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COMMITTEE REPORT
SENATE

FURTHER: JUDICIARY

1/11/82

Date:

2/26/82

Mr. President:

The Committee on HEALTH, EDUCATION & SOCIAL SERVICES has had SB 633

work performed by prisoners in state institutions

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

POSITION PAPER / Department of Health and Social Services

POSITION PAPER

SENATE BILL NO. 633

The "Act relating to work performed by prisoners in state institutions," would effect operations and management of state institutions.

Enactment of this act would result in eliminating disputes between staff and prisoners in reference to work assignment responsibilities. The act would also be consistent with 7 AAC 60.400 which is titled "Prohibited Conduct for Prisoners." Under Major Infractions, paragraph b #(15), disciplinary action may be taken against a prisoner who refuses to work or participates in a work stoppage.

The Department supports this bill and recommends the following amendments.

Section 1. AS 33.30.225, page 1, paragraph (a) - The last sentence in paragraph (a) should be amended to read as follows. The amount of the gratuity payment may not exceed \$3.00 a day except in institutions where the work programs require prisoners to pay their daily expenses. For example, the Palmer Correctional Center has a work program that requires prisoners to pay for personal clothing, shoes, health and comfort items, medical and dental expenses. The prisoners are paid a low of \$.35 per hour to a high of \$.80/hour.

Section 33.30.225, page 1, paragraph (b) should be amended to read as follows: (b) A prisoner who refuses to work when directed to do so by the commissioner under (a) of this section is subject to disciplinary action in accordance with regulations under 7 AAC 60.400 which the commissioner has adopted to provide for the discipline of prisoners who refuse to work.

Section 33.30.250 page 2 - add a paragraph "e" to read as follows: (e) Whenever a prisoner is not employed and between the hours or periods of employment, he shall be confined in the jail or furlough facility as directed by the commissioner.

Recommended by:

Walter B. Jones, Jr.
Walter B. Jones, Jr.
Acting Director
Division of Adult Corrections

Date:

1/25/82

Approved by:

Allen D. Burton
Allen D. Burton
Commissioner

Date:

1/25/82

Amendments

SB 633

1. Page 1, line 17. Delete the last line in this paragraph and replace with:
The amount of the gratuity payment may not exceed \$3.00 a day except
in institutions where the work programs require prisoners to pay
their daily expenses.

2. Page 2 Insert after line 22:

AS 33.30.250(c) is amended to read:

(c) Whenever the prisoner is not employed and between the hours of
periods of employment, he shall be confined in jail or furlough facility
as directed by the commissioner. ((UNLESS THE COURT DIRECTS OTHERWISE))

3. Page 1 After line 27. Insert:

AS 33.30.250 is amended by adding a new sub section (d)

(d) Notwithstanding provisions of this section, prisoners may not be
required to participate in Correctional Industries Programs except on a
voluntary basis.

construction, repair, preliminary surveys, engineering studies, consulting, maintenance work or any other retention of services necessary to complete any given project, 95 per cent residents shall be employed where they are available and qualified. If 10 or fewer persons are employed under the contract, then 90 per cent residents shall be employed where they are available and qualified. In all cases of public works projects, preference shall be given to residents. (§ 1a ch 177 SLA 1960; am § 11 ch 142 SLA 1972; am § 1 ch 208 SLA 1972)

Effect of amendments. — The first 1972 amendment substituted "or a political subdivision of the state" for "boroughs, cities and school districts" in the first sentence.

The second 1972 amendment, in the

first sentence, substituted "consulting" for "or" and inserted "or any other retention of services necessary to complete any given project."

Am. Jur. reference.—43 Am. Jur., Public Works and Contracts, § 123.

Sec. 36.10.020. Apprentices. Apprentices must be properly registered apprentices in their particular craft. (§ 1c ch 177 SLA 1960)

Sec. 36.10.030. Reduction of work force. When a work force is reduced, resident workers, except supervisory personnel, shall be terminated last. (§ 1d ch 177 SLA 1960)

Sec. 36.10.040. Application to contracts involving federal funds. In a contract involving expenditure of federal aid funds, this chapter may not be enforced in a manner that conflicts with federal statutes giving preference to veterans or prohibiting other preferences or discriminations among United States citizens. (§ 2 ch 177 SLA 1960)

Am. Jur. reference.—43 Am. Jur., Public Works and Contracts, § 4.

Sec. 36.10.050. Employment of aliens.

Repealed by § 17 ch 142 SLA 1972.

Editor's note.—The repealed section derived from § 3, ch. 177, SLA 1960.

Am. Jur. reference.—43 Am. Jur., Public Works and Contracts, §§ 17, 61, 62, 123.

