

By the Committees on Rules; and Rules

595-02202-12

20122038c1

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 Corrections privatize the management
5 and operation of certain correctional facilities and
6 assigned correctional units; requiring that the
7 department issue one or more requests for proposals;
8 providing a timeframe for proposals submitted in
9 response to a request for proposals; providing certain
10 cost-saving requirements for a request for proposals;
11 requiring that the department determine the costs
12 incurred for the 2010-2011 fiscal year for each
13 correctional facility and assigned correctional unit
14 according to a specified formula; limiting the costs
15 to be incurred by the state in the second or
16 subsequent contract years; providing that the
17 provisions in a request for proposals which relate to
18 cost savings are not subject to challenge in any
19 protest of the specifications of a request for
20 proposals; requiring that each contractor selected as
21 a result of a request for proposals manage and operate
22 the correctional facilities and all assigned
23 correctional units at certain capacities; requiring
24 that all activities regarding the classification of
25 inmates remain under the department's supervision and
26 direction; requiring that each facility's average
27 daily population and medical and psychological grade
28 population percentages remain unchanged from the
29 average daily population calculated for the 2010-2011

595-02202-12

20122038c1

30 fiscal year; requiring that certain participating
31 accounts associated with the correctional facilities
32 and assigned correctional units continue to be
33 remitted to the General Revenue Fund; providing that
34 certain statutory provisions regarding contractual
35 arrangements with private entities for the operation
36 and maintenance of correctional facilities and the
37 certification of private correctional officers do not
38 apply to a request for proposals or a contract
39 authorized by the act; providing that s. 216.023,
40 F.S., regarding legislative budget requests furnished
41 to the Legislature, does not initially apply to the
42 department with respect to the services required to be
43 privatized under the act; providing requirements for a
44 contract that results from a request for proposals;
45 requiring that the department provide reports to the
46 legislative appropriations committees regarding the
47 performance of each contractor; requiring that the
48 department prepare and submit to the Legislative
49 Budget Commission proposed revisions to its operating
50 budget; requiring that the department enter into a
51 contract with one or more winning bidders after
52 approval by the Legislative Budget Commission;
53 requiring that current employees at each designated
54 correctional facility and assigned correctional unit
55 be given first preference for continued employment;
56 requiring that the department make reasonable efforts
57 for finding job placements for employees who wish to
58 continue to be employed by the state; authorizing the

595-02202-12

20122038c1

59 department to adopt rules; repealing s. 944.719(1),
60 F.S., relating to the adoption of rules by the
61 Department of Corrections regarding contractual
62 arrangements and standards for the operation of
63 correctional facilities by private vendors; providing
64 an effective date.

65
66 Be It Enacted by the Legislature of the State of Florida:

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68 Section 1. Section 944.7115, Florida Statutes, is created
69 to read:

70 944.7115 Department of Corrections; Southern Florida
71 Region; privatization of correctional facilities.-

72 (1) Notwithstanding s. 287.057(1)(b)1., the department
73 shall, through the issuance of one or more requests for
74 proposals, privatize the management and operation of all
75 correctional facilities and assigned correctional units,
76 including prisons, annexes, work camps, road prisons, and work
77 release centers, which are operated by the department in the
78 Southern Florida Region and located in Manatee, Hardee, Indian
79 River, Okeechobee, Highlands, St. Lucie, DeSoto, Sarasota,
80 Charlotte, Glades, Martin, Palm Beach, Hendry, Lee, Collier,
81 Broward, Miami-Dade, and Monroe Counties, excluding any
82 correctional facility or assigned correctional unit that has
83 been closed or scheduled for closure before June 30, 2012.

84 (2) The department shall issue its request for proposals no
85 later than 30 days after the effective date of this act. The
86 department shall require that any proposal submitted in response
87 to a request for proposals be submitted no later than 30 days

595-02202-12

20122038c1

88 after the issuance of the request for proposals.

89 (3) Each request for proposals which is issued by the
90 department must provide that the total cost of a responsive
91 proposal to the department during the first year of the contract
92 must result in actual cost savings to the state of at least 7
93 percent of the costs incurred by the state for the 2010-2011
94 fiscal year for the provision of the services at the
95 correctional facilities and assigned correctional units included
96 in the request for proposals. For each correctional facility and
97 assigned correctional unit included in a request for proposals,
98 the department shall determine the costs incurred by the state
99 for the 2010-2011 fiscal year using the average daily population
100 of each correctional facility and assigned correctional unit
101 during the 2010-2011 fiscal year and the direct and distributed
102 inmate per diem cost for each correctional facility and assigned
103 correctional unit during the 2010-2011 fiscal year, reduced for
104 the 3 percent retirement contribution now required by state
105 employees under chapter 121, by inmate medical costs, and by the
106 department's direct and personnel costs associated with inmate
107 classification. The total costs to be incurred by the state in
108 the second or subsequent years of the contract resulting from
109 the request for proposals may increase by not more than the
110 percentage increase in the Consumer Price Index; however, any
111 such increase is contingent upon appropriation by the
112 Legislature. Notwithstanding s. 120.57(3), the provisions in a
113 request for proposals which relate to the cost savings required
114 under this subsection are not subject to challenge in any
115 protest of the specifications of the request for proposals.

116 (4) Each contractor selected as a result of a request for

595-02202-12

20122038c1

117 proposals must manage and operate each correctional facility and
118 the assigned correctional unit at capacities set forth in s.
119 944.023.

