

HOUSE COMMITTEE ON GOVERNMENT EFFICIENCY

January 18, 2001
8:30 AM

Hearing Room D
Tapes 5 - 6

MEMBERS PRESENT: **Rep. Jerry Krummel, Chair**
 Rep. Chris Beck, Vice-Chair
 Rep. Patti Smith, Vice-Chair
 Rep. Alan Brown
 Rep. Bill Garrard
 Rep. Jim Hill
 Rep. Deborah Kafoury
 Rep. Jeff Kruse
 Rep. Steve March
 Rep. Carolyn Tomei
 Rep. Kelley Wirth

STAFF PRESENT: **Matt Wingard, Committee Administrator**
 Patrick Brennan, Committee Assistant

MEASURE/ISSUES HEARD: **ODOT Efficiency Committee Update**
 HB 2095 Public Hearing and Work Session
 HB 2055 Public Hearing and Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 5, A		
004	Chair Krummel	Calls the meeting to order at 8:35 a.m.
<u>ODOT EFFICIENCY COMMITTEE UPDATE</u>		
014	Alan Eberlein	Oregon Department of Transportation (ODOT) Efficiency Committee. States he has been involved with the ODOT Efficiency Committee since 1997. Indicates that the group was created by ODOT Director Grace Crunican and given free reign to find ways to increase the percentage of the ODOT budget that can be applied to road construction and maintenance. Describes the group's membership as diverse. Says he has interviewed a number of ODOT employees and contractors as part of his work with the Efficiency Committee.
059	Eberlein	Describes ODOT as a "demoralized" organization prior to Director Crunican's arrival. Says the department has historically done a poor job of tracking costs, which would allow ODOT to compare itself to private industry and recover costs more efficiently. Reviews recommendations made by the Efficiency Committee: <ul style="list-style-type: none">• Division budgets should be determined by need, rather than providing a set amount• A contingency reserve should be created to address emergency situations created by abnormal conditions, such as landslides and ice storms (mentions that this has been instituted by ODOT)
104	Eberlein	Continues reviewing recommendations made by the Efficiency

Committee:

- The road construction program should be decentralized
- Creation of a career path and pay scale that will encourage engineers and other skilled ODOT employees to move out of the Willamette Valley

Comments on the “pave only” program that allows for waivers from bringing such things as signage and guardrails as long as they remain functional. Indicates that the cost savings thus far from the practice are equivalent to more than 100 lane miles. Remarks on efforts last legislative session to improve departmental accountability.

148	Eberlein	Refers to HB 2478 (1999), which included a status report on projects within each legislator’s district as it related to the State Transportation Improvement Plan (STIP). Says another part of the bill considered unfunded mandates imposed upon ODOT by other state agencies, such as the Land Conservation and Development Commission (LCDC) and the Oregon Department of Fish and Wildlife (ODFW). Mentions a review of the ODOT training program performed to determine what was relevant and tied to a career path, which included a recommendation that community colleges be enlisted for support. Says the group also encouraged ODOT to rid itself of responsibility for highways that no longer fit into the state transportation system, perhaps through trade agreements with local governments.
207	Eberlein	States that the current focus of the Efficiency Committee is access management. Acknowledges that different agencies sometimes have differing and conflicting philosophies. Mentions that the group has recommended that studded tires no longer be allowed on Oregon roads, as there are alternative, less damaging alternatives available. Acknowledges that there is room for additional improvement and says the committee will continue its work so long as it can produce results. Says ODOT has been very responsive to the group’s requests and suggestions. Laments that the legislature redesigns the department every two years and says it should be allowed to grow into its own.
256	Rep. Beck	Commiserates that Director Crunican has decided to resign.
262	Eberlein	Concurs. States that the concept for the Efficiency Committee was a good idea and that it has been beneficial to the department.
279	Rep. Garrard	Wonders whether ODOT is becoming too involved in some county land use decisions.
290	Eberlein	Responds that he believes ODOT has become too involved in some cases. Comments on the strain between LCDC’s urban growth boundary and ODOT’s efforts to control traffic congestion.
304	Rep. Kruse	Echoes Rep. Beck’s disappointment that Director Crunican is leaving, as ODOT and the legislature have had a much-improved relationship during her service. Asks whether the decentralization of departmental projects has resulted in engineers relocating to other areas in the state.
322	Eberlein	Responds that ODOT has created a group of area managers who will provide direction and garner local public opinion. Says the

