STORAGE NAME: h3711a.cor
DATE: March 25, 1998

HOUSE OF REPRESENTATIVES
COMMITTEE ON
CORRECTIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: HB 3711

RELATING TO: Private Prisons

SPONSOR(S): Representative Lacasa

COMPANION BILL(S): SB 2112 (S)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) CORRECTIONS YEAS 7 NAYS 0
(2) GOVERNMENTAL OPERATIONS
(3) CRIMINAL JUSTICE APPROPRIATIONS
(4)
(5)

I. SUMMARY:

This bill requires a contract for the private operation of a correctional facility entered into on or after January 1, 1998 to:

(1) operate under the same conditions as publicly operated facilities with regard to the:

air conditioning of inmate housing;
use and acquisition of recreational facilities;
permitted reading materials;
use of televisions;
use of inmate labor for chain gangs and other public works; and to

(2) prohibit a contract provision which imposes a maximum on the cost of individual inmate health care.

HB 3711, additionally, requires the Florida Corrections Commission to monitor and document compliance with the cooperative transfer agreement between the department and the Correctional Privatization Commission, mediate disputes and make recommendations to the Governor for final resolution.

The bill prohibits private correctional facilities from housing certain violent inmates from other states.

This bill will become effective on July 1, 1998 and has no fiscal impact.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The History of the Five Private Prisons in Florida

With the promise of cost-savings, speedy construction and efficient management, in 1989 the legislature authorized the Department of Corrections (DOC) to enter into contracts with private corrections firms for the construction and operation of private prisons. (See Chapter 89-526, Laws of Florida) Despite multiple appropriations by the legislature in subsequent years, the DOC did not progress toward the selection of successful bidders and any contractual agreement. Implementation of the law was predominantly thwarted and delayed by a series of bid protests, legal challenges, budget reductions, inability of bidders to meet the 10 percent cost savings and disagreements on cost estimates produced by the DOC.

In 1990 and 1991 the legislature again appropriated funds for the private prison. (See Chapters 90-209 and 91-193) These appropriations were designated to the Board of County Commissioners of Gadsden County to develop an RFP and to enter into a lease purchase agreement and private management agreement with a private vendor for a 768-bed institution. In the summer of 1992, U. S. Corrections, Inc., was selected as the successful bidder and by March of 1995, the state opened its first private prison, housing adult females, under a five-year, $80 million contract.

Although Gadsden County was initially charged with procuring the private prison, the DOC was later directed to negotiate and manage the contract. This private facility is the only private prison contract managed by the DOC. Sections 944.710-719, Florida Statutes, govern the procurement and operation of the Gadsden Correctional Institution.

To further expedite the progress toward privatization, the 1993 Legislature created Chapter 957, Florida Statutes, which established a five-member Correctional Privatization Commission (CPC) within the Department of Management Services. (See Chapter 93-406, Laws of Florida) The CPC was charged with entering into a contract with vendors for the financing, construction and management of two 750-bed private correctional facilities. Later, Corrections Corporation of America (CCA) and Wackenhut Corrections Corporation were each awarded a contract. The two 750-bed facilities (Moore Haven Correctional Facility and Bay Correctional Facility) were opened in July and August of 1995.

In 1994, the legislature directed the CPC to solicit contracts for additional privatized facilities: an adult 1,318-bed facility and three 350-bed youthful offender facilities. (See Chapter 94-209, Laws of Florida) Later, but prior to opening, two of the 350-bed facilities were redesignated to house juveniles. (See Chapter 96-422, Laws of Florida) The CPC awarded the 1,318-bed facility to Wackenhut Corrections Corporation and the facility (South Bay Correctional Facility) opened in February of 1996. Corrections Corporation of America was awarded the remaining contract for a 350-bed facility (Lake City

Correctional Facility) which opened in October of 1996. Currently, the state contracts for a total of 3,936 privatized beds.

