

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CRIME AND CORRECTIONS

May 6, 1993 Hearing Room 357 3:00 p.m. Tapes 98 - 99

MEMBERS PRESENT: Rep. Bob Tiernan, Chair Rep. Kate Brown Rep. Peter Courtney Rep. Veral Tarno

STAFF PRESENT: Julie Nolta, Committee Clerk Holly Robinson, Committee Counsel

MEASURES CONSIDERED: HB 2370 - Relating to corrections HB 2706 - Relating to corrections

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These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. [--- Unable To Translate Graphic ---]

TAPE 98, SIDE A

CHAIR TIERNAN: Calls meeting to order at 3:10 p.m.

HB 2706 - WORK SESSION

003 CAROLE SOUVENIR, COMMITTEE COUNSEL: HB 2706 exempts the Department of Corrections industries from requirement that public contracts be based

upon competitive bids. There are -1 amendments. (EXHIBIT A)

009 CHAIR TIERNAN: How does that work with HB 2370 which prioritizes where inmate wages will go?

CAROLE SOUVENIR, COMMITTEE COUNSEL: That refers to wages paid to inmates. HB 2706 is income generated by the sale of products and labor of inmates. Summarizes the bill.

037 CAROLE SOUVENIR, COMMITTEE COUNSEL: Explains effects of Section 6 of

the proposed amendments.

052 MOTION: REP. TARNO: Moves HB 2706-1 AMENDMENTS.

VOTE: Hearing no objections the amendments are ADOPTED. All members are present.

063 MOTION: REP. TARNO: Moves HB 2706 AS AMENDED TO FULL COMMITTEE with a DO PASS recommendation.

VOTE: 4-0 MOTION PASSES AYE: Brown, Courtney, Tarno, Tiernan
NO: None

075 MOTION: REP. COURTNEY: Moves UNANIMOUS CONSENT to allow Rep. Brown to change her vote on the previous motion.

VOTE: Hearing no objections the amendments are ADOPTED. All members are present.

090 REP. BROWN: Votes NO to move HB 2706 as amended to the full committee with a do pass recommendation.

HB 2370 - WORK SESSION

097 CAROLE SOUVENIR, COMMITTEE COUNSEL: HB 2370 allows the Department of

Corrections or a county to require an inmate to perform work or services in order to reimburse for costs. There are -4 amendments. (EXHIBIT B) Summarizes Section 3 on p. 1 of the amendments. Summarizes sections of the bill.

143 CHAIR TIERNAN: Refers to p. 4, subsection (4), line 9. Do we have a

problem with the contractor reimbursing the inmate injury fund for any losses?

CAROLE SOUVENIR, COMMITTEE COUNSEL: Explains the amendment. The Department can allow the inmates to be covered under the inmate injury fund. An additional sentence would be required to include a provision that requires any injuries compensated under the inmate injury fund to be reimbursed by the private employer.

158 CHAIR TIERNAN: At the end of line 10 on p. 4 add "be required to reimburse inmate injury fund for any losses, or private employer to provide coverage." On p. 3, Section 7, line 30, add "and/or" after "land." Refers to wage distribution list in Section 5 and asks how it was developed.

CAROLE SOUVENIR, COMMITTEE COUNSEL: Drafted by Rep. Mannix.

185 CHAIR TIERNAN: This only applies to Oregon and is not a federal requirement. CAROLE SOUVENIR, COMMITTEE COUNSEL: This is order of priority only.

201 FRED NICHOLS, ADMINISTRATOR, CORRECTIONS INDUSTRIES: Describes wages of inmates and deductions. Do you want to take money away from an inmate

who is only making 75 cents per hour?

213 CHAIR TIERNAN: Under Section 5 of the amendments, the Department can

decide how much will be deducted for what. Asks how much the inmates working in the blue jean factory make.

NICHOLS: Some will make \$9 per hour piece rate. Guaranteed wage is a minimum of \$4.75.

CHAIR TIERNAN: Because of federal interstate commerce laws, the list in Section 5 would apply to those wages.

