

HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW

February 24, 1999 Hearing Room 357

8:30 a.m. Tapes 56 - 57

MEMBERS PRESENT: Rep. Mannix, Chair

Rep. Prozanski, Vice-Chair

Rep. Bowman

Rep. Gianella

Rep. Hansen

Rep. Simmons

Rep. Sunseri

STAFF PRESENT: John Horton, Counsel

Patsy Wood, Administrative Support

MEASURE/ISSUES HEARD:

HB 2220 Public Hearing and Possible Work Session

HB 2219 Public Hearing and Possible Work Session

HB 2218 Public Hearing and Possible Work Session

HB 2217 Public Hearing and Possible Work Session

HB 2216 Public Hearing and Possible Work Session

HB 2213 Public Hearing and Possible 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 56, A

006

Chair Mannix

Calls meeting to order at 8:36 a.m.

HB 2220 PUBLIC HEARING

015

Sue Acuff**Department of Corrections (DOC)**

Testifies and submits written testimony in support of HB 2220 (**EXHIBIT A**). Discusses DOC's separation from the Department of Human Resources in 1987. HB 2220 is a housekeeping measure to establish a fund in the State Treasury for receipt of Other Fund revenue.

020

Chair Mannix

Does HB 2220 have anything to do with prison siting?

024

Acuff

That is not the intent of HB 2220. Discusses Certificates of Participation as a revenue source that would be deposited in this fund.

028

Chair Mannix

This would affect any prison construction, anywhere, at anytime. It would not mean that a particular project was going to be carried forward.

029

Acuff

Yes.

030

Rep. Prozanski

Discusses Section 1, (3) that says DOC may accept gifts, grants and donations from any source. Were people concerned DOC may get a gift or a grant of land to site a prison?

033

Chair Mannix

I don't know. If anyone wants to do something about a particular prison site, they are going to have to do it with another bill.

044

Rep. Bowman

Asks representatives from DOC if they have an opinion on Rep. Krummelis proposed amendments to HB 2220.

046

Acuff

I have not seen any amendments to HB 2220. HB 2220 contains standard language that you will find in every agency who is in receipt of Other Fund revenue.

049

Chair Mannix

Discusses Rep. Krummelis proposed amendments that are focused on Dammasch State Hospital (**EXHIBIT B**).

051

Rep. Bowman

I don't see the relationship between Dammasch and setting up an account at DOC.

060

Chair Mannix

HB 2220 has nothing to do with creating a prison siting situation or stopping a

		prison siting situation. It simply has to do with financial administration and accounts.
063	Dave Cook	Director, Department of Corrections (DOC) HB 2220 has absolutely nothing to do with Dammasch or any other prison siting issues.
065	Chair Mannix	Closes the public hearing on HB 2220.
<u>HB 2220 WORK SESSION</u>		
066	Rep. Prozanski	MOTION: Moves HB 2220 to the floor with a DO PASS recommendation.
068	Rep. Sunseri	Is the \$20,000 canteen fund that we discussed in a previous bill connected to this in any way?
070	Cook	No.
076		VOTE: 7-0
	Chair Mannix	Hearing no objection, declares the motion CARRIED. REP. BOWMAN will lead discussion on the floor.
<u>HB 2219 PUBLIC HEARING</u>		
094	Scott Taylor	Department of Corrections (DOC) Testifies and submits written testimony in support of HB 2219 (EXHIBIT C) that increases from 30 days to 60 days the jail sanction that DOC or county corrections may impose on probation violations. Discusses the grid used under Structured Sanctions in ORS 137.595. HB 2219 would affect only about 17% of the probation population, gives examples of the violations.
139	Chair Mannix	You're still limited to the maximum number of available jail custody units under the rules?
140	Taylor	Yes. Discusses the administrative sanctions imposed during the last year.

