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Offered: 2/3/82
Referred: Finance

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 194 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to prisoner employment and correc-
7 tional industries; and providing for an effective
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 33.30.225 is repealed and reenacted to read:

11 Sec. 33.30.225. INSTITUTIONAL EMPLOYMENT. (a) It is the policy
12 of the state that prisoners be productively employed for as many hours
13 each day as feasible, not to exceed 40 hours per week unless overtime
14 has been specifically approved by the commissioner. The term "pro-
15 ductively employed" includes the following kinds of employment:

16 (1) routine maintenance and support services essential to the
17 operation of the prison;

18 (2) education including both academic and vocational;

19 (3) industrial, agricultural, and service activities con-
20 ducted in accordance with AS 33.30.400 - 33.30.490; and

21 (4) public conservation projects including but not limited to
22 forest fire prevention and control, forest and watershed management,
23 recreational area development, fish and game management, soil conserva-
24 tion, and forest watershed revegetation.

25 (b) The commissioner may enter into contracts or cooperative
26 agreements with any public agency for the performance of conservation
27 projects.

28 * Sec. 2. AS 33.30 is amended by adding a new section to read:

29 Sec. 33.30.227. INMATE PAY. (a) Each prisoner who is productively

1 employed, as defined in AS 33.30.225(a)(1), (3) or (4), may receive for
2 that work compensation at a rate determined by the commissioner under
3 AS 33.30.450 and which is available from legislative appropriations.
4 The provisions of AS 33.30.450 apply to prisoners productively employed
5 in activities other than in the correctional industries program as well
6 as in those activities that are a part of that program.

7 (b) Nothing in this chapter prohibits the commissioner from estab-
8 lishing a wage comparable to the prevailing wage rate.

9 * Sec. 3. AS 33.30 is amended by adding new sections to read:

10 ARTICLE 4. CORRECTIONAL INDUSTRIES.

11 Sec. 33.30.400. PURPOSE. It is the purpose of AS 33.30.400 -
12 33.30.490 to:

13 (1) develop and operate agricultural, industrial, and service
14 enterprises employing prisoners under the jurisdiction of the commis-
15 sioner;

16 (2) provide realistic work experience for prisoners under
17 conditions as much like those that prevail in private industry as
18 possible, consistent with proper penal administration, and to direct
19 their efforts toward financial responsibility, acquiring or improving
20 effective work habits and occupational skills, and increasing the
21 probability of opportunities for employment after release; and

22 (3) operate a work program for prisoners that will be as
23 nearly self-supporting as possible by generating a sufficient amount of
24 money from the sale of products and services to pay all or most of the
25 expenses of the program.

26 Sec. 33.30.410. POWERS AND DUTIES OF THE COMMISSIONER. (a) The
27 commissioner may establish and administer a correctional industries
28 program that is based on voluntary prisoner participation.

29 (b) The commissioner may

1 (1) use, purchase, lease, equip, and maintain buildings,
2 machinery, and other equipment, and may purchase materials and enter
3 into contracts, which may be necessary for the correctional industries
4 program;

5 (2) provide for prisoners to be employed in rendering ser-
6 vices and producing articles, materials, and supplies needed by a state
7 agency, a political subdivision of the state, an agency of the federal
8 government, other states or their political subdivisions, or for use by
9 nonprofit organizations;

10 (3) if the commission established in AS 33.30.470 approves,
11 the commissioner may employ prisoners to provide services or products as
12 needed by private industry if the services or products have potential
13 for contributing to the economy of the state and will have minimal
14 negative impact on existing private industry in the state.

15 Sec. 33.30.420. CORRECTIONAL INDUSTRIES FUND. (a) There is
16 established in the department a fund to be known as the correctional
17 industries fund. All expenses of the correctional industries program,
18 except salaries and benefits of state employees, are to be financed from
19 the correctional industries fund and budgeted in accordance with the
20 Executive Budget Act (AS 37.07). The commissioner shall report annually
21 to the legislature all activities and balances of the fund.