NICHOLS: Some of the deductions on the list cannot be taken out of the gross pay. Has to be taken out of the net balance.

225 CHAIR TIERNAN: The Department still has the discretion to take out what it wants.

NICHOLS: It is not mandatory for the Department to deduct but it is at their discretion.

232 CAROLE SOUVENIR, COMMITTEE COUNSEL: Lines 15 and 16 of p. 2 say "shall be distributed in the following priority. It does not set up percentages. Nothing requires the Department to take out a certain amount.

CHAIR TIERNAN: Concerned that if they are making so little, there is no incentive if there are extra deductions. Does this language allow the Department flexibility?

247 CAROLE SOUVENIR, COMMITTEE COUNSEL: Could put in a minimum amount.

CHAIR TIERNAN: How do we put in language to reflect a base pay and distribution of everything above that?

REP. COURTNEY: Didn't assume that there wouldn't be an incentive to work.

272 NICHOLS: Many want to work. If deductions are taken out of already low pay, we couldn't get them to work. Proposes anything over \$175 per month earned would have deductions taken.

REP. COURTNEY: What happens to the first \$175?

NICHOLS: They keep it for their families, spending in the canteen, phone calls.

293 CHAIR TIERNAN: Questions the \$175 amount.

NICHOLS: Gives amounts for federal and state deductions and other deductions. CHAIR TIERNAN: Shouldn't the person making \$5 per day have

deductions

also?

NICHOLS: Doesn't want to take deductions from those people because the pay is so little already.

319 REP. BROWN: What is happening now when they are making 83 cents per hour?

NICHOLS: The money goes to the inmate account and they keep all of it. They have to buy all their toiletries. They keep a savings account so they will have some money when they are released.

332 REP. BROWN: Some get paid \$9 per hour piece rate and state and federal taxes are being taken out. And they get the remainder?

NICHOLS: They keep about 20%. Lists other areas where the money is distributed.

355 REP. BROWN: Is that through Department of Corrections regulation?

NICHOLS: Federal regulations require certain rules regarding inmates working and pay.

368 CAROLE SOUVENIR, COMMITTEE COUNSEL: Isn't there a department rule which sets out the allocation? Isn't that allocation only for the products sold through interstate commerce?

NICHOLS: Yes.

CAROLE SOUVENIR, COMMITTEE COUNSEL: The current rule only deals with the Department of Correction Industries people who are getting paid \$9 per hour, not the people who are being paid less than \$3 per day.

375 CHAIR TIERNAN: We are looking to set a base amount for the inmate to

keep, in Section 5.

CAROLE SOUVENIR, COMMITTEE COUNSEL: In the -4 amendments the committee is repealing the \$3 cap. The Department could pay the inmates more than \$3 per day for work inside the prison.

NICHOLS: Two sections in statute involving inmates: 1) payment limited to \$3 per day for institutional jobs and 2) Corrections Industries jobs where the Board sets the wage, with the exception of interstate commerce.

402 CHAIR TIERNAN: We want a base that the inmate can keep with money earned above that being distributed to the listed entities according to a formula.

NICHOLS: Suggests \$175 per month as a base.

CHAIR TIERNAN: How much is that per day?

NICHOLS: Adds: maximum of \$6 per day times 23 days per month.

419 CHAIR TIERNAN: Sounds high. Current cap is \$3, correct?

NICHOLS: Not for Industries which is \$6 per day. Can earn more on a piece rate.

CHAIR TIERNAN: If you pay \$6 per day, you won't have any money left for the distribution listed in the bill.

449 REP. TARNO: Where does minimum wage enter in for establishing a base?

CHAIR TIERNAN: It doesn't.

REP. TARNO: Questions how the money is being earned.

CHAIR TIERNAN: Section 5 relates to what is going on now inside the prison. Do we want money taken out of the \$6 per day to be distributed?

