HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1711 PCB CRJU 05-02 Prison Industries
SPONSOR(S): Criminal Justice Committee; Kravitz
TIED BILLS: none **IDEN./SIM. BILLS:** CS/SB 886

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Criminal Justice Committee	7 Y, 0 N	Bond	Kramer
1)			
2)			
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4)			
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SUMMARY ANALYSIS

This bill creates a task force to examine the purposes and missions of the prison industries program and to report its findings to the Governor and the Legislature. It also amends s. 946.505, F.S., to clarify the state's reversionary interest in property owned by PRIDE.

This bill appears to have a minimal fiscal cost to the state. This bill does not appear to have a fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government -- This bill creates a task force.

B. EFFECT OF PROPOSED CHANGES:

Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) was created by the Legislature in 1981 as a private, non-profit corporation to lease and manage the state prison industries program from the Department of Corrections. Section 946.501, F.S., defines PRIDE's missions as:

- providing education, training, and post-release job placement to inmates to help reduce recommitment;
- enhancing security by reducing inmate idleness and providing an incentive for good behavior in prison;
- reducing the cost of state government by operating enterprises primarily with inmate labor while not unreasonably competing with private enterprise; and
- rehabilitating inmates by duplicating, as nearly as possible, the activities of a profit-making enterprise.

PRIDE was given several advantages to help offset some of its competitive disadvantages in the marketplace. It has sovereign immunity on the same basis as the state, and is not required to pay unemployment compensation for inmate workers. State agencies are required by statute to purchase products from PRIDE if the products are of similar quality and price to those offered by outside vendors. Also, PRIDE is not under the authority of any state agency, although it is subject to the auditing and investigatory powers of the Legislature and the Governor.

In 2002, PRIDE provided 1,995 inmate work positions at 21 prisons throughout Florida and generated $60.9 million in sales. PRIDE operated 38 industries, including raising dairy calves, building office furniture, and providing printing, binding, data entry, and document imaging services. It is reported that PRIDE jobs are coveted by inmates. In addition to earning a small wage, PRIDE workers receive training in job skills. A portion of their wages goes toward payment of restitution, support costs, and mandatory savings. PRIDE claims that its former workers are less likely to re-offend after release from incarceration than are other inmates. However, the Office of Program Policy Analysis and Government Accountability (OPPAGA) has found that the positive effect of PRIDE employment on recidivism cannot be confirmed.

In the late 1990's, PRIDE developed a new business plan which involved the creation of separate but related companies. The intent of the creation of these new companies was to help PRIDE find ways to increase the number of inmate jobs and expand its social mission. However, the number of inmate workstations declined by more than 500 between 2000 and 2002, and there are no statistics indicating any increase in the last two years.

In its 2002 Annual Report issued December 2, 2002, the Florida Corrections Commission extensively reviewed PRIDE's history and current operations. The report focused attention on PRIDE's fulfillment of its mission, particularly noting that the number of inmate workstations had not kept pace with the growth of the inmate population. The Corrections Commission also raised questions about the new corporate structure and affiliated entities.

In December 2003, OPPAGA issued Report No. 03-68, "PRIDE Benefits the State but Needs to Improve Transparency in Operations." OPPAGA focused on many of the same issues as the

Corrections Commission, particularly concerning PRIDE's organizational structure. OPPAGA also noted some of the challenges faced by PRIDE in the current business operating environment, and that PRIDE sales had declined by more than $20 million over the preceding 5 years. The OPPAGA report prompted Governor Bush to request his Chief Inspector General to conduct an audit of PRIDE and its related entities.

On February 28, 2005, the Governor's Chief Inspector General issued a final audit report. The 9 audit findings criticize PRIDE's operations, operational control, and expenditures.

Section 946.505, F.S., provides for the reversion of certain PRIDE property to the state if PRIDE dissolves or if a correctional work program ceases to function. Unless PRIDE intends to use the property for another correctional work program, all buildings, land, furnishings, equipment, and other chattels originally leased from the department automatically revert to full ownership by the department. The state also has a reversionary interest in any facilities that are subsequently constructed or otherwise acquired in connection with the operation of the program. "Facilities" is defined in s. 946.503(4), F.S., to mean buildings and land used in the operation of an industry program on state property. In its report, OPPAGA noted that the statute does not provide for reversion of all PRIDE property to the state, nor address the state's interest in property that is transferred by PRIDE during its existence. In its response to the OPPAGA report, PRIDE noted that the state's reversionary interest is ensured in PRIDE's articles of incorporation and further protected by its designation as a 501(c)(3) organization under the Internal Revenue Code.

