

SSB 5631 - H COMM AMD

By Committee on Criminal Justice & Corrections

ADOPTED 04/07/2005

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 72.09.100 and 2004 c 167 s 3 are each amended to read  
4 as follows:

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

21 (1) CLASS I: FREE VENTURE INDUSTRIES.

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

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

1 (c) The correctional industries board of directors shall review  
2 these proposed industries, including any potential new class I  
3 industries work program or the significant expansion of an existing  
4 class I industries work program, before the department contracts to  
5 provide such products or services. The review shall include the  
6 analysis required under RCW 72.09.115 to determine if the proposed  
7 correctional industries work program will compete with any Washington  
8 business. An agreement for a new class I correctional industries work  
9 program, or an agreement for a significant expansion of an existing  
10 class I correctional industries work program, that unfairly competes  
11 with any Washington business is prohibited.

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

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

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

24 (2) CLASS II: TAX REDUCTION INDUSTRIES.

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

28 (b)(i) The industries selected for development within this class  
29 shall, as much as possible, match the available pool of inmate work  
30 skills and aptitudes with the work opportunities in the free community.  
31 The industries shall be closely patterned after private sector  
32 industries but with the objective of reducing public support costs  
33 rather than making a profit.

34 (ii) The products and services of this industry, including  
35 purchased products and services necessary for a complete product line,  
36 may be sold to the following:

37 (A) Public agencies(~~(, - and - to)~~);

38 (B) Nonprofit organizations(~~(, - and - to)~~);

1        (C) Private contractors when the goods purchased will be ultimately  
2 used by a public agency or a nonprofit organization;

3        (D) An employee and immediate family members of an employee of the  
4 department of corrections; and

5        (E) A person under the supervision of the department of corrections  
6 and his or her immediate family members.

7        (iii) The correctional industries board of directors shall  
8 authorize the type and quantity of items that may be purchased and sold  
9 under (b)(ii)(D) and (E) of this subsection.

10       (iv) It is prohibited to purchase any item purchased under  
11 (b)(ii)(D) and (E) of this subsection for the purpose of resale.

12       (v) Clothing manufactured by an industry in this class may be  
13 donated to nonprofit organizations that provide clothing free of charge  
14 to low-income persons.

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

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

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

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

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

5 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

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

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

14 (ii) Whenever possible, to provide forty hours of work or work  
15 training per week.

16 (iii) Whenever possible, to offset tax and other public support  
17 costs.

18 (b) Class III correctional industries shall be reviewed by the  
19 correctional industries board of directors to set policy for work  
20 crews. The department shall present to the board of directors  
21 quarterly detail statements showing where work crews worked, what  
22 correctional industry class, and the hours worked. The board of  
23 directors may review any class III program at its discretion.

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

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

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

32 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

1 (b) Class IV correctional industries shall be reviewed by the  
2 correctional industries board of directors to set policy for work  
3 crews. The department shall present to the board of directors  
4 quarterly detail statements showing where work crews worked, what  
5 correctional industry class, and the hours worked. The board of  
6 directors may review any class IV program at its discretion. Class IV  
7 correctional industries operated in work camps established pursuant to  
8 RCW 72.64.050 are exempt from the requirements of this subsection  
9 (4)(b).

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

14 (d) The department of corrections shall reimburse participating  
15 units of local government for liability and workers compensation  
16 insurance costs.

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

21 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

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

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

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

32 **Sec. 2.** RCW 28A.335.190 and 2000 c 138 s 201 are each amended to  
33 read as follows:

34 (1) When, in the opinion of the board of directors of any school  
35 district, the cost of any furniture, supplies, equipment, building,  
36 improvements, or repairs, or other work or purchases, except books,  
37 will equal or exceed the sum of fifty thousand dollars, complete plans