157	Chair Mannix	Did you state that only 17% of probation offenders under high or medium supervision would be affected by this sanction of increased jail days?
161	Taylor	Describes where the 17% falls on the grid to get the over-30-day sanction.
168	Chair Mannix	Closes public hearing on HB 2219.
<u>HB 2219 WORK SESSION</u>		
170	Rep. Prozanski	MOTION: Moves HB 2219 to the floor with a DO PASS recommendation.
		VOTE: 7-0
		Chair Mannix Hearing no objection, declares the motion CARRIED. REP. SIMMONS will lead discussion on the floor.
176	Chair Mannix	Closes work session on HB 2219.
<u>HB 2218 PUBLIC HEARING</u>		
180	Scott Taylor	Department of Corrections (DOC) Testifies and submits written testimony in support of HB 2218 (EXHIBIT D), which would allow offenders returned to Oregon for violation of post-prison supervision to be held in a local correctional facility. Discusses SB 156 and SB 1145 from the 1997 Legislative Session that established local supervisory authority over these escaped offenders.
218	Chair Mannix	Do local authorities express any problems on HB 2218?
219	Taylor	HB 2218 has the support of all those agencies we contacted.
224	Rep. Bowman	Wouldnt someone on post-prison supervision who leaves the state be prosecuted for escape?
228	Taylor	Yes. If they were in custody they could be charged with escape. If they were only under supervision, their leave would be absconding.

237	Rep. Bowman	Discusses the prison sentence if an offender is on parole and escapes.
250	Taylor	Describes the difference between absconding and escaping. Discusses the differences between people on parole and those on post-prison supervision.
262	Chair Mannix	Discusses parole in terms of release under the old system. When offenders under the new system are released, they are on post-prison supervision.
275	Taylor	Discusses what happens when a person is on post-prison supervision and escapes.
279	Chair Mannix	Could a person under post-prison supervision only be charged with escape if they had been brought back into custody and escaped from that custody?
282	Taylor	Yes. Clarifies that leaving police custody is considered escape.
300	Chair Mannix	Closes public hearing on HB 2218.
<u>HB 2218 WORK SESSION</u>		
304	Rep. Prozanski	MOTION: Moves HB 2218 to the floor with a DO PASS recommendation.
307	Rep. Bowman	I am still pretty confused by HB 2218.
316	Chair Mannix	I would agree that the statutes as written are confusing.
324	Rep. Hansen	Discusses the need for a person retaken or returned to Oregon after escape needing to be remanded to the local correctional facility.
340	Dave Cook	Department of Corrections HB 2218 enhances the efficiency of the system by eliminating unnecessary transport of individuals who need to be at the local level.
355		VOTE: 7-0
	Chair Mannix	Hearing no objection, declares the motion CARRIED.

	Taylor	There is an amendment attached to my testimony changing lines 13 and 14.
370	Chair Mannix	MOTION: Moves to RECONSIDER the vote moving HB 2218 to the floor with a DO PASS recommendation
		VOTE: 7-0
	Chair Mannix	Hearing no objection, declares the motion CARRIED .
377	Rep. Prozanski	MOTION: Moves to SUSPEND the rules for the purpose of making a conceptual amendment to HB 2218.
		VOTE: 7-0
	Chair Mannix	Hearing no objection, declares the motion CARRIED .
384	Rep. Prozanski	MOTION: Moves to ADOPT the conceptual amendment to insert "or a local correctional facility" after Department of Corrections facility on line 13 on page 1.
		VOTE: 7-0
	Chair Mannix	Hearing no objection, declares the motion CARRIED .
426	Rep. Prozanski	MOTION: Moves HB 2218 to the floor with a DO PASS AS AMENDED recommendation.
TAPE 57, A		
001	Rep. Bowman	On line 15 of page 1, is retaken an actual word?
004	Taylor	It is used earlier in the statute so we chose to use the same language.

008		VOTE: 7-0
	Chair Mannix	Hearing no objection, declares the motion CARRIED. REP. PROZANSKI will lead discussion on the floor.
<u>HB 2220 PUBLIC HEARING</u>		
015	Counsel Horton	Discusses that HB 2220 has a subsequent referral to Ways & Means, but the fiscal impact statement says there is no fiscal impact.
020	Chair Mannix	I think the original bill said "and appropriating money" which meant a subsequent referral to Ways & Means.
025	Sue Acuff	Department of Corrections (DOC) That is standard language dealing with all fiscal types of measures, but there is no reason for referral.
030	Counsel Horton	I will ask the Speaker to rescind the referral to Ways & Means and if there is a problem, I will bring it back to the committee.
038	Chair Mannix	Closes public hearing on HB 2220.
<u>HB 2217 PUBLIC HEARING</u>		
044	Scott Taylor	Department of Corrections (DOC) Testifies and submits written testimony in support of HB 2217 (EXHIBIT E). HB 2217 amends the statute to clarify that the county is responsible to supervise second look offenders while in the community on conditional release. Discusses what happens when a youth comes out of a youth facility and is placed on supervision.
060	Rep. Prozanski	Is there opposition to HB 2217 from any of the counties?
064	Taylor	HB 2217 is at the request of some of the counties to clarify that they have this supervision responsibility.
<u>HB 2217 WORK SESSION</u>		

