



Ohio Legislative Service Commission

Bill Analysis

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(As Introduced)

Reps. Butler, J. Adams, Amstutz, Beck, Becker, Fedor, Hill, Lynch, Retherford, Roegner, Smith, Terhar, Thompson

BILL SUMMARY

- Requires the Department of Rehabilitation and Correction (DRC) to establish and operate a pilot work program initially to accommodate 50% of eligible offenders and eventually to accommodate 80% of eligible offenders.
- Permits a board of county commissioners, by resolution, to establish a local pilot work program and establish and operate a local repayment, retraining, and reclamation factory or to enter into a contract with one or more counties to establish a local pilot work program and establish and operate a local repayment, retraining, and reclamation factory, to be supervised by the sheriff of the county in which the local repayment, retraining, and reclamation factory is located.
- Specifies that an offender who is sentenced to a prison term for one or more third, fourth, or fifth degree felonies, none of which is an offense of violence, is an eligible offender and may participate in the pilot work program if the offender has more than two months remaining on the offender's prison term or remaining on the offender's prison term in combination with any remaining term in a community-based correctional facility.
- Specifies that an offender who is convicted of or pleads guilty to a fourth or fifth degree felony that is not an offense of violence and who has been sentenced to a community control sanction or is convicted of or pleads guilty to one or more misdemeanors none of which is an offense of violence is eligible to participate in a local pilot work program if the offender has not less than two months remaining on the term of the offender's community control sanction or jail term.

- Provides a process by which an eligible offender may apply to participate in the pilot work program and a structure by which DRC or a sheriff must prioritize the placement of the offenders that are selected for participation.
- Specifies a process by which DRC or a sheriff is to operate and manage each repayment, retraining, and reclamation factory, repayment, retraining, and reclamation prison, and local repayment, retraining, and reclamation factory, which includes provisions for security, housing, selection of goods for manufacture, payment of participants, and removal of participants for rule violations.
- Requires the Director of DRC and each sheriff that supervises a local repayment, retraining, and reclamation factory to provide a written report to the General Assembly every five years on the operation of the pilot work program.
- Permits the Director of DRC, with the approval of the Governor, to provide at one time or from time to time for the issuance of pilot work program revenue bonds of the state for the purpose of paying all or part of the cost of establishing and operating the pilot work program.
- Modifies the sentencing requirements that a court must follow if an offender is convicted of or pleads guilty to a fourth or fifth degree felony that is not an offense of violence or that is a qualifying assault offense.

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CONTENT AND OPERATION

DRC establishment of pilot work program

The bill requires the Department of Rehabilitation and Correction (DRC) to establish and operate a pilot work program within two years after the effective date of the bill. For a period beginning at the time DRC establishes and begins to operate the pilot work program and ending not later than four years after the effective date of the bill, DRC must operate a pilot work program that is capable of accommodating a minimum of 50% of all eligible offenders (see "**Offenders eligible to participate in pilot work program,**" below) who apply to participate in the pilot work program. Not later than four years after the effective date of the bill, DRC must operate a pilot work program that is capable of accommodating a minimum of 80% of all eligible offenders who apply to participate in the pilot work program. DRC must not establish or operate the pilot work program as a work program under the law governing existing work programs or under any other work program for offenders that is in operation on the effective date of the bill. DRC may appoint a trustee or board of directors to supervise the operation of the pilot work program.¹

Goals of the pilot work program

The goals of the pilot work program are as follows:²

- To reduce state spending on the costs of incarcerating offenders in detention facilities without affecting public safety by using revenue obtained from the work of pilot work program participants for the costs of incarceration.

¹ R.C. 5120.037(B)(1).

² R.C. 5120.037(B)(2).

- To provide job training to pilot work program participants and assist pilot work program participants in obtaining occupational and professional licenses and certificates in order to improve pilot work program participants' employability following their release from confinement and reduce participants' rate of recidivism.
- To reclaim the production of "goods" (see "**Definitions**," below, for terms in quotation marks) not made in the United States in order to reduce the nation's trade deficit.
- To create, directly and indirectly, manufacturing jobs in Ohio.

Offenders eligible to participate in pilot work program

Under the bill, an offender who is sentenced to a "prison term" for one or more third, fourth, or fifth degree felonies, none of which is an offense of violence, is an eligible offender and may participate in the pilot work program at a "repayment, retraining, and reclamation factory" if the offender has more than two months remaining on the offender's prison term or remaining on the offender's prison term in combination with any remaining term in a "community-based correctional facility" imposed on the offender by a sentencing court as part of a community residential sanction.³

An offender who is sentenced to a "community control sanction" under R.C. 2929.13(B) for a fourth or fifth degree felony that is not an offense of violence is not eligible to participate in the pilot work program.⁴

An offender who is sentenced to a prison term for one or more felonies is an eligible offender and may participate in a pilot work program established at a "repayment, retraining, and reclamation prison" if the offender has more than two months remaining on the offender's prison term or remaining on the offender's prison term in combination with any remaining term in a community-based correctional facility imposed on the offender by a sentencing court as part of a community residential sanction.⁵

³ R.C. 5120.037(C)(1)(a).

