

ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE BILL NO. 2620

By: Davis and Tyler of the
House

and

Maddox of the Senate

An Act relating to prisons and reformatories;
creating a construction division within the
Department of Corrections for inmate construction
crews; stating purpose; amending 74 O.S. 1991,
Section 63, as amended by Section 27, Chapter 330,
O.S.L. 1993 (74 O.S. Supp. 1995, Section 63), which
relates to the powers and authority of the
Department of Central Services and the Director of
the Department of Central Services; providing for
use of inmate construction crews; providing for
codification; providing an effective date; and
declaring an emergency.

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

"[prisons and reformatories - Construction Division -
inmate trust funds
- powers of
Department of
Central Services -
effective date -
emergency]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 508.3 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Construction Division within the Department of Corrections. The purpose of the division shall be to provide inmate construction crews for construction projects of the Department of Corrections.

B. The Director of the Department of Corrections shall adopt and promulgate such rules as may be necessary to carry out the duties of the Construction Division and shall appoint a Director of the division who shall administer the activities of the division.

C. 1. An inmate employed by the Construction Division of the Department of Corrections shall be subject to all rules established for inmate employment by the State Board of Corrections and subject to all statutes governing the operation of the Construction Division of the Department of Corrections as well as by all laws generally governing employment, wages and working conditions, except as provided for herein.

2. Inmates employed by the Construction Division are not state employees, and are specifically forbidden from organizing into unions or other associations in connection with their employment or from engaging in any strike, work stoppage, slowdown or collective bargaining process. This prohibition applies to any inmates forming a union local or similar organization at any Construction Division project or location; provided, however, it shall not prohibit any inmate from otherwise achieving or retaining status as a union member.

3. The claims of the state against an inmate to cover the costs of incarceration of an inmate shall be prior to the unsecured claims of any creditor.

4. The employment of any inmate by the Construction Division is a privilege granted by the state which may be revoked by the Director of the Department of Corrections.

5. As used in paragraph 3 of this subsection, "costs of incarceration" shall include all costs associated with maintaining an inmate in the custody of the Department of Corrections and shall include costs paid by the state for medical care for the inmate.

SECTION 2. AMENDATORY 57 O.S. 1991, Section 549, as last amended by Section 4, Chapter 266, O.S.L. 1995 (57 O.S. Supp. 1995, Section 549), is amended to read as follows:

Section 549. A. The State Board of Corrections shall have the following powers and duties with respect to the operation of prison industries, the Construction Division, and administration of inmate trust funds:

1. The power to make leases or other contracts consistent with the operation of prison industries, and to set aside land or facilities for the use of such industry;

2. The power to establish conditions for expenditures by the Department of Corrections from the Industries Revolving Fund or the Construction Division Revolving Fund;

3. The power to negotiate wages and working conditions on behalf of prisoners employed in prison industries or prisoners employed in the Construction Division. Pay grades for the Construction Division "on-the-job training" inmate crews shall be as follows:

a. Pay Grade "A" - Inmate Worker,

b. Pay Grade "B" - Inmate Worker,

c. Pay Grade "C" - Apprentice,

d. Pay Grade "D" - Skilled Craft;

4. The power to collect wages on behalf of the ~~prisoner~~ inmate, to apportion inmate wages in accordance with the law; and the duty to preserve those wages reserved for the ~~prisoner~~ inmate in an

account for his or her benefit, and to establish procedures by which the ~~prisoner~~ inmate can draw funds from this account under the conditions and limitations and for the purposes allowed by law;

5. The duty to establish the percentages of such wages which shall be available for apportionment to inmate savings; to the inmate for his or her personal use; to the lawful dependents of the inmate, if any; to the victim of the inmate's crime; for payment of creditors; for payment of costs and expenses for criminal actions against such inmate; and to the Department of Corrections for costs of incarceration. Provided, that not less than twenty percent (20%) of such wages shall be placed in an account, payable to the prisoner upon his or her discharge, upon successful completion of the Construction Division "on-the-job training", or upon assignment to a prerelease program. Funds from this account may be used by the inmate for fees or costs in filing a civil or criminal action as defined in Section 151 et seq. of Title 28 of the Oklahoma Statutes or for federal action as defined in Section 1911 et seq. of Title 28 of the United States Code, 28 U.S.C., Section 1911 et seq.; and

