
SENATE BILL 5470

State of Washington 63rd Legislature 2013 Regular Session

By Senators Hewitt, McAuliffe, Parlette, and Conway

Read first time 01/31/13. Referred to Committee on Health Care .

1 AN ACT Relating to facility-based vocational services; amending RCW
2 9.94A.725, 36.110.050, 39.23.005, 39.23.010, 39.23.020, 43.20A.445,
3 43.99C.020, 49.12.091, and 84.36.350; reenacting and amending RCW
4 82.04.385; and adding a new section to chapter 71A.10 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 71A.10 RCW
7 to read as follows:

8 Facility-based training programs provide opportunities to
9 participate in the world of work to individuals with disabilities, and
10 in doing so individuals with disabilities help produce goods and
11 services that benefit the communities in which they work and live.
12 Without such programs, many individuals would not know the daily
13 satisfaction of going to work. Participants in facility-based
14 vocational services are treated with respect and dignity, and are
15 publicly recognized as productive, contributing members of their
16 communities.

17 Therefore, in the development of policies and standards under this
18 title, the department shall consider facility-based vocational services
19 as a viable work preparation option for individuals with disabilities

1 and shall include targeted input from families and residential
2 providers statewide when considering the provision of vocational
3 services.

4 **Sec. 2.** RCW 9.94A.725 and 2000 c 28 s 27 are each amended to read
5 as follows:

6 Participation in a work crew is conditioned upon the offender's
7 acceptance into the program, abstinence from alcohol and controlled
8 substances as demonstrated by urinalysis and breathalyzer monitoring,
9 with the cost of monitoring to be paid by the offender, unless
10 indigent; and upon compliance with the rules of the program, which
11 rules require the offender to work to the best of his or her abilities
12 and provide the program with accurate, verified residence information.
13 Work crew may be imposed simultaneously with electronic home detention.

14 Where work crew is imposed as part of a sentence of nine months or
15 more, the offender must serve a minimum of thirty days of total
16 confinement before being eligible for work crew.

17 Work crew tasks shall be performed for a minimum of thirty-five
18 hours per week. Only those offenders sentenced to a facility operated
19 or utilized under contract by a county or the state, or sanctioned
20 under RCW 9.94A.737, are eligible to participate on a work crew.
21 Offenders sentenced for a sex offense are not eligible for the work
22 crew program.

23 An offender who has successfully completed four weeks of work crew
24 at thirty-five hours per week shall thereafter receive credit toward
25 the work crew sentence for hours worked at approved, verified
26 employment. Such employment credit may be earned for up to twenty-four
27 hours actual employment per week provided, however, that every such
28 offender shall continue active participation in work crew projects
29 according to a schedule approved by a work crew supervisor until the
30 work crew sentence has been served.

31 The hours served as part of a work crew sentence may include
32 substance abuse counseling and/or job skills training.

33 The civic improvement tasks performed by offenders on work crew
34 shall be unskilled labor for the benefit of the community as determined
35 by the head of the county executive branch or his or her designee.
36 Civic improvement tasks shall not be done on private property unless it
37 is owned or operated by a nonprofit entity, except that, for emergency

1 purposes only, work crews may perform snow removal on any private
2 property. The civic improvement tasks shall have minimal negative
3 impact on existing private industries or the labor force in the county
4 where the service or labor is performed. The civic improvement tasks
5 shall not affect employment opportunities for people with developmental
6 disabilities contracted through (~~sheltered workshops~~) facility-based
7 vocational services as defined in RCW 82.04.385. In case any dispute
8 arises as to a civic improvement task having more than minimum negative
9 impact on existing private industries or labor force in the county
10 where their service or labor is performed, the matter shall be referred
11 by an interested party, as defined in RCW 39.12.010(4), for arbitration
12 to the director of the department of labor and industries of the state.

