

JOINT COMMITTEE ON HJR 2-B ENGROSSED

March 26, 1997 Hearing Room A

3:00 PM Tapes 1 - 3

MEMBERS PRESENT:

Rep. John Minnis, Chair

Sen. Shirley Stull

Rep. Floyd Prozanski

STAFF PRESENT:

Nikola Jones, Counsel

Scott Lumsden, Counsel

Brian Higgins, Administrative Support

MEASURE/ISSUES HEARD:

Drafting of proponent statement as required by ORS 251.245

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 1, A		
005	Chair Minnis	Calls committee to order at 3:55 p.m. States that the purpose of the meeting is to put together an argument in favor of HJR 2B. States that he would like to work from EXHIBIT A . Questions the language in the first sentence of EXHIBIT A .
032	Steve Marks	Governor's Office Discusses language of EXHIBIT A with the members of the committee.
		It should read "more than 70 percent of Oregonians who voted in the general election." The "less than 51 percent" applies to those inmates working 40 hours per week.
057	Sen. Stull	Comments that the language needs to be more accurate and less of a "play on words."
		Suggests replacing the language with "less than 51 percent of eligible inmates are

060	Marks	working 40 hours."
068	Rep. Prozanski	Suggests "Currently, less than 51 percent." I don't think we should be worrying about the implementation date. The more simple we make the message, the easier it is going to be to follow. We need to stress bringing that number up.
084	Sen. Stull	Asks for clarification.
086	Rep. Prozanski	I think we should make a more positive statement. We should use current and future dates, not past dates. We need to bring the interstate commerce part up higher. We need to tell the voters why we are bringing this measure to them, what the current level is, and that by approving this, we move to a higher level. Hopefully, we will eventually achieve the level the voters voted for in November of 1994.
103	Chair Minnis	What would you replace the second sentence with?
105	Rep. Prozanski	"Currently, less than 51 percent of eligible inmates are working." I think that fits in well with the next sentence.
117	Sen. Stull	Comments that the voters have concerns about whether the things they have done are implemented or not.
123	Chair Minnis	I think the last sentence is fine.
125	Rep. Prozanski	I do too; I have no problem going with that.
126	Chair Minnis	Suggests removing "the."
130	Marks	Suggests use of "full-time" for clarification purposes.
144	Sen. Stull	November of 1994 was awhile ago, so part of this is helping people understand what the original ideas were.
163	Chair Minnis	Would someone read the language, as it would read, with the changes we just made?
170	Marks	Recites the language, with changes.
185	Chair Minnis	Restates the recent changes.
		For the record, the first sentence reads, "The Prison Inmate Work Act was passed by more than 70 percent of the Oregonians who voted in the November 1994 general election." How would the second sentence read?
195	Rep. Prozanski	"Currently, less than 51 percent of eligible inmates are working full time."
202	Nikola Jones	Committee Counsel Suggests inserting "all."

