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HOUSE BILL 1682

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State of Washington

58th Legislature

2003 Regular Session

By Representatives Cairnes, O'Brien and Mielke

Read first time 02/04/2003. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to modifying requirements for correctional  
2 industries; amending RCW 72.09.100; reenacting and amending RCW  
3 72.09.100; providing an effective date; and providing an expiration  
4 date.

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

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

8 It is the intent of the legislature to vest in the department the  
9 power to provide for a comprehensive inmate work program and to remove  
10 statutory and other restrictions which have limited work programs in  
11 the past. For purposes of establishing such a comprehensive program,  
12 the legislature recommends that the department consider adopting any or  
13 all, or any variation of, the following classes of work programs:

14 (1) CLASS I: FREE VENTURE INDUSTRIES. (a) The employer model  
15 industries in this class shall be operated and managed in total or in  
16 part by any profit or nonprofit organization pursuant to an agreement  
17 between the organization and the department. The organization shall  
18 produce goods or services for sale to both the public and private  
19 sector.

1       An agreement between the organization and the department must be  
2 reviewed and approved by the correctional industries board of  
3 directors. The review must include an analysis of the potential impact  
4 of the proposed agreement on the Washington state business community  
5 and labor market, and must include a public hearing. Public testimony  
6 must be allowed at the hearing, and the board shall notify each  
7 Washington business that has the same three-digit standard industrial  
8 classification code as the organization seeking the agreement of the  
9 date, time, and place of the hearing. The board may not approve an  
10 agreement that will have an adverse economic impact on a Washington  
11 business. For purposes of this subsection (1)(a), "Washington  
12 business" means a person subject to chapter 82.04 RCW.

13       (b) The customer model industries in this class shall be operated  
14 and managed by the department to provide Washington state manufacturers  
15 or businesses with products or services currently produced or provided  
16 by out-of-state or foreign suppliers. The correctional industries  
17 board of directors shall review these proposed industries before the  
18 department contracts to provide such products or services. The review  
19 shall include an analysis of the potential impact of the proposed  
20 products and services on the Washington state business community and  
21 labor market.

22       (c) The department of corrections shall supply appropriate security  
23 and custody services without charge to the participating firms.

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

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

34       (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class  
35 shall be state-owned and operated enterprises designed to reduce the  
36 costs for goods and services for tax-supported agencies and for  
37 nonprofit organizations. The industries selected for development  
38 within this class shall, as much as possible, match the available pool

1 of inmate work skills and aptitudes with the work opportunities in the  
2 free community. The industries shall be closely patterned after  
3 private sector industries but with the objective of reducing public  
4 support costs rather than making a profit. The products and services  
5 of this industry, including purchased products and services necessary  
6 for a complete product line, may be sold to public agencies, to  
7 nonprofit organizations, and to private contractors when the goods  
8 purchased will be ultimately used by a public agency or a nonprofit  
9 organization. Clothing manufactured by an industry in this class may  
10 be donated to nonprofit organizations that provide clothing free of  
11 charge to low-income persons. Correctional industries products and  
12 services shall be reviewed by the correctional industries board of  
13 directors before offering such products and services for sale to  
14 private contractors. The board of directors shall conduct a yearly  
15 marketing review of the products and services offered under this  
16 subsection. Such review shall include an analysis of the potential  
17 impact of the proposed products and services on the Washington state  
18 business community. Industries in this class shall make every effort  
19 to eliminate the creation of surpluses. However, to avoid waste or  
20 spoilage and consequent loss to the state, when there is no public  
21 sector market for such goods, byproducts and surpluses of timber,  
22 agricultural, and animal husbandry enterprises may be sold to private  
23 persons, at private sale. Surplus byproducts and surpluses of timber,  
24 agricultural and animal husbandry enterprises that cannot be sold to  
25 public agencies or to private persons may be donated to nonprofit  
26 organizations. All sales of surplus products shall be carried out in  
27 accordance with rules prescribed by the secretary.

28 Security and custody services shall be provided without charge by  
29 the department of corrections.

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

35 Subject to approval of the correctional industries board,  
36 provisions of RCW 41.06.380 prohibiting contracting out work performed  
37 by classified employees shall not apply to contracts with Washington

1 state businesses entered into by the department of corrections through  
2 class II industries.

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

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

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

13 (c) Whenever possible, to offset tax and other public support  
14 costs.

15 Supervising, management, and custody staff shall be employees of  
16 the department.

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

19 Except for inmates who work in work training programs, inmates in  
20 this class shall be paid for their work in accordance with an inmate  
21 gratuity scale. The scale shall be adopted by the secretary of  
22 corrections.

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

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

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

36 Inmates who work in this class of industries shall do so at their  
37 own choice and shall receive a gratuity which shall not exceed the wage

1 paid for work of a similar nature in the locality in which the industry  
2 is located.

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

8 Employment shall be in a community restitution program operated by  
9 the state, local units of government, or a nonprofit agency.

