

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1268

SPONSOR: Appropriations Committee and Senator Clary

SUBJECT: Correctional Privatization Commission

DATE: March 25, 2004      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kynoch</u>	<u>Hayes</u>	<u>AGG</u>	<u>Withdrawn</u>
2.	<u>Kynoch</u>	<u>Coburn</u>	<u>AP</u>	<u>Fav/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Senate Bill 1268 abolishes the Correctional Privatization Commission and transfers the duties and responsibilities related to the contracting for and operation of private correctional facilities to the Department of Management Services and the Florida Corrections Commission. The bill provides conforming changes to certain statutes. The bill also redesignates Chapter 957, Florida Statutes, as the “Correctional Privatization Act”.

This bill amends the following sections of the Florida Statutes: ss. 20.315, 287.042, 394.9151, 943.13, 944.02, 944.115, 944.72, 944.8041, 945.215, 957.01, 957.02, 957.04, 957.06, 957.07, 957.08, 957.13, 957.14, 957.15, 957.16, and repeals 957.03, Florida Statutes.

**II. Present Situation:**

The Correctional Privatization Commission was created by the 1993 Legislature in an attempt to accelerate the construction and operation of private prison beds.

The purpose of the Correctional Privatization Commission is to contract with private vendors to design, finance, acquire, lease, construct, and operate private correctional facilities. The commission is charged to contract for cost-effective privately operated correctional facilities.

The Correctional Privatization Commission is administratively housed in the Department of Management Services. The commission has five members appointed by the Governor for four-year terms; state law requires that one member be a minority and four be from the private sector. Commissioners serve without compensation. No member serving on the commission may be an employee of the Department of Corrections or of the Department of Juvenile Justice. A full-time staff of eight provide administrative and technical support to the commission.

The commission is functionally independent from the Department of Corrections. Florida law authorizes the commission to waive any rule, policy, or procedure of the Department of Corrections related to the operational standards of correctional facilities, if such rules, policies, and procedures are inconsistent with cost-effective management of privately operated prisons.

Chapter 957, Florida Statutes, requires the commission to contract with vendors that

- adhere to standards of the American Correctional Association;
- develop inmate education and work programs designed to reduce recidivism; and
- provide correctional services for adult offenders that result in a cost savings

To select contractors, the commission issues Requests for Proposals. The commission evaluates proposals on several categories, including vendor qualifications, the technical proposal, quality of inmate programs, and cost. Florida law requires the commission to award the contract to the most qualified and cost effective vendor. After the contract is in operation, the Correctional Privatization Commission monitors the vendors to ensure that they meet the American Correctional Association standards and other standards specified in Florida law. Chapter 957, Florida Statutes, also requires OPPAGA to evaluate vendor performance at the end of each contract and make recommendations to the Speaker of the Florida House of Representatives and the President of the Florida Senate on whether to continue the contract.

The commission currently contracts with two private corporations to operate a total of five correctional facilities in Florida. The chart below provides the name and location of each facility.

<b>Name</b>	<b>Location</b>	<b>No. of Beds</b>	<b>Contracting Firm</b>	<b>Date Opened</b>
Gadsden Correctional Facility	Quincy	800	Corrections Corporation of America	March 1995
Moore Haven Correctional Facility	Moore Haven	750	Wackenhut Corrections Corporation	July 1995
Bay Correctional Facility	Panama City	750	Corrections Corporation of America	August 1995
Lake City Correctional Facility	Lake City	350	Corrections Corporation of America	February 1997
South Bay Correctional Facility	South Bay	1,318	Wackenhut Corrections Corporation	February 1997

### III. Effect of Proposed Changes:

Section 1. Amends s. 20.315, F. S., relating to the Florida Corrections Commission to require that the commission resolve disputes between the Department of Corrections and contractors for the private correctional facilities who propose to waive a rule, policy or procedure concerning operational standards.

Section 2. Amends s. 287.042, F. S., to direct the Department of Management Services (DMS) to manage and enforce compliance with existing or future contracts entered into pursuant to chapter 957, F.S., for the designing, financing, acquiring, leasing, constructing, or operating of private correctional facilities. This section also directs DMS to acquire the contractual rights and assume the contractual obligations of the Correctional Privatization Commission (CPC) in previous contracts entered into pursuant to chapter 957, F. S., and stipulates that DMS may not delegate any of the responsibilities conferred by this subsection.

Section 3 through Section 9. Amend ss. 394.9151, 943.13, 944.02, 944.115, 944.72, 944.8041, and 945.215, F.S., to conform provisions of these sections to comply with changes made by the act designating DMS as the successor to CPC.

Section 10. Amends s. 957.01, F.S., to redesignate chapter 957, F. S. as the “Correctional Privatization Act”

Section 11. Amends s. 957.02, F.S., to delete the definition for the CPC.

Section 12. Repeals s. 957.03, F.S., creating the CPC.

Section 13. Amends s. 957.04, F.S., to specify certain private correctional contract responsibilities of the Florida Corrections Commission, to appoint DMS as the successor agency for CPC contracts in effect on July 1, 2004, and conforming provisions to comply with these changes in the act.

Section 14. Amends subsections 957.06(2) and (7), F.S., to replace the commission with DMS when developing and implementing a cooperative agreement for transferring inmates between correctional facilities.

Section 15. Amends s. 957.07, F.S., to replace the commission with DMS in the determination of cost saving requirements.

Section 16. Amends s. 957.08, F.S., to replace the commission with DMS in the determination of capacity requirements for private correctional facilities.

Section 17. Amends s. 957.13(2), F.S., to conform provisions of this section to comply with changes made by the act designating DMS as the successor to the CPC.

Section 18. Amends s. 957.14, F.S., to require certain cooperative agreements between DMS, contractors, and the Department of Corrections.

Section 19. Amends s. 957.15, F.S., relating to the duties of DMS in the operation, maintenance, and lease purchase of private correctional facilities and contract termination.

Section 20. Amends s. 957.16, F.S., to conform the modification and execution of agreements with contractors to changes made by the act.

Section 21. Provides an effective date of July 1, 2004.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

The Proposed Committee Bill eliminates 8 positions and \$859,405 in General Revenue for the Correctional Privatization Commission. Of these positions and funds, 6 positions and \$424,002 in General Revenue are proposed for the Department of Management Services to administer the responsibilities required by the bill. This will reduce state appropriations by \$435,403.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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