1 and specifications for such work or purchases shall be prepared and  
2 notice by publication given in at least one newspaper of general  
3 circulation within the district, once each week for two consecutive  
4 weeks, of the intention to receive bids therefor and that  
5 specifications and other information may be examined at the office of  
6 the board or any other officially designated location: PROVIDED, That  
7 the board without giving such notice may make improvements or repairs  
8 to the property of the district through the shop and repair department  
9 of such district when the total of such improvements or repair does not  
10 exceed the sum of (a) fifteen thousand dollars, for districts with  
11 fifteen thousand five hundred or more full-time equivalent students; or  
12 (b) for districts with fewer than fifteen thousand five hundred full-  
13 time equivalent students, fifteen thousand dollars if more than one  
14 craft or trade is involved with the school district improvement or  
15 repair, or ten thousand dollars if a single craft or trade is involved  
16 with the school district improvement or repair. The cost of any public  
17 work, improvement or repair for the purposes of this section shall be  
18 the aggregate of all amounts to be paid for labor, material, and  
19 equipment on one continuous or interrelated project where work is to be  
20 performed simultaneously or in close sequence. The bids shall be in  
21 writing and shall be opened and read in public on the date and in the  
22 place named in the notice and after being opened shall be filed for  
23 public inspection.

24 (2) Every purchase of furniture, equipment or supplies, except  
25 books, the cost of which is estimated to be in excess of fifteen  
26 thousand dollars, shall be on a competitive basis. The board of  
27 directors shall establish a procedure for securing telephone and/or  
28 written quotations for such purchases. Whenever the estimated cost is  
29 from fifteen thousand dollars up to fifty thousand dollars, the  
30 procedure shall require quotations from at least three different  
31 sources to be obtained in writing or by telephone, and recorded for  
32 public perusal. Whenever the estimated cost is in excess of fifty  
33 thousand dollars, the public bidding process provided in subsection (1)  
34 of this section shall be followed.

35 (3) Any school district may purchase goods produced or provided in  
36 whole or in part from class II inmate work programs operated by the  
37 department of corrections pursuant to RCW 72.09.100, including but not  
38 limited to furniture, equipment, or supplies. School districts are

1 encouraged to set as a target to contract, beginning after June 30,  
2 2006, to purchase up to one percent of the total goods required by the  
3 school districts each year, goods produced or provided in whole or in  
4 part from class II inmate work programs operated by the department of  
5 corrections.

6 (4) Every building, improvement, repair or other public works  
7 project, the cost of which is estimated to be in excess of (a) fifteen  
8 thousand dollars, for districts with fifteen thousand five hundred or  
9 more full-time equivalent students; or (b) for districts with fewer  
10 than fifteen thousand five hundred full-time equivalent students,  
11 fifteen thousand dollars if more than one craft or trade is involved  
12 with the school district improvement or repair, or ten thousand dollars  
13 if a single craft or trade is involved with the school district  
14 improvement or repair, shall be on a competitive bid process. Whenever  
15 the estimated cost of a public works project is fifty thousand dollars  
16 or more, the public bidding process provided in subsection (1) of this  
17 section shall be followed unless the contract is let using the small  
18 works roster process in RCW 39.04.155 or under any other procedure  
19 authorized for school districts. One or more school districts may  
20 authorize an educational service district to establish and operate a  
21 small works roster for the school district under the provisions of RCW  
22 39.04.155.

23 ((+4)) (5) The contract for the work or purchase shall be awarded  
24 to the lowest responsible bidder as defined in RCW 43.19.1911 but the  
25 board may by resolution reject any and all bids and make further calls  
26 for bids in the same manner as the original call. On any work or  
27 purchase the board shall provide bidding information to any qualified  
28 bidder or the bidder's agent, requesting it in person.

29 ((+5)) (6) In the event of any emergency when the public interest  
30 or property of the district would suffer material injury or damage by  
31 delay, upon resolution of the board declaring the existence of such an  
32 emergency and reciting the facts constituting the same, the board may  
33 waive the requirements of this section with reference to any purchase  
34 or contract: PROVIDED, That an "emergency", for the purposes of this  
35 section, means a condition likely to result in immediate physical  
36 injury to persons or to property of the school district in the absence  
37 of prompt remedial action.

1           (~~(6)~~) (7) This section does not apply to the direct purchase of  
2 school buses by school districts and educational services in accordance  
3 with RCW 28A.160.195."

EFFECT: Adds provisions that: (1) Require the CI Board to authorize the type and quantity of class II products that may be purchased and sold to employees and family members of employees of the DOC and inmates of the DOC and their family members; and (2) prohibit any person to purchase such items for the purpose of resale.

The provision in the original bill that encourages school districts to set as a target to purchase up to 1 percent of the total goods required by the school districts each year from the class II industries remains unchanged.

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