
HOUSE BILL 3094

State of Washington 56th Legislature 2000 Regular Session

By Representatives Mielke, Benson and Boldt

Read first time . Referred to Committee on .

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 an activity that restores or mends to a sound or
10 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 may purchase maintenance services by contract
19 with individuals or business entities. Maintenance services that may

1 be contracted out include, but are not limited to, roadway maintenance
2 and repair, drainage maintenance and slope repair, roadside and
3 landscape maintenance, bridge and urban tunnel maintenance, snow and
4 ice control, traffic services, and rest area maintenance. As
5 prescribed in RCW 41.06.150(13), a discretionary decision by the
6 department to purchase maintenance services by contract is not a
7 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 1999 c 297 s 3 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) Optional lump sum relocation compensation approved by the
31 agency director, whenever it is reasonably necessary that a person make
32 a domiciliary move in accepting a transfer or other employment with the
33 state. An agency must provide lump sum compensation within existing
34 resources. If the person receiving the relocation payment terminates
35 or causes termination with the state, for reasons other than layoff,
36 disability separation, or other good cause as determined by an agency
37 director, within one year of the date of the employment, the state is
38 entitled to reimbursement of the lump sum compensation from the person;

1 (20) Providing for veteran's preference as required by existing
2 statutes, with recognition of preference in regard to layoffs and
3 subsequent reemployment for veterans and their surviving spouses by
4 giving such eligible veterans and their surviving spouses additional
5 credit in computing their seniority by adding to their unbroken state
6 service, as defined by the board, the veteran's service in the military
7 not to exceed five years. For the purposes of this section, "veteran"
8 means any person who has one or more years of active military service
9 in any branch of the armed forces of the United States or who has less
10 than one year's service and is discharged with a disability incurred in
11 the line of duty or is discharged at the convenience of the government
12 and who, upon termination of such service has received an honorable
13 discharge, a discharge for physical reasons with an honorable record,
14 or a release from active military service with evidence of service
15 other than that for which an undesirable, bad conduct, or dishonorable
16 discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse
17 of a veteran is entitled to the benefits of this section regardless of
18 the veteran's length of active military service: PROVIDED FURTHER,
19 That for the purposes of this section "veteran" does not include any
20 person who has voluntarily retired with twenty or more years of active
21 military service and whose military retirement pay is in excess of five
22 hundred dollars per month;

23 (21) Permitting agency heads to delegate the authority to appoint,
24 reduce, dismiss, suspend, or demote employees within their agencies if
25 such agency heads do not have specific statutory authority to so
26 delegate: PROVIDED, That the board may not authorize such delegation
27 to any position lower than the head of a major subdivision of the
28 agency;

29 (22) Assuring persons who are or have been employed in classified
30 positions before July 1, 1993, will be eligible for employment,
31 reemployment, transfer, and promotion in respect to classified
32 positions covered by this chapter((†

33 ~~(23) Affirmative action in appointment, promotion, transfer,~~
34 ~~recruitment, training, and career development; development and~~
35 ~~implementation of affirmative action goals and timetables; and~~
36 ~~monitoring of progress against those goals and timetables.~~

37 ~~The board shall consult with the human rights commission in the~~
38 ~~development of rules pertaining to affirmative action. The department~~
39 ~~of personnel shall transmit a report annually to the human rights~~

1 ~~commission which states the progress each state agency has made in~~
2 ~~meeting affirmative action goals and timetables)).~~

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

5 (1) The department of social and health services shall establish
6 and operate a medium security juvenile offender basic training camp
7 program. The department shall site a juvenile offender basic training
8 camp facility in the most cost-effective facility possible and shall
9 review the possibility of using an existing abandoned and/or available
10 state, federally, or military-owned site or facility.

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

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

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

33 The department shall adopt rules for the safe and effective
34 operation of the juvenile offender basic training camp program,
35 standards for an offender's successful program completion, and rules
36 for the continued after-care supervision of offenders who have
37 successfully completed the program.

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

5 (6) If the court determines that the offender is eligible for the
6 juvenile offender basic training camp option, the court may recommend
7 that the department place the offender in the program. The department
8 shall evaluate the offender and may place the offender in the program.
9 The evaluation shall include, at a minimum, a risk assessment developed
10 by the department and designed to determine the offender's suitability
11 for the program. No juvenile who is assessed as a high risk offender
12 or suffers from any mental or physical problems that could endanger his
13 or her health or drastically affect his or her performance in the
14 program shall be admitted to or retained in the juvenile offender basic
15 training camp program.

16 (7) All juvenile offenders eligible for the juvenile offender basic
17 training camp sentencing option shall spend one hundred twenty days of
18 their disposition in a juvenile offender basic training camp. If the
19 juvenile offender's activities while in the juvenile offender basic
20 training camp are so disruptive to the juvenile offender basic training
21 camp program, as determined by the secretary according to rules adopted
22 by the department, as to result in the removal of the juvenile offender
23 from the juvenile offender basic training camp program, or if the
24 offender cannot complete the juvenile offender basic training camp
25 program due to medical problems, the secretary shall require that the
26 offender be committed to a juvenile institution to serve the entire
27 remainder of his or her disposition, less the amount of time already
28 served in the juvenile offender basic training camp program.

