
SUBSTITUTE SENATE BILL 6489

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Children & Family Services & Corrections
(originally sponsored by Senators Hargrove and Stevens)

READ FIRST TIME 02/09/04.

1 AN ACT Relating to fair competition in correctional industries;
2 amending RCW 72.09.070, 72.09.100, 72.09.460, and 72.09.015; reenacting
3 and amending RCW 72.09.100, 28B.10.029, and 72.09.111; adding a new
4 section to chapter 72.09 RCW; providing an effective date; and
5 providing an expiration date.

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

7 **Sec. 1.** RCW 72.09.070 and 1994 sp.s. c 7 s 535 are each amended to
8 read as follows:

9 (1) There is created a correctional industries board of directors
10 which shall have the composition provided in RCW 72.09.080.

11 (2) Consistent with general department of corrections policies and
12 procedures pertaining to the general administration of correctional
13 facilities, the board shall establish and implement policy for
14 correctional industries programs designed to:

15 (a) Offer inmates meaningful employment, work experience, and
16 training in vocations that are specifically designed to reduce
17 recidivism and thereby enhance public safety by providing opportunities
18 for legitimate means of livelihood upon their release from custody;

1 (b) Provide industries which will reduce the tax burden of
2 corrections and save taxpayers money through production of goods and
3 services for sale and use;

4 (c) Operate correctional work programs in an effective and
5 efficient manner which are as similar as possible to those provided by
6 the private sector;

7 (d) Encourage the development of and provide for selection of,
8 contracting for, and supervision of work programs with participating
9 private enterprise firms;

10 (e) Develop and (~~design~~) select correctional industries work
11 programs that do not unfairly compete with Washington businesses;

12 (f) Invest available funds in correctional industries enterprises
13 and meaningful work programs that minimize the impact on in-state jobs
14 and businesses.

15 (3) The board of directors shall at least annually review the work
16 performance of the director of correctional industries division with
17 the secretary.

18 (4) The director of correctional industries division shall review
19 and evaluate the productivity, funding, and appropriateness of all
20 correctional work programs and report on their effectiveness to the
21 board and to the secretary.

22 (5) The board of directors shall have the authority to identify and
23 establish trade advisory or apprenticeship committees to advise them on
24 correctional industries work programs. The secretary shall appoint the
25 members of the committees.

26 Where a labor management trade advisory and apprenticeship
27 committee has already been established by the department pursuant to
28 RCW 72.62.050 the existing committee shall also advise the board of
29 directors.

30 (6) The board shall develop a strategic yearly marketing plan that
31 shall be consistent with and work towards achieving the goals
32 established in the six-year phased expansion of class I and class II
33 correctional industries established in RCW 72.09.111. This marketing
34 plan shall be presented to the appropriate committees of the
35 legislature by January 17 of each calendar year until the goals set
36 forth in RCW 72.09.111 are achieved.

1 **Sec. 2.** RCW 72.09.100 and 2002 c 175 s 49 are each amended to read
2 as follows:

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

16 For purposes of establishing such a comprehensive program, the
17 legislature recommends that the department consider adopting any or
18 all, or any variation of, the following classes of work programs:

19 (1) CLASS I: FREE VENTURE INDUSTRIES.

20 (a) The employer model industries in this class shall be operated
21 and managed in total or in part by any profit or nonprofit organization
22 pursuant to an agreement between the organization and the department.
23 The organization shall produce goods or services for sale to both the
24 public and private sector.

25 (b) The customer model industries in this class shall be operated
26 and managed by the department to provide Washington state manufacturers
27 or businesses with products or services currently produced or provided
28 by out-of-state or foreign suppliers.

29 (c) The correctional industries board of directors shall review
30 these proposed industries, including any potential new class I
31 industries work program or the significant expansion of an existing
32 class I industries work program, before the department contracts to
33 provide such products or services. The review shall include ((an)) the
34 analysis ((of the potential impact of the proposed products and
35 services on the Washington state business community and labor market))
36 required under section 4 of this act to determine if the proposed
37 correctional industries work program will compete with any Washington
38 business. An agreement for a new class I correctional industries work

1 program, or an agreement for a significant expansion of an existing
2 class I correctional industries work program, that unfairly competes
3 with any Washington business is prohibited.

4 (d) The department of corrections shall supply appropriate security
5 and custody services without charge to the participating firms.

6 (e) Inmates who work in free venture industries shall do so at
7 their own choice. They shall be paid a wage comparable to the wage
8 paid for work of a similar nature in the locality in which the industry
9 is located, as determined by the director of correctional industries.
10 If the director cannot reasonably determine the comparable wage, then
11 the pay shall not be less than the federal minimum wage.

