

By the Committees on Budget; Rules; and Rules

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1 A bill to be entitled
2 An act relating to the privatization of correctional
3 facilities; creating s. 944.7115, F.S.; requiring that
4 the Department of Management Services, working with
5 the Department of Corrections, privatize the
6 management and operation of certain correctional
7 facilities and assigned correctional units; requiring
8 that the Department of Management Services issue two
9 or more requests for proposals; providing a timeframe
10 for proposals submitted in response to a request for
11 proposals; requiring the department to prepare a
12 business case for the privatization before issuing the
13 requests for proposals; providing certain cost-saving
14 requirements; requiring that the Department of
15 Corrections determine the costs incurred for the 2010-
16 2011 fiscal year for each correctional facility and
17 assigned correctional unit according to a specified
18 formula; limiting the costs to be incurred by the
19 state in the second or subsequent contract years;
20 providing that the provisions in a request for
21 proposals which relate to cost savings are not subject
22 to challenge in any protest of the specifications of a
23 request for proposals; requiring that each contractor
24 selected as a result of a request for proposals manage
25 and operate the correctional facilities and all
26 assigned correctional units at certain capacities;
27 requiring that all activities regarding the
28 classification of inmates remain under the supervision
29 and direction of the Department of Corrections;

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30 requiring that each facility's average daily
31 population and medical and psychological grade
32 population percentages remain unchanged from the
33 average daily population calculated for the 2010-2011
34 fiscal year; requiring that certain accounts
35 associated with the correctional facilities and
36 assigned correctional units continue to be remitted to
37 the General Revenue Fund; providing that certain
38 statutory provisions regarding contractual
39 arrangements with private entities for the operation
40 and maintenance of correctional facilities and the
41 certification of private correctional officers do not
42 apply to a request for proposals or a contract
43 authorized by the act; providing that s. 216.023,
44 F.S., regarding legislative budget requests furnished
45 to the Legislature, does not initially apply to the
46 Department of Corrections or the Department of
47 Management Services with respect to the services
48 required to be privatized under the act; specifying
49 the requirements for any contract resulting from a
50 request for proposals; limiting the term of the
51 contract and providing for renewal; requiring the
52 appointment of a contract monitor; providing
53 requirements for the certification of private
54 correctional officers at the contractor's expense;
55 providing required performance measures for a contract
56 that results from a request for proposals; requiring
57 the contract to specify that employees of the
58 contractor do not have the right to strike; requiring

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59 that the contractor purchase services and supplies for
60 the operation and maintenance of the correctional
61 facilities or assigned correctional units from a
62 subcontractor or supplier that is located in this
63 state or that employs residents of this state under
64 certain circumstances; providing an exception;
65 requiring that the contractor reimburse the state for
66 the total cost of unused, accumulated leave actually
67 paid by the state to former employees of the
68 Department of Corrections who were employed at the
69 correctional facilities and assigned correctional
70 units; requiring that the Department of Management
71 Services certify to the contractor the amount that
72 must be reimbursed; requiring that the contractor pay
73 the reimbursement to the state within a specified
74 period after receiving the department's certification;
75 requiring that the contractor pay to the Department of
76 Management Services the reasonable and direct costs
77 associated with the pursuit or apprehension of an
78 escapee from a correctional facility and incurred by
79 any state or local law enforcement agency while
80 involved in the pursuit or apprehension of an escapee
81 during a specified period after the inmate's escape;
82 requiring that the Department of Management Services
83 provide reports to the legislative appropriations
84 committees regarding the performance of each
85 contractor; requiring that the Department of
86 Corrections prepare and submit to the Legislative
87 Budget Commission proposed revisions to its operating

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88 budget; requiring that the Department of Management
89 Services enter into a contract with one or more
90 winning bidders after approval by the Legislative
91 Budget Commission; requiring that current employees at
92 each designated correctional facility and assigned
93 correctional unit be given first preference for
94 continued employment; requiring that the Department of
95 Corrections make reasonable efforts for finding job
96 placements for employees who wish to continue to be
97 employed by the state; requiring that the Department
98 of Economic Opportunity expeditiously provide
99 assistance and services to employees of the Department
100 of Corrections who are not employed by the contractor
101 or who do not continue employment with the Department
102 of Corrections; providing requirements for the request
103 for appropriation of funds; limiting the authority of
104 the Department of Corrections with respect to such
105 appropriation; authorizing the Department of
106 Management Services and the Department of Corrections
107 to adopt rules; providing an effective date.

