

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1213 Corrections
SPONSOR(S): Taylor
TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Safety & Security Council		Cunningham	Havlicak
2) Policy & Budget Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill adds full time positions in the form of transition assistance specialists, program instructors, and regional coordinators at Florida’s correctional institutions. It also would establish regional coalition coordinators at each state judicial circuit to provide and coordinate reentry services for ex-offenders. The Agency for Workforce Innovation would also have to designate specific positions to handle ex-offenders.

In addition, this bill would significantly alter correctional industries. The bill creates an advisory board created to oversee correctional industries and the Department of Corrections would be authorized, by the advisory board, to contract with businesses to operate correctional industries. Prison Rehabilitative Industries and Diversified Enterprises, Inc. would no longer be the sole operator of correctional industries, and would be transitioned into a new role as a contractor, providing operational services for existing correctional industries.

This bill has a significant fiscal impact on the Department of Corrections. See “Fiscal Impact” section for additional details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government - This bill creates the following positions: 100-Hour program instructors, regional coordinators, and regional coalition coordinators. The bill also creates an advisory board to oversee correctional industries and authorizes DOC to contract with businesses to operate correctional industries.

B. EFFECT OF PROPOSED CHANGES:

Transition Assistance

Currently, s. 944.704, F.S., requires the Department of Corrections (DOC) to provide a transition assistance specialist at each major institution whose duties include:

- Coordinating delivery of transition assistance program services at the institution and at community correctional centers.
- Assisting in the development of each inmate's postrelease plan.
- Obtaining job placement information.
- Providing a written medical discharge plan and referral to a county health department.
- For an inmate who is known to be HIV positive, providing a 30-day supply of all HIV/AIDS-related medication that the inmate is taking prior to release, if required under protocols of DOC and treatment guidelines of the United States Department of Health and Human Services.
- Facilitating placement in a private transition housing program, if requested by any eligible inmate.
- Providing a photo identification card to all inmates prior to their release.

Effect of the Bill

The bill requires DOC to establish and fund on a recurring basis the following positions:

- Transition assistance specialists. The bill specifies that in addition to the above-mentioned duties, transition assistance specialists must also administer in-depth needs assessments for returning offenders.
- 100-hour transition instructors, whose duties include implementing the 100-hour transition training program¹.
- Regional coordinators, whose duties include ensuring effective program delivery of the 100-hour transition training program throughout the state.

The bill also requires DOC to organize and fund reentry coalition coordinators in each of the judicial circuits in the state and specifies that funding should be provided to DOC to contract by judicial circuit with community organizations to offer temporary housing to those offenders without immediate housing options upon release.

Release Orientation Program

Section 944.705, F.S., requires DOC to provide participation in a standardized release orientation program to every eligible inmate which must include instruction on skills such as employment skills, money management, and personal development and planning.

Effect of the Bill

The bill requires DOC to provide comprehensive programming that addresses an offender's criminal thinking as determined by the offender's level or risk. Transition programming shall incorporate a cognitive behavioral approach, span 18 to 24 months from release, and involve 4 to 6 months of curriculum.

¹ Section 944.7065, F.S., requires each inmate released from incarceration to complete a 100-hour comprehensive transition course that covers job readiness and life management skills.

Post-Release Special Services

Section 944.707, F.S., requires DOC to generate and provide to every releasee, identified by the prerelease needs assessment, support services such as substance abuse counseling, family counseling, and employment support programs.

Effect of the Bill

The bill provides that funding for technology enhancements should be sought to establish computer labs at each correctional institution. The bill specifies that the technology will be used for various applications such as community service linkages, programming, job interviews, meeting with probation officers, visitation to aid in family reunification, telemedicine, parole hearings, and legal proceedings.

PRIDE'S History

Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) was created by the Legislature in 1981 as a private, non-profit corporation.² In 1983, the Legislature authorized PRIDE to lease and manage the state prison industries program which had been operated by the Department of Corrections. Section 946.501, F.S., defines PRIDE's mission as:

- Providing education, training, and post-release job placement to inmates to help reduce recommitment;
- Enhancing security by reducing inmate idleness and providing an incentive for good behavior in prison;
- Reducing the cost of state government by operating enterprises primarily with inmate labor while not unreasonably competing with private enterprise; and
- Rehabilitating inmates by duplicating, as nearly as possible, the activities of a profit-making enterprise.

