

---

HOUSE BILL 2892

---

State of Washington

55th Legislature

1998 Regular Session

By Representatives Mitchell, Fisher, K. Schmidt, Radcliff, Hankins, Zellinsky, Backlund, Skinner, Chandler, Mielke, Sherstad, Thompson and D. Sommers

Read first time 01/21/98. Referred to Committee on Transportation Policy & Budget.

1 AN ACT Relating to the contracting of department of transportation  
2 services; amending RCW 41.06.150, 13.40.320, 39.29.006, 47.46.040, and  
3 72.09.100; adding a new section to chapter 47.04 RCW; repealing RCW  
4 41.06.380; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 47.04 RCW  
7 to read as follows:

8 (1) For purposes of this section, the following definitions apply:

9 (a) "Repair" means any activity that restores or mends to a sound  
10 or good condition by replacing or fixing after decay, injury,  
11 dilapidation, or partial destruction has occurred.

12 (b) "Maintenance" means to preserve or retain in a condition of  
13 good repair or efficiency.

14 (c) "Traffic services" means maintenance activities such as, but  
15 not limited to, pavement striping; pavement marking; raised pavement  
16 markers; repairing and replacing highway signage, guideposts, and  
17 guardrails; traffic signal maintenance; and highway lighting.

18 (2) The department of transportation may purchase maintenance  
19 services by contract with individuals or business entities.

1 Maintenance services that may be contracted out include, but are not  
2 limited to, roadway maintenance and repair, drainage maintenance and  
3 slope repair, roadside and landscape maintenance, bridge and urban  
4 tunnel maintenance, snow and ice control, traffic services, and rest  
5 area maintenance. As prescribed in RCW 41.06.150(13), a discretionary  
6 decision by the department to purchase maintenance services by contract  
7 is not a bargainable issue.

8 (3) If the department intends to purchase maintenance services, the  
9 department shall notify any exclusive bargaining representative who  
10 represents any employee whose employment status will be directly  
11 affected by such a contract. The exclusive bargaining representative  
12 may offer alternatives to the proposed contract, and the department  
13 must consider these alternatives in making the final decision to  
14 contract out.

15 **Sec. 2.** RCW 41.06.150 and 1996 c 319 s 2 are each amended to read  
16 as follows:

17 The board shall adopt rules, consistent with the purposes and  
18 provisions of this chapter, as now or hereafter amended, and with the  
19 best standards of personnel administration, regarding the basis and  
20 procedures to be followed for:

21 (1) The reduction, dismissal, suspension, or demotion of an  
22 employee;

23 (2) Certification of names for vacancies, including departmental  
24 promotions, with the number of names equal to six more names than there  
25 are vacancies to be filled, such names representing applicants rated  
26 highest on eligibility lists: PROVIDED, That when other applicants  
27 have scores equal to the lowest score among the names certified, their  
28 names shall also be certified;

29 (3) Examinations for all positions in the competitive and  
30 noncompetitive service;

31 (4) Appointments;

32 (5) Training and career development;

33 (6) Probationary periods of six to twelve months and rejections of  
34 probationary employees, depending on the job requirements of the class,  
35 except that entry level state park rangers shall serve a probationary  
36 period of twelve months;

37 (7) Transfers;

38 (8) Sick leaves and vacations;

1           (9) Hours of work;

2           (10) Layoffs when necessary and subsequent reemployment, both  
3 according to seniority;

4           (11) Determination of appropriate bargaining units within any  
5 agency: PROVIDED, That in making such determination the board shall  
6 consider the duties, skills, and working conditions of the employees,  
7 the history of collective bargaining by the employees and their  
8 bargaining representatives, the extent of organization among the  
9 employees, and the desires of the employees;

