

SUBJECT: Private sector-TYC industries program for young offenders

COMMITTEE: Corrections — committee substitute recommended

VOTE: 6 ayes — Hightower, Gray, Allen, Culberson, Farrar, Telford

1 nay — Longoria

2 absent — Pitts, Serna

WITNESSES: For — None

Against — Emmett Sheppard, Texas AFL-CIO

On — Byron Griffin, Texas Youth Commission

DIGEST: CSHB 2318 would authorize the Texas Youth Commission to establish and operate industries programs at TYC facilities or to contract with a private person to conduct an industries program on or off TYC premises.

TYC could develop a pay scale for children working in the industries. The TYC would have to apportion a child's wages among restitution, the state crime victim's fund, a trust fund for the child and, if the industries program is certified under the federal Private Sector/Prison Industries program, to the general revenue fund as reimbursement for the cost of the child's confinement.

TYC could lease TYC land to a private business for the industries program for fair market value and for a maximum of 50 years.

CSHB 2318 would create a nine-member industries advisory council to be appointed by TYC. An effort would have to include industry representatives on the council.

A fund would be created in the Treasury for proceeds from the industries program, and money from the fund could be used only for TYC to administer the program. The fund would be subject to requirements that funds be consolidated into the general revenue fund.

Franchise tax credit. CSHB 2318 would establish a corporate franchise tax credit equal to 10 percent of wages paid for a child involved in the industries program. To be eligible for the credit a company would have to have employed the child for at least six months.

A corporation also would be eligible for a credit for employing a child released from TYC for one year after release, if the company employed the child for at least six months while he or she was in TYC, if the job was similar or more highly skilled than the one held with the company when the child was in TYC and if the child was employed continuously for the year after being released. In this situation, the tax credit would be equal to 10 percent of the wages that would have been paid for the child if the child were still committed to TYC.

The credit for each period could not exceed 50 percent of the net franchise tax due for the period, after other tax credits were taken. Credits would be allowed only for wages paid during the accounting period in which the tax for the same period was owed. To be eligible for the credits, corporations would have to receive from TYC written certification of the wages eligible under the credit.

Eligibility for property tax abatement. Businesses contracting with TYC for an industries program would be authorized to enter into ad valorem (property) tax abatement agreements under Tax Code guidelines for tax abatements in city and county reinvestment zones.

SUPPORTERS
SAY:

CSHB 2318 would allow the Texas Youth Commission to create an industries program similar to one operated by the Texas Department of Criminal Justice that would use joint ventures with private industries to employ youths in its custody. Companies would have an incentive to join the program because of the limited tax credit and tax abatements. The program operated by TDCJ uses private-industry run programs, generally on prison sites, that employ inmates, subject to wage and other restrictions.

Joint ventures between TYC and private industry could help some of the 2,000 youth committed to TYC gain real-world, marketable job skills and could lead to employment for them after leaving TYC. The state has a responsibility to help youths gain job experience and skills so they are able

to get a job when they are released. Research shows that employment is important in reducing recidivism, and without job skills many youths turn to crime. The bill would encourage companies to hire youths after release from TYC by extending the tax credit if companies employ youths for one year after they are released. Real employment experience could be even more beneficial to youths than TYC vocational classes.

Employment would help youths committed to TYC repay part of their debt to society by contributing part of their wages to restitution costs and the crime victims fund. The bill would allow some of a youth's pay to go into a trust fund for the youth, while the state could recoup some of the cost of confining youths if the industry program is part of the federal prison industries program.

The program would have little impact on local labor markets. Only a small number of companies would likely be interested in a joint venture with TYC, and the program would best suit small, local companies like print shops or restaurants, not large manufacturing companies involved in adult prison industries programs. The communities where TYC facilities are located have shown a commitment to being involved with the youths, and this bill would further their involvement. Some businesses have employed youths paroled by TYC on an informal basis.

Some ventures would be eligible to be certified under the federal Private Sector/Prison Industry Enhancement Certification Program (PIE) guidelines. The federal program requires consultation with organized labor and local private industries, the payment of prevailing wages and assurances that the project would not displace employed workers. CSHB 2318 could allow the state to capture business that would go overseas or out of state and to create new economic output.

No one could be forced to work in the program, and TYC would be authorized to establish rules for the program, including who could work and a pay scale. Compulsory school laws, child labor laws and other statutes would apply youths in the program, ensuring they would not be abused. TYC has custody of some youths who have finished high school or have received a high school equivalency certificate and could be eligible to work as well as other youths who could benefit from part-time employment. The

bill would give TYC youths the opportunity to work that many other youths have. Work would be a complement, not a substitute, to education and counseling.

The franchise tax credit established by CSHB 2318 is similar to the one given to companies who hire adult offenders in the prison industries program. It would apply only to companies that hired youths confined and formerly confined in TYC and would be capped at 50 percent of the net franchise tax due for the period, after other tax credits. The tax credit would not result in any significant reduction in state revenue, especially considering the small number of companies and youths that would qualify for the credit. If a joint venture is part of the federal industry program, the bill would allow the state to recoup some of the child's wages as reimbursement for confinement costs, offsetting the tax credit. The fiscal note anticipates no significant implication to the state.

**OPPONENTS
SAY:**

A TYC youth labor program could be unfair to law-abiding citizens if companies were offered incentives to hire offenders over other workers. This bill, coupled with the adult prison industries program, would be another step toward the displacement of free-world labor with offender labor. Law abiding youths are also searching for part- and full-time work.

The state should not try to influence the hiring decisions of private companies, and it is particularly hard to justify giving companies a tax break to hire a youth offender over a law-abiding citizen who also needs a job. The Tax Code should not be a tool of social policy. Instead of having taxpayers subsidize the cost of employing youth offenders in a roundabout way, the state should do it directly by funding employment programs. The state should concentrate on the education and counseling needs of youths in TYC, not on having them work.

NOTES:

Rep. Allen plans to offer an amendment to correct a drafting error and change a reference to the tax credit to make it apply to the child's wages (Human Resources Code sec. 61.123 (b)).

The committee substitute added provisions allowing some of the wages to go to the general revenue fund as reimbursement for the child's cost of confinement and requiring TYC to make an effort to include industry

representatives on the advisory council. The substitute deleted a requirement that contracts with private businesses must specify compliance with the federal PIE program. The original bill would have established a TYC industries office, under the executive director, to establish an industries program, instead of giving broad authority for a program to TYC.

SB 852 by Shapiro, a similar bill, has been referred to the Senate Criminal Justice Committee. SB 852 would limit the division of wages to restitution payments, child support payments and the child's student account.