

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: SB 1148

SPONSOR: Senator Crist

SUBJECT: Correctional Work Programs/Operations

DATE: March 15, 2001 REVISED: 03/27/01 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gardner</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 1148 would accomplish three things with respect to prison work programs. First, this bill would allow PRIDE, (Prison Rehabilitative Industries and Diversified Enterprises, Inc.), as the nonprofit corporation operating all prison work programs, to create a second nonprofit corporation, with PRIDE as its sole member, to expand the scope and nature of prison work programs. Second the bill would change the date when PRIDE's annual report is due from January to July. Lastly, this bill would make technical changes to several of the sections in part II of ch. 946, F.S., making the terms and language therein conform to the current operation of prison work programs. This bill would have no direct fiscal impact on the state.

This act would become effective upon becoming a law.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 946.502, 946.5025, 946.5026, 946.503, 946.506, 946.509, 946.511, 946.514, 946.516, 946.518, 946.520 and 957.04.

II. Present Situation:

PRIDE, Inc. 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.

Created by the U.S. Congress in 1979, the PIE certification program (Prison Industry Enhancement) 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.

A brief history of 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, L.O.F.). 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:

- 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 2000, PRIDE was responsible for employing and/or training approximately 5,000 inmate workers for all or some part of the year. On an average day, approximately 2,500 were employed in traditional PRIDE industries, and PIE programs. These inmate workers, who were housed in 20 different state correctional institutions, generated \$98.5 million in sales, contributed \$1,092,905 to the Department of Corrections, and paid \$276,417 to the crime victims restitution fund.

PRIDE is currently responsible for a wide variety of correctional work programs in the state of Florida, and PRIDE, Inc. is also responsible for four PIE programs (although they are in the process of creating additional PIE programs). 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.

Part II of ch. 946, F.S., regulates PRIDE at the state level. Pursuant to s. 946.515(1), F.S., 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.

The *Ashurst-Summers Act of 1948*, 18 U.S.C. S. 1761, regulates the market for prison industries. This law prohibits prison industries from introducing most prison made goods and services into the stream of interstate commerce. The primary exceptions are agricultural commodities, goods and services created in a state or federal prison intended for use by the federal government, any state government or political subdivision thereof, and goods manufactured or produced by prisoners in certain PIE programs.

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), F.S., 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 ch. 99-260, L.O.F., 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.

PRIDE is required to make an annual report to the Governor and the Legislature, on or before January 1 of each year. The report to the Governor and the Legislature on the status of the correctional work programs operated by the corporation must include information relating to the following areas:

- the proposed use of the profits from the programs;
- a breakdown of the amount of noninmate labor used;
- work subcontracted to other vendors;
- use of consultants;
- finished goods purchased for resale; and
- the number of inmates working in the correctional work programs at the time of the report.

Additionally, the corporation must submit an annual financial audit report, with recommendations relating to provisions for reasonable tax incentives to private enterprises which employ inmates, parolees, or former inmates who have participated in correctional work programs.

PRIDE has recently changed its fiscal year from July - June to January - December.

III. 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.

The bill changes the date by which PRIDE must make the reports explained above to July 1 of each year.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Criminal Justice:

Removes the requirement that the board of directors of the additional or second PRIDE corporation have a board of directors identical to the original or first PRIDE corporation, and inserts language requiring that at least 51 percent of the board of the additional or second PRIDE corporation come from the original or first PRIDE corporation.

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