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Original sponsor: Parr

Offered: 3/5/82  
Referred: Judiciary

1 IN THE SENATE

BY THE HEALTH, EDUCATION  
AND SOCIAL SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 633 (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 work programs for prisoners in  
7 state institutions."

8

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

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 AS 33.30.225 is repealed and reenacted to read:

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Sec. 33.30.225. WORK PROGRAMS; REMUNERATION. (a) The commis-

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sioner may, in his discretion, direct that a prisoner participate in

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non-institutional work projects and in institutional work programs,

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including personal housekeeping, while detained or confined in a prison

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facility. A prisoner who participates in non-institutional work projects

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is eligible for the credit provided under AS 33.30.280 or for a gratuity

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payment. A prisoner who participates in institutional work programs is

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eligible for a gratuity payment. [The gratuity payment may not exceed \$3

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a day except that this limit does not apply to a work program in which a

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portion of the payment is designated for the prisoner's daily living

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expenses.

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(b) A prisoner who refuses to work when directed to do so by the

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commissioner under (a) of this section is subject to disciplinary action

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in accordance with regulations, which the commissioner shall adopt,

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providing for discipline of prisoners who refuse to work.

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(c) For purposes of this section, "non-institutional work" means

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work on government or other public projects outside the confines of a

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prison facility. For purposes of this section, "institutional work"

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means work inside the prison facility.

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\* Sec. 2. AS 33.30.250(a) is amended to read:

SUBSTITUTED  
33.30,  
225(b)

1 (a) When a person is convicted of a crime and is sentenced to a  
2 prison facility, or is imprisoned in the prison facility for nonpayment  
3 of a fine, for contempt, or as a condition of probation for a criminal  
4 offense, the commissioner may, if he concludes that the person is a fit  
5 subject for a work furlough and is not prohibited from it under (g) of  
6 this section, direct that the person [BE PERMITTED TO] continue in his  
7 regular employment, if that is compatible with the requirements of (c)  
8 of this section, or may direct [AUTHORIZE] the person to secure employ-  
9 ment for himself, unless the court at the time of sentencing has ordered  
10 that the person not be granted work furloughs.

11 \* Sec. 3. AS 33.30.250(b) is amended to read:

12 (b) If the commissioner directs that the prisoner [BE PERMITTED  
13 TO] continue in his regular employment, the commissioner shall arrange  
14 for a continuation of the employment so far as possible without inter-  
15 ruption. If the prisoner does not have regular employment, [AND] the  
16 commissioner may direct [HAS AUTHORIZED] the prisoner to secure employ-  
17 ment for himself. The [ THE PRISONER MAY DO SO, AND THE] commissioner  
18 may assist the prisoner in securing employment [HIM IN DOING SO]. Any  
19 employment secured must, as determined by the commissioner, be suitable  
20 for the prisoner. The employment must be in accordance with the prevail-  
21 ing working conditions and wages in the area. No employment may be  
22 permitted where there is a labor dispute in the establishment in which  
23 the prisoner is, or is to be, employed.

24 \* Sec. 4. AS 33.30.250(c) is amended to read:

25 (c) Whenever the prisoner is not employed and between the hours or  
26 periods of employment, he shall be confined in a prison facility, <sup>PR</sup> as  
27 directed by the commissioner [THE JAIL. UNLESS THE COURT DIRECTS OTHER-  
28 WISE].

29 \* Sec. 5. AS 33.30.250(e) is amended to read:

UNLESS THE COMMISSIONER  
DIRECTS OTHERWISE  
ASK PIRAZ

1 (e) If the prisoner violates the conditions established for his  
2 conduct, custody, or employment, or if the prisoner refuses to work when  
3 directed to do so under (a) or (b) of this section, the commissioner may  
4 order the balance of the prisoner's sentence to be spent in actual con-  
5 finement or may discipline the prisoner, in accordance with regulations,  
6 which the commissioner shall adopt, providing for discipline of pris-  
7 oners who refuse to work.