12 (f) An inmate who is employed in the class I program of
13 correctional industries shall not be eligible for unemployment
14 compensation benefits pursuant to any of the provisions of Title 50 RCW
15 until released on parole or discharged.

16 (2) CLASS II: TAX REDUCTION INDUSTRIES.

17 (a) Industries in this class shall be state-owned and operated
18 enterprises designed to reduce the costs for goods and services for
19 tax-supported agencies and for nonprofit organizations.

20 (b) The industries selected for development within this class
21 shall, as much as possible, match the available pool of inmate work
22 skills and aptitudes with the work opportunities in the free community.
23 The industries shall be closely patterned after private sector
24 industries but with the objective of reducing public support costs
25 rather than making a profit. The products and services of this
26 industry, including purchased products and services necessary for a
27 complete product line, may be sold to public agencies, to nonprofit
28 organizations, and to private contractors when the goods purchased will
29 be ultimately used by a public agency or a nonprofit organization.
30 Clothing manufactured by an industry in this class may be donated to
31 nonprofit organizations that provide clothing free of charge to low-
32 income persons.

33 (c)(i) Class II correctional industries products and services shall
34 be reviewed by the correctional industries board of directors before
35 offering such products and services for sale to private contractors.

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

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

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

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

18 (f) Subject to approval of the correctional industries board,
19 provisions of RCW 41.06.380 prohibiting contracting out work performed
20 by classified employees shall not apply to contracts with Washington
21 state businesses entered into by the department of corrections through
22 class II industries.

23 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

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

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

32 ~~((+b))~~ (ii) Whenever possible, to provide forty hours of work or
33 work training per week.

34 ~~((+c))~~ (iii) Whenever possible, to offset tax and other public
35 support costs.

36 (b) Class III correctional industries work crews and labor camps,
37 including any potential new class III correctional industries work
38 program or the significant expansion of an existing class III

1 correctional industries work program, shall be reviewed by the
2 correctional industries board of directors. Before the correctional
3 industries board of directors approves a new class III work program or
4 the significant expansion of employment in an existing class III work
5 program, the board must certify that there will be minimal impact on
6 existing Washington workers.

7 (c) Supervising, management, and custody staff shall be employees
8 of the department.

9 (d) All able and eligible inmates who are assigned work and who are
10 not working in other classes of industries shall work in this class.

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

15 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

21 (b) Class IV correctional industries work crews and labor camps,
22 including any potential new class IV correctional industries work
23 program or the significant expansion of an existing class IV
24 correctional industries work program, shall be reviewed by the
25 correctional industries board of directors. Before the correctional
26 industries board of directors approves a new class IV work program or
27 the significant expansion of employment in an existing class IV work
28 program, the board must certify that there will be minimal impact on
29 existing Washington workers.

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

34 (d) The department of corrections shall reimburse participating
35 units of local government for liability and workers compensation
36 insurance costs.

37 (e) Inmates who work in this class of industries shall do so at

1 their own choice and shall receive a gratuity which shall not exceed
2 the wage paid for work of a similar nature in the locality in which the
3 industry is located.

4 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

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

10 (b) Employment shall be in a community restitution program operated
11 by the state, local units of government, or a nonprofit agency.

12 (c) To the extent that funds are specifically made available for
13 such purposes, the department of corrections shall reimburse nonprofit
14 agencies for workers compensation insurance costs.

15 **Sec. 3.** RCW 72.09.100 and 2002 c 354 s 238 and 2002 c 175 s 49 are
16 each reenacted and amended to read as follows:

17 It is the intent of the legislature to vest in the department the
18 power to provide for a comprehensive inmate work program and to remove
19 statutory and other restrictions which have limited work programs in
20 the past. It is also the intent of the legislature to ensure that the
21 correctional industries board of directors, in developing and selecting
22 correctional industries work programs, does not encourage the
23 development of, or provide for selection of or contracting for, the
24 significant expansion of any new or existing class I, class III, or
25 class IV correctional industries work programs that unfairly compete
26 with Washington businesses. The legislature intends that the
27 requirements relating to fair competition in the correctional
28 industries work programs be liberally construed to protect Washington
29 businesses from unfair competition. For purposes of establishing such
30 a comprehensive program, the legislature recommends that the department
31 consider adopting any or all, or any variation of, the following
32 classes of work programs:

33 (1) CLASS I: FREE VENTURE INDUSTRIES.

34 (a) The employer model industries in this class shall be operated
35 and managed in total or in part by any profit or nonprofit organization
36 pursuant to an agreement between the organization and the department.

1 The organization shall produce goods or services for sale to both the
2 public and private sector.

3 (b) The customer model industries in this class shall be operated
4 and managed by the department to provide Washington state manufacturers
5 or businesses with products or services currently produced or provided
6 by out-of-state or foreign suppliers.

