
SUBSTITUTE HOUSE BILL 3026

State of Washington

58th Legislature

2004 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives O'Brien, Mielke, Darneille, Ahern, Pearson, Nixon and Linville)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to fair competition in correctional industries;
2 amending RCW 72.09.070, 72.09.100, 72.09.460, and 72.09.015; reenacting
3 and amending RCW 72.09.100, 28B.10.029, and 72.09.111; adding a new
4 section to chapter 72.09 RCW; providing an effective date; and
5 providing an expiration date.

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

7 **Sec. 1.** RCW 72.09.070 and 1994 sp.s. c 7 s 535 are each amended to
8 read as follows:

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

11 (2) Consistent with general department of corrections policies and
12 procedures pertaining to the general administration of correctional
13 facilities, the board shall establish and implement policy for
14 correctional industries programs designed to:

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

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

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

7 (d) Encourage the development of and provide for selection of,
8 contracting for, and supervision of work programs with participating
9 private enterprise firms;

10 (e) Develop and (~~design~~) select correctional industries work
11 programs that do not unfairly compete with Washington businesses;

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

15 (3) The board of directors shall at least annually review the work
16 performance of the director of correctional industries division with
17 the secretary.

18 (4) The director of correctional industries division shall review
19 and evaluate the productivity, funding, and appropriateness of all
20 correctional work programs and report on their effectiveness to the
21 board and to the secretary.

22 (5) The board of directors shall have the authority to identify and
23 establish trade advisory or apprenticeship committees to advise them on
24 correctional industries work programs. The secretary shall appoint the
25 members of the committees.

26 Where a labor management trade advisory and apprenticeship
27 committee has already been established by the department pursuant to
28 RCW 72.62.050 the existing committee shall also advise the board of
29 directors.

30 (6) The board shall develop a strategic yearly marketing plan that
31 shall be consistent with and work towards achieving the goals
32 established in the six-year phased expansion of class I and class II
33 correctional industries established in RCW 72.09.111. This marketing
34 plan shall be presented to the appropriate committees of the
35 legislature by January 17 of each calendar year until the goals set
36 forth in RCW 72.09.111 are achieved.

1 **Sec. 2.** RCW 72.09.100 and 2002 c 175 s 49 are each amended to read
2 as follows:

3 It is the intent of the legislature to vest in the department the
4 power to provide for a comprehensive inmate work program and to remove
5 statutory and other restrictions which have limited work programs in
6 the past. It is also the intent of the legislature to ensure that the
7 correctional industries board of directors, in developing and selecting
8 correctional industries work programs, does not encourage the
9 development of, or provide for selection of or contracting for, the
10 significant expansion of any new or existing class I correctional
11 industries work programs that unfairly compete with Washington
12 businesses. The legislature intends that the requirements relating to
13 fair competition in the correctional industries work programs be
14 liberally construed to protect Washington businesses from unfair
15 competition.

16 For purposes of establishing such a comprehensive program, the
17 legislature recommends that the department consider adopting any or
18 all, or any variation of, the following classes of work programs:

19 (1) CLASS I: FREE VENTURE INDUSTRIES.

20 (a) The employer model industries in this class shall be operated
21 and managed in total or in part by any profit or nonprofit organization
22 pursuant to an agreement between the organization and the department.
23 The organization shall produce goods or services for sale to both the
24 public and private sector.

25 (b) The customer model industries in this class shall be operated
26 and managed by the department to provide Washington state manufacturers
27 or businesses with products or services currently produced or provided
28 by out-of-state or foreign suppliers.

29 (c) The correctional industries board of directors shall review
30 these proposed industries, including any potential new class I
31 industries work program or the significant expansion of an existing
32 class I industries work program, before the department contracts to
33 provide such products or services. The review shall include ((an)) the
34 analysis ((of the potential impact of the proposed products and
35 services on the Washington state business community and labor market))
36 required under section 4 of this act to determine if the proposed
37 correctional industries work program will compete with any Washington
38 business. An agreement for a new class I correctional industries work

1 program, or an agreement for a significant expansion of an existing
2 class I correctional industries work program, that unfairly competes
3 with any Washington business is prohibited.

4 (d) The department of corrections shall supply appropriate security
5 and custody services without charge to the participating firms.

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

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

16 (2) CLASS II: TAX REDUCTION INDUSTRIES.

17 (a) Industries in this class shall be state-owned and operated
18 enterprises designed to reduce the costs for goods and services for
19 tax-supported agencies and for nonprofit organizations.

20 (b) The industries selected for development within this class
21 shall, as much as possible, match the available pool of inmate work
22 skills and aptitudes with the work opportunities in the free community.
23 The industries shall be closely patterned after private sector
24 industries but with the objective of reducing public support costs
25 rather than making a profit. The products and services of this
26 industry, including purchased products and services necessary for a
27 complete product line, may be sold to public agencies, to nonprofit
28 organizations, and to private contractors when the goods purchased will
29 be ultimately used by a public agency or a nonprofit organization.
30 Clothing manufactured by an industry in this class may be donated to
31 nonprofit organizations that provide clothing free of charge to low-
32 income persons.

