

ENROLLED

HB 5017, Engrossed 1

2006 Legislature

1 A bill to be entitled
2 An act relating to corrections; amending s. 20.315, F.S.;
3 abolishing the Florida Corrections Commission; amending s.
4 944.8041, F.S.; requiring the Department of Corrections,
5 in lieu of the commission, to submit an annual report on
6 certain elderly offenders; amending s. 957.04, F.S.;
7 requiring the Department of Management Services, in lieu
8 of the commission, to consider proposed waivers of rules,
9 policies, and procedures of the Department of Corrections
10 for contractors of private correctional facilities;
11 amending s. 957.07, F.S.; revising the membership of the
12 Prison Per-Diem Workgroup; revising meeting requirements
13 of the workgroup; revising information to be included in
14 the consensus per diem rates developed by the workgroup;
15 revising use of the per diem rates developed by the
16 workgroup; eliminating a provision that s. 957.07(5),
17 F.S., supersedes certain proviso language in the
18 Conference Report on CS for SB 2-C, ch. 2001-367, Laws of
19 Florida; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsections (7) through (13) of section 20.315,
24 Florida Statutes, are renumbered as subsections (6) through
25 (12), respectively, and present subsection (6) of that section
26 is amended to read:

27 20.315 Department of Corrections.--There is created a
28 Department of Corrections.

ENROLLED
 HB 5017, Engrossed 1

2006 Legislature

29 ~~(6) FLORIDA CORRECTIONS COMMISSION.~~

30 ~~(a)1. The Florida Corrections Commission is hereby~~
 31 ~~created. The primary focus of the commission shall be on~~
 32 ~~corrections; however, in those instances in which the policies~~
 33 ~~of other components of the criminal justice system affect~~
 34 ~~corrections, the commission shall advise and make~~
 35 ~~recommendations.~~

36 ~~2. The commission shall consist of nine members appointed~~
 37 ~~by the Governor subject to confirmation by the Senate. Members~~
 38 ~~of the commission shall serve terms of 4 years each. Members~~
 39 ~~must be appointed in such a manner as to equitably represent all~~
 40 ~~geographic areas of the state. Each member of the commission~~
 41 ~~must be a citizen and registered voter of the state. A member of~~
 42 ~~the commission shall represent the public safety needs of the~~
 43 ~~state as a whole and may not subordinate the needs of the state~~
 44 ~~to those of any particular area of the state. The commission's~~
 45 ~~membership should, to the extent possible, contain persons who~~
 46 ~~are knowledgeable about construction, health care, information~~
 47 ~~technology, education, business, food services, law, and inmate~~
 48 ~~and youthful offender rehabilitation and services.~~

49 ~~3. The commission is assigned to the office of the~~
 50 ~~Secretary of Corrections for administrative and fiscal~~
 51 ~~accountability purposes, but it shall otherwise function~~
 52 ~~independently of the control and direction of the Department of~~
 53 ~~Corrections.~~

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

55 ~~1. Recommend major correctional policies for the~~
 56 ~~Governor's approval, and assure that approved policies and any~~

ENROLLED

HB 5017, Engrossed 1

2006 Legislature

- 57 ~~revisions thereto are properly executed.~~
- 58 2. ~~Periodically review the status of the state~~
- 59 ~~correctional system and recommend improvements therein to the~~
- 60 ~~Governor and the Legislature.~~
- 61 3. ~~Annually perform an in-depth review of community-based~~
- 62 ~~intermediate sanctions and recommend to the Governor and the~~
- 63 ~~Legislature intergovernmental approaches through the Community~~
- 64 ~~Corrections Partnership Act for planning and implementing such~~
- 65 ~~sanctions and programs.~~
- 66 4. ~~Perform an in-depth evaluation of the annual budget~~
- 67 ~~request of the Department of Corrections, the comprehensive~~
- 68 ~~correctional master plan, and the tentative construction program~~
- 69 ~~for compliance with all applicable laws and established~~
- 70 ~~departmental policies. The commission may not consider~~
- 71 ~~individual construction projects, but shall consider methods of~~
- 72 ~~accomplishing the department's goals in the most effective,~~
- 73 ~~efficient, and businesslike manner.~~
- 74 5. ~~Routinely monitor the financial status of the~~
- 75 ~~Department of Corrections to assure that the department is~~
- 76 ~~managing revenue and any applicable bond proceeds responsibly~~
- 77 ~~and in accordance with law and established policy.~~
- 78 6. ~~Evaluate, at least quarterly, the efficiency,~~
- 79 ~~productivity, and management of the Department of Corrections,~~
- 80 ~~using performance and production standards developed by the~~
- 81 ~~department under former subsection (18).~~
- 82 7. ~~Provide public education on corrections and criminal~~
- 83 ~~justice issues.~~
- 84 8. ~~Report to the President of the Senate, the Speaker of~~