29 (8) All offenders who successfully graduate from the one hundred
30 twenty day juvenile offender basic training camp program shall spend
31 the remainder of their disposition on parole in a division of juvenile
32 rehabilitation intensive aftercare program in the local community. The
33 program shall provide for the needs of the offender based on his or her
34 progress in the aftercare program as indicated by ongoing assessment of
35 those needs and progress. The intensive aftercare program shall
36 monitor postprogram juvenile offenders and assist them to successfully
37 reintegrate into the community. In addition, the program shall develop
38 a process for closely monitoring and assessing public safety risks.

1 The intensive aftercare program shall be designed and funded by the
2 department of social and health services.

3 (9) The department shall also develop and maintain a data base to
4 measure recidivism rates specific to this incarceration program. The
5 data base shall maintain data on all juvenile offenders who complete
6 the juvenile offender basic training camp program for a period of two
7 years after they have completed the program. The data base shall also
8 maintain data on the criminal activity, educational progress, and
9 employment activities of all juvenile offenders who participated in the
10 program.

11 **Sec. 4.** RCW 39.29.006 and 1998 c 101 s 2 are each amended to read
12 as follows:

13 As used in this chapter:

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

18 (2) "Client services" means services provided directly to agency
19 clients including, but not limited to, medical and dental services,
20 employment and training programs, residential care, and subsidized
21 housing.

22 (3) "Competitive solicitation" means a documented formal process
23 providing an equal and open opportunity to qualified parties and
24 culminating in a selection based on criteria which may include such
25 factors as the consultant's fees or costs, ability, capacity,
26 experience, reputation, responsiveness to time limitations,
27 responsiveness to solicitation requirements, quality of previous
28 performance, and compliance with statutes and rules relating to
29 contracts or services.

30 (4) "Consultant" means an independent individual or firm
31 contracting with an agency to perform a service or render an opinion or
32 recommendation according to the consultant's methods and without being
33 subject to the control of the agency except as to the result of the
34 work. The agency monitors progress under the contract and authorizes
35 payment.

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

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

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

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

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

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

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

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

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

30 (1) All projects designed, constructed, and operated under this
31 authority must comply with all applicable rules and statutes in
32 existence at the time the agreement is executed, including but not
33 limited to the following provisions: Chapter 39.12 RCW, this title,
34 (~~RCW 41.06.380,~~) chapter 47.64 RCW, RCW 49.60.180, and 49 C.F.R. Part
35 21.

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

1 (3) Agreements shall provide for private ownership of the projects
2 during the construction period. After completion and final acceptance
3 of each project or discrete segment thereof, the agreement shall
4 provide for state ownership of the transportation systems and
5 facilities and lease to the private entity unless the state elects to
6 provide for ownership of the facility by the private entity during the
7 term of the agreement.

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

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

25 (5) The plans and specifications for each project constructed under
26 this section shall comply with the department's standards for state
27 projects. A facility constructed by and leased to a private entity is
28 deemed to be a part of the state highway system for purposes of
29 identification, maintenance, and enforcement of traffic laws and for
30 the purposes of applicable sections of this title. Upon reversion of
31 the facility to the state, the project must meet all applicable state
32 standards. Agreements shall address responsibility for reconstruction
33 or renovations that are required in order for a facility to meet all
34 applicable state standards upon reversion of the facility to the state.

35 (6) For the purpose of facilitating these projects and to assist
36 the private entity in the financing, development, construction, and
37 operation of the transportation systems and facilities, the agreements
38 may include provisions for the department to exercise its authority,
39 including the lease of facilities, rights of way, and airspace,

1 exercise of the power of eminent domain, granting of development rights
2 and opportunities, granting of necessary easements and rights of
3 access, issuance of permits and other authorizations, protection from
4 competition, remedies in the event of default of either of the parties,
5 granting of contractual and real property rights, liability during
6 construction and the term of the lease, authority to negotiate
7 acquisition of rights of way in excess of appraised value, and any
8 other provision deemed necessary by the secretary.

9 (7) The agreements entered into under this section may include
10 provisions authorizing the state to grant necessary easements and lease
11 to a private entity existing rights of way or rights of way
12 subsequently acquired with public or private financing. The agreements
13 may also include provisions to lease to the entity airspace above or
14 below the right of way associated or to be associated with the private
15 entity's transportation facility. In consideration for the reversion
16 rights in these privately constructed facilities, the department may
17 negotiate a charge for the lease of airspace rights during the term of
18 the agreement for a period not to exceed fifty years. If, after the
19 expiration of this period, the department continues to lease these
20 airspace rights to the private entity, it shall do so only at fair
21 market value. The agreement may also provide the private entity the
22 right of first refusal to undertake projects utilizing airspace owned
23 by the state in the vicinity of the public-private project.

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

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

38 (10)(a) In carrying out the public involvement process required in
39 subsection (9) of this section, the private entity shall proactively

1 seek public participation through a process appropriate to the
2 characteristics of the project that assesses and demonstrates public
3 support among: Users of the project, residents of communities in the
4 vicinity of the project, and residents of communities impacted by the
5 project.

