

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Richardson offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 515 and 516, insert:

5 Section 1. Paragraphs (a), (b), (e), and (g) of subsection
6 (1), paragraph (c) of subsection (2), and subsections (5), (6),
7 and (7) of section 957.04, Florida Statutes, are amended to
8 read:

9 957.04 Contract requirements.—

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

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13 (a) Be negotiated with the firm found most qualified.
14 However, a contract for private correctional services may not be
15 entered into by the department ~~of Management Services~~ unless the
16 department ~~of Management Services~~ determines that the contractor
17 has demonstrated that it has:

18 1. The qualifications, experience, and management
19 personnel necessary to carry out the terms of the contract.

20 2. The ability to expedite the siting, design, and
21 construction of correctional facilities.

22 3. The ability to comply with applicable laws, court
23 orders, and national correctional standards.

24 (b) Indemnify the state and the department, including
25 their officials and agents, against any and all liability,
26 including, but not limited to, civil rights liability. Proof of
27 satisfactory insurance is required in an amount to be determined
28 by the department ~~of Management Services~~.

29 (e) Establish operations standards for correctional
30 facilities subject to the contract. However, if the department
31 and the contractor disagree with an operations standard, the
32 contractor may propose to waive any rule, policy, or procedure
33 of the department related to the operations standards of
34 correctional facilities which is inconsistent with the mission
35 of the contractor to establish cost-effective, privately
36 operated correctional facilities. The department ~~of Management~~
37 ~~Services~~ shall be responsible for considering all proposals from

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38 the contractor to waive any rule, policy, or procedure and shall
39 render a final decision granting or denying such request.

40 (g) Require the selection and appointment of a full-time
41 contract monitor. The contract monitor shall be appointed and
42 supervised by the department ~~of Management Services~~. The
43 contractor is required to reimburse the department ~~of Management~~
44 ~~Services~~ for the salary and expenses of the contract monitor. It
45 is the obligation of the contractor to provide suitable office
46 space for the contract monitor at the correctional facility. The
47 contract monitor shall have unlimited access to the correctional
48 facility.

49 (2) Each contract entered into for the design and
50 construction of a private correctional facility or juvenile
51 commitment facility must include:

52 (c) A specific provision requiring the contractor, and not
53 the department ~~of Management Services~~, to obtain the financing
54 required to design and construct the private correctional
55 facility or juvenile commitment facility built under this
56 chapter.

57 (5) Each contract entered into by the department ~~of~~
58 ~~Management Services~~ must include substantial minority
59 participation unless demonstrated by evidence, after a good
60 faith effort, as impractical and must also include any other
61 requirements the department ~~of Management Services~~ considers

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62 necessary and appropriate for carrying out the purposes of this
63 chapter.

64 (6) Notwithstanding s. 253.025(9), the Board of Trustees
65 of the Internal Improvement Trust Fund need not approve a lease-
66 purchase agreement negotiated by the department ~~of Management~~
67 ~~Services~~ if the department ~~of Management Services~~ finds that
68 there is a need to expedite the lease-purchase.

69 (7) (a) Notwithstanding s. 253.025 or s. 287.057, whenever
70 the department ~~of Management Services~~ finds it to be in the best
71 interest of timely site acquisition, it may contract without the
72 need for competitive selection with one or more appraisers whose
73 names are contained on the list of approved appraisers
74 maintained by the Division of State Lands of the Department of
75 Environmental Protection in accordance with s. 253.025(8). In
76 those instances when the department ~~of Management Services~~
77 directly contracts for appraisal services, it shall also
78 contract with an approved appraiser who is not employed by the
79 same appraisal firm for review services.

80 (b) Notwithstanding s. 253.025(8), the department ~~of~~
81 ~~Management Services~~ may negotiate and enter into lease-purchase
82 agreements before an appraisal is obtained. Any such agreement
83 must state that the final purchase price cannot exceed the
84 maximum value allowed by law.

