

STORAGE NAME: h2303.cor

DATE: April 6, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CORRECTIONS
ANALYSIS**

BILL #: HB 2303 (PCB-COR 00-10a)

RELATING TO: Correctional Work Programs

SPONSOR(S): Corrections Committee and Representative Trovillion

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CORRECTIONS YEAS 6 NAYS 0
 - (2) CRIMINAL JUSTICE APPROPRIATIONS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill amends the definition of "corporation" as it relates to prison industries (in Part II of Chapter 946, F.S.), and it provides for PRIDE (Prison Rehabilitative Industries and Diversified Enterprises, Inc.) to create a nonprofit member corporation, as long as PRIDE is the sole member of the corporation and the Board of Directors of the corporation is identical to that of PRIDE's. The member corporation will be subject to the same duties and responsibilities as that of PRIDE.

The reasoning behind the bill is so that PRIDE can continue to emphasize its traditional correctional work programs (involving manufacturing and agriculture), but also, through a new PRIDE-controlled corporation, begin to concentrate on different issues involving new business development, private sector business partnerships, high-tech enterprises, international business and exporting, and other non-traditional endeavors.

The bill also makes several technical corrections to Chapters 946 and 957 of the Florida Statutes, fixing incorrect and obsolete statutory language and references.

The bill will have no fiscal impact on the state of Florida.

The bill provides that the act shall take effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|-----------------------------------------|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Inmate Work Assignments

Currently, Chapter 946, F.S., includes as a goal for the department having "all inmates, except those inmates who pose a serious security risk or who are unable to work, to work at least 40 hours a week. Until this goal can be accomplished, the department shall maximize the utilization of inmates within existing resources."

The rules of the department define "assignment" to be the work **or** program to which an inmate is assigned. Therefore, the department includes program assignments (e.g., academic and vocational education, substance abuse, wellness education) in the definition of work. The rules further provide that inmates shall not be required to work more than 12 hours per day or 72 hours per week, including travel time.¹

Currently, five types of correctional assignments are available for inmates in public institutions in Florida:

1. DOC institutional work assignments - These assignments include positions in food services, laundry, sanitation, grounds maintenance, new facility construction, recycling, farming and gardening, and operating canteens.
2. DOC Work Squads - There are currently three types of inmate work squads:
 - a. Armed Work Squads - These squads are comprised of up to 30 close custody inmates who are supervised by one correctional sergeant and two correctional officers. In 1995, the department began working inmates in restricted labor squads (chain gangs) in which an inmate's legs are shackled together and the inmates wear distinctively different uniforms from other work groups. Inmates on armed work squads are not compensated for their labor.
 - b. Community Work Squads - These squads are comprised of minimum and medium custody inmates working under the unarmed supervision of either correctional officers or employees of other organizations who have been trained

¹Rule 33-601.201, Florida Administrative Code, 2000.

and certified by the department to supervise inmates. Inmates on community work squads are not compensated for their labor. There are three types of community work squads: DOT inmate work squads which perform work for maintenance of the state highway system, public works/interagency community service work squads which provide free inmate labor for projects contracted between the department and local government entities, state agencies, and nonprofit corporations, and contracted work squads for which DOC is paid for providing inmate services to contracted outside governmental entities.

c. Field Force Squads - This is a newly created type of work squad, organized to do farming work. There is currently only one functioning Field Force Squad in Florida, but the department hopes to expand the program in the future. Presently, only minimum and medium custody inmates can work on this type of squad, but it is the department's goal to include closed custody inmates in the future. The squad will be supervised by mounted armed guards.

3. Prison Rehabilitation Industries and Diversified Enterprises, Inc. (PRIDE) - PRIDE is a statutorily authorized private, non-profit corporation based in St. Petersburg, Florida. PRIDE, which was founded in 1981, is a general manufacturing and services management company that forms strategic partnerships with businesses to provide on-the-job skills training as well as post-release job placement and support for Florida inmates.
4. Prison Industry Enhancement Program (PIE) - Created by the U.S. Congress in 1979², the PIE certification program allows private sector industry to establish joint ventures with correctional agencies to produce goods using prison labor. The PIE program eases interstate commerce restrictions on joint private-public prison manufacturing ventures as long as prevailing wages are paid to inmates, worker's compensation coverage is provided to inmates, and local industries are unaffected.
5. DOC Program Assignments - In addition to the correctional work programs, the department provides program assignments for the purposes of rehabilitating and assisting inmates in their self-improvement efforts. Program assignments include academic and vocational education, drug treatment programs, library services, and motivational programs, such as life management skills.