7 (c) The correctional industries board of directors shall review
8 these proposed industries, including any potential new class I
9 industries work program or the significant expansion of an existing
10 class I industries work program, before the department contracts to
11 provide such products or services. The review shall include ~~((an))~~ the
12 analysis ~~((of the potential impact of the proposed products and~~
13 ~~services on the Washington state business community and labor market))~~
14 required under section 4 of this act to determine if the proposed
15 correctional industries work program will compete with any Washington
16 business. An agreement for a new class I correctional industries work
17 program, or an agreement for a significant expansion of an existing
18 class I correctional industries work program, that unfairly competes
19 with any Washington business is prohibited.

20 (d) The department of corrections shall supply appropriate security
21 and custody services without charge to the participating firms.

22 (e) Inmates who work in free venture industries shall do so at
23 their own choice. They shall be paid a wage comparable to the wage
24 paid for work of a similar nature in the locality in which the industry
25 is located, as determined by the director of correctional industries.
26 If the director cannot reasonably determine the comparable wage, then
27 the pay shall not be less than the federal minimum wage.

28 (f) An inmate who is employed in the class I program of
29 correctional industries shall not be eligible for unemployment
30 compensation benefits pursuant to any of the provisions of Title 50 RCW
31 until released on parole or discharged.

32 (2) CLASS II: TAX REDUCTION INDUSTRIES.

33 (a) Industries in this class shall be state-owned and operated
34 enterprises designed to reduce the costs for goods and services for
35 tax-supported agencies and for nonprofit organizations.

36 (b) The industries selected for development within this class
37 shall, as much as possible, match the available pool of inmate work
38 skills and aptitudes with the work opportunities in the free community.

1 The industries shall be closely patterned after private sector
2 industries but with the objective of reducing public support costs
3 rather than making a profit. The products and services of this
4 industry, including purchased products and services necessary for a
5 complete product line, may be sold to public agencies, to nonprofit
6 organizations, and to private contractors when the goods purchased will
7 be ultimately used by a public agency or a nonprofit organization.
8 Clothing manufactured by an industry in this class may be donated to
9 nonprofit organizations that provide clothing free of charge to low-
10 income persons.

11 (c)(i) Class II correctional industries products and services shall
12 be reviewed by the correctional industries board of directors before
13 offering such products and services for sale to private contractors.

14 (ii) The board of directors shall conduct a yearly marketing review
15 of the products and services offered under this subsection. Such
16 review shall include an analysis of the potential impact of the
17 proposed products and services on the Washington state business
18 community. To avoid waste or spoilage and consequent loss to the
19 state, when there is no public sector market for such goods, byproducts
20 and surpluses of timber, agricultural, and animal husbandry enterprises
21 may be sold to private persons, at private sale. Surplus byproducts
22 and surpluses of timber, agricultural and animal husbandry enterprises
23 that cannot be sold to public agencies or to private persons may be
24 donated to nonprofit organizations. All sales of surplus products
25 shall be carried out in accordance with rules prescribed by the
26 secretary.

27 (d) Security and custody services shall be provided without charge
28 by the department of corrections.

29 (e) Inmates working in this class of industries shall do so at
30 their own choice and shall be paid for their work on a gratuity scale
31 which shall not exceed the wage paid for work of a similar nature in
32 the locality in which the industry is located and which is approved by
33 the director of correctional industries.

34 (f) Subject to approval of the correctional industries board,
35 provisions of RCW 41.06.142 shall not apply to contracts with
36 Washington state businesses entered into by the department of
37 corrections through class II industries.

38 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

1 (a) Industries in this class shall be operated by the department of
2 corrections. They shall be designed and managed to accomplish the
3 following objectives:

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

9 ~~((b))~~ (ii) Whenever possible, to provide forty hours of work or
10 work training per week.

11 ~~((c))~~ (iii) Whenever possible, to offset tax and other public
12 support costs.

13 (b) Class III correctional industries work crews and labor camps,
14 including any potential new class III correctional industries work
15 program or the significant expansion of an existing class III
16 correctional industries work program, shall be reviewed by the
17 correctional industries board of directors. Before the correctional
18 industries board of directors approves a new class III work program or
19 the significant expansion of employment in an existing class III work
20 program, the board must certify that there will be minimal impact on
21 existing Washington workers.

22 (c) Supervising, management, and custody staff shall be employees
23 of the department.

24 (d) All able and eligible inmates who are assigned work and who are
25 not working in other classes of industries shall work in this class.

26 (e) Except for inmates who work in work training programs, inmates
27 in this class shall be paid for their work in accordance with an inmate
28 gratuity scale. The scale shall be adopted by the secretary of
29 corrections.

