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ENGROSSED SUBSTITUTE HOUSE BILL 2334

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State of Washington

52nd Legislature

1992 Regular Session

By House Committee on Human Services (originally sponsored by Representatives H. Myers, Hargrove, Winsley, Leonard, Riley, Ogden, Tate, Roland, Brumsickle, Cooper, Morris, Bray, Haugen, Prentice, Orr, Peery, Bowman, Ludwig, Mielke, Inslee, Jones, Broback, G. Fisher, Paris, May, Wineberry, Sprenkle and O'Brien)

Read first time 01/22/92.

1 AN ACT Relating to jail industries; and adding a new chapter to  
2 Title 36 RCW.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that there is an  
5 expressed need for a means by which cities and counties can uniformly  
6 develop and coordinate jail industries technical information and  
7 standards state-wide. It further finds that meaningful jail work  
8 industries programs that are linked to formal education and adult  
9 literacy training can reduce recidivism and in turn reduce the rising  
10 costs of corrections and criminal activities. It is the purpose and  
11 intent of the legislature, through this chapter, to organize the  
12 foundation of a state-wide jail industries program that recognizes four  
13 classes of jail inmate work programs designed to promote inmate  
14 rehabilitation through meaningful work experience. The legislature

1 recognizes that inmates should have the responsibility for contributing  
2 to the cost of their crime through the wages earned while working in  
3 jail industries programs and that such income shall be used to offset  
4 the costs of implementing and maintaining local jail industries  
5 programs and also the costs of incarceration.

6 NEW SECTION. **Sec. 2.** Unless the context clearly requires  
7 otherwise, the definitions in this section apply throughout this  
8 chapter.

9 (1) "Board" means the state-wide board of directors for jail  
10 industries in the state of Washington.

11 (2) "Cost accounting center" means a specific industry program  
12 operated under the private sector prison industry enhancement  
13 certification program as specified in 18 U.S.C. Sec. 1761.

14 (3) "Court-ordered legal financial obligations" means a sum of  
15 money that is ordered by a superior, district, or municipal court of  
16 the state of Washington for payment of restitution to a victim, a  
17 statutorily imposed crime victims compensation fee, court costs, a  
18 county or interlocal drug fund, court appointed attorneys' fees and  
19 costs of defense, fines, and other legal financial obligations that are  
20 assessed as a result of a felony or misdemeanor conviction.

21 (4) "Customer model industry" means a class I, free venture  
22 industry that provides products or services which are currently  
23 produced or provided by out-of-state or foreign suppliers.

24 (5) "Employer model industry" means a class I, free venture  
25 industry based upon an agreement, between a city or county and a profit  
26 or nonprofit organization, which produces goods or services for sale to  
27 both the public and private sectors.

28 (6) "Jail inmate" means a preconviction or postconviction resident  
29 of a city or county jail who is determined eligible to participate in

1 jail inmate work programs according to the eligibility criteria of the  
2 work program.

3 (7) "Private sector prison industry enhancement certification  
4 program" means that program authorized by the United States justice  
5 assistance act of 1984, 18 U.S.C. Sec. 1761.

6 NEW SECTION. **Sec. 3.** A state-wide jail industries board of  
7 directors is established. The board shall consist of the following  
8 members:

9 (1) One sheriff and one police chief, to be selected by the  
10 Washington association of sheriffs and police chiefs;

11 (2) One county commissioner or one county council member to be  
12 selected by the Washington state association of counties;

13 (3) One city official to be selected by the association of  
14 Washington cities;

15 (4) Two jail administrators to be selected by the Washington state  
16 jail association, one of whom shall be from a county or a city with an  
17 established jail industries program;

18 (5) One prosecuting attorney to be selected by the Washington  
19 association of prosecuting attorneys;

20 (6) One administrator from a city or county corrections department  
21 to be selected by the Washington correctional association;

22 (7) One county clerk to be selected by the Washington association  
23 of county clerks;

24 (8) Two representatives from labor to be selected by the governor;

25 (9) Two representatives from business to be selected by the  
26 governor;

27 (10) The governor's representative from the employment security  
28 department;

1 (11) One member representing crime victims, to be selected by the  
2 governor;

3 (12) One member representing on-line law enforcement officers, to  
4 be selected by the governor;

5 (13) One member from the department of trade and economic  
6 development to be selected by the governor;

7 (14) One member representing higher education, vocational  
8 education, or adult basic education to be selected by the governor; and

9 (15) The governor's representative from the correctional industries  
10 division of the state department of corrections shall be an ex officio  
11 member for the purpose of coordination and cooperation between prison  
12 and jail industries and to further a positive relationship between  
13 state and local government offender programs.

