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HOUSE BILL 2131

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State of Washington

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1997 Regular Session

By Representatives O'Brien, Koster, Blalock, Cairnes, Regala, McMorris, Conway, Delvin, Thompson and Veloria

Read first time 02/21/97. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to the correctional industries board of directors;  
2 amending RCW 72.09.010, 72.09.015, 72.09.070, 72.09.080, 72.09.090,  
3 72.09.100, 43.19.534, and 43.19.535; adding a new section to chapter  
4 72.09 RCW; creating a new section; providing an effective date; and  
5 declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 72.09.010 and 1995 1st sp.s. c 19 s 2 are each amended  
8 to read as follows:

9 It is the intent of the legislature to establish a comprehensive  
10 system of corrections for convicted law violators within the state of  
11 Washington to accomplish the following objectives.

12 (1) The system should ensure the public safety. The system should  
13 be designed and managed to provide the maximum feasible safety for the  
14 persons and property of the general public, the staff, and the inmates.

15 (2) The system should punish the offender for violating the laws of  
16 the state of Washington. This punishment should generally be limited  
17 to the denial of liberty of the offender.

1 (3) The system should positively impact offenders by stressing  
2 personal responsibility and accountability and by discouraging  
3 recidivism.

4 (4) The system should treat all offenders fairly and equitably  
5 without regard to race, religion, sex, national origin, residence, or  
6 social condition.

7 (5) The system, as much as possible, should reflect the values of  
8 the community including:

9 (a) Avoiding idleness. Idleness is not only wasteful but  
10 destructive to the individual and to the community.

11 (b) Adoption of the work ethic. It is the community expectation  
12 that all individuals should work and through their efforts benefit both  
13 themselves and the community.

14 (c) Providing opportunities for self improvement. All individuals  
15 should have opportunities to grow and expand their skills and abilities  
16 so as to fulfill their role in the community.

17 (d) Linking the receipt or denial of privileges to responsible  
18 behavior and accomplishments. The individual who works to improve  
19 himself or herself and the community should be rewarded for these  
20 efforts. As a corollary, there should be no rewards for no effort.

21 (e) Sharing in the obligations of the community. All citizens, the  
22 public and inmates alike, have a personal and fiscal obligation in the  
23 corrections system. All communities must share in the responsibility  
24 of the corrections system.

25 (6) The system should provide for prudent management of resources.  
26 The avoidance of unnecessary or inefficient public expenditures on the  
27 part of offenders and the department is essential. Offenders must be  
28 accountable to the department, and the department to the public and the  
29 legislature. The human and fiscal resources of the community are  
30 limited. The management and use of these resources can be enhanced by  
31 wise investment, productive programs, the reduction of duplication and  
32 waste, and the joining together of all involved parties in a common  
33 endeavor. Since most offenders return to the community, it is wise for  
34 the state and the communities to make an investment in effective  
35 rehabilitation programs for offenders and the wise use of resources.

36 (7) The system should provide for restitution. Those who have  
37 damaged others, persons or property, have a responsibility to make  
38 restitution for these damages.

1 (8) The system should be accountable to the citizens of the state.  
2 In return, the individual citizens and local units of government must  
3 meet their responsibilities to make the corrections system effective.

4 (9) The system should not work against the interests of law abiding  
5 residents of the state of Washington and should hold their interests  
6 above the interests of offenders when those interests are in conflict.

7 (10) The system should meet those national standards which the  
8 state determines to be appropriate.

9 **Sec. 2.** RCW 72.09.015 and 1995 1st sp.s. c 19 s 3 are each amended  
10 to read as follows:

11 Unless the context clearly requires otherwise, the definitions in  
12 this section apply throughout this chapter.

13 (1) "Base level of correctional services" means the minimum level  
14 of field services the department of corrections is required by statute  
15 to provide for the supervision and monitoring of offenders.

16 (2) "Contraband" means any object or communication the secretary  
17 determines shall not be allowed to be: (a) Brought into; (b) possessed  
18 while on the grounds of; or (c) sent from any institution under the  
19 control of the secretary.

20 (3) "County" means a county or combination of counties.

21 (4) "Department" means the department of corrections.

22 (5) "Earned early release" means earned early release as authorized  
23 by RCW 9.94A.150.

24 (6) "Extended family visit" means an authorized visit between an  
25 inmate and a member of his or her immediate family that occurs in a  
26 private visiting unit located at the correctional facility where the  
27 inmate is confined.

28 (7) "Good conduct" means compliance with department rules and  
29 policies.

30 (8) "Good performance" means successful completion of a program  
31 required by the department, including an education, work, or other  
32 program.