PRIDE

Beginning in 1981 and since 1984, all Florida correctional work programs have been administered by PRIDE (Prison Rehabilitative Industries and Diversified Enterprises, Inc.). Prior to 1981, the Department of Corrections operated the state's prison industries program. However, in 1981, the Legislature authorized the department to lease the facilities and equipment of the various correctional industries to a nonprofit corporation (PRIDE) organized solely for the purpose of operating the correctional work programs [Ch. 81-125, 1981 *Fla. Laws* 253]. By 1984, the management and operations of all prison industry programs had been transferred to PRIDE.

Pursuant to s. 946.501, F.S., the Legislature has mandated the following missions for PRIDE:

²Justice System Improvement Act of 1979

- ▶ To provide a joint effort between the Department of Corrections, the correctional work programs, and other vocational training programs to reinforce relevant education, training, and post release job placement and help reduce re-commitment;
- ▶ To serve the state's security goals by reducing inmate idleness and providing incentives for good behavior;
- ▶ To reduce the costs of state government by operating enterprises primarily with inmate labor, which do not seek to unreasonably compete with private business; and
- ▶ To serve the state's rehabilitative goals by duplicating, as nearly as possible, the operating activities of a free-enterprise profit-making enterprise.

During FY 1999, PRIDE was responsible for training 4,741 inmate workers. These inmate workers, who were housed in 20 different state correctional institutions, generated \$78.4 million in sales, contributed \$938,581 to the Department of Corrections, and paid \$264,580 to the victim restitution fund.³

PRIDE is currently responsible for a wide variety of correctional work programs in the state of Florida, and PRIDE is also responsible for four PIE programs (although they are in the process of adding 7 new PIE programs).⁴ Traditionally, PRIDE has focused mainly on agricultural and manufacturing type industries, such as farming and furniture manufacturing. However, in an effort to remain up-to-date and offer more contemporary services, as well as provide relevant workforce training to inmates, PRIDE has begun to offer more technologically advanced work programs, such as computer mapping, data entry, and data conversion.

Legal Restrictions on the Sale and Purchase of PRIDE Products and Services

The inmate goods and services of PRIDE are subject to state and federal laws that limit their marketing. Federal law prohibits the transportation in **interstate commerce** or from foreign countries of any goods, wares, or merchandise manufactured, produced or mined by prisoners.⁵ Violation of this federal law constitutes a crime, punishable by a fine of not more than \$250,000, a prison term of not more than 2 years, or both. This federal prohibition specifically does *not* apply to the following:

- (1) agricultural commodities;
- (2) parts for farm machinery repair;
- (3) commodities manufactured in a federal or state institution for the use by the federal government or any state or political subdivision; and
- (4) goods manufactured, produced, or mined by prisoners participating in certain federally authorized PIE programs.

³PRIDE Enterprises 1999 Annual Report, page 9.

⁴PRIDE correctional work programs include: dairy, farming, poultry, feed mill, swine, sanitary supply, textile, transportation, forestry, decal and maintenance, dental, furniture manufacturing (metal and wood), furniture refurbishing, tire remanufacturing, traffic paint manufacturing, optical, print, modular furniture manufacturing, cattle, citrus, food product distribution, sugar cane, administrative office materials, shoe manufacturing, box manufacturing, services work programs, heavy vehicle renovation, warehousing, tags manufacturing, broom manufacturing, automated mapping, data entry, and data conversion. PIE programs: Coatings PIE at Baker C.I. (traffic and architectural paint and coating products), Optical Lab PIE at Broward C.I. (optical lab services, manufacturing eye wear), Manufacturing PIE at Hardee C.I. (manufacturing upholstery furniture), and Fabrication PIE at Union C.I. (metal products and manufacturing services)

⁵*Ashurst-Summers Act of 1948*, 18 U.S.C.A. s. 1761 (West, 1999).

Part II of Chapter 946, F.S., regulates PRIDE at the state level. Pursuant to s. 946.515(1), any service or item manufactured, processed, grown, or produced by PRIDE inmates may be furnished or sold to any legislative, executive, or judicial agency of the state, any political subdivision, any other state, any foreign government, any agency of the federal government, or any contractors of such agencies or their subcontractors, as long as there is no violation of federal or state laws. Section 946.515(5), F.S., specifies that PRIDE may contract to provide inmate goods or services to private enterprise if the Governor has determined that such goods or services will not unreasonably compete with other businesses already operating in this state. Section 946.515(2) specifies that, if inmate-produced products are certified by PRIDE as meeting comparable performance specifications and comparable price and quality requirements as any other source, state agencies in Florida must purchase PRIDE products rather than products from other sources. The section does provide some discretion however, on the part of the state agencies, subject to the agencies' reasonable determination of need, price and quality.

