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SENATE BILL 6551

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State of Washington 57th Legislature

2002 Regular Session

By Senators Fairley, Keiser, Franklin and Prentice

Read first time 01/21/2002. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to inmate labor; and amending RCW 72.09.010,  
2 72.09.100, and 72.09.111.

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

4 **Sec. 1.** RCW 72.09.010 and 1995 1st sp.s. c 19 s 2 are each amended  
5 to read as follows:

6 It is the intent of the legislature to establish a comprehensive  
7 system of corrections for convicted law violators within the state of  
8 Washington to accomplish the following objectives.

9 (1) The system should ensure the public safety. The system should  
10 be designed and managed to provide the maximum feasible safety for the  
11 persons and property of the general public, the staff, and the inmates.

12 (2) The system should punish the offender for violating the laws of  
13 the state of Washington. This punishment should generally be limited  
14 to the denial of liberty of the offender.

15 (3) The system should positively impact offenders by stressing  
16 personal responsibility and accountability and by discouraging  
17 recidivism.

1 (4) The system should treat all offenders fairly and equitably  
2 without regard to race, religion, sex, national origin, residence, or  
3 social condition.

4 (5) The system, as much as possible, should reflect the values of  
5 the community including:

6 (a) Citizens who live and work in the community shall not be  
7 displaced from their jobs by inmates.

8 (b) Avoiding idleness. Idleness is not only wasteful but  
9 destructive to the individual and to the community.

10 ~~((b))~~ (c) Adoption of the work ethic. It is the community  
11 expectation that all individuals should work and through their efforts  
12 benefit both themselves and the community.

13 ~~((e))~~ (d) Providing opportunities for self improvement. All  
14 individuals should have opportunities to grow and expand their skills  
15 and abilities so as to fulfill their role in the community.

16 ~~((d))~~ (e) Linking the receipt or denial of privileges to  
17 responsible behavior and accomplishments. The individual who works to  
18 improve himself or herself and the community should be rewarded for  
19 these efforts. As a corollary, there should be no rewards for no  
20 effort.

21 ~~((e))~~ (f) Sharing in the obligations of the community. All  
22 citizens, the public and inmates alike, have a personal and fiscal  
23 obligation in the corrections system. All communities must share in  
24 the responsibility of the corrections system.

25 (6) The system should provide for prudent management of resources.  
26 The avoidance of unnecessary or inefficient public expenditures on the  
27 part of offenders and the department is essential. Offenders must be  
28 accountable to the department, and the department to the public and the  
29 legislature. The human and fiscal resources of the community are  
30 limited. The management and use of these resources can be enhanced by  
31 wise investment, productive programs, the reduction of duplication and  
32 waste, and the joining together of all involved parties in a common  
33 endeavor. Since most offenders return to the community, it is wise for  
34 the state and the communities to make an investment in effective  
35 rehabilitation programs for offenders and the wise use of resources.

36 (7) The system should provide for inmate work programs. Inmates  
37 shall be paid a wage comparable to the wage paid for work of a similar  
38 nature in the locality in which the industry is located as determined  
39 by the director of correctional industries in consultation with the

1 commissioner of employment security. If the director and commissioner  
2 cannot reasonably determine the comparable wage, then the pay shall not  
3 be less than the state minimum wage.

4 (8) The system should provide for restitution. Those who have  
5 damaged others, persons or property, have a responsibility to make  
6 restitution for these damages.

7 ((+8)) (9) The system should be accountable to the citizens of the  
8 state. In return, the individual citizens and local units of  
9 government must meet their responsibilities to make the corrections  
10 system effective.

11 ((+9)) (10) The system should meet those national standards which  
12 the state determines to be appropriate.

13 **Sec. 2.** RCW 72.09.100 and 1995 1st sp.s. c 19 s 33 are each  
14 amended to read as follows:

15 It is the intent of the legislature to vest in the department the  
16 power to provide for a comprehensive inmate work program and to remove  
17 statutory and other restrictions which have limited work programs in  
18 the past. For purposes of establishing such a comprehensive program,  
19 the legislature recommends that the department consider adopting any or  
20 all, or any variation of, the following classes of work programs:

21 (1) CLASS I: FREE VENTURE INDUSTRIES. The employer model  
22 industries in this class shall be operated and managed in total or in  
23 part by any profit or nonprofit organization pursuant to an agreement  
24 between the organization and the department. The organization shall  
25 produce goods or services for sale to both the public and private  
26 sector.

