
HOUSE BILL 2427

State of Washington

58th Legislature

2004 Regular Session

By Representatives O'Brien, Clements, Kirby, Nixon, Chase, Bush, Simpson, D., Jarrett, Lovick, Sump, Shabro, Campbell, Mielke, Benson, Pearson, Cairnes and Buck

Read first time 01/14/2004. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to fair competition in class I and class II
2 correctional industries; amending RCW 72.09.070, 72.09.100, 72.09.015,
3 34.05.030, and 34.05.030; reenacting and amending RCW 72.09.100; adding
4 a new section to chapter 72.09 RCW; providing effective dates; and
5 providing expiration dates.

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 correctional industries work programs that
11 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 designing
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 new or existing class I or class II
11 correctional industries work programs that unfairly compete with
12 Washington businesses. The legislature intends that the requirements
13 relating to fair competition in the correctional industries work
14 programs be liberally construed to protect Washington businesses from
15 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 expansion of an existing class I
32 industries work program, before the department contracts to provide
33 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,
34 including any potential new class II correctional industries work
35 program or the expansion of an existing class II correctional
36 industries work program, shall be reviewed by the correctional
37 industries board of directors before offering such products and
38 services for sale to private contractors. The review shall include the

1 analysis required under section 4 of this act to determine if the
2 proposed correctional industries work program will compete with any
3 Washington business. An agreement for a new class II correctional
4 industries work program, or an agreement for a significant expansion of
5 an existing class II correctional industries work program, that
6 unfairly competes with any Washington business is prohibited.

7 (ii) The board of directors shall conduct a yearly marketing review
8 of the products and services offered under this subsection. ((Such
9 review shall include an analysis of the potential impact of the
10 proposed products and services on the Washington state business
11 community.)) To avoid waste or spoilage and consequent loss to the
12 state((~~7~~)) when there is no public sector market for such goods,
13 byproducts and surpluses of timber, agricultural, and animal husbandry
14 enterprises may be sold to private persons, at private sale. Surplus
15 byproducts and surpluses of timber, agricultural and animal husbandry
16 enterprises that cannot be sold to public agencies or to private
17 persons may be donated to nonprofit organizations. All sales of
18 surplus products shall be carried out in accordance with rules
19 prescribed by the secretary.

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

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

27 (f) Subject to approval of the correctional industries board,
28 provisions of RCW 41.06.380 prohibiting contracting out work performed
29 by classified employees shall not apply to contracts with Washington
30 state businesses entered into by the department of corrections through
31 class II industries.

32 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

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

36 ((~~a~~)) (i) Whenever possible, to provide basic work training and
37 experience so that the inmate will be able to qualify for better work

1 both within correctional industries and the free community. It is not
2 intended that an inmate's work within this class of industries should
3 be his or her final and total work experience as an inmate.

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

6 ~~((e))~~ (iii) Whenever possible, to offset tax and other public
7 support costs.

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

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

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

16 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

22 (b) Inmates in this program shall reside in facilities owned by,
23 contracted for, or licensed by the department of corrections. A unit
24 of local government shall provide work supervision services without
25 charge to the state and shall pay the inmate's wage.

26 (c) The department of corrections shall reimburse participating
27 units of local government for liability and workers compensation
28 insurance costs.

29 (d) Inmates who work in this class of industries shall do so at
30 their own choice and shall receive a gratuity which shall not exceed
31 the wage paid for work of a similar nature in the locality in which the
32 industry is located.

33 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

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

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

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

6 **Sec. 3.** RCW 72.09.100 and 2002 c 354 s 238 and 2002 c 175 s 49 are
7 each reenacted and amended to read 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. It is also the intent of the legislature to ensure that the
12 correctional industries board of directors, in developing and designing
13 correctional industries work programs, does not encourage the
14 development of, or provide for selection of or contracting for, the
15 significant expansion of new or existing class I or class II
16 correctional industries work programs that unfairly compete with
17 Washington businesses. The legislature intends that the requirements
18 relating to fair competition in the correctional industries work
19 programs be liberally construed to protect Washington businesses from
20 unfair competition. For purposes of establishing such a comprehensive
21 program, the legislature recommends that the department consider
22 adopting any or all, or any variation of, the following classes of work
23 programs:

24 (1) CLASS I: FREE VENTURE INDUSTRIES.

25 **(a)** The employer model industries in this class shall be operated
26 and managed in total or in part by any profit or nonprofit organization
27 pursuant to an agreement between the organization and the department.
28 The organization shall produce goods or services for sale to both the
29 public and private sector.

