

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1931

 Session of
1993

INTRODUCED BY CALTAGIRONE AND GERLACH, JUNE 23, 1993

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 6, 1994

AN ACT

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

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

10 Section 1. Short title.

11 This act shall be known and may be cited as the ~~Inmate~~ <—
12 ~~Employment Through Joint Ventures~~ PRIVATE SECTOR PRISON INDUSTRY <—
13 Act.

14 Section 2. Intent.

15 It is the intent of the General Assembly that ~~joint ventures~~ <—
16 ~~between correctional agencies and private industry be~~
17 ~~established so that~~ inmates incarcerated in State and county
18 correctional facilities ~~may~~ be productively engaged. Private <—
19 industry in this Commonwealth will thereby become more

1 competitive in the marketplace while not displacing or impairing
2 job opportunities for civilian labor in the community. IT IS THE <—
3 SPECIFIC INTENT OF THE GENERAL ASSEMBLY TO RESTRICT THE USE AND
4 AVAILABILITY OF SUCH INMATE LABOR AND TO REGULATE ITS USE IN
5 SUCH A FASHION AS TO ASSURE THAT NO INMATE LABOR MAY BE USED TO
6 LIMIT, IN ANY WAY, FULL-TIME OR PART-TIME WORK OPPORTUNITIES FOR
7 UNEMPLOYED OR UNDEREMPLOYED RESIDENTS OF THIS COMMONWEALTH. NOR
8 WILL PRIVATE SECTOR PRISON INDUSTRY RESULT IN THE IMPAIRMENT OF
9 EXISTING CONTRACTS FOR SERVICES OR COLLECTIVE BARGAINING
10 AGREEMENTS FOR CIVILIAN LABORERS. Inmates who volunteer and are
11 deemed eligible for these jobs will be better able to:

12 (1) Develop positive work habits that will assist them
13 in securing and holding gainful employment in the public and
14 private sectors SUBSEQUENT TO THEIR RELEASE FROM <—
15 INCARCERATION.

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

18 (3) Accept responsibility for the consequences of their
19 acts by compensating victims of crime through deductions from
20 their earnings.

21 (4) ~~Assist in providing~~ PROVIDE financial assistance to <—
22 their dependents, thus strengthening and promoting family
23 ties while reducing the likelihood that their families may
24 eventually have to rely upon public assistance.

25 Section 3. Definitions.

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

29 ~~"Board." The Joint Venture Enterprise Board.~~ <—

30 ~~"Certification." Written assurance by appropriate~~

1 ~~correctional authorities at all levels of government that a~~
2 ~~prison based enterprise meets statutory and guideline~~
3 ~~requirements established by the Justice Assistance Act of 1984~~
4 ~~(Public Law 98-473, 42 U.S.C. § 3701 et seq.).~~

5 "BOARD." THE PRIVATE SECTOR PRISON INDUSTRY BOARD. <—

6 "CERTIFICATION." WRITTEN ASSURANCE BY THE PRIVATE SECTOR
7 PRISON INDUSTRY BOARD THAT A PRIVATE SECTOR PRISON INDUSTRY
8 MEETS STATUTORY AND GUIDELINE REQUIREMENTS ESTABLISHED BY THE
9 JUSTICE ASSISTANCE ACT OF 1984 (PUBLIC LAW 98-473, 98 STAT. 2077
10 ET SEQ.).

11 "Compensation board." The Crime Victim's Compensation Board
12 of the Commonwealth.

13 "County commissioners." Elected county commissioners, or the
14 equivalent governing body of any county, regardless of form of
15 government.

16 "Department." The Department of Corrections of the
17 Commonwealth.

18 ~~"Joint ventures." A public or private partnership in which~~ <—
19 ~~goods or services are produced in prison or on property under~~
20 ~~the auspices of a correctional authority and sold on the open~~
21 ~~market.~~

22 "Open market." Unrestricted stream of commerce within this
23 Commonwealth and outside the borders of this Commonwealth in
24 interstate commerce.