203	Chair Minnis	"Currently less than 51 percent of all eligible inmates are working full time."
204	Jones	Yes.
207	Chair Minnis	So, the last sentence of the first paragraph would read, "Measure 49 makes necessary changes to obtain full implementation of the Act and strengthens the ability of inmate work programs to be self-supporting." Are we okay with the title, "Vote `Yes' To Finally Put Prisoners To Work?" I'm confused with the next sentence, under "Measure 49 improves Measure 17" (EXHIBIT A).
231	Rep. Prozanski	Suggests bypassing that paragraph and moving onto the third. Suggests using the third paragraph as the second because the first paragraph talks about the need and the third paragraph discusses what the changes do to satisfy the problem.
237	Chair Minnis	So, the second paragraph would be the third paragraph of EXHIBIT A .
239	Sen. Stull	The changes that are made are not limited to one issue.
241	Rep. Prozanski	That's true. We should probably go through the most important changes we are making, with interstate commerce first, and then we have two or three other things we should definitely mention as to why voters should vote "yes" on the measure.
247	Sen. Stull	There are important key words here for the voters to understand that we are trying to "keep faith" with them and that our intentions are good here. The clarifying thing is "upholds the original intent by continuing to require that all eligible prisoners work." We would not want anyone to perceive that this is an intent to unravel or reduce requirements. I think the word "inhibits" creates a problem.
261	Chair Minnis	I think that if the next paragraph, which is really just one sentence, would read, "Measure 49 clarifies language of the Prison Inmate Work Act and upholds that original intent by continuing to require that all eligible prisoners work" that would be sufficient language and eliminate some confusion.
268	Sen. Stull	I would agree with that. I think the title above the paragraph, "Measure 49 improves Measure 17" is good. It gets the message across.
280	Rep. Prozanski	I agree with you, except for one thing. We are on the "inside" here. We know what Measure 17 is, but most people don't know what Measure 17 is, when it is referred to as "Measure 17."
285	Sen. Stull	But, it says what it is with the sentence underneath.
286	Chair Minnis	We could change the subtitle to "Measure 49 improves the Prison Work Act." Do you still want to segregate that one sentence?
290	Sen. Stull	I think it summarizes very carefully.
294	Chair Minnis	I would like to move through this and then get a fresh copy printed out. Let's try the third sentence.
305	Rep. Prozanski	I would say that when we are looking at this, we're putting two different issues into one sentence. I'm wondering if we want to focus on interstate commerce in one area, and then pick up on other issues elsewhere. Recites the first sentence of paragraph three (EXHIBIT A). It seems to me that we should deal with one area and then move into the next.
		The mention of "frivolous lawsuits" is in the last paragraph as well. It may be

330	Jones	repetitive, but I think it probably would be a good idea to just keep one subject per paragraph, so we are able to cover each change made to the measure.
353	Rep. Prozanski	I'm seeing a lot of redundancy within sections.
355	Chair Minnis	"Repetition is the mother of skill."
361	Jones	Maybe we could eliminate paragraph three and work with paragraphs three and four because paragraph four addresses interstate commerce conflicts, with some modifications, and then the last paragraph deals with the obligation to work and frivolous lawsuits.
372	Rep. Prozanski	I agree.
389	Chair Minnis	So, we are deleting the third paragraph.
401	Sen. Stull	Are we going to move that information anywhere else?
402	Chair Minnis	No, not yet.
403	Rep. Prozanski	You may want to look at the first sentence in the third paragraph. Suggests putting a period after "laws" in that sentence and picking up with the second sentence in the fourth paragraph.
436	Chair Minnis	What would the first sentence in the third paragraph read?
438	Rep. Prozanski	It would be the fourth paragraph, second sentence: "Measure 49 modifies the language of the Prison Inmate Work Act to satisfy federal interstate commerce laws that are delaying full implementation of the Act." I would say the next sentence would fit in because it would give a little more explanation to what the problem is with interstate commerce. I would say that that's probably all we need to say about the interstate commerce part. I think we should just go with the heading that is already there. I was thinking about putting "amends" in there, but I think modify would be better.
472	Sen. Stull	I recall the Attorney General's Office said "modify" was the correct term to use.
TAPE 2, A		
046	Marks	I think we should include something saying that without these changes, we cannot fully implement the Act, so the voters no they will help the full implementation.
050	Rep. Prozanski	Is there language, in the draft you came up with, that says anything like that?
054	Marks	There is: "without such changes, it will be very difficult to put all inmates to