30 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

31 (a) Industries in this class shall be operated by the department of
32 corrections. They shall be designed and managed to provide services in
33 the inmate's resident community at a reduced cost. The services shall
34 be provided to public agencies, to persons who are poor or infirm, or
35 to nonprofit organizations.

36 (b) Class IV correctional industries work crews and labor camps,
37 including any potential new class IV correctional industries work
38 program or the significant expansion of an existing class IV

1 correctional industries work program, shall be reviewed by the
2 correctional industries board of directors. Before the correctional
3 industries board of directors approves a new class IV work program or
4 the significant expansion of employment in an existing class IV work
5 program, the board must certify that there will be minimal impact on
6 existing Washington workers.

7 (c) Inmates in this program shall reside in facilities owned by,
8 contracted for, or licensed by the department of corrections. A unit
9 of local government shall provide work supervision services without
10 charge to the state and shall pay the inmate's wage.

11 (d) The department of corrections shall reimburse participating
12 units of local government for liability and workers compensation
13 insurance costs.

14 (e) Inmates who work in this class of industries shall do so at
15 their own choice and shall receive a gratuity which shall not exceed
16 the wage paid for work of a similar nature in the locality in which the
17 industry is located.

18 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

19 (a) Programs in this class shall be subject to supervision by the
20 department of corrections. The purpose of this class of industries is
21 to enable an inmate, placed on community supervision, to work off all
22 or part of a community restitution order as ordered by the sentencing
23 court.

24 (b) Employment shall be in a community restitution program operated
25 by the state, local units of government, or a nonprofit agency.

26 (c) To the extent that funds are specifically made available for
27 such purposes, the department of corrections shall reimburse nonprofit
28 agencies for workers compensation insurance costs.

29 NEW SECTION. Sec. 4. A new section is added to chapter 72.09 RCW
30 to read as follows:

31 (1) The department must prepare a threshold analysis for any
32 proposed new class I correctional industries work program or the
33 significant expansion of an existing class I correctional industries
34 work program before the department enters into an agreement to provide
35 such products or services. The analysis must state whether the
36 proposed new or expanded program will impact any Washington business

1 and must be based on information sufficient to evaluate the impact on
2 Washington business.

3 (2) If the threshold analysis determines that a proposed new or
4 expanded class I correctional industries work program will impact a
5 Washington business, the department must complete a business impact
6 analysis before the department enters into an agreement to provide such
7 products or services. The business impact analysis must include:

8 (a) A detailed statement identifying the scope and types of impacts
9 caused by the proposed new or expanded correctional industries work
10 program on Washington businesses; and

11 (b) A detailed statement of the actual business costs of the
12 proposed correctional industries work program compared to the actual
13 business costs of the impacted Washington businesses. Actual business
14 costs of the proposed correctional industries work program include but
15 are not limited to rent, water, sewer, electricity, disposal, labor
16 costs, and any other quantifiable expense unique to operating in a
17 prison. Actual business costs of the impacted Washington business
18 include but are not limited to rent, water, sewer, electricity,
19 disposal, property taxes, and labor costs including employee taxes,
20 unemployment insurance, and workers' compensation.

21 (3) The completed threshold analysis and any completed business
22 impact analysis with all supporting documents must be shared in a
23 meaningful and timely manner with affected chambers of commerce, trade
24 or business associations, local and state labor union organizations,
25 and government entities before a finding required under subsection (4)
26 of this section is made on the proposed new or expanded class I
27 correctional industries work program.

28 (4) If a business impact analysis is completed, the department must
29 conduct a public hearing to take public testimony on the business
30 impact analysis. The department must, at a minimum, establish a
31 publicly accessible web site containing information reasonably
32 calculated to provide notice to each Washington business assigned the
33 same three-digit standard industrial classification code, or the
34 corresponding North American industry classification system code, as
35 the organization seeking the class I correctional industries work
36 program agreement of the date, time, and place of the hearing. Notice
37 of the hearing shall be posted at least thirty days prior to the
38 hearing. Following the public hearing, the department shall adopt a

1 finding that the proposed new or expanded class I correctional
2 industries work program: (a) Will not compete with any Washington
3 business; (b) will not compete unfairly with any Washington business;
4 or (c) will compete unfairly with any Washington business and is
5 therefore prohibited under this act.