The Department of Corrections manages one contract with U.S. Corrections Corporation to operate:

- One 768-bed prison in Gadsden County — Opened March 1995

The Correctional Privatization Commission manages multiple contracts with Corrections Corporation of America and Wackenhut Corrections Services to operate:

- One 750-bed prison in Bay County — Opened July 1995
- One 750-bed prison in Glades County — Opened August 1995
- One 1,318-bed prison in Palm Beach County — Opened February 1997
- One 350-bed prison in Columbia County — Opened February 1997

Applicability of Laws Governing the Private Correctional Facilities

When Chapter 957, Florida Statutes, was enacted, the three major chapters of law that governed the correctional system at that time were Chapters 944, 945 and 958. Prior to 1993, DOC was the only provider of or contract manager of state correctional services. Consequently, the bulk of the statutory mandates in law were specifically directed to DOC.

Section 957.09, Florida Statutes, speaks directly to the applicability to other provisions of law by stating:

> *Applicability of chapter to other provisions of law.--*
>
> *(1)(a) Any offense that if committed at a state correctional facility would be a crime shall be a crime if committed by or with regard to inmates at private correctional facilities operated pursuant to a contract entered into under this chapter.*
>
> *(b) All laws relating to commutation of sentences, release and parole eligibility, and the award of sentence credits shall apply to inmates incarcerated in a private correctional facility operated pursuant to a contract entered into under this chapter.*
>
> *(2) The provisions of this chapter are supplemental to the provisions of ss. 944.105 and 944.710-944.719. However, in any conflict between a provision of this chapter and a provision of such other sections, the provision of this chapter shall prevail.*
>
> *(3) The provisions of law governing the participation of minority business enterprises are applicable to this chapter.*

Since this section specifically mentions what laws are applicable to the private correctional facilities, it means that other statutes governing the public corrections system in Chapter 944, Florida Statutes, may not necessarily be applicable.

Many of the statutory provisions governing the public prisons are not applicable to the private prisons because the legislature has not clarified its intent by providing a specific reference in the myriad of provisions in Chapters 944, 945 and 958 to either specifically exclude or include the private facilities.

The general effect of having many general corrections statutes inapplicable to the private prisons is twofold. First, the CPC and the contractor are free to establish innovative policies in a wide arena of corrections which may substantially differ from those set by the legislature for the public prisons and by those set by rule by the DOC.

And secondly, the adoption of policies by CPC that are substantially different from policies governing the public policies may accelerate the creation of a dual corrections system which, according to a recent OPPAGA report (Report No. 97-06, September 1997) may be duplicative and dilute the potential benefits privatization may offer the state.

Prisons With Air Conditioned Housing Units

There are no provisions in law to either permit or restrict the use of air conditioning in the housing units of either public or private prisons.

Only seven of the 55 major state-managed prisons in Florida have air-conditioning in some portion of the facility, and many of these are located in South Florida. The following institutions have air-conditioning: Brevard C.I., Broward C.I., Dade C.I., Hillsborough C.I., and Lancaster C.I. Four of these institutions were built in the 1970's and one was built by the former Department of Health and Rehabilitative Services (HRS) for their juvenile justice programs. In addition, Union C.I. was built in 1913 and has been renovated with air-conditioning in some areas, such as its hospital. The Corrections Mental Health Institute, which houses mentally ill inmates, is air-conditioned.

All four of the private prisons managed by CPC have constructed air-conditioned housing units for the inmates. Private prison vendors report that air conditioning improve the working environment for the correctional officers supervising the inmates and may help alleviate prison tensions among inmates during hot summer months. Contract vendors additionally report air-conditioning as being necessary to maintain their temperature-sensitive computerized and electronic security systems and equipment.

The Purchase of Recreational Equipment and Televisions

Prior to 1994, the DOC was permitted, pursuant to s. 945.215, F.S., to expend inmate welfare trust funds for recreational facilities, including recreational pavilions, basketball courts, handball courts, jogging and running tracks. The former s. 945.215, F.S., also permitted the purchase of movie rentals, cable television, televisions, weight-lifting equipment and other recreational equipment. However, the 1994 legislature significantly amended s. 945.215, F.S., to require the funds be appropriated annually, to restrict the

use of the inmate welfare funds and to eliminate the ability of the DOC to purchase recreational equipment or televisions. The statute specifically states:

> *Funds in the Inmate Welfare Trust Fund or any other fund may not be used to purchase cable television service, to rent or purchase video cassettes, videocassette recorders, or other audiovisual or electronic equipment used primarily for recreation purposes. This paragraph does not preclude the purchase or rental of electronic or audiovisual equipment for inmate training or educational programs.*

Although the law did not prohibit the DOC from allowing inmates to participate in recreation programs or watch television, unless the DOC finds a source of funds to replace existing equipment when it breaks or wears out, some of these recreational programs could eventually be discontinued.