		work."
060	Chair Minnis	Where do you want to put that language?
061	Rep. Prozanski	He's talking about putting it in the new paragraph three.
064	Chair Minnis	What was the suggested language?
066	Marks	"Without such changes, it will be very difficult to put all inmates to work."
069	Sen. Stull	Comments that the committee needs to be accurate in portraying the information. The argument is from the legislature. Discusses interstate commerce.
092	Rep. Prozanski	We could say that, without these changes, we are not going to be able to enter into interstate commerce.
123	Marks	We could say something like, "This change expands the opportunities to employ inmates and meet the full requirement." My original suggestion was "Without such changes, it will be very difficult to put all inmates to work."
130	Sen. Stull	Or, you could take a positive tone and say that passage of this measure allows development of additional prison industries programs.
139	Marks	I think that is very good.
143	Chair Minnis	Asks for the new language to be repeated.
144	Sen. Stull	"Extends our opportunities to develop additional prison industries programs."
155	Chair Minnis	Any thoughts on the last paragraph?
159	Jones	One issue that isn't even mentioned is the 40-hour work-week.
162	Chair Minnis	It's not in here now. Is that correct?
163	Jones	Yes.
164	Chair Minnis	Why don't we hold that off for a clean-up item.
166	Sen. Stull	I think the 40-hour issue is an important one, and I think we need to find a space for it.
175	Rep. Prozanski	What else do we need to address?
182	Chair Minnis	Suggests changing "Measure 17," in the last paragraph, to "the prison work program."
187	Sen. Stull	That's, technically, not what we're trying to get to. This is not about an inmate's right to work. Discussion continues.
237	Rep. Prozanski	Is the language in the last paragraph sufficient?

240	Sen. Stull	Comments that the second sentence of the last paragraph (EXHIBIT A) is confusing. Explains why.
255	Rep. Prozanski	Comments that the document can't be all inclusive.
257	Sen. Stull	There may be a better way to structure the language. It seems that the language narrows it to only a dangerous offender. Measure 17 does not give any inmate a right to a job. In fact, they have an obligation to work. Reads aloud language of the bill, so the committee can decide what type of language to include.
294	Chair Minnis	So, you want to take language directly from the original.
300	Sen. Stull	I think we should be more clear and explicit. Suggests additional language.
326	Michael Tate	Administrator for Inmate Work Programs for the Department of Corrections We have stood by the fact that Measure 17 obligates inmates to work, and I think it's important to make it clear that Measure 49 ensures what we thought we said in Measure 17.
341	Sen. Stull	You're right. By their mere resistance, it puts you in non-compliance with constitutional law. We're just trying to clarify that portion of the law: they are obligated to work, and they don't have a right to sue.
378	Rep. Prozanski	Suggests using language such as "Measure 49 ensures that every eligible inmate has an obligation to work but no inmate has a legally enforceable right to a job or educational program." We should be able to summarize instead of listing every portion of the actual language.
400	Sen. Stull	Suggests expanding the language so that it's not job-specific exclusively. I prefer using "clarifies" to "ensures."
423	Chair Minnis	Recesses meeting.
424	Chair Minnis	Reconvenes.
429	Jones	Suggests substituting "fewer" for "less" in the second sentence of the first paragraph (EXHIBIT A).
446	Rep. Prozanski	What are we really trying to say here?
465	Sen. Stull	Do you want a round number? Explains why the language in the first paragraph is used.
TAPE 1, B		
001	Sen. Stull	Continues testimony.

043	Rep. Prozanski	Why not say "Currently, 50 percent?" When you say "less than," that doesn't tell me what the number is.
051	Chair Minnis	But, that clearly states that it hasn't met the objective, and that's really the point.
059	Rep. Prozanski	If you're looking at how these things are modifying each other, I don't think it gives us a point of reference, as to what is actually happening.
089	Chair Minnis	Do you want to delete the word "currently?"
090	Rep. Prozanski	No. What does the 51 percent mean? I'm not sure what we are trying to say. Are we trying to point out that the Department of Corrections complied with what the original measure said?
101	Chair Minnis	No, I don't think that's the message we want to get out to the voters. I think it suggests that the Act has not been fully implemented, and the next sentence goes on to talk about achieving full implementation of the Act. It's seems to have continuity to me, and it sounds fairly upbeat.
128	Jones	Suggests "regarding" instead of "prohibiting" and "in other states" instead of "outside the state of Oregon" in line three of the third paragraph (EXHIBIT A). That would, possibly, be a more accurate statement.
142	Rep. Prozanski	That's true because, internationally, there is no problem.
147	Chair Minnis	Asks for clarification.
150	Jones	Reiterates suggested changes.
157	Sen. Stull	Shares concerns about changing that particular language.
164	Chair Minnis	I think it's accurate both ways.
181	Marks	Suggests inserting "help" before "achieve" in the third sentence of the first paragraph.
186	Chair Minnis	Suggests inserting "eventually" before "achieve" in the same place. Discussion continues.
207	Chair Minnis	We've got at least two elements that aren't here: the right to a job issue and flexibility of work hours.
210	Rep. Prozanski	Is the public safety issue going to be brought up?
211	Chair Minnis	That is related to full-time work.
221	Jones	Discusses EXHIBIT B .
232	Marks	Suggests including "Measure 49 keeps costs down." That would go above number four (EXHIBIT B).

