



Issue Brief - 2008

OREGON DEPARTMENT OF CORRECTIONS

Measure 17 History

Overview

Oregon prison inmates have always worked, from the making of bricks for the first penitentiary buildings to modern corrections industries. Over the decades, that labor has been governed by an array of laws, rules and programs. Foremost among them Article I Section 41 of the Oregon Constitution, more commonly referred to as "Measure 17."

This constitutional amendment was passed by Oregon voters as the "Prison Reform and Inmate Work Act" in November 1994. Its premise is that inmates who are confined in corrections institutions should work as hard as the taxpayers who provide for their upkeep and that they must be fully engaged in productive activity if they are to successfully re-enter society with practical skills and a viable work ethic.

Measure 17 now governs inmate work activities, education and training programs offered by both the Oregon Department of Corrections (DOC) and Oregon Corrections Enterprises (OCE), which is a semi-independent state agency charged with operating self-sustaining programs using inmate labor.

Measure 17 timeline

November 1994: Prison Reform and Inmate Work Act of 1994 (Measure 17) passed by Oregon voters.

April 1995: Measure 17 goes into effect.

December 1996: Performance Recognition and Award System (PRAS), a new non-compensation system of rewarding inmates for successfully completing work and training assignments, is implemented.

January 1997: The Prison Industries Board shuts down interstate commerce for inmate-made goods because of Measure 17 conflicts with federal law requiring prevailing wages to be paid to inmates producing goods for sale across state lines.

May 1997: Measure 49 passed by 91 percent of voters:

- Resolves compensation conflicts between federal law and the Oregon Constitution, allowing Inmate Work Programs to return to interstate commerce.
- Work-related security/transport time counts toward M-17 compliance.
- Eliminates inmates' "right to private action," stating that no inmate is guaranteed a right to a job or compensation for work or labor performed while in prison.
- Continues requirement that inmate work be used as much as possible to lower the costs of government by helping to operate correctional institutions as well as to support other state and local government agencies.

November 1999: Ballot Measure 68 is approved by voters in a special election:

- The Department of Corrections spins off Inmate Work Programs as Oregon Corrections Enterprises (OCE), separating shared systems and assets.
- OCE becomes a fully self-supporting semi-independent state agency with an administrator appointed by the DOC director.
- The measure also allows the DOC director to consider any adverse effects of competition between inmate labor and private-sector business in Oregon when approving or denying new or expanded inmate work programs. ■

**The mission of the
Oregon Department of Corrections
is to promote public safety by
holding offenders accountable for their
actions and reducing the risk of future
criminal behavior.**



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Article I, Section 41 of the Oregon Constitution

Work and training for corrections institution inmates; work programs; limitations; duties of corrections director.

(1) Whereas the people of the state of Oregon find and declare that inmates who are confined in corrections institutions should work as hard as the taxpayers who provide for their upkeep; and whereas the people also find and declare that inmates confined within corrections institutions must be fully engaged in productive activity if they are to successfully re-enter society with practical skills and a viable work ethic; now, therefore, the people declare:

(2) All inmates of state corrections institutions shall be actively engaged full-time in work or on-the-job training. The work or on-the-job training programs shall be established and overseen by the corrections director, who shall ensure that such programs are cost-effective and are designed to develop inmate motivation, work capabilities and cooperation. Such programs may include boot camp prison programs. Education may be provided to inmates as part of work or on-the-job training so long as each inmate is engaged at least half-time in hands-on training or work activity.

(3) Each inmate shall begin full-time work or on-the-job training immediately upon admission to a corrections institution, allowing for a short time for administrative intake and processing. The specific quantity of hours per day to be spent in work or on-the-job training shall be determined by the corrections director, but the overall time spent in work or training shall be full-time. However, no inmate has a legally enforceable right to a job or to otherwise participate in work, on-the-job training or educational programs or to compensation for work or labor performed while an inmate of any state, county or city corrections facility or institution. The corrections director may reduce or exempt participation in work or training programs by those inmates deemed by corrections officials as physically or mentally disabled, or as too dangerous to society to engage in such programs.

(4) There shall be sufficient work and training programs to ensure that every eligible inmate is productively involved in one or more programs. Where an inmate is drug and alcohol addicted so as to prevent the inmate from effectively participating in work or training programs, corrections officials shall provide appropriate drug or alcohol treatment.

(5) The intent of the people is that taxpayer-supported institutions and programs shall be free to benefit from inmate work. Prison work programs shall be designed and carried out so as to achieve savings in government operations, so as to achieve a net profit in private sector activities or so as to benefit the community.

(6) The provisions of this section are mandatory for all state corrections institutions. The provisions of this section are permissive for county or city corrections facilities. No law, ordinance or charter shall prevent or restrict a county or city governing body from implementing all or part of the provisions of this section. Compensation, if any, shall be determined and established by the governing body of the county or city which chooses to engage in prison work programs, and the governing body may choose to adopt any power or exemption allowed in this section.