PRIDE currently operates 37 industrial training programs in 20 state prisons, offers 341 on-the-job training programs, and in 2006, trained 3,440 inmates.³ Some of the industries operated by PRIDE are raising dairy calves, furniture manufacturing, agriculture, printing, binding, data entry, and document imaging services.⁴ PRIDE does not receive funding from the Legislature and is supported by the revenues it generates from selling its products.⁵

PRIDE's Financial and Managerial Issues

In its 2002 Annual Report issued December 2, 2002, the Florida Corrections Commission extensively reviewed PRIDE's history and current operations. The report focused attention on PRIDE's fulfillment of its mission, particularly noting that the number of inmate workstations had not kept pace with the growth of the inmate population. The Corrections Commission also raised questions about the new corporate structure and affiliated entities.

In December 2003, OPPAGA issued Report No. 03-68, "PRIDE Benefits the State but Needs to Improve Transparency in Operations." OPPAGA focused on many of the same issues as the Corrections Commission, particularly concerning PRIDE's organizational structure. OPPAGA also noted some of the challenges faced by PRIDE in the current business operating environment, and that PRIDE sales had declined by more than \$20 million over the preceding 5 years. The OPPAGA report prompted Governor Bush to request his Chief Inspector General to conduct an audit of PRIDE and its related entities.

On February 28, 2005, the Office of the Chief Inspector General issued its findings. In general, the audit noted the significant financial decline of PRIDE and its affiliates, was critical of PRIDE's internal controls and its business and organizational operation, a breakdown in accountability, as well as the Board of Director's lack of oversight.

² http://www.pride-enterprises.org/compay_info_img/pdf/WorkerHistory-revised.pdf

³ *Id.*

⁴ *Id.*

⁵ *Id.*

Effect of the Bill

Advisory Board for Correctional Work Programs

The bill creates an advisory board of directors which consists of six members. The Secretary of DOC and the Deputy Assistant Secretary for Institutions of DOC shall be members. The remaining four members shall be appointed by the Governor and confirmed by the Senate and shall serve terms of 4 years. The board of directors of the advisory board shall have the following responsibilities:

- The advisory board shall coordinate an overall correctional work program that follows the objectives and guidelines set out in this part and any other applicable law.
- The advisory board shall direct oversight and approval for all contracted correctional work programs.
- The advisory board shall certify individual programs proposed for federal Prison Industry Enhancement (PIE) compliance. However, the department shall hold the federal Prison Industry Enhancement Certificate and shall be the entity for all purposes for Prison Industry Enhancement Certification by the federal Bureau of Justice Assistance.
- The advisory board shall provide an annual report to the Governor and the Legislature prior to July 1 each year as more particularly set out in s. 946.516, F.S.
- Within 60 days after the formation of the advisory board, the advisory board shall establish bylaws.
- The bylaws shall be submitted to the Governor for approval.
- The bylaws shall address the criteria for correctional industries to operate correctional work programs, the process for contractual review, the termination process of a contract, and the guidelines for travel and per diem of the members of the advisory board.
- The advisory board shall meet at least quarterly.

Legislative Intent

The bill amends s. 946.502, F.S., relating to the legislative intent regarding the operation of correctional work programs. Specifically the bill provides that it is the intent of the Legislature that DOC contract its correctional work programs to correctional industries. These correctional industries may manage the operation of correctional work programs and shall be retained as managers of correctional work programs through an open and competitive process. It is also the intent of the Legislature that an independent advisory board oversee the operation of DOC's correctional work programs and that the advisory board oversee the operation of correctional work programs to use inmates of all custody levels, with specific emphasis on reducing idleness among close custody inmates.

Exemption from Chapter 287, F.S.

The bill creates s. 946.5023, F.S., which exempt DOC from the requirements of ch. 287, F.S.⁶, when it enters into contracts or leases with private businesses for operation of correctional work programs.

Authorization to Enter Into Contracts

Currently, the corporation (PRIDE) is authorized to enter into contracts to operate correctional work programs with any county or municipal authority that operates a correctional facility or with certain contractors.

