

SUBJECT: Allowing TDCJ contractors to employ inmates

COMMITTEE: Corrections — favorable, without amendment

VOTE: 8 ayes — Hightower, Gray, Allen, Farrar, Longoria, Pitts, Serna, Telford
0 nays

1 absent — Culberson

WITNESSES: For — Linda Marin, Texas CURE

Against — Emmett Sheppard, Texas AFL-CIO

DIGEST: HB 514 would allow the board of the Texas Department of Criminal Justice (TDCJ) to permit companies with TDCJ construction contracts to employ inmates. The board would be authorized to develop rules allowing the employment of inmates. Inmates would be prohibited from leaving the premises of the institutional division, and contractors would be required to pay inmates at least the prevailing wage.

Inmate salaries would have to be paid to TDCJ and distributed one-half to the inmate's dependent family and one-half to the crime victims compensation fund. If the inmate had no dependents, all of the wages would go to the crime victims fund.

The bill would take immediate effect if approved by two-thirds of the membership of each house.

SUPPORTERS SAY: HB 514 could help prison inmates gain useful, marketable job skills, provide some support for inmates' dependents and help inmates repay part of their debt to society by contributing part of their wages to the crime victims fund.

HB 514 would help reduce recidivism among prison inmates. Research shows that employment is an important factor in keeping former inmates from returning to the criminal justice system.

HB 514 would not require TDCJ to allow inmates to work on construction jobs and would not require any contractors to use inmates. The bill would simply set up a mechanism that could be used to give inmates employment experience. HB 514 would send a message to contractors who profit from state prison construction that the state is willing to cooperate with those construction companies intent on helping inmates gain work experience.

The board would be authorized to establish rules for any program, including who could work. For example, the board could limit the program to inmates who have been approved for parole and are awaiting their release date. To alleviate any conflict with the federal Prison Industry Enhancement Program (PIE), the board could allow inmates to work for the construction companies only on work release so no corrections personnel supervision would be necessary. The bill would give the board leeway to change the policies in response to problems as they arise.

Inmates would not be allowed to leave TDCJ premises, ensuring that the inmates would be secured. In addition, HB 514 would require that construction companies pay the prevailing wage, as well as workers compensation and unemployment tax, so construction labor would not be undercut or harmed.

By allowing for increased support of inmates' dependents and contributions to the crime victims compensation fund, HB 514 could help increase inmates' self esteem, especially for inmates who would have the opportunity to help support their children.

**OPPONENTS
SAY:**

Although HB 514 would not require the board to develop any program or require any contractors to hire inmates, the bill's provisions could be used as leverage to force contractors to hire inmates. The state should not try to influence the hiring decisions of private companies, directly or indirectly. Any measure that would pressure or encourage contractors to hire inmates would bring up numerous issues such as contractors' liability, contractors' fiduciary responsibility to stockholders, job site safety and monitoring inmates and keeping them secure. The prison might incur significant costs supervising the inmates on the construction site to keep them from escaping and from sneaking tools and other contraband into the prison. Contractors would also have the opportunity to blame inmates for not completing the

project on time, making accountability difficult. These factors could raise the costs of construction, which would be passed on to taxpayers.

Even though HB 514 would require inmates to be paid prevailing wages, it could still displace construction labor since inmates would be less burdensome to the contractor. Inmates would not miss work because of sickness, would not get health or vacation benefits, and could be treated unfairly without any meaningful means of protest or grievance. In sum, companies should not be given the incentive to hire the equivalent of slave labor when many veterans and other law-abiding citizens cannot find jobs.

In addition, this bill might conflict with federal law governing prison industry enhancement (PIE). If prison personnel would be supervising inmates at the construction site, federal law PIE requirements, which require a different distribution of wages than is outlined in this bill, would have to be met.

OTHER
OPPONENTS
SAY:

HB 514 could raise unrealistically high hopes about inmates gaining job skills. Because very little construction takes place off of current TDCJ properties, transportation costs and security considerations would probably prohibit inmate participation in most construction projects. The vast majority of renovations and repairs to current facilities are already done by inmate labor. Moreover, the inmates would probably gain very few skills since a construction company would probably only hire inmates for manual labor positions and would continue to employ licensed and trained plumbers, electricians, etc. from the community work force.

In addition, if HB 514 is intended to raise inmates' self-esteem, they should be able to keep some of the wages even if they had no dependents. It would be very hard to appreciate responsibility and learn respect for work without being able to keep any wages.

NOTES:

HB 1602 by Conley, identical to HB 514, passed the House in the 73rd Legislature but died in the Senate Criminal Justice Committee.