33 (c)(i) Class II correctional industries products and services shall
34 be reviewed by the correctional industries board of directors before
35 offering such products and services for sale to private contractors.

36 (ii) The board of directors shall conduct a yearly marketing review
37 of the products and services offered under this subsection. Such
38 review shall include an analysis of the potential impact of the

1 proposed products and services on the Washington state business
2 community. To avoid waste or spoilage and consequent loss to the
3 state(~~(7)~~) when there is no public sector market for such goods,
4 byproducts and surpluses of timber, agricultural, and animal husbandry
5 enterprises may be sold to private persons, at private sale. Surplus
6 byproducts and surpluses of timber, agricultural and animal husbandry
7 enterprises that cannot be sold to public agencies or to private
8 persons may be donated to nonprofit organizations. All sales of
9 surplus products shall be carried out in accordance with rules
10 prescribed by the secretary.

11 (d) Security and custody services shall be provided without charge
12 by the department of corrections.

13 (e) Inmates working in this class of industries shall do so at
14 their own choice and shall be paid for their work on a gratuity scale
15 which shall not exceed the wage paid for work of a similar nature in
16 the locality in which the industry is located and which is approved by
17 the director of correctional industries.

18 (f) Subject to approval of the correctional industries board,
19 provisions of RCW 41.06.380 prohibiting contracting out work performed
20 by classified employees shall not apply to contracts with Washington
21 state businesses entered into by the department of corrections through
22 class II industries.

23 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

24 (a) Industries in this class shall be operated by the department of
25 corrections. They shall be designed and managed to accomplish the
26 following objectives:

27 ~~((a))~~ (i) Whenever possible, to provide basic work training and
28 experience so that the inmate will be able to qualify for better work
29 both within correctional industries and the free community. It is not
30 intended that an inmate's work within this class of industries should
31 be his or her final and total work experience as an inmate.

32 ~~((b))~~ (ii) Whenever possible, to provide forty hours of work or
33 work training per week.

34 ~~((c))~~ (iii) Whenever possible, to offset tax and other public
35 support costs.

36 (b) Class III correctional industries shall be reviewed by the
37 correctional industries board of directors to set policy for work

1 crews. The department shall present quarterly detail statements
2 showing where the crews worked, what correctional industry class, and
3 the hours worked, to the correctional industries board of directors.

4 (c) Supervising, management, and custody staff shall be employees
5 of the department.

6 (d) All able and eligible inmates who are assigned work and who are
7 not working in other classes of industries shall work in this class.

8 (e) Except for inmates who work in work training programs, inmates
9 in this class shall be paid for their work in accordance with an inmate
10 gratuity scale. The scale shall be adopted by the secretary of
11 corrections.

12 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

13 (a) Industries in this class shall be operated by the department of
14 corrections. They shall be designed and managed to provide services in
15 the inmate's resident community at a reduced cost. The services shall
16 be provided to public agencies, to persons who are poor or infirm, or
17 to nonprofit organizations.

18 (b) Class IV correctional industries shall be reviewed by the
19 correctional industries board of directors to set policy for work
20 crews. The department shall present quarterly detail statements
21 showing where the crews worked, what correctional industry class, and
22 the hours worked, to the correctional industries board of directors.
23 Class IV correctional industries operated in work camps established
24 pursuant to RCW 72.64.050 are exempt from the requirements and
25 prohibitions of this subsection (4)(b).

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

30 (d) The department of corrections shall reimburse participating
31 units of local government for liability and workers compensation
32 insurance costs.

33 (e) Inmates who work in this class of industries shall do so at
34 their own choice and shall receive a gratuity which shall not exceed
35 the wage paid for work of a similar nature in the locality in which the
36 industry is located.

37 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

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

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

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

11 **Sec. 3.** RCW 72.09.100 and 2002 c 354 s 238 and 2002 c 175 s 49 are
12 each reenacted and amended to read as follows:

13 It is the intent of the legislature to vest in the department the
14 power to provide for a comprehensive inmate work program and to remove
15 statutory and other restrictions which have limited work programs in
16 the past. It is also the intent of the legislature to ensure that the
17 correctional industries board of directors, in developing and selecting
18 correctional industries work programs, does not encourage the
19 development of, or provide for selection of or contracting for, the
20 significant expansion of any new or existing class I correctional
21 industries work programs that unfairly compete with Washington
22 businesses. The legislature intends that the requirements relating to
23 fair competition in the correctional industries work programs be
24 liberally construed to protect Washington businesses from unfair
25 competition. For purposes of establishing such a comprehensive
26 program, the legislature recommends that the department consider
27 adopting any or all, or any variation of, the following classes of work
28 programs:

29 (1) CLASS I: FREE VENTURE INDUSTRIES.

