promising geriatric policies,

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291 practices, and programs currently implemented in other  
 292 correctional systems within the United States. The reports,  
 293 with specific findings and recommendations for implementation,  
 294 shall be submitted to the President of the Senate and the  
 295 Speaker of the House of Representatives on or before December 31  
 296 of each year.

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

299 945.215 Inmate welfare and employee benefit trust funds.--

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

302 (a) For purposes of this subsection, privately operated  
 303 institutions or private correctional facilities are those  
 304 correctional facilities under contract with the department  
 305 pursuant to chapter 944 or the Department of Management Services  
 306 ~~Correctional Privatization Commission~~ pursuant to chapter 957.

307 (c) The Department of Management Services ~~Correctional~~  
 308 ~~Privatization Commission~~ shall annually compile a report that  
 309 documents Privately Operated Institutions Inmate Welfare Trust  
 310 Fund receipts and expenditures at each private correctional  
 311 facility. This report must specifically identify receipt sources  
 312 and expenditures. The Department of Management Services  
 313 ~~Correctional Privatization Commission~~ shall compile this report  
 314 for the prior fiscal year and shall submit the report by  
 315 September 1 of each year to the chairs of the appropriate  
 316 substantive and fiscal committees of the Senate and House of  
 317 Representatives and to the Executive Office of the Governor.

318 Section 10. Section 957.01, Florida Statutes, is amended  
 319 to read:

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320 957.01 Short title.--This chapter may be cited as the  
 321 "Correctional Privatization ~~Commission~~ Act."

322 Section 11. Effective July 1, 2005, section 957.02,  
 323 Florida Statutes, is amended to read:

324 957.02 Definitions.--As used in this chapter, ~~+~~

325 ~~(1) "Commission" means the Correctional Privatization~~  
 326 ~~Commission.~~

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

328 Section 12. Effective July 1, 2005, section 957.03,  
 329 Florida Statutes, is repealed.

330 Section 13. Section 957.04, Florida Statutes, is amended  
 331 to read:

332 957.04 Contract requirements.--

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

336 (a) Be negotiated with the firm found most qualified.

337 However, a contract for private correctional services may not be  
 338 entered into by the Department of Management Services ~~commission~~  
 339 unless the Department of Management Services ~~commission~~  
 340 determines that the contractor has demonstrated that it has:

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

343 2. The ability to expedite the siting, design, and  
 344 construction of correctional facilities.

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

347 (b) Indemnify the state and the department, including  
 348 their officials and agents, against any and all liability,

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349 including, but not limited to, civil rights liability. Proof of  
 350 satisfactory insurance is required in an amount to be determined  
 351 by the Department of Management Services ~~commission, following~~  
 352 ~~consultation with the Division of Risk Management of the~~  
 353 ~~Department of Financial Services. Not less than 30 days prior~~  
 354 ~~to the release of each request for proposals by the commission,~~  
 355 ~~the commission shall request the written recommendation of the~~  
 356 ~~division regarding indemnification of the state and the~~  
 357 ~~department under this paragraph. Within 15 days after such~~  
 358 ~~request, the division shall provide a written recommendation to~~  
 359 ~~the commission regarding the amount and manner of such~~  
 360 ~~indemnification. The commission shall adopt the division's~~  
 361 ~~recommendation unless, based on substantial competent evidence,~~  
 362 ~~the commission determines a different amount and manner of~~  
 363 ~~indemnification is sufficient.~~

364 (c) Require that the contractor seek, obtain, and maintain  
 365 accreditation by the American Correctional Association for the  
 366 facility under that contract. Compliance with amendments to the  
 367 accreditation standards of the association is required upon the  
 368 approval of such amendments by the commission.

369 (d) Require that the proposed facilities and the  
 370 management plans for the inmates meet applicable American  
 371 Correctional Association standards and the requirements of all  
 372 applicable court orders and state law.

373 (e) Establish operations standards for correctional  
 374 facilities subject to the contract. However, if the department  
 375 and the contractor disagree with an operations standard, the  
 376 contractor ~~The commission~~ may propose to waive any rule, policy,  
 377 or procedure of the department related to the operations

378 standards of correctional facilities which is that~~are~~  
 379 inconsistent with the mission of the contractor ~~commission~~ to  
 380 establish cost-effective, privately operated correctional  
 381 facilities. The Florida Corrections Commission shall be  
 382 responsible for considering all proposals from the contractor to  
 383 wave any rule, policy, or procedure and shall render a final  
 384 decision granting or denying such request.