⁴ R.C. 5120.037(C)(1)(b).

⁵ R.C. 5120.037(C)(2).

DRC may, based on documented safety, behavior, and performance concerns, designate an offender who is eligible to participate in the pilot work program as an ineligible offender, but must not unreasonably withhold an offender's eligibility.⁶

Application to participate in pilot work program

Under the bill, an eligible offender serving a sentence in a prison who wishes to participate in the pilot work program must submit an application to participate in the pilot work program to DRC. Additionally, an offender who wishes to participate in the pilot work program may submit an application to participate in the pilot work program to DRC prior to sentencing. DRC must adopt rules under the Administrative Procedure Act governing both of these application processes. An eligible offender is not required to participate in the pilot work program.⁷

The rules adopted by DRC must include provisions that ensure that all offenders are made aware of the pilot work program at least 48 hours prior to the deadline for submitting an application prior to sentencing and receive notice that the sentencing court may include as part of the offender's sentence a sentence of up to one-half of the "stated prison term" that the court may require the offender to serve if DRC removes the offender from the pilot work program (see "**Sentencing; possibility of additional sentence for rules violation**," below).⁸

Applications from offenders currently serving a sentence in prison

DRC must review all applications that are submitted by offenders serving a sentence in a prison. DRC must adopt rules under the Administrative Procedure Act governing DRC's review of applications and DRC's identification of those applicants who are best suited to participate in the pilot work program. DRC must give all applicants who are eligible offenders equal access to the pilot work program and must not differentiate between applicants based on educational level, chronic physical or mental illness, or gender. DRC must select participants for the pilot work program from those eligible offenders identified as best suited to participate in the pilot work program and place those participants in the pilot work program in available vacancies in repayment, retraining, and reclamation factories and pilot work programs established at repayment, retraining, and reclamation prisons. DRC must adopt administrative rules governing DRC's selection of eligible offenders to participate in the pilot work program from those identified as best suited to participate in the pilot work program.

⁶ R.C. 5120.037(C)(3).

⁷ R.C. 5120.037(D)(1), (2), and (3).

⁸ R.C. 5120.037(D)(4).



DRC may use a variety of means to determine an offender's suitability to participate in the pilot work program, including, but not limited to, Ohio risk assessment system tools and scores.⁹

Applications from offenders prior to sentencing

DRC must set a uniform deadline for an offender's submission of an application prior to sentencing. If an offender submits the application prior to the deadline, DRC must review the offender's application prior to the offender's sentencing. DRC must determine the offender's suitability to participate in the pilot work program and provide written notice to the offender and the sentencing court of DRC's determination by a time prior to the offender's sentencing that is adequate for the offender's and court's consideration of the notice. DRC may use a variety of means to determine an offender's suitability to participate in the pilot work program, including, but not limited to, Ohio risk assessment system tools and scores. The deadline set by DRC for an offender's submission of an application prior to sentencing must be a minimum number of days prior to the offender's sentencing that is sufficient to allow DRC to review the application, determine the offender's suitability to participate in the pilot work program, and provide written notification of DRC's determination of the offender's suitability to participate in the pilot work program to the offender and the sentencing court by a time prior to the offender's sentencing that is adequate for the offender's and court's consideration of the notice. DRC must adopt administrative rules governing DRC's review of the applications submitted prior to sentencing, the means used to determine the offender's suitability to participate in the pilot work program, and for the provision of the written notification to the offender and sentencing court.¹⁰

Sentencing; possibility of additional sentence for rules violation

A sentencing court may consider an offender's submission prior to sentencing of an application to participate in the pilot work program in determining the sentence to be imposed on an offender.¹¹

The sentencing court must consider the written notice received from DRC when sentencing the offender. If the court sentences the offender to a prison term of more than two months, the offender is an eligible offender, DRC has determined both that the offender is suitable to participate in the pilot work program and that DRC has an available vacancy in a pilot work program established at a repayment, retraining, and

⁹ R.C. 5120.037(E)(1)(a).

¹⁰ R.C. 5120.037(E)(1)(b)(i).