Since the significant rewrite of s. 945.215, F.S., the DOC has not purchased recreational equipment, including televisions, from the inmate welfare trust fund. Despite the funding restriction, the DOC continues to use its existing supply of televisions and relies heavily on inexpensive recreational and other leisure type activities. The DOC has also begun soliciting donations of recreational equipment.

Shortly after the passage of the 1994 law, OPPAGA conducted an audit (Report # 94-21) which examined the role of recreation programs within the Department of Corrections. Generally, the audit found that all 50 states provide inmates with recreation programs and generally regard these programs as low cost tools to reduce inmate assaults on staff, inmate assaults on other inmates, and inmate destruction of prison facilities. The audit also concluded that allowing inmates to participate in recreation programs permits institution officials to supervise large numbers of inmates with relatively few corrections officers.

Based on a September, 1996 article in Federal Probation, “No-Frills Prisons and Jails: A Movement in Flux” and a survey of 12 states, there is a well-defined movement to eliminate or reduce the availability of certain amenities and privileges that inmates have previously enjoyed, ranging from weight lifting equipment to hot meals to televisions. While few jurisdictions were identified that have restricted recreation opportunities (Alabama’s chain gangs are restricted to basketball on weekends, Arizona abolished football and boxing in the mid-1980's, Wisconsin abolished tennis in 1996) many jurisdictions have restricted or plan to restrict an inmate’s access to television and other electronic equipment.

In fact, one out of every five wardens surveyed nationally in the summer of 1995 reported that televisions have been restricted. Similarly, some sheriffs in Florida in recent years have removed televisions from their jails. Unlike prisons, however, jails typically keep offenders for a relatively short period of time and house offenders in cells rather than open bay dormitories. Corrections managers typically express opposition to eliminating televisions in part because watching television reduces inmate idleness and can be used as an incentive to reward good behavior.

Section 945.215, Florida Statutes, is not specifically applicable to the private prisons. The original contracts with the Bay Correctional Facility and Moore Haven Correctional

Facility vendors stated that the commissary would be operated in accordance with s. 945.215, F.S. However, after the legislature amended the provision of law in 1994, preventing the department from spending commissary profits independent of legislative appropriation, the commission amended its contracts with the vendors to allow the vendors to retain possession of the inmate welfare funds and to not be restricted in the same manner as the public prisons.

Permitted Reading Materials

Section 944.11, Florida Statutes, regulates and restricts pornography in the state prison system by authorizing the DOC to prohibit the admission of reading materials that depict sexual conduct in a certain way. This law is not applicable to the private prisons and such authorization to restrict reading material is not provided to CPC or to the private prisons.

In the absence of specific authority, however, the Department of Management Services and the CPC have developed proposed rules governing a wide variety of corrections issues under its rulemaking authority cited in s. 957.03 (5) which states:

> "*...the commission may adopt rules necessary to carry out its contracting and monitoring duties...*"

These rules, published in the Florida Administrative Weekly, January 9, 1998, include a rule on the admissibility of reading materials that states:

> *60AA-3.012 Admissible Reading Material.*
>
> *Commission-approved policy, procedure and practice will provide guidelines for admissible reading material.*

Although there is no formal policy, procedure and practice approved by the commission, the private prisons have regulated the admission of materials and publications depicting certain sexual conduct or nudity in the same manner as the department. These types of materials which are prohibited by both the department and the commission are closely reviewed. An appeal process for inmates to challenge rejections of publications is afforded.