22 (b) The legislature may appropriate to the correctional industries
23 fund any amounts necessary to implement AS 33.30.400 - 33.30.490, which
24 may equal or exceed the amounts received by the state for services
25 rendered or products sold by the correctional industries program.

26 (c) Unless otherwise expressly provided, money appropriated to the
27 correctional industries fund is not a one-year appropriation under
28 AS 37.25.010. Any amount that is appropriated but that is not required
29 for the purposes of the fund in that fiscal year remains available for

1 spending in succeeding fiscal years.

2 Sec. 33.30.430. MARKETING OF CORRECTIONAL INDUSTRIES PRODUCTS.

3 (a) The commissioner shall market correctional industries products to
4 appropriate entities as provided for in AS 33.30.410(b)(2). Because of
5 the potential for contributing to the economy of the state, agricultural
6 produce may be sold to commercial processors, wholesalers, or distri-
7 butors, in addition to the entities provided for in AS 33.30.410(b)(2).

8 (b) The commissioner may sell a product or service of a correc-
9 tional industries program to a private industry, subject to the approval
10 of the commission established in AS 33.30.470. Before giving its ap-
11 proval, the commission must determine that the product or service has
12 potential for contributing to the economy of the state and will have
13 minimal negative impact on existing private industry in the state.

14 (c) A product or service provided by correctional industries that
15 meets marketable standards of quality and that meets the needs of state
16 agencies at reasonable cost, as determined by the commissioner of
17 administration, shall be purchased by state agencies through procedures
18 established by the Department of Administration in such a manner as to
19 facilitate the purchase. A product or service of the type and quality
20 of that supplied by the correctional industries may not be obtained from
21 a source outside correctional industries unless the commissioner certi-
22 fies to the Department of Administration that correctional industries is
23 not able to provide the product or service. State agencies shall make
24 maximum use of the resources of the correctional industries program both
25 in the purchase of existing products and by assisting in the development
26 of new products or adaptation of existing products to meet future needs.

27 (d) The commissioner shall periodically determine the prices at
28 which products and services will be sold. Prices must approximate the
29 fair market value of products and services of comparable quality offered

1 by commercial sources.

2 (e) The commissioner of administration shall establish suitable
3 methods of accounting and purchasing to facilitate the production and
4 marketing of correctional industries products and to assure accurate
5 cost data.

6 Sec. 33.30.440. LEGAL RIGHTS OF PRISONER WORKERS. (a) In ad-
7 ministering the correctional industries program, the department shall
8 comply with federal and state health and safety regulations, except for
9 the provision of workers' compensation under AS 23.30.

10 (b) The provisions of AS 23 do not apply to correctional indus-
11 tries nor to prisoners who work in correctional industries.

12 (c) Prisoners working in correctional industries are not state
13 employees nor do they have the rights or privileges accorded to state
14 employees, including the right to participate in collective bargaining.

15 Sec. 33.30.450. PRISONER PAYMENT; FORFEITURE. (a) The commis-
16 sioner shall establish a pay plan for prisoners working in correctional
17 industries based on the quantity and quality of work performed and skill
18 required. Wage incentive plans to increase productivity may be included
19 in the pay plan. The commissioner shall determine the amount to be
20 credited to the prisoner after disbursements made under (b) of this
21 section.

22 (b) The commissioner shall disburse prisoners' payments in amounts
23 determined to be appropriate under procedures adopted by the commis-
24 sioner based on the following order of priority:

- 25 (1) for support of the prisoner's dependents, if any;
26 (2) to reimburse the state for compensation awarded under
27 AS 18.67 resulting from the prisoner's criminal conduct;
28 (3) to pay a civil judgment resulting from the prisoner's
29 criminal conduct;

1 (4) for the purchase of clothing and commissary items for the
2 prisoner's personal use;

3 (5) to pay a restitution or fine of the prisoner ordered by a
4 sentencing court.

