

HOUSE BILL REPORT

SSB 5631

As Reported by House Committee On:
Criminal Justice & Corrections
Appropriations

Title: An act relating to inmate work programs.

Brief Description: Changing provisions relating to inmate work programs.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Stevens, Brandland, Kline, McAuliffe, Franklin, Prentice, Esser, Delvin and Kohl-Welles).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 3/24/05, 4/1/05 [DPA];
Appropriations: 4/2/05 [DPA(CJC)].

**Brief Summary of Substitute Bill
(As Amended by House Committee)**

- Expands the list of potential customers for products and services produced by class II industries.
- Encourages school districts to set as a target to purchase up to 1 percent of the total goods required by the school districts each year from the Department of Corrections class II inmate work programs.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass as amended. Signed by 4 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Kagi and Kirby.

Minority Report: Do not pass. Signed by 3 members: Representatives Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; and Strow.

Staff: Yvonne Walker (786-7841).

Background:

The Department of Corrections (DOC) operates five classes of correctional industry work programs. All inmates working in class I - IV employment receive financial compensation for

their work. Class V jobs are court ordered community work that is preformed for the benefit of the community without financial compensation.

Class I Industries. Inmates working in class I ("free venture") industries are paid according to the prevailing wage for comparable work in that locality. There are two models for class I industries authorized under state law — an employer model and a customer model.

Employer model industries are operated and managed by for-profit or nonprofit organizations under contract with the DOC. They produce goods and services for sale to both the public and private sector. Customer model class I industries are operated and managed by the DOC to produce and provide Washington businesses with products or services currently produced only by out-of-state or foreign suppliers. There are currently no customer model class I industries operating in the state.

Inmates working in free venture industries do so at their own choice and are paid a wage comparable to the wage paid for work of a similar nature in the locality in which the industry is located (ranging from \$7.16 to \$14.76 per hour). The production of window blinds, metal fabrication, upholstery, concrete work, water-jet cutting, sewing, cabiners, and multi-packaging services, are examples of jobs found in the class I industries work program. Security and custody services are supplied to the participating firm without charge.

Class II Industries. Class II ("tax reduction") industries are state-owned and operated industries designed to reduce the costs for goods and services for public agencies and nonprofit organizations. Industries in this class must be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit. The products and services of this industry, including purchased products and services necessary for a complete product line, may only be sold to public agencies, nonprofit organizations, and to private contractors when the goods purchased will ultimately be used by a public agency or a nonprofit organization.

Inmates working in tax reduction industries do so at their own choice and are paid a gratuity which cannot exceed the wage paid for work of a similar nature in the locality in which the industry is located. Class II gratuities range from 35 cents to \$1.10 per hour and includes such jobs as: producing aluminum signs, license plates and tabs, mattresses, asbestos abatement, meat processing, optical lab, engraving, pheasant raising, furniture manufacturing, screen printing and embroidery, industrial sewing, and laundry. Security and custody services are provided without charge by the DOC.

The wages of inmates working in class I and II industries are subject to deductions by the DOC for crime victims' compensation, the inmate's savings account, costs of incarceration, child support, and legal financial obligations.

Court Decision. The Washington Supreme Court (Supreme Court) decision of August 18, 2004, reaffirmed the initial opinion issued on May 9, 2004, that determined class I "free venture" industries were unconstitutional. The Supreme Court determined that the law authorizing class I industries conflicts with Article II, Section 29 of the Washington Constitution, that states, "After the first day of January eighteen hundred ninety the labor of

convicts of this state shall not be let out by contract to any person, copartnership, company or corporation, and the Legislature shall by law provide for the working of convicts for the benefit of the state."

Since the Supreme Court's decision in May 2004, nine businesses have stopped employing class I industries workers at three correctional institutions in the state. Approximately 270 class I jobs have been lost.

