
SENATE BILL NO. 393—SENATORS PARKS, SPEARMAN, SEGERBLOM,
CANCELA; ATKINSON, DENIS, GOICOECHEA, MANENDO,
RATTI AND WOODHOUSE

MARCH 20, 2017

JOINT SPONSORS: ASSEMBLYMEN OHRENSCHALL;
OSCARSON AND WHEELER

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the Department of
Corrections. (BDR 16-608)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to prisons; authorizing the Director of the
Department of Corrections to purchase certain goods and
services provided by programs for offenders without
complying with certain state purchasing requirements;
deleting certain provisions which prohibit an offender
from engaging in telemarketing or conducting opinion
polls by telephone; and providing other matters properly
relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, the provisions of chapter 333 of NRS, known as the State
2 Purchasing Act, set forth general procedures and requirements for the purchase of
3 supplies, materials, equipment and services by agencies of the State. (Chapter 333
4 of NRS) The Administrator of the Purchasing Division of the Department of
5 Administration is responsible for developing standard specifications for supplies,
6 materials and equipment purchased for the various agencies. (NRS 333.210)
7 **Section 1** of this bill requires the Director of the Department of Corrections to
8 develop and establish standard specifications for acquiring supplies, materials,
9 equipment and services used or required by the Department which may be provided
10 by programs conducted by the prisons within the Department which provide
11 services and manufacturing by offenders. **Section 1** also authorizes the Director to
12 purchase from those programs, notwithstanding the provisions of the State
13 Purchasing Act, supplies, materials, equipment and services used or required by the



14 Department for which standard specifications have been established by the
15 Director, if the supplies, materials, equipment and services meet the applicable
16 specifications.

17 Existing law requires the Director of the Department of Corrections, to the
18 extent practicable, to require each offender to spend 40 hours each week in
19 vocational training or employment, with certain exceptions for offenders whose
20 behavior is found to preclude participation, offenders who have medical concerns
21 and offenders who attend educational classes. An offender may not engage in
22 vocational training, employment or a business that requires or permits the offender
23 to telemarket or conduct opinion polls by telephone. (NRS 209.461) **Section 2** of
24 this bill deletes the prohibition on telemarketing and conducting opinion polls by
25 telephone. **Section 2** also requires the Director to pay for services provided by
26 offenders to the Department and purchase goods manufactured by offenders for the
27 Department as are newly authorized in **section 1**, and to not include the costs to the
28 Department of paying for such services and goods when calculating the profit and
29 loss determination regarding the programs for the employment of offenders that is
30 required of the Department. **Section 3** of this bill requires the Administrator of
31 the Purchasing Division of the Department of Administration to exempt the
32 Department of Corrections from the provisions of the State Purchasing Act to the
33 extent authorized in **section 1**. (NRS 333.175)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 209 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *Notwithstanding the provisions of chapter 333 of NRS, the*
4 *Director:*

5 *1. Shall develop and establish standard specifications for*
6 *acquiring supplies, materials, equipment and services used or*
7 *required by the Department which may be provided by programs*
8 *for services and manufacturing by offenders which are conducted*
9 *by the institutions.*

10 *2. May purchase from programs specified in subsection 1 any*
11 *supplies, materials, equipment and services used or required by*
12 *the Department for which standard specifications have been*
13 *established pursuant to subsection 1, if the supplies, materials,*
14 *equipment and services meet the applicable specifications.*

15 **Sec. 2.** NRS 209.461 is hereby amended to read as follows:

16 209.461 1. The Director shall:

17 (a) To the greatest extent possible, approximate the normal
18 conditions of training and employment in the community.

19 (b) Except as otherwise provided in this section, to the extent
20 practicable, require each offender, except those whose behavior is
21 found by the Director to preclude participation, to spend 40 hours
22 each week in vocational training or employment, unless excused for
23 a medical reason or to attend educational classes in accordance with
24 NRS 209.396. The Director shall require as a condition of



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1 employment that an offender sign an authorization for the
2 deductions from his or her wages made pursuant to NRS 209.463.
3 Authorization to make the deductions pursuant to NRS 209.463 is
4 implied from the employment of an offender and a signed
5 authorization from the offender is not required for the Director to
6 make the deductions pursuant to NRS 209.463.

7 (c) Use the earnings from services and manufacturing conducted
8 by the institutions and the money paid by private employers who
9 employ the offenders to offset the costs of operating the prison
10 system and to provide wages for the offenders being trained or
11 employed.

12 (d) Provide equipment, space and management for services and
13 manufacturing by offenders.

14 (e) Employ craftsmen and other personnel to supervise and
15 instruct offenders.

16 (f) Contract with governmental agencies and private employers
17 for the employment of offenders, including their employment on
18 public works projects under contracts with the State and with local
19 governments.

20 (g) Contract for the use of offenders' services and for the sale of
21 goods manufactured by offenders.

22 (h) *Pay for services provided to the Department by offenders*
23 *and purchase goods manufactured by offenders for the*
24 *Department that meet the standard specifications established*
25 *pursuant to section 1 of this act.*

26 (i) On or before January 1, 2014, and every 5 years thereafter,
27 submit a report to the Director of the Legislative Counsel Bureau for
28 distribution to the Committee on Industrial Programs. The report
29 must include, without limitation, an analysis of existing contracts
30 with private employers for the employment of offenders and the
31 potential impact of those contracts on private industry in this State.