385 (f) Require the contractor to be responsible for a range  
 386 of dental, medical, and psychological services; diet; education;  
 387 and work programs at least equal to those provided by the  
 388 department in comparable facilities. The work and education  
 389 programs must be designed to reduce recidivism, and include  
 390 opportunities to participate in such work programs as authorized  
 391 pursuant to s. 946.523.

392 (g) Require the selection and appointment of a full-time  
 393 contract monitor. The contract monitor shall be appointed and  
 394 supervised by the Department of Management Services ~~commission~~.  
 395 The contractor is required to reimburse the Department of  
 396 Management Services ~~commission~~ for the salary and expenses of  
 397 the contract monitor. It is the obligation of the contractor to  
 398 provide suitable office space for the contract monitor at the  
 399 correctional facility. The contract monitor shall have unlimited  
 400 access to the correctional facility.

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

405 (2) Each contract entered into for the design and  
 406 construction of a private correctional facility or juvenile

407 commitment facility must include:

408 (a) Notwithstanding any provision of chapter 255 to the  
 409 contrary, a specific provision authorizing the use of tax-exempt  
 410 financing through the issuance of tax-exempt bonds, certificates  
 411 of participation, lease-purchase agreements, or other tax-exempt  
 412 financing methods. Pursuant to s. 255.25, approval is hereby  
 413 provided for the lease-purchase of up to two private  
 414 correctional facilities and any other facility authorized by the  
 415 General Appropriations Act.

416 (b) A specific provision requiring the design and  
 417 construction of the proposed facilities to meet the applicable  
 418 standards of the American Correctional Association and the  
 419 requirements of all applicable court orders and state law.

420 (c) A specific provision requiring the contractor, and not  
 421 the Department of Management Services ~~commission~~, to obtain the  
 422 financing required to design and construct the private  
 423 correctional facility or juvenile commitment facility built  
 424 under this chapter.

425 (d) A specific provision stating that the state is not  
 426 obligated for any payments that exceed the amount of the current  
 427 annual appropriation.

428 (3)(a) Each contract for the designing, financing,  
 429 acquiring, leasing, constructing, and operating of a private  
 430 correctional facility shall be subject to ss. 255.2502 and  
 431 255.2503.

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

435 (4) A contract entered into under this chapter does not

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436 accord third-party beneficiary status to any inmate or juvenile  
 437 offender or to any member of the general public.

438 (5) Each contract entered into by the Department of  
 439 Management Services ~~commission~~ must include substantial minority  
 440 participation unless demonstrated by evidence, after a good  
 441 faith effort, as impractical and must also include any other  
 442 requirements the Department of Management Services ~~commission~~  
 443 considers necessary and appropriate for carrying out the  
 444 purposes of this chapter.

445 (6) Notwithstanding s. 253.025(7), the Board of Trustees  
 446 of the Internal Improvement Trust Fund need not approve a lease-  
 447 purchase agreement negotiated by the Department of Management  
 448 Services ~~commission~~ if the Department of Management Services  
 449 ~~commission~~ finds that there is a need to expedite the lease-  
 450 purchase.

451 (7)(a) Notwithstanding s. 253.025 or s. 287.057, whenever  
 452 the Department of Management Services ~~commission~~ finds it to be  
 453 in the best interest of timely site acquisition, it may contract  
 454 without the need for competitive selection with one or more  
 455 appraisers whose names are contained on the list of approved  
 456 appraisers maintained by the Division of State Lands of the  
 457 Department of Environmental Protection in accordance with s.  
 458 253.025(6)(b). In those instances when the Department of  
 459 Management Services ~~commission~~ directly contracts for appraisal  
 460 services, it shall also contract with an approved appraiser who  
 461 is not employed by the same appraisal firm for review services.

462 (b) Notwithstanding s. 253.025(6), the Department of  
 463 Management Services ~~commission~~ may negotiate and enter into  
 464 lease-purchase agreements before an appraisal is obtained. Any



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465 such agreement must state that the final purchase price cannot  
 466 exceed the maximum value allowed by law.