25 "Private business, private enterprise or nonprofit entity."
26 An individual, firm, partnership, corporation or other lawful
27 commercial enterprise or nonprofit organization which, under
28 this act, ~~participates in a joint venture and employs service of~~ <—
29 OPERATES A PRIVATE SECTOR PRISON INDUSTRY AND EMPLOYS State or <—
30 county inmates. ~~Any joint venture established under this act~~ <—

1 ~~shall be subject to the laws, rules and regulations governing~~
2 ~~the operation of similar enterprises in this Commonwealth.~~

3 ~~"Private enterprise." The joint venture established under~~
4 ~~this section is a private enterprise subject to the laws, rules~~
5 ~~and regulations governing the operation of similar enterprises~~
6 ~~in this Commonwealth.~~

7 "PRIVATE SECTOR PRISON INDUSTRY." A PRIVATE BUSINESS, <—
8 PRIVATE ENTERPRISE OR NONPROFIT ENTITY WHICH PRODUCES GOODS OR
9 SERVICES EMPLOYING INMATE LABOR IN OR ON THE PROPERTY OF A STATE
10 OR COUNTY CORRECTIONAL FACILITY.

11 "Program." The Private Sector Prison Industry Enhancement
12 Certification Program established by the Justice Assistance Act
13 of 1984 (Public Law 98-474, 42 U.S.C. ~~§ 3701 et seq.~~) 98 STAT. <—
14 2077 ET SEQ.).

15 Section 4. ~~Joint Venture Enterprise~~ PRIVATE SECTOR PRISON <—
16 INDUSTRY Board.

17 (a) Establishment.--There is hereby established a board to
18 be known as the ~~Joint Venture Enterprise~~ PRIVATE SECTOR PRISON <—
19 INDUSTRY Board.

20 (b) Composition.--The board shall consist of ~~nine~~ 12 members <—
21 as follows:

22 (1) The Secretary of ~~Corrections~~ LABOR AND INDUSTRY or <—
23 his designee who shall serve as chairman.

24 (2) The Secretary of ~~Labor and Industry~~ CORRECTIONS or <—
25 his designee.

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

28 (4) Two county commissioners nominated by the
29 ~~Pennsylvania State Association of County Commissioners~~ COUNTY <—
30 COMMISSIONERS ASSOCIATION OF PENNSYLVANIA and appointed by

1 the Governor.

2 ~~(5) One member of the Senate appointed by the President~~ <—
3 ~~pro tempore of the Senate.~~

4 ~~(6) One member of the House of Representatives appointed~~
5 ~~by the Speaker of the House of Representatives.~~

6 ~~(7) Two members nominated by the department and~~
7 ~~appointed by the Governor. One of these members shall be~~
8 ~~representative of private industry and one shall be the~~
9 ~~correctional administrator from a county correctional~~
10 ~~facility operating a joint venture.~~

11 ~~(c) Terms. The terms of the members are as follows:~~

12 ~~(1) Three years for the member of the Senate and the~~
13 ~~member of the House of Representatives.~~

14 ~~(2) Three years for one of the county commissioners and~~
15 ~~one year for the other.~~

16 ~~(3) Two years for the member representing private~~
17 ~~industry.~~

18 ~~(4) One year for the county correctional administrator.~~

19 ~~(d) Reappointment. Each member of the board may be eligible~~
20 ~~for reappointment. Each member shall continue to serve after the~~
21 ~~expiration of his term until a successor is appointed.~~

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

24 ~~(f) Vacancies. Vacancies shall be filled by the original~~
25 ~~appointing authority for the remainder of the unexpired term.~~
26 ~~The vacancies shall be filled within 90 days of the occurrence~~
27 ~~of the vacancy.~~

28 (5) TWO MEMBERS OF THE SENATE, ONE APPOINTED BY THE <—
29 PRESIDENT PRO TEMPORE AND ONE APPOINTED BY THE MINORITY
30 LEADER.

