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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2012	.	
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The Committee on Budget (Negron) recommended the following:

Senate Amendment (with title amendment)

Delete lines 72 - 250
and insert:

(1) Notwithstanding s. 287.057(1)(b)1., the Department of Management Services, working with the Department of Corrections, shall, through the issuance of two or more requests for proposals, privatize the management and operation of all correctional facilities and assigned correctional units, including prisons, annexes, work camps, road prisons, and work release centers, which are operated by the Department of Management Services in the Southern Florida Region and located in Manatee, Hardee, Indian River, Okeechobee, Highlands, St.



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14 Lucie, DeSoto, Sarasota, Charlotte, Glades, Martin, Palm Beach,
15 Hendry, Lee, Collier, Broward, Miami-Dade, and Monroe Counties,
16 excluding the South Florida Reception Center and any
17 correctional facility or assigned correctional unit that has
18 been closed or scheduled for closure before June 30, 2012.

19 (2) The Department of Management Services shall issue its
20 requests for proposals no later than 30 days after the effective
21 date of this act. The Department of Management Services shall
22 require that any proposal submitted in response to a request for
23 proposals be submitted no later than 30 days after the issuance
24 of the request for proposals. The Department of Management
25 Services shall prepare the business case for the privatization
26 required under this section, in accordance with s. 287.0571,
27 prior to the issuance of the requests for proposals.

28 (3) Each request for proposals which is issued by the
29 Department of Management Services must provide that the total
30 cost of a responsive proposal to the state during the first year
31 of the contract must result in actual cost savings to the state
32 of at least 7 percent of the costs incurred by the state for the
33 2010-2011 fiscal year for the provision of the services at the
34 correctional facilities and assigned correctional units included
35 in the request for proposals. For each correctional facility and
36 assigned correctional unit included in a request for proposals,
37 the Department of Corrections shall determine and provide to the
38 Department of Management Services the costs incurred by the
39 state for the 2010-2011 fiscal year using the average daily
40 population of each correctional facility and assigned
41 correctional unit during the 2010-2011 fiscal year and the
42 direct and distributed inmate per diem cost for each



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43 correctional facility and assigned correctional unit during the
44 2010-2011 fiscal year, reduced for the 3 percent retirement
45 contribution now required by state employees under chapter 121,
46 by inmate medical costs, and by the department's direct and
47 personnel costs associated with inmate classification. The total
48 costs to be incurred by the state in the second or subsequent
49 years of the contract resulting from a request for proposals may
50 increase annually by not more than the percentage change in the
51 Consumer Price Index for All Urban Consumers, U.S. City Average,
52 all items not seasonally adjusted or successor reports, for the
53 preceding December as initially reported by the United States
54 Department of Labor, Bureau of Labor Statistics; however, any
55 such increase is contingent upon appropriation by the
56 Legislature. Notwithstanding s. 120.57(3), the provisions in a
57 request for proposals which relate to the cost savings required
58 under this subsection are not subject to challenge in any
59 protest of the specifications of the request for proposals.

60 (4) Each contractor selected as a result of a request for
61 proposals must manage and operate each correctional facility and
62 the assigned correctional unit at capacities set forth in s.
63 944.023.

64 (5) All activities regarding the classification of inmates
65 shall remain under the Department of Corrections' supervision
66 and direction as required by law. Each facility's average daily
67 population, as well as medical and psychological grade
68 population percentages, shall remain substantially unchanged
69 from the average daily population calculated for the 2010-2011
70 fiscal year.

71 (6) Notwithstanding ss. 944.72 and 945.215, funds from



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72 canteens, subsistence payments, and any other participating
73 accounts associated with or located at the correctional
74 facilities and all assigned correctional units shall continue to
75 be remitted to the General Revenue Fund.

76 (7) The provisions of ss. 944.105(1) and (7) and 944.719(2)
77 do not apply to any request for proposals or contract authorized
78 by this section. Section 216.023 does not apply to the
79 Department of Corrections or the Department of Management
80 Services with respect to the services required to be privatized
81 under this section until the Department of Corrections is
82 required to submit its legislative budget request for the first
83 fiscal year that begins after the the privatization required
84 under this section has been implemented.

85 (8) Any contract entered into by the Department of
86 Management Services resulting from a request for proposals must:

87 (a) Require compliance with all applicable federal, state,
88 and local laws and all rules adopted by the department.