6. The power to invest the twenty percent (20%) mandatory savings of each inmate in an interest-bearing account with the interest accruing and payable to the Crime Victims Compensation Fund, as provided in Section 142.17 of Title 21 of the Oklahoma Statutes. The interest from each inmate's savings account shall be payable to the Crime Victims Compensation Fund, at such intervals as may be determined by the Board, in addition to any other payments to such fund required by the inmate's sentence or otherwise by law. An inmate shall not have the right, use or control of any interest derived from any funds placed in a mandatory savings account.

B. The State Board of Corrections shall cause to be placed in an account income from the inmate's employment and any other income or benefits accruing to or payable to and for the benefit of said

inmate, including any workers' compensation or Social Security benefits.

1. From this account the State Board of Corrections may charge any inmate employed in private prison industries, the Construction Division, or any other inmate for costs of incarceration not to exceed fifty percent (50%) of any deposits made to said account.

2. The Department of Corrections shall pay into the Crime Victims Compensation Revolving Fund, Section 142.17 of Title 21 of the Oklahoma Statutes, an amount equal to five percent (5%) of the gross wages earned by inmates employed in a private prison industries program or the Construction Division, said amount to be paid from the amount deducted for cost of incarceration.

3. Withdrawals and deposits shall be made according to rules and regulations established by the Board of Corrections.

C. The Department of Corrections may assess costs of incarceration against all inmates beginning on ~~the effective date of this act~~ September 1, 1992. Such costs shall be a debt of the inmate owed to the Department of Corrections and may be collected as provided by law for collection of any other civil debt. In addition to the provisions of this section authorizing expenditure of inmate trust funds for costs of incarceration, any monies received for costs of incarceration shall be deposited in the Department of Corrections Revolving Fund.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 63, as amended by Section 27, Chapter 330, O.S.L. 1993 (74 O.S. Supp. 1995, Section 63), is amended to read as follows:

Section 63. A. The Department of Central Services shall have power to promulgate rules not inconsistent with the laws of this state.

B. The Department of Central Services shall have charge of the construction, repair, maintenance, insurance, and operation of all buildings owned, used, or occupied by or on behalf of the state

including buildings owned by the Oklahoma Capitol Improvement Authority where such services are carried out by contract with the Authority. Whenever feasible, the Department of Central Services may utilize inmate construction crews for the construction and repair of buildings for the Department of Corrections.

C. The Director of the Department of Central Services shall have authority to purchase all material and perform all other duties necessary in the construction, repair, and maintenance of all buildings under its management or control, shall make all necessary contracts by or on behalf of the state for any buildings or rooms rented for the use of the state or any of the officers thereof, and shall have charge of the arrangement and allotment of space in such buildings among the different state officers.

D. The Department of Central Services shall not have any authority or responsibility for buildings, rooms or space under the management or control of the University Hospitals Authority.

E. The Department of Central Services shall have the custody and control of all state property, and all other property managed or used by the state, except military stores and such property under the control of the State Banking Department and the two houses of the State Legislature, shall procure all necessary insurance thereon against loss and shall allot the use of the property to the several offices of the state, and prescribe where the property shall be kept for public use.

F. The Department of Central Services shall keep an accurate account of all property purchased for the state or any of the departments or officers thereof, except that purchased for and by the two houses of the State Legislature. The two houses shall have the exclusive use, care, and custody of their respective chambers, committee rooms, furniture, and property, and shall keep their respective records of said furniture and property.

G. The Department of Central Services shall not have any authority or responsibility for property purchased for or under the management or control of the University Hospitals Authority except as expressly provided by law.

SECTION 4. This act shall become effective July 1, 1996.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 2nd day of April, 1996.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1996.

Speaker of the House of Representatives