467       (8) Notwithstanding s. 957.03(4), the Department of  
 468 Management Services shall be the successor agency for the  
 469 Correctional Privatization Commission in all contracts entered  
 470 into pursuant to this chapter which are in effect on July 1,  
 471 2004. Buildings and other improvements to real property which  
 472 are financed under paragraph (2)(a) and which are leased to the  
 473 Correctional Privatization Commission are considered to be owned  
 474 by the Correctional Privatization Commission for the purposes of  
 475 this section whereby the terms of the lease, the buildings, and  
 476 other improvements will become the property of the state at the  
 477 expiration of the lease. For any facility that is bid and built  
 478 under the authority of requests for proposals made by the  
 479 Correctional Privatization Commission between December 1993 and  
 480 October 1994 and that is operated by a private vendor, a payment  
 481 in lieu of taxes, from funds appropriated for the Correctional  
 482 Privatization Commission, shall be paid until the expiration of  
 483 the lease to local taxing authorities in the local government in  
 484 which the facility is located in an amount equal to the ad  
 485 valorem taxes assessed by counties, municipalities, school  
 486 districts, and special districts.

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

489       957.06 Powers and duties not delegable to contractor.--A  
 490 contract entered into under this chapter does not authorize,  
 491 allow, or imply a delegation of authority to the contractor to:

492       (2) Choose the facility to which an inmate is initially  
 493 assigned or subsequently transferred. The contractor may

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494 request, in writing, that an inmate be transferred to a facility  
 495 operated by the department. The Department of Management  
 496 Services ~~commission~~, the contractor, and ~~a representative of the~~  
 497 department shall develop and implement a cooperative agreement  
 498 for transferring inmates between a correctional facility  
 499 operated by the department and a private correctional facility.  
 500 The department, the Department of Management Services  
 501 ~~commission~~, and the contractor must comply with the cooperative  
 502 agreement.

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

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

508 957.07 Cost-saving requirements.--

509 (1) The Department of Management Services ~~commission~~ may  
 510 not enter into a contract or series of contracts unless the  
 511 department ~~commission~~ determines that the contract or series of  
 512 contracts in total for the facility will result in a cost  
 513 savings to the state of at least 7 percent over the public  
 514 provision of a similar facility. Such cost savings as determined  
 515 by the Department of Management Services ~~commission~~ must be  
 516 based upon the actual costs associated with the construction and  
 517 operation of similar facilities or services as determined by the  
 518 Department of Corrections and certified by the Auditor General.  
 519 The Department of Corrections shall calculate all of the cost  
 520 components that determine the inmate per diem in correctional  
 521 facilities of a substantially similar size, type, and location  
 522 that are operated by the Department of Corrections, including

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523 administrative costs associated with central administration.  
 524 Services that are provided to the Department of Corrections by  
 525 other governmental agencies at no direct cost to the department  
 526 shall be assigned an equivalent cost and included in the per  
 527 diem.

528 (5)

529 (d) If a private vendor chooses not to renew the contract  
 530 at the appropriated level, the Department of Management Services  
 531 ~~commission~~ shall terminate the contract as provided in s.  
 532 957.14.

533 Section 16. Section 957.08, Florida Statutes, is amended  
 534 to read:

535 957.08 Capacity requirements.--The Department of  
 536 Corrections shall transfer and assign prisoners, ~~at a rate to be~~  
 537 ~~determined by the commission~~, to each private correctional  
 538 facility opened pursuant to this chapter in an amount not less  
 539 than 90 percent or more than 100 percent of the capacity of the  
 540 facility pursuant to the contract with the Department of  
 541 Management Services ~~commission~~. The prisoners transferred by  
 542 the Department of Corrections shall represent a cross section of  
 543 the general inmate population, based on the grade of custody or  
 544 the offense of conviction, at the most comparable facility  
 545 operated by the department.

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

548 957.13 Background checks.--

549 (2) The Florida Department of Law Enforcement may, to the  
 550 extent provided for by federal law, provide for the exchange of  
 551 state, multistate, and federal criminal history records of

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552 individuals who apply for employment at a private correctional  
 553 facility ~~with the Correctional Privatization Commission~~ for the  
 554 purpose of conducting background checks as required by law or  
 555 contract ~~the commission~~.