In fact, a recently published rule by the department (Florida Administrative Weekly, January 16, 1998), appears to govern the types of reading materials in both the public and private prisons. The proposed rule change by the department on the admissibility of reading materials states:

> *33-3.012 Admissible Reading Material.*
>
> *(2) Inmates shall be permitted to receive publications except when the publication is found to be detrimental to the security, order or disciplinary or*

> *rehabilitative interests of any institution or community facility of the department, or privately operated institution under contract with the department or the Correctional Privatization Commission, or when it is determined that the publication might facilitate criminal activity.....*

Chain Gangs

Passage of Chapter 95-283, Laws of Florida, required the DOC to implement a plan for selected inmates to perform labor wearing leg irons in chain-gang work groups. The plan, implemented in 1995, intended the work groups to be labor intensive, productive and cost effective.

Depending on institutional needs, inmates are assigned to a chain gang as direct punishment for a rule infraction or as an alternative to confinement and/or loss of gaintime.

Seven institutions operate chain gangs, with each squad comprised of up to 30 inmates supervised by one unarmed correctional officer and two armed correctional officers.

While working on the chain gang, inmates wear the regular inmate uniform(blue); however, each pant leg includes a white, vertical stripe to clearly identify them as inmates. The leg restraints worn by the inmates consist of a 45 inch chain covered at each end by protective plastic tubing. An "O" ring is attached to each end of the length of chain. This leg restraint is placed around each ankle and then padlocked in place. Inmates have approximately 24 inches of chain controlling their stride.

Inmate Public Work Programs

Chapter 946, Florida Statutes, relates to inmate labor and the operation of correctional work programs. Chapter 946 provides that all able-bodied prisoners work, according to rules prescribed by the DOC. The department's statutory goal is to work all inmates at least 40 hours a week, except for those who are a serious security risk or who are unable to work. Until this goal is accomplished, the department is directed to maximize its use of inmates within existing resources.

Currently, there are two types of community work squads existing in the Florida correctional system. The DOC operates both of these types: (1) those that work under an agreement with the Department of Transportation (DOT), and (2) those who work under a local agreement between correctional institutions and agencies such as the Division of Forestry, cities, counties, municipalities and non-profit corporations.

The types of work performed by these squads include roadway and right-of-way work for cities and counties; grounds and building maintenance (mowing, painting, litter removal); construction projects and structure repair; office moving and cleaning of the state's forests. The work squads also assist state and local governments in removing debris after natural disasters.

There is no specific statutory authorization provided to the private correctional facilities to operate similar public work projects. However, s. 957.06, F.S., specifies that

contractors are not permitted to develop or implement requirements that inmates engage in work, except to the extent that those requirements are accepted by the commission. The commission has published the following proposed rules relating to work programs:

> *60AA-3.003 Inmate Work Program.*
>
> *(1) Commission-approved policy, procedure, and practice will provide for inmate work programs.*
>
> *(2) Each able-bodied inmate will be required to work and to perform the work to which he is assigned in a satisfactory and acceptable manner.*
>
> *(3) No inmate will be authorized to leave the grounds of a facility for reasons other than a transfer or for medical treatment without the written authorization of the Executive Director.*

The Moore Haven Correctional Facility, operated by Wackenhut Corrections Corporation is the only private prison operating an inmate work program in which inmates perform work in the community and off the prison grounds.

Limitations on Inmate Health Services Care Costs in Contracts

Limitations on inpatient hospitalization costs exist with four of the private vendors' contracts. If, in the opinion of the on-site Chief Health officer, the inmate cannot be treated in the institution, a referral to a medical facility that can provide treatment is made. The private vendor is not responsible for inpatient hospitalization costs, including surgery and specialty services, in amounts greater than $7,500 per inmate per admission for costs incurred after 5 days of hospitalization. Costs in excess of $7,500 are assumed by DOC.

Another limitation, which exists is the incapability of participating in programmatic activities. If an inmate is considered to be medically, physically or mentally incapable for a time greater than two weeks, the vendor may request a transfer to DOC.