Sec. 36.10.060. Employment of prisoners. No prisoner currently serving sentence in a penal or correctional institution may be employed on a public works project subject to the provisions of this chapter. (§ 4 ch 177 SLA 1960)

Sec. 36.10.070. Unavailability of resident workers. (a) When resident labor is unavailable, the contractor shall inform the commissioner of labor of the number of additional workers needed. The commissioner of labor shall investigate the facts and designate the

number of nonresidents within a period.

(b) When residents other than those in § 10 of this chapter, are needed, the contractor shall notify the commissioner of labor of the number of additional workers needed. (§ 5 ch 177 SLA 1960)

Effect of amendment. — The amendment added subsection (b).

Sec. 36.10.075. Duties of commissioner of labor. The commissioner of labor shall promote the provisions of this chapter in the most effective method, time and content and shall report the results of this chapter and reporting requirements to the Department of Labor. The provisions of this chapter shall apply to all public works projects covered by this chapter. (§ 6 ch 177 SLA 1960)

Sec. 36.10.076. Duties of commissioner of labor. The commissioner of labor shall notify the Department of Labor of all planned public works projects in the manner prescribed by the Department of Labor. (§ 7 ch 177 SLA 1972)

Sec. 36.10.080. Chapter provisions of this chapter are not applicable to a public works contract let after April 1, 1972.

Sec. 36.10.090. Public works contracts. The commissioner of labor shall distribute to the state government and to all local governments a list of the names of persons who are licensed under this chapter. No person applying for a license under this chapter, partnership or association may work as a contractor on a public works construction contract for the state or a local government within three years from the date of the expiration of the license.

(b) A local government or person applying for a license under this chapter which is in violation of the provisions of this chapter may be required to provide a bond available for the project in the event the contractor's application may be denied up to the commissioner of labor. A public school foundation may be required to provide a bond if the head found to be in violation of this chapter forfeits his position.

(c) A person or government

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Although the sentencing court can recommend that the defendant be incarcerated in a particular facility under Alaska's statutes, the ultimate responsibility for the classification and thus placement of prisoners in its charge has been vested in the Division of Corrections. Rust v. State, Sup. Ct. Op. No. 1668 (File No. 3172), 582 P.2d 134, on rehearing

modified on other grounds, 584 P.2d 38 (1978).

Resource allocation is an executive concern involving many day to day decisions which necessitate that court interference be kept to a minimum. Rust v. State, Sup. Ct. Op. No. 1668 (File No. 3172), 582 P.2d 134, on rehearing modified on other grounds, 584 P.2d 38 (1978).

Sec. 33.30.150. Visitation privileges. An honor prisoner with good behavior serving a sentence of one year or more may be permitted as a privilege and not as a right to visit with his family at a place other than his place of confinement and at his own expense for a period not exceeding one week nor more frequently than once each six months under rules and regulations adopted by the commissioner and in his sole discretion. The wilful failure of a prisoner to return to the place of confinement not later than the expiration of a period during which he is authorized to be away from the place of confinement under this section is an unlawful evasion under AS 11.30.093. (§ 7 ch 133 SLA 1960; am § 4 ch 171 SLA 1976)

Effect of amendments. — The 1976 amendment added the second sentence.

Editor's notes. — AS 11.30.093, referred to at the end of the section, was

repealed by § 21, ch. 116, SLA 1978. For present provisions concerning unlawful evasion, see AS 11.56.340 and 11.56.350.

Article 3. General Provisions.

Section	Section
225. Gratuity for institutional work	300. Crime against convict in penitentiary
250. Work furlough	310. Effect of judgment of imprisonment in penitentiary
260. Rehabilitation furloughs	320. Effect of sentence to life imprisonment
270. Employment of imprisoned persons	
280. Credit for labor while imprisoned	
290. Forfeiture of property upon conviction and lien for fine and costs	

Sec. 33.30.225. Gratuity for institutional work. A prisoner not on furlough may not be required to perform work other than personal housekeeping while detained or confined in a prison facility. A prisoner who voluntarily participates in institutional work programs is eligible for a gratuity payment. The amount of the gratuity may not exceed \$2 a day and must be the same among all state prison facilities for the performance of similar work. (§ 1 ch 124 SLA 1978)

Editor's notes. — Section 2, ch. 124, SLA 1978, provides: "No position in the classified service existing on the effective

date of this Act may be abolished in favor of employing a prisoner to carry out the responsibilities of the position."

Sec. 33.30.250. Work furlough. (a) When a person is convicted of a crime and is sentenced to a prison facility, or is imprisoned in the