Effect of the Bill

The bill authorizes the advisory board to authorize DOC to enter into contracts to operate correctional work programs with any county or municipal authority that operates a correctional facility or with certain contractors.

Sovereign Immunity

The bill specifies that the provisions of s. 768.28, F.S., (relating to sovereign immunity) are applicable to the advisory board.

⁶ Chapter 287, F.S., relates to procurement of personal property and services.

Definitions

The bill provides the following definitions:

- "Advisory board" means the board created in s. 946.5225, F.S., that oversees correctional work program operations and authorizes the department to enter into contracts or leases for correctional work programs.
- "Corporation" means the private nonprofit corporation established pursuant to former s. 946.504(1), F.S.
- "Correctional industries" means any private or public entity authorized by the advisory board and contracted through the department to operate a correctional work program.
- "Correctional work program" means any program that is a part of the prison industries program operated at any state correctional facility presently or in the future, but the term does not include any program authorized by ss. 945.091 or 946.40, F.S.

Section 946.504, F.S.

The bill repeals this section of statute, which relates to the organization of PRIDE to operate correctional work programs.

Contracting to Correctional Industries

The bill creates s. 946.5045, F.S., which authorizes DOC to lease buildings and land to correctional industries that are authorized by the advisory board to operate correctional work programs. The bill specifies that no sublease for land from any other agency of state government shall be in excess of that amount for which the department is obligated to pay under any lease agreement with any other agency of state government, and that all leases of land shall be subject to the approval of the Board of Trustees of the Internal Improvement Trust Fund.

The bill also requires DOC, prior to entering into any lease or other separate contract or agreement between the department and any correctional industry for the operation of a correctional work program, to determine that:

- The members of the advisory board authorized the correctional work program.
- The bylaws of the advisory board have been approved by the Governor.
- The bylaws of the advisory board contain a provision that prohibits any board member from voting on any matter that comes before the advisory board that would result in a direct monetary gain to any board member or any entity in which any board member has an interest.

The bill requires the advisory board to authorize DOC to enter into contracts with correctional industries and requires that there be a separate contract established for each correctional work program in existence on July 1, 2008.

The bill requires the advisory board to establish procedures for contract review pursuant to the bylaws established in s. 946.5225 in the following manner:

- Each contract shall be established for a period of 5 years. The advisory board shall have the option to renew each contract for up to 3 years.
- After the initial 5-year period or after completion of the renewal period, each contract shall be competitively rebid according to the bylaws.
- The advisory board shall establish criteria for the review of proposals. Such criteria shall include, but are not limited to:
 - o Projected impact of the proposal on recidivism rates.
 - o Projected impact of the proposal on disciplinary reports.
 - o Number of program slots.
 - o The proposal's inclusion of job placement and transition assistance.
 - o The proposal's inclusion of vocational training components.
 - o The proposal's inclusion of educational training components.
 - o The proposal's inclusion of training components for professional certification or licensure.
 - o Projected impact of the proposal on the payment of restitution to victims.
 - o Financial viability of the proposer and the proposal.

- Competition with the private sector.
- Marketing plan for the correctional work program.
- The advisory board shall establish criteria for the termination of contracts.
- The content review and decision-making is entirely the responsibility of the advisory board, except that the advisory board may contract with a private vendor to provide consultation services regarding proposals that are submitted.

The bill also specifies that the Board of Trustees of the Internal Improvement Trust Fund may fulfill the obligation of any leases that were entered into under s. 946.504, F.S., prior to its repeal by this bill and that any additional improvements to such property leased previously from the Board of Trustees of the Internal Improvement Trust Fund under s. 946.504, F.S., must have the prior approval of the Board of Trustees of the Internal Improvement Trust Fund.