556 Section 18. Section 957.14, Florida Statutes, is amended  
 557 to read:

558 957.14 Contract termination and control of a correctional  
 559 facility by the department.--A detailed plan shall be provided  
 560 by a private vendor under which the department shall assume  
 561 temporary control of a private correctional facility upon  
 562 termination of the contract. The Department of Management  
 563 Services ~~commission~~ may terminate the contract with cause after  
 564 written notice of material deficiencies and after 60 workdays in  
 565 order to correct the material deficiencies. If any event occurs  
 566 that involves the noncompliance with or violation of contract  
 567 terms and that presents a serious threat to the safety, health,  
 568 or security of the inmates, employees, or the public, the  
 569 department may temporarily assume control of the private  
 570 correctional facility, with the approval of the Department of  
 571 Management Services ~~commission~~. A plan shall also be provided by  
 572 a private vendor for the purchase and temporary assumption of  
 573 operations of a correctional facility by the department in the  
 574 event of bankruptcy or the financial insolvency of the private  
 575 vendor. The private vendor shall provide an emergency plan to  
 576 address inmate disturbances, employee work stoppages, strikes,  
 577 or other serious events in accordance with standards of the  
 578 American Correctional Association.

579 Section 19. Section 957.15, Florida Statutes, is amended  
 580 to read:

581           957.15 Funding of contracts for operation, maintenance,  
 582 and lease-purchase of private correctional facilities.--The  
 583 request for appropriation of funds to make payments pursuant to  
 584 contracts entered into by the Department of Management Services  
 585 ~~commission~~ for the operation, maintenance, and lease-purchase of  
 586 the private correctional facilities authorized by this chapter  
 587 shall be made by the Department of Management Services  
 588 ~~commission~~ in a request to the department. The department shall  
 589 include such request in its budget request to the Legislature as  
 590 a separately identified item and shall forward the request of  
 591 the Department of Management Services ~~commission~~ without change.  
 592 After an appropriation has been made by the Legislature to the  
 593 department for the private correctional facilities ~~commission~~,  
 594 the department shall have no authority over such funds other  
 595 than to pay from such appropriation to the appropriate private  
 596 vendor such amounts as are certified for payment by the  
 597 Department of Management Services ~~commission~~.

598           Section 20. Section 957.16, Florida Statutes, is amended  
 599 to read:

600           957.16 Expanding capacity.--The Department of Management  
 601 Services ~~commission~~ is authorized to modify and execute  
 602 agreements with contractors to expand up to the total capacity  
 603 of contracted correctional facilities. Total capacity means the  
 604 design capacity of all contracted correctional facilities  
 605 increased by one-half as described under s. 944.023(1)(b). Any  
 606 additional beds authorized under this section must comply with  
 607 the cost-saving requirements set forth in s. 957.07. Any  
 608 additional beds authorized as a result of expanded capacity  
 609 under this section are contingent upon specified appropriations.

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610 Section 21. Paragraph (h) is added to subsection (1) of  
 611 section 944.516, Florida Statutes, to read:

612 944.516 Money or other property received for personal use  
 613 or benefit of inmate; deposit; disposition of unclaimed trust  
 614 funds.--The Department of Corrections shall protect the  
 615 financial interest of the state with respect to claims which the  
 616 state may have against inmates in state institutions under its  
 617 supervision and control and shall administer money and other  
 618 property received for the personal benefit of such inmates. In  
 619 carrying out the provisions of this section, the department may  
 620 delegate any of its enumerated powers and duties affecting  
 621 inmates of an institution to the warden or regional director who  
 622 shall personally, or through designated employees of his or her  
 623 personal staff under his or her direct supervision, exercise  
 624 such powers or perform such duties.

625 (1) The Department of Corrections may:

626 (h) Charge an administrative processing fee of up to \$6  
 627 each month to inmates for banking services. Such fees shall be  
 628 deposited into the department's Grants and Donations Trust Fund  
 629 and shall be used to offset the cost of the department's  
 630 operations. If the inmate account has a zero balance at the end  
 631 of the billing cycle, a hold will be established to collect the  
 632 processing fee when available.

633 Section 22. Except as otherwise provided in this act, this  
 634 act shall take effect July 1, 2004.