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HOUSE BILL 2268

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By Representatives Hargrove, Winsley, Prentice, Leonard, Hochstatter, H. Myers, Riley, Roland, May, Bowman, Van Luven, Chandler and Inslee; by request of Department of Corrections

Prefiled 1/6/92. Read first time 01/13/92. Referred to Committee on Human Services.

1 AN ACT Relating to inmate work programs; amending RCW 72.09.100 and  
2 82.29A.130; and adding a new section to chapter 82.04 RCW.

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

4 **Sec. 1.** RCW 72.09.100 and 1990 c 22 s 1 are each amended to read  
5 as follows:

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

12 (1) CLASS I: FREE VENTURE INDUSTRIES. The employer model  
13 industries in this class shall be operated and managed in total or in  
14 part by any profit or nonprofit organization pursuant to an agreement

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

4 The customer model industries in this class shall be operated and  
5 managed by the department to provide Washington state manufacturers or  
6 businesses with products or services currently produced or provided by  
7 out-of-state or foreign suppliers. The correctional industries board  
8 of directors shall review these proposed industries before the  
9 department contracts to provide such products or services. The review  
10 shall include an analysis of the potential impact of the proposed  
11 products and services on the Washington state business community.

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

14 Inmates who work in free venture industries shall do so at their  
15 own choice. They shall be paid a wage (~~((not less than sixty percent of~~  
16 ~~the approximate prevailing wage within the state for the occupation))~~  
17 comparable to the wage paid for work of a similar nature in the  
18 locality in which the industry is located, as determined by the  
19 director of ((the)) correctional industries ((division)). If the  
20 director ((finds that he)) cannot reasonably determine the comparable  
21 wage, then the pay shall not be less than the federal minimum wage.

22 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class  
23 shall be state-owned and operated enterprises designed to reduce the  
24 costs for goods and services for tax-supported agencies and for  
25 nonprofit organizations. The industries selected for development  
26 within this class shall, as much as possible, match the available pool  
27 of inmate work skills and aptitudes with the work opportunities in the  
28 free community. The industries shall be closely patterned after  
29 private sector industries but with the objective of reducing public  
30 support costs rather than making a profit. The products and services

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

23 Security and custody services shall be provided without charge by  
24 the department of corrections.

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

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

4 (a) 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) Whenever possible, to provide forty hours of work or work  
10 training per week.

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

13 Supervising, management, and custody staff shall be employees of  
14 the department.

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

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

27 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.

1 The department of corrections shall reimburse participating units  
2 of local government for liability and workers compensation insurance  
3 costs.

4 Inmates who work in this class of industries shall do so at their  
5 own choice and shall receive a gratuity which shall not exceed the  
6 ((minimum)) wage paid for ((their)) work of a similar nature in the  
7 locality in which the industry is located.

8 (5) CLASS V: COMMUNITY SERVICE PROGRAMS. Programs in this class  
9 shall be subject to supervision by the department of corrections. The  
10 purpose of this class of industries is to enable an offender, placed on  
11 community supervision, to work off all or part of a community service  
12 order as ordered by the sentencing court.

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

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

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW  
19 to read as follows:

20 In computing tax, persons participating in a free venture  
21 industries program under RCW 72.09.100(1) may deduct from the measure  
22 of tax amounts paid for gross inmate wages under the program.

23 **Sec. 3.** RCW 82.29A.130 and 1975-'76 2nd ex.s. c 61 s 13 are each  
24 amended to read as follows:

25 The following leasehold interests shall be exempt from taxes  
26 imposed pursuant to RCW 82.29A.030 and 82.29A.040:

1 (1) All leasehold interests constituting a part of the operating  
2 properties of any public utility which is assessed and taxed as a  
3 public utility pursuant to chapter 84.12 RCW.

4 (2) All leasehold interests in facilities owned or used by a  
5 school, college or university which leasehold provides housing for  
6 students and which is otherwise exempt from taxation under provisions  
7 of RCW 84.36.010 and 84.36.050.

8 (3) All leasehold interests of subsidized housing where the fee  
9 ownership of such property is vested in the government of the United  
10 States, or the state of Washington or any political subdivision thereof  
11 but only if income qualification exists for such housing.

12 (4) All leasehold interests used for fair purposes of a nonprofit  
13 fair association that sponsors or conducts a fair or fairs which  
14 receive support from revenues collected pursuant to RCW 67.16.100 and  
15 allocated by the director of the department of agriculture where the  
16 fee ownership of such property is vested in the government of the  
17 United States, the state of Washington or any of its political  
18 subdivisions: PROVIDED, That this exemption shall not apply to the  
19 leasehold interest of any sublessee of such nonprofit fair association  
20 if such leasehold interest would be taxable if it were the primary  
21 lease.

22 (5) All leasehold interests in any property of any public entity  
23 used as a residence by an employee of that public entity who is  
24 required as a condition of employment to live in the publicly owned  
25 property.

26 (6) All leasehold interests held by enrolled Indians of lands owned  
27 or held by any Indian or Indian tribe where the fee ownership of such  
28 property is vested in or held in trust by the United States and which  
29 are not subleased to other than to a lessee which would qualify  
30 pursuant to this chapter, RCW 84.36.451 and 84.40.175.

1 (7) All leasehold interests in any real property of any Indian or  
2 Indian tribe, band, or community that is held in trust by the United  
3 States or is subject to a restriction against alienation imposed by the  
4 United States: PROVIDED, That this exemption shall apply only where it  
5 is determined that contract rent paid is greater than or equal to  
6 ninety percent of fair market rental, to be determined by the  
7 department of revenue using the same criteria used to establish taxable  
8 rent in RCW 82.29A.020(2)(b).

9 (8) All leasehold interests for which annual taxable rent is less  
10 than two hundred fifty dollars per year. For purposes of this  
11 subsection leasehold interests held by the same lessee in contiguous  
12 properties owned by the same lessor shall be deemed a single leasehold  
13 interest.

14 (9) All leasehold interests which give use or possession of the  
15 leased property for a continuous period of less than thirty days:  
16 PROVIDED, That for purposes of this subsection, successive leases or  
17 lease renewals giving substantially continuous use of possession of the  
18 same property to the same lessee shall be deemed a single leasehold  
19 interest: PROVIDED FURTHER, That no leasehold interest shall be deemed  
20 to give use or possession for a period of less than thirty days solely  
21 by virtue of the reservation by the public lessor of the right to use  
22 the property or to allow third parties to use the property on an  
23 occasional, temporary basis.

24 (10) All leasehold interests under month-to-month leases in  
25 residential units rented for residential purposes of the lessee pending  
26 destruction or removal for the purpose of constructing a public highway  
27 or building.

28 (11) All leasehold interests in any publicly owned real or personal  
29 property to the extent such leasehold interests arises solely by virtue  
30 of a contract for public improvements or work executed under the public

1 works statutes of this state or of the United States between the public  
2 owner of the property and a contractor.

3 (12) All leasehold interests that give use or possession of state  
4 adult correctional facilities for the purposes of operating  
5 correctional industries under RCW 72.09.100.