

Committee Substitute for Senate Bill Nos. 1604 and 1618

An act relating to corrections; amending s. 944.801, F.S.; requiring the Department of Corrections to reevaluate vocational education programs; requiring the department to develop a plan to provide academic and vocational classes more frequently; authorizing certain minors to receive and participate in educational services without parental consent; amending s. 946.002, F.S.; amending labor requirements pertaining to inmates; amending ss. 946.31, 946.32, 946.33, F.S.; conforming funding provisions; amending s. 946.504, F.S.; providing for the Board of Trustees of the Internal Improvement Trust Fund to enter into leases with the corporation set up under this section to operate correctional work programs; providing authority for the corporation to use tax-exempt financing for constructing facilities for work programs; requiring the state to retain a secured interest equal to the pro rata portion of the state's investment; amending s. 946.515, F.S.; amending provisions specifying which commodities may be produced and sold by the corporation; creating s. 946.205, F.S.; providing for responsibilities of the Department of Corrections for cultivating and selling food items and for supervising certain work activities of inmates; creating s. 946.523, F.S.; providing for prison industry enhancement (PIE) programs; providing purposes and objectives of the programs; requiring workers' compensation coverage to be provided to inmates who participate in the programs; providing that inmates are not entitled to unemployment compensation; providing that this section is inapplicable to correctional work programs operated under ss. 946.502-946.517, F.S.; creating s. 946.524, F.S.; providing for the corporation to establish work camps; providing for the corporation to designate certain lands as the sites for such work camps; providing that the corporation may use certain inmates as workers in the work camps and may enter into contracts, as specified, to operate the work camps; amending s. 320.06, F.S.; amending provisions relating to manufacturing certain tags and decals for the Department of Highway Safety and Motor Vehicles; repealing ss. 946.006, 946.0061, 946.007, 946.008, 946.21, 946.519, F.S., relating to correctional work programs, the inapplicability of s. 946.006(4), F.S., to those programs, correctional work program objectives, financing correctional work programs, penalties for selling goods made by prisoners, and the use of goods and services produced in correctional work programs; providing an effective date.

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

Section 1. Subsection (3) of section 944.801, Florida Statutes, is amended, present subsection (4) of that section is redesignated as subsection (5), and a new subsection (4) is added to that section, to read:

944.801 Education for state prisoners.—

(3) The responsibilities of the Correctional Education Program shall be to:

(a) Develop guidelines for collecting education-related information during the inmate reception process and for disseminating such information to the classification staff of the Department of Corrections. The information collected shall include the inmate's areas of educational or vocational interest, vocational skills, and level of education.

(b) In cooperation with the Department of Education, pursuant to s. 229.565, monitor and assess all inmate education program services and report the results of such evaluation in the annual report of activities.

(c) In cooperation with the Department of Education, pursuant to s. 229.8075, develop complete and reliable statistics on the educational histories, the city/intracity area and school district where the inmate was domiciled prior to incarceration, the participation in state educational and training programs, and the occupations of inmates confined to state correctional facilities. The compiled statistics shall be summarized and analyzed in the annual report of correctional educational activities required by paragraph (f).

(d) Approve educational programs of the appropriate levels and types in the correctional institutions and develop procedures for the admission of inmate students thereto.

(e) Enter into agreements with public or private school districts, entities, community colleges, junior colleges, colleges, or universities as may be deemed appropriate for the purpose of carrying out its duties and responsibilities and ensure that agreements require minimum performance standards and standards for measurable objectives, in accordance with established Department of Education standards.

(f) Report annual activities to the Secretary of Corrections, the Commissioner of Education, the Governor, and the Legislature.

(g) Develop and maintain complete and reliable statistics on the number of general educational development (GED) certificates and vocational certificates issued by each institution in each skill area, the change in inmate literacy levels, and the number of inmate admissions to and withdrawals from education courses. The compiled statistics shall be summarized and analyzed in the annual report of correctional education activities required by paragraph (e).