ENROLLED
 HB 5017, Engrossed 1

2006 Legislature

85 ~~the House of Representatives, and the Governor by November 1 of~~
 86 ~~each year.~~

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

92 ~~(c) The commission or a member thereof may not enter into~~
 93 ~~the day to day operation of the Department of Corrections and is~~
 94 ~~specifically prohibited from taking part in:~~

95 ~~1. The awarding of contracts by the department.~~

96 ~~2. The selection by the department of a consultant or~~
 97 ~~contractor or the prequalification by the department of any~~
 98 ~~individual consultant or contractor. However, the commission may~~
 99 ~~recommend to the Secretary of Corrections standards and policies~~
 100 ~~governing the procedure for selection and prequalification of~~
 101 ~~consultants and contractors.~~

102 ~~3. The selection by the department of a county for a~~
 103 ~~specific project.~~

104 ~~4. The selection by the department of a specific location~~
 105 ~~for a correctional facility.~~

106 ~~5. The employment, promotion, demotion, suspension,~~
 107 ~~transfer, or discharge of any departmental personnel.~~

108 ~~6. The enforcement of minimum standards for any county or~~
 109 ~~municipal detention facility.~~

110 ~~(d)1. The chair of the commission shall be selected by the~~
 111 ~~members for a term of 1 year.~~

112 ~~2. The commission shall hold a minimum of four regular~~

ENROLLED

HB 5017, Engrossed 1

2006 Legislature

113 ~~meetings annually, and other meetings may be called by the chair~~
114 ~~upon giving at least 7 days' notice to all members and the~~
115 ~~public pursuant to chapter 120. Meetings may also be held upon~~
116 ~~the written request of at least four members, upon at least 7~~
117 ~~days' notice of such meeting being given to all members and the~~
118 ~~public by the chair pursuant to chapter 120. Emergency meetings~~
119 ~~may be held without notice upon the request of all members. The~~
120 ~~meetings of the commission shall be held in the central office~~
121 ~~of the Department of Corrections in Tallahassee unless the chair~~
122 ~~determines that special circumstances warrant meeting at another~~
123 ~~location.~~

124 ~~3. A majority of the membership of the commission~~
125 ~~constitutes a quorum at any meeting of the commission. An action~~
126 ~~of the commission is not binding unless the action is taken~~
127 ~~pursuant to an affirmative vote of a majority of the members~~
128 ~~present, but not fewer than four members of the commission must~~
129 ~~be present, and the vote must be recorded in the minutes of the~~
130 ~~meeting.~~

131 ~~4. The chair shall cause to be made a complete record of~~
132 ~~the proceedings of the commission, which record shall be open~~
133 ~~for public inspection.~~

134 ~~(c) The commission shall appoint an executive director and~~
135 ~~an assistant executive director, who shall serve under the~~
136 ~~direction, supervision, and control of the commission. The~~
137 ~~executive director, with the consent of the commission, shall~~
138 ~~employ such staff as are necessary to perform adequately the~~
139 ~~functions of the commission, within budgetary limitations. All~~
140 ~~employees of the commission are exempt from part II of chapter~~

ENROLLED

HB 5017, Engrossed 1

2006 Legislature

141 ~~110 and serve at the pleasure of the commission. The salaries~~
 142 ~~and benefits of all employees of the commission shall be set in~~
 143 ~~accordance with the Selected Exempt Service rules; however, the~~
 144 ~~commission shall have complete authority for fixing the salaries~~
 145 ~~of the executive director and the assistant executive director.~~

146 ~~(f) Members of the commission are entitled to per diem and~~
 147 ~~travel expenses pursuant to s. 112.061.~~

148 ~~(g) A member of the commission may not have any interest,~~
 149 ~~direct or indirect, in any contract, franchise, privilege, or~~
 150 ~~other benefit granted or awarded by the department during the~~
 151 ~~term of his or her appointment and for 2 years after the~~
 152 ~~termination of that appointment.~~

153 ~~(h) The commission shall develop a budget pursuant to~~
 154 ~~chapter 216. The budget is not subject to change by the~~
 155 ~~department, but such budget shall be submitted to the Governor~~
 156 ~~along with the budget of the department.~~

