

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON CRIMINAL LAW

March 20, 1997 Hearing Room 357

1:00 PM Tapes 58 - 60

MEMBERS PRESENT:

Rep. JOHN MINNIS, Chair

Rep. JO ANN BOWMAN, Vice-Chair

Rep. PETER COURTNEY

Rep. FLOYD PROZANSKI

Rep. LANE SHETTERLY

Rep. RON SUNSERI

Rep. LARRY WELLS

MEMBER EXCUSED:

STAFF PRESENT:

SCOTT LUMSDEN, Counsel

LISA FRITZ, Administrative Support

MEASURE/ISSUES HEARD:

Work Sessions - HB 2958

Public Hearing - HB 3230, HB 2956, HB 2964, HB 2723

Public Hearing and Work Session - HB 2158

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 58, A		

006	Chair Minnis	<p>Calls the subcommittee to order at 1:10 PM</p> <p>>Announces HB 3256 has been set over by sponsor, Rep. Kruse</p>
<u>HB 3230 - PUBLIC HEARING</u>		
011	Roger Beyer	<p>State Representative, District 28 >discusses purposes, intent, and background of HB 3230</p>
044	Rep. Wells	<p>How do you envision this working? How would private contractors incorporate prison workers into their crews?</p>
053	Rep. Beyer	<p>I haven't thought about that. Perhaps a temporary facility could be built in which the inmates could be moved to.</p>
066	Bob Shiprack	<p>Executive Secretary, Oregon Building and Construction Trades Council</p> <p>>in opposition to HB 3230</p> <p>>Measure 17 specifically states inmates would be used for this kind of work.</p> <p>>Trade has suffered with use of inmates on previous prison construction sites.</p>
116		<p>Continues testimony</p> <p>>Before we move on use of inmate labor, we need to look at the costs and how it affects competitive building.</p>
145	Rep. Bowman	<p>Is it your recollection that Measure 17 was not to replace any employees with inmates?</p>
150	Shiprack	<p>No.</p>
152	Chair Minnis	<p>Reads aloud sections of Measure 17 (for clarification purposes) >I don't see that it specifically mentions constructive programs.</p>
179	Shiprack	<p>The advisory just looks at proposed programs; we don't go out and search for things.</p>
183	Chair Minnis	<p>HJR 2 is going to try to rectify some of those impediments.</p>
191	Irv Fletcher	<p>Oregon AFL-CIO</p> <p>>in opposition to HB 3230</p> <p>>We have always been opposed to convicts replacing working people in the workplace.</p>

		>I understand the need to find something worthwhile for these people to do, but I don't see replacing working people as an answer.
211	Chair Minnis	It appears the Constitution is clear that it can happen.
216	Fletcher	Is that interpreting the Constitution to say that they ought to be involved in the construction?
217	Chair Minnis	It does not direct it nor limit it. >At some point labor interests and the business community should come together to try to help influence in a positive way the future of inmate work.
247	Mary Bodkin	American Federation of State, County, and Municipal Employees >We want employees busy and working so as to keep them out of mischief. >We have bent over backwards to come up with ideas to get these inmates to work. >One major problem is that industries have not stepped up to help. >Another problem is finding work for these people that doesn't involve displacing of people who have not broken the law.
297	Bodkin	Continues testimony >Teaching inmates to get up and go to work every morning and giving them that responsibility does have its benefits. >Certain skills are important for this type of work.
348	Chair Minnis	I think the constitution is very clear. It doesn't seem to care whether it displaces people or not.
352	Rep. Sunseri	Is there any indication that inmates have done poor quality jobs when they have been required to work in the past?
360	Shiprack	Most of the work they do isn't finished work.
370	Rep. Sunseri	Looking at their furniture shop, they don't allow anything to be turned out that isn't quality stuff. >There are obviously people in prison who have these skills.
383	Shiprack	The point you raise is that they can do work, but they lose money on all of it.
394	Bodkin	Comments on previously heard bill on inmates building universal weight machines
410	Chair Minnis	The bill simply says that the Department of Corrections shall use labor to the greatest possible extent in the construction of new facilities.