6 (b) The private entity shall conduct a comprehensive public
7 involvement process that provides, periodically throughout the
8 development and implementation of the project, users and residents of
9 communities in the affected project area an opportunity to comment upon
10 key issues regarding the project including, but not limited to: (i)
11 Alternative sizes and scopes; (ii) design; (iii) environmental
12 assessment; (iv) right of way and access plans; (v) traffic impacts;
13 (vi) tolling or user fee strategies and tolling or user fee ranges;
14 (vii) project cost; (viii) construction impacts; (ix) facility
15 operation; and (x) any other salient characteristics.

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

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

32 (d) In seeking public participation, the private entity shall
33 establish a local involvement committee or committees comprised of
34 residents of the affected project area, individuals who represent
35 cities and counties in the affected project area, organizations formed
36 to support or oppose the project, if such organizations exist, and
37 users of the project. The private entity shall, at a minimum,
38 establish a committee as required under the specifications of RCW
39 47.46.030((+5+)) (6)(b) (ii) and (iii) and appointments to such

1 committee shall be made no later than thirty days after the project
2 area is defined.

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

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

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

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

17 It is the intent of the legislature to vest in the department the
18 power to provide for a comprehensive inmate work program and to remove
19 statutory and other restrictions which have limited work programs in
20 the past. For purposes of establishing such a comprehensive program,
21 the legislature recommends that the department consider adopting any or
22 all, or any variation of, the following classes of work programs:

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

29 The customer model industries in this class shall be operated and
30 managed by the department to provide Washington state manufacturers or
31 businesses with products or services currently produced or provided by
32 out-of-state or foreign suppliers. The correctional industries board
33 of directors shall review these proposed industries before the
34 department contracts to provide such products or services. The review
35 shall include an analysis of the potential impact of the proposed
36 products and services on the Washington state business community and
37 labor market.

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

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

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

13 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class
14 shall be state-owned and operated enterprises designed to reduce the
15 costs for goods and services for tax-supported agencies and for
16 nonprofit organizations. The industries selected for development
17 within this class shall, as much as possible, match the available pool
18 of inmate work skills and aptitudes with the work opportunities in the
19 free community. The industries shall be closely patterned after
20 private sector industries but with the objective of reducing public
21 support costs rather than making a profit. The products and services
22 of this industry, including purchased products and services necessary
23 for a complete product line, may be sold to public agencies, to
24 nonprofit organizations, and to private contractors when the goods
25 purchased will be ultimately used by a public agency or a nonprofit
26 organization. Clothing manufactured by an industry in this class may
27 be donated to nonprofit organizations that provide clothing free of
28 charge to low-income persons. Correctional industries products and
29 services shall be reviewed by the correctional industries board of
30 directors before offering such products and services for sale to
31 private contractors. The board of directors shall conduct a yearly
32 marketing review of the products and services offered under this
33 subsection. Such review shall include an analysis of the potential
34 impact of the proposed products and services on the Washington state
35 business community. To avoid waste or spoilage and consequent loss to
36 the state, when there is no public sector market for such goods,
37 byproducts and surpluses of timber, agricultural, and animal husbandry
38 enterprises may be sold to private persons, at private sale. Surplus
39 byproducts and surpluses of timber, agricultural and animal husbandry

1 enterprises that cannot be sold to public agencies or to private
2 persons may be donated to nonprofit organizations. All sales of
3 surplus products shall be carried out in accordance with rules
4 prescribed by the secretary.

5 Security and custody services shall be provided without charge by
6 the department of corrections.

7 Inmates working in this class of industries shall do so at their
8 own choice and shall be paid for their work on a gratuity scale which
9 shall not exceed the wage paid for work of a similar nature in the
10 locality in which the industry is located and which is approved by the
11 director of correctional industries.

12 ~~((Subject to approval of the correctional industries board,
13 provisions of RCW 41.06.380 prohibiting contracting out work performed
14 by classified employees shall not apply to contracts with Washington
15 state businesses entered into by the department of corrections through
16 class II industries.))~~

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

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

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

27 (c) Whenever possible, to offset tax and other public support
28 costs.

29 Supervising, management, and custody staff shall be employees of
30 the department.

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

33 Except for inmates who work in work training programs, inmates in
34 this class shall be paid for their work in accordance with an inmate
35 gratuity scale. The scale shall be adopted by the secretary of
36 corrections.

37 (4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this class
38 shall be operated by the department of corrections. They shall be
39 designed and managed to provide services in the inmate's resident

1 community at a reduced cost. The services shall be provided to public
2 agencies, to persons who are poor or infirm, or to nonprofit
3 organizations.

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

8 The department of corrections shall reimburse participating units
9 of local government for liability and workers compensation insurance
10 costs.

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

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

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

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

25 NEW SECTION. **Sec. 7.** RCW 41.06.380 (Purchasing services by
26 contract not prohibited--Limitations) and 1979 ex.s. c 46 s 2 are each
27 repealed.

28 NEW SECTION. **Sec. 8.** This act takes effect July 1, 2000.

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