Summary of Amended Bill:

The list of potential customers for products and services produced by class II industries is expanded to include employees and family members of employees of the DOC and any person under the supervision of the DOC and their family members.

The Correctional Industry Board must authorize the type and quantity of class II products that may be purchased and sold to employees, family members of employees of the DOC, inmates of the DOC and their family members. It is prohibited for any person purchasing such an item for the purpose of resale.

School districts are authorized to purchase goods, such as furniture, equipment, and supplies from class II industries. Beginning after June 30, 2006, school districts are encouraged to set as a target to contract to purchase up to 1 percent of the total goods required by the school districts each year from the DOC class II inmate work programs.

Amended Bill Compared to Substitute Bill:

A provision is added that: (1) requires the Correctional Industries Board to authorize the type and quantity of class II products that may be purchased and sold to employees and family members of employees of the DOC and inmates of the DOC and their family members; and (2) prohibits any person to purchase such items for the purpose of resale.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Correctional Industries provides meaningful work experiences in our prisons for inmates. Security is one of those benefits as well as the monetary benefits that go back to the families, victims, and the state. Studies have shown that recidivism rates drop considerable when inmates have jobs.

This bill will allow the DOC to sell products to offenders and the families of offenders. It will also allow the DOC to sell products to employees of the DOC and their families. Correctional

officers who wish to purchase additional uniforms and equipment are legally unable to do so right now.

The bill also encourages the DOC to work with the K-12 school districts. This bill would expand the opportunities for products that would be sold in class II industries. School districts are encouraged to purchase more furniture from class II industries.

This bill is a way to try to make up the loss of the jobs from the Supreme Court decision and a way to expand into a market that the DOC is already doing business in. It tries to address concerns that have arisen from class I and class II industries.

Testimony Against: The school districts and school boards are in opposition to the bill as it is currently drafted. There are three problems with the current language in the bill. First, school districts are challenged to purchase locally if they can. The problem is when school districts are encouraged to purchase, on a state-wide basis, with a percentage of their supplies and materials being bought from one particular vendor, it strikes a challenging note to school officials since they are generally pressured to buy their products locally.

Secondly, school officials know that the Correctional Industries option is there already and many schools have used the DOC Correctional Industries program in the past. The third, and last problem with this bill is that it uses the word "encourage." From the school districts' prospective, whenever the language of a bill uses the word "encourage" it often gets communicated as meaning "require." Many feel that eventually the word will be changed to "require" and will become an unfunded mandate.

Persons Testifying: (In support) Senator Regala, prime sponsor; Howard Yarbrough, Department of Corrections; and Bob Abbott, Laborers District Council.

(Opposed) Mitch Denning, Alliance of Educational Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Criminal Justice & Corrections. Signed by 20 members: Representatives Sommers, Chair; Fromhold, Vice Chair; McDonald, Assistant Ranking Minority Member; Clements, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Miloscia, Schual-Berke and Walsh.

Minority Report: Do not pass. Signed by 8 members: Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Bailey, Buri, Hinkle, Pearson, Priest and Talcott.

Staff: Bernard Dean (786-7130).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Criminal Justice & Corrections:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: If this bill is enacted, it would allow the Department of Corrections (DOC) to sell products to offenders and the families of offenders. It would expand Class II operations and create 63 additional offender jobs at Airway Heights. The bill also allows DOC to sell products to DOC employees and their families. Employees will be able to purchase additional uniforms and school districts would be encouraged to buy correctional industries products, resulting in a savings of 25 to 50 percent. These additional jobs would also increase revenues for the payment of legal financial obligations, crime victim's compensation, and replace lost Cost of Incarceration revenues from the loss of Class I industries. Correctional industries save government agencies \$7.2 million annually in goods and services costs. However, the bill would also create a cost that was not included in the Governor's budget proposal.

Persons Testifying: (Neutral) Howard Yarbrough, Department of Corrections.

Persons Signed In To Testify But Not Testifying: None.