108
109 Be It Enacted by the Legislature of the State of Florida:

110
111 Section 1. Section 944.7115, Florida Statutes, is created
112 to read:

113 944.7115 Department of Corrections; Southern Florida
114 Region; privatization of correctional facilities.-

115 (1) Notwithstanding s. 287.057(1)(b)1., the Department of
116 Management Services, working with the Department of Corrections,

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117 shall, through the issuance of two or more requests for
118 proposals, privatize the management and operation of all
119 correctional facilities and assigned correctional units,
120 including prisons, annexes, work camps, road prisons, and work
121 release centers, which are operated by the Department of
122 Corrections in the Southern Florida Region and located in
123 Manatee, Hardee, Indian River, Okeechobee, Highlands, St. Lucie,
124 DeSoto, Sarasota, Charlotte, Glades, Martin, Palm Beach, Hendry,
125 Lee, Collier, Broward, Miami-Dade, and Monroe Counties,
126 excluding the South Florida Reception Center and any
127 correctional facility or assigned correctional unit that has
128 been closed or scheduled for closure before June 30, 2012. This
129 subsection does not apply to nurses working for the department
130 in Region IV.

131 (2) The Department of Management Services shall issue its
132 requests for proposals no later than 30 days after the effective
133 date of this act. The Department of Management Services shall
134 require that any proposal submitted in response to a request for
135 proposals be submitted no later than 30 days after the issuance
136 of the request for proposals. The Department of Management
137 Services shall prepare the business case for the privatization
138 required under this section, in accordance with s. 287.0571,
139 prior to the issuance of the requests for proposals.

140 (3) Each request for proposals which is issued by the
141 Department of Management Services must provide that the total
142 cost of a responsive proposal to the state during the first year
143 of the contract must result in actual cost savings to the state
144 of at least 7 percent of the costs incurred by the state for the
145 2010-2011 fiscal year for the provision of the services at the

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146 correctional facilities and assigned correctional units included
147 in the request for proposals. For each correctional facility and
148 assigned correctional unit included in a request for proposals,
149 the Department of Corrections shall determine and provide to the
150 Department of Management Services the costs incurred by the
151 state for the 2010-2011 fiscal year using the average daily
152 population of each correctional facility and assigned
153 correctional unit during the 2010-2011 fiscal year and the
154 direct and distributed inmate per diem cost for each
155 correctional facility and assigned correctional unit during the
156 2010-2011 fiscal year, reduced for the 3 percent retirement
157 contribution now required by state employees under chapter 121,
158 by inmate medical costs, and by the department's direct and
159 personnel costs associated with inmate classification. The total
160 costs to be incurred by the state in the second or subsequent
161 years of the contract resulting from a request for proposals may
162 increase annually by not more than the percentage change in the
163 Consumer Price Index for All Urban Consumers, U.S. City Average,
164 all items not seasonally adjusted or successor reports, for the
165 preceding December as initially reported by the United States
166 Department of Labor, Bureau of Labor Statistics; however, any
167 such increase is contingent upon appropriation by the
168 Legislature. Notwithstanding s. 120.57(3), the provisions in a
169 request for proposals which relate to the cost savings required
170 under this subsection are not subject to challenge in any
171 protest of the specifications of the request for proposals.

172 (4) Each contractor selected as a result of a request for
173 proposals must manage and operate each correctional facility and
174 the assigned correctional unit at capacities set forth in s.

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175 944.023.

176 (5) All activities regarding the classification of inmates
177 shall remain under the Department of Corrections' supervision
178 and direction as required by law. Each facility's average daily
179 population, as well as medical and psychological grade
180 population percentages, shall remain substantially unchanged
181 from the average daily population calculated for the 2010-2011
182 fiscal year.

183 (6) Notwithstanding ss. 944.72 and 945.215, funds from
184 canteens, subsistence payments, and any other participating
185 accounts associated with or located at the correctional
186 facilities and all assigned correctional units shall continue to
187 be remitted to the General Revenue Fund.