		managers will be key in the design, construction, and maintenance process.
340	Rep. Kruse	Remarks that there is often the problem of too much engineering and too little construction. Asserts that the process could be simplified.
352	Eberlein	Mentions that ODOT has designed several projects that were not practical to construct and says that the Efficiency Committee has recommended that the department avoid such hypothetical projects.
368	Rep. Kruse	Mentions that New Zealand is an excellent example of the "design and build" model. Comments on the importance of access management, both between agencies and within ODOT itself.
386	Eberlein	Replies that ODOT arranged for the Efficiency Committee to facilitate discussion on access management.
TAPE 6, A		
010	Rep. Kruse	Expresses hope that those in charge of access management will focus less on access and more on economic development.
013	Eberlein	Concedes that ODOT sometimes loses sight of purpose in deference to process.
016	Rep. Brown	Asks whether the group looked into the possibility of privatizing some of ODOT's functions.
017	Eberlein	Replies that the group recommended that ODOT look into the possibility of privatizing on a limited scale.
022	Rep. Wirth	Comments on record keeping methods used by ODOT. Asks whether there is a consistent method of record keeping and whether it is user friendly.
038	Eberlein	Replies that he has no information on the types of record keeping systems in use, adding that the Efficiency Committee was concerned primarily with ensuring that the system that is in use is budgeted properly.
045	Rep. Wirth	Inquires whether the contingency fund is depleted at the end of every year, as was the case in 2000.
047	Eberlein	Responds that he is uncertain as to when the fund was restocked, but that the depletion was a result of catastrophic landslides.
055	Rep. March	Requests an estimate of the cost for repairing damage caused by studded tires.
057	Eberlein	Answers that the cost is approximately \$11 million annually, which does not take into account the cost to repair damage to county roads.
059	Rep. March	Asks if there is a bill being prepared to eliminate studded tires.
061	Eberlein	Says that he is only aware that the Efficiency Committee made the recommendation. Says the elimination of studded tires is also a safety issue, as studs contribute to the creation of grooves in roadways that can cause hydroplaning in wet weather.
069	Rep. Kruse	Comments that Les Schwab Tire Centers offer a non-studded all-weather tire that performs as well as studs on ice and snow and can be used year round. Surmises that the public may be moving away from studded tires already.
082	Eberlein	Concurs that the tires referred to by Rep. Kruse are well designed for all road conditions and are safer on dry pavement than studded tires.
093	Rep. Kruse	Supposes that allowing market forces to determine whether to eliminate studs may be the wisest course of action.

096	Eberlein	Mentions that the difference in cost between studded tires and quality snow tires is only about \$10.
100	Chair Krummel	Notes that a Les Schwab Tire representative submitted a letter to the editor of a local newspaper that said that the company does not support a ban on studded tires but that it might be better if they were not used. Asks whether the pave-only program exposes the state to liability in the event that a guardrail fails during a crash.
122	Eberlein	Clarifies that guard rails and signs are kept in place only if they meet minimum standards, but are not replaced the moment a newer alternative becomes available.
140	Chair Krummel	Opens a public hearing on HB 2095.
<u>HB 2095 PUBLIC HEARING</u>		
144	Matt Wingard	Committee administrator. Gives a brief description of HB 2095. Says the bill grants permanent authority to the Department of Corrections (DOC) to contract with out-of-state facilities to house Oregon inmates. Indicates that the committee has received the –1 amendments to the measure (EXHIBIT A).
160	Mary Botkin	Association of Federal, State, County, and Municipal Employees (AFSCME). Testifies in support of the –1 amendments to HB 2095 (EXHIBIT B). Reviews the changes that the proposed amendments make to the bill.
220	Rep. Hill	Clarifies the changes made by the amendments.
230	Botkin	Explains that the bill was introduced to allow DOC to relocate prisoners during a shortage of prison beds. Says the statute was originally designed to sunset because new prison facilities were coming online. Describes problems that resulted from housing inmates in private prison facilities, including sexual assault by guards and escapes. Asserts that there is no longer a need to house inmates in private prisons, since there is bed space available in government-run facilities. Suggests that it is no longer cost-efficient to transport prisoners to inadequate private facilities.
283	Botkin	Addresses the option of opposing the bill altogether and allowing the sunset to take effect. Acknowledges that DOC needs to have the flexibility to send prisoners out-of-state when bed space is tight. Says that sending inmates only to government-run facilities in other states will help avoid the abuses detailed above.
320	Nick Armenakis	Assistant Director, Institutions Division, DOC. Testifies in support of HB 2095 (EXHIBIT C). Emphasizes the need to maintain the ability to send inmates out-of-state to maintain a safe prison environment. Concurs that there is currently adequate prison space for the foreseeable future but says that a change in sentencing laws could change that.
356	Rep. Hill	Asks whether DOC has an opinion on the –1 amendments.
361	Armenakis	Replies that DOC opposes the amendments, as the department needs to have the flexibility to consider all options in the event that the supply of prison beds becomes short.
375	Rep. Kruse	Requests detail of the policy of sending inmates to other states.
381	Armenakis	Offers two examples of inmates being sent out-of-state.
394	Rep. Garrard	Inquires as to the variance in price between housing inmates in private prison facilities as opposed to public prison facilities.
400	Armenakis	Responds that beds in private women’s correctional facilities are