10          (12) Certification and decertification of exclusive bargaining  
11 representatives: PROVIDED, That after certification of an exclusive  
12 bargaining representative and upon the representative's request, the  
13 director shall hold an election among employees in a bargaining unit to  
14 determine by a majority whether to require as a condition of employment  
15 membership in the certified exclusive bargaining representative on or  
16 after the thirtieth day following the beginning of employment or the  
17 date of such election, whichever is the later, and the failure of an  
18 employee to comply with such a condition of employment constitutes  
19 cause for dismissal: PROVIDED FURTHER, That no more often than once in  
20 each twelve-month period after expiration of twelve months following  
21 the date of the original election in a bargaining unit and upon  
22 petition of thirty percent of the members of a bargaining unit the  
23 director shall hold an election to determine whether a majority wish to  
24 rescind such condition of employment: PROVIDED FURTHER, That for  
25 purposes of this clause, membership in the certified exclusive  
26 bargaining representative is satisfied by the payment of monthly or  
27 other periodic dues and does not require payment of initiation,  
28 reinstatement, or any other fees or fines and includes full and  
29 complete membership rights: AND PROVIDED FURTHER, That in order to  
30 safeguard the right of nonassociation of public employees, based on  
31 bona fide religious tenets or teachings of a church or religious body  
32 of which such public employee is a member, such public employee shall  
33 pay to the union, for purposes within the program of the union as  
34 designated by such employee that would be in harmony with his or her  
35 individual conscience, an amount of money equivalent to regular union  
36 dues minus any included monthly premiums for union-sponsored insurance  
37 programs, and such employee shall not be a member of the union but is  
38 entitled to all the representation rights of a union member;

1 (13) Agreements between agencies and certified exclusive bargaining  
2 representatives providing for grievance procedures and collective  
3 negotiations on all personnel matters over which the appointing  
4 authority of the appropriate bargaining unit of such agency may  
5 lawfully exercise discretion. Discretionary decisions to purchase  
6 maintenance services by contract by the department of transportation is  
7 not subject to this subsection;

8 (14) Written agreements may contain provisions for payroll  
9 deductions of employee organization dues upon authorization by the  
10 employee member and for the cancellation of such payroll deduction by  
11 the filing of a proper prior notice by the employee with the appointing  
12 authority and the employee organization: PROVIDED, That nothing  
13 contained herein permits or grants to any employee the right to strike  
14 or refuse to perform his or her official duties;

15 (15) Adoption and revision of a comprehensive classification plan  
16 for all positions in the classified service, based on investigation and  
17 analysis of the duties and responsibilities of each such position.

18 (a) The board shall not adopt job classification revisions or class  
19 studies unless implementation of the proposed revision or study will  
20 result in net cost savings, increased efficiencies, or improved  
21 management of personnel or services, and the proposed revision or study  
22 has been approved by the director of financial management in accordance  
23 with chapter 43.88 RCW.

24 (b) ~~((Beginning July 1, 1995, through June 30, 1997, in addition to~~  
25 ~~the requirements of (a) of this subsection:~~

26 ~~(i) The board may approve the implementation of salary increases~~  
27 ~~resulting from adjustments to the classification plan during the 1995-~~  
28 ~~97 fiscal biennium only if:~~

29 ~~(A) The implementation will not result in additional net costs and~~  
30 ~~the proposed implementation has been approved by the director of~~  
31 ~~financial management in accordance with chapter 43.88 RCW;~~

32 ~~(B) The implementation will take effect on July 1, 1996, and the~~  
33 ~~total net cost of all such actions approved by the board for~~  
34 ~~implementation during the 1995-97 fiscal biennium does not exceed the~~  
35 ~~amounts specified by the legislature specifically for this purpose; or~~

36 ~~(C) The implementation is a result of emergent conditions.~~  
37 ~~Emergent conditions are defined as emergency situations requiring the~~  
38 ~~establishment of positions necessary for the preservation of the public~~  
39 ~~health, safety, or general welfare, which do not exceed \$250,000 of the~~

1 moneys identified in section 718(2), chapter 18, Laws of 1995 2nd sp.  
2 sess.