		>I want to hear or why we are not already doing this.
427	Bodkin	We want our inmates busy and we're going to do as much as we can without displacing workers.
TAPE 59, A		
016	Al Chandler	Assistant Director of Institutions, Oregon Department of Corrections >introduces Lisa Strader, Director of Facilities >submits and reads written testimony, (EXHIBIT A) .
039	Rep. Prozanski	Is this bill necessary to do what the department is already doing?
040	Chandler	Responds that he believes the Constitution already requires the Department to employ inmates full-time
044	Rep. Prozanski	Asks about temporary work camps
048	Chandler	In the planning for that, it is our intent to move that facility to the next construction site.
051	Rep. Prozanski	So it's going to have a continued life?
052	Chandler	Yes.
053	Chair Minnis	Do we do an inventory of inmate skills when they enter the institutions?
056	Chandler	Measure 17 has made it mandatory that we assess the skills of the people coming into our system and those already in the system.
067	Chair Minnis	Could you produce a document that would give us the average educational level of the inmates?
068	Chandler	Yes.
073	Rep. Prozanski	In Texas, they had different classifications and inmates were housed accordingly. Do we have a program like that in place now?
082	Chandler	The state of Oregon has 82,000 inmates while the state of Texas has about 162,000 inmates. >As we get larger, we will be able to specialize.
093	Rep. Sunseri	Does the Department of Corrections lose money on industry, and if so, is that shown in your budgets?
094	Chandler	Some industry programs are more profitable than others.
109	Rep. Sunseri	So, the statement that you were losing money on all of them isn't exactly accurate.
111	Chandler	That is correct.

113	Chair Minnis	Closes public hearing on HB 3230
<u>HB 2956 AND HB 2964 - PUBLIC HEARINGS</u>		
122	Chair Minnis	Opens public hearings on HB 2956 and HB 2964 >Announces that Diane Middle has been invited to present the concept and that other testifiers may want to wait until the committee plans any further action on upcoming Senate bills
128	Dianne Middle	Chairperson, Board of Parole and Post-prison Supervision >gives overview of related bills: HB 2956, 2964, SB 155, SB 156 >submits and summarizes written testimony in support of HB 2956, 2964, SB 155, SB 156, (EXHIBIT B)
178	Middle	Continues testimony
228	Middle	Continues testimony
286	Chair Minnis	Closes public hearing on HB 2956 and HB 2964
<u>HB 2958 - WORK SESSION</u>		
288	Chair Minnis	Opens work session on HB 2958
297	Scott Lumsden	Committee Counsel >reads provisions of bill
318	Mary Bodkin	American Federation of State, County and Municipal Employees >HB 2958 is a virtual duplicate of a Senate Bill. >This bill will allow the Department of Corrections, in my opinion, is to create a mobile workforce which would diminish the need to address understaffing of institutions. >Nothing in the bill provides for any notice to an employee that they could be at Snake River one day and at Columbia River the next. >We need to recognize that these are career employees. >The bill ignores the process of the Emergency Board and the Executive Department as well as oversight.

364	Chair Minnis	Your concern is that this may cause a hardship to some employees. Is that correct?
370	Bodkin	There has been some favoritism and retribution in transfers and promotions or demotions.
378	Chair Minnis	Don't you govern some of these with your collective bargaining agreements?
380	Bodkin	Yes.
381	Chair Minnis	This would not nullify your collective bargaining agreement, would it?
383	Brian DeLashmitt	Association of Oregon Corrections Employees >By abolishing a position, how do you deal with that in the collective bargaining system?
391	Chair Minnis	Wouldn't they be a member of a class?
392	DeLashmitt	They may or may not be. It may be an elimination of a particular position on a particular shift.
399	Chair Minnis	But if they are cutting out a position of someone with experience, my assumption would be that the person would find a position somewhere else within the institution.
407	DeLashmitt	You may be correct, but we're not comfortable with that assumption. >The other concern is that you would be adopting a major deviation from how state agencies function as far as abolishing and reallocating positions.
424	Bodkin	Seniority is not the first consideration when changing employee positions.
TAPE 58, B		
012	Rich Peppers	Oregon Public Employees Union >appears that this is a route that the agency is using to circumvent the collective bargaining table
017	Chair Minnis	I'm having a hard time connecting this with the collective bargaining agreement. It may have an affect on your membership, but I don't know if that's unfair.
026	Bodkin	Not every officer is covered by the same agreement. There are three separate ones.
032	Rep. Prozanski	It's by vocation, but there are also different unions within the classification of employees, no?
033	Bodkin	We represent every institution.