¹¹ R.C. 5120.037(E)(3).

reclamation prison or at a repayment, retraining, and reclamation factory, and DRC has provided written notification of DRC's determination to the sentencing court, the court may order DRC to accept the offender as a participant in the pilot work program. The sentencing court may include as part of the offender's sentence an additional sentence of up to one-half of the stated prison term that the court may require the offender to serve if the offender's participation in the pilot work program is ended due to the offender's violation of the rules for the operation of the pilot work program. The additional sentence must not exceed, in combination with the stated prison term, the maximum prison term that the court may impose for the offense under the Criminal Sentencing Law. DRC must place these offenders in available vacancies in repayment, retraining, and reclamation factories and pilot work programs established at repayment, retraining, and reclamation prisons, subject to the offender being an eligible offender at the time that a vacancy becomes available. The court retains jurisdiction over these offenders for purposes of imposing the additional sentence if the offender's participation in the pilot work program is ended due to the offender's violation of the rules for the operation of the pilot work program. If the court does not order DRC to accept the offender as a participant in the pilot work program, the offender may submit one application to participate in the pilot work program while serving the offender's sentence in prison.¹²

Prioritization of placement of offenders selected for pilot work program

DRC is required to prioritize the placement of the offenders whom DRC has selected to participate in the pilot work program in the following order of priority:¹³

(1) Participants who applied to participate in the pilot work program prior to the participant's sentencing in a county where a repayment, retraining, and reclamation factory is in operation.

(2) Participants who applied to participate in the pilot work program prior to the participant's sentencing in a county adjacent to a county where a repayment, retraining, and reclamation factory is in operation.

(3) Participants who applied to participate in the pilot work program prior to the participant's sentencing in a county other than a county where a repayment, retraining, and reclamation factory is in operation or a county adjacent to a county where a repayment, retraining, and reclamation factory is in operation.

(4) Participants confined in a prison.

¹² R.C. 5120.037(E)(1)(b)(ii).

¹³ R.C. 5120.037(E)(2).



Payment of participants in the pilot work program

Participants in the pilot work program will manufacture goods at repayment, retraining, and reclamation factories and repayment, retraining, and reclamation prisons. DRC is required to pay a participant in the pilot work program for the participant's work in the pilot work program at the same rate paid as participants of work programs are paid under existing law. DRC must designate a financial manager for the pilot work program.¹⁴

Financial manager to hold 25% of earnings until release from incarceration

The net earnings of a participant in the pilot work program must be allocated in the same manner as the earnings of participants are allocated in work programs under current law. 25% of the earnings allocated to the account of the participant must be held by a financial manager, who must hold the earnings surrendered by a participant on behalf of the participant, place the earnings surrendered by each participant in a separate account, and provide a monthly account statement to the participant. The financial manager must place a participant's earnings in an interest-bearing savings account at a savings bank or in a bond account invested in bonds issued by the United States treasury, the state of Ohio, or an Ohio political subdivision that is chosen by the participant. The financial manager must pay out the total funds held on behalf of a participant to the participant upon the participant's release from incarceration. The financial manager must maintain complete and accurate records with respect to all money received from and paid out to participants.¹⁵

Determination of goods to be manufactured

The Director of DRC or the Director's designee must determine the goods to be manufactured by the participants in the pilot work program at each repayment, retraining, and reclamation factory and repayment, retraining, and reclamation prison. Subject to the specifications described below, in determining the goods to be manufactured at each repayment, retraining, and reclamation factory and repayment, retraining, and reclamation prison, the Director or the Director's designee must consider only those goods that the Director or the Director's designee determines can be produced by participants and sold for profit on the open market on a competitive basis. The Director or the Director's designee must consider all of the following factors in determining the goods to be manufactured:¹⁶

¹⁴ R.C. 5120.037(F)(1) and (2)(a).

¹⁵ R.C. 5120.037(F)(2)(b), (c), and (d).

¹⁶ R.C. 5120.037(G)(1) and (2)(a).



(1) The potential for DRC to make the most profit from the good among the goods being considered, based on all business factors and projections and the skills that participants must have in order to produce the good.

(2) The likelihood that DRC will be required to end the production of the good.

(3) The potential that the production of the good will provide the greatest opportunity for participants engaged in the good's production to obtain transferable skills and professional or occupational certificates and licenses.

DRC must determine whether a good under consideration for manufacture by the pilot work program, or a substantially similar good, is being manufactured in the United States. If the good under consideration or a substantially similar good is being manufactured in the United States, DRC must determine the percentage of the world's total production of the good and any substantially similar good that is being manufactured in the United States. Goods manufactured in the United States by criminal offenders participating in other federal, state, and local work programs must not be included in the determination of the percentage of the world's total production of a good and any substantially similar good being manufactured in the United States.¹⁷

In determining the goods to be manufactured by the pilot work program, the Director or the Director's designee must choose goods that are not being manufactured, and that are not substantially similar to goods being manufactured, in the United States. However, the Director or the Director's designee may choose a good that is being manufactured in the United States or that is substantially similar to a good that is being manufactured in the United States if not more than ½ of 1% of the world's total production of the good was manufactured in the United States over the preceding three years if the Director has reason to believe that one or more manufacturers are manufacturing the good in the United States with the intent of preventing the pilot work program from manufacturing the good and any substantially similar good due to the restriction on the choice of a good that is being manufactured in the United States. In making a determination, the Director or the Director's designee must examine the following factors:¹⁸

- The ownership, parent, affiliates and subsidiaries, and management of the manufacturers.
- The source of capital of the manufacturers.