13 Whenever an offender receives credit against a work crew sentence
14 for hours of approved, verified employment, the offender shall pay to
15 the agency administering the program the monthly assessment of an
16 amount not less than ten dollars per month nor more than fifty dollars
17 per month. This assessment shall be considered payment of the costs of
18 providing the work crew program to an offender. The court may exempt
19 a person from the payment of all or any part of the assessment based
20 upon any of the following factors:

21 (1) The offender has diligently attempted but has been unable to
22 obtain employment that provides the offender sufficient income to make
23 such payment.

24 (2) The offender is a student in a school, college, university, or
25 a course of vocational or technical training designed to fit the
26 student for gainful employment.

27 (3) The offender has an employment handicap, as determined by an
28 examination acceptable to or ordered by the court.

29 (4) The offender is responsible for the support of dependents and
30 the payment of the assessment constitutes an undue hardship.

31 (5) Other extenuating circumstances as determined by the court.

32 **Sec. 3.** RCW 36.110.050 and 1993 c 285 s 5 are each amended to read
33 as follows:

34 The board shall require a city or a county that establishes a jail
35 industries program to develop a local advisory group, or to use an
36 existing advisory group of the appropriate composition, to advise and
37 guide jail industries program operations. Such an advisory group shall

1 include an equal number of representatives from labor and business.
2 Representation from ((~~a sheltered workshop~~)) facility-based vocational
3 services, as defined in RCW 82.04.385, and a crime victim advocacy
4 group, if existing in the local area, should also be included.

5 A local advisory group shall have among its tasks the
6 responsibility of ensuring that a jail industry has minimal negative
7 impact on existing private industries or the labor force in the locale
8 where the industry operates and that a jail industry does not
9 negatively affect employment opportunities for people with develop-
10 mental disabilities contracted through the operation of ((~~sheltered~~
11 ~~workshops~~)) facility-based vocational services as defined in RCW
12 82.04.385. In the event a conflict arises between the local business
13 community or labor organizations concerning new jail industries
14 programs, products, services, or wages, the city or county must use the
15 arbitration process established pursuant to RCW 36.110.060.

16 **Sec. 4.** RCW 39.23.005 and 1975 c 20 s 1 are each amended to read
17 as follows:

18 It is the intent of the legislature to encourage municipalities to
19 purchase products and/or services manufactured or provided by
20 ((~~sheltered workshops~~)) facility-based vocational services and programs
21 of the department of social and health services which operate
22 facilities serving ((~~the handicapped and disadvantaged~~)) persons with
23 disabilities.

24 **Sec. 5.** RCW 39.23.010 and 1975 c 20 s 2 are each amended to read
25 as follows:

26 As used in RCW 39.23.005 and 39.23.020 ((~~the term "sheltered~~
27 ~~workshops" shall have~~)): (1) Facility-based vocational services has
28 the meaning ascribed to it by RCW 82.04.385 ((~~and~~)); (2) "programs of
29 the department of social and health services" ((shall)) means the group
30 training homes and day training centers defined in RCW ((72.33.800))
31 71A.22.020; and (3) "municipality" ((shall have)) has the meaning
32 ascribed to it by RCW 39.04.010.

33 **Sec. 6.** RCW 39.23.020 and 1977 ex.s. c 10 s 1 are each amended to
34 read as follows:

35 Municipalities are hereby authorized to purchase products and/or

1 services manufactured or provided by (~~sheltered workshops~~)
2 facility-based vocational services and programs of the department of
3 social and health services. Such purchases shall be at the fair market
4 price of such products and services as determined by a municipality.
5 To determine the fair market price a municipality shall use the last
6 comparable bid on the products and/or services or in the alternative
7 the last price paid for the products and/or services. The increased
8 cost of labor, materials, and other documented costs since the last
9 comparable bid or the last price paid are additional cost factors which
10 shall be considered in determining fair market price. Upon the
11 establishment of the fair market price as provided for in this section
12 a municipality is hereby empowered to negotiate directly with
13 (~~sheltered workshops~~) facility-based vocational services or officials
14 in charge of the programs of the department of social and health
15 services for the purchase of the products or services.