14 NEW SECTION. **Sec. 4.** The board shall, at the request of a  
15 city or county, offer advice in developing and implementing work  
16 programs designed to:

17 (1) Offer inmates employment, work experience, education, and  
18 training in vocations which may provide opportunities for legitimate  
19 means of livelihood upon their release from custody;

20 (2) Provide industries which will reduce the tax burden of cities  
21 and counties through the provision of services and the production of  
22 goods for use and sale, and charging inmates for program costs and the  
23 costs of incarceration; and

24 (3) Operate jail work programs in a safe, effective, and efficient  
25 manner which are consistent with sound private industry business  
26 practices.

27 NEW SECTION. **Sec. 5.** The board shall develop guidelines and  
28 provide technical assistance for the coordination of jail industries

1 programs with basic educational programs to improve inmate literacy, to  
2 provide vocational screening and appropriate training, to evaluate  
3 substance abuse behaviors, and to provide for prerelease classes and  
4 consideration for postrelease placement.

5 NEW SECTION. **Sec. 6.** The board shall require a city or a  
6 county which establishes a jail industries program to develop a local  
7 advisory group, or to use an existing advisory group of the appropriate  
8 composition, to advise and guide program operations. Such an advisory  
9 group shall include an equal number of representatives of labor and  
10 business, as well as representation from a sheltered workshop in the  
11 local area as defined in RCW 82.04.385 and representation from a local  
12 crime victims advocacy group.

13 A local advisory group shall have among its tasks the  
14 responsibility of ensuring that a jail industry has minimal negative  
15 impact on existing private industries or the labor force in the locale  
16 where the industry operates and that a jail industry does not  
17 negatively affect employment opportunities for people with  
18 developmental disabilities contracted through the operation of  
19 sheltered workshops as defined in RCW 82.04.385.

20 NEW SECTION. **Sec. 7.** The board shall develop standards, in  
21 cooperation with the city and county jail industries programs, for the  
22 consistent, safe, and efficient operation of jail industries. The  
23 board shall thereafter develop and implement a process by which cities  
24 and counties may gain state-wide accreditation for operating jail  
25 industries that successfully comply with the standards so established.

26 NEW SECTION. **Sec. 8.** The board shall:

1 (1) Establish procedures for determining whether a city or a county  
2 jail industries program complies with the requirements of the private  
3 sector prison industry enhancement certification program;

4 (2) Determine whether a jail industries program shall be designated  
5 as a cost accounting center for the purposes of the private sector  
6 prison industry enhancement certification program, and determine  
7 whether any such designation previously approved shall be revoked;

8 (3) Monitor all designated jail industry programs to ensure  
9 continuing compliance with the rules promulgated by the United States  
10 department of justice under the provisions of the private sector prison  
11 industry enhancement certification program;

12 (4) Review proposed industries under the class I customer model and  
13 under class II, prior to the contracting of such products or services.  
14 Reviews shall be conducted to assess the potential impact of the  
15 proposed products and services on the Washington state business and  
16 labor community and to explore the potential for new markets for jail  
17 industries products and services;

18 (5) Develop a procedure for review and recommendations regarding  
19 jail industries wage scales;

20 (6) Establish an arbitration process for resolving conflicts  
21 arising among the local business community and labor organizations  
22 concerning new industries programs, products, services, or wages; and

23 (7) Encourage the development of the collection and analysis of  
24 jail industries program data, including long-term tracking information  
25 on recidivism.

26 NEW SECTION. **Sec. 9.** The board may receive funds from local,  
27 county, state, or federal sources and may receive grants to support its  
28 activities. The board may establish a reasonable schedule of fees to  
29 be charged to participating cities and counties.

1        NEW SECTION.    **Sec. 10.**        The board shall initially convene at the  
2 call of the representative of the correctional industries division of  
3 the state department of corrections, together with the jail  
4 administrator selected from a city or a county with an established jail  
5 industries program, no later than six months after the effective date  
6 of this act. Subsequent meetings of the board shall be at the call of  
7 the board chairperson. The board shall meet at least twice a year.