33 (9) "Immediate family" means the inmate's children, stepchildren,  
34 grandchildren, great grandchildren, parents, stepparents, grandparents,  
35 great grandparents, siblings, and a person legally married to an  
36 inmate. "Immediate family" does not include an inmate adopted by  
37 another inmate or the immediate family of the adopted or adopting  
38 inmate.

1 (10) "Indigent inmate," "indigent," and "indigency" mean an inmate  
2 who has less than a ten-dollar balance of disposable income in his or  
3 her institutional account on the day a request is made to utilize funds  
4 and during the thirty days previous to the request.

5 (11) "Inmate" means a person committed to the custody of the  
6 department, including but not limited to persons residing in a  
7 correctional institution or facility and persons released on furlough,  
8 work release, or community custody, and persons received from another  
9 state, state agency, county, or federal jurisdiction.

10 (12) "Privilege" means any goods or services, education or work  
11 programs, or earned early release days, the receipt of which are  
12 directly linked to an inmate's (a) good conduct; and (b) good  
13 performance. Privileges do not include any goods or services the  
14 department is required to provide under the state or federal  
15 Constitution or under state or federal law.

16 (13) "Representative from business" means a person nominated by one  
17 of the state-wide organizations representing varied business interests  
18 and appointed by the governor to the correctional industries board of  
19 directors.

20 (14) "Representative from labor" means a person nominated by a  
21 state-wide organization representing labor and appointed by the  
22 governor to the correctional industries board of directors.

23 (15) "Secretary" means the secretary of corrections or his or her  
24 designee.

25 (~~(14)~~) (16) "Superintendent" means the superintendent of a  
26 correctional facility under the jurisdiction of the Washington state  
27 department of corrections, or his or her designee.

28 (~~(15)~~) (17) "Work programs" means all classes of correctional  
29 industries jobs authorized under RCW 72.09.100.

30 **Sec. 3.** RCW 72.09.070 and 1994 sp.s. c 7 s 535 are each amended to  
31 read as follows:

32 (1) There is created a correctional industries board of directors  
33 which shall have the composition provided in RCW 72.09.080.

34 (2) Consistent with general department of corrections policies and  
35 procedures pertaining to the general administration of correctional  
36 facilities, the board shall establish and implement policy for all  
37 inmate work programs. The policy for correctional industries programs  
38 is designed to:

1 (a) Offer inmates meaningful employment, work experience, and  
2 training in vocations that are specifically designed to reduce  
3 recidivism and thereby enhance public safety by providing opportunities  
4 for legitimate means of livelihood upon their release from custody;

5 (b) Provide industries which will reduce the tax burden of  
6 corrections and save taxpayers money through production of goods and  
7 services for sale and use;

8 (c) Operate correctional work programs in an effective and  
9 efficient manner which are as similar as possible to those provided by  
10 the private sector;

11 (d) Encourage the development of and provide for selection of,  
12 contracting for, and supervision of work programs with participating  
13 private enterprise firms;

14 (e) Develop and design correctional industries work programs;

15 (f) Invest available funds in correctional industries enterprises  
16 and meaningful work programs that minimize the impact on in-state jobs  
17 and businesses.

18 (3) Notwithstanding any other provision of law, the board of  
19 directors must ensure that no resident of Washington state has his or  
20 her employment jeopardized by the provision of employment opportunities  
21 for inmates.

22 (4) The board of directors shall at least annually review the work  
23 performance of the director of correctional industries division  
24 ~~((with))~~ and must make appropriate recommendations to the secretary.

25 ~~((+4))~~ (5) The ~~((director—of))~~ correctional industries  
26 ~~((division))~~ board of directors shall review and evaluate the  
27 productivity, funding, and appropriateness of all correctional work  
28 programs and report on their effectiveness to ~~((the board and to))~~ the  
29 secretary and to the legislature.

30 ~~((+5))~~ (6) The board of directors shall have the authority to  
31 identify and establish trade advisory or apprenticeship committees to  
32 advise them on correctional industries work programs ~~((—The secretary~~  
33 ~~shall))~~ and to appoint the members of the committees.

34 Where a labor management trade advisory and apprenticeship  
35 committee has already been established by the department pursuant to  
36 RCW 72.62.050 the existing committee shall also advise the board of  
37 directors.

38 ~~((+6))~~ (7) The board shall develop a strategic yearly marketing  
39 plan that shall be consistent with and work towards achieving the goals

1 established in the six-year phased expansion of class I and class II  
2 correctional industries established in RCW 72.09.111. This marketing  
3 plan shall be presented to the appropriate committees of the  
4 legislature by January 17 of each calendar year until the goals set  
5 forth in RCW 72.09.111 are achieved.

