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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 the Department of Corrections classify  
28          all inmates without regard for and without  
29          consideration of whether the inmates will be assigned

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30 to facilities operated by the Department of  
31 Corrections or by a contractor; requiring that each  
32 facility's medical and psychological grade population  
33 percentages remain substantially unchanged from the  
34 average daily population calculated for the 2010-2011  
35 fiscal year; requiring that the Office of Program  
36 Policy Analysis and Government Accountability conduct  
37 a review of the assignments of inmates by the  
38 Department of Corrections; requiring that the office  
39 submit a report of its findings to the Governor and  
40 Legislature by a specified date each year; requiring  
41 that certain accounts associated with the correctional  
42 facilities and assigned correctional units continue to  
43 be remitted to the General Revenue Fund; providing  
44 that certain statutory provisions regarding  
45 contractual arrangements with private entities for the  
46 operation and maintenance of correctional facilities  
47 and the certification of private correctional officers  
48 do not apply to a request for proposals or a contract  
49 authorized by the act; providing that s. 216.023,  
50 F.S., regarding legislative budget requests furnished  
51 to the Legislature, does not initially apply to the  
52 Department of Corrections or the Department of  
53 Management Services with respect to the services  
54 required to be privatized under the act; providing for  
55 a performance audit by the Office of Program Policy  
56 and Government Analysis of any contract awarded  
57 pursuant to the act; specifying the requirements for  
58 any contract resulting from a request for proposals;

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59 limiting the term of the contract and providing for  
60 renewal; requiring the appointment of a contract  
61 monitor; providing requirements for the certification  
62 of private correctional officers at the contractor's  
63 expense; providing required performance measures for a  
64 contract that results from a request for proposals;  
65 requiring the contract to specify that employees of  
66 the contractor do not have the right to strike;  
67 requiring that the contractor purchase services and  
68 supplies for the operation and maintenance of the  
69 correctional facilities or assigned correctional units  
70 from a subcontractor or supplier that is located in  
71 this state or that employs residents of this state  
72 under certain circumstances; providing an exception;  
73 requiring that the contractor reimburse the state for  
74 the total cost of unused, accumulated leave actually  
75 paid by the state to former employees of the  
76 Department of Corrections who were employed at the  
77 correctional facilities and assigned correctional  
78 units and who leave employment with the Department of  
79 Corrections; requiring that the Department of  
80 Management Services certify to the contractor the  
81 amount that must be reimbursed; requiring that the  
82 contractor pay the reimbursement to the state within a  
83 specified period after receiving the department's  
84 certification; prohibiting the cost of such unused,  
85 accumulated leave from being included in the costs  
86 incurred by the state for the 2010-2011 fiscal year  
87 and in the 7 percent cost savings; requiring that the

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88 contractor pay to the Department of Management  
89 Services the reasonable and direct costs associated  
90 with the pursuit or apprehension of an escapee from a  
91 correctional facility and incurred by any state or  
92 local law enforcement agency while involved in the  
93 pursuit or apprehension of an escapee; requiring that  
94 a specified percentage of the cost savings from the  
95 privatization required under the act be directed to  
96 the Department of Juvenile Justice for the purpose of  
97 funding the CINS/FINS program; requiring that the  
98 Department of Management Services provide reports to  
99 the legislative appropriations committees regarding  
100 the performance of each contractor; requiring that the  
101 Department of Corrections prepare and submit to the  
102 Legislative Budget Commission proposed revisions to  
103 its operating budget; requiring that the Department of  
104 Management Services enter into a contract with one or  
105 more winning bidders after approval by the Legislative  
106 Budget Commission; requiring that current employees at  
107 each designated correctional facility and assigned  
108 correctional unit be given first preference for  
109 continued employment; requiring that the Department of  
110 Corrections make reasonable efforts for finding job  
111 placements for employees who wish to continue to be  
112 employed by the state; requiring that the Department  
113 of Economic Opportunity expeditiously provide  
114 assistance and services to employees of the Department  
115 of Corrections who are not employed by the contractor  
116 or who do not continue employment with the Department

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117 of Corrections; providing requirements for the request  
118 for appropriation of funds; limiting the authority of  
119 the Department of Corrections with respect to such  
120 appropriation; requiring that the Department of  
121 Corrections be solely responsible for the operation  
122 and maintenance of any correctional facility at which  
123 the death penalty is administered; authorizing the  
124 Department of Management Services and the Department  
125 of Corrections to adopt rules; providing an effective  
126 date.

