

Amendment No. 444

Senate Amendment to Senate Bill No. 393	(BDR 16-608)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>
Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	Receded	<input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

DLJ/JRS



Date: 4/18/2017

S.B. No. 393—Revises provisions relating to the Department of Corrections.
(BDR 16-608)



SENATE BILL NO. 393—SENATORS PARKS, SPEARMAN, SEGERBLUM, 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~~ requiring the Director of the Department of Corrections to ~~purchase~~ develop standards for acquiring certain goods and services provided by programs for offenders without complying with certain state purchasing requirements; authorizing the Director to purchase those goods and services in accordance 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:

Under existing law, the provisions of chapter 333 of NRS, known as the State Purchasing Act, set forth general procedures and requirements for the purchase of supplies, materials, equipment and services by agencies of the State. (Chapter 333 of NRS) The Administrator of the Purchasing Division of the Department of Administration is responsible for developing standard specifications for supplies, materials and equipment purchased for the various agencies. (NRS 333.210) **Section 1** of this bill requires the Director of the Department of Corrections to develop and establish standard specifications for acquiring supplies, materials, equipment and services used or required by the Department which may be provided by programs conducted by the prisons within the Department which provide services and manufacturing by offenders. **Section 1** also authorizes the Director to purchase from those programs, ~~notwithstanding~~ subject to the provisions of the State Purchasing Act, supplies, materials, equipment and services used or required by the Department for which standard specifications have been established by the Director, if the supplies, materials, equipment and services meet the applicable specifications.

Existing law requires the Director of the Department of Corrections, to the extent practicable, to require each offender to spend 40 hours each week in vocational training or employment, with certain exceptions for offenders whose behavior is found to preclude

participation, offenders who have medical concerns and offenders who attend educational classes. An offender may not engage in vocational training, employment or a business that requires or permits the offender to telemarket or conduct opinion polls by telephone. (NRS 209.461) **Section 2** of this bill deletes the prohibition on telemarketing and conducting opinion polls by telephone. **Section 2** also requires the Director to pay for services provided by offenders to the Department and purchase goods manufactured by offenders for the Department as are newly authorized in **section 1**, and to not include the costs to the Department of paying for such services and goods when calculating the profit and loss determination regarding the programs for the employment of offenders that is required of the Department. ~~{Section 2 of this bill requires the Administrator of the Purchasing Division of the Department of Administration to exempt the Department of Corrections from the provisions of the State Purchasing Act to the extent authorized in section 1. (NRS 233.175)}~~

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

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

~~1. Notwithstanding the provisions of chapter 333 of NRS, the Director ~~+~~ shall develop and establish standard specifications for acquiring supplies, materials, equipment and services used or required by the Department which may be provided by programs for services and manufacturing by offenders which are conducted by the institutions.~~

~~2. May The Director may, in accordance with the provisions of chapter 333 of NRS, purchase from programs specified in subsection 1 any supplies, materials, equipment and services used or required by the Department for which standard specifications have been established pursuant to subsection 1, if the supplies, materials, equipment and services meet the applicable specifications.~~

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

209.461 1. The Director shall:

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

(b) Except as otherwise provided in this section, to the extent practicable, require each offender, except those whose behavior is found by the Director to preclude participation, to spend 40 hours each week in vocational training or employment, unless excused for a medical reason or to attend educational classes in accordance with NRS 209.396. The Director shall require as a condition of employment that an offender sign an authorization for the deductions from his or her wages made pursuant to NRS 209.463. Authorization to make the deductions pursuant to NRS 209.463 is implied from the employment of an offender and a signed authorization from the offender is not required for the Director to make the deductions pursuant to NRS 209.463.

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

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

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

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

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

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

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

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

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

(a) Employ the maximum number of offenders possible;

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

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

(d) Provide occupational training for offenders.

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

~~(a) Telemarket or conduct opinion polls by telephone; or~~

~~(b) Acquire, + acquire,~~ review, use or have control over or access to personal information concerning any person who is not incarcerated.

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

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

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

(c) The general and administrative expenses of the Central Administrative Office of the programs for the employment of offenders. As used in this paragraph, "general and administrative expenses" means the salary of the Deputy Director of Industrial Programs and the salaries of any other personnel of the Central Administrative Office and related payroll taxes and costs, the costs of telephone usage, and the costs of office supplies used and postage used.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~333.175 The Administrator [may]:~~

~~1. Shall exempt from the provisions of this chapter purchases made by the Department of Corrections pursuant to section 1 of this act.~~

~~2. May exempt from the provisions of this chapter purchases made by the Department of Corrections, with money from the Offenders' Store Fund, for the provision and maintenance of canteens for offenders.~~ **(Deleted by amendment.)**

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