6 (8) Neither the department, an organization operating or managing  
7 an inmate work program, or other entity employing inmate labor within  
8 the state of Washington may contract with or employ a member of the  
9 board of directors during the member's time of service on the board, or  
10 for a period of two years from the termination of membership on the  
11 board of directors. A violation of this subsection (8) will result in  
12 termination of any agreement or contract between the violator and the  
13 department.

14 **Sec. 4.** RCW 72.09.080 and 1993 sp.s. c 20 s 4 are each amended to  
15 read as follows:

16 (1) The correctional industries board of directors shall consist of  
17 nine voting members, appointed by the governor. Each member shall  
18 serve a three-year staggered term. Initially, the governor shall  
19 appoint three members to one-year terms, three members to two-year  
20 terms, and three members to three-year terms. The speaker of the house  
21 of representatives and the president of the senate shall each appoint  
22 one member from each of the two largest caucuses in their respective  
23 houses. The legislators so appointed shall be nonvoting members and  
24 shall serve two-year terms, or until they cease to be members of the  
25 house from which they were appointed, whichever occurs first. The nine  
26 members appointed by the governor shall include three representatives  
27 from labor, three representatives from business representing cross-  
28 sections of industries and all sizes of employers, and three members  
29 from the general public.

30 (2) The board of directors shall elect a chair and such other  
31 officers as it deems appropriate from among the voting members.

32 (3) The voting members of the board of directors shall serve with  
33 compensation pursuant to RCW (~~43.03.240~~) 43.03.250 and shall be  
34 reimbursed by the department for travel expenses and per diem under RCW  
35 43.03.050 and 43.03.060, as now or hereafter amended. Legislative  
36 members shall be reimbursed under RCW 44.04.120, as now or hereafter  
37 amended.

1 (4) The secretary shall provide such staff, services, facilities,  
2 and equipment as the board shall require to carry out its duties.

3 (5) Prior to August 1, 1997, the governor must review the  
4 membership of the board of directors and replace a member who does not  
5 meet the current statutory requirements for membership on the board of  
6 directors. Prior to making an appointment of a representative from  
7 business or a representative from labor, the governor must request  
8 nominations from appropriate state-wide organizations.

9 **Sec. 5.** RCW 72.09.090 and 1989 c 185 s 6 are each amended to read  
10 as follows:

11 The correctional industries account is established in the state  
12 treasury. The department of corrections shall deposit in the account  
13 all moneys collected and all profits that accrue from the industrial  
14 and agricultural operations of the department and any moneys  
15 appropriated to the account. Moneys in the account may be spent only  
16 for expenses arising in the correctional industries operations.

17 The division's net profits from correctional industries' sales and  
18 contracts shall be reinvested as directed by the board of directors,  
19 without appropriation, in the expansion and improvement of correctional  
20 industries. However, the board of directors shall annually recommend  
21 that some portion of the profits from correctional industries be  
22 returned to the state general fund.

23 The board and secretary shall request appropriations or increased  
24 appropriations whenever it appears that additional money is needed to  
25 provide for the establishment and operation of a comprehensive  
26 correctional industries program.

27 **Sec. 6.** RCW 72.09.100 and 1995 1st sp.s. c 19 s 33 are each  
28 amended to read as follows:

29 It is the intent of the legislature to consolidate and vest in the  
30 ((department)) correctional industries board of directors the power to  
31 provide for a comprehensive inmate work program and to remove statutory  
32 and other restrictions which have limited work programs in the past.  
33 For purposes of establishing such a comprehensive program, the  
34 legislature recommends that the ((department)) correctional industries  
35 board of directors consider adopting any or all, or any variation of,  
36 the following classes of work programs:

1 (1) CLASS I: FREE VENTURE INDUSTRIES. The employer model  
2 industries in this class shall be operated and managed in total or in  
3 part by any profit or nonprofit organization pursuant to an agreement  
4 between the organization and the department. The organization shall  
5 produce goods or services for sale to both the public and private  
6 sector.

7 The customer model industries in this class shall be operated and  
8 managed by the department to provide Washington state manufacturers or  
9 businesses with products or services currently produced or provided by  
10 out-of-state or foreign suppliers. The correctional industries board  
11 of directors shall review these proposed industries before the  
12 department enters into any agreements or contracts (~~to provide such~~  
13 ~~products or services~~). The review shall include an assessment of the  
14 possibility that the provision of inmate employment may jeopardize the  
15 employment of a Washington state resident and an analysis of the  
16 potential impact of the proposed products and services on the  
17 Washington state business community and labor market.