Transition of Correctional Work Programs

The bill provides that effective July 1, 2009, and subsequent to the contracts established between PRIDE established pursuant to s. 946.504(1), F.S., and DOC for operating correctional work programs in existence on July 1, 2008, specified PRIDE leases are terminated. In the event PRIDE does not wish to enter into a contract for a correctional work program in existence on July 1, 2008, the bill specifies that the correctional work program is dissolved and all property relating to such correctional work program which ceases to function because of such termination, including all buildings, land, furnishings, equipment, and other chattels originally leased from DOC, as well as any subsequently constructed or otherwise acquired facilities in connection with its continued operation of that program, automatically reverts to full ownership by DOC. Additionally, the ownership of any permanent enhancements made to facilities or work programs is vested in DOC as provided in s. 946.505, F.S.

Insurance

Currently, s. 946.509, F.S., requires the State Risk Management Trust Fund created under s. 284.30, F.S., to insure all property eligible for coverage under part I of chapter 284 which is leased by DOC to PRIDE or which is subsequently acquired and owned or leased by PRIDE and subject to the reversionary ownership interest of the state established in s. 946.505, F.S.

Effect of the Bill

The bill amends s. 946.509, F.S., to require a correctional industry that contracts to operate a correctional work program to insure all property eligible for coverage under part I of chapter 284 which is leased by DOC to such entity or which is subsequently acquired and owned or leased by such entity or PRIDE and subject to the reversionary ownership interest of the state established in s. 946.505, F.S. The bill requires the correctional industry to insure such properties for the full value of the property against loss from fire, lightning, sinkholes, and hazards customarily insured by extended coverage and loss from the removal of personal property from such properties when endangered by covered perils. Flood insurance shall be provided for those properties to the extent necessary to meet self-insurance requirements of the National Flood Insurance Program, as prescribed in the rules and regulations of the Federal Emergency Management Agency. The advisory board may also require reasonable liability insurance and such other insurance as may be appropriate concerning a correctional industries' solicitation under s. 946.5045.

Hazardous Conditions

The bill amends s. 946.5095, F.S., to provide that whenever there exists on any property leased by PRIDE a condition that is hazardous from the standpoint of destruction by fire or other insurable causes, PRIDE shall either promptly repair the property to eliminate any observed hazard or otherwise promptly remove the hazardous condition at its own expense.

Section 946.510, F.S.

The bill repeals this section of statute, which relates to insurance by the Division of Risk Management.

Inmate Labor

The amends s. 946.511, F.S., to specify that revenue-generating contracts, under the authorization of the advisory board, shall be established between DOC and correctional industries. The bill requires DOC to deduct three-quarters of a percent of the sales generated from correctional work programs operated by the correctional industries on a quarterly basis in accordance with the state fiscal year and specifies that such deductions must be deposited into the Prison Industries Trust Fund established in s. 946.522, F.S. An amount equal to these deductions may be withdrawn from the trust fund by the advisory board for the purposes of paying for per diem and travel of the advisory board, compensating consultants, marketing, and thereafter for purposes of construction or renovation of its facilities or for the expansion or establishment of correctional work programs.

PIE Programs

The bill amends s. 946.523, F.S., to authorize DOC, pursuant to the approval of the advisory board, to operate or contract with the private sector for substantial involvement in a prison industry enhancement (PIE) program. The bill specifies that some of the purposes and objective of PIE programs are to make victim restitution payments to the victims of the inmate's crimes, so that victim is made whole, to facilitate the inmate's restoration of his or her civil rights, and to further DOC's reentry mission.

The specifies that in establishing a PIE program:

- DOC must pay wages to the inmates at a rate not less than that paid for similar work in the same locality's private sector; however, this paragraph shall not apply to programs that are not established as a PIE program.
- DOC may take deductions, not to exceed 80 percent of gross wages, for room and board; federal, state, and local taxes; family support pursuant to general law or court order or agreement by the inmate; and contributions of not more than 20 percent but not less than 5 percent of gross wages to be paid into the Crimes Compensation Trust Fund established in s. 960.21, F.S.
- DOC shall ensure that inmate participation in the PIE program is voluntary.

Section 946.524, F.S.

The bill repeals this section of statute, which relates to PRIDE work camps.