¹⁷ R.C. 5120.037(G)(2)(b).

¹⁸ R.C. 5120.037(G)(2)(c).

- The net profits and projected net profits of the manufacturers.
- The date manufacturing began.
- The relationship of the manufacturers to the world's large foreign manufacturers.
- The independence of the manufacturers.
- Other factors and circumstances relevant to the determination.

Periodic determinations of ongoing production levels

Every ten years after the manufacture of a good by participants in the pilot work program begins at a repayment, retraining, and reclamation factory or repayment, retraining, and reclamation prison, DRC must determine whether more than 1% of the world's total production of the good and substantially similar goods are being profitably manufactured in the United States. If more than 1% of the world's total production of the good and substantially similar goods are being profitably manufactured in the United States at that time, DRC must discontinue the pilot work program's manufacture of that good, and the Director or the Director's designee must determine a different good to be manufactured at the repayment, retraining, and reclamation factories and repayment, retraining, and reclamation prisons that had been manufacturing the discontinued good.¹⁹

Legal proceedings challenging DRC's determination of a manufactured good

In any legal proceeding challenging DRC's determination of a good to be manufactured by the participants in the pilot work program, a court must use objective market data to determine the percentage of the good and substantially similar goods that are being manufactured in the United States. The court must make its determination in an expeditious manner but cannot issue an injunction against the pilot work program's manufacture of the selected good prior to the court's determination.²⁰

Contracts with private entities

DRC may contract with a private individual, corporation, partnership, or association for work for participants in the pilot work program that involves the assembly, processing, manufacture, or repair of parts or components for goods being manufactured or produced by the contracting party if the Director or the Director's

¹⁹ R.C. 5120.037(G)(2)(d).

²⁰ R.C. 5120.037(G)(2)(e).

designee determines that the pilot work program is unable or is not likely to produce a good that can be sold for profit on the open market on a competitive basis or determines that such a contract would better meet the needs and obtain the goals of the pilot work program. All contracts must be made in writing. DRC is required to use any profits resulting from the contract to pay the expenses of the pilot work program. The contract must comply with state and federal law.²¹

The bill requires DRC to advertise for written contract offers in a newspaper of general circulation in the county where the participants would be engaged in the assembly, processing, manufacture, or repair of the parts or components. DRC must adopt administrative rules pertaining to the advertisement for and receipt of contract offers.²²

The Director or the Director's designee must consider only work that will meet the needs and obtain the goals of the pilot work program. The Director or the Director's designee, and any other person involved in reviewing contract offers, must consider all of the following factors prior to entering into the contract:²³

(1) The amount of profit DRC would make from entering into and participating in the contract.

(2) The skills that participants must have in order to assemble, process, manufacture, or repair the parts or components that would be assembled, processed, manufactured, or repaired under the contract.

(3) The likelihood that DRC will be required to end the assembly, processing, manufacture, or repair of the parts or components for the contracting party.

(4) The opportunity for participants engaged in the assembly, processing, manufacture, or repair of the parts or components to obtain transferable skills and professional or occupational certificates and licenses.

The Director or the Director's designee may reject any or all of the initial contract offers. If the Director or the Director's designee rejects all of the initial contract offers, DRC must readvertise for contract offers and may continue to readvertise for contract offers until the Director or the Director's designee enters into a contract for work or

²¹ R.C. 5120.037(G)(3)(a).

²² R.C. 5120.037(G)(3)(b).

²³ R.C. 5120.037(G)(3)(c).

elects to proceed under the process described above at "**Determination of goods to be manufactured.**"²⁴

No person involved in the selection of a contract for a work project for participants in the pilot work program may have any interest, directly or indirectly, in any contract or lease entered into by DRC.²⁵

If the contracting party ends the manufacture or production of the goods or components that were the subject of the contract or at the end of the contract unless the contract is renewed, DRC must discontinue the pilot work program's manufacture of the parts or components, and the Director or the Director's designee must determine a different good to be manufactured at the repayment, retraining, and reclamation factories and repayment, retraining, and reclamation prisons that had been manufacturing the parts or components.²⁶