127  
128 Be It Enacted by the Legislature of the State of Florida:

129  
130 Section 1. Section 944.7115, Florida Statutes, is created  
131 to read:

132 944.7115 Department of Corrections; Southern Florida  
133 Region; privatization of correctional facilities.-

134 (1) Notwithstanding s. 287.057(1)(b)1., the Department of  
135 Management Services, working with the Department of Corrections,  
136 shall, through the issuance of two or more requests for  
137 proposals, privatize the management and operation of all  
138 correctional facilities and assigned correctional units,  
139 including prisons, annexes, work camps, road prisons, and work  
140 release centers, which are operated by the Department of  
141 Corrections in the Southern Florida Region and located in  
142 Manatee, Hardee, Indian River, Okeechobee, Highlands, St. Lucie,  
143 DeSoto, Sarasota, Charlotte, Glades, Martin, Palm Beach, Hendry,  
144 Lee, Collier, Broward, Miami-Dade, and Monroe Counties,  
145 excluding the South Florida Reception Center and any

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146 correctional facility or assigned correctional unit that has  
147 been closed or scheduled for closure before June 30, 2012. This  
148 subsection does not apply to nurses working for the department  
149 in Region IV.

150 (2) The Department of Management Services shall issue its  
151 requests for proposals no later than 60 days after the effective  
152 date of this act. The Department of Management Services shall  
153 require that any proposal submitted in response to a request for  
154 proposals be submitted no later than 60 days after the issuance  
155 of the request for proposals. The Department of Management  
156 Services shall prepare the business case for the privatization  
157 required under this section, in accordance with s. 287.0571,  
158 prior to the issuance of the requests for proposals.

159 (3) Each request for proposals which is issued by the  
160 Department of Management Services must provide that the total  
161 cost of a responsive proposal to the state during the first year  
162 of the contract must result in actual cost savings to the state  
163 of at least 7 percent of the costs incurred by the state for the  
164 2010-2011 fiscal year for the provision of the services at the  
165 correctional facilities and assigned correctional units included  
166 in the request for proposals. For each correctional facility and  
167 assigned correctional unit included in a request for proposals,  
168 the Department of Corrections shall determine and provide to the  
169 Department of Management Services the costs incurred by the  
170 state for the 2010-2011 fiscal year using the average daily  
171 population of each correctional facility and assigned  
172 correctional unit during the 2010-2011 fiscal year and the  
173 direct and distributed inmate per diem cost for each  
174 correctional facility and assigned correctional unit during the

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175 2010-2011 fiscal year, reduced for the 3 percent retirement  
176 contribution now required by state employees under chapter 121,  
177 by inmate medical costs, and by the department's direct and  
178 personnel costs associated with inmate classification. The  
179 Auditor General shall review and certify all such costs. The  
180 total costs to be incurred by the state in the second or  
181 subsequent years of the contract resulting from a request for  
182 proposals may increase annually by not more than the percentage  
183 change in the Consumer Price Index for All Urban Consumers, U.S.  
184 City Average, all items not seasonally adjusted or successor  
185 reports, for the preceding December as initially reported by the  
186 United States Department of Labor, Bureau of Labor Statistics;  
187 however, any such increase is contingent upon appropriation by  
188 the Legislature. Notwithstanding s. 120.57(3), the provisions in  
189 a request for proposals which relate to the cost savings  
190 required under this subsection are not subject to challenge in  
191 any protest of the specifications of the request for proposals.

192 (4) Each contractor selected as a result of a request for  
193 proposals must manage and operate each correctional facility and  
194 the assigned correctional unit at capacities set forth in s.  
195 944.023.

196 (5) (a) The Department of Corrections shall classify an  
197 inmate without regard for and without consideration of whether  
198 the correctional facility or assigned correctional facility to  
199 which the inmate will be assigned as a result of the  
200 classification is operated by the Department of Corrections or  
201 by a contractor. Each facility's medical and psychological grade  
202 population percentages shall remain substantially unchanged from  
203 the average daily population calculated for the 2010-2011 fiscal

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204 year. Each facility's average daily population shall be  
205 substantially the same or greater than the average daily  
206 population calculated for the 2010-2011 fiscal year.

207 (b) By October 1 of each year during the term of the  
208 contracts authorized under this section, the Office of Program  
209 Policy Analysis and Government Accountability shall conduct a  
210 review of the assignment of inmates by the Department of  
211 Corrections during the most recently ended fiscal year,  
212 determine the factors and considerations used by the Department  
213 of Corrections in the classification of inmates, and determine  
214 if the Department of Corrections has considered in the  
215 classification of inmates whether the correctional facility or  
216 assigned correctional unit to which inmates are assigned is  
217 operated by the Department of Corrections or by a contractor. By  
218 November 15 of each year, the Office of Program Policy Analysis  
219 and Government Accountability shall submit a report of its  
220 findings to the Governor, the President of the Senate, and the  
221 Speaker of the House of Representatives.