039	Karen Roach	<p>Assistant Director, Human Resources, Department of Corrections</p> <p>>identical to SB 22, but not the same as SB 161</p> <p>>This bill deals with positions, not the people in them.</p> <p>>It allows the inmate work program to abolish or establish existing positions, not accounted for in the budget.</p> <p>>It allows for more flexibility than the current process.</p>
092	Rep. Prozanski	<p>If you already have the positions set at one institution, and you decide that you need to make a change during the interim because of the work program, is it the Department's position that this can not be done internally?</p>
099	Roach	<p>That would be true in some instances. Explains.</p>
140	Rep. Prozanski	<p>Are there other agencies that are doing something like this already?</p>
142	Roach	<p>No. This would be a departure from the current process at state agencies.</p> <p>>This would be new and be used as a tool to move and set positions.</p>
151	Rep. Prozanski	<p>If that happened today under the existing situation, who would you go to in order to try and make these changes?</p>
153	Roach	<p>We would have to identify other positions in our department in order to finance the new ones, and that would go through DAS. If we don't have positions to abolish, they would go on the Emergency Board agenda.</p>
167	Rep. Prozanski	<p>What is the time period for that process? How much more freedom do you need that the present process doesn't offer you?</p>
174	Roach	<p>We'd like to shorten the process, but what is required to do that is to abolish positions in order to create needed positions.</p>
185	Chair Minnis	<p>I think part of the problem is that the bill really reads much broader than just the inmate work programs.</p>
193	Rep. Prozanski	<p>If you have money allocated from the legislature specifically for the inmate work program, it seems like you should be able to go through DAS to do that or do it within the department.</p> <p>>We're not talking about creating new positions that need new funding, so I don't see why it needs to go out of the internal process.</p>
204	Roach	<p>If we stay within the position authority that we currently have, but we may want to be able to add new positions, not provided for in the budget, without abolishing positions we already have.</p> <p>>We already do have the authority to change positions, but what</p>

		we are asking for is the ability to establish or reclassify new positions without having to abolish others to pay for the new ones.
235	Rep. Prozanski	It seems you should already have the ability to do that.
242	Rep. Bowman	When you hire employees, what kind of skills are you looking for?
248	Roach	Every position is within the state classification system of which there is about 1,000.
253	Rep. Bowman	The officers in the prison are the ones that possibly could be moving because of the inmate work program?
257	Roach	It is possible. Explains.
278	Chair Minnis	I am thinking we should send this to Ways and Means since we are talking about allocation and abolition of positions.
287	Rep. Prozanski	I would like to see some examples. I don't understand why, under the existing setup, they can't do what they want.
303	Rep. Shetterly	Are we dealing with components of the budget? You're saying you've got the authority to move people around within Personnel Services budget, but you want to be able to take money from SNS if you want to establish a new position?
323	Chair Minnis	They can do it, but in the interim it must be done by Ways and Means or the Emergency Board.
327	Rep. Courtney	If prison industries is so successful that they get private money, then can't they hire additional employees?
338	Roach	We can hire if the positions are within our budget, but if they are not, and the money is coming in, we have to establish new positions and this bill would allow us to that.
348	Chair Minnis	We're talking about the appropriations allocated to the Department other than those revenues generated by the work program, but when you get into programs that are self-sufficient it is not subject to the Legislature's review.
361	Rep. Prozanski	Which brings us back to the same question: Why is this bill here?
364	Rep. Courtney	I thought you said that, if you had to abolish positions to create new positions that you didn't have that authority?
374	Roach	Asks for the question to be repeated
377	Rep. Courtney	There's going to be more hiring of people and some of that money can go to new hires without us doing anything, right?
389	Roach	If it's a new position not provided for in our budget, the answer is no.
394	Rep. Courtney	I do not understand why you would want to abolish anything.
		You are talking about money that is incoming from the prison