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

34 **(c)** The correctional industries board of directors shall review
35 these proposed industries, including any potential new class I
36 industries work program or the expansion of an existing class I
37 industries work program, before the department contracts to provide

1 such products or services. The review shall include ~~((an))~~ the
2 analysis ~~((of the potential impact of the proposed products and~~
3 ~~services on the Washington state business community and labor market))~~
4 required under section 4 of this act to determine if the proposed
5 correctional industries work program will compete with any Washington
6 business. An agreement for a new class I correctional industries work
7 program, or an agreement for a significant expansion of an existing
8 class I correctional industries work program, that unfairly competes
9 with any Washington business is prohibited.

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

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

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

22 (2) CLASS II: TAX REDUCTION INDUSTRIES.

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

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

1 (c)(i) Class II correctional industries products and services,
2 including any potential new class II correctional industries work
3 program or the expansion of an existing class II correctional
4 industries work program, shall be reviewed by the correctional
5 industries board of directors before offering such products and
6 services for sale to private contractors. The review shall include the
7 analysis required under section 4 of this act to determine if the
8 proposed correctional industries work program will compete with any
9 Washington business. An agreement for a new class II correctional
10 industries work program, or an agreement for a significant expansion of
11 an existing class II correctional industries work program, that
12 unfairly competes with any Washington business is prohibited.

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

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

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

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

37 (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) Supervising, management, and custody staff shall be employees
14 of the department.

15 (c) All able and eligible inmates who are assigned work and who are
16 not working in other classes of industries shall work in this class.

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

21 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

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

31 (c) The department of corrections shall reimburse participating
32 units of local government for liability and workers compensation
33 insurance costs.

34 (d) Inmates who work in this class of industries shall do so at
35 their own choice and shall receive a gratuity which shall not exceed
36 the wage paid for work of a similar nature in the locality in which the
37 industry is located.

38 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

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

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

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

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 72.09 RCW
12 to read as follows:

13 (1) The correctional industries board of directors must prepare a
14 threshold analysis for any proposed new class I or class II
15 correctional industries work program or the significant expansion of an
16 existing class I or class II correctional industries work program
17 before the department enters into an agreement to provide such products
18 or services. The analysis must state whether the proposed new or
19 expanded program will impact any Washington business and must be based
20 on information sufficient to evaluate the impact on Washington
21 business.

22 (2) If the threshold analysis determines that a proposed new or
23 expanded class I or class II correctional industries work program will
24 impact a Washington business, the correctional industries board of
25 directors must complete a business impact analysis before the
26 department enters into an agreement to provide such products or
27 services. The business impact analysis must include:

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

31 (b) A detailed statement of the actual business costs of the
32 proposed correctional industries work program compared to the costs of
33 the impacted Washington businesses.

34 (3) The completed threshold analysis and any completed business
35 impact analysis with all supporting documents must be shared in a
36 meaningful and timely manner with affected chambers of commerce, trade
37 or business associations, local and state labor union organizations,

1 and government entities before a finding required under subsection (4)
2 of this section is made on the proposed new or expanded class I or
3 class II correctional industries work program.

4 (4) If a business impact analysis is completed, the correctional
5 industries board of directors must conduct a public hearing to take
6 public testimony on the business impact analysis. The department must
7 provide notice to each Washington business assigned the same three-
8 digit standard industrial classification code, or the corresponding
9 North American industry classification system code, as the organization
10 seeking the class I or class II correctional industries work program
11 agreement of the date, time, and place of the hearing. Following the
12 public hearing, the board shall adopt a finding that the proposed new
13 or expanded class I or class II correctional industries work program:
14 (a) Will not compete with any Washington business; (b) will not compete
15 unfairly with any Washington business; or (c) will compete unfairly
16 with any Washington business and is therefore prohibited under this
17 act. Hearings conducted under this subsection are exempt from the
18 requirements for adjudicative proceedings under chapter 34.05 RCW.

19 (5) Judicial review of a decision made by the department or board
20 under this section, including the adequacy of the threshold analysis or
21 the business impact statement, shall be de novo.

22 **Sec. 5.** RCW 72.09.015 and 1995 1st sp.s. c 19 s 3 are each amended
23 to read as follows:

24 The definitions in this section apply throughout this chapter.

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

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

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

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

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

36 (6) "Extended family visit" means an authorized visit between an

1 inmate and a member of his or her immediate family that occurs in a
2 private visiting unit located at the correctional facility where the
3 inmate is confined.

4 (7) "Good conduct" means compliance with department rules and
5 policies.