8 \* Sec. 6. AS 33.30.2~~10~~<sup>15</sup> is amended by adding a new subsection to read:

9 (h) This section does not apply to correctional industries or to  
10 prisoners who work in correctional industries.

11 \* Sec. 7. AS 41.20.110(b) is amended to read:

12 (b) As an aid to the construction and maintenance of trails and  
13 campsites under (a) of this section the commissioner of health and  
14 social services is authorized to establish a program that would direct  
15 [ALLOW] prisoners to [VOLUNTEER FOR] work on the trails and campsites.  
16 The commissioner is authorized to grant remuneration for the work,  
17 either in money or reduction of sentence, which he considers sufficient.  
18 The commissioner shall adopt regulations to provide for discipline of  
19 prisoners who refuse to work when directed to do so under this section.

20 \* Sec. 8. AS 36.10.060 is repealed.  
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Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

March 24, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

SB 327 - "An Act relating to parole of offenders; continuing the existence of the Board of Parole; and providing for an effective date."

SB 633 - "An Act relating to work programs for prisoners in state institutions."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Anderson, Ray, Parr, and Rodey. Senator Bennett was absent.

002 - Call to order.

005 - Chairman Rodey brought SB 327 before the committee.

010 - Mr. Pettyjohn, Vice-Chairman of the Parole Board, testified in favor of SB 327, stating that the Parole Board works should be continued. The Board would recommend inserting the words "or municipal ordinance" at the end of line 26 on page 11, and inserting the same wording on line 27, page 12 after the phrase "or federal law". This amendment would clarify that the Board may revoke a parolee for violation of a city ordinance when a person is involved in serious misdemeanor behavior, such as driving while intoxicated. The Board also recommends that the words "judicial officer" be deleted from line 4 on page 13 and instead the wording "Board member or the Board" be inserted instead. The issuance of parole violation warrants by judicial officers does not offer any more real protections to parolees than having the warrants issued by a Board member pursuant to applicable laws and United States and Alaska court decisions.

The Committee discussed the following areas of SB 327:

Page 1, Line 19 - Paragraph (c), Senator Ray questioned language.

Page 2, Line 10 - Senator Ray questioned having members of the Board serving at the Governor's discretion.

Page 3, Line 6 - Senator Ray stated that there should be flat

compensation.

- Page 3, Line 14 - Senator Ray stated that 3 votes should be required for official action. Senator Anderson concurred. Senator Rodey stated that a designee should be allowed to serve. Senator Ray thought that it should be a 30 day appointment period.
- Line 23, Page 6 - Senator Ray stated that the language was unclear.
- Line 10, Page 11 - Senator Ray wanted to know why only parolees who had not been charged with a felony (vs. a misdemeanor) during their time on parole were discharged from parole after a five year period.
- Line 16, Page 14 - Senator Ray questioned language.

670 - Mr. Barry Stern, Department of Law, distributed a committee substitute to the bill. Mr. Stern stated that the Parole Board is not constitutionally mandated, only a parole system is needed. He further stated that the number of paroles have been constant although inmate population has doubled in the last few years. He informed the committee that the House had introduced HB 293 which addresses the Parole Board. He expressed the administration's wanting to see HB 293 approach:

- A.) presumptive sentencing for first offenders, and
- B.) restricting the Parole Board in supervising offenders currently in the system.

#### SIDE TWO

133 - SB 327 was laid on the table to allow for some of the language to be worked on.

136 - Chairman Rodey brought SB 633 before the committee.

198 - Mr. Walt Jones, Department of Health & Social Services, testified in favor of SB 633, and explained the zero fiscal note attached to the bill.

316 - Mr. Mike Stark testified and suggested SB 633 be incorporated with HB 194, relating to prison industry, as this bill had already passed the House and is on its way to the Senate.

419 - SB 633 was laid on the table to allow for combination of the language.

426 - Chairman Rodey adjourned the meeting at 2:45 P.M.