070	Rep. Prozanski	MOTION: Moves HB 2217 to the floor with a DO PASS recommendation.
		VOTE: 7-0
	Chair Mannix	<p>Hearing no objection, declares the motion CARRIED.</p> <p>REP. PROZANSKI will lead discussion on the floor.</p>
075	Chair Mannix	Discusses an interest in seeing statistics on how "second look" offenders (not Measure 11 offenders) are doing after release. Closes the work session on HB 2217.
<u>HB 2216 PUBLIC HEARING</u>		
098	Scott Taylor	<p>Department of Corrections (DOC)</p> <p>Testifies and submits written testimony in support of HB 2216. (EXHIBIT F). HB 2216 creates consistency in the statutes that pertain to releases on parole and releases on post-prison supervision.</p>
113	Chair Mannix	Discusses a letter from Kenneth Lyman from Coquille, Oregon, sharing his concern about inmates being released into their former environment (EXHIBIT G) . Do you have any input into where in the county a released individual should reside or if they should be waived into another county if appropriate?
124	Taylor	Yes. Discusses the criteria DOC looks at before placement.
137	Rep. Prozanski	Before people were released to the county of residence where the crime was committed, people used to reside where they were paroled, many residing in Salem after prison release.
147	Dave Cook	<p>Department of Corrections (DOC)</p> <p>Discusses local authority for post-prison supervision and how they are better able to deal with offenders that committed a crime in their county.</p>
159	Rep. Hansen	If you are following this policy now, why do we need this in the statute?
164	Chair Mannix	Discusses how HB 2216 would make the post-prison release statutes all

		consistent.
173	Rep. Hansen	Could you adopt these procedures by Administrative Rule or some other set policy?
174	Taylor	The Attorney General's Office said we should bring the post-prison release statute into compliance with the parole statute dealing with these individuals.
186	Rep. Bowman	What happens in those cases when the waiver is not granted to their original county?
189	Taylor	Discusses what happens when the waiver is not granted, usually finding a stable environment in another county.
195	Rep. Bowman	That's the "default position"?
195	Taylor	Yes.
196	Chair Mannix	On page 2, line 44, if a person is serving multiple sentences, does that include consecutive sentences?
210	Taylor	That includes consecutive sentences.
216	Chair Mannix	Discusses a concern if someone re-offends while in prison, and that is considered their last conviction for purposes of release, then he stays in the prison's county upon release.
225	Cook	It was not DOC's intention that they be released in the prison's county if they re-offend while in prison, when their original offense was committed in another county. This issue could be addressed in a statutory way or through rule.
266	Rep. Gianella	Lines 44 & 45 on page 2 read that a crime committed in prison would put a parolee in the prison's county for residence after release.
<u>BH 2216 WORK SESSION</u>		
287	Rep. Prozanski	MOTION: Moves HB 2216 to the floor with a DO PASS recommendation.
		VOTE: 7-0

	Chair Mannix	<p>Hearing no objection, declares the motion CARRIED.</p> <p>REP. HANSEN will lead discussion on the floor.</p>
296	Chair Mannix	Closes work session on HB 2216.
<u>HB 2213 PUBIC HEARING</u>		
303	Frank Thompson	<p>Department of Corrections (DOC)</p> <p>Testifies and submits written testimony in support of HB 2213 (EXHIBITS H & I). HB 2213 lifts the age limitation restriction of 40 years of age on the eligibility of inmates for the SUMMIT Program at Shutter Creek. Discusses the benefits of the SUMMIT program to inmates. HB 2213 would increase the pool of eligible inmates for the program and would help to avoid legal issues regarding discrimination against age.</p>
333	Rep. Sunseri	What guidelines do you use to judge the physical condition of inmates before allowing them to enter this program?
338	Thompson	Health professionals conduct a physical exam upon intake into the program. Most important is the inmate's ability to endure sustained marching and physical exercises.
346	Rep. Sunseri	States his concern about the physical risk to older individuals. I understand it is a rigorous program and I wonder what would disqualify a person physically from the program?
360	Thompson	Discusses how all applicants are screened to find those individuals who would have a problem with the program.
371	Dave Cook	<p>Department of Corrections (DOC)</p> <p>Explains that DOC has an obligation to put inmates to work, but wouldn't want to exclude anyone from Shutter Creek. If an inmate was eligible, but didn't pass the physical, it would be left to the discretion of the physician if they could enter the SUMMIT program.</p>
393	Rep. Sunseri	How many people have been disqualified in the past as a result of failing the physical?
395	Cook	I don't have those figures. I can tell you the number disqualified for all criteria.
397	Rep. Sunseri	How many have been disqualified?

