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PRISON INDUSTRIES

House Bill 4464

Sponsor: Rep. Michael E. Nye

Committee: Judiciary and Civil Rights

Complete to 3-28-95

A SUMMARY OF HOUSE BILL 4464 AS INTRODUCED 2-23-95

The Correctional Industries Act (Public Act 15 of 1968) regulates correctional industries. It requires that the requisitioning and disbursement of correctional industries products and services be done directly through established state authorities "without possibility of private profits and without any intermediating financial considerations, appropriations, or expenditures." Correctional industries are allowed to operate in a manner as similar as possible to similar private industrial operations, but are restricted with regard to whom they may sell their products: their products may be sold, exchanged, or bought only by federal, state, and local governmental institutions and agencies and by federal tax-exempt organizations. (Agricultural products not used within the correctional system or sold to government institutions or agencies or tax-exempt organizations must be made available for free to nonprofit charitable food distribution programs and to the Department of Social Services.) The act also prohibits the use of inmate labor for private or corporate profit or for any purpose other than the construction, maintenance, or operation of public works, ways, or property.

The bill would amend the act to allow the use of inmate labor in certain private enterprises under certain conditions. The bill also would specify which inmates would be eligible to be assigned to such work, require that these inmates be paid minimum state wages and regulate the distribution of these wages, and specify certain contract requirements.

Eligible products and services. Under the bill, inmates could be assigned to work in private manufacturing or service enterprises under the following circumstances:

(1) The enterprise made a product that wasn't made in Michigan -- and more than 80 percent of the particular product sold in this country was manufactured outside of the country -- or rendered a service that wasn't otherwise performed in Michigan (as determined by the Department of Corrections, in conjunction with the Advisory Council for Correctional Industries); and

(2) The enterprise was suitably designed to use inmate labor and was located either within ten miles of the correctional facility or actually within the facility under a lease agreement between the Department of Corrections and the private enterprise.

Eligible inmates. Only inmates housed in facilities with the least restrictive security designation (Level I) who weren't serving life sentences would be eligible to be assigned to work in private manufacturing or service enterprises.

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Wages. The contract between the Department of Corrections and the private enterprise would have to ensure that the wage paid to the inmate would have to be at least the state minimum wage (as established by the state Minimum Wage Law). The bill also would specify the order in which an inmate's wages would be distributed. First, the department would be required to withhold and pay the inmate's applicable state and local income taxes and federal income, Social Security, and Medicare taxes. Then, of the remaining balance, the following order of distribution would be required:

(1) If the inmate had been ordered by the court to pay restitution to the victim of his or her crime, 20 percent would be paid for that restitution, on the inmate's behalf and in accordance with the court order, until the amount of the restitution had been paid off.

(2) If the inmate had a spouse or children, 20 percent of his or her wages would be paid to his or her spouse or children for family support. If the inmate's spouse or children received Aid to Families with Dependent Children or general assistance (under the state Social Welfare Act) while the inmate was incarcerated, the 20 percent of his or her wages designated for family support would be deposited with the state treasurer and credited to the state general fund until that amount of aid or assistance was repaid.

(3) Ten percent would be paid to the inmate for his or her personal use while incarcerated.

(4) Ten percent would be held by the department in an escrow account for the inmate and would be returned to the inmate when he or she was released.

(5) The balance remaining after the above deductions would be deposited with the state treasurer and credited to the general fund as partial reimbursement to the state for the cost of the inmate's imprisonment and care. If the inmate didn't have a spouse or children, instead of 20 percent going to family support, ten percent of his or her wages would be deposited to the inmate's escrow account and ten percent would be deposited -- in addition to the balance mentioned under this subsection -- with the state treasurer and credited to the state general fund toward reimbursement for the state's cost of the inmate's imprisonment and care.

Other contract requirements. The bill would specify that, in addition to the wage provisions, contracts between the Department of Corrections and private businesses would require the department to pay the employer's share of federal Social Security and Medicare taxes and state worker's disability compensation payments or contributions. In addition, contracts under the bill would have to require the private business to pay the department an annual administrative fee equal to one percent of the total amounts the business paid annually to the department, presumably for the inmates' wages and for the employer's share of federal Social Security and Medicare taxes and state worker's disability compensation payments or contributions.

Other provisions. The bill would make other changes to the act necessary to implement the new provisions.

* The bill would amend the definition of "correctional industries products" to explicitly exempt from the definition products manufactured, or services rendered, by inmate labor in a private enterprise under the bill's provisions.

* The bill would explicitly allow the Department of Corrections to enter into any agreements necessary for assigning inmates to employment in private enterprises under the bill (adding this to the existing list of activities the Department of Corrections is allowed under the act).

* The bill would exempt inmate goods and services produced or provided under the bill's provisions both from the act's prohibition against using inmate labor for private or corporate profit and from the act's requirement that money from inmate labor be deposited into the Correctional Industries revolving fund.

* The bill would add labor assignments in private enterprises as allowed by the bill to the current list of kinds of employment that the Department of Corrections is required to provide ("as fully as practicable").

The bill also would amend the act's section on legislative intent, saying that it is the intent of the act, in addition to the existing provisions, to provide means for inmates to earn wages to support their families, to reimburse the state for part of the cost of their imprisonment, to pay restitution to crime victims, and for "other purposes consistent with their imprisonment." In addition, the bill would amend two existing provisions regarding the act's legislative intent. Currently the act says that it is intended, in part, to "provide adequate, regular, diversified, and suitable employment for inmates of the state consistent with proper penal purposes" and to "utilize the labor of inmates exclusively for self-maintenance and for reimbursing the state for expenses incurred by reason of their crimes and imprisonment." The bill would say, instead, that the act, in part, is intended to "provide adequate, regular, diversified, and suitable employment for inmates of the state for the purpose of enhancing job skills consistent with proper penal purposes" and to "utilize the labor of inmates for self-maintenance and for reimbursing the state for expenses incurred by reason of their crimes and imprisonment, and for employment in private manufacturing or service enterprises established under [the bill]."

Finally, the bill would add foreign governments or agencies to the list of institutions that could buy, exchange, or sell correctional industries products.

MCL 800.322 et al.