Profits from sales of goods to pay expenses of the pilot work program

Under the bill, if DRC manufactures a good selected under the process described above at "**Determination of goods to be manufactured,**" DRC must sell the goods manufactured by the pilot work program on the open market in this state for the greatest possible profit. DRC is required to use any profit resulting to pay the expenses of the pilot work program, and must pay any expenses of the pilot work program that are not paid from the profit resulting from the operation of the pilot work program.²⁷

Marketing of goods manufactured by the pilot work program

The bill permits DRC to actively market the goods manufactured by the pilot work program under the process described above at "**Determination of goods to be manufactured,**" to the federal government, the "state and local governments" of this state, state and local governments of other states, the District of Columbia, and all not-for-profit organizations in the United States or elsewhere.²⁸

²⁴ R.C. 5120.037(G)(3)(d).

²⁵ R.C. 5120.037(G)(3)(e).

²⁶ R.C. 5120.037(G)(3)(f).

²⁷ R.C. 5120.037(H)(1).

²⁸ R.C. 5120.037(H)(2).

Out-of-state transportation of goods prohibited

Under the bill, DRC is not permitted to transport or arrange for the transportation of the goods in interstate commerce in violation of 18 U.S.C. 1761. DRC must attempt to obtain a waiver from the federal government from the provisions of 18 U.S.C. 1761 or find an alternative method for legally transporting and selling the goods manufactured by the pilot work program on the open market in other states and countries. If DRC obtains a waiver from the federal government, DRC may sell the goods manufactured by the pilot work program on the open market in other states and countries.²⁹

Intellectual property

The bill permits DRC to acquire or develop intellectual property of any kind in connection with the operation of the pilot work program, including, but not limited to, patents, inventions, discoveries, processes, or ideas, subject to the discretion of the Director or the Director's designee, and to apply for and secure patents from the United States Patent and Trademark Office. DRC may protect DRC's patent rights in accordance with federal law.³⁰

Employment assistance

The bill requires DRC, to the extent consistent with the operation of the pilot work program, to assist participants in learning a trade or in obtaining a certificate or license to engage in an occupation or profession. DRC must maintain records of a participant's work history in the pilot work program, including, but not limited to, DRC's monthly performance ratings of the participant, and must provide these records to an employer at the request of the participant.³¹

Location of repayment, retraining, and reclamation factories

Under the bill, each county in which a repayment, retraining, and reclamation factory is established and operated must have a population in excess of 500,000. Each repayment, retraining, and reclamation factory must be designed to accommodate at least 1,000 participants. DRC is not permitted to operate a repayment, retraining, and reclamation factory in or on the grounds of a "prison" or "jail." DRC must locate the repayment, retraining, and reclamation factories in a variety of urban, suburban, and rural locations that are at least one mile from a prison. DRC must construct, renovate, or

²⁹ R.C. 5120.037(H)(3).

³⁰ R.C. 5120.037(H)(4).

³¹ R.C. 5120.037(I).

acquire housing near each repayment, retraining, and reclamation factory that is within walking distance from the repayment, retraining, and reclamation factory. Participants residing in the housing must be under the custody of DRC. The housing and repayment, retraining, and reclamation factory must have minimal security and maximum flexibility to achieve maximum productivity.³²

Management of repayment, retraining, and reclamation factories

The bill requires DRC to appoint or hire managers who are responsible for the operation of each repayment, retraining, and reclamation factory and each pilot work program established at a repayment, retraining, and reclamation prison. DRC must set the salary of the managers. The manager of a repayment, retraining, and reclamation factory will have the authority to hire and fire the "senior staff" at the repayment, retraining, and reclamation factory at the manager's discretion. Additionally, the manager of a pilot work program at a repayment, retraining, and reclamation prison will have the authority to hire and fire the pilot work program senior staff at the manager's discretion. The manager must set the salaries of the senior staff. The salaries cannot exceed the manager's salary. If DRC objects to any of the salaries set by the manager for senior staff, the salary must be approved by the Controlling Board.³³

DRC is required to award a bonus to the manager and senior staff of a repayment, retraining, and reclamation factory or a pilot work program operated at a repayment, retraining, and reclamation prison based on the net profit resulting from the operation of that repayment, retraining, and reclamation factory or that pilot work program. Twenty percent of the net profit must be awarded to the manager and senior staff, weighted based on salary.³⁴

Construction and renovation of manufacturing facilities

The bill specifies that DRC is responsible for the construction and renovation of manufacturing facilities at repayment, retraining, and reclamation factories, as needed. DRC may enter into any contracts and perform any other functions necessary for the construction of repayment, retraining, and reclamation factories or may require the Department of Administrative Services to enter into a lease-purchase plan providing for the construction of a repayment, retraining, and reclamation factory and the lease of the factory to DRC. DRC may enter into any contracts and perform any other functions necessary for the operation and maintenance of repayment, retraining, and reclamation

³² R.C. 5120.037(J)(1).