PRIDE and PIE Programs

The PIE certification program is a federally administered program that authorizes public and private partnerships to employ inmates in correctional systems to produce items for open sale to the private sector *if certain criteria are met*. These criteria include paying the inmates who work for a PIE program a "prevailing" industry wage, taxing the wages, and providing inmates with workers' compensation coverage.

In 1994, the Legislature authorized the department to participate in the federally sponsored PIE certification program. In March 1995, the U.S. Department of Justice approved the department as the certified agency responsible for designating PIE programs in this state. In 1999, in Chapter 99-260, Laws of Florida, the Legislature transferred the oversight and certificate for PIE programs to PRIDE. On May 27, 1999, the Bureau of Justice Administration approved PRIDE as the certificate holder. All contracts for use of inmate labor in PIE programs, including those intending to be operated by PRIDE, must receive the approval of the state Department of Corrections.

C. EFFECT OF PROPOSED CHANGES:

This bill will allow PRIDE to create a second private nonprofit corporation which has PRIDE as the sole member of the corporation and has a Board of Directors which is identical to that of PRIDE's. Essentially, this bill will allow PRIDE to duplicate its corporate structure and have a new corporation subject to the same duties and responsibilities applicable to PRIDE.

By allowing PRIDE to create a second private nonprofit corporation, this bill will allow PRIDE and its current managers to continue to emphasize its traditional correctional work programs (involving manufacturing and agriculture) and shift the more technologically advanced correctional work programs to the new corporation and new management with different skills. The new nonprofit corporation will be able to concentrate on different issues other than manufacturing and agriculture, such as new business development, private sector business partnerships, high-tech enterprises, international business and exporting, and other non-traditional endeavors.

This bill will allow for PRIDE's leased properties (machinery and equipment) to be insured by the State Property Insurance Trust Fund. Currently, only property owned by PRIDE is eligible for such insurance coverage.

The bill also corrects cross references and deletes obsolete language throughout Chapter 946, F.S., and it makes one cross reference change to s. 957.04, F.S.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: This section corrects a statutory reference to more accurately define the part of the Chapter that describes the corporation of PRIDE. PRIDE currently carries out ss. 946.502 through 946.524, F.S. But the statutes currently refer only to ss. 946.502 through 946.518, F.S. The term “this part” has been added, instead of continuously referring to the range of statutes. This technical revision appears numerous times throughout the bill. Section 1 also deletes obsolete language, such as references to the July 1, 1985, deadline for the complete transfer of the correctional work programs from DOC to PRIDE.

Section 2: This section contains a technical revision changing the word “chapter” to “part.”

Section 3: This section deletes a statutory reference and replaces the reference with the words “under this part.”

Section 4: This section amends the statutory definition of the term “corporation,” with reference to Chapter 946, F.S. The new, expanded definition allows for the creation a nonprofit member corporation, as long as PRIDE is the sole member and the Board of Directors of the corporation is identical to that of PRIDE’s. The member corporation would be subject to the same duties and responsibilities as PRIDE under Part II of Chapter 946.

Section 5: This section deletes obsolete language that was only relevant at the time of the initial transfer of the prison industries from the Department of Corrections to PRIDE. At that time, the Department of Management Services and the Attorney General were called in to act as third party intermediaries during the three-year management change-over. All leases, contracts and agreements are now negotiated between the department and PRIDE.

Section 6: This section amends a statutory reference to more clearly define the part of the Chapter that describes the corporation. (See section 1 explanation.)

Section 7: This section provides that the State Property Insurance Trust Fund may insure PRIDE’s leased properties (equipment and machinery) as well as it’s owned properties. Currently, only property owned by PRIDE is eligible for such insurance coverage.

Section 8: This section corrects a statutory reference. The PIE program is now described in s. 946.523, F.S., and not s. 946.006(3), F.S.

Section 9: This section amends statutory references to more clearly define the part of the Chapter that describes the corporation. (See section 1 explanation.)

Section 10: This section deletes an obsolete statutory reference.

Section 11: This section changes the date by which PRIDE must submit its Annual Report to the Governor and the Legislature. This date change reflects PRIDE’s switch from a July/June fiscal year to a January/December calendar year.

Section 12: This section deletes obsolete statutory references and amends other statutory references to more clearly define the part of the Chapter that describes the corporation.

Section 13: This section amends references to the different parts of Chapter 946, F.S. According to PRIDE, the reasoning behind this change was to clarify that both PRIDE and PIE are in the same "part" of Chapter 946, F.S., and that inmate assignment provisions apply to both PRIDE and PIE participants.

Section 14: This section corrects an obsolete statutory reference.

Section 15: This section provides that the bill shall take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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

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A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON CORRECTIONS:

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