30 (a) The employer model industries in this class shall be operated
31 and managed in total or in part by any profit or nonprofit organization
32 pursuant to an agreement between the organization and the department.
33 The organization shall produce goods or services for sale to both the
34 public and private sector.

35 (b) The customer model industries in this class shall be operated
36 and managed by the department to provide Washington state manufacturers

1 or businesses with products or services currently produced or provided
2 by out-of-state or foreign suppliers.

3 (c) The correctional industries board of directors shall review
4 these proposed industries, including any potential new class I
5 industries work program or the significant expansion of an existing
6 class I industries work program, before the department contracts to
7 provide such products or services. The review shall include ~~((an))~~ the
8 analysis ~~((of the potential impact of the proposed products and~~
9 ~~services on the Washington state business community and labor market))~~
10 required under section 4 of this act to determine if the proposed
11 correctional industries work program will compete with any Washington
12 business. An agreement for a new class I correctional industries work
13 program, or an agreement for a significant expansion of an existing
14 class I correctional industries work program, that unfairly competes
15 with any Washington business is prohibited.

16 (d) The department of corrections shall supply appropriate security
17 and custody services without charge to the participating firms.

18 (e) Inmates who work in free venture industries shall do so at
19 their own choice. They shall be paid a wage comparable to the wage
20 paid for work of a similar nature in the locality in which the industry
21 is located, as determined by the director of correctional industries.
22 If the director cannot reasonably determine the comparable wage, then
23 the pay shall not be less than the federal minimum wage.

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

28 (2) CLASS II: TAX REDUCTION INDUSTRIES.

29 (a) Industries in this class shall be state-owned and operated
30 enterprises designed to reduce the costs for goods and services for
31 tax-supported agencies and for nonprofit organizations.

32 (b) The industries selected for development within this class
33 shall, as much as possible, match the available pool of inmate work
34 skills and aptitudes with the work opportunities in the free community.
35 The industries shall be closely patterned after private sector
36 industries but with the objective of reducing public support costs
37 rather than making a profit. The products and services of this
38 industry, including purchased products and services necessary for a

1 complete product line, may be sold to public agencies, to nonprofit
2 organizations, and to private contractors when the goods purchased will
3 be ultimately used by a public agency or a nonprofit organization.
4 Clothing manufactured by an industry in this class may be donated to
5 nonprofit organizations that provide clothing free of charge to low-
6 income persons.

7 (c)(i) Class II correctional industries products and services shall
8 be reviewed by the correctional industries board of directors before
9 offering such products and services for sale to private contractors.

10 (ii) The board of directors shall conduct a yearly marketing review
11 of the products and services offered under this subsection. Such
12 review shall include an analysis of the potential impact of the
13 proposed products and services on the Washington state business
14 community. To avoid waste or spoilage and consequent loss to the
15 state, when there is no public sector market for such goods, byproducts
16 and surpluses of timber, agricultural, and animal husbandry enterprises
17 may be sold to private persons, at private sale. Surplus byproducts
18 and surpluses of timber, agricultural and animal husbandry enterprises
19 that cannot be sold to public agencies or to private persons may be
20 donated to nonprofit organizations. All sales of surplus products
21 shall be carried out in accordance with rules prescribed by the
22 secretary.

23 (d) Security and custody services shall be provided without charge
24 by the department of corrections.

25 (e) Inmates working in this class of industries shall do so at
26 their own choice and shall be paid for their work on a gratuity scale
27 which shall not exceed the wage paid for work of a similar nature in
28 the locality in which the industry is located and which is approved by
29 the director of correctional industries.

30 (f) Subject to approval of the correctional industries board,
31 provisions of RCW 41.06.142 shall not apply to contracts with
32 Washington state businesses entered into by the department of
33 corrections through class II industries.

34 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

35 (a) Industries in this class shall be operated by the department of
36 corrections. They shall be designed and managed to accomplish the
37 following objectives:

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

6 ~~((b))~~ (ii) Whenever possible, to provide forty hours of work or
7 work training per week.

8 ~~((c))~~ (iii) Whenever possible, to offset tax and other public
9 support costs.

10 (b) Class III correctional industries shall be reviewed by the
11 correctional industries board of directors to set policy for work
12 crews. The department shall present quarterly detail statements
13 showing where the crews worked, what correctional industry class, and
14 the hours worked, to the correctional industries board of directors.

15 (c) Supervising, management, and custody staff shall be employees
16 of the department.

17 (d) All able and eligible inmates who are assigned work and who are
18 not working in other classes of industries shall work in this class.