1 (6) TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES, ONE
2 APPOINTED BY THE SPEAKER AND ONE APPOINTED BY THE MINORITY
3 LEADER.

4 (7) ONE COUNTY JAIL WARDEN AS APPOINTED BY THE GOVERNOR.

5 (8) ONE REPRESENTATIVE OF ORGANIZED LABOR AND ONE
6 REPRESENTATIVE FROM THE PENNSYLVANIA CHAMBER OF BUSINESS AND
7 INDUSTRY EACH APPOINTED BY THE GOVERNOR FROM A LIST SUBMITTED
8 BY THE AFL-CIO AND THE CHAMBER, RESPECTIVELY.

9 (C) TERMS.--THE MEMBERS OF THE BOARD SHALL SERVE FOR A TERM
10 OF FOUR YEARS.

11 ~~(g)~~ (D) Meetings.--The board shall meet annually and upon <—
12 the request of the chairman or three or more members. All
13 meetings shall be open to the public IN ACCORDANCE WITH THE ACT <—
14 OF JULY 3, 1986 (P.L.388, NO.84), KNOWN AS THE SUNSHINE ACT.

15 ~~(h) Quorum. Seven members shall constitute a quorum, and a <—~~
16 ~~vote of the majority of members shall be necessary for the~~
17 ~~transaction of the business of the board.~~

18 (E) QUORUM.--FOR THE TRANSACTION OF GENERAL BUSINESS OF THE <—
19 BOARD, NINE MEMBERS SHALL CONSTITUTE A QUORUM. A POSITIVE VOTE
20 OF NINE OF THE TWELVE MEMBERS WILL BE NECESSARY FOR A PRIVATE
21 SECTOR PRISON INDUSTRY APPLICATION TO BE APPROVED. EACH APPROVAL
22 OF A PRIVATE SECTOR PRISON INDUSTRY APPLICATION SHALL BE MADE BY
23 A VOTE AT A DULY CONSTITUTED MEETING OF THE BOARD.

24 ~~(i)~~ (F) Compensation.--Members shall receive no compensation <—
25 for their services on the board, but shall be reimbursed by the
26 department for all reasonable and necessary expenses in
27 accordance with the rules of the Executive Board.

28 Section 5. Powers and duties of board.

29 The board shall have the powers and duties to:

30 (1) Apply to the United States Department of Justice for

1 certification of prospective ~~prison based joint venture~~ <—
2 ~~programs to be operated by either the department or any~~
3 ~~county correctional authority~~ PRIVATE SECTOR PRISON <—
4 INDUSTRIES in this Commonwealth.

5 (2) Act as an intermediary between any correctional
6 agency in this Commonwealth and the United States Department
7 of Justice in matters related to the certification of ~~prison~~ <—
8 ~~based joint ventures~~ PRIVATE SECTOR PRISON INDUSTRIES in this <—
9 Commonwealth.

10 (3) Establish procedures for determining whether a
11 prospective ~~joint venture~~ PRIVATE SECTOR PRISON INDUSTRY <—
12 proposed by the department or any county correctional agency
13 complies with the requirements of the program AND ALL OTHER <—
14 STATE LAW NOT INCONSISTENT WITH THIS ACT.

15 ~~(4) Determine whether a prospective joint venture shall~~ <—
16 ~~be designated as an enterprise participating in the program~~
17 ~~and whether any designation previously approved shall be~~
18 ~~revoked.~~

19 (4) APPROVE OR DISAPPROVE A PROSPECTIVE PRIVATE SECTOR <—
20 PRISON INDUSTRY FOR INCLUSION AND/OR CONTINUATION IN THE
21 PROGRAM.