251	Chair Minnis	Let's deal with the full-time issue next.
263	Jones	Suggests starting with the language in number one (EXHIBIT B) .
288	Chair Minnis	The next issue we would deal with is right to a job. We have two choices with numbers two and three (EXHIBIT B) .
290	Rep. Prozanski	Two, three and five (EXHIBIT B) .
310	Rep. Prozanski	I like the first sentence under number five (EXHIBIT B) . I'm trying to think of something that is very forceful and says they have to work, while having the safeguards that we have already talked about. Number one mentions "work or on-the-job training." I think we should be consistent and use the same terms from paragraph to paragraph.
333	Sen. Stull	Suggests: "Measure 49 clarifies language of the Prison Inmate Work Act, clarifying that prisoners have an obligation, not a right, to work."
360	Rep. Prozanski	Do we want to use clarify twice?
361	Jones	How about "make sure?"
371	Sen. Stull	Let's just say that "Measure 49 clarifies that prisoners have an obligation, not a right, to work."
381	Rep. Prozanski	Should we use "prisoners" or stay with "inmates?"
382	Sen. Stull	"Inmate" is fine.
387	Tate	Discusses the intent of the Prison Inmate Work Act of 1994.
403	Sen. Stull	We need a good word that also means "clarifies" because, technically, Measure 49 is clarifying. Suggests inserting "specifies that inmates have an obligation, not a right, to work. This will reduce frivolous lawsuits by inmates."
428	Chair Minnis	Reiterates most recent changes.
460	Sen. Stull	Suggests inserting "on-the-job training or educational programs or to compensation" after "work."
482	Tate	I'm trying to think of the ramifications of "compensation" in this context.
488	Sen. Stull	I'm lifting the language directly from the bill. It's about an obligation, not a right to sue.
TAPE 2, B		
043	Rep. Prozanski	Interstate commerce and compensation doesn't guarantee a right.

046	Sen. Stull	The emphasis is the compliance with federal law, but there are probably a number of entrust state jobs that could be developed, where the award system or compensation could be a variety of things. Gives example.
056	Rep. Prozanski	They may file the suit, but it's in law, and that's what will guide the court.
065	Marks	I think that if you said "work or other benefits of this Act," you would be all-inclusive and back what you have already put in the law.
070	Chair Minnis	I don't know if I like the use of "benefits" there.
071	Jones	How about "programs?"
081	Rep. Prozanski	What we put together is not going to be the controlling factor in court.
087	Chair Minnis	Suggests taking out "not a right."
090	Marks	I think we need to leave that in because it is a parenthetical. If we take that out, it will sound as if they have an obligation to work, compensation, etc. It doesn't make grammatical sense.
096	Sen. Stull	Re-emphasizes that the measure deals with many other things, besides inmates working.
105	Rep. Prozanski	This isn't going to be the law or have any controlling effect on the courts. This clarifies what inmates have and don't have rights to. The question is: How much to we have to regurgitate back to the voters? Will there be a summary or an explanation in here as well?
113	Marks	Yes.
123	Jones	We need to title the last two paragraphs.
126	Sen. Stull	Suggests a title for the section dealing with frivolous lawsuits.
128	Rep. Prozanski	Measure 49 doesn't prevent lawsuits. The inmates can still file, but they won't be successful.
132	Sen. Stull	"Protects" is probably better then. Suggests: "Measure 49 protects from frivolous inmate lawsuits" or "protects against frivolous inmate lawsuits."
136	Chair Minnis	The only concern I have is that it's really constrained just to the issue.
138	Sen. Stull	I thought we were only going to put this title over the section dealing with this issue alone.
140	Chair Minnis	Okay. What other section do we need to put a title over?
143	Jones	The section with the definition of "full-time" work.
150	Brian	Administrative Support, Judiciary Committee Answers clarification questions for