6 **Sec. 5.** RCW 72.09.460 and 1998 c 244 s 10 are each amended to read
7 as follows:

8 (1) The legislature intends that all inmates be required to
9 participate in department-approved education programs, work programs,
10 or both, unless exempted under subsection (4) of this section.
11 Eligible inmates who refuse to participate in available education or
12 work programs available at no charge to the inmates shall lose
13 privileges according to the system established under RCW 72.09.130.
14 Eligible inmates who are required to contribute financially to an
15 education or work program and refuse to contribute shall be placed in
16 another work program. Refusal to contribute shall not result in a loss
17 of privileges. The legislature recognizes more inmates may agree to
18 participate in education and work programs than are available. The
19 department must make every effort to achieve maximum public benefit by
20 placing inmates in available and appropriate education and work
21 programs.

22 (2) The department shall provide access to a program of education
23 to all offenders who are under the age of eighteen and who have not met
24 high school graduation or general equivalency diploma requirements in
25 accordance with chapter 28A.193 RCW. The program of education
26 established by the department and education provider under RCW
27 28A.193.020 for offenders under the age of eighteen must provide each
28 offender a choice of curriculum that will assist the inmate in
29 achieving a high school diploma or general equivalency diploma. The
30 program of education may include but not be limited to basic education,
31 prevocational training, work ethic skills, conflict resolution
32 counseling, substance abuse intervention, and anger management
33 counseling. The curriculum may balance these and other rehabilitation,
34 work, and training components.

35 (3) The department shall, to the extent possible and considering
36 all available funds, prioritize its resources to meet the following
37 goals for inmates in the order listed:

1 (a) Achievement of basic academic skills through obtaining a high
2 school diploma or its equivalent and achievement of vocational skills
3 necessary for purposes of work programs and for an inmate to qualify
4 for work upon release;

5 (b) Additional work and education programs based on assessments and
6 placements under subsection (5) of this section; and

7 (c) Other work and education programs as appropriate.

8 (4) The department shall establish, by rule, objective medical
9 standards to determine when an inmate is physically or mentally unable
10 to participate in available education or work programs. When the
11 department determines an inmate is permanently unable to participate in
12 any available education or work program due to a medical condition, the
13 inmate is exempt from the requirement under subsection (1) of this
14 section. When the department determines an inmate is temporarily
15 unable to participate in an education or work program due to a medical
16 condition, the inmate is exempt from the requirement of subsection (1)
17 of this section for the period of time he or she is temporarily
18 disabled. The department shall periodically review the medical
19 condition of all temporarily disabled inmates to ensure the earliest
20 possible entry or reentry by inmates into available programming.

21 (5) The department shall establish, by rule, standards for
22 participation in department-approved education and work programs. The
23 standards shall address the following areas:

24 (a) Assessment. The department shall assess all inmates for their
25 basic academic skill levels using a professionally accepted method of
26 scoring reading, math, and language skills as grade level equivalents.
27 The department shall determine an inmate's education history, work
28 history, and vocational or work skills. The initial assessment shall
29 be conducted, whenever possible, within the first thirty days of an
30 inmate's entry into the correctional system, except that initial
31 assessments are not required for inmates who are sentenced to life
32 without the possibility of release, assigned to an intensive management
33 unit within the first thirty days after entry into the correctional
34 system, are returning to the correctional system within one year of a
35 prior release, or whose physical or mental condition renders them
36 unable to complete the assessment process. The department shall track
37 and record changes in the basic academic skill levels of all inmates

1 reflected in any testing or assessment performed as part of their
2 education programming;

3 (b) Placement. The department shall follow the policies set forth
4 in subsection (1) of this section in establishing criteria for placing
5 inmates in education and work programs. The department shall, to the
6 extent possible, place all inmates whose composite grade level score
7 for basic academic skills is below the eighth grade level in a combined
8 education and work program. The placement criteria shall include at
9 least the following factors:

10 (i) An inmate's release date and custody level(~~(, except)~~). An
11 inmate shall not be precluded from participating in an education or
12 work program solely on the basis of his or her release date, ~~except~~
13 that inmates with a sentence of more than one hundred twenty months
14 shall not comprise more than ten percent of inmates participating in a
15 new class I correctional industry not in existence on the effective
16 date of this section;

- 17 (ii) An inmate's education history and basic academic skills;
- 18 (iii) An inmate's work history and vocational or work skills;
- 19 (iv) An inmate's economic circumstances, including but not limited
20 to an inmate's family support obligations; and
- 21 (v) Where applicable, an inmate's prior performance in department-
22 approved education or work programs;

23 (c) Performance and goals. The department shall establish, and
24 periodically review, inmate behavior standards and program goals for
25 all education and work programs. Inmates shall be notified of
26 applicable behavior standards and program goals prior to placement in
27 an education or work program and shall be removed from the education or
28 work program if they consistently fail to meet the standards or goals;

29 (d) Financial responsibility. (i) The department shall establish
30 a formula by which inmates, based on their ability to pay, shall pay
31 all or a portion of the costs or tuition of certain programs. Inmates
32 shall, based on the formula, pay a portion of the costs or tuition of
33 participation in:

- 34 (A) Second and subsequent vocational programs associated with an
35 inmate's work programs; and
- 36 (B) An associate of arts or baccalaureate degree program when
37 placement in a degree program is the result of a placement made under
38 this subsection;

1 (ii) Inmates shall pay all costs and tuition for participation in:
2 (A) Any postsecondary academic degree program which is entered
3 independently of a placement decision made under this subsection; and
4 (B) Second and subsequent vocational programs not associated with
5 an inmate's work program.