157 Section 2. Section 944.8041, Florida Statutes, is amended
 158 to read:

159 944.8041 Elderly offenders; annual review.--For the
 160 purpose of providing information to the Legislature on elderly
 161 offenders within the correctional system, the department ~~Florida~~
 162 ~~Corrections Commission~~ and the Correctional Medical Authority
 163 shall each submit annually a report on the status and treatment
 164 of elderly offenders in the state-administered and private state
 165 correctional systems, as well as such information on the River
 166 Junction Correctional Institution. In order to adequately
 167 prepare the reports, the department ~~of Corrections~~ and the
 168 Department of Management Services shall grant access to the

ENROLLED

HB 5017, Engrossed 1

2006 Legislature

169 ~~Florida Corrections Commission~~ and the Correctional Medical
170 Authority which includes access to the facilities, offenders,
171 and any information the agencies require to complete their
172 reports. The review shall also include an examination of
173 promising geriatric policies, practices, and programs currently
174 implemented in other correctional systems within the United
175 States. The reports, with specific findings and recommendations
176 for implementation, shall be submitted to the President of the
177 Senate and the Speaker of the House of Representatives on or
178 before December 31 of each year.

179 Section 3. Paragraph (e) of subsection (1) of section
180 957.04, Florida Statutes, is amended to read:

181 957.04 Contract requirements.--

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

185 (e) Establish operations standards for correctional
186 facilities subject to the contract. However, if the department
187 and the contractor disagree with an operations standard, the
188 contractor may propose to waive any rule, policy, or procedure
189 of the department related to the operations standards of
190 correctional facilities which is inconsistent with the mission
191 of the contractor to establish cost-effective, privately
192 operated correctional facilities. The Department of Management
193 Services ~~Florida Corrections Commission~~ shall be responsible for
194 considering all proposals from the contractor to waive any rule,
195 policy, or procedure and shall render a final decision granting
196 or denying such request.

ENROLLED
 HB 5017, Engrossed 1

2006 Legislature

197 Section 4. Subsection (5) of section 957.07, Florida
 198 Statutes, is amended to read:

199 957.07 Cost-saving requirements.--

200 (5) (a) At the request of the Speaker of the House of
 201 Representatives or the President of the Senate ~~By February 1~~
 202 ~~each year~~, the Prison Per-Diem Workgroup shall develop consensus
 203 per diem rates for use by the Legislature ~~to be used when~~
 204 ~~determining per diem rates of privately operated prisons~~. The
 205 Office of Program Policy Analysis and Government Accountability,
 206 ~~the Office of the Auditor General~~, and the staffs of the
 207 appropriations committees of both the Senate and the House of
 208 Representatives are the principals of the workgroup. The
 209 workgroup may consult with other experts to assist in the
 210 development of the consensus per diem rates. All meetings of the
 211 workgroup shall be open to the public as provided in chapter
 212 286.

213 (b) When developing the consensus per diem rates, the
 214 workgroup must:

215 1. Use data provided by the Department of Corrections from
 216 the most recent fiscal year to determine per diem costs for the
 217 following activities:

- 218 a. Custody and control;
- 219 b. Health services;
- 220 c. Substance abuse programs; and
- 221 d. Educational programs;

222 2. Include the cost of departmental, regional,
 223 institutional, and program administration and any other fixed
 224 costs of the department;

ENROLLED
 HB 5017, Engrossed 1

2006 Legislature

225 3. Calculate average per diem rates for the following
 226 offender populations: adult male, youthful offender male, and
 227 female; and

228 4. Make per diem adjustments, as appropriate, to account
 229 for variations in size and location of correctional facilities.

230 (c) ~~It is the intent of the Legislature that~~ The consensus
 231 per diem rates determined by the workgroup may ~~shall~~ be used to
 232 assist the Legislature in determining ~~determine~~ the level of
 233 funding provided to privately operated prisons to meet the,
 234 ~~which must reflect at least a 7-percent savings~~ required of
 235 private prisons by this chapter ~~when compared to the Department~~
 236 ~~of Corrections.~~

237 (d) If a private vendor chooses not to renew the contract
 238 at the appropriated level, the Department of Management Services
 239 shall terminate the contract as provided in s. 957.14.

240 ~~(e) This subsection supersedes the proviso language~~
 241 ~~immediately following Specific Appropriation 570 in the~~
 242 ~~Conference Report on CS for SB 2-C.~~

243 Section 5. This act shall take effect July 1, 2006.