³³ R.C. 5120.037(J)(2)(a).

³⁴ R.C. 5120.037(J)(2)(b).

factories and for the renovation of manufacturing facilities at repayment, retraining, and reclamation factories as needed.³⁵

At the discretion of the Director, a participant in the pilot work program may assist in the construction or renovation of a repayment, retraining, and reclamation factory. To the extent practical, participants in the pilot work program must provide maintenance, cleaning, and dietary services at repayment, retraining, and reclamation factories and at repayment, retraining, and reclamation prisons to make those facilities as self-sufficient as possible, unless the Director determines it is more profitable, on a per-participant basis, to contract for services. The Director's determination must be included in the written report distributed to each member of the General Assembly, as described in "**Written report on the operation of the pilot work program**," below.³⁶

Participation outcomes

Reduction of prison term for productive participation

Subject to the provisions of Ohio law establishing definite prison terms or prohibiting the reduction of a prison term, a participant serving a prison term for one or more offenses will earn one day of credit as a deduction from the participant's prison term for each day during which the participant productively participates in the pilot work program at a repayment, retraining, and reclamation factory. DRC is required to adopt administrative rules defining what constitutes productive participation and setting procedures for determining whether a participant is productively participating in the pilot work program.³⁷

Offender rule violations

If a participant at a repayment, retraining, and reclamation factory or repayment, retraining, and reclamation prison violates any of the rules adopted by DRC for the operation of the pilot work program, the Director or, if authorized by the Director, the manager of the participant's repayment, retraining, and reclamation factory or pilot work program, may end the offender's participation in the pilot work program. The Director may end any offender's participation in the pilot work program, at the Director's discretion, at any time. A participant has no property right in the participant's selection to or participation in the pilot work program.³⁸

³⁵ R.C. 5120.037(J)(3)(a) and (b).

³⁶ R.C. 5120.037(J)(3)(c).

³⁷ R.C. 5120.037(L).

³⁸ R.C. 5120.037(M)(1)(a).



Resignation from pilot work program

A participant may resign from the pilot work program at any time by submitting notice of the participant's resignation to DRC or the manager of the participant's repayment, retraining, and reclamation factory or pilot work program at a repayment, retraining, and reclamation prison. The participant's resignation may be considered by DRC if the offender applies to participate in the pilot work program at a later date. DRC must return a participant who resigns from the pilot work program to prison to serve the remainder of the offender's prison term.³⁹

Removal from pilot work program

If the Director or the manager of a participant's repayment, retraining, and reclamation factory or pilot work program at a repayment, retraining, and reclamation prison ends an offender's participation in the pilot work program, DRC generally must return the offender to prison to serve the remainder of the offender's prison term.⁴⁰

However, if the Director or the manager of a participant's repayment, retraining, and reclamation factory or pilot work program at a repayment, retraining, and reclamation prison ends an offender's participation in the pilot work program due to the offender's violation of the rules, DRC must notify the offender's sentencing court, and the sentencing court must return the offender to prison to serve the remainder of the offender's prison term and may impose any additional prison term described above at "**Sentencing; possibility of additional sentence for rules violation.**"⁴¹

Reports on the operation of the pilot work program

Each fifth year after the establishment of the pilot work program, the Director of DRC must prepare a written report on the operation of the pilot work program. The report must contain the Director's recommendations for the operation of the pilot work program. DRC must distribute a copy of the report to each member of the General Assembly. Annually after the establishment of the pilot work program, the Director must prepare a written report on the effectiveness of the pilot work program, the condition of the finances of the pilot work program, the impact of the pilot work program on the rate of recidivism of those participants in the pilot work program who

³⁹ R.C. 5120.037(M)(1)(b) and (2).

⁴⁰ R.C. 5120.037(M)(2).

⁴¹ R.C. 5120.037(M)(3).



did not resign from and were not removed from the pilot work program, and all direct and indirect financial savings that result from the operation of the pilot work program.⁴²

Rule-making authority

DRC may adopt under the Administrative Procedure Act any rules not otherwise required by the bill that are necessary to implement and operate the pilot work program. Rules adopted by DRC pursuant to R.C. 5145.03 regarding the government and employment of prisoners do not apply to the pilot work program.⁴³

Miscellaneous provisions regarding the pilot work program

Under the bill, a repayment, retraining, and reclamation factory qualifies as a community-based correctional facility and program and may receive awards from the Local Government Innovation Fund as a Local Government Innovation Project. Additionally, a repayment, retraining, and reclamation factory qualifies as a state correctional institution for purposes of the Correctional Institution Inspection Committee Law. As such it is subject to inspections by the Correctional Institution Inspection Committee.⁴⁴

The State Highway Patrol is required to investigate any criminal offense that allegedly has been committed in or on the grounds of, or in connection with, a repayment, retraining, and reclamation factory. DRC must provide security at repayment, retraining, and reclamation factories.⁴⁵

DRC, with the authorization of the Director, may establish and operate the pilot work program in any prison. The Director must not authorize the operation of a pilot work program at a prison unless the Director determines that the pilot work program can be operated profitably at the prison and a sufficient number of participants and qualified applicants are available as necessary for the operation of the pilot work program.⁴⁶

⁴² R.C. 5120.037(N).