22 (5) Monitor all ~~joint ventures designated as~~ <—
23 ~~participants in the program~~ PRIVATE SECTOR PRISON INDUSTRY to <—
24 ensure continuing compliance with rules and regulations
25 promulgated by the United States Department of Justice under
26 the provisions of ~~the program~~ THIS ACT AND CONTINUING <—
27 COMPLIANCE WITH STATE LAW AND FORWARD ANY COMPLAINTS OR
28 NOTICES OF VIOLATION OF APPLICABLE STATE LAW TO THE
29 APPROPRIATE ENFORCEMENT AUTHORITY.

30 (6) Issue an annual report by January 31 of each

1 calendar year to the Governor, the Judiciary Committee of the
2 Senate and the Judiciary Committee of the House of
3 Representatives detailing the status of prison-based joint
4 ventures in this Commonwealth.

5 (7) Designate which services TO BE performed or articles <—
6 manufactured or assembled by inmates are conforming to the
7 program REGULATIONS and can be sold on the open market. <—

8 Section 6. Minimum requirements of ~~joint-venture programs~~ <—

9 PRIVATE SECTOR PRISON INDUSTRY. <—

10 (a) Requirements enumerated.--A ~~joint-venture~~ PRIVATE SECTOR <—
11 PRISON INDUSTRY shall not be certified unless the ~~applicants~~ <—
12 PRIVATE BUSINESS, PRIVATE ENTERPRISE OR NONPROFIT ORGANIZATION <—
13 CAN demonstrate that:

14 (1) The ~~applicants, meaning the private business,~~ <—
15 ~~private entity~~ PRIVATE BUSINESS, PRIVATE ENTERPRISE OR <—
16 NONPROFIT ORGANIZATION, the department or the governing
17 authority of the county correctional system, whichever is
18 applicable, consulted with local union central bodies and
19 ~~will~~ WITH local businesses that may be affected by the ~~joint~~ <—
20 ~~venture~~ PRIVATE SECTOR PRISON INDUSTRY, prior to the <—
21 initiation of the application for certification.

22 (2) THE PRIVATE BUSINESS, PRIVATE ENTERPRISE OR <—
23 NONPROFIT ENTITY HAS IN PLACE A REAL AND AFFIRMATIVE TRAINING
24 ELEMENT WHICH WILL TRAIN INMATES TO PREPARE RESUMES AND FILL
25 OUT APPLICATION FORMS FOR EMPLOYMENT UPON RELEASE.

26 ~~(2) The applicants have~~ (3) THE PRIVATE BUSINESS, <—
27 PRIVATE ENTERPRISE OR NONPROFIT ENTITY HAS verified with the
28 Department of Labor and Industry that, if certified, the
29 ~~joint-venture~~ PRIVATE SECTOR PRISON INDUSTRY will not: <—