19 (e) Except for inmates who work in work training programs, inmates
20 in this class shall be paid for their work in accordance with an inmate
21 gratuity scale. The scale shall be adopted by the secretary of
22 corrections.

23 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

29 (b) Class IV correctional industries shall be reviewed by the
30 correctional industries board of directors to set policy for work
31 crews. The department shall present quarterly detail statements
32 showing where the crews worked, what correctional industry class, and
33 the hours worked, to the correctional industries board of directors.
34 Class IV correctional industries operated in work camps established
35 pursuant to RCW 72.64.050 are exempt from the requirements and
36 prohibitions of this subsection (4)(b).

37 (c) Inmates in this program shall reside in facilities owned by,

1 contracted for, or licensed by the department of corrections. A unit
2 of local government shall provide work supervision services without
3 charge to the state and shall pay the inmate's wage.

4 (d) The department of corrections shall reimburse participating
5 units of local government for liability and workers compensation
6 insurance costs.

7 (e) Inmates who work in this class of industries shall do so at
8 their own choice and shall receive a gratuity which shall not exceed
9 the wage paid for work of a similar nature in the locality in which the
10 industry is located.

11 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

12 (a) Programs in this class shall be subject to supervision by the
13 department of corrections. The purpose of this class of industries is
14 to enable an inmate, placed on community supervision, to work off all
15 or part of a community restitution order as ordered by the sentencing
16 court.

17 (b) Employment shall be in a community restitution program operated
18 by the state, local units of government, or a nonprofit agency.

19 (c) To the extent that funds are specifically made available for
20 such purposes, the department of corrections shall reimburse nonprofit
21 agencies for workers compensation insurance costs.

22 NEW SECTION. Sec. 4. A new section is added to chapter 72.09 RCW
23 to read as follows:

24 (1) The department must prepare a threshold analysis for any
25 proposed new class I correctional industries work program or the
26 significant expansion of an existing class I correctional industries
27 work program before the department enters into an agreement to provide
28 such products or services. The analysis must state whether the
29 proposed new or expanded program will impact any Washington business
30 and must be based on information sufficient to evaluate the impact on
31 Washington business.

32 (2) If the threshold analysis determines that a proposed new or
33 expanded class I correctional industries work program will impact a
34 Washington business, the department must complete a business impact
35 analysis before the department enters into an agreement to provide such
36 products or services. The business impact analysis must include:

1 (a) A detailed statement identifying the scope and types of impacts
2 caused by the proposed new or expanded correctional industries work
3 program on Washington businesses; and

4 (b) A detailed statement of the actual business costs of the
5 proposed correctional industries work program compared to the actual
6 business costs of the impacted Washington businesses. Actual business
7 costs of the proposed correctional industries work program to include
8 rent, utility rates (for water, sewer, electricity, and disposal),
9 labor costs, and any other quantifiable expense unique to operating in
10 a prison. Actual business costs of the impacted Washington business
11 include rent, utility rates (for water, sewer, electricity, and
12 disposal), property taxes, and labor costs including employee taxes,
13 unemployment insurance, and workers' compensation.

14 (3) The completed threshold analysis and any completed business
15 impact analysis with all supporting documents must be shared in a
16 meaningful and timely manner with affected chambers of commerce, trade
17 or business associations, local and state labor union organizations,
18 and government entities before a finding required under subsection (4)
19 of this section is made on the proposed new or expanded class I
20 correctional industries work program.

21 (4) If a business impact analysis is completed, the department must
22 conduct a public hearing to take public testimony on the business
23 impact analysis. The department must, at a minimum, establish a
24 publicly accessible web site containing information reasonably
25 calculated to provide notice to each Washington business assigned the
26 same three-digit standard industrial classification code, or the
27 corresponding North American industry classification system code, as
28 the organization seeking the class I correctional industries work
29 program agreement of the date, time, and place of the hearing. Notice
30 of the hearing shall be posted at least thirty days prior to the
31 hearing. Following the public hearing, the department shall adopt a
32 finding that the proposed new or expanded class I correctional
33 industries work program: (a) Will not compete with any Washington
34 business; (b) will not compete unfairly with any Washington business;
35 or (c) will compete unfairly with any Washington business and is
36 therefore prohibited under this act.

1 **Sec. 5.** RCW 72.09.460 and 1998 c 244 s 10 are each amended to read
2 as follows:

3 (1) The legislature intends that all inmates be required to
4 participate in department-approved education programs, work programs,
5 or both, unless exempted under subsection (4) of this section.
6 Eligible inmates who refuse to participate in available education or
7 work programs available at no charge to the inmates shall lose
8 privileges according to the system established under RCW 72.09.130.
9 Eligible inmates who are required to contribute financially to an
10 education or work program and refuse to contribute shall be placed in
11 another work program. Refusal to contribute shall not result in a loss
12 of privileges. The legislature recognizes more inmates may agree to
13 participate in education and work programs than are available. The
14 department must make every effort to achieve maximum public benefit by
15 placing inmates in available and appropriate education and work
16 programs.