	Higgins	the committee and reads back some of the changes made.
169	Jones	It seems that the message coming across, in the section dealing with "full-time" work, is safety. Suggests: "Measure 49 ensures security measures."
178	Chair Minnis	Suggests: "Measure 49 increases public safety."
179	Marks	I don't know that the safety, under this measure, would be any different than it was under the previous measure, because we haven't put any additional safety provisions in there to protect the public.
187	Sen. Stull	Suggests: "The modification ensures the inclusion of safety measures."
196	Rep. Prozanski	Suggests: "Measure 49 ensures more public safety."
197	Chair Minnis	Suggests: "Measure 49 balances inmate work programs."
201	Scott Lumsden	Committee Counsel The only reason the definition of "full-time" was changed was so that you could have a 40-hour working week for corrections officers and allow for transportation and security issues that arise when transporting prisoners to a work site.
208	Marks	That wasn't a primary issue. It was overtime work. This makes sure that security is never compromised in meeting the 40-hour work-week requirement, and it ensures that security is never lax in meeting the 40 hours.
213	Chair Minnis	Suggests: "Measure 49 balances security and public safety."
221	Sen. Stull	Suggests: "Measure 49 ensures safety and security is never compromised."
227	Chair Minnis	I think that's a good statement.
230	Sen. Stull	Comments that officers need to make sure that security and safety are their first priorities.
241	Rep. Prozanski	Suggests: "Measure 49 ensures public safety and security for Oregonians."
245	Sen. Stull	I perceive that statement as being much broader than the one I suggested. Suggests: "Measure 49 ensures safety is never compromised."
267	Lumsden	Suggests: "Measure 49 facilitates public safety and security."
275	Sen. Stull	Comments about why she believes that statement is a good one.
		*Approximately 50 counts of "dead air" occurs here, as Brian Higgins distributes changes, to this point, to the committee for their review. (NOT AVAILABLE AS AN EXHIBIT, AS FURTHER CHANGES ARE MADE.)
325	Chair Minnis	What do you think, Steve?
326	Marks	I think it's great, except you did not include the section about frivolous lawsuits.
335	Sen. Stull	That was the part about an obligation, not a right, to work. Discusses structure

		changes.
385	Chair Minnis	Do you want to make a suggestion?
387	Sen. Stull	Discusses a change to the first sentence of the third paragraph (reading from the printout of the changes made to EXHIBIT A).
437	Rep. Prozanski	We could go either way. By taking it out, it makes it shorter. By leaving it in, we emphasize the necessity or reason for the change.
465	Chair Minnis	We have the statement "Measure 49 makes necessary changes to achieve full implementation of the Act," etc. in the first paragraph. Do you want another printout?
480	Sen. Stull	That would be helpful.
485	Chair Minnis	Discusses future plans for the committee.
TAPE 3, A		
040	Sen. Stull	The printout should include "This will reduce frivolous lawsuits by inmates."
049	Tate	It may not reduce the filing of lawsuits, but it should reduce the success rate.
056	Chair Minnis	The next meeting will be Monday at 8:15 a.m. We are adjourned.
		*NOTE: A final copy of the results of the meeting is submitted for the record (EXHIBIT C).

Transcribed by, Reviewed by,

Lisa Fritz, Scott Lumsden,

Administrative Support Counsel

EXHIBIT SUMMARY

A - HJR 2B, written testimony, staff, 1 page.

B - HJR 2B, written testimony, staff, 1 page.

C - HJR 2B, written testimony, staff, 1 page.