30 (i) ~~demonstrably~~ result in the displacement of <—

1 ~~employees in the surrounding community~~ OR DENY WORK <—
2 OPPORTUNITIES TO UNEMPLOYED OR UNDEREMPLOYED INDIVIDUALS
3 OR COMPETE WITH ANY THEN EXISTING BUSINESS OR EMPLOYER
4 OPERATING IN THIS COMMONWEALTH;
5 (ii) be applied in skills, crafts or trades OR IN <—
6 UNSKILLED OR SEMISKILLED WORK in which there is a surplus
7 of available labor in the LABOR MARKET area in which the <—
8 ~~joint venture~~ PRIVATE SECTOR PRISON INDUSTRY is to be <—
9 located; or
10 (iii) impair existing contracts for GOODS AND <—
11 services. Further, a contract shall not be executed by or
12 with a ~~joint venture~~ PRIVATE SECTOR PRISON INDUSTRY <—
13 employer that will permit the employment of inmates in
14 the same job classifications ~~as noninmate employees of~~ <—
15 ~~the same employer~~ OR SIMILAR WORK DUTIES OR ASSIGNMENTS <—
16 AS INDIVIDUALS who are on strike, as defined in the act
17 of June 1, 1937 (P.L.1168, No.294), known as the
18 Pennsylvania Labor Relations Act, OR WHO ARE OTHERWISE <—
19 INVOLVED IN A LABOR DISPUTE AS THAT TERM IS DEFINED BY
20 FEDERAL AND STATE LAW, INCLUDING, BUT NOT LIMITED TO, A
21 LOCKOUT. ANY PRIVATE SECTOR PRISON INDUSTRY EMPLOYER
22 FOUND TO VIOLATE THIS SECTION SHALL BE SUBJECT TO A FINE
23 OF NOT LESS THAN \$10,000. LIABILITY FOR ANY SUCH FINE
24 IMPOSED PURSUANT TO THIS SECTION SHALL APPLY PERSONALLY
25 TO EVERY CORPORATE OFFICER OF ANY CORPORATION WHICH IS
26 DETERMINED TO HAVE VIOLATED THIS SECTION. DETERMINATIONS
27 WITH RESPECT TO VIOLATIONS OF THIS SECTION SHALL BE MADE
28 BY THE SECRETARY OF LABOR AND INDUSTRY OR HIS DESIGNEE.
29 (b) Minimum provisions.--Any ~~joint venture~~ PRIVATE SECTOR <—
30 PRISON INDUSTRY certified under this act shall provide for the

1 following:

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

3 (2) That all inmates shall be compensated by the private
4 ~~entity~~ BUSINESS, PRIVATE ENTERPRISE OR NONPROFIT ENTERPRISE <—
5 at a rate which is ~~comparable to wages~~ THE PREVAILING RATE OF <—
6 WAGES, INCLUDING, BUT NOT LIMITED TO, THE VALUE OF ALL
7 EMPLOYEE BENEFITS paid for work of a similar nature in
8 private industry in the locality in which the project is
9 located, as determined after consultation with the Department
10 of Labor and Industry. In no circumstances shall an inmate
11 receive compensation which is less than the minimum wage
12 established by Federal ~~law unless such lesser compensation is~~ <—
13 ~~consistent with Federal law.~~ OR STATE LAW, WHICHEVER IS <—
14 GREATER, AND IS APPLICABLE TO THE TYPE OF WORK BEING
15 PERFORMED. HOWEVER, NO INMATE MAY QUALIFY FOR UNEMPLOYMENT
16 INSURANCE PAYMENTS WHILE INCARCERATED.

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

19 (i) Federal, State and local taxes.

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

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

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

29 (v) Mandatory deposit of not less than 5% nor more
30 than 20% of gross wages to the compensation board. All

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

10 No other deductions shall be permitted.

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

14 (5) ANY PORTION OF THE RATE PAYABLE TO AN INMATE WHICH <—
15 IS ATTRIBUTABLE TO THE VALUE OF THE BENEFITS USED IN
16 COMPUTING THE PREVAILING WAGE AND NOT OTHERWISE DEDUCTIBLE
17 UNDER THIS SECTION SHALL BE PAID TO THE INCARCERATING
18 AUTHORITY AND BE PLACED IN A FUND SET ASIDE FOR THE PURPOSE
19 OF VOCATIONAL AND EDUCATIONAL PROGRAM DEVELOPMENT AT THE
20 INSTITUTION HOUSING THE INMATE.

21 (c) Priorities.--When reviewing potential ~~joint-venture~~ <—
22 ~~enterprises~~ PRIVATE SECTOR PRISON INDUSTRY, the ~~council~~ BOARD <—
23 shall consider the impact on the employment of persons in the
24 private business sector of this Commonwealth and ~~give priority~~ <—
25 ~~consideration to establishing joint ventures which will retain~~
26 ~~or reclaim jobs in this Commonwealth, support emerging~~
27 ~~Commonwealth industries or create jobs for a deficient labor~~
28 ~~market.~~ INCLUDE CONSIDERATION OF THE IMPACT ON WORKERS, THE <—
29 UNEMPLOYED AND UNDEREMPLOYED AS WELL AS UPON THE COMMUNITY.