(h) Develop a written procedure for selecting programs to add to or delete from the vocational curriculum. The procedure shall include labor market analyses which demonstrate the projected demand for certain occupations and the projected supply of potential employees. In conducting these analyses, the department shall evaluate the feasibility of adding vocational education programs which have been identified by the Department of Labor and Employment Security or a regional coordinating council as being in undersupply in this state. The department shall periodically reevaluate the vocational education programs in major institutions to determine which of the

programs support and provide relevant skills to inmates who could be assigned to a correctional work program that is operated as a Prison Industry Enhancement Program.

(i) Ensure that every inmate who has 2 years or more remaining to serve on his or her sentence at the time that he or she is received at an institution and who lacks basic and functional literacy skills as defined in s. 239.105 attends not fewer than 150 hours of sequential instruction in a correctional adult basic education program. The basic and functional literacy level of an inmate shall be determined by the average composite test score obtained on a test approved for this purpose by the State Board of Education.

1. Upon completion of the 150 hours of instruction, the inmate shall be retested and, if a composite test score of functional literacy is not attained, the department is authorized to require the inmate to remain in the instructional program.

2. Highest priority of inmate participation shall be focused on youthful offenders and those inmates nearing release from the correctional system.

3. An inmate shall be required to attend the 150 hours of adult basic education instruction unless such inmate:

- a. Is serving a life sentence or is under sentence of death.
- b. Is specifically exempted for security or health reasons.
- c. Is housed at a community correctional center, road prison, work camp, or vocational center.
- d. Attains a functional literacy level after attendance in fewer than 150 hours of adult basic education instruction.
- e. Is unable to enter such instruction because of insufficient facilities, staff, or classroom capacity.

4. The Department of Corrections shall provide classes to accommodate those inmates assigned to correctional or public work programs after normal working hours. The department shall develop a plan to provide academic and vocational classes on a more frequent basis and at times that accommodate the increasing number of inmates with work assignments, to the extent that resources permit.

5. If an inmate attends and actively participates in the 150 hours of instruction, the Department of Corrections may grant a one-time award of up to 6 additional days of incentive gain-time, which must be credited and applied as provided by law. Active participation means, at a minimum, that the inmate is attentive, responsive, cooperative, and completes assigned work.

(j) Recommend the award of additional incentive gain-time for inmates who receive a general educational development certificate or a vocational certificate.

(k) Ensure that all education staff are certified in accordance with the Department of Education standards.

(l) Develop goals and objectives relating to all phases of the correctional education program.

(4) Minors who are adjudicated as an adult and who are in the custody or under the supervision of the Department of Corrections may receive and participate in educational services provided within the department without the parental consent of the minors.

Section 2. Paragraph (a) of subsection (1) of section 946.002, Florida Statutes, is amended to read:

946.002 Requirement of labor; compensation; amount; crediting of account of prisoner; forfeiture; civil rights; prisoner not employee or entitled to compensation insurance benefits.—

(1)(a) The department shall require of every able-bodied prisoner imprisoned in any institution as many hours of faithful labor in each day and every day during his or her term of imprisonment as shall be prescribed by the rules of the department. Every able-bodied prisoner classified as medium custody or minimum custody who does not satisfactorily participate in any institutional work programs, correctional work programs, prison industry enhancement (PIE) programs, academic programs, or vocational programs shall be required to perform work for such political subdivisions of the state as might have entered into agreement with the department pursuant to s. 946.40.

Section 3. Section 946.31, Florida Statutes, is amended to read:

946.31 Sources of fund.—~~If Should~~ any general service operation of an institution ~~is be~~ transferred to the correctional work program operation by the Department of Corrections, all assets and liabilities of such operation shall become a part of the Correctional Work Program Trust Fund. All income, receipts, earnings, and profits from the ~~correctional work programs operated by the department authorized pursuant to s. 946.006~~ shall hereafter be credited to the Correctional Work Program Trust Fund, to be used for the purposes herein set forth; however, if the earned surplus in the fund at the end of any fiscal year exceeds \$5 million, one-half of such amount as is determined by the Auditor General to be in excess of this amount shall be deposited in the General Revenue Fund, and the other half shall be used ~~utilized~~ by the department for the expansion and improvement of inmate work programs ~~the correctional work program~~.