481 REP. COURTNEY: Discusses the public's desire for inmates to work.

TAPE 99, SIDE A

029 CHAIR TIERNAN: Could say 50% needs to be withheld and distributed or

could look at old \$3 per day cap.

REP. COURTNEY: Discusses importance of giving back in rehabilitation.

This is what Section 5 tries to accomplish.

038 REP. BROWN: Agrees with distribution priorities after setting a base

pay amount regardless of the wages paid. Too many variables.

CHAIR TIERNAN: Asks about Section 5, subsection (c), line 23.

052 CAROLE SOUVENIR, COMMITTEE COUNSEL: 50% of the wages of the inmate can go to overhead for prison industries.

CHAIR TIERNAN: Asks Mr. Nichols if they take out 50% and if they are doing that now.

NICHOLS: Yes. Getting even less after other deductions are taken.

059 CHAIR TIERNAN: How important is that to you?

AVERA: Very important. Goes along with the federal requirements.

CHAIR TIERNAN: If the inmate is making \$6 per hour, they are really only making \$3 per hour. Do they work 7 hours?

069 REP. COURTNEY: You want to let them have a savings account of \$175.

After that the money is distributed.

AVERA: The first \$175 per month would be exempt from any deductions.

076 CHAIR TIERNAN: That seems excessive.

REP. COURTNEY: How much is that per year? Thought the \$175 in the savings was limited to that amount. They get to keep \$175 per month for as long as they are in prison?

NICHOLS: Yes. The first \$175 per month earned. They are already paying or contributing the difference between that and minimum wage.

REP. COURTNEY: Doesn't feel bad about the small amount they make.

095 CHAIR TIERNAN: You pay \$6 per hour for prison industries, correct?

AVERA: No. Jobs start at 28 cents per hour and go as high as 83 cents per hour which comes to \$6 per day. Interstate commerce products jobs make prevailing wage.

CHAIR TIERNAN: What is wrong with taking 50% of the wages regardless of pay and make it subject to Section 5?

AVERA: Telling the inmates they are taking a cut in pay and expecting them to produce a good product.

112 CHAIR TIERNAN: What is the 50% being used for now? How much does it

equal right now?

AVERA: Only applies to the prevailing wage jobs.

CHAIR TIERNAN: How many inmates are making \$6 per day?

AVERA: 285 inmates.

CHAIR TIERNAN: If we take any money out of that \$6, you are telling us you would have a problem on your hands.

AVERA: I would, without a doubt.

120 CHAIR TIERNAN: Why don't we put a \$6 cap on it? Why don't we make the base \$120?

REP. TARNO: Restates the base pay and distribution formula.

CHAIR TIERNAN: Doesn't want inmates to skip work after they have hit their base pay limit. If it is a portion of their wages deducted, it will be more successful. Need to set a base and anything after that will go the distribution formula. Asks what the base pay should be. Confirms that currently the inmates keep all of their money. Asks Mr.

Nichols if he would have a problem with anything over the base going into the distribution formula.

AVERA: Asks if it could be anything over 83 cents per hour.

CAROLE SOUVENIR, COMMITTEE COUNSEL: Your top pay is 83 cents per hour

but you also have people making \$9 per hour? 160 AVERA: Those are prevailing wage jobs involved in interstate commerce. Part of overtime pay should go into distribution system. Should say base rate of pay times allowed number of hours worked times standard number of days and anything over that goes into distribution system.

CHAIR TIERNAN: Wouldn't you deter anyone from working more than those hours?

AVERA: Would still get to keep a major portion of that. Unigroup takes no money and there are no income taxes at that level.

212 REP. COURTNEY: Why is the committee discussing this issue if the Department has so much discretion and ability to write rule?

NICHOLS: There is no problem until we are required to take money from the inmate. If we do take money, at what point do we do it?

231 REP. COURTNEY: You are taking it now, aren't you?

AVERA: No, we are not. The typical institutional jobs have no deductions.

REP. COURTNEY: As opposed to those working for a private sector. You don't take anything from them?

AVERA: We take money from the inmates making blue jeans but not the ones working in the kitchen.

