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Effort to privatize Florida prisons raises questions of cost

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Carl Juste / Miami Herald Staff

Inmates take a lunch break during their work shift. Inmates manufacture a wide variety of goods, most used to be sold to the State, but now the non-profits are partnering with the private sector, and is seeking partners in order to install more businesses in prisons.

Florida lawmakers are poised to make dramatic changes to the state's prison system, turning over as many as 14 prisons to private companies in hopes of trimming the cost of housing the state's criminals.

But as the Legislature moves aggressively to expand the reach of private prisons, fundamental questions remain unanswered. Such as: Do private prisons really save Florida taxpayers money? And if so, how much cheaper are they?

Florida has been experimenting with private prisons for 16 years, with almost 10 percent of the state's 102,000 inmates now held in seven private facilities.

The state agency that oversees these prisons says they will save taxpayers almost \$90 million over the next three years. But state financial analysts say they cannot show with any certainty how much money they save over state-run prisons.

At a Senate hearing in February, legislative analyst Byron Brown said differences in how public and private prisons operate and account for expenses "limit the conclusiveness" of any cost comparisons.

"There's never apples to apples," Brown told lawmakers.

While the benefits of prison privatization may be hard to see, the problems have been obvious: Over the years, the arrangement has been marred by mismanagement by state monitors, lax contracts, overbilling by prison contractors, a corruption investigation, and a legal loophole that allowed sexual misconduct in private facilities to go unpunished.

The Police Benevolent Association, which represents state corrections officers, said the

privatization plan could put prison security at risk, with the lower wages of private prisons forcing out veteran workers and increasing staff turnover and vacancies. More than 4,600 corrections jobs could get wiped off the state payroll under one legislative proposal.

“Their whole business model is to save money, and you save money on employees,” said Ken Kopczynski, a PBA lobbyist in Tallahassee. “If you have high turnover, that can turn into major problems.”

Critics also say the plan to expand prison privatization is aimed at rewarding an industry that donates generously to the state Republican Party.

Since 2001, the Florida GOP has received more than \$1.5 million from the two largest prison contractors and their affiliates, records show. More than \$1 million of that has come from The GEO Group of Boca Raton – formerly known as Wackenhut – which manages two of the state’s private prisons.

Supporters say state oversight of the private prisons has improved in recent years, and inspections show that private prisons are no less secure than those run by the state’s Department of Corrections. The change is needed, backers say, to rein in the prison system’s budget — which totaled \$2.3 billion last year — at a time of mammoth deficits.

In the most ambitious proposal, the Senate’s budget chief, J.D. Alexander, R-Lake Wales, wants to give private contractors control over all the Department of Corrections facilities in 18 counties south of Orlando, including prisons and work camps in Miami-Dade, Broward and Monroe counties.

The DOC has more than 4,600 employees in this region, with operating costs of about \$391 million last year. Alexander wants the whole area put up for bid to any vendors who can provide at least 7 percent in savings – or \$27 million less per year than the current cost.

By privatizing an entire region, rather than individual prisons, “we could more definitely answer the question of whether there is cost savings,” Alexander said. He said he expects the “vast majority” of corrections staffers in the region will be re-hired by the private contractors.

A more modest plan in the House of Representatives would transfer only the corrections facilities in Miami-Dade and Broward – a list that includes six prisons and reception centers – to private vendors. The House proposal also would put private companies in charge of the felony probation system in Miami-Dade and Broward – a plan adamantly opposed by the PBA.

A likely bidder under either plan is The GEO Group, which, in addition to running prisons, recently purchased a company that monitors criminals on probation. According to a recent report to shareholders, the company seeks to expand its business to manage “the full lifecycle of an offender from arraignment to reintegration into the community, which we refer to as the corrections lifecycle.”

Ron Book, a GEO Group lobbyist, said the company had no role in crafting the legislative proposals, though the company supports expanding private prisons.

“If you truly want to look at things like recidivism, you have to do a whole region. You can’t do this cherry-picking,” Book said.

The risks and benefits of private prisons have been hotly debated since 1995, when Florida’s first private prison, the Gadsden Correctional Facility, opened west of Tallahassee.

Oversight of the private facilities fell not to the Department of Corrections — as it does in every other state — but to a specially created entity, the Correctional Privatization Commission. The commission became a nest of mismanagement and corruption.

When Gadsden, an all-female prison, first began operating, only about half of the guards were certified as corrections officers as required. In the early years the prison also failed to show a 7 percent cost savings compared to a comparable state prison, as required by law.

For years the commission also failed to keep track of staffing levels at the private prisons, allowing contractors to overbill the state by \$4.4 million for vacant guard positions, according to a 2005 state audit.

The privatization commission “consistently failed to safeguard the state’s interests,” the audit said. The commission’s failures cost the state almost \$13 million, auditors found.

The commission was also rocked by another scandal: Its former director, Alan Duffee, was indicted on fraud charges for siphoning \$225,000 in state money through a secret bank account under the commission’s name. Duffee went to federal prison for 2½ years after pleading guilty in 2006.

