

Legislative Analysis



USE OF PRISON LABOR BY PRIVATE CONTRACTORS

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5658 (Substitute H-2)

Sponsor: Rep. Joe Haveman

Committee: Judiciary

(Enacted as Public Act 261 of 2012)

Complete to 6-11-12

A SUMMARY OF HOUSE BILL 5658 (H-2) AS PASSED BY THE HOUSE

The bill would amend the Correctional Industries Act (MCL 800.322 and 800.326) to specify the following:

- Prison labor could be assigned to a private contractor for the production of goods or services to be used solely within a correctional institution, jail, or reentry facility that houses a population under the Department of Corrections' (DOC) jurisdiction.
- Inmates assigned by the DOC for the production of goods or services that are solely used within such a correctional facility or institution would **not** be subject to the prevailing or minimum wage.

The bill would also exclude from the definition of "correctional industries products," goods or services that are provided by inmate labor that is assigned to a private contractor to be used solely within a correctional institution, jail, or reentry facility.

"*Correctional institution*" would mean a state prison, prison facility, or other prison institution, correctional camp, community corrections center, correctional farm, state reformatory, or probation recovery camp, owned, operated, leased, supervised, or contracted for by the state.

FISCAL IMPACT:

The bill would have no fiscal impact on the State or on local units of government since the State does not currently have prison labor assigned to a private contractor for the production of goods or services to be used solely within a correctional institution, jail, or reentry facility. Should the State enter into such an arrangement in the future, the bill could result in lower costs to the State (either direct costs or contract costs) given that inmate labor could be paid at wages below existing prevailing or minimum wage levels.

BACKGROUND INFORMATION AND DISCUSSION:

According to testimony, the issue of pay for prison labor arose as the result of a request for proposal (RFP) to privatize prison food service operations. It is believed that prison labor assigned to a private contractor would be subject to the state's minimum wage law.

The inmates are not subject to the minimum wage law when employed directly by the Department of Corrections. The intent of the bill is to clarify that prison labor assigned to a private contractor that produces goods or services solely used within a correctional facility would not be subject to the minimum wage law.

In addition to general concerns about privatization, there was concern that paying inmates a lower wage would lessen their ability to meet certain financial obligations, including restitution and child support payments. In that instance, payments would be drawn out over a longer period of time and could have an adverse impact those receiving payments.

There were additional concerns about inmate and employee safety. Some believe this bill would eventually lead to inmates doing jobs that are now performed by corrections officers. If that were to be the case, or if current state employees were replaced by contract workers without comparable training, significant safety issues could arise.

POSITIONS:

Michigan Department of Corrections supports the bill. (5-31-12)

Michigan Attorney General's office supports the bill. (5-31-12)

American Federation of State, County, and Municipal Employees - Michigan opposes the bill. (5-31-12)

Michigan AFL-CIO opposes the bill. (5-31-12)

Michigan Corrections Organization opposes the bill. (5-31-12)

Legislative Analyst: Jeff Stoutenburg
Fiscal Analyst: Bob Schneider

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.