3 ~~(ii) The board shall approve only those salary increases resulting~~  
4 ~~from adjustments to the classification plan if they are due to~~  
5 ~~documented recruitment and retention difficulties, salary compression~~  
6 ~~or inversion, increased duties and responsibilities, or inequities.~~  
7 ~~For these purposes, inequities are defined as similar work assigned to~~  
8 ~~different job classes with a salary disparity greater than 7.5 percent.~~

9 ~~(iii) Adjustments made to the higher education hospital special pay~~  
10 ~~plan are exempt from (b)(i) through (ii) of this subsection.~~

11 ~~(e))~~ Reclassifications, class studies, and salary adjustments to  
12 be implemented during the 1997-99 and subsequent fiscal biennia are  
13 governed by (a) of this subsection and RCW 41.06.152;

14 (16) Allocation and reallocation of positions within the  
15 classification plan;

16 (17) Adoption and revision of a state salary schedule to reflect  
17 the prevailing rates in Washington state private industries and other  
18 governmental units but the rates in the salary schedules or plans shall  
19 be increased if necessary to attain comparable worth under an  
20 implementation plan under RCW 41.06.155 and that, for institutions of  
21 higher education and related boards, shall be competitive for positions  
22 of a similar nature in the state or the locality in which an  
23 institution of higher education or related board is located, such  
24 adoption and revision subject to approval by the director of financial  
25 management in accordance with the provisions of chapter 43.88 RCW;

26 (18) Increment increases within the series of steps for each pay  
27 grade based on length of service for all employees whose standards of  
28 performance are such as to permit them to retain job status in the  
29 classified service;

30 (19) Providing for veteran's preference as required by existing  
31 statutes, with recognition of preference in regard to layoffs and  
32 subsequent reemployment for veterans and their surviving spouses by  
33 giving such eligible veterans and their surviving spouses additional  
34 credit in computing their seniority by adding to their unbroken state  
35 service, as defined by the board, the veteran's service in the military  
36 not to exceed five years. For the purposes of this section, "veteran"  
37 means any person who has one or more years of active military service  
38 in any branch of the armed forces of the United States or who has less  
39 than one year's service and is discharged with a disability incurred in

1 the line of duty or is discharged at the convenience of the government  
2 and who, upon termination of such service has received an honorable  
3 discharge, a discharge for physical reasons with an honorable record,  
4 or a release from active military service with evidence of service  
5 other than that for which an undesirable, bad conduct, or dishonorable  
6 discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse  
7 of a veteran is entitled to the benefits of this section regardless of  
8 the veteran's length of active military service: PROVIDED FURTHER,  
9 That for the purposes of this section "veteran" does not include any  
10 person who has voluntarily retired with twenty or more years of active  
11 military service and whose military retirement pay is in excess of five  
12 hundred dollars per month;

13 (20) Permitting agency heads to delegate the authority to appoint,  
14 reduce, dismiss, suspend, or demote employees within their agencies if  
15 such agency heads do not have specific statutory authority to so  
16 delegate: PROVIDED, That the board may not authorize such delegation  
17 to any position lower than the head of a major subdivision of the  
18 agency;

19 (21) Assuring persons who are or have been employed in classified  
20 positions before July 1, 1993, will be eligible for employment,  
21 reemployment, transfer, and promotion in respect to classified  
22 positions covered by this chapter;

23 (22) Affirmative action in appointment, promotion, transfer,  
24 recruitment, training, and career development; development and  
25 implementation of affirmative action goals and timetables; and  
26 monitoring of progress against those goals and timetables.

27 The board shall consult with the human rights commission in the  
28 development of rules pertaining to affirmative action. The department  
29 of personnel shall transmit a report annually to the human rights  
30 commission which states the progress each state agency has made in  
31 meeting affirmative action goals and timetables.