6 Enrollment in any program specified in (d)(ii) of this subsection
7 shall only be allowed by correspondence or if there is an opening in an
8 education or work program at the institution where an inmate is
9 incarcerated and no other inmate who is placed in a program under this
10 subsection will be displaced; and

11 (e) Notwithstanding any other provision in this section, an inmate
12 sentenced to life without the possibility of release:

13 (i) Shall not be required to participate in education programming;
14 and

15 (ii) May receive not more than one postsecondary academic degree in
16 a program offered by the department or its contracted providers.

17 If an inmate sentenced to life without the possibility of release
18 requires prevocational or vocational training for a work program, he or
19 she may participate in the training subject to this section.

20 (6) The department shall coordinate education and work programs
21 among its institutions, to the greatest extent possible, to facilitate
22 continuity of programming among inmates transferred between
23 institutions. Before transferring an inmate enrolled in a program, the
24 department shall consider the effect the transfer will have on the
25 inmate's ability to continue or complete a program. This subsection
26 shall not be used to delay or prohibit a transfer necessary for
27 legitimate safety or security concerns.

28 (7) Before construction of a new correctional institution or
29 expansion of an existing correctional institution, the department shall
30 adopt a plan demonstrating how cable, closed-circuit, and satellite
31 television will be used for education and training purposes in the
32 institution. The plan shall specify how the use of television in the
33 education and training programs will improve inmates' preparedness for
34 available work programs and job opportunities for which inmates may
35 qualify upon release.

36 (8) The department shall adopt a plan to reduce the per-pupil cost
37 of instruction by, among other methods, increasing the use of volunteer
38 instructors and implementing technological efficiencies. The plan

1 shall be adopted by December 1996 and shall be transmitted to the
2 legislature upon adoption. The department shall, in adoption of the
3 plan, consider distance learning, satellite instruction, video tape
4 usage, computer-aided instruction, and flexible scheduling of offender
5 instruction.

6 (9) Following completion of the review required by section 27(3),
7 chapter 19, Laws of 1995 1st sp. sess. the department shall take all
8 necessary steps to assure the vocation and education programs are
9 relevant to work programs and skills necessary to enhance the
10 employability of inmates upon release.

11 **Sec. 6.** RCW 72.09.015 and 1995 1st sp.s. c 19 s 3 are each amended
12 to read as follows:

13 The definitions in this section apply throughout this chapter.

14 (1) "Base level of correctional services" means the minimum level
15 of field services the department of corrections is required by statute
16 to provide for the supervision and monitoring of offenders.

17 (2) "Contraband" means any object or communication the secretary
18 determines shall not be allowed to be: (a) Brought into; (b) possessed
19 while on the grounds of; or (c) sent from any institution under the
20 control of the secretary.

21 (3) "County" means a county or combination of counties.

22 (4) "Department" means the department of corrections.

23 (5) "Earned early release" means earned (~~early~~) release as
24 authorized by RCW 9.94A.728.

25 (6) "Extended family visit" means an authorized visit between an
26 inmate and a member of his or her immediate family that occurs in a
27 private visiting unit located at the correctional facility where the
28 inmate is confined.

29 (7) "Good conduct" means compliance with department rules and
30 policies.

31 (8) "Good performance" means successful completion of a program
32 required by the department, including an education, work, or other
33 program.

34 (9) "Immediate family" means the inmate's children, stepchildren,
35 grandchildren, great grandchildren, parents, stepparents, grandparents,
36 great grandparents, siblings, and a person legally married to an

1 inmate. "Immediate family" does not include an inmate adopted by
2 another inmate or the immediate family of the adopted or adopting
3 inmate.

4 (10) "Indigent inmate," "indigent," and "indigency" mean an inmate
5 who has less than a ten-dollar balance of disposable income in his or
6 her institutional account on the day a request is made to utilize funds
7 and during the thirty days previous to the request.

8 (11) "Inmate" means a person committed to the custody of the
9 department, including but not limited to persons residing in a
10 correctional institution or facility and persons released on furlough,
11 work release, or community custody, and persons received from another
12 state, state agency, county, or federal jurisdiction.