17 (2) The department shall provide access to a program of education
18 to all offenders who are under the age of eighteen and who have not met
19 high school graduation or general equivalency diploma requirements in
20 accordance with chapter 28A.193 RCW. The program of education
21 established by the department and education provider under RCW
22 28A.193.020 for offenders under the age of eighteen must provide each
23 offender a choice of curriculum that will assist the inmate in
24 achieving a high school diploma or general equivalency diploma. The
25 program of education may include but not be limited to basic education,
26 prevocational training, work ethic skills, conflict resolution
27 counseling, substance abuse intervention, and anger management
28 counseling. The curriculum may balance these and other rehabilitation,
29 work, and training components.

30 (3) The department shall, to the extent possible and considering
31 all available funds, prioritize its resources to meet the following
32 goals for inmates in the order listed:

33 (a) Achievement of basic academic skills through obtaining a high
34 school diploma or its equivalent and achievement of vocational skills
35 necessary for purposes of work programs and for an inmate to qualify
36 for work upon release;

37 (b) Additional work and education programs based on assessments and
38 placements under subsection (5) of this section; and

1 (c) Other work and education programs as appropriate.

2 (4) The department shall establish, by rule, objective medical
3 standards to determine when an inmate is physically or mentally unable
4 to participate in available education or work programs. When the
5 department determines an inmate is permanently unable to participate in
6 any available education or work program due to a medical condition, the
7 inmate is exempt from the requirement under subsection (1) of this
8 section. When the department determines an inmate is temporarily
9 unable to participate in an education or work program due to a medical
10 condition, the inmate is exempt from the requirement of subsection (1)
11 of this section for the period of time he or she is temporarily
12 disabled. The department shall periodically review the medical
13 condition of all temporarily disabled inmates to ensure the earliest
14 possible entry or reentry by inmates into available programming.

15 (5) The department shall establish, by rule, standards for
16 participation in department-approved education and work programs. The
17 standards shall address the following areas:

18 (a) Assessment. The department shall assess all inmates for their
19 basic academic skill levels using a professionally accepted method of
20 scoring reading, math, and language skills as grade level equivalents.
21 The department shall determine an inmate's education history, work
22 history, and vocational or work skills. The initial assessment shall
23 be conducted, whenever possible, within the first thirty days of an
24 inmate's entry into the correctional system, except that initial
25 assessments are not required for inmates who are sentenced to life
26 without the possibility of release, assigned to an intensive management
27 unit within the first thirty days after entry into the correctional
28 system, are returning to the correctional system within one year of a
29 prior release, or whose physical or mental condition renders them
30 unable to complete the assessment process. The department shall track
31 and record changes in the basic academic skill levels of all inmates
32 reflected in any testing or assessment performed as part of their
33 education programming;

34 (b) Placement. The department shall follow the policies set forth
35 in subsection (1) of this section in establishing criteria for placing
36 inmates in education and work programs. The department shall, to the
37 extent possible, place all inmates whose composite grade level score

1 for basic academic skills is below the eighth grade level in a combined
2 education and work program. The placement criteria shall include at
3 least the following factors:

4 (i) An inmate's release date and custody level(~~(, except)~~). An
5 inmate shall not be precluded from participating in an education or
6 work program solely on the basis of his or her release date, except
7 that an inmate with a release date that is more than ten years in the
8 future, and who is not participating in a class I correctional industry
9 on the effective date of this section, is precluded from participating
10 in a class I correctional industry;

11 (ii) An inmate's education history and basic academic skills;

12 (iii) An inmate's work history and vocational or work skills;

13 (iv) An inmate's economic circumstances, including but not limited
14 to an inmate's family support obligations; and

15 (v) Where applicable, an inmate's prior performance in department-
16 approved education or work programs;

17 (c) Performance and goals. The department shall establish, and
18 periodically review, inmate behavior standards and program goals for
19 all education and work programs. Inmates shall be notified of
20 applicable behavior standards and program goals prior to placement in
21 an education or work program and shall be removed from the education or
22 work program if they consistently fail to meet the standards or goals;

23 (d) Financial responsibility. (i) The department shall establish
24 a formula by which inmates, based on their ability to pay, shall pay
25 all or a portion of the costs or tuition of certain programs. Inmates
26 shall, based on the formula, pay a portion of the costs or tuition of
27 participation in:

28 (A) Second and subsequent vocational programs associated with an
29 inmate's work programs; and

30 (B) An associate of arts or baccalaureate degree program when
31 placement in a degree program is the result of a placement made under
32 this subsection;

33 (ii) Inmates shall pay all costs and tuition for participation in:

34 (A) Any postsecondary academic degree program which is entered
35 independently of a placement decision made under this subsection; and

36 (B) Second and subsequent vocational programs not associated with
37 an inmate's work program.