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MARCH 17, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

- HB 573 - "An Act relating to the crime of tampering with a witness."
- SB 741 - "An Act relating to child support enforcement."
- SB 633 - "An Act relating to work programs for prisoners in state institutions."
- SB 473 - "An Act relating to urban renewal and development projects of municipalities; and providing for an effective date."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Rodey, Parr, Ray, and Anderson. Senator Bennett was absent.

010 - Call to order by Chairman Rodey.

012 - Chairman Rodey brings SB 741 before the committee.

014 - Mr. Bruce gave explanation of the committee substitute.

037 - Senator Ray moves to adopt the committee substitute and pass the bill with individual recommendations. There was no objection.

085 - Next Chairman Rodey brought HB 573 before the committee.

100 - Mr. Bruce explains the changes that the committee substitute would make.

126 - Senator Ray moves to adopt the committee substitute and move the bill from committee with individual recommendations. There was no objection.

144 - SB 473 was the next item on the agenda.

152 - Mr. Lee Shark, City Attorney for Juneau, testified in favor of SB 473, stating it would clear up some confusion that exists in present law.

367 - Palmer McCarter, representing the Department of Community and Regional Affairs, testified in favor of the bill.

401 - Pat Anderson, representing the Municipality of Anchorage, testified in favor of SB 473.

526 - After brief discussion, Senator Parr asked that the bill be held in committee until Monday's meeting to enable time to review the bill further. There was no objection.

534 - Chairman Rodey next brought SB 633 before the committee.

540 - Senator Parr gave an overview of the bill.

581 - Mr. Walt Jones, Division of Corrections, testified in favor of SB 633.

The Committee spent considerable time discussing the merits of work programs and gratuity payments.

#### SIDE TWO

177 - Chairman Rodey suggests adopting amendments to SB 633 made by the Department of Health, Education, and Social Services. See attached amendments.

185 - Senator Ray objects to amendment on Page 1, Line 17. Chairman Rodey requested the Division of Corrections to review its fiscal note to insure that no fiscal impact is possible.

287 - SB 633 is laid on the table.

293 - Chairman Rodey adjourned at 2:35 P.M.

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.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
BUREAU ALASKA 99501  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 23, 1982

SUBJECT: Requiring prisoners to work -- SB 633  
(Work Order No. 12-2750)

TO: Senator Patrick M. Rodey  
Chairman, Senate Judiciary  
Committee

FROM: Diane T. Colvin *DTC*  
Legislative Counsel

You have asked whether SB 633, which would if enacted require prisoners to work, is constitutional, and, in particular, whether the work requirement constitutes involuntary servitude, prohibited by the Thirteenth Amendment to the U.S. Constitution. In response, we have the following information.

We do not believe that the bill is subject to attack on Thirteenth Amendment grounds. The Thirteenth Amendment expressly exempts punishment of a crime from its prohibitions:

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.  
(Emphasis added)

Courts have consistently held that lawfully convicted criminals may be required to work by prison authorities. The leading case is Draper v. Rhay, 315 F.2d 193 (9th Cir. 1963), in which the court found that prison labor is not the sort of involuntary servitude which violates Thirteenth Amendment rights. The court stated:

There is no federally protected right of a state prisoner not to work while imprisoned after conviction. . .

While SB 633 is probably not vulnerable on Thirteenth Amendment grounds, this does not mean that the bill is not open to legal challenge on other grounds. Statutes dealing with work by prisoners have been the subject of considerable litigation in the various states. Most of the cases involve just compensation for work performed while incarcerated and are challenged on Fifth and Fourteenth Amendment grounds (deprivation of property without due process) as well as on Thirteenth Amendment grounds. The courts have, however, generally rejected these arguments. For example, in Sims v. Parke Davis and Co., 334 F.Supp. 774 (E.D. Mich. 1971), the court held that, where state prison inmates were compelled to work in a research clinic operated in prison by private drug manufacturers, the failure to pay reasonable value for prisoners' work is not a denial of due process rights in view of the traditional notion that "lawful incarceration brings about the necessary withdrawal or limitation of many privileges and rights". The Alaska Supreme Court has reached a similar conclusion. In McGinnis v. Stevens, 543 P.2d 1221 (1975), the Court found that neither the rehabilitation directive nor the due process clause of the Alaska Constitution require a holding that an inmate is entitled to a minimum wage.

