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HOUSE OF REPRESENTATIVES

REPORT
109–647

PROVIDING FOR CONSIDERATION OF H.R. 2965, FEDERAL PRISON INDUSTRIES COMPETITION IN CONTRACTING ACT OF 2006

SEPTEMBER 12, 2006.—Referred to the House Calendar and ordered to be printed

Mr. GINGREY, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 997]

The Committee on Rules, having had under consideration House Resolution 997, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of H.R. 2965, the Federal Prison Industries Competition in Contracting Act of 2006, under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule waives all points of order against consideration of the bill.

The rule provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read.

The rule makes in order only those amendments printed in this report. The rule provides that the amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in this report.

Finally, the rule provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill is necessary because the report of the Committee on the Judiciary (H. Rept. 109–591) accompanying the bill did not contain a cost estimate by the Congressional Budget Office (CBO), as required by clause 3 of rule XIII. It is the understanding of the Committee on Rules that the Committee on the Judiciary will cause the CBO cost estimate to be printed in the Congressional Record dated Tuesday, September 12, 2006.

SUMMARY OF AMENDMENTS MADE IN ORDER

1. Sensenbrenner (WI): Manager's Amendment. Modifies 13 dates in various provisions of the bill to reflect the passage of time since the bill's introduction, which were not modified during the Committee's consideration. Also corrects one sectional cross reference and a reference to an Executive Branch agency. Adds a provision explicitly requiring Federal Prison Industries (FPI) to establish a cost accounting system which was implicit in, and necessary to implement, the amendment by Rep. Issa which was adopted during Judiciary Committee consideration of the bill. Also makes a grammatical correction to the Issa amendment. (10 minutes)

2. Scott, Robert (VA): Allows the Attorney General to direct agencies within the Department of Justice to award individual contracts to Federal Prison Industries (FPI) on a non-competitive basis. (10 minutes)

3. Lungren (CA)/Chabot (OH)/Scott, Robert (VA): Postpones the scheduled phase out of mandatory source for one year if the percentage of inmates employed by Federal Prison Industries (FPI) falls below 17%. Also requires the Attorney General to study ways to increase participation in FPI if participation in FPI falls below 17%. (10 minutes)

4. Cuellar (TX): Requires inmates performing work for the Federal Prison Industries (FPI) to contribute a portion of their earnings to living expenses. (10 minutes)

5. Scott, Robert (VA): Allows Federal Prison Industries (FPI) to continue service contracts of the nature and to the extent it was doing so on the date of enactment of the bill. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SENSENBRENNER OF WISCONSIN, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, lines 13 and 14, strike "offer the price of" and insert "offered price".

Page 20, line 3, strike "(i)" and insert "(j)".

Page 21, line 21, strike "2007" and insert "2008".

Page 21, line 22, strike "2008" and insert "2009".

Page 21, line 23, strike "2009" and insert "2010".

Page 21, line 24, strike "2010" and insert "2011".

Page 21, line 25, strike "2011" and insert "2012".

Page 23, line 1, strike "2011" and "2012".

Page 33, lines 16 and 20, strike "2004" each place it appears and insert "2006".

Page 33, line 21, strike "2010" and insert "2011".

Page 36, line 26, strike "2008" and insert "2007".

Page 55, lines 3 and 4, strike "International Trade Commission" and insert "Department of Commerce".

Page 61, line 2, strike "2007" and insert "2009".

Page 61, line 4, strike "2010" and insert "2012".

Page 61, line 8, strike "2013" and insert "2014".

Page 66, strike lines 1 through 3, and insert the following (and conform the table of contents accordingly):

SEC. 13. MANAGEMENT MATTERS.

Page 66, line 4, insert "(a) ADDITIONAL FLEXIBILITIES.—" before "Section 4122(b)(3)".

Page 66, after line 15, insert the following:

(b) COST ACCOUNTING SYSTEM.—

(1) ESTABLISHMENT.—Federal Prison Industries shall establish a cost accounting system that meets the requirements of part 30 (Cost Accounting Standards Administration) of the Federal Acquisition Regulation (48 C.F.R. part 30). The compliance of the cost accounting system with such standards shall be annually verified as part of the independent audit of Federal Prison Industries, Inc., pursuant to section 9106(b) of title 31, United States Code.

(2) APPLICATION OF RELATED PROVISION.—Section 4124(c)(2) of title 18, United States Code, shall apply when Federal Prison Industries has been found to have a complaint cost accounting system pursuant to paragraph (1).

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2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SCOTT OF VIRGINIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, line 21, insert before the period the following: "and, in the discretion of the Attorney General, other agencies and offices of the Department of Justice, on a contract-by-contract basis".

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LUNGREN OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 24, strike lines 11 through 18 and insert the following:

(3) If, based on a calculation by either the Comptroller General or an independent firm retained by the Board of Directors, the Attorney General finds that the percentage of work eligible inmates employed by Federal Prison Industries, Inc., falls below 17 percent during a fiscal year—

(A) such finding shall serve to postpone for one year any further percentage limitation under subsection (e)(1); and

(B) the Attorney General shall conduct a study for purposes of recommending legislation to Congress on ways to increase participation in the Federal Prison Industries program.

(4) Any percentage limitation postponed under paragraph (3) shall take effect in the fiscal year immediately following the fiscal year for which it is postponed.

Page 23, line 17, strike "and".

Page 23, line 21, strike the period and insert "; and".

Page 23, insert after line 21, the following:

(4) the term "work eligible inmates" means—

(A) male inmates who are sentenced, not subject to an order of deportation, medically able to perform work, and confined to low, medium, or high security Bureau of Prisons-operated institutions; and

(B) female inmates who are sentenced, not subject to an order of deportation, and medically able to perform work, irrespective of the security level of the Bureau of Prisons-operated institution to which they are confined.

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CUELLAR OF TEXAS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 32, line 22, strike "and" after the semicolon.

Page 32, after line 22, insert the following new clause:

(vi) reimbursement of costs related to the living expenses of the inmate, including food, utilities, services, and other such items, at the discretion of the Director of the Bureau of Prisons; and

Page 32, line 23, redesignate clause (vi) as clause (vii).

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5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SCOTT OF VIRGINIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 35, line 6, insert after "services" the following: ", except that the Board of Directors may authorize Federal Prison Industries to continue providing to private, for-profit businesses services of the type and to the extent being performed on the date of the enactment of the Federal Prison Industries Competition in Contracting Act of 2006, on a competitive basis".

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