32 ~~(h)~~ (j) Submit a report to each meeting of the Interim Finance
33 Committee identifying any accounts receivable related to a program
34 for the employment of offenders.

35 2. Every program for the employment of offenders established
36 by the Director must:

37 (a) Employ the maximum number of offenders possible;

38 (b) Except as otherwise provided in NRS 209.192, provide for
39 the use of money produced by the program to reduce the cost of
40 maintaining the offenders in the institutions;

41 (c) Have an insignificant effect on the number of jobs available
42 to the residents of this State; and

43 (d) Provide occupational training for offenders.

44 3. An offender may not engage in vocational training,
45 employment or a business that requires or permits the offender to ~~+~~



1 ~~—(a) Telemarket or conduct opinion polls by telephone; or~~
2 ~~—(b) Acquire,] **acquire**, review, use or have control over or access~~
3 to personal information concerning any person who is not
4 incarcerated.

5 4. Each fiscal year, the cumulative profits and losses, if any, of
6 the programs for the employment of offenders established by the
7 Director must result in a profit for the Department. The following
8 must not be included in determining whether there is a profit for the
9 Department:

10 (a) Fees credited to the Fund for Prison Industries pursuant to
11 NRS 482.268, any revenue collected by the Department for the
12 leasing of space, facilities or equipment within the institutions or
13 facilities of the Department, and any interest or income earned on
14 the money in the Fund for Prison Industries.

15 (b) The selling expenses of the Central Administrative Office of
16 the programs for the employment of offenders. As used in this
17 paragraph, “selling expenses” means delivery expenses, salaries of
18 sales personnel and related payroll taxes and costs, the costs of
19 advertising and the costs of display models.

20 (c) The general and administrative expenses of the Central
21 Administrative Office of the programs for the employment of
22 offenders. As used in this paragraph, “general and administrative
23 expenses” means the salary of the Deputy Director of Industrial
24 Programs and the salaries of any other personnel of the Central
25 Administrative Office and related payroll taxes and costs, the costs
26 of telephone usage, and the costs of office supplies used and postage
27 used.

28 *(d) The costs to the Department of purchasing services*
29 *provided by offenders and goods manufactured by offenders*
30 *pursuant to section 1 of this act.*

31 5. If any state-sponsored program incurs a net loss for 2
32 consecutive fiscal years, the Director shall appear before the
33 Committee on Industrial Programs to explain the reasons for the net
34 loss and provide a plan for the generation of a profit in the next
35 fiscal year. If the program does not generate a profit in the third
36 fiscal year, the Director shall take appropriate steps to resolve the
37 issue.

38 6. Except as otherwise provided in subsection 3, the Director
39 may, with the approval of the Board:

40 (a) Lease spaces and facilities within any institution of the
41 Department to private employers to be used for the vocational
42 training and employment of offenders.

43 (b) Grant to reliable offenders the privilege of leaving
44 institutions or facilities of the Department at certain times for the
45 purpose of vocational training or employment.



1 7. Before entering into any contract with a private employer for
2 the employment of offenders pursuant to subsection 1, the Director
3 shall obtain from the private employer:

4 (a) A personal guarantee to secure an amount fixed by the
5 Director but not less than 100 percent of the prorated annual amount
6 of the contract, a surety bond made payable to the State of Nevada
7 in an amount fixed by the Director but not less than 100 percent of
8 the prorated annual amount of the contract and conditioned upon the
9 faithful performance of the contract in accordance with the terms
10 and conditions of the contract, or a security agreement to secure any
11 debt, obligation or other liability of the private employer under the
12 contract, including, without limitation, lease payments, wages
13 earned by offenders and compensation earned by personnel of the
14 Department.

15 (b) A detailed written analysis on the estimated impact of the
16 contract on private industry in this State. The written analysis must
17 include, without limitation:

18 (1) The number of private companies in this State currently
19 providing the types of products and services offered in the proposed
20 contract.

21 (2) The number of residents of this State currently employed
22 by such private companies.

23 (3) The number of offenders that would be employed under
24 the contract.

25 (4) The skills that the offenders would acquire under the
26 contract.

27 8. The provisions of this chapter do not create a right on behalf
28 of the offender to employment or to receive the federal or state
29 minimum wage for any employment and do not establish a basis for
30 any cause of action against the State or its officers or employees for
31 employment of an offender or for payment of the federal or state
32 minimum wage to an offender.

33 9. As used in this section, "state-sponsored program" means a
34 program for the vocational training or employment of offenders
35 which does not include a contract of employment with a private
36 employer.

37 **Sec. 3.** NRS 333.175 is hereby amended to read as follows:

38 333.175 The Administrator ~~may~~:

39 *1. Shall exempt from the provisions of this chapter purchases*
40 *made by the Department of Corrections pursuant to section 1 of*
41 *this act.*

42 *2. May* exempt from the provisions of this chapter purchases
43 made by the Department of Corrections, with money from the
44 Offenders' Store Fund, for the provision and maintenance of
45 canteens for offenders.



1 **Sec. 4.** This act becomes effective on July 1, 2017.

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