

**SENATE APPROPRIATIONS COMMITTEE
FISCAL NOTE**

BILL NO. Senate Bill 525

PRINTER NO. 472

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

February 19, 2015

PRIME SPONSOR

Senator Greenleaf

DESCRIPTION AND PURPOSE OF BILL

This bill amends Title 61 (Prisons and Parole) of the Pennsylvania Consolidated Statutes to authorize joint ventures between correctional facilities and private industry.

This legislation amends the Prisons and Parole Code by adding a new chapter, Chapter 19 (Prison Industry Enhancement Authority) to provide for joint ventures between correctional facilities and private industry so that prisoners incarcerated in correctional facilities may be productively engaged.

Specifically, this legislation establishes the Prison Industry Enhancement Authority (Authority) that shall consist of the following members:

1. The Secretary of Corrections of the Commonwealth (Secretary) or a designee who shall serve as chairman;
2. The director of correctional industries;
3. Two representatives from organized labor appointed by the Governor from a list submitted by the statewide labor organizations in this Commonwealth;
4. One county commissioner nominated by the County Commissioners Association of Pennsylvania and appointed by the Governor;
5. One warden appointed by the Governor;
6. One representative from the business community appointed by the Governor from a list submitted by the business community;
7. One superintendent appointed by the Secretary; and
8. One representative from the Office of Victim Advocate.

Terms for the members listed above shall be as follows:

1. Three years for the county commissioner;
2. Two years for the representative from the business community;
3. Two years for the warden and the superintendent;
4. Two years for the representatives from organized labor; and
5. The Secretary, the director of correctional industries and the representative from the Office of Victim Advocate shall serve continuously.

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Members shall not receive compensation but may be reimbursed for expenses. The Department of Corrections shall provide administrative support to the Authority, and legal counsel for the Authority shall be provided by the Office of General Counsel.

The Authority shall have the following powers and duties:

1. Authorize the Department of Corrections of the Commonwealth (Department) to apply to the United States Department of Justice, Bureau of Justice Assistance or any successors for certification, as an umbrella authority, to assist other units of government seeking to participate in the program;
2. Act as an intermediary between the Department, and its designees, and the United States Department of Justice, Bureau of Justice Assistance or any successors in complying with the mandatory criteria and program requirements for private sector prison industries in this Commonwealth;
3. Adopt procedures for determining whether a prospective private sector prison industry proposed by the Department or any county correctional agency complies with the requirements of the program and other State law not inconsistent with Chapter 19;
4. Approve or disapprove proposals submitted to the Authority from the Department, or its designees, for private sector prison industry for inclusion or continuation in the program;
5. Monitor the Department and its designees to ensure continuing compliance with Chapter 19 and Federal law and provide proper notification of violations and proposed actions taken to ensure compliance; and
6. Designate which services to be performed or articles manufactured or assembled by prisoners are conforming to the program regulations and can be sold on the open market.

Upon approval of the authority, the Department or a county correctional facility may enter into contracts with a private business or nonprofit organization to permit the employment of prisoners to perform designated work. The Department or the county shall remain responsible for the custody of the prisoners who are working for the private sector. Prisoners participating in the program shall not be considered state or county employees, but are protected by laws such as the Fair Labor Standards Act, the Workers' Compensation Act and The Minimum Wage Act solely to the extent that such laws apply to the private sector prison industry employment relationship. Prisoners do not qualify for unemployment compensation.

The legislation outlines mandatory minimum program requirements of private sector prison industries, including consulting with local unions and businesses that could be affected by the program; and verifying with the Department of Labor and Industry that participation in the program will not result in displacement of employees in the surrounding community, be applied to skills and trades in which there is a surplus of labor in the locality, or impair existing contracts for goods and services.

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A prisoner participating in the program shall be compensated at a rate that is not less than the wages paid for work of a similar nature in private industry in the locality, but the prisoner must consent to specific deductions for taxes, contributions to a crime victims' fund, a reasonable portion of the cost of room and board, and support for their family. All deductions in total may not exceed 80% of a prisoner's gross wages.

There shall be no monetary limitations on the amount of goods and services supplied to the open market unless otherwise stated by the Authority.

FISCAL IMPACT:

According to the Department, enactment of this legislation will have no immediate fiscal impact on Commonwealth funds. This legislation simply allows for the Department to apply to the Bureau of Justice Assistance (BJA) of the U.S. Department of Justice to be certified under the Prison Industry Enhancement Certification Program (PIECP). This certification will allow the Department to explore private industry partnerships that qualify under the guidelines established by the BJA. This legislation does not establish a PIECP in the Commonwealth.

Cost efficiencies and additional savings would be determined in the future and would be reliant upon what industries would partner with the Department and/or other correctional facilities, as well as industries that would be attracted to the Commonwealth from other states because of the implementation of the private industry enhancement program. Other states have been successful in implementing their PIECP's by partnering with manufacturers of certain products, call centers staffed by inmates, etc.