30 Section 7. Employment of inmates by private industry.

1 (a) Contract and supervision.--Upon the approval of the
2 board, the department or a county correctional facility, with
3 the approval of its governing board and the county
4 commissioners, may enter into contracts with a private business,
5 private ~~entity~~ ENTERPRISES or nonprofit entity to permit the <—
6 employment of inmates to perform designated work. ~~Inmates so~~ <—
7 ~~employed who are in the custody of the department shall be~~
8 ~~supervised by employees of the department. Inmates so employed~~
9 ~~who are in the custody of a county facility shall be supervised~~
10 ~~by county employees.~~ THE DEPARTMENT SHALL REMAIN RESPONSIBLE FOR <—
11 THE CUSTODY OF THE DEPARTMENT INMATES EMPLOYED IN A PRIVATE
12 SECTOR PRISON INDUSTRY; HOWEVER, ALL SUPERVISION OF THE INMATE
13 EMPLOYEE WHICH IS RELATED TO THAT INMATE'S EMPLOYMENT IS THE
14 SOLE RESPONSIBILITY OF THE PRIVATE SECTOR PRISON INDUSTRY
15 EMPLOYER. THE COUNTY FACILITY SHALL REMAIN RESPONSIBLE FOR THE
16 CUSTODY OF COUNTY INMATES EMPLOYED IN A PRIVATE SECTOR PRISON
17 INDUSTRY; HOWEVER, ALL SUPERVISION OF THE INMATE EMPLOYEE WHICH
18 IS RELATED TO THAT INMATE'S EMPLOYMENT IS THE SOLE
19 RESPONSIBILITY OF THE PRIVATE SECTOR PRISON INDUSTRY EMPLOYER.
20 THE CONTRACTUAL ARRANGEMENT AUTHORIZED BY THIS ACT SHALL NOT
21 CREATE ANY THIRD-PARTY RIGHTS IN ANY INMATE.

22 (b) Status of inmate.--For the purposes of this act, inmates
23 employed under section 6(a) shall be considered to be employees
24 of the private business, private ~~entity~~ ENTERPRISE or nonprofit <—
25 entity. No inmate compensated for participation in the program
26 shall be considered to be an employee of the Commonwealth or the
27 county nor shall they be afforded the rights and privileges of
28 Commonwealth or county employees.

29 (c) Certain rights preserved.--Nothing contained in this
30 section shall be deemed to restore, in whole or in part, the

1 civil rights of participating inmates; however, participating
2 inmates shall be afforded the protection of the Fair Labor
3 Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et seq.)
4 ~~and the act of June 2, 1915 (P.L.736, No.338), known as The~~ <—
5 ~~Pennsylvania Workmen's Compensation Act.,~~ TITLE VII OF THE CIVIL <—
6 RIGHTS ACT OF 1964 (PUBLIC LAW 88-352, 78 STAT. 241), THE AGE
7 DISCRIMINATION ACT OF 1975 (PUBLIC LAW 94-135, 42 U.S.C. § 6101
8 ET SEQ.), THE NATIONAL LABOR RELATIONS ACT (49 STAT. 449, 29
9 U.S.C. § 151 ET SEQ.), THE AMERICANS WITH DISABILITIES ACT OF
10 1990 (PUBLIC LAW 101-336, 104 STAT. 327), THE ACT OF JUNE 2,
11 1915 (P.L.736, NO.338), KNOWN AS THE WORKERS' COMPENSATION ACT,
12 THE ACT OF JUNE 1, 1937 (P.L.1168, NO.294), KNOWN AS THE
13 PENNSYLVANIA LABOR RELATIONS ACT, THE ACT OF OCTOBER 27, 1955
14 (P.L.744, NO.222), KNOWN AS THE PENNSYLVANIA HUMAN RELATIONS
15 ACT, THE ACT OF JULY 14, 1961 (P.L.637, NO.329), KNOWN AS THE
16 WAGE PAYMENT AND COLLECTION LAW, AND THE ACT OF JANUARY 17, 1968
17 (P.L.11, NO.5), KNOWN AS THE MINIMUM WAGE ACT OF 1968, AS THEY
18 PERTAIN TO THE PRIVATE SECTOR PRISON INDUSTRY EMPLOYER ONLY.

