

## Committee Substitute for House Bill No. 1129

An act relating to correctional work programs; amending s. 212.08, F.S., relating to specified exemptions from retail sale, rental, use, consumption, distribution, and storage taxes; providing an exemption for products sold by the corporation authorized to operate correctional work programs; providing for applicability of the exemption retroactive to July 1, 1983; amending s. 946.503, F.S.; redefining "facilities" with respect to correctional work programs; amending s. 946.504, F.S., relating to lease of facilities by the Department of Corrections to corporation authorized to operate correctional work programs, to conform; amending s. 946.505, F.S., relating to reversion of property to the department upon dissolution of corporation or termination of lease, and reenacting s. 946.509(1), F.S., relating to insurance of property leased or acquired by the corporation, to incorporate said amendment in a reference; providing for reversion of certain facilities subsequently constructed or otherwise acquired after the original lease; amending s. 946.511, F.S.; revising objectives and priorities for assignment of inmates to programs to specify priority with respect to essential operational functions and "revenue-generating contracts," as defined; amending s. 946.512, F.S., relating to inmate compensation plan, and reenacting s. 946.513(1), F.S., relating to disposition of compensation received for private employment of inmates, to incorporate said amendment in a reference; providing for certain payments to the Correctional Work Program Trust Fund in lieu of the Grants and Donations Trust Fund; removing provision for annual appropriation; amending s. 946.515, F.S., and reenacting s. 946.518, F.S., relating to prohibitions on sale of goods by prisoners, to incorporate said amendment in a reference; permitting the furnishing or sale of services or items produced by the corporation when not otherwise prohibited by law; creating s. 946.520, F.S.; providing for assignment of certain inmates to specified work programs; requiring the department to assign a certain percentage of specified inmates collectively to the specified work programs; providing an exclusion to the percentage requirement for certain institutions; prohibiting the department from removing inmates from specified work assignments except under certain circumstances; repealing s. 945.04(4) & (5), F.S., relating to certain requirements for assignments of inmates within a specified period of their release dates, and report by the department thereon; repealing s. 946.009, F.S., relating to operational guidelines for correctional work programs; providing an effective date.

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

Section 1. Paragraph (nn) is added to subsection (7) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(7) MISCELLANEOUS EXEMPTIONS.—

(nn) Nonprofit corporation conducting the correctional work programs.— Products sold pursuant to s. 946.515 by the corporation organized pursuant to part II of chapter 946 are exempt from the tax imposed by this chapter. This exemption applies retroactively to July 1, 1983.

Section 2. Subsection (4) of section 946.503, Florida Statutes, 1996 Supplement, is amended to read:

946.503 Definitions to be used with respect to correctional work programs.—As used in ss. 946.502-946.518, the term:

(4) “Facilities” means the buildings and, land, ~~equipment, and other chattels~~ used in the operation of an industry program on state property.

Section 3. Subsection (1) of section 946.504, Florida Statutes, 1996 Supplement, is amended to read:

946.504 Organization of corporation to operate correctional work programs; lease of facilities.—

(1) The department shall lease ~~the buildings and, land, furnishings, equipment, and other chattels used in the operation of each correctional work program operated by the department to~~ the a nonprofit corporation authorized to operate the correctional work programs, the members of which are appointed by the Governor and confirmed by the Senate. The same appointment process shall be followed to fill any vacancy. The corporation shall be organized pursuant to chapter 617 and shall possess all the powers granted by that chapter.

Section 4. Subsection (1) of section 946.505, Florida Statutes, is amended to read:

946.505 Reversion upon dissolution of corporation or termination of lease.—

(1) In the event the corporation is dissolved or its lease of any correctional work program expires or is otherwise terminated, all property relating to such correctional work program which ceases to function because of such termination or dissolution, including all ~~funds~~, buildings, land, furnishings, equipment, and other chattels originally leased from the department, as well as any subsequently constructed purchased or otherwise acquired facilities by the corporation in connection with its continued operation of that program, automatically reverts to full ownership by the department unless the corporation intends to utilize such property in another correctional work program. Such a reversionary ownership interest of the

state in any and all such after-acquired ~~facilities property~~ by the corporation is in furtherance of the goals established in s. 946.502(4), and such a present ownership interest by the state is a continuing and insurable state interest.

(2) Notwithstanding any provision of subsection (1), the ownership of any permanent enhancements made to facilities or work programs is vested in the department.

Section 5. For the purpose of incorporating the amendment to section 946.505(1), Florida Statutes, in a reference thereto, subsection (1) of section 946.509, Florida Statutes, is reenacted to read:

946.509 Insurance of property leased or acquired by the corporation.—

(1) The State Property Insurance Trust Fund created under s. 284.01 shall insure all property eligible for coverage under part I of chapter 284 which is leased by the department to the corporation or which is subsequently acquired and owned by the corporation and subject to the reversionary ownership interest of the state established in s. 946.505.

