

HOUSE BILL REPORT

HB 1765

As Reported by House Committee On:
Criminal Justice & Corrections

Title: An act relating to inmate labor.

Brief Description: Revising provisions for inmate labor.

Sponsors: Representatives O'Brien, Campbell, Veloria, Cooper and Bush.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/18/03, 2/28/03 [DPS].

Brief Summary of Substitute Bill

- Expands the duties of the Correctional Industries Board to include overseeing and implementing policy for state-operated inmate labor camps, work camps, and work crews.
- Prohibits state inmates working in work crews, labor camps or work camps from working on any project that is not owned by a governmental or nonprofit entity.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Lovick and Pearson.

Staff: Yvonne Walker (786-7841).

Background:

The Department of Corrections (DOC) provides inmate work programs through the Correctional Industries Board of Directors (Board). The Board develops and implements programs that offer inmates employment, work experience and training, and that reduce the cost of housing inmates. To achieve these goals, the Board operates five classes of work programs.

- *Class I Industries:* Inmates working in Class I ("free venture") Industries are paid according to the prevailing wage for comparable work in that locality, as determined by the Director of Correctional Industries (Director) or if the Director is unable to make this determination, at least the federal minimum wage rate. There are two models for Class I Industries authorized under state law an employer model and a customer model. Employer model Class I Industries are operated and managed by for-profit or nonprofit organizations under contract with the DOC. They produce goods and services for sale to both the public and private sector. The DOC is responsible for supplying security and custody services to these industries without charge. Customer model Class I Industries are operated and managed by the DOC to produce and provide Washington businesses with products or services currently available only from out-of-state or foreign suppliers. There are no customer model Class I Industries currently operating in the state.
- *Class II Industries:* Class II ("tax reduction") Industries are state-owned and operated Industries designed to reduce the costs for goods and services for public agencies and nonprofit organizations. Products and services generated by Class II Industries may generally only be sold to public agencies and nonprofit organizations.
- *Class III Industries:* Class III ("institutional support") Industries are operated by the DOC and are designed to give the inmate basic work training and experience and to offset public support costs. Except for inmates in a training program, inmates in this class are compensated in accordance with an inmate gratuity scale adopted by the Secretary of the DOC.
- *Class IV Industries:* Class IV ("community work") Industries are operated by the DOC and provide services at reduced cost to public agencies, persons who are poor or infirm, and nonprofit organizations in the local community. Local government agencies utilizing this service must pay the inmate's wage and provide work supervision services without charge. Inmates in this class are paid a gratuity not to exceed the wage paid for comparable work in that locality.
- *Class V Industries:* Class V ("community service") jobs are court ordered community work that is performed for the benefit of the community without financial compensation.

Work crews, labor camps, and work camps do not fall under the jurisdiction of the Board. Work crews are programs of partial confinement consisting of civic improvement tasks for the benefit of the community and are required to limit jobs to unskilled labor on public lands, on private land owned or operated by a nonprofit entity, or on private property to conduct emergency snow removal only. Labor and work camps provide state prisoners with such jobs as farming, reforestation, wood-cutting, land clearing, processing of foods in state canneries, forest fire fighting, forest fire suppression and

prevention, stream clearance, watershed improvement, development of parks and recreational areas, and other work to conserve the natural resources and protect and improve the public domain and construction of water supply facilities to state institutions.

Summary of Substitute Bill:

The duties of the Board are expanded. In addition to its current duties, the Board must oversee and implement polices to administer all state-operated work crews, labor camps, and work camps which employ state prisoners. State inmates that do work in a work crew, labor camp, or work camp, or provide inmate labor as part of a DOC interlocal cooperation agreement, may only work on a project that is owned by a governmental or nonprofit entity.

Substitute Bill Compared to Original Bill:

The section in the bill that prohibits inmates working in work crews, labor camps, or work camps from working on projects that are not owned by a governmental entity is clarified. It was unclear in the original bill whether this particular provision related to state-operated or county-operated work crews or work camps.

The section of the bill that prohibits state inmates from working on any project that is not owned by a governmental entity is expanded to also include nonprofit entities.

The provisions that required the DOC and the Board to limit the types of goods and services produced by inmates working in Correctional Industry-types of jobs to only those jobs or services that are currently available from businesses outside of the state are eliminated.

The added provision that stated that the objectives of the prison system should not damage the interests of law-abiding residents of Washington is eliminated.

The provision that repealed current statute that gave a person or entity preference over other bidders if their goods or services are produced by an inmate work program of the DOC is eliminated.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (With amendments) Businesses and business labor groups have been in front of the Criminal Justice and Corrections Committee many times in the past trying to resolve the conflict between business labor and inmate labor. The problem is that inmate labor is displacing many law-abiding workers in many small communities and Class I Industries, in particular, are putting many industries out of business. In addition, inmate work crews, including the Department of Natural Resources (DNR) inmate work crews, have been going into communities and literally constructing buildings from the ground up. The current statute states that inmates can do forestry-type work, however it does not state they can rebuild roofs for buildings or construct whole buildings. These are projects that should be publicly bid.

The intent of this bill is to have someone govern the work crews, in particular the DNR work crews. This bill will place all inmate work crews under the direction of the Board so that they can make sure they are following the legislative intent of the law.

The definition of "work crews" needs to be clarified in the bill. It is unclear whether the bill is referring to the DOC work crews, the DNR work crews, or locally-operated work crews. (These provisions have been clarified in the substitute version of this bill.)

There are also concerns regarding the provisions of the original bill that require the DOC to only authorize the installment and operation of inmate industry programs whose manufactured goods or services are solely produced or provided by out-of-state or foreign suppliers. This bill would eliminate all Class I Industries within the DOC and could end up costing the state. (These provisions have been eliminated from the substitute version of this bill.)

Testimony Against: The DNR opposes both the original bill as well as the substitute bill. Inmates were only used once in Forks, Washington, to build a new DNR building and that was a rare instance which saved the taxpayers over \$100,000. Inmates are generally used for painting school buildings, cleaning up school yards, fuel reduction work, reforestation, developing and rebuilding roads, and fighting fires. The DNR has had a partnership with the DOC to use inmates for over 50 years. The use of inmates for the DNR work crew costs \$780 per day as compared to \$3,640 per day which is charged by private work crews.

Testified: (In support) Representative O'Brien, prime sponsor.

(In support with amendments) Howard Yarbrough and Eldon Vail, Department of Corrections; Jerry Farley, Private Industries in Prison; Don McCloud, Labored Correctional Industries Board; and Bob Abbott, Labor District Council.

(Opposed) Bruce Amundsen, Definitive Solutions and Technologies, Inc.; and Pat McElroy, Department of Natural Resources.