244 REP. COURTNEY: Why is that?

AVERA: The inmates working in the blue jean factory is making \$4.75-\$9.00 per hour.

REP. COURTNEY: The one group is making more money so those are the ones who get the deductions. Surprised at this apparent double standard given the Department's philosophy of rehabilitation.

262 NICHOLS: Have that standard because of interstate commerce and the requirement to take those deductions. Philosophy is if they are making minimal money, the deductions are already being taken.

272 REP. TARNO: Will HB 2370 address or impact the interstate commerce issue?

CHAIR TIERNAN: Section 5 does not. NICHOLS: Reads page 2, line 31 explaining wages for interstate commerce.

290 CHAIR TIERNAN: Asks if the inmate shouldn't pay something back regardless of the amount of earned wages.

306 NICHOLS: The inmate working in the institution is paid out of the general fund money and deductions go back into the general fund. This

creates additional bookkeeping

CHAIR TIERNAN: But this also applies to the Prison Industries workers. How much do the people in the metal shop make?

AVERA: Maximum of \$6 per day.

337 CHAIR TIERNAN: What if we said a certain percentage of the inmate's wages were to go into a fund regardless of the amount earned.

REP. COURTNEY: What is wrong with that?

NICHOLS: It is an extra bookkeeping step and negative worker reaction.

353 REP. COURTNEY: When you take money from Prison Industries workers, where does it go?

NICHOLS: 5% to victims compensation, 5% to family support, 20% to state and federal income tax, 50% to Unigroup.

REP. COURTNEY: We may need to narrow the categories. Victims compensation and families are important.

NICHOLS: If that is the intent and there is no major contribution coming out of the wages, I will find a way to deal with that.

401 CHAIR TIERNAN: Suggests adding "25% of" before "Wages" on line 15 of

Section 5 and have money distributed to (A), (B) and (e) and eliminate the rest.

REP. COURTNEY: Has left 75% of the wages for Prison Industries. 25% seems low for child support.

CHAIR TIERNAN: Looking for a number that is big enough to distribute to (A), (B) and (e) and yet not so large as to negatively affect the inmate.

REP. COURTNEY: Concerned about the left over 75%. Some inmates may not send any more child support if this deduction is mandated.

461 NICHOLS: Some inmates send 100% of their earnings to their families.

476 REP. BROWN: Might make sense to use (d) instead of (e) because court

costs would be inclusive of restitution. REP. COURTNEY: Is not sure of that.

TAPE 98, SIDE B

037 CHAIR TIERNAN: Proposes that 25% be inserted in Section 5.

REP. TARNO: What kind of administrative cost will there be in creating this new system?

DENIS DOWD, DEPARTMENT OF CORRECTIONS: There are 400 inmates working in prison industries and about 130 make prevailing wage. 2200 jobs have salaries of up to \$3 per day, paid through general revenue. The proposed changes will attach a 25% reduction to all those wages which would be a monstrous administrative cost. Discusses differences of where money comes from to pay each group of working inmates. Would be simpler to pay a certain amount directly to victims restitution.

069 CHAIR TIERNAN: Someone selling furniture is getting paid from that income, correct?

NICHOLS: Someone working in the kitchen is getting paid through general funds.

CHAIR TIERNAN: What is wrong with taking 25% of the wages of the person working in the furniture shop for the distribution?

AVERA: Nothing above what has been stated.

077 CHAIR TIERNAN: When they are working for the institution, the institution is actually paying them, so you would be giving and then taking.

DOWD: Basically the taxpayers are paying the inmates to do the jobs.

082 REP. COURTNEY: Confirms that Mr. Nichols oversees 400 prison industry workers and the other 2000 are under the jurisdiction of Mr. Dowd. Two work forces are being supervised by two different programs and it is not all prison industries.

DOWD: Initially HB 2370 addressed an issue in prison industries. Has changed to cover more in the -4 amendments.