13 (12) "Privilege" means any goods or services, education or work
14 programs, or earned early release days, the receipt of which are
15 directly linked to an inmate's (a) good conduct; and (b) good
16 performance. Privileges do not include any goods or services the
17 department is required to provide under the state or federal
18 Constitution or under state or federal law.

19 (13) "Secretary" means the secretary of corrections or his or her
20 designee.

21 (14) "Significant expansion" includes any expansion into a new
22 product line or service or an increase in production of the same
23 product or service. An increase in production of the same product or
24 service is one that results from an increase in benefits provided by
25 the department, including but not limited to a decrease in labor costs,
26 rent, or utility costs, an increase in work program space, tax
27 advantages, or other overhead costs.

28 (15) "Superintendent" means the superintendent of a correctional
29 facility under the jurisdiction of the Washington state department of
30 corrections, or his or her designee.

31 ((+15)) (16) "Unfair competition" means any net competitive
32 advantage that a business may acquire as a result of a correctional
33 industries contract, including but not limited to labor costs, rent,
34 tax advantages, utility costs, and other overhead costs. To determine
35 net competitive advantage, the correctional industries board shall
36 review and quantify any expenses unique to operating a for-profit
37 business inside a prison.

1 Purchasing policies and procedures followed by institutions of higher
2 education shall be in compliance with chapter 39.19 RCW. Any
3 institution of higher education that chooses to exercise independent
4 printing production or purchasing authority shall notify the public
5 printer. Thereafter the public printer shall not be required to
6 provide those services for that institution.

7 **Sec. 8.** RCW 72.09.111 and 2003 c 379 s 25 and 2003 c 271 s 2 are
8 each reenacted and amended to read as follows:

9 (1) The secretary shall deduct taxes and legal financial
10 obligations from the gross wages, gratuities, or workers' compensation
11 benefits payable directly to the inmate under chapter 51.32 RCW, of
12 each inmate working in correctional industries work programs, or
13 otherwise receiving such wages, gratuities, or benefits. The secretary
14 shall also deduct child support payments from the gratuities of each
15 inmate working in class II through class IV correctional industries
16 work programs. The secretary shall develop a formula for the
17 distribution of offender wages, gratuities, and benefits. The formula
18 shall not reduce the inmate account below the indigency level, as
19 defined in RCW 72.09.015.

20 (a) The formula shall include the following minimum deductions from
21 class I gross wages and from all others earning at least minimum wage:

22 (i) Five percent to the public safety and education account for the
23 purpose of crime victims' compensation;

24 (ii) Ten percent to a department personal inmate savings account;

25 (iii) Twenty percent to the department to contribute to the cost of
26 incarceration; and

27 (iv) Twenty percent for payment of legal financial obligations for
28 all inmates who have legal financial obligations owing in any
29 Washington state superior court.

30 (b) The formula shall include the following minimum deductions from
31 class II gross gratuities:

32 (i) Five percent to the public safety and education account for the
33 purpose of crime victims' compensation;

34 (ii) Ten percent to a department personal inmate savings account;

35 (iii) Fifteen percent to the department to contribute to the cost
36 of incarceration;

1 (iv) Twenty percent for payment of legal financial obligations for
2 all inmates who have legal financial obligations owing in any
3 Washington state superior court; and

4 (v) Fifteen percent for any child support owed under a support
5 order.

6 (c) The formula shall include the following minimum deductions from
7 any workers' compensation benefits paid pursuant to RCW 51.32.080:

8 (i) Five percent to the public safety and education account for the
9 purpose of crime victims' compensation;

10 (ii) Ten percent to a department personal inmate savings account;

11 (iii) Twenty percent to the department to contribute to the cost of
12 incarceration; and

13 (iv) An amount equal to any legal financial obligations owed by the
14 inmate established by an order of any Washington state superior court
15 up to the total amount of the award.

16 (d) The formula shall include the following minimum deductions from
17 class III gratuities:

18 (i) Five percent for the purpose of crime victims' compensation;
19 and

20 (ii) Fifteen percent for any child support owed under a support
21 order.

22 (e) The formula shall include the following minimum deduction from
23 class IV gross gratuities:

24 (i) Five percent to the department to contribute to the cost of
25 incarceration; and

26 (ii) Fifteen percent for any child support owed under a support
27 order.

28 (2) Any person sentenced to life imprisonment without possibility
29 of release or parole under chapter 10.95 RCW or sentenced to death
30 shall be exempt from the requirement under subsection (1)(a)(ii),
31 (b)(ii), or (c)(ii).