16 **Sec. 7.** RCW 43.20A.445 and 1983 1st ex.s. c 41 s 20 are each
17 amended to read as follows:

18 The department may establish and operate (~~workshops~~)
19 facility-based vocational services for the training, habilitation, and
20 rehabilitation of residents of institutions of the department.
21 Products, goods, wares, articles, or merchandise manufactured or
22 produced by the (~~workshops~~) facilities may be sold to governmental
23 agencies or on the open market at fair value. Prior to establishment
24 of new state-operated (~~workshops~~) facility-based vocational services
25 at institutions, the department shall consider the availability,
26 appropriateness, and relative cost of contracting with and giving first
27 preference to private nonprofit (~~sheltered workshops~~) facility-based
28 vocational services, as defined in RCW 82.04.385, to provide (~~workshop~~
29 ~~activities~~) facility-based vocational services for residents of the
30 institution.

31 The secretary shall credit the moneys derived from the sale of
32 items from (~~workshops~~) facility-based vocational services under this
33 section to a revolving fund under the control of the superintendent of
34 the institution or facility where the items were manufactured. These
35 moneys shall be expended for the purchase of supplies and materials for
36 use in the (~~workshop~~) facility, to provide pay and training
37 incentives for residents, and for other costs of the operation of the

1 ((workshop)) facility. Payment of residents for work performed on
2 ((workshop)) facility projects shall take into account resident
3 productivity in comparison to the productivity of a nondisabled person
4 earning the minimum wage as well as other factors consistent with goals
5 of rehabilitation and treatment. Institutional work training programs
6 shall be operated in accordance with standards required by the
7 department for private vendors for the same or similar service.

8 ((Workshop)) Materials and supplies for facility-based vocational
9 services may be purchased through state purchasing or from private
10 vendors. Each institution or facility shall maintain records to
11 demonstrate that purchases are made at the fair market value or best
12 available price.

13 **Sec. 8.** RCW 43.99C.020 and 1979 ex.s. c 221 s 3 are each amended
14 to read as follows:

15 As used in this chapter, the term "facilities for the care,
16 training, and rehabilitation of persons with sensory, physical, or
17 mental handicaps" means real property and any interest therein,
18 equipment, buildings, structures, mobile units, parking facilities,
19 utilities, landscaping, and all incidental improvements and
20 appurtenances thereto, developed and owned by any public body within
21 the state for purposes of the care, training, and rehabilitation of
22 persons with sensory, physical, or mental handicaps when used in the
23 following limited programs as designated by the department of social
24 and health services: Nonprofit group training homes, community
25 centers, close to home living units, ((sheltered—workshops))
26 facility-based vocational services, vocational rehabilitation centers,
27 developmental disability training centers, and community homes for
28 ((the mentally ill)) individuals with mental illness.

29 As used in this chapter, the term "public body" means the state of
30 Washington, or any agency, political subdivision, taxing district, or
31 municipal corporation thereof.

32 **Sec. 9.** RCW 49.12.091 and 1994 c 164 s 16 are each amended to read
33 as follows:

34 After an investigation has been conducted by the department of
35 wages, hours and conditions of labor subject to chapter 16, Laws of
36 1973 2nd ex. sess., the director shall be furnished with all

