

SENATE BILL REPORT

SJR 8206

As Passed Senate, March 2, 2005

Brief Description: Revising limitations on use of inmate labor.

Sponsors: Senators Hargrove, Stevens, Regala, Kline, Esser, Zarelli, Carrell, Finkbeiner, Johnson, Delvin, Fairley, Swecker, Sheldon, McAuliffe, Franklin, Prentice, Shin, Spanel, Kohl-Welles, Brown, Roach and Mulliken.

Brief History:

Committee Activity: Human Services & Corrections: 1/27/05, 1/31/05 [DP].

Passed Senate: 3/2/05, 48-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Brandland, Carrell, McAuliffe and Stevens.

Staff: Kiki Keizer (786-7430)

Background: The State Statute Authorizing A Comprehensive Inmate Work Program. The legislature has authorized the Department of Corrections (DOC) to establish and operate a comprehensive work program for inmates. Five classes of industries are contemplated by the statute setting up the DOC's authority to establish and operate this program. Under the statute, Class I or "free venture" industries may be set up using an "employer model" or a "customer model." Under the employer model, profit-making or non-profit organizations under contract with the DOC manage industries that produce goods and services for sale to the public and private sectors. Under the customer model, the DOC manages and operates industries to produce the kinds of goods and services for Washington businesses that could otherwise only be obtained out of state.

The statute setting up the DOC's authority to establish and operate a comprehensive inmate work program allows inmates working in Class I industries to opt in to the program. Under that statute, the wages of Class I industries workers are comparable to wages for similar work in the same geographic area, as determined by the director of the DOC. The DOC must take five percent of a Class I worker's income for crime victims' compensation, 10 percent for the inmate's savings account, 20 percent for the cost of the inmate's incarceration, and 20 percent for any legal financial obligations that the inmate owed, including victim restitution.

The 2004 State Supreme Court Decision Concerning the Law Authorizing Class I Industries. In May 2004, the Supreme Court of Washington determined that the law authorizing Class I industries conflicts with article II, section 29 of the state constitution, which states, "[a]fter the first day of January eighteen hundred and 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."

Summary of Bill: The constitution is amended to allow the state to let out the labor of inmates in the state by contract, if it is allowed by statute. The constitutional provision requiring the legislature to provide for the working of inmates for the benefit of the state is amended to include the working of inmates in state-run inmate labor programs. The constitutional amendment requires that inmate labor programs be operated so that they do not unfairly compete with Washington businesses as determined by law.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Upon approval by the voters at the next general election.

Testimony For: Last year, legislation passed with broad bipartisan support, establishing a process through which Correctional Industries could operate without unfairly competing with labor and business interests. The Supreme Court of Washington subsequently held that the operation of Class I industries was unconstitutional. This bill amends the state constitution to restore the Department of Corrections' ability to operate Class I industries. The amendment specifically prohibits unfair competition. The amendment would implement the legislation that passed last year after negotiation between stakeholders.

The consequences of the Supreme Court decision have been far-reaching. The loss of Class I industries has caused a loss of approximately \$600,000 in revenue to the Department of Corrections and funds that would have gone toward the cost of incarceration, as well as \$150,000 that would have gone toward victims' restitution and \$150,000 in legal financial obligation payments.

Because many Class II industries are funded from Class I proceeds, there is a danger that Class II jobs will also be lost as a result of the Supreme Court's decision. Three hundred Class I jobs have been lost, and a total of 1700 jobs, including Class II jobs, are at stake. The loss of jobs is likely to be reflected in increased recidivism because inmates will not have the opportunity to gain job skills and experience. Idleness is also likely to create a need for increased security and will put corrections officers at higher risk. The training and equipment necessary to increase security is projected to cost approximately \$11,000,000, and that figure does not contemplate the cost of containing disturbances, estimated at \$50,000 to \$100,000 per disturbance.

Even if the amendment passes, it is likely to take several years to rebuild confidence in the business community that working with Correctional Industries is a safe investment.

Testimony Against: None.

Who Testified: PRO: Sen. Jim Hargrove, prime sponsor; Bob Abbott, Laborers District Council; Eldon Vail, Department of Corrections; Howard Yarbrough, Department of Corrections - Correctional Industries.