32 **Sec. 3.** RCW 13.40.320 and 1997 c 338 s 38 are each amended to read  
33 as follows:

34 (1) The department of social and health services shall establish  
35 and operate a medium security juvenile offender basic training camp  
36 program. The department shall site a juvenile offender basic training  
37 camp facility in the most cost-effective facility possible and shall

1 review the possibility of using an existing abandoned and/or available  
2 state, federally, or military-owned site or facility.

3 (2) The department may contract under this chapter with private  
4 companies, the national guard, or other federal, state, or local  
5 agencies to operate the juvenile offender basic training camp(~~(7~~  
6 ~~notwithstanding the provisions of RCW 41.06.380)~~). Requests for  
7 proposals from possible contractors shall not call for payment on a per  
8 diem basis.

9 (3) The juvenile offender basic training camp shall accommodate at  
10 least seventy offenders. The beds shall count as additions to, and not  
11 be used as replacements for, existing bed capacity at existing  
12 department of social and health services juvenile facilities.

13 (4) The juvenile offender basic training camp shall be a structured  
14 and regimented model lasting one hundred twenty days emphasizing the  
15 building up of an offender's self-esteem, confidence, and discipline.  
16 The juvenile offender basic training camp program shall provide  
17 participants with basic education, prevocational training, work-based  
18 learning, live work, work ethic skills, conflict resolution counseling,  
19 substance abuse intervention, anger management counseling, and  
20 structured intensive physical training. The juvenile offender basic  
21 training camp program shall have a curriculum training and work  
22 schedule that incorporates a balanced assignment of these or other  
23 rehabilitation and training components for no less than sixteen hours  
24 per day, six days a week.

25 The department shall adopt rules for the safe and effective  
26 operation of the juvenile offender basic training camp program,  
27 standards for an offender's successful program completion, and rules  
28 for the continued after-care supervision of offenders who have  
29 successfully completed the program.

30 (5) Offenders eligible for the juvenile offender basic training  
31 camp option shall be those with a disposition of not more than sixty-  
32 five weeks. Violent and sex offenders shall not be eligible for the  
33 juvenile offender basic training camp program.

34 (6) If the court determines that the offender is eligible for the  
35 juvenile offender basic training camp option, the court may recommend  
36 that the department place the offender in the program. The department  
37 shall evaluate the offender and may place the offender in the program.  
38 The evaluation shall include, at a minimum, a risk assessment developed  
39 by the department and designed to determine the offender's suitability

1 for the program. No juvenile who is assessed as a high risk offender  
2 or suffers from any mental or physical problems that could endanger his  
3 or her health or drastically affect his or her performance in the  
4 program shall be admitted to or retained in the juvenile offender basic  
5 training camp program.

6 (7) All juvenile offenders eligible for the juvenile offender basic  
7 training camp sentencing option shall spend one hundred twenty days of  
8 their disposition in a juvenile offender basic training camp. If the  
9 juvenile offender's activities while in the juvenile offender basic  
10 training camp are so disruptive to the juvenile offender basic training  
11 camp program, as determined by the secretary according to rules adopted  
12 by the department, as to result in the removal of the juvenile offender  
13 from the juvenile offender basic training camp program, or if the  
14 offender cannot complete the juvenile offender basic training camp  
15 program due to medical problems, the secretary shall require that the  
16 offender be committed to a juvenile institution to serve the entire  
17 remainder of his or her disposition, less the amount of time already  
18 served in the juvenile offender basic training camp program.

19 (8) All offenders who successfully graduate from the one hundred  
20 twenty day juvenile offender basic training camp program shall spend  
21 the remainder of their disposition on parole in a division of juvenile  
22 rehabilitation intensive aftercare program in the local community. The  
23 program shall provide for the needs of the offender based on his or her  
24 progress in the aftercare program as indicated by ongoing assessment of  
25 those needs and progress. The intensive aftercare program shall  
26 monitor postprogram juvenile offenders and assist them to successfully  
27 reintegrate into the community. In addition, the program shall develop  
28 a process for closely monitoring and assessing public safety risks.  
29 The intensive aftercare program shall be designed and funded by the  
30 department of social and health services.