1 information relative to such investigation of wages, hours and working
2 conditions, including current statistics on wage rates in all
3 occupations subject to the provisions of chapter 16, Laws of 1973 2nd
4 ex. sess. Within a reasonable time thereafter, if the director finds
5 that in any occupation, trade or industry, subject to chapter 16, Laws
6 of 1973 2nd ex. sess., the wages paid to employees are inadequate to
7 supply the necessary cost of living, but not to exceed the state
8 minimum wage as prescribed in RCW 49.46.020, as now or hereafter
9 amended, or that the conditions of labor are detrimental to the health
10 of employees, the director shall have authority to prescribe rules and
11 regulations for the purpose of adopting minimum wages for occupations
12 not otherwise governed by minimum wage requirements fixed by state or
13 federal statute, or a rule or regulation adopted under such statute,
14 and, at the same time have the authority to prescribe rules and
15 regulations fixing standards, conditions and hours of labor for the
16 protection of the safety, health and welfare of employees for all or
17 specified occupations subject to chapter 16, Laws of 1973 2nd ex. sess.
18 Thereafter, the director shall conduct a public hearing in accordance
19 with the procedures of the administrative procedure act, chapter 34.05
20 RCW, for the purpose of the adoption of rules and regulations fixing
21 minimum wages and standards, conditions and hours of labor subject to
22 the provisions of chapter 16, Laws of 1973 2nd ex. sess. After such
23 rules become effective, copies thereof shall be supplied to employers
24 who may be affected by such rules and such employers shall post such
25 rules, where possible, in such place or places, reasonably accessible
26 to all employees of such employer. After the effective date of such
27 rules, it shall be unlawful for any employer in any occupation subject
28 to chapter 16, Laws of 1973 2nd ex. sess. to employ any person for less
29 than the rate of wages specified in such rules or under conditions and
30 hours of labor prohibited for any occupation specified in such rules:
31 PROVIDED, That this section shall not apply to (~~sheltered workshops~~)
32 facility-based vocational services.

33 **Sec. 10.** RCW 82.04.385 and 1988 c 176 s 915 and 1988 c 13 s 1 are
34 each reenacted and amended to read as follows:

35 This chapter shall not apply to income received from the department
36 of social and health services for the cost of care, maintenance,
37 support, and training of persons with developmental disabilities at

1 nonprofit group training homes as defined by chapter 71A.22 RCW or to
2 the business activities of nonprofit organizations from the operation
3 of (~~sheltered workshops~~) facility-based vocational services. For the
4 purposes of this section, "the operation of (~~sheltered workshops~~)
5 facility-based vocational services" means performance of business
6 activities of any kind on or off the premises of such nonprofit
7 organizations which are performed for the primary purpose of (1)
8 providing gainful employment or rehabilitation services to (~~the~~
9 ~~handicapped~~) individuals with disabilities as an interim step in the
10 rehabilitation process for those who cannot be readily absorbed in the
11 competitive labor market or during such time as employment
12 opportunities for them in the competitive labor market do not exist; or
13 (2) providing evaluation and work adjustment services for
14 (~~handicapped~~) individuals with disabilities.

15 **Sec. 11.** RCW 84.36.350 and 1999 c 358 s 17 are each amended to
16 read as follows:

17 (1) The following property shall be exempt from taxation:

18 (a) Real or personal property owned and used by a nonprofit
19 corporation in connection with the operation of (~~a sheltered~~
20 ~~workshop~~) facility-based vocational services for (~~handicapped~~)
21 persons with disabilities, and used primarily in connection with the
22 manufacturing and the handling, sale, or distribution of goods
23 constructed, processed, or repaired in such (~~workshops or centers~~)
24 facilities; and

25 (b) Inventory owned by a (~~sheltered workshop~~) facility providing
26 facility-based vocational services for sale or lease by the (~~sheltered~~
27 ~~workshop~~) facility or to be furnished under a contract of service,
28 including raw materials, work in process, and finished products.

29 (2) Unless a different meaning is plainly required by the context,
30 "~~sheltered workshop~~) facility-based vocational services" means a
31 rehabilitation facility, or that part of a rehabilitation facility
32 operated by a nonprofit corporation, where any manufacture or handiwork
33 is carried on and operated for the primary purpose of: (a) Providing
34 gainful employment or rehabilitation services to (~~the handicapped~~)
35 persons with disabilities as an interim step in the rehabilitation
36 process for those who cannot be readily absorbed in the competitive
37 labor market or during such time as employment opportunities for them

1 in the competitive labor market do not exist; or (b) providing
2 evaluation and work adjustment services for (~~handicapped~~) individuals
3 with disabilities.

--- END ---