(7) The corrections director shall contact public and private enterprises in this state and seek proposals to use inmate work. The corrections director may: (a) install and equip plants in any state corrections institution, or any other location, for the employment or training of any of the inmates therein; or (b) purchase, acquire, install, maintain and operate materials, machinery and appliances necessary to the conduct and operation of such plants. The corrections director shall use every effort to enter into contracts or agreements with private business concerns or government agencies to accomplish the production or marketing of products or services produced or performed by inmates. The corrections director may carry out the director's powers and duties under this section by delegation to others.

(8) Compensation, if any, for inmates who engage in prison work programs shall be determined and established by the corrections director. Such compensation shall not be subject to existing public or private sector minimum or prevailing wage laws, except where required to comply with federal law. Inmate compensation from enterprises entering into agreements with the state shall be exempt from unemployment compensation taxes to the extent allowed under federal law. Inmate injury or disease attributable to any inmate work shall be covered by a corrections system inmate injury fund rather than the workers compensation law. Except as otherwise required by federal law to permit transportation in interstate commerce of goods, wares or merchandise manufactured, produced or mined, wholly or in part by inmates or except as otherwise required by state law, any compensation earned through prison work programs shall only be used for the following purposes: (a) reimbursement for all or a portion of the costs of the inmate's rehabilitation, housing, health care, and living costs;

- (b) restitution or compensation to the victims of the particular inmate's crime;
- (c) restitution or compensation to the victims of crime generally through a fund designed for that purpose;
- (d) financial support for immediate family of the inmate outside the corrections institution; and
- (e) payment of fines, court costs, and applicable taxes.

(9) All income generated from prison work programs shall be kept separate from general fund accounts and shall only be used for implementing, maintaining and developing prison work programs. Prison industry work programs shall be exempt from statutory competitive bid and purchase requirements. Expenditures for prison work programs shall be exempt from the legislative appropriations process to the extent the programs rely on income sources other than state taxes and fees. Where state taxes or fees are the source of capital or operating expenditures, the appropriations shall be made by the legislative assembly. The state programs shall be run in a businesslike fashion and shall be subject to regulation by the corrections director. Expenditures from income generated by state prison work programs must be approved by the corrections director. Agreements with private enterprise as to state prison work programs must be approved by the corrections director. The corrections director shall make all state records available for public scrutiny and the records shall be subject to audit by the Secretary of State.

(10) Prison work products or services shall be available to any public agency and to any private enterprise of any state, any nation or any American Indian or Alaskan Native tribe without restriction imposed by any state or local law, ordinance or regulation as to competition with other public or private sector enterprises. The products and services of corrections work programs shall be provided on such terms as are set by the corrections director. To the extent determined possible by the corrections director, the corrections director shall avoid establishing or expanding for-profit prison work programs that produce goods or services offered for sale in the private sector if the establishment or expansion would displace or significantly reduce preexisting private enterprise. To the extent determined possible by the corrections director, the corrections director shall avoid establishing or expanding prison work programs if the establishment or expansion would displace or significantly reduce government or nonprofit programs that employ persons with developmental disabilities. However, the decision to establish, maintain, expand, reduce or terminate any prison work program remains in the sole discretion of the corrections director.

(11) Inmate work shall be used as much as possible to help operate the corrections institutions themselves, to

support other government operations and to support community charitable organizations. This work includes, but is not limited to, institutional food production; maintenance and repair of buildings, grounds, and equipment; office support services, including printing; prison clothing production and maintenance; prison medical services; training other inmates; agricultural and forestry work, especially in parks and public forest lands; and environmental clean-up projects. Every state agency shall cooperate with the corrections director in establishing inmate work programs.

(12) As used throughout this section, unless the context requires otherwise: "full-time" means the equivalent of at least forty hours per seven day week, specifically including time spent by inmates as required by the Department of Corrections, while the inmate is participating in work or on-the-job training, to provide for the safety and security of the public, correctional staff and inmates; "corrections director" means the person in charge of the state corrections system.

(13) This section is self-implementing and supersedes all existing inconsistent statutes. This section shall become effective April 1, 1995. If any part of this section or its application to any person or circumstance is held to be invalid for any reason, then the remaining parts or applications to any persons or circumstances shall not be affected but shall remain in full force and effect.

[Created through initiative petition filed Jan. 12, 1994, and adopted by the people Nov. 8, 1994; Amendment proposed by H.J.R. 2, 1997, and adopted by the people May 20, 1997; Amendment proposed by H.J.R. 82, 1999, and adopted by the people Nov. 2, 1999]

Note: Added to Article I as unnumbered section by initiative petition (Measure No. 17, 1994) adopted by the people Nov. 8, 1994.

Note: An initiative petition (Measure No. 40, 1996) proposed adding a new section relating to crime victims' rights to the Oregon Constitution. That section, appearing as section 42 of Article I in previous editions of this Constitution, was declared void for not being enacted in compliance with section 1, Article XVII of this Constitution. See Armatta v. Kitzhaber, 327 Or. 250, 959 P.2d 49 (1998).