31 (9) The department shall also develop and maintain a data base to  
32 measure recidivism rates specific to this incarceration program. The  
33 data base shall maintain data on all juvenile offenders who complete  
34 the juvenile offender basic training camp program for a period of two  
35 years after they have completed the program. The data base shall also  
36 maintain data on the criminal activity, educational progress, and  
37 employment activities of all juvenile offenders who participated in the  
38 program.



1       **Sec. 4.** RCW 39.29.006 and 1993 c 433 s 2 are each amended to read  
2 as follows:

3       As used in this chapter:

4       (1) "Agency" means any state office or activity of the executive  
5 and judicial branches of state government, including state agencies,  
6 departments, offices, divisions, boards, commissions, and educational,  
7 correctional, and other types of institutions.

8       (2) "Client services" means services provided directly to agency  
9 clients including, but not limited to, medical and dental services,  
10 employment and training programs, residential care, and subsidized  
11 housing.

12       (3) "Competitive solicitation" means a documented formal process  
13 providing an equal and open opportunity to qualified parties and  
14 culminating in a selection based on criteria which may include such  
15 factors as the consultant's fees or costs, ability, capacity,  
16 experience, reputation, responsiveness to time limitations,  
17 responsiveness to solicitation requirements, quality of previous  
18 performance, and compliance with statutes and rules relating to  
19 contracts or services.

20       (4) "Consultant" means an independent individual or firm  
21 contracting with an agency to perform a service or render an opinion or  
22 recommendation according to the consultant's methods and without being  
23 subject to the control of the agency except as to the result of the  
24 work. The agency monitors progress under the contract and authorizes  
25 payment.

26       (5) "Emergency" means a set of unforeseen circumstances beyond the  
27 control of the agency that either:

28       (a) Present a real, immediate threat to the proper performance of  
29 essential functions; or

30       (b) May result in material loss or damage to property, bodily  
31 injury, or loss of life if immediate action is not taken.

32       (6) "Evidence of competition" means documentation demonstrating  
33 that the agency has solicited responses from multiple firms in  
34 selecting a consultant.

35       (7) "Personal service" means professional or technical expertise  
36 provided by a consultant to accomplish a specific study, project, task,  
37 or other work statement. This term does not include purchased services  
38 as defined under subsection (9) of this section. This term does  
39 include client services.

1 (8) "Personal service contract" means an agreement, or any  
2 amendment thereto, with a consultant for the rendering of personal  
3 services to the state (~~(which is consistent with RCW 41.06.380)~~).

4 (9) "Purchased services" means services provided by a vendor to  
5 accomplish routine, continuing and necessary functions. This term  
6 includes, but is not limited to, services acquired under RCW 43.19.190  
7 or 43.105.041 for equipment maintenance and repair; operation of a  
8 physical plant; security; computer hardware and software maintenance;  
9 data entry; key punch services; and computer time-sharing, contract  
10 programming, and analysis.

11 (10) "Sole source" means a consultant providing professional or  
12 technical expertise of such a unique nature that the consultant is  
13 clearly and justifiably the only practicable source to provide the  
14 service. The justification shall be based on either the uniqueness of  
15 the service or sole availability at the location required.

16 (11) "Subcontract" means a contract assigning some of the work of  
17 a contract to a third party.

18 **Sec. 5.** RCW 47.46.040 and 1995 2nd sp.s. c 19 s 3 are each amended  
19 to read as follows:

20 (1) All projects designed, constructed, and operated under this  
21 authority must comply with all applicable rules and statutes in  
22 existence at the time the agreement is executed, including but not  
23 limited to the following provisions: Chapter 39.12 RCW, this title,  
24 (~~(RCW 41.06.380,)~~) chapter 47.64 RCW, RCW 49.60.180, and 49 C.F.R. Part  
25 21.