The rehabilitation directive of the Alaska Constitution, Article I, Sec. 12, may provide another basis for challenging this bill, since it might be argued that only voluntary, and not involuntary work, would serve to rehabilitate a prisoner. 1/ Whether such a challenge would be successful is difficult to predict. Since the Court has consistently recognized the multiple goals encompassed in the standards of Sec. 12, it seems likely that the Court would uphold the

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1/ Article I, Sec. 12 of the Alaska Constitution provides in part as follows:

Penal administration shall be based on the principle of reformation and upon the need for protecting the public.

Senator Patrick M. Rodey  
Page 3  
March 23, 1982

work requirement on the basis that it serves to fulfill other sentencing goals if not the goal of rehabilitation.

We hope this information is of use to you in consideration of SB 633. If you wish further information, please do not hesitate to contact us.

DTC:ljb

# STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF ADULT CORRECTIONS

JAY S. HAMMOND, GOVERNOR

POUCH H-03  
JUNEAU, ALASKA 99811  
PHONE: 465-3376

DOCUMENT NO. 96-82

March 18, 1982

Honorable Patrick M. Rodey  
Chairman  
Senate Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

Dear Senator Rodey:

The question was raised at yesterday's hearing on Committee Substitute for Senate Bill 633 (HESS) regarding the potential fiscal impact for the language "The Gratuity payment may not exceed \$3.00 per day except that this limit does not apply to a work program in which a portion of the payment is designated as for the prisoners daily living expenses." As testified before the committee, the Palmer Correctional Center is currently operating under this practice. The superintendent was contacted regarding the fiscal impact this practice has on his correctional center. The following was learned:

1. The maximum daily gratuity which can be earned by an inmate is \$6.00 per day. However, the average gratuity earnings are between \$4.00 and \$4.50 per inmate per day at the Palmer Correctional Center.
2. The inmates at the Palmer camp are required to purchase the following items which are furnished at no cost to inmates at other institutions:
  - A. All clothing
  - B. All health and comfort items (toothpaste, toothbrush, soaps, towels, wash-cloths, etc.)
  - C. All materials to launder their own clothing (soaps, bleach, etc.)
  - D. Stamps
  - E. A portion of vendor payments for medical services. The inmate is charged back at the rate of \$0.10 per hour for medical costs incurred on his behalf by a local physician, hospital, or pharmacy. The \$0.10 per hour is deducted from his pay until he has satisfied the entire bill or until he is released from the Palmer Correctional Center.

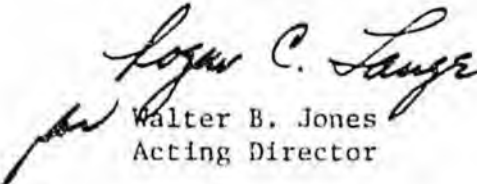
The purchases, other than medical care, are made through the commissary. The cost of the purchases are deducted from the inmates individual trust account and transferred to the commissary account. The commissary supplies are charged to the commissary account, not the correctional centers operating budget. The end result of the operating budget is a greater expenditure for inmate gratuities and a smaller expenditure for commodities which the inmates are required to purchase for themselves.

Letter to Honorable Patrick M. Rodey  
Chairman  
Senate Judiciary Committee  
Dated March 18, 1982

Page 2

Because of the program requirements for inmates to purchase the above identified items, it is estimated that the higher earnings now being paid at the Palmer Correctional Center result in no greater expenditures of state dollars. Using similar guidelines throughout the state if committee substitute for Bill No. 633 (HESS) were enacted, it is estimated that there would be no fiscal impact as a result of the provision on lines 17 through 20 of the bill.

