



1997 ASSEMBLY BILL 895

March 10, 1998 - Introduced by Representatives RILEY, MEYER, TURNER, BOYLE, BOCK, KRUG, SPRINGER, NOTESTEIN, LA FAVE, J. LEHMAN, BLACK, STASKUNAS, HASENOHRL, PLOUFF and MURAT, cosponsored by Senators MOEN, BURKE, JAUCH, DECKER, CLAUSING, WINEKE, PLACHE and WIRCH. Referred to Committee on Corrections Facilities.

1 **AN ACT to amend** 303.01 (2) (em); and **to create** 303.01 (5m) and 303.01 (11) of
2 the statutes; **relating to:** the operation of private businesses in state prisons.

Analysis by the Legislative Reference Bureau

Under current law, the department of corrections (DOC) is authorized to lease space and equipment in the state prisons to 6 private businesses who will employ inmates or residents to manufacture products or components or provide services for sale on the open market. This bill provides that no private business may operate under this DOC program if any of the following occur:

1. The private business employs prison inmates or institution residents in skills, crafts or trades in which there exists a surplus of available gainful labor in the locality in which the prison inmates or institution residents are to perform the skills, crafts or trades.

2. The manufacturing, production or other work-related functions of the employes of the private business who are not prison inmates or institution residents are reduced as a result of the employment of prison inmates or institution residents.

3. The hourly wages or fringe benefits of the employes of the private business who are not prison inmates or institution residents are reduced as a result of the employment of prison inmates or institution residents.

4. The employment of prison inmates or institution residents impairs a collective bargaining agreement covering employes of the private business who are not prison inmates or institution residents.

5. The private business employs prison inmates or institution residents to perform manufacturing, production or other work-related functions that can be

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performed by employees of the private business who have been laid off by the private business.

6. The private business employs prison inmates or institution residents in lieu of employing persons at a reasonable wage who are not prison inmates or institution residents.

7. The employment of prison inmates or institution residents restricts the promotional opportunities of qualified employees of the private business who are not prison inmates or institution residents.

Under the bill, if DOC determines that any of the results specified in items 1. to 7. have occurred, the private business must immediately cease its operations under the program.

The bill also provides that DOC may not enter into a contract to purchase or lease equipment that has a value of \$10,000 or more for use by a private business under the DOC program (as well as the entire prison industries program) without the approval of the joint committee on finance and requires any private business that conducts operations under the DOC program to report quarterly to the joint committee on finance on the number of persons it employs who are not prison inmates or institution residents.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 303.01 (2) (em) of the statutes, as affected by 1997 Wisconsin Acts
2 27 and 36, is amended to read:
3 303.01 **(2)** (em) Lease space, with or without equipment, within the precincts
4 of state prisons, as specified in s. 302.02, or within the confines of correctional
5 institutions operated by the department for holding in secure custody persons
6 adjudged delinquent, to not more than 6 private businesses to employ prison inmates
7 and institution residents to manufacture products or components or to provide
8 services for sale on the open market. The department shall comply with s. 16.75 in
9 selecting businesses under this paragraph. The department may enter into a
10 contract under this paragraph only with the approval of the joint committee on
11 finance. The department shall consult with appropriate trade organizations and

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1 labor unions prior to issuing requests for proposals and prior to selecting proposals
2 under this paragraph. Each such private business may conduct its operations as a
3 private business, subject to the wage standards under sub. (4), the disposition of
4 earnings under sub. (8), the displacement and reporting requirements under sub.
5 (5m), the requirements for notification and hearing under sub. (1) (c), the
6 requirement for prison industries board approval under s. 303.015 (1) (b) and the
7 authority of the department to maintain security and control in its institutions. The
8 private business and its operations are not a prison industry. Inmates employed by
9 the private business are not subject to the requirements of inmates participating in
10 prison industries, except as provided in this paragraph;

11 **SECTION 2.** 303.01 (5m) of the statutes is created to read:

12 303.01 **(5m)** DISPLACEMENT. (a) No private business under sub. (2) (em) may
13 conduct operations under that subsection if any of the following occur:

14 1. The private business employs prison inmates or institution residents in
15 skills, crafts or trades in which there exists a surplus of available gainful labor in the
16 locality in which the prison inmates or institution residents are to perform the skills,
17 crafts or trades.

18 2. The manufacturing, production or other work-related functions of the
19 employes of the private business who are not prison inmates or institution residents
20 are reduced as a result of the employment of prison inmates or institution residents.
21 A reduction in functions under this subdivision shall not include any reduction in
22 overtime work performed by the employes.

23 3. The hourly wages or fringe benefits of the employes of the private business
24 who are not prison inmates or institution residents are reduced as a result of the
25 employment of prison inmates or institution residents.

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1 4. The employment of prison inmates or institution residents impairs a
2 collective bargaining agreement covering employes of the private business who are
3 not prison inmates or institution residents.

4 5. The private business employs prison inmates or institution residents to
5 perform manufacturing, production or other work-related functions that can be
6 performed by employes of the private business who have been laid off by the private
7 business.

8 6. The private business employs prison inmates or institution residents in lieu
9 of employing persons at a reasonable wage who are not prison inmates or institution
10 residents.

11 7. The employment of prison inmates or institution residents restricts the
12 promotional opportunities of qualified employes of the private business who are not
13 prison inmates or institution residents.

14 (b) Any private business that is determined by the department to have violated
15 par. (a) shall immediately cease conducting operations under sub. (2) (em).

16 (c) Each private business that conducts operations under sub. (2) (em) shall
17 report quarterly to the joint committee on finance on the number of persons it
18 employs who are not prison inmates or institution residents.

19 **SECTION 3.** 303.01 (11) of the statutes is created to read:

20 303.01 (11) CONTRACTS. The department may not enter into a contract to
21 purchase or lease equipment that has a value of \$10,000 or more for use by a private
22 business under this section without the approval of the joint committee on finance.

23 **SECTION 4. Initial applicability.**