⁴³ R.C. 5120.037(O).

⁴⁴ R.C. 5120.037(J)(4) and (5).

⁴⁵ R.C. 5120.037(J)(6) and (7).

⁴⁶ R.C. 5120.037(K).

All records pertaining to the establishment and operation of the pilot work program kept by any public office are public records for the purpose of the Public Records Law.⁴⁷

Establishment of pilot work program by board of county commissioners

At any time after two years after the effective date of the bill, a board of county commissioners, by resolution, may establish a local pilot work program and establish and operate a "local repayment, retraining, and reclamation factory" or may enter into a contract with one or more counties to establish a local pilot work program and establish and operate a local repayment, retraining, and reclamation factory, if the county, or the counties that have entered into such an agreement determine that the county or counties will be able to establish and operate a local repayment, retraining, and reclamation factory that can accommodate a minimum of 500 participants and fill a minimum of 80% of the local repayment, retraining, and reclamation factory's positions for a minimum period of ten years.⁴⁸

The state must fund all local repayment, retraining, and reclamation factories established by a board of county commissioners from the same line item appropriation amount in each biennial operating appropriation act that funds community-based correctional facilities, if the county or counties substantiate that the county or counties are able to establish and operate a local repayment, retraining, and reclamation factory as required. All profits resulting from the operation of a local repayment, retraining, and reclamation factory must be deposited into the state treasury to the credit of the fund that funds community-based correctional facilities.⁴⁹

An offender who is convicted of or pleads guilty to a fourth or fifth degree felony that is not an offense of violence and who has been sentenced to a community control sanction or submits an application to participate in the local pilot work program prior to sentencing, or is convicted of or pleads guilty to one or more misdemeanors none of which is an offense of violence is eligible to participate in a local pilot work program at a local repayment, retraining, and reclamation factory if the offender has not less than two months remaining on the term of the offender's community control sanction or jail term.⁵⁰

⁴⁷ R.C. 5120.037(P).

⁴⁸ R.C. 5120.0371(A)(1).

⁴⁹ R.C. 5120.0371(A)(2).

⁵⁰ R.C. 5120.0371(C)(1).



Sheriff to supervise local pilot work programs

The bill requires the sheriff of the county in which the local repayment, retraining, and reclamation factory is located to supervise the local pilot work program and the operation of the local repayment, retraining, and reclamation factory, in an identical fashion to the policies and procedures that DRC must follow when operating a repayment, retraining, and reclamation factory.⁵¹

Pilot work program revenue bonds

The bill permits the Director of DRC, with the approval of the Governor, to provide at one time or from time to time for the issuance of pilot work program revenue bonds of the state for the purpose of paying all or part of the cost of establishing and operating the pilot work program. The principal of and interest on these bonds is payable solely from the revenues provided from the operation of the pilot work program. The bonds must recite an estimate by the Director of the costs to be paid from the proceeds of the bond issue and provide for the issuance of bonds in an amount not in excess of the estimated cost. The bonds of each issue must be dated, bear interest at a rate or rates not to exceed the maximum rate provided by law, and mature at a time or times, not to exceed 40 years from their date or dates, as determined by the Director, and may be made redeemable before maturity, at the option of the Director, at the price or prices and under the terms and conditions as fixed by the Director prior to the issuance of the bonds. The Director must determine the form of the bonds, including the interest coupons to be attached to the bonds, and fix the denomination of the bonds and the place of payment of principal and interest of the bonds, which may be at any bank or trust company within or without the state.⁵²

The bill requires bonds to be signed by the Governor, the Secretary of State, and the Director, provided that all but one of these signatures may be a facsimile, and must have affixed the great seal of Ohio or a facsimile of the great seal of Ohio. Coupons attached to the bonds must bear the facsimile signature of the Director. The bonds must contain a statement on their face that the state is not obligated to pay the face value of the bonds or the interest on the bonds and that they do not constitute a debt, or a pledge of the faith and credit, of the state or of any political subdivision of the state, but that the bonds and the interest on the bonds are payable solely from the revenues provided from the operation of the pilot work program. If any of the officers whose signatures or facsimiles of their signatures appear on the bonds or coupons ceases to be such an officer before delivery of the bonds, the signatures or facsimiles are nevertheless valid

⁵¹ R.C. 5120.0371.

