

SENATE BILL NO. 30—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE DEPARTMENT OF CORRECTIONS)

PREFILED NOVEMBER 16, 2018

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the duties of the Director of the Department of Corrections to provide programs for the employment of offenders. (BDR 16-202)

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 offenders; revising certain requirements for private employers who enter into contracts for the employment of offenders; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Corrections to establish programs for the employment of offenders who are committed to the custody of the Department including contracting with private employers for the employment of offenders. Before entering into a contract with a private employer for the employment of offenders, existing law requires the Director to obtain from the private employer: (1) a personal guarantee of not less than 100 percent of the prorated annual amount of the contract; (2) a surety bond of not less than 100 percent of the prorated annual amount of the contract; or (3) a security agreement to secure any debt, obligation or other liability of the private employer under the contract. (NRS 209.461) This bill: (1) revises the amount of a personal guarantee or surety bond obtained by the Director to not less than 25 percent of the prorated annual amount of the contract but not more than 100 percent of the prorated annual amount of the contract for a contract that does not relate to construction; and (2) maintains the requirement in existing law of a personal guarantee or surety bond of not less than 100 percent of the prorated annual amount of the contract for a contract that relates to construction. This bill additionally requires the Director to appear before the Committee on Industrial Programs to explain the amount fixed for any personal guarantee or surety bond.



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

Section 1. 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) 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.

(i) 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, 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.

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~~ of:

(1) For a contract that does not relate to construction, not less than 25 percent of the prorated annual amount of the contract but not more 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~~ of not less than 25 percent of the prorated annual amount of the contract but not more 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 H ; or

(2) For a contract that relates to construction, 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 of 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. *The Director shall appear before the Committee on Industrial Programs to explain the reasons for the amount fixed by the Director for any personal guarantee or surety bond.*

(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. 2. This act becomes effective upon passage and approval.