TAPE 5, B

005

Rep. Beck

significantly less expensive than those in public prisons.

Requests additional context on several issues:

- Why the program was created
- Why the sunset provision was included
- How many Oregon prisoners have been relocated out-of-state
- Any problems that have been experienced by Oregon inmates who have been relocated
- Why the bill was not referred to the House Judiciary Committee

Suggests extending the sunset provision as opposed to repealing it. Expresses concern that the committee may be taking action too quickly.

034

Rep. Tomei

Requests a comparison of the number of Oregon inmates sent to private versus public prisons in other states.

036

Armenakis

Replies that there are currently 1,500 Oregon prisoners in other states and that all are housed in private prison facilities.

041

Rep. Brown

Asks whether Oregon is liable for the cost of recapture of Oregon inmates who escape from out-of-state facilities.

045

Armenakis

Responds that recapture is part of the process and part of the expense whether the inmates are housed in private or public facilities.

052

Rep. March

Expresses discomfort with the stories of abuses in private correctional institutions. Wonders how many escapes and assaults have occurred within public correctional facilities.

059

Armenakis

Estimates the potential for escape from a private prison to be slightly higher than at a public institution but says that oversight is constantly improving. Mentions that an Oregon DOC representative is on-site at all out-of-state prison facilities where Oregon inmates are held, which increases the cost but also increases the security. Says he is familiar with stories of female assaults but does not have statistics on the number that have occurred.

080

Rep. March

Wonders whether the guards guilty of assault would have been hired by the public prison system.

087

Rep. Kafoury

Asks whether the primary reason private prisons are chosen is cost.

090

Armenakis

States that the primary reason for utilizing private prison space is to maintain a safe environment in public prisons, which requires preventing overcrowding.

094

Rep. Kafoury

Requests clarification that the impetus for sending convicts out of state to private prisons rather than public prisons is cost.

099

Armenakis

Replies affirmatively, adding that public prison space is scarce in other states as well.

109

Rep. Wirth

Inquires whether DOC would choose to send prisoners to private prison beds that are geographically farther away than available public prison beds if the cost was lower.

116

Armenakis

Says that DOC considers many factors when determining where to send convicts, including distance, location, and cost. States that distance is usually calculated in terms of transportation cost.

131	Rep. Wirth	Requests confirmation that cost is the variable weighted most heavily.
134	Armenakis	Confirms, adding that DOC is responsible for spending tax dollars wisely.
138	Rep. Hill	Inquires whether there are funds available to pay for out-of-state housing of prisoners.
143	Armenakis	Answers that it is better to house prisoners within Oregon's borders. Reiterates that sending prisoners out-of-state is simply a safety net in the event that the state's prison population becomes too large to manage effectively in state facilities.
152	Rep. Wirth	Offers a worst-case scenario and asks whether the decision to send prisoners out-of-state is essentially a matter of cost.
159	Armenakis	Explains that almost every state is in a position of limited bed space in public prisons, which is why private prisons have found a niche. Says that if DOC could save money by using private prison beds it would request the authority to do so.
170	Rep. March	Says he is concerned that a safety valve is necessary in the event that actions by the legislature or voters causes an increase in the prison population. Asserts that the compromise amendments put forth by AFSCME maintain the safety net, albeit in a different form from that which DOC would prefer. Suggests that the legislature could reinstate the ability to use private prison space in the future if the need arises.
189	Chair Krummel	Inquires whether Oregon rents beds in either public or private prisons to correctional systems in other states.
192	Armenakis	Replies no.
202	Chair Krummel	Closes the public hearing and opens a work session on HB 2095.
<u>HB 2095 WORK SESSION</u>		
205	Rep. Hill	MOTION: Moves to ADOPT HB 2095-1 amendments dated 1/17/01.
210	Rep. Kruse	Says that he does not oppose the amendments but that more information is necessary before the committee can make an informed decision. Opines that the need to place Oregon prisoners out-of-state is due in part to legislative decisions that stretched out the prison construction process. Indicates that he will not support the amendments at this time.
230	Rep. Garrard	Concurs.
233	Rep. Beck	Agrees.
245		VOTE: 8-3 AYE: 8 - Beck, Hill, Kafoury, March, P. Smith, Tomei, Wirth, Krummel NAY: 3 - Brown, Garrard, Kruse The motion CARRIES.
254	Chair Krummel Rep. Hill	MOTION: Moves HB 2095 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the Committee on Ways and Means by prior reference.
258	Rep. Beck	Wonders why a measure with no fiscal impact has a subsequent referral to the Committee on Ways and Means. Suggests that the referral could be removed. Proposes that the bill be referred to the Judiciary Committee.
266	Chair Krummel	Asks why the bill should be referred to Judiciary.