222 (6) Notwithstanding ss. 944.72 and 945.215, funds from  
223 canteens, subsistence payments, and any other participating  
224 accounts associated with or located at the correctional  
225 facilities and all assigned correctional units shall continue to  
226 be remitted to the General Revenue Fund.

227 (7) The provisions of ss. 944.105(1) and (7) and 944.719(2)  
228 do not apply to any request for proposals or contract authorized  
229 by this section. Section 216.023 does not apply to the  
230 Department of Corrections or the Department of Management  
231 Services with respect to the services required to be privatized  
232 under this section until the Department of Corrections is

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233 required to submit its legislative budget request for the first  
234 fiscal year that begins after the privatization required under  
235 this section has been implemented. Section 944.719(5) applies to  
236 any contract awarded by the Department of Management Services  
237 under this section.

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

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

243 (b) Require actual cost savings to the state of at least 7  
244 percent of the costs incurred by the state for the 2010-2011  
245 fiscal year for the provision of the required services at the  
246 correctional facilities and assigned correctional units included  
247 in the request for proposals.

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

250 (d) Require the selection and appointment of a full-time  
251 contract monitor. The contract monitor shall be appointed and  
252 supervised by the Department of Management Services. The  
253 contractor shall reimburse the Department of Management Services  
254 for the salary and expenses of the contract monitor. It is the  
255 obligation of the contractor to provide suitable office space  
256 for the contract monitor at the correctional facility. The  
257 contract monitor shall have unlimited access to the correctional  
258 facilities and assigned correctional units.

259 (e) Require the certification of private correctional  
260 officers pursuant to s. 943.1395 at the contractor's expense,  
261 and all such officers must meet the minimum qualifications

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262 established in s. 943.13. All other employees of the contractor  
263 who perform their duties at the private correctional facility  
264 shall, at a minimum, receive the same quality and quantity of  
265 training required by the state for employees of state-operated  
266 correctional facilities. All training expenses are the  
267 responsibility of the contractor. The Department of Corrections  
268 shall be the contributor and recipient of all criminal  
269 background information necessary for certification by the  
270 Criminal Justice Standards and Training Commission.

271 (f) Include specific performance measures and levels of  
272 expected performance for the contractor in order to ensure  
273 contractor performance and accountability, and require the  
274 contractor to provide the Department of Management Services with  
275 information concerning each performance measure for each  
276 separate correctional facility and assigned correctional unit  
277 for each month, calendar quarter, and year during the term of  
278 the contract, in the format specified by the Department of  
279 Management Services.

280 1. The required performance measures must include, but are  
281 not limited to:

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

284 b. The number of inmates receiving major disciplinary  
285 reports per 1,000 inmates;

286 c. The percentage of random inmate drug tests that are  
287 negative;

288 d. The percentage of reported criminal incidents  
289 investigated by the proper authorities;

290 e. The number of escapes from the secure perimeter of major

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291 institutions;  
292 f. The percentage of inmates placed in a facility that  
293 provides at least one of the inmate's primary program needs;  
294 g. The number of transition plans completed for inmates who  
295 are released from prison;  
296 h. The number of release plans completed for inmates who  
297 are released from prison;  
298 i. The percentage of release plans completed for inmates  
299 who are released from prison;  
300 j. The percentage of inmates who successfully complete drug  
301 abuse education or treatment programs;  
302 k. The number of inmates who are receiving substance abuse  
303 services;  
304 l. The percentage of inmates who complete mandatory  
305 literacy programs and who score at or above the 6th grade level  
306 on Tests of Adult Basic Education;  
307 m. The percentage of inmates who successfully complete  
308 mandatory literacy programs;  
309 n. The percentage of inmates who successfully complete  
310 education programs for the General Education Development (GED)  
311 test preparation;  
312 o. The percentage of inmates needing special education  
313 programs who participate in special education programs in  
314 accordance with federal law;  
315 p. The percentage of inmates who successfully complete  
316 vocational education programs;  
317 q. The average increase in grade level achieved by inmates  
318 participating in education programs every 3-month instructional  
319 period; and

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320 r. The percentage of inmates who successfully complete  
321 transition, rehabilitation, or support programs without  
322 subsequent recommitment to community supervision or prison for  
323 24 months after release.

324 2. For work release centers, the required performance  
325 measures must also include, but are not limited to:

326 a. The percent of employment of supervised individuals;

327 b. The illegal substance use by supervised individuals;

328 c. The victim restitution paid by supervised individuals;

329 d. Compliance by supervised individuals with no-contact  
330 orders;

331 e. The number of serious incidents occurring at the  
332 facility; and

333 f. The number of absconders.

334 (g) Require that any contract between the contractor and a  
335 union representing employees of the contractor at a correctional  
336 facility or assigned correctional unit must provide that the  
337 employees of the contractor do not have the right to strike.

