
**Criminal Justice & Corrections
Committee**

HJR 4221

Brief Description: Amending the constitutional provision on inmate labor.

Sponsors: Representatives O'Brien, Kagi and Darneille.

Brief Summary of Bill

- Proposes an amendment to the Washington Constitution that would permit prison inmates to be let out by contract to any person, copartnership, company or corporation provided that their labor is compensated, voluntary, and their jobs meet applicable worker safety requirements.

Hearing Date: 2/2/06

Staff: Yvonne Walker (786-7841).

Background:

The Department of Corrections (DOC) operates five classes of correctional industry work programs. All inmates working in class I - IV employment receive financial compensation for their work. Class V jobs are court ordered community work that is preformed for the benefit of the community without financial compensation.

Class I Industries. Inmates working in class I ("free venture") industries are paid according to the prevailing wage for comparable work in that locality. There are two models for class I industries authorized under state law — an employer model and a customer model.

Employer model 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. Customer model class I industries are operated and managed by the DOC to produce and provide Washington businesses with products or services currently produced only by out-of-state or foreign suppliers.

Inmates working in free venture industries do so at their own choice and are paid a wage comparable to the wage paid for work of a similar nature in the locality in which the industry is located (ranging from \$7.16 to \$14.76 per hour). The production of window blinds, metal fabrication, upholstery, concrete work, water-jet cutting, sewing, cabiners, and multi-packaging

services, are examples of jobs found in the class I industries work program. Security and custody services are supplied to the participating firm without charge.

All class I industries were eliminated in 2004 due to a State Supreme Court decision.

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. Industries in this class must be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit. The products and services of this industry, including purchased products and services necessary for a complete product line, may only be sold to public agencies, nonprofit organizations, and to private contractors when the goods purchased will ultimately be used by a public agency or a nonprofit organization.

Inmates working in tax reduction industries do so at their own choice and are paid a gratuity which cannot exceed the wage paid for work of a similar nature in the locality in which the industry is located. Class II gratuities range from 35 cents to \$1.10 per hour and includes such jobs as: producing aluminum signs, license plates and tabs, mattresses, asbestos abatement, meat processing, optical lab, engraving, pheasant raising, furniture manufacturing, screen printing and embroidery, industrial sewing, and laundry. Security and custody services are provided without charge by the DOC.

The wages of inmates working in class I and II industries are subject to deductions by the DOC for crime victims' compensation, the inmate's savings account, costs of incarceration, child support, and legal financial obligations.

Court Decision. The Washington Supreme Court (Supreme Court) decision of August 18, 2004, reaffirmed the initial opinion issued on May 9, 2004, that determined class I "free venture" industries were unconstitutional. The Supreme Court determined that the law authorizing class I industries conflicts with Article II, Section 29 of the Washington Constitution, that states, "[a]fter the first day of January eighteen hundred ninety the labor of convicts of this state shall not be let out by contract to any person, copartnership, company or corporation, and the Legislature shall by law provide for the working of convicts for the benefit of the state."

Since the Supreme Court's decision in May 2004, all class I industries have stopped employing inmates and have withdrawn their businesses from the DOC prisons. Nine businesses and approximately 300 class I jobs were lost at the Airway Heights Corrections Center, Twin Rivers Corrections Center, and the Washington Corrections Center for Women.

In order to amend the Constitution, a joint resolution must be passed by a two-thirds majority of both houses of the Legislature. To be enacted, the proposed amendment must be placed on the next general election ballot and must be approved by a simple majority of the voters.

Summary of Bill:

At the next general election, an amendment to the Constitution will be submitted to the voters authorizing that prison inmates be let out by contract to any person, copartnership, company or corporation. In addition, the Legislature must provide for the working of inmates for the benefit of the state, including those in state-run inmate labor programs. The state cannot contract out inmate labor for involuntary servitude. All contracted inmate labor must be compensated and

voluntary. Inmate labor programs that are operated and managed, in total or in part, by profit or nonprofit entities must be operated so that the programs do not unfairly compete with Washington businesses and they must meet applicable worker safety requirements for comparable non-inmate labor.

Appropriation: None.

Fiscal Note: Requested on January 28, 2006.