Effect of Bill

Section 1 of the bill creates the Prison Industries Task Force to examine and report on the state's prison industries program. Previous reports concerning PRIDE have focused on structural and management issues, examining whether PRIDE is accomplishing its statutory missions. The bill provides a broader mission for the task force, which will determine: (1) how well the program has fulfilled its statutory missions and purposes; (2) the economic and societal value that the program has produced for the state; and (3) whether the program's statutory missions are still feasible and relevant and whether they will remain so in the future.

The task force will be housed within the Office of Legislative Services, with staff support provided by the Legislative Committee on Intergovernmental Relations. Its first meeting must be held by July 15, 2005, and at least 3 public meetings must be held. The task force must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than February 15, 2006. The bill abolishes the task force on July 1, 2006.

The task force will consist of the following 13 members, with the representative of Florida TaxWatch serving as chairman:

- The Secretary of the Department of Corrections and 2 wardens of institutions that have prison industries programs;
- A representative from the Agency for Workplace Innovation;
- A representative from the Department of Education's Office of Workplace Education;
- A representative from Florida TaxWatch;
- A member of the Senate, appointed by the President of the Senate;
- A member of the House of Representatives, appointed by the Speaker of the House;
- A representative from the PRIDE board of directors;
- A representative from a local governmental entity that purchases products produced by prison industries;
- A representative from a private industry that regularly employs former inmates;
- A representative from the academic community with expertise in research concerning reentry of prisoners into society and the employment of former felons; and

- A former inmate who worked in the prison industries program.

The President of the Senate and the Speaker of the House of Representatives must jointly appoint the representatives of PRIDE, local government, private industry, academia, and the former inmate by July 1, 2005.

The bill requires the task force to receive testimony from the Auditor General, the Governor's Inspector General, OPPAGA, PRIDE and other appropriate officials to address a number of questions regarding the correctional work program's missions:

- Whether the statutory missions of the program, as defined in s. 946.501(2), F.S., are still valid; whether there are other valid missions that should be included; and whether any of the valid current or recommended missions are in conflict;
- Whether the missions should be ranked in order of priority and the extent to which accomplishment of a higher-priority mission can be reduced to accomplish a lower-priority mission;
- Whether duplicating a free-world operation as closely as possible is the most effective way of accomplishing the program's missions;
- Whether the program's management structure should be changed to facilitate accomplishment of the missions;
- Whether operating the program independently of state government is the most effective manner to accomplish its valid missions;
- Whether PRIDE can fulfill the legislative intent in s. 946.502(6), F.S., that correctional work programs use inmates in all levels of custody, with emphasis on reducing idleness among inmates in close custody;
- The extent to which privatization and market changes have reduced PRIDE's sales and impeded its ability to expand training; and
- What creative strategies could enhance the program's ability to accomplish its valid missions.

Section 2 of the bill addresses the concern raised in OPPAGA Report No. 03-68 that state property interests in reversion of PRIDE property to the state need to be clarified. Section 946.505(1), F.S., is amended to clarify that all property and assets related to a correctional work program will revert to state ownership if the program closes and PRIDE does not intend to use the property and assets in another correctional work program. Of course, the property and assets would also revert to the state if PRIDE were dissolved. The bill does not address the status of property that is sold or otherwise transferred by PRIDE. However, PRIDE does not have authority to transfer title to property originally leased from the department or the state, or to permanent enhancements to facilities or work programs.

C. SECTION DIRECTORY:

Section 1 creates the Prison Industries Task Force.

Section 2 amends s. 946.505, F.S., regarding property owned by PRIDE.

Section 3 provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

This bill will require minimal expenditures payable out of the General Revenue Fund, from funds budgeted to the legislative budget. This bill creates a 13 member task force. Members are not paid, but are reimbursed for per diem. The cost will depend upon the number of meetings and their location. The bill requires a minimum of 3 meetings. Assuming 3 meetings, 20 persons (13 members plus 7 staff support), and $500 per person for travel and per diem, yields a minimum expenditure of $30,000.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.