096 REP. COURTNEY: What do the 2,000 inmates do with their money? Do they get to keep it all?

DOWD: They get that money which goes into their inmate trust account. They can lose it through disciplinary action.

106 REP. COURTNEY: So neither of you believe you should require anything in terms of their pay or giving back to society.

DOWD: However it was done, we would be using operation money that is used to pay other bills.

116 REP. COURTNEY: They work and get paid their own money. You have not recommended to the Legislature nor in terms of corrections philosophy or policy believe that some of that money should go back to society as part of rehabilitation.

DOWD: We believe that requiring work is rehabilitative. We could pay more but it would come back the same way.

129 REP. TARNO: When they earn money are they mandated to share a portion of those wages?

DOWD: The decision of how wages from general fund income is spent is up to them.

135 REP. BROWN: We were working on this bill to expand prison industries

program to make it more accessible to private industry and that is where we need to focus.

146 REP. TARNO: Asks for clarification on HB 2370's purpose in regards to Corrections.

CHAIR TIERNAN: Assumed that wages in Section 5 referred to any work that was being done. Could make Section 5 refer only to prison industries.

REP. COURTNEY: Section 5 may talk about all of them but Section 1 of the bill applies to institutional labor.

173 DOWD: Believes it applies to all inmates.

REP. BROWN: But the other pieces of what the bill intends to do does not apply to Mr. Dowd's program.

189 CHAIR TIERNAN: Do we limit it to Unigroup or include everyone?

REP. COURTNEY: Isn't interested in how they are getting paid. The policy should be that as part of rehabilitation, they should attempt to give back to families and society.

REP. TARNO: Prefers to include just (B) and (e) of Section 5 of the amendments.

211 CHAIR TIERNAN: Considers practicality of the subsections. Proposes 25% of wages, both groups of workers pay, and subsections (B) and (e) will

be included.

227 CAROLE SOUVENIR, COMMITTEE COUNSEL: Need to delete lines 11, 12 and 14 of Section 1 on p. 1 to make it consistent.

238 REP. TARNO: Suggests the issue be brought for review in two years if it becomes law. Will agree to the 25% with that concept.

REP. BROWN: Asks Mr. Dowd about the lowest amount of wages paid to inmates.

DOWD: Many are paid nothing at all. Some are paid as little as 25 cents per day. Average is less than \$1 per day.

REP. BROWN: We are discussing withholding \$1 per month from inmates wages from maybe 1,000 inmate's wages.

253 CHAIR TIERNAN: How often are the inmates paid?

DOWD: Once a month.

REP. BROWN: They will probably have to hire an employee to administer

this policy. Discusses money amounts withheld and distributed.

281 REP. COURTNEY: Compares small amount of deductions with small amount of wages paid. There is value in paying inmates for the work done.

DOWD: For rehabilitative purposes, they are required to work hard and they get paid. Wages are set by our budget. Concerned about the administrative cost of making a statement. 305 REP. COURTNEY: Forces us to be sincere about our belief in rehabilitation.

316 REP. BROWN: No one disagrees with the principal, but we need to look at the practicality. Withholding is not worth the trouble.

CHAIR TIERNAN: Who administers payment?

DOWD: Handled through our trust account section.

341 REP. TARNO: We are paying cash to inmates who work in the institution?

DOWD: We pay them credit to a trust account which they draw from.

REP. TARNO: Do we give them time for good behavior?

DOWD: If they are eligible.

355 CHAIR TIERNAN: All they would have to do is write a check once a year to the various entities.

DOWD: Depends on if they are a matrix case or a new sentencing guideline case. Explains the difference.

CHAIR TIERNAN: Restates options the committee has discussed.

REP. COURTNEY: Not ready to move the bill.

430 CHAIR TIERNAN: Adjourns meeting at 4:35 p.m.

Submitted by:

Reviewed by:

Julie Nolta
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Proposed amendments to HB 2706 - 1 page B - Proposed amendments to HB 2370 - 6 pages C - Testimony on HB 2370 - Judge Thornton - 5 pages