18 The department of corrections shall supply appropriate security and  
19 custody services without charge to the participating firms.

20 Inmates who work in free venture industries shall do so at their  
21 own choice. They shall be paid a wage comparable to the wage paid for  
22 work of a similar nature in the locality in which the industry is  
23 located, as determined by the director of correctional industries in  
24 accordance with rules adopted by the correctional industries board of  
25 directors. If the director cannot reasonably determine the comparable  
26 wage, then the pay shall not be less than the federal minimum wage.

27 An inmate who is employed in the class I program of correctional  
28 industries shall not be eligible for unemployment compensation benefits  
29 pursuant to any of the provisions of Title 50 RCW until released on  
30 parole or discharged.

31 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class  
32 shall be state-owned and operated enterprises designed to reduce the  
33 costs for goods and services for tax-supported agencies and for  
34 nonprofit organizations. The industries selected for development  
35 within this class shall, as much as possible, match the available pool  
36 of inmate work skills and aptitudes with the work opportunities in the  
37 free community. The industries shall be closely patterned after  
38 private sector industries but with the objective of reducing public  
39 support costs rather than making a profit. The products and services



1 of this industry, including purchased products and services necessary  
2 for a complete product line, may be sold to public agencies, to  
3 nonprofit organizations, and to private contractors when the goods  
4 purchased will be ultimately used by a public agency or a nonprofit  
5 organization. Clothing manufactured by an industry in this class may  
6 be donated to nonprofit organizations that provide clothing free of  
7 charge to low-income persons. Correctional industries products and  
8 services shall be reviewed by the correctional industries board of  
9 directors before offering such products and services for sale (~~to~~  
10 ~~private contractors~~). The review must include an assessment of the  
11 possibility that the provision of the inmate employment may jeopardize  
12 the employment of a Washington state resident. The board of directors  
13 shall conduct a yearly marketing review of the products and services  
14 offered under this subsection. Such review shall include an analysis  
15 of the potential impact of the proposed products and services on the  
16 Washington state business community. To avoid waste or spoilage and  
17 consequent loss to the state, when there is no public sector market for  
18 such goods, byproducts and surpluses of timber, agricultural, and  
19 animal husbandry enterprises may be sold to private persons, at private  
20 sale. Surplus byproducts and surpluses of timber, agricultural and  
21 animal husbandry enterprises that cannot be sold to public agencies or  
22 to private persons may be donated to nonprofit organizations. All  
23 sales of surplus products shall be carried out in accordance with rules  
24 prescribed by the (~~secretary~~) correctional industries board of  
25 directors.

26 Security and custody services shall be provided without charge by  
27 the department of corrections.

28 Inmates working in this class of industries shall do so at their  
29 own choice and shall be paid for their work on a gratuity scale which  
30 shall not exceed the wage paid for work of a similar nature in the  
31 locality in which the industry is located and which is approved by the  
32 director of correctional industries in accordance with rules adopted by  
33 the correctional industries board of directors.

34 Subject to approval of the correctional industries board,  
35 provisions of RCW 41.06.380 prohibiting contracting out work performed  
36 by classified employees shall not apply to contracts with Washington  
37 state businesses entered into by the department of corrections through  
38 class II industries.

1 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES. Industries in  
2 this class shall be operated by the department of corrections. They  
3 shall be designed and managed to accomplish the following objectives:

4 (a) Whenever possible, to provide basic work training and  
5 experience so that the inmate will be able to qualify for better work  
6 both within correctional industries and the free community. It is not  
7 intended that an inmate's work within this class of industries should  
8 be his or her final and total work experience as an inmate.

9 (b) Whenever possible, to provide forty hours of work or work  
10 training per week.

11 (c) Whenever possible, to offset tax and other public support  
12 costs.

13 Supervising, management, and custody staff shall be employees of  
14 the department.

15 All able and eligible inmates who are assigned work and who are not  
16 working in other classes of industries shall work in this class.

17 Except for inmates who work in work training programs or in  
18 employment where noninmate labor would be subject to chapter 39.12 RCW,  
19 inmates in this class shall be paid for their work in accordance with  
20 an inmate gratuity scale. The scale shall be adopted by the  
21 (~~secretary of corrections~~) correctional industries board of  
22 directors.

23 (4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this class  
24 shall be operated by the department of corrections. They shall be  
25 designed and managed to provide services in the inmate's resident  
26 community at a reduced cost. The services shall be provided to public  
27 agencies, to persons who are poor or infirm, or to nonprofit  
28 organizations.