269 Rep. Beck Replies that Judiciary may be able to address the context of the measure that seems to be missing without additional testimony. Opines that this committee may not be properly equipped to handle the bill. Expresses preference for holding off from taking action on the bill at this time.

300 Rep. Hill Hypothesizes that the subsequent referral to the Committee on Ways and Means is due to the fact that continuation of the relocation program could have a budgetary impact.

330 **VOTE: 8-3**
AYE: 8 - Brown, Hill, Kafoury, March, P. Smith, Tomei,
Wirth, Krummel
NAY: 3 - Beck, Garrard, Kruse
The motion CARRIES.

345 Chair Krummel Closes the work session on HB 2095 and opens a public hearing on HB 2055.

HB 2055 PUBLIC HEARING

355 Matt Wingard Committee Administrator. Provides a brief description of the bill. States that the bill repeals the supersiting law that has excluded DOC from state land use laws since 1995. Mentions that the laws that governed prison siting prior to 1995 would be reinstated for all DOC projects not currently underway.

365 Chair Krummel House District 27. Testifies in support of HB 2055 (**EXHIBIT D**). Explains that the 1995 Legislature chose to exempt DOC from land use laws in order to allow prisons to be sited on whatever parcels of land were deemed necessary and proper, which included the right of eminent domain. Says seven prison facilities were sited through the supersiting rules on lands throughout the state. Refers to the 1998 Senate Interim Committee on Prison Siting, which dealt with the siting of a women's prison. States that he proposed HB 2055 for two reasons:

- DOC currently has the sites necessary to build all of their planned facilities
- Allowing agencies to ignore laws that the private sector must adhere to, as is the case with supersiting, is not equitable

Mentions that the measure will have no effect on DOC projects that have already been sited.

TAPE 6, B

024 Rep. Wirth Inquires whether there are any other agencies whose facilities can be sited without adherence to land use laws.

029 Chair Krummel Replies that he is unaware of any other state agencies that have been granted supersiting authority. Recalls a previous period of prison expansion during the late 1980s, during which time the Snake River Correctional Facility was supersited in Ontario. Indicates that even the Oregon Department of Transportation must adhere to federal land use rules, despite the fact that the state possesses the right of eminent domain.

053 Rep. Beck Mentions that the West Side light rail line in Washington County included a supersiting provision that was in effect in 1991, but that it was specific to that project.