1 Enrollment in any program specified in (d)(ii) of this subsection
2 shall only be allowed by correspondence or if there is an opening in an
3 education or work program at the institution where an inmate is
4 incarcerated and no other inmate who is placed in a program under this
5 subsection will be displaced; and

6 (e) Notwithstanding any other provision in this section, an inmate
7 sentenced to life without the possibility of release:

8 (i) Shall not be required to participate in education programming;
9 and

10 (ii) May receive not more than one postsecondary academic degree in
11 a program offered by the department or its contracted providers.

12 If an inmate sentenced to life without the possibility of release
13 requires prevocational or vocational training for a work program, he or
14 she may participate in the training subject to this section.

15 (6) The department shall coordinate education and work programs
16 among its institutions, to the greatest extent possible, to facilitate
17 continuity of programming among inmates transferred between
18 institutions. Before transferring an inmate enrolled in a program, the
19 department shall consider the effect the transfer will have on the
20 inmate's ability to continue or complete a program. This subsection
21 shall not be used to delay or prohibit a transfer necessary for
22 legitimate safety or security concerns.

23 (7) Before construction of a new correctional institution or
24 expansion of an existing correctional institution, the department shall
25 adopt a plan demonstrating how cable, closed-circuit, and satellite
26 television will be used for education and training purposes in the
27 institution. The plan shall specify how the use of television in the
28 education and training programs will improve inmates' preparedness for
29 available work programs and job opportunities for which inmates may
30 qualify upon release.

31 (8) The department shall adopt a plan to reduce the per-pupil cost
32 of instruction by, among other methods, increasing the use of volunteer
33 instructors and implementing technological efficiencies. The plan
34 shall be adopted by December 1996 and shall be transmitted to the
35 legislature upon adoption. The department shall, in adoption of the
36 plan, consider distance learning, satellite instruction, video tape
37 usage, computer-aided instruction, and flexible scheduling of offender
38 instruction.

1 (9) Following completion of the review required by section 27(3),
2 chapter 19, Laws of 1995 1st sp. sess. the department shall take all
3 necessary steps to assure the vocation and education programs are
4 relevant to work programs and skills necessary to enhance the
5 employability of inmates upon release.

6 **Sec. 6.** RCW 72.09.015 and 1995 1st sp.s. c 19 s 3 are each amended
7 to read as follows:

8 The definitions in this section apply throughout this chapter.

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

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

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

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

18 (5) "Earned early release" means earned (~~early~~) release as
19 authorized by RCW 9.94A.728.

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

24 (7) "Good conduct" means compliance with department rules and
25 policies.

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

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

35 (10) "Indigent inmate," "indigent," and "indigency" mean an inmate
36 who has less than a ten-dollar balance of disposable income in his or

1 her institutional account on the day a request is made to utilize funds
2 and during the thirty days previous to the request.

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

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

14 (13) "Secretary" means the secretary of corrections or his or her
15 designee.

16 (14) "Significant expansion" includes any expansion into a new
17 product line or service or an increase in production of the same
18 product or service. An increase in production of the same product or
19 service is one that results from an increase in benefits provided by
20 the department, including a decrease in labor costs, rent, or utility
21 rates (for water, sewer, electricity, and disposal), an increase in
22 work program space, tax advantages, or other overhead costs.

23 (15) "Superintendent" means the superintendent of a correctional
24 facility under the jurisdiction of the Washington state department of
25 corrections, or his or her designee.

26 ((+15)) (16) "Unfair competition" means any net competitive
27 advantage that a business may acquire as a result of a correctional
28 industries contract, labor costs, utility rates (for water, sewer,
29 electricity, and disposal), tax advantages, and other overhead costs.
30 To determine net competitive advantage, the correctional industries
31 board shall review and quantify any expenses unique to operating a for-
32 profit business inside a prison.

33 (17) "Washington business" means a person subject to chapter 82.04
34 RCW.

35 (18) "Work programs" means all classes of correctional industries
36 jobs authorized under RCW 72.09.100.