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

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

1 ~~employment with a prison based joint venture enterprise.~~

2 Section 8. Disposition of inmate wages.

3 ~~(a) Joint ventures through department. All wages of inmates~~ <—
4 ~~participating in joint ventures established under the auspices~~
5 ~~of the department shall be surrendered to the department and~~
6 ~~shall be subject to deductions as determined by the department.~~

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

14 (A) INMATES WITHIN DEPARTMENT.--ALL WAGES OF DEPARTMENT <—
15 INMATES EMPLOYED BY A PRIVATE SECTOR PRISON INDUSTRY SHALL BE
16 DELIVERED BY THE PRIVATE SECTOR PRISON INDUSTRY EMPLOYER
17 DIRECTLY TO THE DEPARTMENT AND SHALL BE SUBJECT TO DEDUCTIONS AS
18 DETERMINED BY THE DEPARTMENT.

19 (B) INMATES WITHIN COUNTY CORRECTIONAL FACILITIES.--ALL
20 WAGES OF COUNTY INMATES EMPLOYED BY A PRIVATE SECTOR PRISON
21 INDUSTRY SHALL BE DELIVERED BY THE PRIVATE SECTOR PRISON
22 INDUSTRY EMPLOYER DIRECTLY TO THE COUNTY CORRECTIONAL FACILITY
23 WHEREIN THE INMATE IS INCARCERATED AND SHALL BE SUBJECT TO
24 DEDUCTIONS AS DETERMINED BY THE GOVERNING AUTHORITY.

25 (c) Deductions.--Deductions taken from inmate wages as
26 specified in section 6(b)(3), which deductions shall not exceed
27 80% of gross wages. EACH INMATE EMPLOYED WILL RECEIVE A DETAILED <—
28 WRITTEN STATEMENT DEMONSTRATING THE ACTUAL AMOUNT OF EACH
29 DEDUCTION AND THE BASIS THEREFORE, AND WAGES SHALL BE PAID TO
30 THE DEPARTMENT OR COUNTY CORRECTIONAL FACILITY NO LESS

1 FREQUENTLY THAN BIWEEKLY FOR DEPOSIT INTO THE INMATE'S
2 INSTITUTIONAL ACCOUNT.

3 Section 9. Lease of prison property to private businesses,

4 ~~private entities or nonprofit entities~~ ENTERPRISE <—
5 OR NONPROFIT ENTITY.

6 The department or the county commissioners may lease any
7 portion of the buildings or grounds of any correctional facility
8 to the private business, PRIVATE ENTERPRISE or nonprofit entity <—
9 ~~participating in a joint venture for a term not to exceed 20~~ <—
10 ~~years.~~ OPERATING A PRIVATE SECTOR PRISON INDUSTRY FOR A TERM NOT <—
11 TO EXCEED 20 YEARS. ANY IMPROVEMENTS, CONSTRUCTION, DEMOLITION,
12 RENOVATION, BUILDING OR RELATED UNDERTAKING ON ANY PORTION OF
13 THE BUILDINGS OR GROUNDS SO LEASED SHALL CONCLUSIVELY BE
14 PRESUMED TO BE PUBLIC WORKS AND AS SUCH BE SUBJECT TO ALL OF THE
15 CONSTITUTIONAL AND STATUTORY REQUIREMENTS REGARDING PUBLIC
16 WORKS, INCLUDING, BUT NOT LIMITED TO, THE ACT OF AUGUST 15, 1961
17 (P.L.987, NO.442), KNOWN AS THE PENNSYLVANIA PREVAILING WAGE
18 ACT, COMPETITIVE BID LAWS, PUBLIC ADVERTISING REQUIREMENTS AND
19 BONDING REQUIREMENTS.