89 (b) Require actual cost savings to the state of at least 7
90 percent of the costs incurred by the state for the 2010-2011
91 fiscal year for the provision of the required services at the
92 correctional facilities and assigned correctional units included
93 in the request for proposals.

94 (c) Be for a term not to exceed 5 years, which may be
95 renewed as provided in s. 287.057.

96 (d) Require the selection and appointment of a full-time
97 contract monitor. The contract monitor shall be appointed and
98 supervised by the Department of Management Services. The
99 contractor shall reimburse the Department of Management Services
100 for the salary and expenses of the contract monitor. It is the



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101 obligation of the contractor to provide suitable office space
102 for the contract monitor at the correctional facility. The
103 contract monitor shall have unlimited access to the correctional
104 facilities and assigned correctional units.

105 (e) Require the certification of private correctional
106 officers pursuant to s. 943.1395 at the contractor's expense,
107 and all such officers must meet the minimum qualifications
108 established in s. 943.13. All other employees of the contractor
109 who perform their duties at the private correctional facility
110 shall, at a minimum, receive the same quality and quantity of
111 training required by the state for employees of state-operated
112 correctional facilities. All training expenses are the
113 responsibility of the contractor. The Department of Corrections
114 shall be the contributor and recipient of all criminal
115 background information necessary for certification by the
116 Criminal Justice Standards and Training Commission.

117 (f) Include specific performance measures and levels of
118 expected performance for the contractor in order to ensure
119 contractor performance and accountability, and require the
120 contractor to provide the department with information concerning
121 each performance measure for each separate correctional facility
122 and assigned correctional unit for each month, calendar quarter,
123 and year during the term of the contract, in the format
124 specified by the department.

125 1. The required performance measures must include, but are
126 not limited to:

127 a. The number of batteries committed by inmates on one or
128 more persons per 1,000 inmates;

129 b. The number of inmates receiving major disciplinary



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- 130 reports per 1,000 inmates;
- 131 c. The percentage of random inmate drug tests that are
132 negative;
- 133 d. The percentage of reported criminal incidents
134 investigated by the proper authorities;
- 135 e. The number of escapes from the secure perimeter of major
136 institutions;
- 137 f. The percentage of inmates placed in a facility that
138 provides at least one of the inmate's primary program needs;
- 139 g. The number of transition plans completed for inmates who
140 are released from prison;
- 141 h. The number of release plans completed for inmates who
142 are released from prison;
- 143 i. The percentage of release plans completed for inmates
144 who are released from prison;
- 145 j. The percentage of inmates who successfully complete drug
146 abuse education or treatment programs;
- 147 k. The number of inmates who are receiving substance abuse
148 services;
- 149 l. The percentage of inmates who complete mandatory
150 literacy programs and who score at or above the 6th grade level
151 on Tests of Adult Basic Education;
- 152 m. The percentage of inmates who successfully complete
153 mandatory literacy programs;
- 154 n. The percentage of inmates who successfully complete
155 education programs for the General Education Development (GED)
156 test preparation;
- 157 o. The percentage of inmates needing special education
158 programs who participate in special education programs in



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159 accordance with federal law;
160 p. The percentage of inmates who successfully complete
161 vocational education programs;
162 q. The average increase in grade level achieved by inmates
163 participating in education programs every 3-month instructional
164 period; and
165 r. The percentage of inmates who successfully complete
166 transition, rehabilitation, or support programs without
167 subsequent recommitment to community supervision or prison for
168 24 months after release.
169 2. For work release centers, the required performance
170 measures must also include, but are not limited to:
171 a. The percent of employment of supervised individuals;
172 b. The illegal substance use by supervised individuals;
173 c. The victim restitution paid by supervised individuals;
174 d. Compliance by supervised individuals with no-contact
175 orders;
176 e. The number of serious incidents occurring at the
177 facility; and
178 f. The number of absconders.
179 (9) The Department of Management Services shall provide
180 reports to each chair of the legislative appropriations
181 committees regarding the performance of each contractor which
182 include, but are not limited to, information regarding each
183 required performance measure in each contract resulting from the
184 request for proposals for each contractor and for each
185 correctional facility and assigned correctional unit.
186 (10) After the Department of Management Services has issued
187 its notice of intent to award a contract, resolved any bid



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188 protests, and concluded negotiation of a contract resulting from
189 the request for proposals, the Department of Corrections must
190 prepare and submit to the Legislative Budget Commission proposed
191 revisions to its operating budget which demonstrate the 7
192 percent savings required under subsection (3), which must be
193 attained during the first year of the term of the contract.