398	Cook	There have been 284 inmates disqualified because of age, but no number of total disqualifications. Discusses the reasons used for disqualification.
407	Rep. Bowman	What is the maximum capacity for the SUMMIT Program?
409	Thompson	I think the capacity is 186 inmates.
418	Rep. Bowman	You mentioned over 200 that had been disqualified?
421	Cook	Yes, 284 inmates have been disqualified because of the age limitation. Discusses the SUMMIT Program and how the pool for eligibility has gotten smaller as inmates are released, and the fact that many inmates "wash out" (are unable to complete the program).
TAPE 56, B		
012	Chair Mannix	I'm impressed with the statistics in regards to the recidivism rate that shows you are having some success with the program.
018	Cook	This is a select group of inmates so it is our expectation that the recidivism rate would be lower.
027	Chair Mannix	If an inmate commits a new offense while in a correctional facility, and a sentence is imposed, is that treated as a new conviction for purposes of where the inmate is released to upon completion of the sentence?
032	Thompson	Yes it is.
033	Chair Mannix	We would like to see the new offense grandfathered back to the offense that originally put them in prison.
038	Rep. Prozanski	We need to be careful with the language we use so that it specifies the offense occurred within the institution itself or the offense could be an escape from the institution.
049	Cook	DOC needs to do some research concerning offenses that could occur within an institution or offenses that could occur while on a work crew.
058	Chair Mannix	HB 2213 has a convenient relating clause to evaluate the issue of someone in custody re-offending while in prison. We could put a clause in HB 2213 that any offense committed while in prison relates back to the offender's original county of residence.

092	Cook	States what he feels the preference of the committee would be in the situation of an inmate re-offending while in prison. An inmate convicted in Multnomah County, but serving at Snake River and re-offends while at Snake River, would still return to Multnomah County upon their release. Discusses the 90-day transitional leave where an offender is technically still in custody, but may be out anywhere in the 36 counties. States there could be some debate on how to handle a person re-offending while on transitional leave.
107	Chair Mannix	It might be best to say, "once you have left the physical confines of the institution".
108	Cook	Whether incarcerated or on work crew, when you are released from custody, you go home to your county where the original offense occurred.
110	Rep. Bowman	What if someone is convicted of a crime in Multnomah County, but they actually live in Clackamas County, then they go to Snake River to serve their sentence and re-offend while incarcerated? Where will they go upon release?
118	Chair Mannix	The offender is released to the county where they resided at the time they committed the original offense. There are standards in the statute to determine where the person resided.
123	Cook	Discusses the residency requirement and supervision as it is handled in Multnomah County and Clackamas County.
135	Chair Mannix	I would like to add an emergency clause to HB 2213. Closes public hearing on HB 2213. Adjourns meeting at 9:44 a.m.

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Administrator

EXHIBIT SUMMARY

A -- HB 2220, written testimony submitted by Sue Acuff, Department of Corrections, 1 pg.

B ñ HB 2220, proposed amendments submitted by Rep. Krummel, 1 pg.

C ñ HB 2219, written testimony submitted by Scott Taylor, Department of Corrections, 4 pgs.

D -- HB 2218, written testimony submitted by Scott Taylor, Department of Corrections, 3 pgs.

E -- HB 2217, written testimony submitted by Scott Taylor, Department of Corrections, 2 pgs.

F -- HB 2216, written testimony submitted by Scott Taylor, Department of Corrections, 2 pgs.

G ñ HB 2216, letter submitted by Kenneth B. Lyman, concerned citizen, Dated 2/17/99, 1 pg.

H -- HB 2213, written testimony submitted by Frank Thompson, Department of Corrections, 2 pgs.

I -- HB 2213, written testimony submitted by Frank Thompson, Department of Corrections, 2 pgs.