29 Inmates in this program shall reside in facilities owned by,  
30 contracted for, or licensed by the department of corrections. A unit  
31 of local government shall provide work supervision services without  
32 charge to the state and shall pay the inmate's wage.

33 The department of corrections shall reimburse participating units  
34 of local government for liability and workers compensation insurance  
35 costs.

36 Inmates who work in this class of industries shall do so at their  
37 own choice and shall receive a gratuity which shall not exceed the wage  
38 paid for work of a similar nature in the locality in which the industry  
39 is located.

1 (5) CLASS V: COMMUNITY SERVICE PROGRAMS. Programs in this class  
2 shall be subject to supervision by the department of corrections. The  
3 purpose of this class of industries is to enable an inmate, placed on  
4 community supervision, to work off all or part of a community service  
5 order as ordered by the sentencing court.

6 Employment shall be in a community service program operated by the  
7 state, local units of government, or a nonprofit agency.

8 To the extent that funds are specifically made available for such  
9 purposes, the department of corrections shall reimburse nonprofit  
10 agencies for workers compensation insurance costs.

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 72.09 RCW  
12 to read as follows:

13 In establishing the comprehensive inmate work program provided for  
14 in RCW 72.09.100, the correctional industries board of directors shall:

15 (1) Ensure that paid inmate employment will not result in the  
16 displacement of employed workers within Washington state, or be applied  
17 in skills, crafts, or trades in which there is a surplus of available  
18 gainful labor in Washington state, or impair existing contracts for  
19 services in Washington state, or negatively impact the opportunity for  
20 persons under the age of twenty-one or on public assistance to gain  
21 entry level employment;

22 (2) Provide that, in employment where noninmate labor would be  
23 subject to chapter 39.12 RCW, the wage scale adopted for inmate labor  
24 is comparable to that required by law for noninmate labor.

25 **Sec. 8.** RCW 43.19.534 and 1993 sp.s. c 20 s 1 are each amended to  
26 read as follows:

27 State agencies, the legislature, and departments shall purchase for  
28 their use all goods and services required by the legislature, agencies,  
29 or departments that are produced or provided in whole or in part from  
30 class II inmate work programs operated by the department of corrections  
31 through state contract. These goods and services shall not be  
32 purchased from any other source unless, upon application by the  
33 department or agency(~~(1)~~) the department of general administration  
34 finds that: (1) The articles or products do not meet the reasonable  
35 requirements of the agency or department, (2) the articles or products  
36 are not of equal or better quality, or (3) the price of the product or  
37 service is higher than that produced by the private sector. (~~However,~~

1 the criteria contained in (1), (2), and (3) of this section for  
2 purchasing goods and services from sources other than correctional  
3 industries do not apply to goods and services produced by correctional  
4 industries that primarily replace goods manufactured or services  
5 obtained from outside the state.) The ((department of corrections))  
6 correctional industries board of directors and the department of  
7 general administration shall adopt administrative rules that implement  
8 this section and ensure that no Washington state resident's employment  
9 is jeopardized by the provision of employment opportunities to inmates.

10 **Sec. 9.** RCW 43.19.535 and 1981 c 136 s 15 are each amended to read  
11 as follows:

12 Any person, firm, or organization which makes any bid to provide  
13 any goods or any services to any state agency ((shall)) may be granted  
14 a preference over other bidders if: (1) The goods or services have  
15 been or will be produced or provided in whole or in part by an inmate  
16 work program of the department of corrections ((and)); (2) an amount  
17 equal to at least fifteen percent of the total bid amount has been paid  
18 or will be paid by the person, firm, or organization to inmates as  
19 wages; and (3) all other bid requirements, including quality of product  
20 and timeliness of delivery, are met to the satisfaction of the agency.  
21 The preference provided under this section shall be equal to ((ten))  
22 five percent of the total bid amount. The correctional industries  
23 board of directors and the department of general administration must  
24 adopt rules that implement this section and ensure that no Washington  
25 state resident's employment is jeopardized by the provision of  
26 employment opportunities to inmates.

27 NEW SECTION. **Sec. 10.** This act is necessary for the immediate  
28 preservation of the public peace, health, or safety, or support of the  
29 state government and its existing public institutions, and takes effect  
30 July 1, 1997.

31 NEW SECTION. **Sec. 11.** The governor, the secretary of corrections,  
32 and the correctional industries board of directors may take those steps  
33 as are necessary to ensure that this act is implemented on its  
34 effective date.

1        NEW SECTION.    **Sec. 12.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

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