Sincerely,



Walter B. Jones  
Acting Director

POSITION PAPER  
COMMITTEE SUBSTITUTE FOR  
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 33.30.250, page 2 - amend paragraph (c) to read as follows:  
(c) Whenever a prisoner is not employed and between the hours or periods of employment, he shall be confined in a prison facility or furlough facility as directed by the commissioner.

AS 33.30.250, page 2 - add paragraph (d) to read:  
(d) Not withstanding provisions of this section, prisoners may not be required to participate in Correctional Industries Programs except on a voluntary basis.

Recommended by:

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

Date:

*3-16-82*

Approved by:

*Helen D. Beirne*  
Helen D. Beirne  
Commissioner

Date:

*3-17-82*

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. CS for Senate Bill No. 633 (HESS)  
 Title "An Act Relating to work programs for prisoners in state institutions"  
 Requested by Parr Date March 5, 1982

II. FISCAL DETAIL  
 Agency Affected Dept. of Health and Social Services  
 Program Category Affected Offender Confinement Reformation & Supervision  
 BRU, Program, Or Subprogram(s) Affected Adult Confinement  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

An analysis of Committee Substitute for Senate Bill No. 633 does not disclose any significant fiscal impact on the Division of Adult Corrections if the proposed legislation were enacted.

IV. DATE March 16, 1982 PREPARED BY Roger C. Lange  
 AGENCY Division of Adult Corrections  
 PHONE 465-3376  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

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 ~~at~~  
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.

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 "c" to read as follows: (c) 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:

Helen D. Beirne  
Helen D. Beirne  
Commissioner

Date:

1/25/82

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 633

Title An Act Relating to Work Performed by Prisoners

Requested by PARR

Date January 12, 1982

II. FISCAL DETAIL

Agency Affected Dept. of Health and Social Services

Program Category Affected Offender Confinement Reformation & Supervision

ERU, Program, Or Subprogram(s) Affected Adult Confinement

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

An analysis of Senate Bill No. 633 does not disclose any significant fiscal impact on the Division of Adult Corrections if the proposed legislation were enacted. Under AS 41.20.110(b) amendment, if the Commissioner opted to grant remuneration to prisoners in lieu of reducing their sentences, it would result in an additional cost of approximately \$15,000 per year statewide. In the event the Commissioner authorized a reduction of sentence to each prisoner who worked it would result in a daily cost of care savings to the state large enough to eliminate the cost of the work program.

IV. DATE January 20, 1982

PREPARED BY Roger C. Lange

AGENCY Division of Adult Corrections

PHONE 465-3376

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

*Roger C. Lange*

JCC

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, 51, 52, 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 notified the commissioner of labor shall be notified if needed. (§ 5 ch 177 SLA 1960)

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

Sec. 36.10.075. Duties of commissioner of labor shall promote the provisions of this chapter and reporting method, time and content of this chapter and reporting vision by the Department covered by this chapter. (§ 5 ch 177 SLA 1960)

Sec. 36.10.076. Duties of commissioner of labor shall notify the Department of Public Works of the planned public works in the manner prescribed by the Department. (1972)

Sec. 36.10.080. Chapter provisions of this chapter are covered by this chapter after April 1, 1972.

Sec. 36.10.090. Publication of list of names of persons who are not eligible to work as a contractor for the state for three years from the date of conviction.

(b) A local government or political subdivision of this chapter which is not in compliance with the provisions may be required to be available for the project in violation of the provisions of this chapter may be denied up to the public school foundation may be found to be in violation of the provisions of this chapter may forfeit his position.

(c) A person or government

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§ 33.30.150

PROBATION, PRISONS, AND PRISONERS

§ 33.30.250

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 (1976).

**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

- 225. Gratuity for institutional work
- 250. Work furlough
- 260. Rehabilitation furloughs
- 270. Employment of imprisoned persons
- 280. Credit for labor while imprisoned
- 290. Forfeiture of property upon conviction and lien for fine and costs

#### Section

- 300. Crime against convict in penitentiary
- 310. Effect of judgment of imprisonment in penitentiary
- 320. Effect of sentence to life imprisonment

**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 \$3 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 3, 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