85 Section 2. Subsection (2) of section 957.06, Florida
86 Statutes, is amended to read:

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87 957.06 Powers and duties not delegable to contractor.—A
88 contract entered into under this chapter does not authorize,
89 allow, or imply a delegation of authority to the contractor to:

90 (2) Choose the facility to which an inmate is initially
91 assigned or subsequently transferred. The contractor may
92 request, in writing, that an inmate be transferred to a facility
93 operated by the department. The ~~Department of Management~~
94 ~~Services, the contractor,~~ and the department shall develop and
95 implement a cooperative agreement for transferring inmates
96 between a correctional facility operated by the department and a
97 private correctional facility. The department, ~~the Department of~~
98 ~~Management Services,~~ and the contractor must comply with the
99 cooperative agreement.

100 Section 3. Subsections (1) and (4) and paragraph (d) of
101 subsection (5) of section 957.07, Florida Statutes, are amended
102 to read:

103 957.07 Cost-saving requirements.—

104 (1) The department ~~of Management Services~~ may not enter
105 into a contract or series of contracts unless the department
106 determines that the contract or series of contracts in total for
107 the facility will result in a cost savings to the state of at
108 least 7 percent over the public provision of a similar facility.
109 Such cost savings as determined by the department ~~of Management~~
110 ~~Services~~ must be based upon the actual costs associated with the
111 construction and operation of similar facilities or services as

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112 determined by the department ~~of Corrections~~ and certified by the
113 Auditor General. The department ~~of Corrections~~ shall calculate
114 all of the cost components that determine the inmate per diem in
115 correctional facilities of a substantially similar size, type,
116 and location that are operated by the department ~~of Corrections~~,
117 including administrative costs associated with central
118 administration. Services that are provided to the department ~~of~~
119 ~~Corrections~~ by other governmental agencies at no direct cost to
120 the department shall be assigned an equivalent cost and included
121 in the per diem.

122 (4) The department ~~of Corrections~~ shall provide a report
123 detailing the state cost to design, finance, acquire, lease,
124 construct, and operate a facility similar to the private
125 correctional facility on a per diem basis. This report shall be
126 provided to the Auditor General in sufficient time that it may
127 be ~~certified to the Department of Management Services to be~~
128 included in the request for proposals.

129 (5)

130 (d) If a private vendor chooses not to renew the contract
131 at the appropriated level, the department ~~of Management Services~~
132 shall terminate the contract as provided in s. 957.14.

133 Section 4. Section 957.08, Florida Statutes, is amended to
134 read:

135 957.08 Capacity requirements.—The Department of
136 Corrections shall transfer and assign prisoners to each private

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137 correctional facility opened pursuant to this chapter in an
138 amount not less than 90 percent or more than 100 percent of the
139 capacity of the facility pursuant to the contract ~~with the~~
140 ~~Department of Management Services~~. The prisoners transferred by
141 the Department of Corrections shall represent a cross-section of
142 the general inmate population, based on the grade of custody or
143 the offense of conviction, at the most comparable facility
144 operated by the department.

145 Section 5. Section 957.14, Florida Statutes, is amended to
146 read:

147 957.14 Contract termination and control of a correctional
148 facility by the department.—A detailed plan shall be provided by
149 a private vendor under which the department shall assume
150 temporary control of a private correctional facility upon
151 termination of the contract. The department ~~of Management~~
152 ~~Services~~ may terminate the contract with cause after written
153 notice of material deficiencies and after 60 workdays in order
154 to correct the material deficiencies. If any event occurs that
155 involves the noncompliance with or violation of contract terms
156 and that presents a serious threat to the safety, health, or
157 security of the inmates, employees, or the public, the
158 department may temporarily assume control of the private
159 correctional facility, ~~with the approval of the Department of~~
160 ~~Management Services~~. A plan shall also be provided by a private
161 vendor for the purchase and temporary assumption of operations

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162 of a correctional facility by the department in the event of
163 bankruptcy or the financial insolvency of the private vendor.
164 The private vendor shall provide an emergency plan to address
165 inmate disturbances, employee work stoppages, strikes, or other
166 serious events in accordance with standards of the American
167 Correctional Association.

