

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1931 Session of  
1993

INTRODUCED BY CALTAGIRONE AND GERLACH, JUNE 23, 1993

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 23, 1993

AN ACT

1 Establishing the Joint Venture Enterprise Board and providing  
2 for its powers and duties; providing for employment of  
3 inmates by private industry and for subcontracts with  
4 correctional agencies; establishing guidelines for inmate  
5 compensation; providing for location of joint ventures; and  
6 making repeals.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Inmate  
11 Employment Through Joint Ventures Act.

12 Section 2. Intent.

13 It is the intent of the General Assembly that joint ventures  
14 between correctional agencies and private industry be  
15 established so that inmates incarcerated in State and county  
16 correctional facilities may be productively engaged. Private  
17 industry in this Commonwealth will thereby become more  
18 competitive in the marketplace while not displacing or impairing  
19 job opportunities for civilian labor in the community. Inmates

1 who volunteer and are deemed eligible for these jobs will be  
2 better able to:

3 (1) Develop positive work habits that will assist them  
4 in securing and holding gainful employment in the public and  
5 private sectors.

6 (2) Pay a reasonable portion of the room and board in a  
7 correctional facility.

8 (3) Accept responsibility for the consequences of their  
9 acts by compensating victims of crime through deductions from  
10 their earnings.

11 (4) Assist in providing financial assistance to their  
12 dependents, thus strengthening and promoting family ties  
13 while reducing the likelihood that their families may  
14 eventually have to rely upon public assistance.

15 Section 3. Definitions.

16 The following words and phrases when used in this act shall  
17 have the meanings given to them in this section unless the  
18 context clearly indicates otherwise:

19 "Board." The Joint Venture Enterprise Board.

20 "Certification." Written assurance by appropriate  
21 correctional authorities at all levels of government that a  
22 prison-based enterprise meets statutory and guideline  
23 requirements established by the Justice Assistance Act of 1984  
24 (Public Law 98-473, 42 U.S.C. § 3701 et seq.).

25 "Compensation board." The Crime Victim's Compensation Board  
26 of the Commonwealth.

27 "County commissioners." Elected county commissioners, or the  
28 equivalent governing body of any county, regardless of form of  
29 government.

30 "Department." The Department of Corrections of the

1 Commonwealth.

2 "Joint ventures." A public or private partnership in which  
3 goods or services are produced in prison or on property under  
4 the auspices of a correctional authority and sold on the open  
5 market.

6 "Open market." Unrestricted stream of commerce within this  
7 Commonwealth and outside the borders of this Commonwealth in  
8 interstate commerce.

9 "Private business, private enterprise or nonprofit entity."  
10 An individual, firm, partnership, corporation or other lawful  
11 commercial enterprise or nonprofit organization which, under  
12 this act, participates in a joint venture and employs service of  
13 State or county inmates. Any joint venture established under  
14 this act shall be subject to the laws, rules and regulations  
15 governing the operation of similar enterprises in this  
16 Commonwealth.

17 "Private enterprise." The joint venture established under  
18 this section is a private enterprise subject to the laws, rules  
19 and regulations governing the operation of similar enterprises  
20 in this Commonwealth.

21 "Program." The Private Sector Prison Industry Enhancement  
22 Certification Program established by the Justice Assistance Act  
23 of 1984 (Public Law 98-474, 42 U.S.C. § 3701 et seq.).

24 Section 4. Joint Venture Enterprise Board.

25 (a) Establishment.--There is hereby established a board to  
26 be known as the Joint Venture Enterprise Board.

27 (b) Composition.--The board shall consist of nine members as  
28 follows:

29 (1) The Secretary of Corrections or his designee who  
30 shall serve as chairman.

1           (2) The Secretary of Labor and Industry or his designee.

2           (3) The president of the AFL-CIO of Pennsylvania or his  
3           designee.

4           (4) Two county commissioners nominated by the  
5           Pennsylvania State Association of County Commissioners and  
6           appointed by the Governor.

7           (5) One member of the Senate appointed by the President  
8           pro tempore of the Senate.

9           (6) One member of the House of Representatives appointed  
10          by the Speaker of the House of Representatives.

11          (7) Two members nominated by the department and  
12          appointed by the Governor. One of these members shall be  
13          representative or private industry and one shall be the  
14          correctional administrator from a county correctional  
15          facility operating a joint venture.

16          (c) Terms.--The terms of the members are as follows:

17           (1) Three years for the member of the Senate and the  
18           member of the House of Representatives.

19           (2) Three years for one of the county commissioners and  
20           one year for the other.

21           (3) Two years for the member representing private  
22           industry.

23           (4) One year for the county correctional administrator.