Section 4. Section 946.32, Florida Statutes, is amended to read:

946.32 Use of fund.—Except as otherwise provided by law, the funds shall be used for the purposes of financing the operation of inmate ~~the correctional~~ work programs herein set forth, and all costs of operation of such ~~correctional~~ work programs shall be paid from this fund, including compensation of all personnel whose time or proportion of time is devoted to such work program operations. The Department of Corrections shall

establish budgeting and cost accounting procedures to provide comparative analysis of each work program unit. The department shall prepare and issue annual consolidated and individual institution financial statements, including, but not limited to, balance sheets and operating statements for the ~~correctional~~ work programs. Any withdrawals from the Correctional Work Program Trust Fund which do not relate to the operation of ~~inmate the correctional work programs program~~ shall be identified separately in the operating statements. The Department of Corrections shall have the authority to use moneys in the Correctional Work Program Trust Fund to enter into lease-purchase agreements for the lease of fixtures and equipment over periods of time exceeding the current fiscal year. The department shall have the authority to construct buildings or make capital improvements for the operation of the said work programs. The ownership of any permanent enhancements made to facilities or work programs is vested in the Department of Corrections.

Section 5. Section 946.33, Florida Statutes, is amended to read:

946.33 Disbursements from fund.—The funds in the Correctional Work Program Trust Fund shall be deposited in the State Treasury and paid out only on warrants drawn by the Comptroller, duly approved by the Department of Corrections. The department shall maintain all necessary records and accounts relative to such funds.

Section 6. Subsection (1) of section 946.504, Florida Statutes, is amended and subsection (8) is added to that section, to read:

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

(1) The department shall lease buildings and land to the 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. The Board of Trustees of the Internal Improvement Trust Fund shall enter into leases directly with the corporation, for a period of at least 20 years, for the lease of the lands that are currently under sublease with the department and used by the corporation for correctional work programs and that are identified as subject to lease numbers 3513, 2946, 2675, 2937, 2673, and 2671 with the Board of Trustees of the Internal Improvement Trust Fund. Any additional improvements to such property leased by the corporation from the Board of Trustees must have the prior approval of the Board of Trustees of the Internal Improvement Trust Fund.

(8) Notwithstanding any provision to the contrary, the corporation is authorized to use tax-exempt financing through the issuance of tax-exempt bonds, certificates of participation, lease-purchase agreements, or other tax-exempt financing methods for the purpose of constructing facilities or making capital improvements for correctional work programs and prison industry enhancement programs on state-owned land within state correctional

institutions. Such tax-exempt financing may be funded by the General Appropriations Act. If the corporation obtains tax-exempt financing, the state retains a secured interest by holding a lien against any structure or improvement for which tax-exempt financing or state funds are used. The corporation shall include a provision in its financing contract requiring that a lien be filed by the Department of Corrections, on behalf of the state, in order to procure the issuance of tax-exempt bonds or certificates of participation; to enter into lease-purchase agreements; or to obtain any other tax-exempt financing methods for the construction or renovation of facilities related to correctional work programs or prison industry enhancement programs. The lien shall be against the property where any facility or structure is located which has been constructed or substantially renovated, in whole or in part, through the use of state funds. However, there is no requirement for the Department of Corrections to file a lien if the amount of state funds does not exceed \$25,000 or 10 percent of the contract amount, whichever is less. The lien must be recorded, upon the execution of the contract authorizing such construction or renovation, in the county where the property is located. The lien must specify that the Department of Corrections has a financial interest in the property equal to the pro rata portion of the state's original investment of the then-fair-market value of the construction. The lien must also specify that the Department of Corrections' financial interest is proportionately reduced and subsequently vacated over a 20-year period of depreciation. The contract must include a provision that as a condition of receipt of state funding for this purpose, the corporation agrees that, if it disposes of the property before the state's interest is vacated, the corporation will refund the proportionate share of the state's initial investment, as adjusted by depreciation.