8        The board shall elect a chairperson and other such officers as it  
9 deems appropriate. However, the chairperson may not be the  
10 representative of the correctional industries division of the state  
11 department of corrections nor any representative from an executive  
12 branch agency.

13        Members of the board shall serve terms of three years each on a  
14 staggered schedule to be established by the first board. For purposes  
15 of initiating a staggered schedule of terms, some members of the first  
16 board may initially serve two years and some members may initially  
17 serve four years.

18        The members of the board shall serve without compensation but may  
19 be reimbursed for travel expenses from funds acquired under this  
20 chapter.

21        NEW SECTION.    **Sec. 11.**        A city or a county which implements a  
22 jail industry program classified as a class I, class II, class III, or  
23 class IV industry, may establish a separate fund for the operation of  
24 the program. This fund shall be a special revenue fund with continuing  
25 authority to receive income and pay expenses associated with the jail  
26 industry program.

27        NEW SECTION.    **Sec. 12.**        Cities and counties participating in  
28 jail industries are authorized to provide for comprehensive work

1 programs using jail inmate workers at worksites within jail facilities  
2 or at such places within the city or county as may be directed by the  
3 legislative authority of the city or county, except as provided under  
4 RCW 36.28.100. For purposes of establishing such comprehensive  
5 programs, the legislature recommends that cities and counties consider  
6 adopting the following classes of jail work programs:

7 (1) Class I: Free venture industries. The employer model  
8 industries in this class shall be operated and managed in total or in  
9 part by any profit or nonprofit organization pursuant to an agreement  
10 between the organization and the city or county. The organization may  
11 produce goods or services for sale to both the public and private  
12 sectors.

13 The customer model industries in this class shall be operated and  
14 managed to provide Washington state manufacturers or businesses with  
15 products or services currently produced or provided by out-of-state or  
16 foreign suppliers.

17 The city or county shall supply appropriate security and custody  
18 services to a participating organization.

19 Jail inmates who work in free venture industries shall do so at  
20 their own choice. They shall be paid a wage comparable to the wage  
21 paid for work of a similar nature in the locality in which the industry  
22 is located, as determined by the elected official, department head, or  
23 designee administering jail industries of the city or county jail  
24 industries program in consultation with the local office of the  
25 employment security department and the industrial statistician of the  
26 department of labor and industries. If the elected official,  
27 department head, or designee administering jail industries cannot  
28 reasonably determine the comparable wage, then the jail industries  
29 board may be consulted for resolution, but in no event shall the pay be  
30 less than the state or federal minimum wage.

1           (2) Class II: Tax reduction industries. Industries in this class  
2 shall be city-owned or county-owned enterprises designed to reduce the  
3 cost for goods and services for tax supported agencies and for  
4 nonprofit organizations. The industries selected for development  
5 within this class shall, as much as possible, match the available pool  
6 of inmate work skills and aptitudes with the work opportunities in the  
7 free community. The industries shall be closely patterned after  
8 private sector industries.

9           The products and services of this industry, including purchased  
10 products and services necessary for a complete product line, may be  
11 sold to public agencies and nonprofit organizations, and to private  
12 contractors when the goods purchased will be ultimately used by a  
13 public agency or nonprofit organization. Clothing manufactured by an  
14 industry in this class may be donated to nonprofit organizations that  
15 provide clothing free of charge to low-income persons. Jail industries  
16 products and services in this class shall be reviewed by the jail  
17 industries board before offering such products and services to private  
18 contractors.

19           To avoid waste or spoilage and consequent loss to the city or  
20 county, when there is no public sector market for by-products and  
21 surpluses of timber, agricultural, and animal husbandry enterprises,  
22 such goods may be sold to private persons, at private sale. Surplus  
23 by-products and surpluses of timber, agricultural, and animal husbandry  
24 enterprises that cannot be sold to public agencies or to private  
25 persons may be donated to nonprofit organizations. All sales of  
26 surplus products shall be carried out in accordance with rules  
27 prescribed by the city or county.

28           Jail inmates working in this class of industries shall do so at  
29 their own choice and shall be paid for their work on a gratuity scale  
30 which shall not exceed the wage paid for work of a similar nature in

1 the locality in which the industry is located, or may receive some  
2 other form of compensation, as determined by the elected official,  
3 department head, or designee administering jail industries.