188 (7) The provisions of ss. 944.105(1) and (7) and 944.719(2)
189 do not apply to any request for proposals or contract authorized
190 by this section. Section 216.023 does not apply to the
191 Department of Corrections or the Department of Management
192 Services with respect to the services required to be privatized
193 under this section until the Department of Corrections is
194 required to submit its legislative budget request for the first
195 fiscal year that begins after the privatization required under
196 this section has been implemented.

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

199 (a) Require compliance with all applicable federal, state,
200 and local laws and all rules adopted by the Department of
201 Management Services and the Department of Corrections.

202 (b) Require actual cost savings to the state of at least 7
203 percent of the costs incurred by the state for the 2010-2011

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204 fiscal year for the provision of the required services at the
205 correctional facilities and assigned correctional units included
206 in the request for proposals.

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

209 (d) Require the selection and appointment of a full-time
210 contract monitor. The contract monitor shall be appointed and
211 supervised by the Department of Management Services. The
212 contractor shall reimburse the Department of Management Services
213 for the salary and expenses of the contract monitor. It is the
214 obligation of the contractor to provide suitable office space
215 for the contract monitor at the correctional facility. The
216 contract monitor shall have unlimited access to the correctional
217 facilities and assigned correctional units.

218 (e) Require the certification of private correctional
219 officers pursuant to s. 943.1395 at the contractor's expense,
220 and all such officers must meet the minimum qualifications
221 established in s. 943.13. All other employees of the contractor
222 who perform their duties at the private correctional facility
223 shall, at a minimum, receive the same quality and quantity of
224 training required by the state for employees of state-operated
225 correctional facilities. All training expenses are the
226 responsibility of the contractor. The Department of Corrections
227 shall be the contributor and recipient of all criminal
228 background information necessary for certification by the
229 Criminal Justice Standards and Training Commission.

230 (f) Include specific performance measures and levels of
231 expected performance for the contractor in order to ensure
232 contractor performance and accountability, and require the

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233 contractor to provide the Department of Management Services with
234 information concerning each performance measure for each
235 separate correctional facility and assigned correctional unit
236 for each month, calendar quarter, and year during the term of
237 the contract, in the format specified by the Department of
238 Management Services.

239 1. The required performance measures must include, but are
240 not limited to:

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

243 b. The number of inmates receiving major disciplinary
244 reports per 1,000 inmates;

245 c. The percentage of random inmate drug tests that are
246 negative;

247 d. The percentage of reported criminal incidents
248 investigated by the proper authorities;

249 e. The number of escapes from the secure perimeter of major
250 institutions;

251 f. The percentage of inmates placed in a facility that
252 provides at least one of the inmate's primary program needs;

253 g. The number of transition plans completed for inmates who
254 are released from prison;

255 h. The number of release plans completed for inmates who
256 are released from prison;

257 i. The percentage of release plans completed for inmates
258 who are released from prison;

259 j. The percentage of inmates who successfully complete drug
260 abuse education or treatment programs;

261 k. The number of inmates who are receiving substance abuse

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- 262 services;
- 263 1. The percentage of inmates who complete mandatory
- 264 literacy programs and who score at or above the 6th grade level
- 265 on Tests of Adult Basic Education;
- 266 m. The percentage of inmates who successfully complete
- 267 mandatory literacy programs;
- 268 n. The percentage of inmates who successfully complete
- 269 education programs for the General Education Development (GED)
- 270 test preparation;
- 271 o. The percentage of inmates needing special education
- 272 programs who participate in special education programs in
- 273 accordance with federal law;
- 274 p. The percentage of inmates who successfully complete
- 275 vocational education programs;
- 276 q. The average increase in grade level achieved by inmates
- 277 participating in education programs every 3-month instructional
- 278 period; and
- 279 r. The percentage of inmates who successfully complete
- 280 transition, rehabilitation, or support programs without
- 281 subsequent recommitment to community supervision or prison for
- 282 24 months after release.
- 283 2. For work release centers, the required performance
- 284 measures must also include, but are not limited to:
- 285 a. The percent of employment of supervised individuals;
- 286 b. The illegal substance use by supervised individuals;
- 287 c. The victim restitution paid by supervised individuals;
- 288 d. Compliance by supervised individuals with no-contact
- 289 orders;
- 290 e. The number of serious incidents occurring at the

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291 facility; and

292 f. The number of absconders.

