
HOUSE BILL 2334

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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

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1 AN ACT Relating to jail industries; amending RCW 82.29A.130; adding
2 a new section to chapter 82.04 RCW; and adding a new chapter to Title
3 36 RCW.

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

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

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

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

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

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

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

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

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

1 (6) "Jail inmate" means a preconviction or postconviction resident
2 of a city or county jail who is determined eligible to participate in
3 jail inmate work programs according to the eligibility criteria of the
4 work program.

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

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

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

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

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

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

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

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

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

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

27 (9) Two representatives from business to be selected by the
28 governor;

1 (10) The governor's representative from the employment security
2 department;

3 (11) One member representing crime victims, to be selected by the
4 governor; and

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

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

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

16 (2) Provide industries which will reduce the tax burden of cities
17 and counties through the provision of services and the production of
18 goods for use and sale, and charging inmates for program costs and the
19 costs of incarceration; and

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

23 NEW SECTION. **Sec. 5.** The board shall develop guidelines and
24 provide technical assistance for the coordination of jail industries
25 programs with basic educational programs to improve inmate literacy, to
26 provide vocational screening and appropriate training, to evaluate
27 substance abuse behaviors, and to provide for prerelease classes and
28 consideration for postrelease placement.

1 NEW SECTION. **Sec. 6.** The board shall encourage a city or a
2 county which establishes a jail industries program to develop a local
3 advisory group, or to use an existing advisory group of the appropriate
4 composition, to advise and guide program operations. Such an advisory
5 group shall include representatives of labor and business, as well as
6 representation for the developmentally disabled community.

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

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

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

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

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

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

5 (4) Review proposed industries under the class I customer model and
6 under class II, prior to the contracting of such products or services.
7 Reviews shall be conducted to assess the potential impact of the
8 proposed products and services on the Washington state business and
9 labor community and to explore the potential for new markets for jail
10 industries products and services;

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

13 (6) Establish an arbitration process for resolving conflicts
14 arising between the local business community and labor organizations
15 concerning new industries programs, products, services, or wages; and

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

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

23 NEW SECTION. **Sec. 10.** The board shall initially convene at the
24 call of the director of the correctional industries division of the
25 state department of corrections, together with the jail administrator
26 selected from a city or a county with an established jail industries
27 program, no later than six months after the effective date of this act.

1 Subsequent meetings of the board shall be at the call of the board
2 chairperson.

3 The board shall elect a chairperson and other such officers as it
4 deems appropriate. However, the chairperson may not be the director of
5 the correctional industries division of the state department of
6 corrections.

7 Members of the board shall serve terms of three years each on a
8 staggered schedule to be established by the first board. For purposes
9 of initiating a staggered schedule of terms, some members of the first
10 board may initially serve two years and some members may initially
11 serve four years.

12 The members of the board shall serve without compensation but may
13 be reimbursed for travel expenses from funds acquired under this
14 chapter.

15 NEW SECTION. **Sec. 11.** A city or a county which implements a
16 jail industry program classified as a class I, class II, class III, or
17 class IV industry, may establish a separate fund for the operation of
18 the program. This fund shall be a special revenue fund with continuing
19 authority to receive income and pay expenses associated with the jail
20 industry program.

21 NEW SECTION. **Sec. 12.** Cities and counties participating in
22 jail industries are authorized to provide for comprehensive work
23 programs using jail inmate workers at worksites within jail facilities
24 or at such places within the city or county as may be directed by the
25 legislative authority of the city or county. For purposes of
26 establishing such comprehensive programs, the legislature recommends
27 that cities and counties consider adopting the following classes of
28 jail work programs:

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

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

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

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

24 (2) Class II: Tax reduction industries. Industries in this class
25 shall be city-owned or county-owned enterprises designed to reduce the
26 cost for goods and services for tax supported agencies and for
27 nonprofit organizations. The industries selected for development
28 within this class shall, as much as possible, match the available pool
29 of inmate work skills and aptitudes with the work opportunities in the

1 free community. The industries shall be closely patterned after
2 private sector industries.

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

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

22 Jail inmates working in this class of industries shall do so at
23 their own choice and shall be paid for their work on a gratuity scale
24 which shall not exceed the wage paid for work of a similar nature in
25 the locality in which the industry is located, or may receive some
26 other form of compensation, as determined by the elected official,
27 department head, or designee administering jail industries.

28 Security, custody, and supervision shall be provided by the city or
29 county.

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

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

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

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

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

12 All able and eligible jail inmates who are assigned work may work
13 in this class.

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

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

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

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

27 Jail inmates who work in this class of industries shall do so at
28 their own choice and may receive a gratuity which shall not exceed the
29 minimum wage, or may receive another form of compensation, as

1 determined by the elected official, department head, or designee
2 administering jail industries.