1 **Sec. 7.** RCW 28B.10.029 and 1998 c 344 s 5 and 1998 c 111 s 2 are
2 each reenacted and amended to read as follows:

3 (1) An institution of higher education may exercise independently
4 those powers otherwise granted to the director of general
5 administration in chapter 43.19 RCW in connection with the purchase and
6 disposition of all material, supplies, services, and equipment needed
7 for the support, maintenance, and use of the respective institution of
8 higher education. Property disposition policies followed by
9 institutions of higher education shall be consistent with policies
10 followed by the department of general administration. Purchasing
11 policies and procedures followed by institutions of higher education
12 shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and
13 RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937,
14 43.19.534, 43.19.685, 43.19.700 through 43.19.704, and 43.19.560
15 through 43.19.637. The community and technical colleges shall comply
16 with RCW 43.19.450. Except for the University of Washington,
17 institutions of higher education shall comply with RCW ((~~43.19.1935,~~
18 ~~43.19.19363,~~ and ~~43.19.19368~~)) 43.41.310, 43.41.290, and 43.41.350.
19 All institutions of higher education must purchase up to one percent of
20 the total goods and services required by the institutions each year
21 which are produced or provided in whole or in part from class II inmate
22 work programs operated by the department of corrections through state
23 contract. For all other purchases, if an institution of higher
24 education can satisfactorily demonstrate to the director of the office
25 of financial management that the cost of compliance is greater than the
26 value of benefits from any of the following statutes, then it shall be
27 exempt from them: RCW 43.19.685; 43.19.534; and 43.19.637. Any
28 institution of higher education that chooses to exercise independent
29 purchasing authority for a commodity or group of commodities shall
30 notify the director of general administration. Thereafter the director
31 of general administration shall not be required to provide those
32 services for that institution for the duration of the general
33 administration contract term for that commodity or group of
34 commodities.

35 (2) An institution of higher education may exercise independently
36 those powers otherwise granted to the public printer in chapter 43.78
37 RCW in connection with the production or purchase of any printing and
38 binding needed by the respective institution of higher education.

1 Purchasing policies and procedures followed by institutions of higher
2 education shall be in compliance with chapter 39.19 RCW. Any
3 institution of higher education that chooses to exercise independent
4 printing production or purchasing authority shall notify the public
5 printer. Thereafter the public printer shall not be required to
6 provide those services for that institution.

7 **Sec. 8.** RCW 72.09.111 and 2003 c 379 s 25 and 2003 c 271 s 2 are
8 each reenacted and amended to read as follows:

9 (1) The secretary shall deduct taxes and legal financial
10 obligations from the gross wages, gratuities, or workers' compensation
11 benefits payable directly to the inmate under chapter 51.32 RCW, of
12 each inmate working in correctional industries work programs, or
13 otherwise receiving such wages, gratuities, or benefits. The secretary
14 shall also deduct child support payments from the gratuities of each
15 inmate working in class II through class IV correctional industries
16 work programs. The secretary shall develop a formula for the
17 distribution of offender wages, gratuities, and benefits. The formula
18 shall not reduce the inmate account below the indigency level, as
19 defined in RCW 72.09.015.

20 (a) The formula shall include the following minimum deductions from
21 class I gross wages and from all others earning at least minimum wage:

22 (i) Five percent to the public safety and education account for the
23 purpose of crime victims' compensation;

24 (ii) Ten percent to a department personal inmate savings account;

25 (iii) Twenty percent to the department to contribute to the cost of
26 incarceration; and

27 (iv) Twenty percent for payment of legal financial obligations for
28 all inmates who have legal financial obligations owing in any
29 Washington state superior court.

30 (b) The formula shall include the following minimum deductions from
31 class II gross gratuities:

32 (i) Five percent to the public safety and education account for the
33 purpose of crime victims' compensation;

34 (ii) Ten percent to a department personal inmate savings account;

35 (iii) Fifteen percent to the department to contribute to the cost
36 of incarceration;

1 (iv) Twenty percent for payment of legal financial obligations for
2 all inmates who have legal financial obligations owing in any
3 Washington state superior court; and

4 (v) Fifteen percent for any child support owed under a support
5 order.

6 (c) The formula shall include the following minimum deductions from
7 any workers' compensation benefits paid pursuant to RCW 51.32.080:

8 (i) Five percent to the public safety and education account for the
9 purpose of crime victims' compensation;

10 (ii) Ten percent to a department personal inmate savings account;

11 (iii) Twenty percent to the department to contribute to the cost of
12 incarceration; and

13 (iv) An amount equal to any legal financial obligations owed by the
14 inmate established by an order of any Washington state superior court
15 up to the total amount of the award.

16 (d) The formula shall include the following minimum deductions from
17 class III gratuities:

18 (i) Five percent for the purpose of crime victims' compensation;
19 and

20 (ii) Fifteen percent for any child support owed under a support
21 order.

22 (e) The formula shall include the following minimum deduction from
23 class IV gross gratuities:

24 (i) Five percent to the department to contribute to the cost of
25 incarceration; and

26 (ii) Fifteen percent for any child support owed under a support
27 order.

28 (2) Any person sentenced to life imprisonment without possibility
29 of release or parole under chapter 10.95 RCW or sentenced to death
30 shall be exempt from the requirement under subsection (1)(a)(ii),
31 (b)(ii), or (c)(ii).