293 (g) Require that any contract between the contractor and a
294 union representing employees of the contractor at a correctional
295 facility or assigned correctional unit must provide that the
296 employees of the contractor do not have the right to strike.

297 (9) The contractor shall purchase services and supplies
298 required for the operation and maintenance of the correctional
299 facilities or assigned correctional units included in the
300 contract from a subcontractor or supplier that is located in
301 this state or that employs residents of this state if the costs
302 of such services and supplies are equal to the cost of such
303 services and supplies offered by a subcontractor or supplier
304 that is not located in this state or that does not employ
305 residents of this state; however, if the costs, terms, and
306 conditions associated with the purchase of services and supplies
307 are not identical, the contractor may select the subcontractor
308 or supplier preferred by the contractor.

309 (10) The contractor shall reimburse the state for the total
310 cost of unused, accumulated leave actually paid by the state, in
311 accordance with the law and policies in effect on January 1,
312 2012, to former employees of the Department of Corrections who
313 were employed at the correctional facilities and assigned
314 correctional units included in the contract during the pay
315 period immediately prior to the date on which the contractor
316 begins performance. The total amount that must be reimbursed may
317 not exceed \$8 million under all contracts entered into pursuant
318 to this section. The Department of Management Services shall
319 certify to the contractor the amount that must be reimbursed and

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320 the contractor shall pay the reimbursement to the state no later
321 than 180 days after receipt of such certification.

322 (11) The contractor shall pay to the Department of
323 Management Services the reasonable and direct costs, certified
324 by the Department of Management Services and included in the
325 contract, which are associated with the pursuit or apprehension
326 of an escapee from a correctional facility and incurred by any
327 state or local law enforcement agency while involved in the
328 pursuit or apprehension of an escapee during the 48 hours after
329 the inmate's escape.

330 (12) The Department of Management Services shall provide
331 reports to each chair of the legislative appropriations
332 committees regarding the performance of each contractor which
333 include, but are not limited to, information regarding each
334 required performance measure in each contract resulting from the
335 request for proposals for each contractor and for each
336 correctional facility and assigned correctional unit.

337 (13) After the Department of Management Services has issued
338 its notice of intent to award a contract, resolved any bid
339 protests, and concluded negotiation of a contract resulting from
340 the request for proposals, the Department of Corrections must
341 prepare and submit to the Legislative Budget Commission proposed
342 revisions to its operating budget which demonstrate the 7
343 percent savings required under subsection (3), which must be
344 attained during the first year of the term of the contract.

345 (14) After approval by the Legislative Budget Commission,
346 the Department of Management Services shall enter into a
347 contract with one or more winning bidders.

348 (15) Each current Department of Corrections employee at the

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349 designated correctional facility and assigned correctional unit
350 who is affected by the privatization must be given first
351 preference for continued employment by the contractor selected
352 as a result of a request for proposals. The Department of
353 Corrections shall make reasonable efforts to find suitable job
354 placements for employees who wish to continue to be employed by
355 the state.

356 (16) The Department of Economic Opportunity shall
357 expeditiously provide assistance and services to employees of
358 the Department of Corrections who are not employed by the
359 contractor or who do not continue employment with the Department
360 of Corrections.

361 (17) The request for appropriation of funds to make
362 payments pursuant to contracts entered into by the Department of
363 Management Services for the operation and maintenance of the
364 correctional facilities and assigned correctional units as
365 authorized by this section shall be made by the Department of
366 Management Services in a request to the Department of
367 Corrections. The Department of Corrections shall include such
368 request in its legislative budget request to the Legislature as
369 a separately identified item and shall forward the request of
370 the Department of Management Services without change. After an
371 appropriation has been made by the Legislature to the Department
372 of Corrections for the correctional facilities and assigned
373 correctional units, the Department of Corrections shall have no
374 authority over such funds other than to pay from such
375 appropriation to the appropriate contractor such amounts as are
376 certified for payment by the Department of Management Services.

377 (18) The Department of Management Services and the

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378 Department of Corrections may adopt rules as necessary to
379 administer this section.

380 Section 2. This act shall take effect upon becoming a law.