338 (9) The contractor shall purchase services and supplies  
339 required for the operation and maintenance of the correctional  
340 facilities or assigned correctional units included in the  
341 contract from a subcontractor or supplier that is located in  
342 this state or that employs residents of this state if the costs  
343 of such services and supplies are equal to the cost of such  
344 services and supplies offered by a subcontractor or supplier  
345 that is not located in this state or that does not employ  
346 residents of this state; however, if the costs, terms, and  
347 conditions associated with the purchase of services and supplies  
348 are not identical, the contractor may select the subcontractor

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349 or supplier preferred by the contractor.

350 (10) (a) The contractor shall reimburse the state for the  
351 total costs of all unused, accumulated leave actually paid by  
352 the state, in accordance with law and policies in effect on  
353 January 1, 2012, to former employees of the Department of  
354 Corrections who were employed at the correctional facilities and  
355 assigned correctional units included in the contract during the  
356 pay period immediately prior to the date on which the contractor  
357 begins performance and who leave employment with the Department  
358 of Corrections at any time within 1 year after such date.

359 (b) The Department of Management Services shall certify to  
360 the contractor the amount that must be reimbursed and the  
361 contractor shall pay the reimbursement to the state no later  
362 than 180 days after receipt of such certification.

363 (c) The cost of such unused, accumulated leave may not be  
364 included in the costs incurred by the state for the 2010-2011  
365 fiscal year for the provision of services at the correctional  
366 facilities and assigned correctional units included in the  
367 requests for proposals and may not be included in the 7 percent  
368 cost savings required under subsection (3) which must be  
369 attained during the first year of the contract.

370 (11) The contractor shall pay to the Department of  
371 Management Services the reasonable and direct costs, certified  
372 by the Department of Management Services and included in the  
373 contract, which are associated with the pursuit or apprehension  
374 of an escapee from a correctional facility and incurred by any  
375 state or local law enforcement agency while involved in the  
376 pursuit or apprehension of an escapee.

377 (12) Twenty percent of the cost savings required under

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378 subsection (3) shall be directed to the Department of Juvenile  
379 Justice for the purpose of funding the CINS/FINS program under  
380 chapter 984.

381 (13) The Department of Management Services shall provide  
382 reports to each chair of the legislative appropriations  
383 committees regarding the performance of each contractor which  
384 include, but are not limited to, information regarding each  
385 required performance measure in each contract resulting from the  
386 request for proposals for each contractor and for each  
387 correctional facility and assigned correctional unit.

388 (14) After the Department of Management Services has issued  
389 its notice of intent to award a contract, resolved any bid  
390 protests, and concluded negotiation of a contract resulting from  
391 the request for proposals, the Department of Corrections must  
392 prepare and submit to the Legislative Budget Commission proposed  
393 revisions to its operating budget which demonstrate the 7  
394 percent savings required under subsection (3), which must be  
395 attained during the first year of the term of the contract. The  
396 Auditor General shall review and certify the attainment of the  
397 required savings.

398 (15) After approval by the Legislative Budget Commission,  
399 the Department of Management Services shall enter into a  
400 contract with one or more winning bidders.

401 (16) Each current Department of Corrections employee at the  
402 designated correctional facility and assigned correctional unit  
403 who is affected by the privatization must be given first  
404 preference for continued employment by the contractor selected  
405 as a result of a request for proposals. The Department of  
406 Corrections shall make reasonable efforts to find suitable job

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407 placements for employees who wish to continue to be employed by  
408 the state.

409 (17) The Department of Economic Opportunity shall  
410 expeditiously provide assistance and services to employees of  
411 the Department of Corrections who are not employed by the  
412 contractor or who do not continue employment with the Department  
413 of Corrections.

414 (18) The request for appropriation of funds to make  
415 payments pursuant to contracts entered into by the Department of  
416 Management Services for the operation and maintenance of the  
417 correctional facilities and assigned correctional units as  
418 authorized by this section shall be made by the Department of  
419 Management Services in a request to the Department of  
420 Corrections. The Department of Corrections shall include such  
421 request in its legislative budget request to the Legislature as  
422 a separately identified item and shall forward the request of  
423 the Department of Management Services without change. After an  
424 appropriation has been made by the Legislature to the Department  
425 of Corrections for the correctional facilities and assigned  
426 correctional units, the Department of Corrections shall have no  
427 authority over such funds other than to pay from such  
428 appropriation to the appropriate contractor such amounts as are  
429 certified for payment by the Department of Management Services.

430 (19) Notwithstanding any other provision of this section,  
431 the Department of Corrections shall be solely responsible for  
432 the operation and maintenance of any correctional facility at  
433 which the death penalty is administered.

434 (20) The Department of Management Services and the  
435 Department of Corrections may adopt rules as necessary to

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436 administer this section.

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