32 (3) The department personal inmate savings account, together with
33 any accrued interest, shall only be available to an inmate at the time
34 of his or her release from confinement, unless the secretary determines
35 that an emergency exists for the inmate, at which time the funds can be
36 made available to the inmate in an amount determined by the secretary.
37 The management of classes I, II, and IV correctional industries may
38 establish an incentive payment for offender workers based on

1 productivity criteria. This incentive shall be paid separately from
2 the hourly wage/gratuity rate and shall not be subject to the specified
3 deduction for cost of incarceration.

4 (4) The expansion of inmate employment in class I and class II
5 correctional industries shall be implemented according to the following
6 schedule:

7 (a) Not later than June 30, 2005, the secretary shall achieve a net
8 increase of at least two hundred in the number of inmates employed in
9 class I or class II correctional industries work programs above the
10 number so employed on June 30, 2003;

11 (b) Not later than June 30, 2006, the secretary shall achieve a net
12 increase of at least four hundred in the number of inmates employed in
13 class I or class II correctional industries work programs above the
14 number so employed on June 30, 2003;

15 (c) Not later than June 30, 2007, the secretary shall achieve a net
16 increase of at least six hundred in the number of inmates employed in
17 class I or class II correctional industries work programs above the
18 number so employed on June 30, 2003;

19 (d) Not later than June 30, 2008, the secretary shall achieve a net
20 increase of at least nine hundred in the number of inmates employed in
21 class I or class II correctional industries work programs above the
22 number so employed on June 30, 2003;

23 (e) Not later than June 30, 2009, the secretary shall achieve a net
24 increase of at least one thousand two hundred in the number of inmates
25 employed in class I or class II correctional industries work programs
26 above the number so employed on June 30, 2003;

27 (f) Not later than June 30, 2010, the secretary shall achieve a net
28 increase of at least one thousand five hundred in the number of inmates
29 employed in class I or class II correctional industries work programs
30 above the number so employed on June 30, 2003.

31 (5) In the event that the offender worker's wages, gratuity, or
32 workers' compensation benefit is subject to garnishment for support
33 enforcement, the crime victims' compensation, savings, and cost of
34 incarceration deductions shall be calculated on the net wages after
35 taxes, legal financial obligations, and garnishment.

36 ~~((+5))~~ (6) The department shall explore other methods of
37 recovering a portion of the cost of the inmate's incarceration and for
38 encouraging participation in work programs, including development of

1 incentive programs that offer inmates benefits and amenities paid for
2 only from wages earned while working in a correctional industries work
3 program.

4 ~~((6))~~ (7) The department shall develop the necessary
5 administrative structure to recover inmates' wages and keep records of
6 the amount inmates pay for the costs of incarceration and amenities.
7 All funds deducted from inmate wages under subsection (1) of this
8 section for the purpose of contributions to the cost of incarceration
9 shall be deposited in a dedicated fund with the department and shall be
10 used only for the purpose of enhancing and maintaining correctional
11 industries work programs.

12 ~~((7))~~ (8) The expansion of inmate employment in class I and class
13 II correctional industries shall be implemented according to the
14 following schedule:

15 (a) Not later than June 30, 1995, the secretary shall achieve a net
16 increase of at least two hundred in the number of inmates employed in
17 class I or class II correctional industries work programs above the
18 number so employed on June 30, 1994;

19 (b) Not later than June 30, 1996, the secretary shall achieve a net
20 increase of at least four hundred in the number of inmates employed in
21 class I or class II correctional industries work programs above the
22 number so employed on June 30, 1994;

23 (c) Not later than June 30, 1997, the secretary shall achieve a net
24 increase of at least six hundred in the number of inmates employed in
25 class I or class II correctional industries work programs above the
26 number so employed on June 30, 1994;

27 (d) Not later than June 30, 1998, the secretary shall achieve a net
28 increase of at least nine hundred in the number of inmates employed in
29 class I or class II correctional industries work programs above the
30 number so employed on June 30, 1994;

31 (e) Not later than June 30, 1999, the secretary shall achieve a net
32 increase of at least one thousand two hundred in the number of inmates
33 employed in class I or class II correctional industries work programs
34 above the number so employed on June 30, 1994;

35 (f) Not later than June 30, 2000, the secretary shall achieve a net
36 increase of at least one thousand five hundred in the number of inmates
37 employed in class I or class II correctional industries work programs
38 above the number so employed on June 30, 1994.

1 (~~(8)~~) (9) It shall be in the discretion of the secretary to
2 apportion the inmates between class I and class II depending on
3 available contracts and resources.

4 (~~(9)~~) (10) Nothing in this section shall limit the authority of
5 the department of social and health services division of child support
6 from taking collection action against an inmate's moneys, assets, or
7 property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

8 NEW SECTION. **Sec. 9.** Section 3 of this act takes effect July 1,
9 2005.

10 NEW SECTION. **Sec. 10.** Section 2 of this act expires July 1, 2005.

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