168 Section 6. Section 957.15, Florida Statutes, is amended to
169 read:

170 957.15 Funding of contracts for operation, maintenance,
171 and lease-purchase of private correctional facilities.—The
172 request for appropriation of funds to make payments pursuant to
173 contracts entered into by the department ~~of Management Services~~
174 for the operation, maintenance, and lease-purchase of the
175 private correctional facilities authorized by this chapter shall
176 be made by the department ~~of Management Services~~ in a request to
177 ~~the department~~. The department shall include such request in its
178 budget request to the Legislature as a separately identified
179 item and ~~shall forward the request of the Department of~~
180 ~~Management Services without change. After an appropriation has~~
181 ~~been made by the Legislature to the department for the private~~
182 ~~correctional facilities, the department shall have no authority~~
183 ~~over such funds other than to pay from such appropriation to the~~
184 ~~appropriate private vendor such amounts as are certified for~~
185 ~~payment by the Department of Management Services.~~

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186 Section 7. Section 957.16, Florida Statutes, is amended to
187 read:

188 957.16 Expanding capacity.—The department may ~~of~~
189 ~~Management Services is authorized to~~ modify and execute
190 agreements with contractors to expand up to the total capacity
191 of contracted correctional facilities. Total capacity means the
192 design capacity of all contracted correctional facilities
193 increased by one-half as described under s. 944.023(1)(b). Any
194 additional beds authorized under this section must comply with
195 the cost-saving requirements set forth in s. 957.07. Any
196 additional beds authorized as a result of expanded capacity
197 under this section are contingent upon specified appropriations.

198 Section 8. Subsection (17) of section 287.042, Florida
199 Statutes, is amended to read:

200 287.042 Powers, duties, and functions.—The department
201 shall have the following powers, duties, and functions:

202 ~~(17)(a) To enter into contracts pursuant to chapter 957~~
203 ~~for the designing, financing, acquiring, leasing, constructing,~~
204 ~~or operating of private correctional facilities. The department~~
205 ~~shall enter into a contract or contracts with one contractor per~~
206 ~~facility for the designing, acquiring, financing, leasing,~~
207 ~~constructing, and operating of that facility or may, if~~
208 ~~specifically authorized by the Legislature, separately contract~~
209 ~~for any such services.~~

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210 ~~(b) To manage and enforce compliance with existing or~~
211 ~~future contracts entered into pursuant to chapter 957.~~

212
213 ~~The department may not delegate the responsibilities conferred~~
214 ~~by this subsection.~~

215 Section 9. Paragraph (a) of subsection (2) of section
216 945.215, Florida Statutes, is amended to read:

217 945.215 Inmate welfare and employee benefit trust funds.-

218 (2) PRIVATELY OPERATED INSTITUTIONS INMATE WELFARE TRUST
219 FUND; PRIVATE CORRECTIONAL FACILITIES.-

220 (a) For purposes of this subsection, privately operated
221 institutions or private correctional facilities are those
222 correctional facilities under contract with the department
223 pursuant to chapter 944 or ~~the Department of Management Services~~
224 ~~pursuant to~~ chapter 957.

225
226 -----

T I T L E A M E N D M E N T

227 Remove line 53 and insert:
228 reference; amending ss. 957.04, 957.06, 957.07,
229 957.08, 957.14, 957.15, and 957.16, F.S.; transferring
230 the duties of the Department of Management Services
231 concerning private correctional facilities to the
232 Department of Corrections; amending ss. 287.042 and
233

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234 | 945.215, F.S.; conforming provisions to changes made
235 | by the act; providing an effective date.

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