120 (5) All activities regarding the classification of inmates
121 shall remain under the department's supervision and direction as
122 required by law. Each facility's average daily population, as
123 well as medical and psychological grade population percentages,
124 shall remain substantially unchanged from the average daily
125 population calculated for the 2010-2011 fiscal year.

126 (6) Notwithstanding ss. 944.72 and 945.215, funds from
127 canteens, subsistence payments, and any other participating
128 accounts associated with or located at the correctional
129 facilities and all assigned correctional units shall continue to
130 be remitted to the General Revenue Fund.

131 (7) The provisions of s. 944.105(1), (6), and (7) do not
132 apply to any request for proposals or contract authorized by
133 this section. Section 216.023 does not apply to the department
134 with respect to the services required to be privatized under
135 this section until the department is required to submit its
136 legislative budget request for the first fiscal year that begins
137 after the department completely implements the privatization
138 required under this section.

139 (8) Any contract resulting from a request for proposals
140 must:

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

143 (b) Require actual cost savings to the state of at least 7
144 percent of the costs incurred by the state for the 2010-2011
145 fiscal year for the provision of the required services at the

595-02202-12

20122038c1

146 correctional facilities and assigned correctional units included
147 in the request for proposals.

148 (c) Require the certification of private correctional
149 officers pursuant to s. 943.1395 at the contractor's expense,
150 and all such officers must meet the minimum qualifications
151 established in s. 943.13. All other employees of the contractor
152 who perform their duties at the private correctional facility
153 shall, at a minimum, receive the same quality and quantity of
154 training required by the state for employees of state-operated
155 correctional facilities. All training expenses are the
156 responsibility of the contractor. The department shall be the
157 contributor and recipient of all criminal background information
158 necessary for certification by the Criminal Justice Standards
159 and Training Commission.

160 (d) Include specific performance measures and levels of
161 expected performance for the contractor in order to ensure
162 contractor performance and accountability, and require the
163 contractor to provide the department with information concerning
164 each performance measure for each separate correctional facility
165 and assigned correctional unit for each month, calendar quarter,
166 and year during the term of the contract, in the format
167 specified by the department.

168 1. The required performance measures must include, but are
169 not limited to:

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

172 b. The number of inmates receiving major disciplinary
173 reports per 1,000 inmates;

174 c. The percentage of random inmate drug tests that are

595-02202-12

20122038c1

- 175 negative;
- 176 d. The percentage of reported criminal incidents
- 177 investigated by the proper authorities;
- 178 e. The number of escapes from the secure perimeter of major
- 179 institutions;
- 180 f. The percentage of inmates placed in a facility that
- 181 provides at least one of the inmate's primary program needs;
- 182 g. The number of transition plans completed for inmates who
- 183 are released from prison;
- 184 h. The number of release plans completed for inmates who
- 185 are released from prison;
- 186 i. The percentage of release plans completed for inmates
- 187 who are released from prison;
- 188 j. The percentage of inmates who successfully complete drug
- 189 abuse education or treatment programs;
- 190 k. The number of inmates who are receiving substance abuse
- 191 services;
- 192 l. The percentage of inmates who complete mandatory
- 193 literacy programs and who score at or above the 6th grade level
- 194 on Tests of Adult Basic Education;
- 195 m. The percentage of inmates who successfully complete
- 196 mandatory literacy programs;
- 197 n. The percentage of inmates who successfully complete
- 198 education programs for the General Education Development (GED)
- 199 test preparation;
- 200 o. The percentage of inmates needing special education
- 201 programs who participate in special education programs in
- 202 accordance with federal law;
- 203 p. The percentage of inmates who successfully complete

595-02202-12

20122038c1

204 vocational education programs;

205 q. The average increase in grade level achieved by inmates
206 participating in education programs every 3-month instructional
207 period; and

208 r. The percentage of inmates who successfully complete
209 transition, rehabilitation, or support programs without
210 subsequent recommitment to community supervision or prison for
211 24 months after release.

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

214 a. The percent of employment of supervised individuals;

215 b. The illegal substance use by supervised individuals;

216 c. The victim restitution paid by supervised individuals;

217 d. Compliance by supervised individuals with no-contact
218 orders;

219 e. The number of serious incidents occurring at the
220 facility; and

221 f. The number of absconders.

222 (9) The department shall provide reports to each chair of
223 the legislative appropriations committees regarding the
224 performance of each contractor which include, but are not
225 limited to, information regarding each required performance
226 measure in each contract resulting from the request for
227 proposals for each contractor and for each correctional facility
228 and assigned correctional unit.

229 (10) After the department has issued its notice of intent
230 to award a contract, resolved any bid protests, and concluded
231 negotiation of a contract resulting from the request for
232 proposals, the department must prepare and submit to the

595-02202-12

20122038c1

233 Legislative Budget Commission proposed revisions to its
234 operating budget which demonstrate the 7 percent savings
235 required under subsection (3), which must be attained during the
236 first year of the term of the contract.

237 (11) After approval by the Legislative Budget Commission,
238 the department shall enter into a contract with one or more
239 winning bidders.

240 (12) Each current department employee at the designated
241 correctional facility and assigned correctional unit who is
242 affected by the privatization must be given first preference for
243 continued employment by the contractor selected as a result of a
244 request for proposals. The department shall make reasonable
245 efforts to find suitable job placements for employees who wish
246 to continue to be employed by the state.

247 (13) The department may adopt rules as necessary to
248 administer this section.

249 Section 2. Subsection (1) of section 944.719, Florida
250 Statutes, is repealed.

251 Section 3. This act shall take effect upon becoming a law.