26 (2) The secretary or a designee shall consult with legal,  
27 financial, and other experts within and outside state government in the  
28 negotiation and development of the agreements.

29 (3) Agreements shall provide for private ownership of the projects  
30 during the construction period. After completion and final acceptance  
31 of each project or discrete segment thereof, the agreement shall  
32 provide for state ownership of the transportation systems and  
33 facilities and lease to the private entity unless the state elects to  
34 provide for ownership of the facility by the private entity during the  
35 term of the agreement.

36 The state shall lease each of the demonstration projects, or  
37 applicable project segments, to the private entities for operating  
38 purposes for up to fifty years.

1 (4) The department may exercise any power possessed by it to  
2 facilitate the development, construction, financing operation, and  
3 maintenance of transportation projects under this chapter. Agreements  
4 for maintenance services entered into under this section shall provide  
5 for full reimbursement for services rendered by the department or other  
6 state agencies. Agreements for police services for projects, involving  
7 state highway routes, developed under agreements shall be entered into  
8 with the Washington state patrol. The agreement for police services  
9 shall provide that the state patrol will be reimbursed for costs on a  
10 comparable basis with the costs incurred for comparable service on  
11 other state highway routes. The department may provide services for  
12 which it is reimbursed, including but not limited to preliminary  
13 planning, environmental certification, and preliminary design of the  
14 demonstration projects.

15 (5) The plans and specifications for each project constructed under  
16 this section shall comply with the department's standards for state  
17 projects. A facility constructed by and leased to a private entity is  
18 deemed to be a part of the state highway system for purposes of  
19 identification, maintenance, and enforcement of traffic laws and for  
20 the purposes of applicable sections of this title. Upon reversion of  
21 the facility to the state, the project must meet all applicable state  
22 standards. Agreements shall address responsibility for reconstruction  
23 or renovations that are required in order for a facility to meet all  
24 applicable state standards upon reversion of the facility to the state.

25 (6) For the purpose of facilitating these projects and to assist  
26 the private entity in the financing, development, construction, and  
27 operation of the transportation systems and facilities, the agreements  
28 may include provisions for the department to exercise its authority,  
29 including the lease of facilities, rights of way, and airspace,  
30 exercise of the power of eminent domain, granting of development rights  
31 and opportunities, granting of necessary easements and rights of  
32 access, issuance of permits and other authorizations, protection from  
33 competition, remedies in the event of default of either of the parties,  
34 granting of contractual and real property rights, liability during  
35 construction and the term of the lease, authority to negotiate  
36 acquisition of rights of way in excess of appraised value, and any  
37 other provision deemed necessary by the secretary.

38 (7) The agreements entered into under this section may include  
39 provisions authorizing the state to grant necessary easements and lease

1 to a private entity existing rights of way or rights of way  
2 subsequently acquired with public or private financing. The agreements  
3 may also include provisions to lease to the entity airspace above or  
4 below the right of way associated or to be associated with the private  
5 entity's transportation facility. In consideration for the reversion  
6 rights in these privately constructed facilities, the department may  
7 negotiate a charge for the lease of airspace rights during the term of  
8 the agreement for a period not to exceed fifty years. If, after the  
9 expiration of this period, the department continues to lease these  
10 airspace rights to the private entity, it shall do so only at fair  
11 market value. The agreement may also provide the private entity the  
12 right of first refusal to undertake projects utilizing airspace owned  
13 by the state in the vicinity of the public-private project.