5 (c) Money credited to a prisoner must be retained by the com-
6 missioner for the primary purpose of being available to the prisoner at
7 the time of his release. The commissioner may, however, permit the
8 prisoner to draw upon a portion of the money for other purposes that the
9 commissioner considers appropriate.

10 (d) If a prisoner escapes, a portion of his earnings, as deter-
11 mined by the commissioner, is to be forfeited. The commissioner shall
12 deposit any forfeited earnings in the general fund.

13 Sec. 33.30.460. ATTACHMENT OF PRISONER PAYMENTS. Only the prisoner
14 payments retained by the commissioner under AS 33.30.450(c) are subject
15 to lien, attachment, garnishment, execution, or similar procedures to
16 encumber funds or property.

17 Sec. 33.30.470. CORRECTIONAL INDUSTRIES COMMISSION. (a) The
18 Correctional Industries Commission is established to provide general
19 policy direction to the correctional industries program through the
20 commissioner of health and social services. The commission consists of
21 seven members, five of whom are to be appointed by the governor to serve
22 staggered terms of four years. The appointed members must include a
23 representative of private industry, organized labor, agriculture, and
24 the general public, and one ex-offender. The commissioner of admini-
25 stration is also a member, as is the commissioner of health and social
26 services who is to serve as chairperson.

27 (b) The commission shall meet at least four times during each
28 fiscal year and may hold additional meetings at the call of the chair-
29 person. Four members of the commission constitute a quorum and a vote

1 of a majority of the quorum is necessary for the transaction of the
2 business of the commission.

3 (c) Members of the commission serve without compensation, but are
4 entitled to receive the per diem and travel allowance provided in
5 AS 39.20.180 for attending meetings of the commission and making investi-
6 gations either as a commission or individually as members of the commis-
7 sion at the request of the chairperson.

8 Sec. 33.30.480. POWERS AND DUTIES OF THE COMMISSION. (a) The
9 Correctional Industries Commission shall monitor the correctional
10 industries program, annually review the proposed budget of the program,
11 and make appropriate recommendations to the commissioner. This budget
12 must be transmitted in the normal budgetary process to the legislature
13 as part of the governor's budget.

14 (b) The commission shall hold public hearings to provide an op-
15 portunity for persons or organizations who may be affected by the plans
16 of the correctional industries program to appear and present testimony
17 concerning those plans. The commission shall adopt rules governing the
18 conduct of those hearings, including provisions to assure that adequate
19 public notice of the hearing is given before the hearing. The commis-
20 sion may also hold public hearings under these rules on any matter
21 within its jurisdiction. Rules adopted under this subsection are not
22 subject to the Administrative Procedure Act (AS 44.62).

23 (c) The commission shall recommend to the commissioner the ad-
24 visability of establishing, expanding, diminishing, or discontinuing
25 industrial, agricultural, or service activities to enable the program to
26 operate as nearly as possible in a self-supporting manner, to provide as
27 much employment for prisoners as is feasible, to provide diversified
28 work activities with minimal negative impact on existing private
29 industry in the state, and contribute to the economy of the state. In

1 making recommendations, the commission shall consider testimony received
2 at public hearings.

3 Sec. 33.30.490. COOPERATION WITH STATE AGENCIES. With the ap-
4 proval of the commissioner, a state agency may, without charge, transfer
5 to the department for the correctional industries program any property
6 or equipment suitable for the purposes of that program.

7 * Sec. 4. AS 37.05.230 is amended by adding a new paragraph to read:

8 (9) the provisions of this section relative to competitive
9 bids do not apply to the purchase of products or services provided by
10 the correctional industries program established under AS 33.30.400 -
11 33.30.490.

12 * Sec. 5. AS 33.30.270, 33.30.280, and AS 36.10.060 are repealed.

13 * Sec. 6. AS 33.30.400 - 33.30.490 are repealed July 1, 1987.

14 * Sec. 7. This Act takes effect July 1, 1982.

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