
HOUSE BILL 1762

State of Washington 60th Legislature 2007 Regular Session

By Representatives Williams, Darneille, Upthegrove, Hasegawa, Simpson and Ormsby

Read first time 01/26/2007. Referred to Committee on Local Government.

1 AN ACT Relating to local government contracts for correctional
2 industries services; and amending RCW 72.09.100.

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

4 **Sec. 1.** RCW 72.09.100 and 2005 c 346 s 1 are each amended to read
5 as follows:

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

1 (2) For purposes of establishing such a comprehensive program, the
2 legislature recommends that the department consider adopting any or
3 all, or any variation of, the following classes of work programs:

4 ~~((1))~~ (a) CLASS I: FREE VENTURE INDUSTRIES.

5 ~~((a))~~ (i) The employer model industries in this class shall be
6 operated and managed in total or in part by any profit or nonprofit
7 organization pursuant to an agreement between the organization and the
8 department. The organization shall produce goods or services for sale
9 to both the public and private sector.

10 ~~((b))~~ (ii) The customer model industries in this class shall be
11 operated and managed by the department to provide Washington state
12 manufacturers or businesses with products or services currently
13 produced or provided by out-of-state or foreign suppliers.

14 ~~((c))~~ (iii) The correctional industries board of directors shall
15 review these proposed industries, including any potential new class I
16 industries work program or the significant expansion of an existing
17 class I industries work program, before the department contracts to
18 provide such products or services. The review shall include the
19 analysis required under RCW 72.09.115 to determine if the proposed
20 correctional industries work program will compete with any Washington
21 business. An agreement for a new class I correctional industries work
22 program, or an agreement for a significant expansion of an existing
23 class I correctional industries work program, that unfairly competes
24 with any Washington business is prohibited.

25 ~~((d))~~ (iv) The department of corrections shall supply appropriate
26 security and custody services without charge to the participating
27 firms.

28 ~~((e))~~ (v) Inmates who work in free venture industries shall do so
29 at their own choice. They shall be paid a wage comparable to the wage
30 paid for work of a similar nature in the locality in which the industry
31 is located, as determined by the director of correctional industries.
32 If the director cannot reasonably determine the comparable wage, then
33 the pay shall not be less than the federal minimum wage.

34 ~~((f))~~ (vi) An inmate who is employed in the class I program of
35 correctional industries shall not be eligible for unemployment
36 compensation benefits pursuant to any of the provisions of Title 50 RCW
37 until released on parole or discharged.

38 ~~((2))~~ (b) CLASS II: TAX REDUCTION INDUSTRIES.

1 ~~((a))~~ (i) Industries in this class shall be state-owned and
2 operated enterprises designed primarily to reduce the costs for goods
3 and services for tax-supported agencies and for nonprofit
4 organizations.

5 ~~((b)(i))~~ (ii)(A) The industries selected for development within
6 this class shall, as much as possible, match the available pool of
7 inmate work skills and aptitudes with the work opportunities in the
8 free community. The industries shall be closely patterned after
9 private sector industries but with the objective of reducing public
10 support costs rather than making a profit.

11 ~~((ii))~~ (B) The products and services of this industry, including
12 purchased products and services necessary for a complete product line,
13 may be sold to the following:

14 ~~((A))~~ (I) Public agencies;

15 ~~((B))~~ (II) Nonprofit organizations;

16 ~~((C))~~ (III) Private contractors when the goods purchased will be
17 ultimately used by a public agency or a nonprofit organization;

18 ~~((D))~~ (IV) An employee and immediate family members of an
19 employee of the department of corrections; and

20 ~~((E))~~ (V) A person under the supervision of the department of
21 corrections and his or her immediate family members.

22 ~~((iii))~~ (C) The correctional industries board of directors shall
23 authorize the type and quantity of items that may be purchased and sold
24 under (b)(ii)~~((D))~~ (B)(IV) and ~~((E))~~ (V) of this subsection.

25 ~~((iv))~~ (D) It is prohibited to purchase any item purchased under
26 (b)(ii)~~((D))~~ (B)(IV) and ~~((E))~~ (V) of this subsection for the
27 purpose of resale.

28 ~~((v))~~ (E) Clothing manufactured by an industry in this class may
29 be donated to nonprofit organizations that provide clothing free of
30 charge to low-income persons.

31 ~~((e)(i))~~ (iii)(A) Class II correctional industries products and
32 services shall be reviewed by the correctional industries board of
33 directors before offering such products and services for sale to
34 private contractors.

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

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

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

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

17 ~~((f))~~ (vi) Subject to approval of the correctional industries
18 board, provisions of RCW 41.06.142 shall not apply to contracts with
19 Washington state businesses entered into by the department of
20 corrections through class II industries.

21 ~~((3))~~ (c) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

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

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

30 ~~((ii))~~ (B) Whenever possible, to provide forty hours of work or
31 work training per week.

32 ~~((iii))~~ (C) Whenever possible, to offset tax and other public
33 support costs.

34 ~~((b))~~ (ii) Class III correctional industries shall be reviewed by
35 the correctional industries board of directors to set policy for work
36 crews. The department shall present to the board of directors
37 quarterly detail statements showing where work crews worked, what

1 correctional industry class, and the hours worked. The board of
2 directors may review any class III program at its discretion.

3 ~~((e))~~ (iii) Supervising, management, and custody staff shall be
4 employees of the department.

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

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

12 ~~((4))~~ (d) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

18 ~~((b))~~ (ii) Class IV correctional industries shall be reviewed by
19 the 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 IV program at its discretion. Class IV
24 correctional industries operated in work camps established pursuant to
25 RCW 72.64.050 are exempt from the requirements of this subsection
26 ~~((4)(b))~~ (2)(d)(ii).

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

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

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

38 ~~((5))~~ (e) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

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

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

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

12 (3) This chapter does not permit a unit of local government to
13 execute or renew a contract to purchase class II through IV
14 correctional industries services if:

15 (a) The services have been customarily and historically provided by
16 classified public employees before the effective date of this section;

17 (b) The purchase of such services will have the effect of
18 terminating classified public employees or positions existing at the
19 time the contract was executed or renewed; and

20 (c) A bargaining unit is represented and there has not been
21 agreement by that bargaining unit representative that such bargaining
22 unit work can be performed by prison labor.

23 (4) This section applies to all class II through IV correctional
24 industries contracts entered into with a unit of local government on or
25 after the effective date of this section.

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