27 The customer model industries in this class shall be operated and  
28 managed by the department to provide Washington state manufacturers or  
29 businesses with products or services currently produced or provided by  
30 out-of-state or foreign suppliers. The correctional industries board  
31 of directors shall review these proposed industries before the  
32 department contracts to provide such products or services. The review  
33 shall include an analysis of the potential impact of the proposed  
34 products and services on the Washington state business community and  
35 labor market.

36 The department of corrections shall supply appropriate security and  
37 custody services without charge to the participating firms.

1 Inmates who work in free venture industries shall do so at their  
2 own choice. They shall be paid a wage comparable to the wage paid for  
3 work of a similar nature in the locality in which the industry is  
4 located, as determined by the director of correctional industries in  
5 consultation with the commissioner of employment security. If the  
6 director and commissioner cannot reasonably determine the comparable  
7 wage, then the pay shall not be less than the (~~federal~~) state minimum  
8 wage.

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

13 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class  
14 shall be state-owned and operated enterprises designed to reduce the  
15 costs for goods and services for tax-supported agencies and for  
16 nonprofit organizations. The industries selected for development  
17 within this class shall, as much as possible, match the available pool  
18 of inmate work skills and aptitudes with the work opportunities in the  
19 free community. The industries shall be closely patterned after  
20 private sector industries but with the objectives (~~of reducing public~~  
21 ~~support costs rather than making a profit~~) following the legislative  
22 intent under RCW 72.09.010. The products and services of this  
23 industry, including purchased products and services necessary for a  
24 complete product line, may be sold to public agencies, to nonprofit  
25 organizations, and to private contractors when the goods purchased will  
26 be ultimately used by a public agency or a nonprofit organization.  
27 Clothing manufactured by an industry in this class may be donated to  
28 nonprofit organizations that provide clothing free of charge to low-  
29 income persons. Correctional industries products and services shall be  
30 reviewed by the correctional industries board of directors before  
31 offering such products and services for sale to private contractors.  
32 The board of directors shall conduct a yearly marketing review of the  
33 products and services offered under this subsection. Such review shall  
34 include an analysis of the potential impact of the proposed products  
35 and services on the Washington state business community and labor  
36 market. To avoid waste or spoilage and consequent loss to the state,  
37 when there is no public sector market for such goods, byproducts and  
38 surpluses of timber, agricultural, and animal husbandry enterprises may  
39 be sold to private persons, at private sale. Surplus byproducts and

1 surpluses of timber, agricultural and animal husbandry enterprises that  
2 cannot be sold to public agencies or to private persons may be donated  
3 to nonprofit organizations. All sales of surplus products shall be  
4 carried out in accordance with rules prescribed by the secretary.

5 Security and custody services shall be provided without charge by  
6 the department of corrections.

7 Inmates working in this class of industries shall do so at their  
8 own choice and shall be paid (~~for their work on a gratuity scale which~~  
9 ~~shall not exceed the wage paid for work of a similar nature in the~~  
10 ~~locality in which the industry is located and which is approved by the~~  
11 ~~director of correctional industries~~) a wage comparable to the wage  
12 paid for work of a similar nature in the locality in which the industry  
13 is located as determined by the director of correctional industries in  
14 consultation with the commissioner of employment security. If the  
15 director and commissioner cannot reasonably determine the comparable  
16 wage, then the pay shall not be less than the state minimum wage.

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

22 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES. Industries in  
23 this class shall be operated by the department of corrections. They  
24 shall be designed and managed to accomplish the following objectives:

25 (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 (b) Whenever possible, to provide forty hours of work or work  
31 training per week.

32 (c) Whenever possible, to offset tax and other public support  
33 costs.

34 Supervising, management, and custody staff shall be employees of  
35 the department.

36 All able and eligible inmates who are assigned work and who are not  
37 working in other classes of industries shall work in this class.

38 Except for inmates who work in work training programs, inmates in  
39 this class shall be paid (~~for their work in accordance with an inmate~~

1 ~~gratuity scale. The scale shall be adopted by the secretary of~~  
2 ~~corrections))~~ a wage comparable to the wage paid for work of a similar  
3 nature in the locality in which the industry is located, as determined  
4 by the director of correctional industries in consultation with the  
5 commissioner of employment security. If the director and commissioner  
6 cannot reasonably determine the comparable wage, then the pay shall not  
7 be less than the state minimum wage.

8 (4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this class  
9 shall be operated by the department of corrections. They shall be  
10 designed and managed to provide services in the inmate's resident  
11 community at a reduced cost. The services shall be provided to public  
12 agencies, to persons who are poor or infirm, or to nonprofit  
13 organizations.