24          (d) Reappointment.--Each member of the board may be eligible  
25          for reappointment. Each member shall continue to serve after the  
26          expiration of his term until a successor is appointed.

27          (e) Removal.--A member may be removed by the Governor due to  
28          inefficiency, neglect of duty or malfeasance in office.

29          (f) Vacancies.--Vacancies shall be filled by the original  
30          appointing authority for the remainder of the unexpired term.

1 The vacancies shall be filled within 90 days of the occurrence  
2 of the vacancy.

3 (g) Meetings.--The board shall meet annually and upon the  
4 request of the chairman or three or more members. All meetings  
5 shall be open to the public.

6 (h) Quorum.--Seven members shall constitute a quorum, and a  
7 vote of the majority of members shall be necessary for the  
8 transaction of the business of the board.

9 (i) Compensation.--Members shall receive no compensation for  
10 their services on the board, but shall be reimbursed by the  
11 department for all reasonable and necessary expenses in  
12 accordance with the rules of the Executive Board.

13 Section 5. Powers and duties of board.

14 The board shall have the powers and duties to:

15 (1) Apply to the United States Department of Justice for  
16 certification of prospective prison-based joint venture  
17 programs to be operated by either the department or any  
18 county correctional authority in this Commonwealth.

19 (2) Act as an intermediary between any correctional  
20 agency in this Commonwealth and the United States Department  
21 of Justice in matters related to the certification of prison-  
22 based joint ventures in this Commonwealth.

23 (3) Establish procedures for determining whether a  
24 prospective joint venture proposed by the department or any  
25 county correctional agency complies with the requirements of  
26 the program.

27 (4) Determine whether a prospective joint venture shall  
28 be designated as an enterprise participating in the program  
29 and whether any designation previously approved shall be  
30 revoked.

1           (5) Monitor all joint ventures designated as  
2 participants in the program to ensure continuing compliance  
3 with rules and regulations promulgated by the United States  
4 Department of Justice under the provisions of the program.

5           (6) Issue an annual report by January 31 of each  
6 calendar year to the Governor, the Judiciary Committee of the  
7 Senate and the Judiciary Committee of the House of  
8 Representatives detailing the status of prison-based joint  
9 ventures in this Commonwealth.

10          (7) Designate which services performed or articles  
11 manufactured or assembled by inmates are conforming to the  
12 program and can be sold on the open market.

13 Section 6. Minimum requirements of joint venture programs.

14          (a) Requirements enumerated.--A joint venture shall not be  
15 certified unless the applicants demonstrate that:

16           (1) The applicants, meaning the private business,  
17 private entity, the department or the governing authority of  
18 the county correctional system, whichever is applicable,  
19 consulted with local union central bodies and will local  
20 businesses that may be affected by the joint venture, prior  
21 to the initiation of the application for certification.

22           (2) The applicants have verified with the Department of  
23 Labor and Industry that, if certified, the joint venture will  
24 not:

25           (i) demonstrably result in the displacement of  
26 employees in the surrounding community;

27           (ii) be applied in skills, crafts or trades in which  
28 there is a surplus of available labor in the area in  
29 which the joint venture is to be located; or

30           (iii) impair existing contracts for services.

1 Further, a contract shall not be executed by or with a  
2 joint venture employer that will permit the employment of  
3 inmates in the same job classifications as noninmate  
4 employees of the same employer who are on strike, as  
5 defined in the act of June 1, 1937 (P.L.1168, No.294),  
6 known as the Pennsylvania Labor Relations Act.

7 (b) Minimum provisions.--Any joint venture certified under  
8 this act shall provide for the following:

9 (1) That all inmate employment shall be voluntary.

10 (2) That all inmates shall be compensated by the private  
11 entity at a rate which is comparable to wages paid for work  
12 of a similar nature in private industry in the locality in  
13 which the project is located, as determined after  
14 consultation with the Department of Labor and Industry. In no  
15 circumstances shall an inmate receive compensation which is  
16 less than the minimum wage established by Federal law unless  
17 such lesser compensation is consistent with Federal law.

18 (3) That all inmates shall have deducted from any  
19 compensation received:

20 (i) Federal, State and local taxes.

21 (ii) Any court-ordered financial obligation,  
22 including victim restitution, fines, etc.

23 (iii) A portion of the room and board in a  
24 correctional facility as determined by the department or  
25 the governing body of the county correctional agency.

26 (iv) An allocation for support of the inmate's  
27 immediate family under statute or court order or under  
28 any other financial obligation acknowledged in writing by  
29 the inmate.