4 Security, custody, and supervision shall be provided by the city or  
5 county.

6 (3) Class III: Jail support industries. Industries in this class  
7 shall be operated by the city or county jail. They shall be designed  
8 and managed to accomplish the following objectives whenever possible:

9 (a) Provide basic work training and experience so that the inmate  
10 will be able to qualify for better work both within jail industries and  
11 the free community;

12 (b) Provide twenty hours of work or work training per week on a  
13 regular schedule; and

14 (c) Offset tax and other public support costs.

15 Supervision, management, and security staff shall be employees of  
16 the city or county law and justice system.

17 All able and eligible jail inmates who are assigned work may work  
18 in this class.

19 Jail inmates in this class may be paid for their work in accordance  
20 with an inmate gratuity scale or other method of compensation, as  
21 determined by the elected official, department head, or designee  
22 administering jail industries.

23 (4) Class IV: Community work industries. Industries in this class  
24 may be operated by a city or county jail or other unit of local  
25 government. They shall be designed and managed to provide services in  
26 the community at reduced cost.

27 Inmate workers in this class may reside in facilities owned, or  
28 contracted for, by the city, county, or other unit of government, or  
29 may be participating in programs of partial confinement.

1 Supervision, security, and work supervision shall be supplied by  
2 city or county law and justice employees.

3 Jail inmates who work in this class of industries shall do so at  
4 their own choice and may receive a gratuity which shall not exceed the  
5 minimum wage, or may receive another form of compensation, as  
6 determined by the elected official, department head, or designee  
7 administering jail industries.

8 NEW SECTION. **Sec. 13.** All inmates working in jail industry  
9 programs for which the compensation is a wage shall contribute toward  
10 the reduction of the costs of corrections, including costs to develop,  
11 implement, and operate jail industries programs. This amount shall be  
12 a reasonable amount which will not unduly discourage the incentive to  
13 work. The amount so deducted shall be deposited in the jail industries  
14 special revenue fund.

15 The elected official, department head, or designee administering  
16 jail industries may direct that deductions from inmate wages be made  
17 for, and disbursed to, crime victims compensation, program fees,  
18 restitution, court fines and other legal financial obligations,  
19 incarceration costs, family support, or savings.

20 NEW SECTION. **Sec. 14.** A jail inmate who works in class I free  
21 venture industries under section 12(1) of this act or class II tax  
22 reduction industries under section 12(2) of this act shall be  
23 considered an employee only for the purpose of the Washington  
24 industrial safety and health act, chapter 49.17 RCW, as long as the  
25 public safety is not compromised, and for eligibility for industrial  
26 insurance benefits under Title 51 RCW. However, eligibility for  
27 benefits for either the inmate or the inmate's dependents or  
28 beneficiaries for temporary disability or permanent total disability

1 under RCW 51.32.090 or 51.32.060, respectively, shall not take effect  
2 until the inmate is discharged from custody upon expiration of the  
3 sentence, or discharged from custody by order of a court of appropriate  
4 jurisdiction. Nothing in this section shall be construed to confer  
5 eligibility for any industrial insurance benefits to any jail inmate  
6 who is employed in class III or class IV jail industries under section  
7 12 (3) and (4) of this act.

8 NEW SECTION. **Sec. 15.** To the extent possible, the four classes  
9 of jail industries programs under section 12 of this act shall be  
10 augmented by education and training to improve worker literacy and  
11 employability skills. Such education and training may include, but is  
12 not limited to, basic adult education, work towards a certificate of  
13 educational competence which follows successful completion of the  
14 general educational development test, vocational and preemployment work  
15 maturity skills training, and apprenticeship classes.

16 NEW SECTION. **Sec. 16.** Until sufficient funding is secured by  
17 the board to adequately provide staffing, basic staff assistance shall  
18 be provided, to the extent possible, by the department of corrections.

19 NEW SECTION. **Sec. 17.** Sections 1 through 16 of this act shall  
20 constitute a new chapter in Title 36 RCW.

21 NEW SECTION. **Sec. 18.** If any provision of this act or its  
22 application to any person or circumstance is held invalid, the  
23 remainder of the act or the application of the provision to other  
24 persons or circumstances is not affected.