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**SUBSTITUTE HOUSE BILL 1762**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** House Committee on Local Government (originally sponsored by Representatives Williams, Darneille, Upthegrove, Hasegawa, Simpson and Ormsby)

READ FIRST TIME 02/27/07.

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       ~~((i))~~ (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       ~~((i))~~ (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 III and IV department of  
14 corrections services if:

15        (a) The services have been customarily and historically provided by  
16 any 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 III and IV department of  
24 corrections contracts entered into with a unit of local government on  
25 or after the effective date of this section.

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