20 Section 10. Regulations.

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

23 Section 11. Administrative support.

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

27 ~~Section 12. Repeals.~~ <—

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

30 ~~Section 2 of the act of June 13, 1883 (P.L.132, No.99),~~

1 ~~entitled "An act to abolish the contract system in the prisons~~
2 ~~and reformatory institutions of the State of Pennsylvania, and~~
3 ~~to regulate the wages of the inmates."~~

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

8 SECTION 12. IMMUNITIES NOT WAIVED. <—

9 NO PROVISION OF THIS ACT WAIVES OR IMPAIRS ANY SOVEREIGN,
10 GOVERNMENTAL, QUALIFIED OR OTHER IMMUNITY FROM OR DEFENSE
11 AGAINST SUIT AVAILABLE TO THE COMMONWEALTH AND ITS DEPARTMENTS,
12 BOARDS, OFFICERS, EMPLOYEES AND AGENTS OR THE POLITICAL
13 SUBDIVISIONS OF THIS COMMONWEALTH AND THEIR AGENCIES, OFFICERS
14 AND EMPLOYEES.

15 SECTION 13. INMATE CIVIL ACTIONS.

16 NO INMATE MAY BRING A CIVIL ACTION BEFORE ANY COURT,
17 INDEPENDENT COMMISSION OR BOARD OF THIS COMMONWEALTH AGAINST THE
18 BOARD, THE COMMONWEALTH OR ITS AGENCIES, OFFICERS OR EMPLOYEES
19 OR THE POLITICAL SUBDIVISIONS OF THIS COMMONWEALTH AND THEIR
20 AGENCIES, OFFICERS AND EMPLOYEES BASED UPON A CONTRACTUAL
21 ARRANGEMENT AUTHORIZED BY THIS ACT.

22 SECTION 14. CONSTRUCTION OF ACT.

23 NO PROVISION OF THIS ACT SHALL BE CONSTRUED AS CREATING A
24 CIVIL CAUSE OF ACTION AGAINST THE BOARD, THE COMMONWEALTH OR ITS
25 AGENCIES, OFFICERS OR EMPLOYEES OR THE POLITICAL SUBDIVISIONS OF
26 THIS COMMONWEALTH AND THEIR AGENCIES, OFFICERS AND EMPLOYEES.
27 NOTHING IN THIS ACT SHALL CREATE AN ENFORCEABLE RIGHT IN ANY
28 PERSON TO OBTAIN OR RETAIN EMPLOYMENT IN PRIVATE SECTOR PRISON
29 INDUSTRY. NOTHING IN THIS ACT SHALL REQUIRE THE DEPARTMENT OR
30 ANY COUNTY TO PROPOSE OR PERMIT A PRIVATE SECTOR PRISON INDUSTRY

1 WITHIN THE CORRECTIONAL FACILITY.

2 SECTION 15. REPEALS.

3 ALL ACTS AND PARTS OF ACTS ARE REPEALED INsofar AS THEY ARE
4 INCONSISTENT WITH THIS ACT. THIS ACT SHALL NOT, HOWEVER, AFFECT
5 OR CHANGE THE METHOD OR MANNER OF INMATE WORK ASSIGNMENTS WITHIN
6 SAID PRISONS OR THE STATUTORY AUTHORITY TO COMPEL SUCH LABOR ON
7 BEHALF OF THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF.

8 Section ~~13~~ 16. Effective date.

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9 This act shall take effect in 90 days.