32 (3) The department personal inmate savings account, together with
33 any accrued interest, shall only be available to an inmate at the time
34 of his or her release from confinement, unless the secretary determines
35 that an emergency exists for the inmate, at which time the funds can be
36 made available to the inmate in an amount determined by the secretary.
37 The management of classes I, II, and IV correctional industries may
38 establish an incentive payment for offender workers based on

1 productivity criteria. This incentive shall be paid separately from
2 the hourly wage/gratuity rate and shall not be subject to the specified
3 deduction for cost of incarceration.

4 (4) The expansion of inmate employment in class I and class II
5 correctional industries shall be implemented according to the following
6 schedule:

7 (a) Not later than June 30, 2005, the secretary shall achieve a net
8 increase of at least two hundred in the number of inmates employed in
9 class I or class II correctional industries work programs above the
10 number so employed on June 30, 2003;

11 (b) Not later than June 30, 2006, the secretary shall achieve a net
12 increase of at least four hundred in the number of inmates employed in
13 class I or class II correctional industries work programs above the
14 number so employed on June 30, 2003;

15 (c) Not later than June 30, 2007, the secretary shall achieve a net
16 increase of at least six hundred in the number of inmates employed in
17 class I or class II correctional industries work programs above the
18 number so employed on June 30, 2003;

19 (d) Not later than June 30, 2008, the secretary shall achieve a net
20 increase of at least nine hundred in the number of inmates employed in
21 class I or class II correctional industries work programs above the
22 number so employed on June 30, 2003;

23 (e) Not later than June 30, 2009, the secretary shall achieve a net
24 increase of at least one thousand two hundred in the number of inmates
25 employed in class I or class II correctional industries work programs
26 above the number so employed on June 30, 2003;

27 (f) Not later than June 30, 2010, the secretary shall achieve a net
28 increase of at least one thousand five hundred in the number of inmates
29 employed in class I or class II correctional industries work programs
30 above the number so employed on June 30, 2003.

31 (5) In the event that the offender worker's wages, gratuity, or
32 workers' compensation benefit is subject to garnishment for support
33 enforcement, the crime victims' compensation, savings, and cost of
34 incarceration deductions shall be calculated on the net wages after
35 taxes, legal financial obligations, and garnishment.

36 ~~((+5))~~ (6) The department shall explore other methods of
37 recovering a portion of the cost of the inmate's incarceration and for
38 encouraging participation in work programs, including development of

1 incentive programs that offer inmates benefits and amenities paid for
2 only from wages earned while working in a correctional industries work
3 program.

4 ~~((6))~~ (7) The department shall develop the necessary
5 administrative structure to recover inmates' wages and keep records of
6 the amount inmates pay for the costs of incarceration and amenities.
7 All funds deducted from inmate wages under subsection (1) of this
8 section for the purpose of contributions to the cost of incarceration
9 shall be deposited in a dedicated fund with the department and shall be
10 used only for the purpose of enhancing and maintaining correctional
11 industries work programs.

12 ~~((7))~~ (8) The expansion of inmate employment in class I and class
13 II correctional industries shall be implemented according to the
14 following schedule:

15 (a) Not later than June 30, 1995, the secretary shall achieve a net
16 increase of at least two hundred in the number of inmates employed in
17 class I or class II correctional industries work programs above the
18 number so employed on June 30, 1994;

19 (b) Not later than June 30, 1996, the secretary shall achieve a net
20 increase of at least four hundred in the number of inmates employed in
21 class I or class II correctional industries work programs above the
22 number so employed on June 30, 1994;

23 (c) Not later than June 30, 1997, the secretary shall achieve a net
24 increase of at least six hundred in the number of inmates employed in
25 class I or class II correctional industries work programs above the
26 number so employed on June 30, 1994;

27 (d) Not later than June 30, 1998, the secretary shall achieve a net
28 increase of at least nine hundred in the number of inmates employed in
29 class I or class II correctional industries work programs above the
30 number so employed on June 30, 1994;

31 (e) Not later than June 30, 1999, the secretary shall achieve a net
32 increase of at least one thousand two hundred in the number of inmates
33 employed in class I or class II correctional industries work programs
34 above the number so employed on June 30, 1994;

35 (f) Not later than June 30, 2000, the secretary shall achieve a net
36 increase of at least one thousand five hundred in the number of inmates
37 employed in class I or class II correctional industries work programs
38 above the number so employed on June 30, 1994.

1 (~~(8)~~) (9) It shall be in the discretion of the secretary to
2 apportion the inmates between class I and class II depending on
3 available contracts and resources.

4 (~~(9)~~) (10) Nothing in this section shall limit the authority of
5 the department of social and health services division of child support
6 from taking collection action against an inmate's moneys, assets, or
7 property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

8 NEW SECTION. **Sec. 9.** Section 3 of this act takes effect July 1,
9 2005.

10 NEW SECTION. **Sec. 10.** Section 2 of this act expires July 1, 2005.

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