398	Rep. Prozanski	industry, which may not be earmarked by the budget and section 9 of the Constitution says you are exempt and so that money coming in can be used in the manner provided by the Constitution. >I would understand it if you needed more money from the budget.
410	Chair Minnis	We may be having problems with definitions of "appropriation" and "limitation."
417	Rep. Courtney	I don't want to stop you from hiring more people, because I think you will have to in order to implement Measure 17.
423	Chair Minnis	My suggestion would be to send this bill to Ways and Means.
428	Roach	I wanted to note that DAS is in support of this bill.
434	Chair Minnis	My intent is not to kill it by sending it to Ways and Means.
TAPE 59, B		
010	Rep. Prozanski	The Department of Corrections will be coming before my subcommittee on Public Safety in Ways and Means in a couple of weeks.
024	Rep. Shetterly	MOTION: Moves HB 2958 to the full committee WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Joint Ways and Means.
026		VOTE: 4-0-3 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 3 - Bowman, Sunseri, Wells
	Chair Minnis	The motion CARRIES.
032	Chair Minnis	Closes work session on HB 2958
HB 2723 - PUBLIC HEARING		
038	Chair Minnis	Opens public hearing on HB 2723 >sponsor of the bill has asked for the bill to be held over >closes public hearing on HB 2723

HB 2158 - PUBLIC HEARING		
044	Chair Minnis	Opens public hearing on HB 2158
054	Les Dolecal	Inspector General, Oregon Department of Corrections >submits and reads testimony on HB 2158, (EXHIBIT C) .
104		Continues testimony
119	Rep. Prozanski	Under the inmate grievance system, this is set up for inmates to file complaints with staff of DOC?
124	Dolecal	Each institution has a grievance coordinator.
132	Rep. Prozanski	Who is the grievance coordinator in the different units?
133	Dolecal	There is not just one, there is one at each institution.
135	Rep. Prozanski	Who are they? Who do they answer to? Is this the only job or task that they have?
139	Dolecal	They respond to the Institution Superintendent and their tasks depend on the institution. >Continues testimony
170	Vice Chair Bowman	The Governor's Advocate for Public Safety's only responsibility is to communicate with inmates and their families?
174	Dolecal	Sheila Reed is the current Advocate and responds to inmates, civilians, employees of the institutions and others in addressing concerns involving the Department of Corrections, Oregon Youth Authority, the military and public safety organizations in the state.
185		Continues testimony
235		Continues testimony
244	Rep. Prozanski	What type of indoctrination do inmates, employees and family members receive as to the various avenues?
250	Dolecal	New employees are receiving about 80 hours of orientation in which they are informed of the grievance process. >Inmates are also given an Admission and Orientation session upon entrance into the institution.
273	Rep. Prozanski	Do inmates receive information regarding the other three avenues?
281	Dolecal	They are not formally informed; however, they have access to the rules and procedures for the agency and informed of the inmate prohibitive conduct rules. >They know there will be an investigation if they violate the rules.