Cooperative Transfer Agreement/Mediation of Disputes

Chapter 94-148, Laws of Florida, mandated that inmate transfers to and from private correctional facilities be accomplished through a cooperative agreement between the department, the contractor and the commission. This provision of law went into effect May 11, 1994 and was codified in s. 957.06 (2), Florida Statutes.

Three and one half years after enactment of Chapter 94-148, Laws of Florida, there is no cooperative agreement. In a November, 1995 report done by OPPAGA on the review of correctional privatization, OPPAGA made several recommendations to the legislature, as well as to the department and to the commission. OPPAGA suggested the legislature direct the department to assign inmates to private prisons for the duration of their sentence and direct the commission to transfer inmates out of private prisons if, and only

if, the inmate requires excessive medical treatment or is a threat to public safety, institutions staff or other inmates.

According to OPPAGA, (report # 97-06) there is no cooperative transfer agreement because the DOC and CPC have been unable to cooperate to resolve issues surrounding the transfer of inmates to and from private prisons.

By not working cooperatively, OPPAGA reported that the department and the commission are not maximizing the potential benefits privatization may offer the state. Instead of using privatization as a tool to increase the efficiency of today's corrections services delivery, the department and the commission have moved the state towards operating a dual or alternative corrections systems of publicly and privately operated prisons that may be duplicative.

To solve this problem, OPPAGA made the recommendation that the governor authorize an independent body within the executive branch, such as the Florida Corrections Commission, to mediate the disputes between the department and the commission, and make recommendations to the Governor for final resolution.

The primary functions of the Corrections Commission, as authorized in s. 20.315(6), F.S., are, among other things, to: recommend correctional policies; review the correctional system and recommend improvements; and evaluate the annual budget request by the department. The Corrections Commission currently is not authorized to perform any function that is non-advisory in nature relating to the operations of the CPC or the department.

Out-of-State Inmates Housed in Private Correctional Facilities

Although Florida's five current private correctional facilities house only state inmates, presently there are no provisions in law authorizing, regulating or restricting the housing of felons from other state jurisdictions.

According to the March, 1997, *Private Adult Correctional Facility Census*, twelve states contract with privately operated prisons in five states. These five states are Texas, Arizona, Minnesota, Oklahoma and Tennessee.

Concerns regarding recent experiences in Texas and Arizona relating to inmate disturbances and escape of out-of-state inmates in private facilities prompted a review by the Florida Corrections Commission which documented the following incidents:

Texas

- In 1996, Texas experienced five separate incidents of escape and/or riots where state and local law enforcement intervention was necessary to capture escaped inmates or suppress disturbances caused by out-of-state inmates at private correctional facilities:

- After being recaptured, authorities found that the offenders could not be prosecuted for the escape under either Oregon or Texas statutes;

- In an August, 1996 incident, two Oregon sex offenders escaped from a Houston facility. The private vendor in Texas was not required to notify the state that it had contracted with another state to fill excess bed space; and

- Texas officials were not aware that there was excess bed space which had been contracted to another state and that 240 sex offenders from another state were housed in the minimum custody facility.

- Legislation passed in 1997 which addressed the issue of who should bear the costs of apprehending out-of-state escapees and responding to riots.

Arizona

- Arizona experienced similar problems with escapes of and riots by out-of-state offenders in private correctional facilities. In October, 1996, 6 serious offenders (3 murderers and 3 sex offenders) from Alaska escaped from a private facility.

- Legislation passed in 1997 regulating the housing of such inmates by requiring the notification of the number and type of out-of-state offenders brought into the state and by imposing a penalty in the amount of $10,000 per escapee or the cost of the actual capture.

Minnesota, Oklahoma and Tennessee have not experienced the same type of problems as in Texas and Arizona. This may be attributed, in part, to the statutory language that regulates their operation.

To date there have been no escapes or major disturbances at the private correctional facilities under contract with either the CPC or the DOC.

Florida's private correctional facilities under contract with the CPC, house only state inmates and there are no contract provisions permitting the housing of felons from other state jurisdictions. However, no specific statutory prohibition exists against a private firm acquiring land, constructing a facility, and contracting the entire facility to house out-of-state offenders in Florida.