14 (8) Agreements under this section may include any contractual  
15 provision that is necessary to protect the project revenues required to  
16 repay the costs incurred to study, plan, design, finance, acquire,  
17 build, install, operate, enforce laws, and maintain toll highways,  
18 bridges, and tunnels and which will not unreasonably inhibit or  
19 prohibit the development of additional public transportation systems  
20 and facilities. Agreements under this section must secure and maintain  
21 liability insurance coverage in amounts appropriate to protect the  
22 project's viability and may address state indemnification of the  
23 private entity for design and construction liability where the state  
24 has approved relevant design and construction plans.

25 (9) Agreements shall include a process that provides for public  
26 involvement in decision making with respect to the development of the  
27 projects.

28 (10)(a) In carrying out the public involvement process required in  
29 subsection (9) of this section, the private entity shall proactively  
30 seek public participation through a process appropriate to the  
31 characteristics of the project that assesses and demonstrates public  
32 support among: Users of the project, residents of communities in the  
33 vicinity of the project, and residents of communities impacted by the  
34 project.

35 (b) The private entity shall conduct a comprehensive public  
36 involvement process that provides, periodically throughout the  
37 development and implementation of the project, users and residents of  
38 communities in the affected project area an opportunity to comment upon  
39 key issues regarding the project including, but not limited to: (i)

1 Alternative sizes and scopes; (ii) design; (iii) environmental  
2 assessment; (iv) right of way and access plans; (v) traffic impacts;  
3 (vi) tolling or user fee strategies and tolling or user fee ranges;  
4 (vii) project cost; (viii) construction impacts; (ix) facility  
5 operation; and (x) any other salient characteristics.

6 (c) If the affected project area has not been defined, the private  
7 entity shall define the affected project area by conducting, at a  
8 minimum: (i) A comparison of the estimated percentage of residents of  
9 communities in the vicinity of the project and in other communities  
10 impacted by the project who could be subject to tolls or user fees and  
11 the estimated percentage of other users and transient traffic that  
12 could be subject to tolls or user fees; (ii) an analysis of the  
13 anticipated traffic diversion patterns; (iii) an analysis of the  
14 potential economic impact resulting from proposed toll rates or user  
15 fee rates imposed on residents, commercial traffic, and commercial  
16 entities in communities in the vicinity of and impacted by the project;  
17 (iv) an analysis of the economic impact of tolls or user fees on the  
18 price of goods and services generally; and (v) an analysis of the  
19 relationship of the project to state transportation needs and benefits.

20 The agreement may require an advisory vote by users of and  
21 residents in the affected project area.

22 (d) In seeking public participation, the private entity shall  
23 establish a local involvement committee or committees comprised of  
24 residents of the affected project area, individuals who represent  
25 cities and counties in the affected project area, organizations formed  
26 to support or oppose the project, if such organizations exist, and  
27 users of the project. The private entity shall, at a minimum,  
28 establish a committee as required under the specifications of RCW  
29 47.46.030(~~(+5)~~) (6)(b) (ii) and (iii) and appointments to such  
30 committee shall be made no later than thirty days after the project  
31 area is defined.

32 (e) Local involvement committees shall act in an advisory capacity  
33 to the department and the private entity on all issues related to the  
34 development and implementation of the public involvement process  
35 established under this section.

36 (f) The department and the private entity shall provide the  
37 legislative transportation committee and local involvement committees  
38 with progress reports on the status of the public involvement process  
39 including the results of an advisory vote, if any occurs.

1 (11) Nothing in this chapter limits the right of the secretary and  
2 his or her agents to render such advice and to make such  
3 recommendations as they deem to be in the best interests of the state  
4 and the public.

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

7 It is the intent of the legislature to vest in the department the  
8 power to provide for a comprehensive inmate work program and to remove  
9 statutory and other restrictions which have limited work programs in  
10 the past. For purposes of establishing such a comprehensive program,  
11 the legislature recommends that the department consider adopting any or  
12 all, or any variation of, the following classes of work programs:

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

19 The customer model industries in this class shall be operated and  
20 managed by the department to provide Washington state manufacturers or  
21 businesses with products or services currently produced or provided by  
22 out-of-state or foreign suppliers. The correctional industries board  
23 of directors shall review these proposed industries before the  
24 department contracts to provide such products or services. The review  
25 shall include an analysis of the potential impact of the proposed  
26 products and services on the Washington state business community and  
27 labor market.