14 Inmates in this program shall reside in facilities owned by,  
15 contracted for, or licensed by the department of corrections. A unit  
16 of local government shall provide work supervision services without  
17 charge to the state and shall pay the inmate's wage.

18 The department of corrections shall reimburse participating units  
19 of local government for liability and workers compensation insurance  
20 costs.

21 Inmates who work in this class of industries shall do so at their  
22 own choice and shall ~~((receive a gratuity which shall not exceed the~~  
23 ~~wage paid for work of a similar nature in the locality in which the~~  
24 ~~industry is located))~~ be paid a wage comparable to the wage paid for  
25 work of a similar nature in the locality in which the industry is  
26 located, as determined by the director of correctional industries in  
27 consultation with the commissioner of employment security. If the  
28 director and commissioner cannot reasonably determine the comparable  
29 wage, then the pay shall not be less than the state minimum wage.

30 (5) CLASS V: COMMUNITY SERVICE PROGRAMS. Programs in this class  
31 shall be subject to supervision by the department of corrections. The  
32 purpose of this class of industries is to enable an inmate, placed on  
33 community supervision, to work off all or part of a community service  
34 order as ordered by the sentencing court.

35 Employment shall be in a community service program operated by the  
36 state, local units of government, or a nonprofit agency.

37 To the extent that funds are specifically made available for such  
38 purposes, the department of corrections shall reimburse nonprofit  
39 agencies for workers compensation insurance costs.

1       **Sec. 3.** RCW 72.09.111 and 1999 c 325 s 2 are each amended to read  
2 as follows:

3       (1) The secretary shall deduct from the gross wages or gratuities  
4 of each inmate working in correctional industries work programs, taxes  
5 and legal financial obligations. The secretary shall develop a formula  
6 for the distribution of offender wages and gratuities following the  
7 legislative intent under RCW 72.09.010.

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

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

12       (ii) Ten percent to a department personal inmate savings account;  
13 and

14       (iii) Twenty percent to the department to contribute to the cost of  
15 incarceration.

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

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

20       (ii) Ten percent to a department personal inmate savings account;  
21 and

22       (iii) Fifteen percent to the department to contribute to the cost  
23 of incarceration.

24       (c) The formula shall include the following minimum deduction from  
25 class IV gross gratuities: Five percent to the department to  
26 contribute to the cost of incarceration.

27       (d) The formula shall include the following minimum deductions from  
28 class III gratuities: Five percent for the purpose of crime victims'  
29 compensation.

30       Any person sentenced to life imprisonment without possibility of  
31 release or parole under chapter 10.95 RCW or sentenced to death shall  
32 be exempt from the requirement under (a)(ii) or (b)(ii) of this  
33 subsection.

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

1 establish an incentive payment for offender workers based on  
2 productivity criteria. This incentive shall be paid separately from  
3 the hourly wage/gratuity rate and shall not be subject to the specified  
4 deduction for cost of incarceration.

5 In the event that the offender worker's wages or gratuity is  
6 subject to garnishment for support enforcement, the crime victims'  
7 compensation, savings, and cost of incarceration deductions shall be  
8 calculated on the net wages after taxes, legal financial obligations,  
9 and garnishment.

10 (2) The department shall explore other methods of recovering a  
11 portion of the cost of the inmate's incarceration and for encouraging  
12 participation in work programs, including development of incentive  
13 programs that offer inmates benefits and amenities paid for only from  
14 wages earned while working in a correctional industries work program.

15 (3) The department shall develop the necessary administrative  
16 structure to recover inmates' wages and keep records of the amount  
17 inmates pay for the costs of incarceration and amenities. All funds  
18 deducted from inmate wages under subsection (1) of this section for the  
19 purpose of contributions to the cost of incarceration shall be  
20 deposited in a dedicated fund with the department and shall be used  
21 only for the purpose of enhancing and maintaining correctional  
22 industries work programs.

23 (4) The expansion of inmate employment in class I and class II  
24 correctional industries shall be implemented according to the following  
25 schedule, and following the legislative intent under RCW 72.09.010:

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

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

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

38 (d) Not later than June 30, 1998, the secretary shall achieve a net  
39 increase of at least nine hundred in the number of inmates employed in



1 class I or class II correctional industries work programs above the  
2 number so employed on June 30, 1994;

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

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

11 (5) It shall be in the discretion of the secretary to apportion the  
12 inmates between class I and class II depending on available contracts  
13 and resources.

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