30 (v) Mandatory deposit of not less than 5% nor more

1           than 20% of gross wages to the compensation board. All  
2           funds collected by the compensation board shall be used  
3           to compensate crime victims in the manner provided by  
4           law. Any remaining amount shall be maintained by the  
5           appropriate correctional authority in a fund in the  
6           inmate's name. The amount remaining shall be returned to  
7           the inmate at the time of release. The correctional  
8           authority may, however, permit the inmate to draw a  
9           portion of the money for other purposes deemed to be  
10          appropriate by the correctional authority.

11       No other deductions shall be permitted.

12           (4) The provision of benefits and compensation to inmate  
13       workers for injuries sustained in the course of employment  
14       provided for in this act.

15       (c) Priorities.--When reviewing potential joint venture  
16       enterprises, the council shall consider the impact on the  
17       employment of persons in the private business sector of this  
18       Commonwealth and give priority consideration to establishing  
19       joint ventures which will retain or reclaim jobs in this  
20       Commonwealth, support emerging Commonwealth industries or create  
21       jobs for a deficient labor market.

22       Section 7. Employment of inmates by private industry.

23       (a) Contract and supervision.--Upon the approval of the  
24       board, the department or a county correctional facility, with  
25       the approval of its governing board and the county  
26       commissioners, may enter into contracts with a private business,  
27       private entity or nonprofit entity to permit the employment of  
28       inmates to perform designated work. Inmates so employed who are  
29       in the custody of the department shall be supervised by  
30       employees of the department. Inmates so employed who are in the



1 custody of a county facility shall be supervised by county  
2 employees.

3 (b) Status of inmate.--For the purposes of this act, inmates  
4 employed under section 6(a) shall be considered to be employees  
5 of the private business, private entity or nonprofit entity. No  
6 inmate compensated for participation in the program shall be  
7 considered to be an employee of the Commonwealth or the county  
8 nor shall they be afforded the rights and privileges of  
9 Commonwealth or county employees.

10 (c) Certain rights preserved.--Nothing contained in this  
11 section shall be deemed to restore, in whole or in part, the  
12 civil rights of participating inmates; however, participating  
13 inmates shall be afforded the protection of the Fair Labor  
14 Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et seq)  
15 and the act of June 2, 1915 (P.L.736, No.338), known as The  
16 Pennsylvania Workmen's Compensation Act.

17 (d) Consent to deduction.--An inmate may participate in the  
18 program established pursuant to this act only on a voluntary  
19 basis and must consent, in advance, to the specific deductions  
20 from gross wages, as set forth in section 6(b)(3).

21 (e) Ineligibility for unemployment compensation.--Inmates  
22 participating in a joint venture established under this act are  
23 declared ineligible to collect benefits under the act of  
24 December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as  
25 the Unemployment Compensation Law, while in the custody of the  
26 department or a county correctional authority, nor shall any  
27 inmate be eligible to collect these benefits upon release from  
28 custody based, in whole or in part, upon credits earned through  
29 employment with a prison-based joint venture enterprise.

30 Section 8. Disposition of inmate wages.

1 (a) Joint ventures through department.--All wages of inmates  
2 participating in joint ventures established under the auspices  
3 of the department shall be surrendered to the department and  
4 shall be subject to deductions as determined by the department.

5 (b) Joint ventures through governing authority of county  
6 correctional facility.--All wages of inmates participating in  
7 joint ventures established under the auspices of the governing  
8 authority of a county correctional facility shall be surrendered  
9 to the correctional facility wherein the inmate is incarcerated  
10 and shall be subject to deductions as determined by the  
11 governing authority.

12 (c) Deductions.--Deductions taken from inmate wages as  
13 specified in section 6(b)(3), which deductions shall not exceed  
14 80% of gross wages.

15 Section 9. Lease of prison property to private businesses,  
16 private entities or nonprofit entities.

17 The department or the county commissioners may lease any  
18 portion of the buildings or grounds of any correctional facility  
19 to the private business or nonprofit entity participating in a  
20 joint venture for a term not to exceed 20 years.

21 Section 10. Regulations.

22 The department shall promulgate the regulations necessary to  
23 carry out this act.

24 Section 11. Administrative support.

25 The department shall provide the board with reasonable  
26 administrative and clerical support services subject to the  
27 availability of funds.

28 Section 12. Repeals.

29 (a) Specific repeals.--The following acts and parts of acts  
30 are repealed:

1       Section 2 of the act of June 13, 1883 (P.L.132, No.99),  
2   entitled "An act to abolish the contract system in the prisons  
3   and reformatory institutions of the State of Pennsylvania, and  
4   to regulate the wages of the inmates."

5       (b) General repeals.--All acts and parts of acts are  
6   repealed insofar as they are inconsistent with this act. This  
7   act shall not, however, affect or change the method or manner of  
8   inmate work assignments within said prisons.

9   Section 13.   Effective date.

10       This act shall take effect in 90 days.