⁵² R.C. 5120.038(A).



and sufficient for all purposes as if they had remained in office until delivery. All the bonds must have all the qualities and incidents of negotiable instruments under applicable Ohio law, and the bonds and the interest on the bonds are exempt from all taxation within this state. The bonds are lawful investments of banks, savings banks, trust companies, savings and loan associations, deposit guarantee associations, fiduciaries, trustees, and Trustees of the Sinking Fund or officer in charge of the bond retirement fund of municipal corporations and other subdivisions of the state and of domestic insurance companies notwithstanding R.C. 3907.14 and 3925.08 and are acceptable as security for deposit of public money.

The bonds may be issued in coupon or registered form, or both, as the Director determines, and provision may be made for the registration of any coupon bonds as to principal alone and for the exchange of coupon bonds for bonds registered as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Director is required to adopt rules for the refunding of outstanding revenue bonds.⁵³

The bill requires the revenue bonds to be sold by the Director to the highest bidder, but for not less than the par value of the bonds plus accrued interest on the bonds, after a notice of sale has been published once a week for three consecutive weeks in one newspaper in each of the three most populous counties in the state. The notice of sale must state the day, hour, and place of sale, the total principal amount of the bonds to be sold, their denominations, date, and the dates and amounts of their maturities, whether or not they are callable, information relative to the rates of interest that the bonds will bear, and the dates upon which interest is payable, and any other information the Director determines advisable. The proceeds of the bonds of each issue must be used solely for the payment of the costs for which the bonds were issued.⁵⁴

Fourth and fifth degree felony sentencing

The bill revises the law regarding mandatory community control sanctions for fourth or fifth degree felony offenders. Under existing law, a court must sentence an offender who is convicted of or pleads guilty to a fourth or fifth degree felony that is not an offense of violence or that is a qualifying assault offense to a community control sanction of at least one year's duration if several factors apply. Two of these factors are that the offender must not previously have been convicted of or pleaded guilty to a

⁵³ R.C. 5120.038(A).

⁵⁴ R.C. 5120.038(B) and (C).

felony offense, and the most serious charge against the offender at the time of sentencing must be a fourth or fifth degree felony.⁵⁵

The bill revises these factors to specify that the offender must be convicted of or plead guilty to *not more than one* fourth or fifth degree felony listed in the indictment, information, or complaint.⁵⁶

Definitions

As used in the bill:⁵⁷

"Goods" means materials, merchandise, products, and components of other goods that are designed, manufactured, constructed, or assembled, in whole or in part. "Goods" does not include agricultural products.

"Community-based correctional facility," "community control sanction," "jail," "jail term," "offender," "prison," "prison term," and "stated prison term" have the same meanings as in the Criminal Sentencing Law.⁵⁸

"Local repayment, retraining, and reclamation factory" means a repayment, retraining, and reclamation factory established and operated under R.C. 5120.0371.

"Repayment, retraining, and reclamation factory" means a repayment, retraining, and reclamation factory established and operated under R.C. 5120.037(J).

"Repayment, retraining, and reclamation prison" means a prison where a pilot work program is operated by DRC.

"School district" means a city, exempted village, local, or joint vocational school district.

"Senior staff" means a staff member at a repayment, retraining, and reclamation factory, pilot work program established at a repayment, retraining, and reclamation prison, or local repayment, retraining, and reclamation factory, who is not covered by an employee collective bargaining agreement, who is hired by, and is an employee at will of, the manager of a repayment, retraining, and reclamation factory, pilot work program operated at a repayment, retraining, and reclamation prison, or local

⁵⁵ R.C. 2929.13(B)(1)(a).

⁵⁶ R.C. 2929.13(B)(1)(a)(ii).

⁵⁷ R.C. 5120.037(A).

⁵⁸ R.C. 5120.037(A)(2), via reference to R.C. 2929.01.

repayment, retraining, and reclamation factory, and whom the manager has made responsible in part for the operation of the pilot work program at the repayment, retraining, and reclamation factory, repayment, retraining, and reclamation prison, or local repayment, retraining, and reclamation factory.

"State agency" means any department, board, office, commission, agency, college, university, institution, or other instrumentality of this or another state.

"State and local governments" includes all of the following:

(1) A state, county, township, city, or village.

(2) A state agency.

(3) The office of an elected officer of a county, township, city, or village.

(4) A department, board, office, commission, agency, institution, or other instrumentality of a county, township, city, or village.

(5) A school district.

HISTORY

| ACTION | DATE |
|------------|----------|
| Introduced | 01-21-14 |

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