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

9 (9) "Immediate family" means the inmate's children, stepchildren,
10 grandchildren, great grandchildren, parents, stepparents, grandparents,
11 great grandparents, siblings, and a person legally married to an
12 inmate. "Immediate family" does not include an inmate adopted by
13 another inmate or the immediate family of the adopted or adopting
14 inmate.

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

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

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

30 (13) "Secretary" means the secretary of corrections or his or her
31 designee.

32 (14) "Significant expansion" includes any expansion into a new
33 product line or service or an increase in production of the same
34 product or service.

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

1 ~~((15))~~ (16) "Unfair competition" means any net competitive
2 advantage that a business may acquire as a result of a correctional
3 industries contract, including but not limited to labor costs,
4 financing, rent, marketing costs, tax advantages, utility costs, and
5 other overhead costs.

6 (17) "Washington business" means a person subject to chapter 82.04
7 RCW.

8 (18) "Work programs" means all classes of correctional industries
9 jobs authorized under RCW 72.09.100.

10 **Sec. 6.** RCW 34.05.030 and 1994 c 39 s 1 are each amended to read
11 as follows:

12 (1) This chapter shall not apply to:
13 (a) The state militia, or
14 (b) The board of clemency and pardons, or
15 (c) The department of corrections or the indeterminate sentencing
16 review board with respect to persons who are in their custody or are
17 subject to the jurisdiction of those agencies.

18 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not
19 apply:

20 (a) To adjudicative proceedings of the board of industrial
21 insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

22 (b) Except for actions pursuant to chapter 46.29 RCW, to the
23 denial, suspension, or revocation of a driver's license by the
24 department of licensing;

25 (c) To the department of labor and industries where another statute
26 expressly provides for review of adjudicative proceedings of a
27 department action, order, decision, or award before the board of
28 industrial insurance appeals;

29 (d) To actions of the Washington personnel resources board, the
30 director of personnel, or the personnel appeals board; ~~((or))~~

31 (e) To the extent they are inconsistent with any provisions of
32 chapter 43.43 RCW; or

33 (f) To hearings conducted by the correctional industries board
34 under section 4(4) of this act.

35 (3) Unless a party makes an election for a formal hearing pursuant
36 to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not
37 apply to a review hearing conducted by the board of tax appeals.

1 (4) The rule-making provisions of this chapter do not apply to
2 reimbursement unit values, fee schedules, arithmetic conversion
3 factors, and similar arithmetic factors used to determine payment rates
4 that apply to goods and services purchased under contract for clients
5 eligible under chapter 74.09 RCW.

6 (5) All other agencies, whether or not formerly specifically
7 excluded from the provisions of all or any part of the Administrative
8 Procedure Act, shall be subject to the entire act.

9 **Sec. 7.** RCW 34.05.030 and 2002 c 354 s 225 are each amended to
10 read as follows:

11 (1) This chapter shall not apply to:

12 (a) The state militia, or

13 (b) The board of clemency and pardons, or

14 (c) The department of corrections or the indeterminate sentencing
15 review board with respect to persons who are in their custody or are
16 subject to the jurisdiction of those agencies.

17 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not
18 apply:

19 (a) To adjudicative proceedings of the board of industrial
20 insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

21 (b) Except for actions pursuant to chapter 46.29 RCW, to the
22 denial, suspension, or revocation of a driver's license by the
23 department of licensing;

24 (c) To the department of labor and industries where another statute
25 expressly provides for review of adjudicative proceedings of a
26 department action, order, decision, or award before the board of
27 industrial insurance appeals;

28 (d) To actions of the Washington personnel resources board or the
29 director of personnel; ~~((or))~~

30 (e) To the extent they are inconsistent with any provisions of
31 chapter 43.43 RCW; or

32 (f) To hearings conducted by the correctional industries board
33 under section 4(4) of this act.

34 (3) Unless a party makes an election for a formal hearing pursuant
35 to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not
36 apply to a review hearing conducted by the board of tax appeals.

1 (4) The rule-making provisions of this chapter do not apply to
2 reimbursement unit values, fee schedules, arithmetic conversion
3 factors, and similar arithmetic factors used to determine payment rates
4 that apply to goods and services purchased under contract for clients
5 eligible under chapter 74.09 RCW.

6 (5) All other agencies, whether or not formerly specifically
7 excluded from the provisions of all or any part of the Administrative
8 Procedure Act, shall be subject to the entire act.

9 NEW SECTION. **Sec. 8.** (1) Section 3 of this act takes effect July
10 1, 2005.

11 (2) Section 7 of this act takes effect July 1, 2006.

12 NEW SECTION. **Sec. 9.** (1) Section 2 of this act expires July 1,
13 2005.

14 (2) Section 6 of this act expires July 1, 2006.

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