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

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

15 NEW SECTION. **Sec. 14.** A jail inmate who works in class I free
16 venture industries under section 12(1) of this act or class II tax
17 reduction industries under section 12(2) of this act shall be
18 considered an employee for purposes of industrial insurance only and is
19 eligible for industrial insurance benefits under Title 51 RCW.
20 However, eligibility for benefits for either the inmate or the inmate's
21 dependents or beneficiaries for temporary disability or permanent total
22 disability under RCW 51.32.090 or 51.32.060, respectively, shall not
23 take effect until the inmate is discharged from custody upon expiration
24 of the sentence, or discharged from custody by order of a court of
25 appropriate jurisdiction. Nothing in this section shall be construed
26 to confer eligibility for any industrial insurance benefits to any jail
27 inmate who is employed in class III or class IV jail industries under
28 section 12 (3) and (4) of this act.

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

9 NEW SECTION. **Sec. 16.** A new section is added to chapter 82.04 RCW
10 to read as follows:

11 In computing tax, persons participating in a free venture
12 industries program under RCW 72.09.100(1) may deduct from the measure
13 of tax amounts paid for inmate gross wages under the program.

14 **Sec. 17.** RCW 82.29A.130 and 1975-'76 2nd ex.s. c 61 s 13 are each
15 amended to read as follows:

16 The following leasehold interests shall be exempt from taxes
17 imposed pursuant to RCW 82.29A.030 and 82.29A.040:

18 (1) All leasehold interests constituting a part of the operating
19 properties of any public utility which is assessed and taxed as a
20 public utility pursuant to chapter 84.12 RCW.

21 (2) All leasehold interests in facilities owned or used by a
22 school, college or university which leasehold provides housing for
23 students and which is otherwise exempt from taxation under provisions
24 of RCW 84.36.010 and 84.36.050.

25 (3) All leasehold interests of subsidized housing where the fee
26 ownership of such property is vested in the government of the United
27 States, or the state of Washington or any political subdivision thereof
28 but only if income qualification exists for such housing.

1 (4) All leasehold interests used for fair purposes of a nonprofit
2 fair association that sponsors or conducts a fair or fairs which
3 receive support from revenues collected pursuant to RCW 67.16.100 and
4 allocated by the director of the department of agriculture where the
5 fee ownership of such property is vested in the government of the
6 United States, the state of Washington or any of its political
7 subdivisions: PROVIDED, That this exemption shall not apply to the
8 leasehold interest of any sublessee of such nonprofit fair association
9 if such leasehold interest would be taxable if it were the primary
10 lease.

11 (5) All leasehold interests in any property of any public entity
12 used as a residence by an employee of that public entity who is
13 required as a condition of employment to live in the publicly owned
14 property.

15 (6) All leasehold interests held by enrolled Indians of lands owned
16 or held by any Indian or Indian tribe where the fee ownership of such
17 property is vested in or held in trust by the United States and which
18 are not subleased to other than to a lessee which would qualify
19 pursuant to this chapter, RCW 84.36.451 and 84.40.175.

20 (7) All leasehold interests in any real property of any Indian or
21 Indian tribe, band, or community that is held in trust by the United
22 States or is subject to a restriction against alienation imposed by the
23 United States: PROVIDED, That this exemption shall apply only where it
24 is determined that contract rent paid is greater than or equal to
25 ninety percent of fair market rental, to be determined by the
26 department of revenue using the same criteria used to establish taxable
27 rent in RCW 82.29A.020(2)(b).

28 (8) All leasehold interests for which annual taxable rent is less
29 than two hundred fifty dollars per year. For purposes of this
30 subsection leasehold interests held by the same lessee in contiguous

1 properties owned by the same lessor shall be deemed a single leasehold
2 interest.

3 (9) All leasehold interests which give use or possession of the
4 leased property for a continuous period of less than thirty days:
5 PROVIDED, That for purposes of this subsection, successive leases or
6 lease renewals giving substantially continuous use of possession of the
7 same property to the same lessee shall be deemed a single leasehold
8 interest: PROVIDED FURTHER, That no leasehold interest shall be deemed
9 to give use or possession for a period of less than thirty days solely
10 by virtue of the reservation by the public lessor of the right to use
11 the property or to allow third parties to use the property on an
12 occasional, temporary basis.

13 (10) All leasehold interests under month-to-month leases in
14 residential units rented for residential purposes of the lessee pending
15 destruction or removal for the purpose of constructing a public highway
16 or building.

17 (11) All leasehold interests in any publicly owned real or personal
18 property to the extent such leasehold interests arises solely by virtue
19 of a contract for public improvements or work executed under the public
20 works statutes of this state or of the United States between the public
21 owner of the property and a contractor.

22 (12) All leasehold interests that give use or possession of city or
23 county facilities for the purposes of operating jail industries under
24 chapter 36... RCW (sections 1 through 15 of this act).

25 NEW SECTION. Sec. 18. Sections 1 through 15 of this act shall
26 constitute a new chapter in Title 36 RCW.