Section 6. Subsection (1) of section 946.511, Florida Statutes, is amended to read:

946.511 Provision of inmate labor to operate correctional work programs; policies and procedures.—

(1) Inmates shall be evaluated and identified during the reception process to determine basic literacy, employment skills, academic skills, vocational skills, and remedial and rehabilitative needs. The evaluation shall prescribe education, work, and work-training for each inmate. Assignment to programs shall be based on the evaluation and the length of time the inmate will be in the custody of the department. Assignment to programs shall be reviewed every 6 months to ensure proper placement based on bed space availability. Assignment of inmates ~~to correctional work programs, institutional labor, and public agency work programs~~ shall be governed by the following objectives and priorities:

(a) Inmates shall be assigned to meet the needs of the work requirements of the Department of Corrections, including essential operational functions and revenue-generating existing ~~Department of Transportation contracts~~.

(b) Inmates shall be assigned to correctional education ~~and the corporation operating the correctional industry program~~.

(c) Inmates shall be assigned to meet all other work requirements of the department, including remaining operational functions and nonrevenue-generating contracts ~~public works~~.

As used in this subsection, the term “revenue-generating contracts” includes contracts with the Department of Transportation, the corporation authorized to conduct the correctional work programs under part II, private sector businesses operating programs authorized under s. 946.006(3), and federal,

state, or local governmental entities or subdivisions authorized under s. 944.10(7).

Section 7. Section 946.512, Florida Statutes, is amended to read:

946.512 Inmate compensation plan.—The corporation shall establish a compensation plan which provides for a specific amount to be paid to the department to be credited to an account for an inmate performing labor and a portion shall be used to make any court-ordered payments, including restitution to the victim, and a specific amount to be paid to the department's Correctional Work Program Trust Fund to be used as provided in s. 946.32 Grants and Donations Trust Fund. Such funds, excluding victim restitution payments, court-ordered payments, and the amount credited to the account of the inmate, shall be deposited in the department's Correctional Work Program Trust Fund to be used as provided in s. 946.32 Grants and Donations Trust Fund. ~~The funds shall be appropriated annually.~~

Section 8. For the purpose of incorporating the amendment to section 946.512, Florida Statutes, in a reference thereto, subsection (1) of section 946.513, Florida Statutes, is reenacted to read:

946.513 Private employment of inmates; disposition of compensation received.—

(1) Notwithstanding the provisions of (1) any other law, an inmate may be employed by the corporation or by any other private entity operating on the grounds of a correctional institution prior to the last 24 months of his confinement. Compensation received for such employment shall be credited by the department to an account for the inmate and shall be used to make any court-ordered payments, including restitution to the victim. The department rules shall provide that a portion of such compensation be credited by the department in the manner provided in s. 946.512.

Section 9. Subsection (1) of section 946.515, Florida Statutes, 1996 Supplement, is amended to read:

946.515 Use of goods and services produced in correctional work programs.—

(1) Any service or item manufactured, processed, grown, or produced by the corporation in a correctional work program may be furnished or sold to any legislative, executive, or judicial agency of the state, any political subdivision, any other state, any foreign entity or agent thereof, any agency of the Federal Government, to any contract vendor for such agencies or any subcontractor of the contract vendor, or to any person, firm, or business entity if not prohibited authorized by federal law.

Section 10. For the purpose of incorporating the amendment to section 946.515(1), Florida Statutes, 1996 Supplement, in a reference thereto, section 946.518, Florida Statutes, 1996 Supplement, is reenacted to read:

946.518 Sale of goods made by prisoners; when prohibited, when permitted.—Goods, wares, or merchandise manufactured or mined in whole or in

part by prisoners (except prisoners on parole or probation) may not be sold or offered for sale in this state by any person or by any federal authority or state or political subdivision thereof; however, this section and s. 946.21 do not forbid the sale, exchange, or disposition of such goods within the limitations set forth in s. 946.006(3), s. 946.515, or s. 946.519.

Section 11. Section 946.520, Florida Statutes, is created to read:

946.520 Assignment of Inmates by Department of Corrections.—

(1) The Department shall exert its best efforts to assign inmates to the corporation, or the private sector business authorized under part I of Chapter 946, who have not less than one nor more than five years remaining before their tentative release dates. Beginning January 1, 1998, the department shall maintain the assignment of at least 60 percent of inmates to all correctional work programs collectively to the corporation, or to the private-sector business authorized under part I of chapter 946, who have less than 10 years remaining before their tentative release dates. This 60-percent requirement does not apply to any correctional work program, or private-sector business authorized under part I of chapter 946, within an institution for any year in which, as of January 1 of that year, the average years remaining before the tentative release date of all inmates assigned to that institution exceeds 12 years.

(2) The department may not remove (2) an inmate once assigned to the corporation or to the private sector business authorized under part I of chapter 946, except upon request of or consent of such corporation or private sector business or for the purposes of population management, for inmate conduct that may subject the inmate to disciplinary confinement or loss of gain-time, or for security and safety concerns specifically set forth in writing to the corporation or private sector business.

Section 12. Subsection (4) and (5) of section 945.04, Florida Statutes, as created by chapter 95-283, Laws of Florida, is hereby repealed.

Section 13. Section 946.009, Florida Statutes, 1996 Supplement, as amended by chapters 95-235 and 96-278, Laws of Florida, is hereby repealed.

Section 14. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.