B. EFFECT OF PROPOSED CHANGES:

Section 1 of the bill requires the contracts for the operation of a private correctional facility entered into on or after January 1, 1998 to provide for the facility to operate under the same conditions as publicly operated facilities with regard to the air conditioning of inmate housing, use and acquisition of recreational facilities, permitted reading materials, use of televisions and the use of inmate labor for chain gangs and other public works.

Section 1 of the bill also prohibits such contracts from imposing a maximum on the cost of individual inmate health care.

Section 2 of the bill reorganizes and republishes the provision of law which requires the cooperative transfer agreement for transferring inmates between private and public correctional facilities. In addition to reorganizing the statutes, the bill also provides for the Florida Corrections Commission to routinely monitor and document compliance with the agreement, mediate disputes between the DOC and the CPC, and make recommendations to the Governor for final resolution.

Section 3 of the bill amends s. 957.08, F.S., to provide a cross reference and to clarify what is meant by a “cross-section” of the inmate population. The bill expands the factors enumerated which form the basis of the statistical cross-section. The bill requires the DOC to transfer a statistical cross-section based on the additional factors of physical and mental health grade and level of education.

Section 4 prohibits a private correctional facility in this state from housing inmates from another state convicted of violent crimes, including murder, rape, child molestation or sexual battery.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes, The Florida Corrections Commission is required to mediate disputes between the department and the Correctional Privatization Commission with regard to the cooperative transfer agreement.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

No.

(2) what is the cost of such responsibility at the new level/agency?

No.

(3) how is the new agency accountable to the people governed?

No.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

   a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

      No.

   b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

      No.

5. Family Empowerment:

   a. If the bill purports to provide services to families or children:

      (1) Who evaluates the family's needs?

          N/A

      (2) Who makes the decisions?

          N/A

      (3) Are private alternatives permitted?

          N/A

      (4) Are families required to participate in a program?

          N/A

      (5) Are families penalized for not participating in a program?

          N/A

   b. Does the bill directly affect the legal rights and obligations between family members?

      No.

   c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

ss. 957.04, 957.06, 957.08, F.S.

E. SECTION-BY-SECTION RESEARCH:

None.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

4. Total Revenues and Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

   See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   If the pratical result of the bill is to require private vendors under contract with the CPC to, upon renegotiation, remove air conditioning and limit the use of recreation equipment, then there may be a negative economic impact on the private sector.

2. Direct Private Sector Benefits:

   See Fiscal Comments.

3. Effects on Competition, Private Enterprise and Employment Markets:

   See Fiscal Comments.

D. FISCAL COMMENTS:

There is no fiscal impact on the state.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

Many of the provisions of HB 3711 are applicable to contracts entered into on or after January 1, 1998. Based on the exact language in the bill, it is difficult to ascertain whether the provisions of this bill are intended to apply to contract renewals which may be negotiated after the first three years pursuant to the contractual agreements or if the sponsor's intent is for the provisions to apply only to initial contracts which are entered into on or after January 1, 1998. Since two of the five private correctional facilities are scheduled for renewal consideration during the summer of 1998, an amendment to clarify the intent may be needed.

The bill requires that the private correctional facility "operate under the same conditions" as the publicly operated facilities related to certain items. In the absence of a definition of "same conditions" it is difficult to understand the legal and practical implications of the bill. For example, since air conditioned housing units are available is some of the public prisons and not in others would this mean that some of the private prisons may have air conditioned housing units? Clarification is needed to fully understand the impact of this bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Amendment # 1 adopted by the Committee on Corrections removes all provisions in the bill and provides for a collaborative study to be conducted by the Correctional Privatization Commission and the Department of Corrections. The purpose of the study is to determine the feasibility of the Department of Corrections submitting a bid and operating its prisons in a similar manner as provided by law in Chapter 957 for private firms and contractors. The study is to be submitted to the Speaker of the House of Representatives and the President of the Senate by January 1, 1999.

VII. SIGNATURES:

COMMITTEE ON CORRECTIONS:

Prepared by:	Legislative Research Director:
Johana P. Hatcher	Amanda Cannon