Section 7. Subsection (3) of section 946.515, Florida Statutes, 1998 Supplement, is amended to read:

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

(3) Agricultural commodities, including, but not limited to, sugar cane, vegetables, beef, and dairy products, may be sold to private entities or may be sold or disposed of as provided in subsections (1) and (2). ~~The corporation may contract with any political subdivision of this state to operate a fish and seafood processing plant and to spawn and grow fish and seafood for sale as provided in this subsection. However, the corporation may not breed or sell live tropical fish.~~

Section 8. Section 946.205, Florida Statutes, is created to read:

946.205 Institutional work.—The department may cause to be cultivated by the inmates of the adult correctional institutions that are under the control and supervision of the department such food items as are grown on farms or gardens generally, and as are needed and used in the state institutions. The department may sell any surplus food items to the corporation authorized under part II of this chapter. Any proceeds received from such sales by the department shall be deposited into the Correctional Work Program Trust Fund. The department may also use the services of inmates of

the adult correctional institutions that are under the control and supervision of the department to perform such work as is needed and used within the state institutions.

Section 9. Section 946.523, Florida Statutes, is created to read:

946.523 Prison industry enhancement (PIE) programs.—

(1) The corporation may operate or contract with the private sector for substantial involvement in a prison industry enhancement (PIE) program that includes, but is not limited to, contracts for the operation of a direct private-sector business within a prison and the hiring of inmates. Any contract authorized by this subsection must be in compliance with federal law governing inmate work programs and must not result in the significant displacement of employed workers in the community. The purposes and objectives of this program are to:

(a) Increase the benefits to the general public by reimbursing the state for a portion of the costs of incarceration.

(b) Provide purposeful work for inmates.

(c) Increase job skills.

(d) Provide additional opportunities for rehabilitating inmates who are otherwise ineligible to work outside the prisons, such as maximum-security inmates.

(e) Develop and establish new models for prison-based businesses that create jobs approximating conditions of private-sector employment.

(f) Draw upon the economic base of operations for deposit into the Crimes Compensation Trust Fund.

(g) Substantially involve the private sector and its capital, management skills, and expertise in the design, development, and operation of businesses.

(h) Provide the financial basis for an inmate to contribute to the support of his or her family.

(i) Provide for the payment of state and federal taxes on an inmate's wages, which are paid at the rate of the prevailing or minimum wage rate.

(j) Provide savings for the inmate to have available for his or her use upon the inmate's eventual release from prison.

(2) Notwithstanding any other law to the contrary, including s. 440.15(9), private-sector employers shall provide workers' compensation coverage to inmates who participate in prison industry enhancement (PIE) programs under subsection (1). However, inmates are not entitled to unemployment compensation.

Section 10. Section 946.524, Florida Statutes, is created to read:

946.524 Corporation work camps.—

(1) The corporation may establish work camps that the corporation maintains and operates in accordance with chapter 951.

(2) The corporation may designate appropriate land that is owned or leased by the corporation, or may use state, county, or municipal land, as the site of the proposed facility. Any state lands used for the purposes authorized by this section must obtain prior approval of the Board of Trustees of the Internal Improvement Trust Fund. The work camps operated by the corporation may use inmates who are incarcerated in county or municipal jails for labor in correctional work programs or prison industry enhancement programs authorized by s. 946.523, and the corporation may enter into contracts to operate the work camps in accordance with s. 946.5025.

Section 11. Subsection (4) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

~~(4)(a) In order to enable the Department of Corrections to manufacture the license plates authorized herein, the department is authorized to prepay to the Department of Corrections the amount required to purchase the materials needed for the manufacture of reflectorized license plates. The amount prepaid may not exceed the amount of the appropriation made to the Department of Highway Safety and Motor Vehicles, but shall be sufficient to enable the Department of Corrections to meet the requirements of this chapter.~~

~~(b) For the purposes of authorizing~~ The corporation organized under pursuant to chapter 946 may to manufacture license plates and validation stickers, as well as temporary tags, disabled hang tags, vessel decals, and fuel use decals, for the Department of Highway Safety and Motor Vehicles as provided in this chapter, ~~the reference to the Department of Corrections in paragraph (a) means the Department of Corrections or the corporation organized pursuant to chapter 946, and The Department of Highway Safety and Motor Vehicles is not required to obtain competitive bids in order to contract with the~~ such corporation.

Section 12. Sections 946.006, 946.0061, 946.007, 946.008, 946.21, and 946.519, Florida Statutes, are repealed.

Section 13. This act shall take effect July 1, 1999.

Approved by the Governor June 8, 1999.

Filed in Office Secretary of State June 8, 1999.