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

30 Inmates who work in free venture industries shall do so at their  
31 own choice. They shall be paid a wage comparable to the wage paid for  
32 work of a similar nature in the locality in which the industry is  
33 located, as determined by the director of correctional industries. If  
34 the director cannot reasonably determine the comparable wage, then the  
35 pay shall not be less than the federal minimum wage.

36 An inmate who is employed in the class I program of correctional  
37 industries shall not be eligible for unemployment compensation benefits

1 pursuant to any of the provisions of Title 50 RCW until released on  
2 parole or discharged.

3 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class  
4 shall be state-owned and operated enterprises designed to reduce the  
5 costs for goods and services for tax-supported agencies and for  
6 nonprofit organizations. The industries selected for development  
7 within this class shall, as much as possible, match the available pool  
8 of inmate work skills and aptitudes with the work opportunities in the  
9 free community. The industries shall be closely patterned after  
10 private sector industries but with the objective of reducing public  
11 support costs rather than making a profit. The products and services  
12 of this industry, including purchased products and services necessary  
13 for a complete product line, may be sold to public agencies, to  
14 nonprofit organizations, and to private contractors when the goods  
15 purchased will be ultimately used by a public agency or a nonprofit  
16 organization. Clothing manufactured by an industry in this class may  
17 be donated to nonprofit organizations that provide clothing free of  
18 charge to low-income persons. Correctional industries products and  
19 services shall be reviewed by the correctional industries board of  
20 directors before offering such products and services for sale to  
21 private contractors. The board of directors shall conduct a yearly  
22 marketing review of the products and services offered under this  
23 subsection. Such review shall include an analysis of the potential  
24 impact of the proposed products and services on the Washington state  
25 business community. To avoid waste or spoilage and consequent loss to  
26 the state, when there is no public sector market for such goods,  
27 byproducts and surpluses of timber, agricultural, and animal husbandry  
28 enterprises may be sold to private persons, at private sale. Surplus  
29 byproducts and surpluses of timber, agricultural and animal husbandry  
30 enterprises that cannot be sold to public agencies or to private  
31 persons may be donated to nonprofit organizations. All sales of  
32 surplus products shall be carried out in accordance with rules  
33 prescribed by the secretary.

34 Security and custody services shall be provided without charge by  
35 the department of corrections.

36 Inmates working in this class of industries shall do so at their  
37 own choice and shall be paid for their work on a gratuity scale which  
38 shall not exceed the wage paid for work of a similar nature in the

1 locality in which the industry is located and which is approved by the  
2 director of correctional industries.

3 ~~((Subject to approval of the correctional industries board,~~  
4 ~~provisions of RCW 41.06.380 prohibiting contracting out work performed~~  
5 ~~by classified employees shall not apply to contracts with Washington~~  
6 ~~state businesses entered into by the department of corrections through~~  
7 ~~class II industries.))~~

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

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

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

18 (c) Whenever possible, to offset tax and other public support  
19 costs.

20 Supervising, management, and custody staff shall be employees of  
21 the department.

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

24 Except for inmates who work in work training programs, inmates in  
25 this class shall be paid for their work in accordance with an inmate  
26 gratuity scale. The scale shall be adopted by the secretary of  
27 corrections.

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

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



1       The department of corrections shall reimburse participating units  
2 of local government for liability and workers compensation insurance  
3 costs.

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

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

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

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

18       NEW SECTION. **Sec. 7.** RCW 41.06.380 and 1979 ex.s. c 46 s 2 are  
19 each repealed.

20       NEW SECTION. **Sec. 8.** This act takes effect July 1, 1998.

--- END ---