The Legislature finally disbanded the privatization commission in 2005, and put the private prisons under the watch of the state’s Department of Management Services, which primarily manages state lands, purchasing and personnel matters.

Oversight of the prisons has improved under DMS, legislative analysts have found. But the department was criticized as recently as last year for the lax response of contractors to security and contraband concerns raised in prison inspections. (Though the Department of Corrections does not manage the prison contracts, it does perform annual security inspections of the private prisons.)

DMS officials say they have become more aggressive in enforcing contract requirements. In the past two years, the agency has penalized prison contractors more than \$840,000 for contract infractions, such as failing to report or inmate fights, and for failing to quickly fix security problems, records show.

“Most facilities are doing what they need to do most of the time,” said Michael Weber, head of the DMS Bureau of Private Prison Monitoring.

Yet the performance of some private prisons has been subpar, DMS records show.

From July 2008 to June 2010, the Moore Haven Correctional Facility, then managed by The GEO Group, was rated below “acceptable” in 18 of 24 monthly reviews by DMS, records show. (The Corrections Corporation of America won the Moore Haven contract last year.) The CCA-run Lake City Correctional Facility failed to reach the acceptable level in 17 of 24 monthly reviews during the same period.

The parallel system of public and private prisons also created an unintended inequity: different rules for prison guards. For several years, a law prohibiting prison guards from engaging in “sexual misconduct” with inmates — conduct that does not rise to the level of rape — applied only to Department of Corrections guards, not to guards at private prisons.

The DOC’s Inspector General investigated multiple claims of sexual misconduct at private facilities, but the guards could not be prosecuted because of the gap in the law. (The DOC could not provide exact figures on how many misconduct claims they investigated.) At the DOC’s urging, the Legislature amended the law last year to include private guards.

The biggest question about private prisons — how much money they save — is also the most difficult to answer.

State law requires private prisons to cost 7 percent less than comparable state facilities. But these comparisons depend on a series of subjective judgments and cost “adjustments” that make claims of savings less than concrete.

To determine how much to pay a private facility, state officials first establish a daily cost of housing an inmate in a similar state-run facility, then reduce that “per diem” rate by 7 percent. The problem is, the prisons often aren’t all that similar.

For example, the state compares the private Gadsden Correctional Facility to another female prison, the Lowell Correctional Institution in Ocala, to set a benchmark cost. But the differences between the two prisons are many: Unlike Gadsden, the Lowell facility has both a prison and a work camp on the grounds. Lowell also specializes in youthful offenders, and it has a higher security level, which often results in higher staffing costs.

In addition, some private prisons offer more drug treatment and educational programs than the state prisons — also frustrating any comparison. State auditors try to account for these differences by creating “adjusted” cost estimates for the state facilities; these cost estimates are then used as benchmarks for the private prison contracts.

The DOC calculated that the daily cost per every inmate at Lowell was \$66.71. State auditors then “adjusted” the amount down to \$54.85, omitting the work camp and other services to reflect a comparable cost to Gadsden’s. The current contractor at Gadsden, Utah-based Management & Training Corp., is paid only \$45.97 per inmate per day — 16 percent less than the adjusted rate.

Differences in the health-care needs of prisoners also skew comparisons. In their contracts, the private prisons have caps on the number of inmates they will accept with certain medical conditions — inmates that often become the most expensive to house.

From 2007 to 2009, two private prisons, South Bay and Lake City, spent \$6.9 million on medical costs, while the two state prisons used for cost comparison spent \$15.9 million on health care, according to a report by the Legislature's investigative arm, the Office of Program Policy Analysis & Government Accountability. Only 16 percent of the South Bay inmates had special medical needs — the maximum allowed under its state contract — compared to 41 percent at the state-owned Okeechobee Correctional Institution.

"The difference in the populations in public and private prisons results in the state shouldering a greater proportion of the cost of housing these inmates," another OPPAGA study concluded. "As a result, the requirement that the private prisons operate at 7 percent lower cost than state facilities is undermined."

Weber, of DMS, said healthcare costs should even out under new medical billing rules that took effect last year. The Legislature is also weighing a plan to turn over all prisoner medical care to a private contractor, again to reduce costs.

The private contracts have also saved money in other ways, Weber said. In response to budget cuts, DMS renegotiated its contracts to reduce the per-inmate pay rate, saving about \$1.5 million. The department also withheld about \$3.4 million from the GEO Group and CCA over two years for failing to maintain required staffing levels, records show.

Brown, the legislative analyst, said private prisons appear to yield "some savings" to the state, most of it in reduced cost of pensions for state corrections officers. But how much is hard to say.

The prison industry will have to find new ways to save money under any legislative proposal that gets passed.

Until now, the state's only private prisons had been built new for the state, and designed by the prison companies to maximize efficiency while reducing manpower needs. But under the plans in the Legislature, the contractors will be taking over older, existing facilities — including one built in 1932 — which are often more costly to run.

The persistent questions about the savings, and worries about potential job losses for corrections workers, have stirred concern about the privatization plans among Democrats in Tallahassee.

"The mere fact that we keep getting these different numbers gives us pause," said Sen. Christopher Smith, D-Oakland Park.