194 (11) After approval by the Legislative Budget Commission,
195 the Department of Management Services shall enter into a
196 contract with one or more winning bidders.

197 (12) Each current Department of Corrections employee at the
198 designated correctional facility and assigned correctional unit
199 who is affected by the privatization must be given first
200 preference for continued employment by the contractor selected
201 as a result of a request for proposals. The Department of
202 Corrections shall make reasonable efforts to find suitable job
203 placements for employees who wish to continue to be employed by
204 the state.

205 (13) The request for appropriation of funds to make
206 payments pursuant to contracts entered into by the Department of
207 Management Services for the operation and maintenance of the
208 correctional facilities and assigned correctional units as
209 authorized by this section shall be made by the Department of
210 Management Services in a request to the Department of
211 Corrections. The Department of Corrections shall include such
212 request in its legislative budget request to the Legislature as
213 a separately identified item and shall forward the request of
214 the Department of Management Services without change. After an
215 appropriation has been made by the Legislature to the Department
216 of Corrections for the correctional facilities and assigned



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217 correctional units, the Department of Corrections shall have no
218 authority over such funds other than to pay from such
219 appropriation to the appropriate contractor such amounts as are
220 certified for payment by the Department of Management Services.

221 (14) The Department of Management Services and the
222 Department of Corrections may adopt rules as necessary to
223 administer this section.

224
225 ===== T I T L E A M E N D M E N T =====

226 And the title is amended as follows:

227 Delete lines 2 - 63

228 and insert:

229 An act relating to the privatization of correctional
230 facilities; creating s. 944.7115, F.S.; requiring that
231 the Department of Management Services, working with
232 the Department of Corrections, privatize the
233 management and operation of certain correctional
234 facilities and assigned correctional units; requiring
235 that the Department of Management Services issue two
236 or more requests for proposals; providing a timeframe
237 for proposals submitted in response to a request for
238 proposals; requiring the department to prepare a
239 business case for the privatization before issuing the
240 requests for proposals; providing certain cost-saving
241 requirements; requiring that the Department of
242 Corrections determine the costs incurred for the 2010-
243 2011 fiscal year for each correctional facility and
244 assigned correctional unit according to a specified
245 formula; limiting the costs to be incurred by the



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246 state in the second or subsequent contract years;
247 providing that the provisions in a request for
248 proposals which relate to cost savings are not subject
249 to challenge in any protest of the specifications of a
250 request for proposals; requiring that each contractor
251 selected as a result of a request for proposals manage
252 and operate the correctional facilities and all
253 assigned correctional units at certain capacities;
254 requiring that all activities regarding the
255 classification of inmates remain under the supervision
256 and direction of the Department of Corrections;
257 requiring that each facility's average daily
258 population and medical and psychological grade
259 population percentages remain unchanged from the
260 average daily population calculated for the 2010-2011
261 fiscal year; requiring that certain accounts
262 associated with the correctional facilities and
263 assigned correctional units continue to be remitted to
264 the General Revenue Fund; providing that certain
265 statutory provisions regarding contractual
266 arrangements with private entities for the operation
267 and maintenance of correctional facilities and the
268 certification of private correctional officers do not
269 apply to a request for proposals or a contract
270 authorized by the act; providing that s. 216.023,
271 F.S., regarding legislative budget requests furnished
272 to the Legislature, does not initially apply to the
273 Department of Corrections or the Department of
274 Management Services with respect to the services



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275 required to be privatized under the act; requiring the
276 appointment of a contract monitor; providing
277 requirements for the certification of private
278 correctional officers at the contractor's expense;
279 providing required performance measures for a contract
280 that results from a request for proposals; requiring
281 that the Department of Management Services provide
282 reports to the legislative appropriations committees
283 regarding the performance of each contractor;
284 requiring that the Department of Corrections prepare
285 and submit to the Legislative Budget Commission
286 proposed revisions to its operating budget; requiring
287 that the Department of Management Services enter into
288 a contract with one or more winning bidders after
289 approval by the Legislative Budget Commission;
290 requiring that current employees at each designated
291 correctional facility and assigned correctional unit
292 be given first preference for continued employment;
293 requiring that the Department of Corrections make
294 reasonable efforts for finding job placements for
295 employees who wish to continue to be employed by the
296 state; providing requirements for the request for
297 appropriation of funds; limiting the authority of the
298 Department of Corrections with respect to such
299 appropriation; authorizing the Department of
300 Management Services and the Department of Corrections
301 to adopt rules; providing