300	Rep. Shetterly	One of the recommendations of the Warden Commission was to fill and fund the Ombudsman position which was in 1989?
308	Dolecal	Yes.
310	Rep. Shetterly	Was it funded for a biennium?
313	Dolecal	To my knowledge, it hasn't been funded since 1989.
317	Rep. Shetterly	How did it come about, after the investigation, that just two years later the position wasn't funded?
322	Sheila Reed	Governor's Advocate for Public Safety >There was no money for the position due to the downsizing during the Roberts administration.
341	Vice Chair Bowman	I'm nervous because I look at the figures in your testimony, and for an office that inmates don't really know about, there were a lot of complaints. >It seems like inmates need someone not associated with the Department of Corrections to deal with the inmates' concerns.
358	Reed	Those indicate the letters written to the Governor's Office. >My name is also in the State Directory and phone books, so there are a lot of ways they can find out about me.
370	Vice Chair Bowman	Are you an advocate for prisoner families as well?
373	Reed	Yes.
377	Dolecal	The Special Investigations Unit investigated 337 allegations and the Governor's Advocate 672 so I understand your concern. >I don't perceive a reluctance on the part of inmates to bring allegations forward through the system.
398	Vice Chair Bowman	I don't agree with you on that, but thank you.
407	Rep. Prozanski	Asks for comments from Jim Arneson about the bill
411	Jim Arneson	Oregon Criminal Defense Lawyers Association >The concern I have is that an Ombudsman is one who is clearly identified as someone who addresses the concerns of inmates. >It doesn't seem that the logical direction one would look to is the Public Safety Advocate for the Governor. >It seems like a poor time to eliminate the position.

TAPE 60, A		
015	Rep. Prozanski	If that position (Governor's Advocate) was identified so there was clarity, do you think there is enough distance to be able to deal with families as well as those within the system?
021	Arneson	I would think so. I assume this person does more than just respond to inmate complaints as a public safety advocate.
027	Rep. Prozanski	Those are all of the questions I have.
031	Chair Minnis	My feeling is that we move the bill and eliminate the position. >Closes public hearing on HB 2158
<u>HB 2158 - WORK SESSION</u>		
032	Rep. Prozanski	I have no problem doing that, but I would like to see a directive to the Governor's office about where people turn to address their concerns.
040	Chair Minnis	I don't think that it is too much to ask. Does public safety still do the Governor's Budget?
043	Rep. Prozanski	Not the budget itself, only the components that relate to public safety.
044	Rep. Bowman	My concern is that people write to the Governor, not because they think that it is the person to solve their problem, but because they want to go to the top because they feel there is no other avenue. >I'm very concerned about eliminating this position because I am unsure about how the Governor's Advocate works. >I haven't heard anything today that puts my mind at ease that the internal mechanisms at the Department of Corrections has the appropriate avenues to resolve these issues.
058	Rep. Shetterly	I'm a little troubled as well, but I think the statute reads well and if it's been eight years since it's had funding I don't guess it should occupy space in the ORS's.
058	Rep. Shetterly	MOTION: Moves HB 2158 to the full committee with a DO PASS recommendation.
066	Chair Minnis	We do have some more Department of Corrections bills coming up where we could address this issue if we have concerns. >We may want to get some feedback from the Governor's Office.
072	Rep.	I will support this with the reservation that I want to make certain

	Prozanski	that the Governor's Advocate stays as it is.
079	Chair Minnis	Maybe we could get a letter from the Governor's Office by the time this hits the floor.
081		VOTE: 5-1-1 AYE: 5 - Prozanski, Shetterly, Sunseri, Wells, Minnis NAY: 1 - Bowman EXCUSED: 1 - Courtney
	Chair Minnis	The motion Carries.
093	Chair Minnis	Explains previous motion to send HB 2958 to Joint Ways and Means >Declares subcommittee adjourned at 3:07 PM

Transcribed by, Reviewed by,

BRIAN HIGGINS, SCOTT LUMSDEN,

Administrative Support Counsel

EXHIBIT SUMMARY

A - HB 3230, Written testimony, Al Chandler, Department of Corrections, 1 p.

B - HB 2956 and HB 2964, Written testimony, Dianne Middle, Board of Parole and Post-Prison Supervision, 22 pp.

C - HB 2158, Written testimony, Les Dolecal, Department of Corrections, 4 pp.