058	Rep. Wirth	Requests confirmation that supersiting supercedes all land use regulations, including zoning.
061	Chair Krummel	Clarifies that federal regulations regarding environmentally sensitive areas cannot be bypassed by supersiting, but that zoning and compatibility rules and the Statewide Land Use Planning Goals can be circumvented.
067	Rep. Hill	Asks how many communities have provisions for prisons as permitted use as part of their comprehensive land use plans.
071	Chair Krummel	Expresses doubt that any city has added prisons as a permitted use. Presumes that DOC was required to apply for a variance in each community where prisons were sited.
076	Rep. March	Notes that there are several references to the Dammasch facility in Wilsonville in statute. Inquires as to the status of the facility and whether the references should be deleted once it has been disposed of.
080	Chair Krummel	Responds that the Dammasch facility has not yet been disposed of. Says that the requirement for its sale were outlined in HB 3446 (1999).
100	Sue Acuff	Assistant Director, DOC. Testifies to a position of neutrality on HB 2055. Provides a history of supersiting authority. States that passage of Ballot Measure 11 (1994) caused a dramatic increase in the prison population and a resulting need for added prison space. Says that DOC currently has sufficient land for the near future.
110	Rep. Beck	Offers the possibility that DOC could find itself in the future with insufficient land for additional prison construction. Says that siting new facilities would be difficult without supersiting authority.
118	Acuff	Agrees, but reiterates that DOC has sufficient land for new prison facilities into the foreseeable future.
122	Rep. Beck	Requests an overview of the numbers of prison beds, the size of the prison population, and the amount of land available for new prison construction.
132	Acuff	Provides statistics in response to Rep. Beck's query: <ul style="list-style-type: none"> • Current prison population statewide is 10,300 • Additional 300 housed by the Oregon Youth Authority (OYA) • Projected prison population of 15,000 within 10 years • Building plan accommodates the projected prison population • Construction of six of the seven planned prisons will be complete within the 10-year period
151	Rep. Beck	Wonders what the projected number of prison beds will be once the prison population reaches its projected total of 15,000.
154	Acuff	Responds that DOC plans to match the prison population, building new beds only to meet the need. Adds that the total site capacity will remain substantially higher than the number of actual beds in operation for the foreseeable future.
163	Rep. Beck	Suggests that the committee receive testimony from members of the committee that sited the prisons.
176	Rep. Kruse	Asks if the Snake River Correctional Facility is at full capacity.
178	Acuff	Replies affirmatively.

180	Rep. Kruse	Asks when the Umatilla facility is expected to come online.
181	Acuff	Projects that the facility will be in limited operation by the end of the current biennium, with all but 200 beds available, all of which will be filled.
186	Rep. Kruse	Recalls that the legislature created supersiting authority it also created the ability to grant exceptions for planning, which would still be available should supersiting remain on the books.
196	Chair Krummel	Closes the public hearing and opens a work session on HB 2055.
<u>HB 2055 WORK SESSION</u>		
200	Rep. P. Rep. P. Smith	MOTION: Moves HB 2055 to the floor with a DO PASS recommendation.
205	Rep. Hill	Indicates that he will not support the motion. Expresses support for supersiting. Disagrees with the tactics the Governor used in siting the prison at Day Road in Wilsonville but says that supersiting is necessary. Opines that HB 2055 is an attempt to provide the legislature a hollow victory over the Governor by taking away a useful tool.
224	Rep. Beck	States that he will not support a motion to pass the bill at this time. States that some of the concerns voiced by Rep. Hill could be alleviated with additional testimony.
238	Rep. Garrard	Expresses support for the motion. Recalls a use of supersiting for locating a prison facility in Lake County and says there must be a better way to site prison facilities. Asserts that supersiting is “high-handed” and removes the public from the discussion.
253	Rep. Kruse	Says he will support the motion. Emphasizes the need to be able to site prisons on short notice. Opines that the legislature’s intent in granting the Governor supersiting authority was to place the blame for difficult decisions on to someone else. Recalls the chain of events that led to the women’s prison originally sited at the Dammasch Hospital location to be moved to Day Road, despite the legislature’s efforts to site it in Umatilla through the passage of SB 3 (1999). Asserts that prisons should be built, whenever possible, in communities where they are wanted. Acknowledges that the state has no need to site new prisons in the near future.
290	Rep. March	Expresses support for the motion. Recalls the process by which Multnomah County sited a local jail and says the state prison siting process should work the same way. States that the matter can be revisited in the future should supersiting become necessary again.
310	Chair Krummel	Disputes the argument that the measure is an attempt to achieve a “hollow victory” over the Governor. Expresses preference to local control and land use regulations as opposed to supersiting.
326		VOTE: 8-2 AYE: 8 - Rep. Brown, Rep. Garrard, Rep. Kruse, Rep. March, Rep. P. Smith P, Rep. Tomei, Rep. Wirth, Chair Krummel NAY: 2 - Rep. Beck, Rep. Hill EXCUSED: 1 - Rep. Kafoury The motion CARRIES. REP. KRUMMEL will lead discussion on the floor.
	Chair Krummel	
340	Chair Krummel	Closes the work session on HB 2055 and adjourns the meeting at 10:18 a.m.

Submitted By,

Patrick Brennan,
Committee Assistant

Reviewed By,

Matt Wingard,
Committee Administrator

EXHIBIT SUMMARY

- A – HB 2095, -1 amendments, staff, 2 pp.**
- B – HB 2095, testimony, Mary Botkin, 2 pp.**
- C – HB 2095, testimony, Nick Armenakis, 1 p.**
- D – HB 2055, testimony, Rep. Jerry Krummel, 2 pp.**