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

13 **Sec. 2.** RCW 72.09.100 and 2002 c 354 s 238 and 2002 c 175 s 49 are  
14 each reenacted and 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. (a) 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 An agreement between the organization and the department must be  
28 reviewed and approved by the correctional industries board of  
29 directors. The review must include an analysis of the potential impact  
30 of the proposed agreement on the Washington state business community  
31 and labor market, and must include a public hearing. Public testimony  
32 must be allowed at the hearing, and the board shall notify each  
33 Washington business that has the same three-digit standard industrial  
34 classification code as the organization seeking the agreement of the  
35 date, time, and place of the hearing. The board may not approve an  
36 agreement that will have an adverse economic impact on a Washington

1 business. For purposes of this subsection (1)(a), "Washington  
2 business" means a person subject to chapter 82.04 RCW.

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. The correctional industries  
7 board of directors shall review these proposed industries before the  
8 department contracts to provide such products or services. The review  
9 shall include an analysis of the potential impact of the proposed  
10 products and services on the Washington state business community and  
11 labor market.

12 (c) The department of corrections shall supply appropriate security  
13 and custody services without charge to the participating firms.

14 (d) Inmates who work in free venture industries shall do so at  
15 their own choice. They shall be paid a wage comparable to the wage  
16 paid for work of a similar nature in the locality in which the industry  
17 is located, as determined by the director of correctional industries.  
18 If the director cannot reasonably determine the comparable wage, then  
19 the pay shall not be less than the federal minimum wage.

20 (e) An inmate who is employed in the class I program of  
21 correctional industries shall not be eligible for unemployment  
22 compensation benefits pursuant to any of the provisions of Title 50 RCW  
23 until released on parole or discharged.

24 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class  
25 shall be state-owned and operated enterprises designed to reduce the  
26 costs for goods and services for tax-supported agencies and for  
27 nonprofit organizations. The industries selected for development  
28 within this class shall, as much as possible, match the available pool  
29 of inmate work skills and aptitudes with the work opportunities in the  
30 free community. The industries shall be closely patterned after  
31 private sector industries but with the objective of reducing public  
32 support costs rather than making a profit. The products and services  
33 of this industry, including purchased products and services necessary  
34 for a complete product line, may be sold to public agencies, to  
35 nonprofit organizations, and to private contractors when the goods  
36 purchased will be ultimately used by a public agency or a nonprofit  
37 organization. Clothing manufactured by an industry in this class may  
38 be donated to nonprofit organizations that provide clothing free of

1 charge to low-income persons. Correctional industries products and  
2 services shall be reviewed by the correctional industries board of  
3 directors before offering such products and services for sale to  
4 private contractors. The board of directors shall conduct a yearly  
5 marketing review of the products and services offered under this  
6 subsection. Such review shall include an analysis of the potential  
7 impact of the proposed products and services on the Washington state  
8 business community. Industries in this class shall make every effort  
9 to eliminate the creation of surpluses. However, to avoid waste or  
10 spoilage and consequent loss to the state, when there is no public  
11 sector market for such goods, byproducts and surpluses of timber,  
12 agricultural, and animal husbandry enterprises may be sold to private  
13 persons, at private sale. Surplus byproducts and surpluses of timber,  
14 agricultural and animal husbandry enterprises that cannot be sold to  
15 public agencies or to private persons may be donated to nonprofit  
16 organizations. All sales of surplus products shall be carried out in  
17 accordance with rules prescribed by the secretary.

18 Security and custody services shall be provided without charge by  
19 the department of corrections.

20 Inmates working in this class of industries shall do so at their  
21 own choice and shall be paid for their work on a gratuity scale which  
22 shall not exceed the wage paid for work of a similar nature in the  
23 locality in which the industry is located and which is approved by the  
24 director of correctional industries.

25 Subject to approval of the correctional industries board,  
26 provisions of RCW 41.06.142 shall not apply to contracts with  
27 Washington state businesses entered into by the department of  
28 corrections through class II industries.

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

32 (a) Whenever possible, to provide basic work training and  
33 experience so that the inmate will be able to qualify for better work  
34 both within correctional industries and the free community. It is not  
35 intended that an inmate's work within this class of industries should  
36 be his or her final and total work experience as an inmate.

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

1 (c) Whenever possible, to offset tax and other public support  
2 costs.

3 Supervising, management, and custody staff shall be employees of  
4 the department.

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

7 Except for inmates who work in work training programs, inmates in  
8 this class shall be paid for their work in accordance with an inmate  
9 gratuity scale. The scale shall be adopted by the secretary of  
10 corrections.

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

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

21 The department of corrections shall reimburse participating units  
22 of local government for liability and workers compensation insurance  
23 costs.

24 Inmates who work in this class of industries shall do so at their  
25 own choice and shall receive a gratuity which shall not exceed the wage  
26 paid for work of a similar nature in the locality in which the industry  
27 is located.

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

33 Employment shall be in a community restitution program operated by  
34 the state, local units of government, or a nonprofit agency.

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

1        NEW SECTION.   **Sec. 3.**   Section 1 of this act expires July 1, 2005.

2        NEW SECTION.   **Sec. 4.**   Section 2 of this act takes effect July 1,  
3        2005.

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