

HOUSE BILL REPORT

HB 1762

As Reported by House Committee On:
Local Government

Title: An act relating to local government contracts for correctional industries services.

Brief Description: Concerning local government contracts for correctional industries services.

Sponsors: Representatives Williams, Darneille, Upthegrove, Hasegawa, Simpson and Ormsby.

Brief History:

Committee Activity:

Local Government: 2/6/07, 2/23/07 [DPS].

Brief Summary of Substitute Bill

- Prohibits local governments from contracting with the Department of Corrections for class III and IV Department of Correction services if such contracts will have the effect of terminating any public employees.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Simpson, Chair; Eddy, Vice Chair; Curtis, Ranking Minority Member; B. Sullivan and Takko.

Minority Report: Do not pass. Signed by 2 members: Representatives Schindler, Assistant Ranking Minority Member and Ross.

Staff: Jessica Nowakowski (786-7291) and Ethan Moreno (786-7386).

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 performed for the benefit of the community without financial compensation.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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. However, to avoid waste or spoilage, by-products and surpluses of timber, agricultural, and animal husbandry enterprises may be sold at private sale or donated to nonprofit organizations when there is no public sector market for such goods.

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.

Class III Industries. Class III ("Institutional Support") industries are solely operated by the DOC with the objective being to offset tax and other public support costs. Except for inmates who work in training programs, inmates in this class are paid a gratuity ranging between \$30 to \$55 per month. All supervision, management, and custody services are solely provided by the DOC.

Inmates working in class III industries provide maintenance and operation of the DOC's institution. Ground keepers, barbers, dental assistants, truck drivers, fork lift operators, mechanics, library aides, typists, and interpreters, are examples of jobs found in the class III industries work program.

Class IV Industries. Class IV ("Community Work") industries are operated by the DOC and are designed to provide services in the inmate's resident community. Inmates working in class IV industries provide services at a reduced cost to other state agencies, county and local government, to persons who are poor or infirm, and nonprofit organizations. Local governments that hire inmates must provide supervision service without charge to the state and must pay the inmate a gratuity.

Janitorial services, grounds keeping, litter control, institutional kitchen support, special event seating set-up, wheelchair cleaning, tree planting, forest maintenance, and fire suppression are examples of jobs found in the class IV industries work program.

Summary of Substitute Bill:

On or after the effective date of this act, local governments are prohibited from executing or renewing a contract with the Department of Corrections in order to purchase class III and IV DOC services if:

- the service has been customarily and historically provided by any public employees before the effective date of the act;
- the purchase of such correctional industry services will have the effect of terminating classified public employees or positions existing at the time the contract was executed or renewed; and
- a bargaining unit is represented and there has not been agreement by that bargaining unit representative that such bargaining unit work can be performed by prison labor.

Substitute Bill Compared to Original Bill:

The class of services local governments may not contract with is changed from class II through IV correctional industries services to only class III and IV Department of Corrections services. Services customarily and historically provided by any public employees, rather than only classified public employees, may not be purchased by local governments.

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.

Staff Summary of Public Testimony:

(In support) This bill addresses a reoccurring issue that was brought before the House Criminal Justice and Corrections Committee last year. Municipalities have been contracting out for inmate labor and displacing classified jobs. While the bill does speak to those services that have been historically provided by classified public employees, it also requires that the purchase of such services have the effect of terminating positions that exist at the time that the contract was executed. The cost analysis therefore may be an error. Public positions should be protected from the unfair competition of contracts for inmate labor. The DOC has made pledges to avoid this problem, but unless written into administrative rule, the displacement of classified employee jobs due to inmate labor is possible.

Cities will still have the ability to contract with the DOC for correctional industries services. The important aspect of this bill is that a bargaining unit must be represented during negotiations. The bargaining unit has to first agree to the contract. As cities grow, there is a symbiotic relationship between the bargaining units and the cities. This bill is the best alternative there is to ensure that negotiations are held between labor unions and cities.

(Opposed) The DOC acknowledges that the intention of the bill is right and that all public employee jobs should be protected. The language in the bill is quite broad though and potentially could adversely affect the DOC. The DOC Board of Directors and various

stakeholders met in March 2006 to address this issue. Policy was passed to prohibit any public employee from losing their job or being displaced because of offender work crews. The DOC works with local governments and this bill would limit offender jobs and close working relationships with communities.

Cities use the DOC correctional industries services to create flexibility in providing services that would otherwise not be done. Historically, many of these services were at one time provided by public employees so the cities would have to make up new contracts. If passed, cities could not hire the DOC inmate crews the next time contracts were negotiated. Cities like Des Moines would have to pay even more money for the same services.

Persons Testifying: (In support) Representative Williams, prime sponsor; and Anthony Murrietta, Teamsters 763.

(Opposed) Howard Yarbrough, Department of Corrections; and Tony Piasecki, City of Des Moines.

Persons Signed In To Testify But Not Testifying: None.