Periodic Review

The bill requires the advisory board and DOC to cooperate with the Office of Program Policy Analysis and Government Accountability (OPPAGA), which shall conduct a review to determine whether correctional work programs are appropriately administered and meeting performance measures. In the course of the review, OPPAGA must examine the effects of correctional work programs on recidivism through the provision of job training, vocational training, education, preparation for certification or licensure, and transition assistance for soon-to-be-released inmates. The bill specifies that DOC shall provide sufficient data to OPPAGA to conduct this study. OPPAGA shall submit a report to the President of the Senate and the Speaker of the House of Representatives by January 1, 2010, and every 3 years thereafter.

C. SECTION DIRECTORY:

Section 1. Amends s. 944.704, F.S., relating to staff who provide transition assistance; duties.

Section 2. Amends s. 944.705, F.S., relating to release orientation program.

Section 3. Amends s. 944.707, F.S., relating to postrelease special services; job placement services.

Section 4. Amends s. 946.502, F.S., relating to legislative intent with respect to operation of correctional work programs.

Section 5. Creates s. 946.5023, F.S., relating to exemption from chapter 287.

- Section 6.** Amends s. 946.5025, F.S., relating to authorization of corporation to enter into contracts.
- Section 7.** Amends s. 946.5026, F.S., relating to sovereign immunity in tort actions.
- Section 8.** Amends s. 946.503, F.S., relating to definitions to be used with respect to correctional work programs.
- Section 9.** Repeals s. 946.504, F.S.
- Section 10.** Creates s. 946.5045, F.S., relating to contracting to correctional industries.
- Section 11.** Creates an unnumbered section of statute relating to the Board of Trustees of the Internal Improvement Trust Fund.
- Section 12.** Amends s. 946.505, F.S., relating to reversion upon dissolution of corporation or termination of lease.
- Section 13.** Creates an unnumbered section of statute relating to transition of correctional work programs.
- Section 14.** Repeals s. 946.506, F.S.
- Section 15.** Amends s. 946.509, F.S., relating to insurance of property leased or acquired by the corporation.
- Section 16.** Amends s. 946.5095, F.S., relating to elimination of hazardous conditions.
- Section 17.** Repeals s. 946.510, F.S.
- Section 18.** Amends s. 946.511, F.S., relating to inmate labor to operate correctional work programs.
- Section 19.** Amends s. 946.512, F.S., relating to inmate compensation plan.
- Section 20.** Amends s. 946.515, F.S., relating to use of goods and services produced in correctional work programs.
- Section 21.** Amends s. 946.516, F.S., relating to corporation status report and annual financial audit report.
- Section 22.** Amends s. 946.517, F.S., relating to corporation records.
- Section 23.** Amends s. 946.518, F.S., relating to sale of goods made by prisoners; when prohibited, when permitted.
- Section 24.** Amends s. 946.520, F.S., relating to assignment of inmates by Department of Corrections.
- Section 25.** Amends s. 946.522, F.S., relating to Prison Industries Trust Fund.
- Section 26.** Creates s. 946.5225, F.S., relating to advisory board for correctional work programs.
- Section 27.** Amends s. 946.523, F.S., relating to prison industry enhancement (PIE) programs.
- Section 28.** Repeals s. 946.524, F.S.
- Section 29.** Creates s. 946.526, F.S., relating to periodic review.

Section 30. Amends s. 212.08, F.S., relating to sales, rental, use, consumption, distribution, and storage tax; specified exemptions.

Section 31. Amends s. 255.25001, F.S., relating to suspension or delay of specified functions, programs, and requirements relating to governmental operations.

Section 32. Amends s. 985.682, F.S., relating to siting of facilities; study; criteria.

Section 33. This bill takes effect July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOC provided the following fiscal analysis:

Title	Position Costs	#	FY 2008- 09 Total Annual Costs
Transition Assistant Specialist	52,594	73	\$3,839,362
Instructor	47,687	73	\$3,481,151
Regional Coordinator	52,594	5	\$262,970
		151	\$7,583,483
* Total Salaries & benefits			
Recurring expense-Prof light travel	4,356		\$657,756
Non-recurring expense-Prof light travel	3,388		\$511,588
Total expenses			1,169,344
Workstation	1,000		\$151,000
Total OCO			\$151,000
Human Resource Services	398		\$60,098
Total		151	\$8,963,925

DOC indicates that improving transition assistance will reduce the likelihood that of an offender returning to prison.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES