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SENATE COMMITTEE ON  
JUDICIARY

April 13, 1993      Hearing Room B  
1:00 p.m.      Tapes 103-104

MEMBERS PRESENT:    Sen. Dick Springer,    Chair  
                          Sen. Jeannette Hamby  
                          Sen. Karsten Rasmussen  
                          Sen. Bob Shoemaker  
                          Sen. Gordon Smith  
                          Sen. Catherine Webber

MEMBERS EXCUSED:    Sen.

STAFF PRESENT:            Bill Taylor,    Committee Counsel  
                              Kirk Bailey,    Committee Assistant

ISSUES DISCUSSED:    Public Hearing on SB 928, SB 780, SB 692  
                              Work Session on SB 743, SB 210

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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.

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TAPE 103, SIDE A

003      CHAIR SPRINGER:    Opens the hearing at 1:17 pm.

Public Hearing

SB 928: Requires Department of Corrections, following treatment guidelines established by Mental Health and Developmental Disability Services Division to establish psychological and medical treatment programs for all persons convicted of sex crimes that are also

WITNESSES:  
DENIS DOWD, DEPARTMENT OF CORRECTIONS

008    SEN. HAMBY: Submits and reviews written testimony in support of the bill (EXHIBIT A).

057    DENNIS DOWD: Submits and reviews written testimony with reservations

about the bill (EXHIBIT B).

084 SEN. HAMBY: \$67,000 for rules?

085 DOWD: Yes, to establish rules and develop procedures. Continues.  
>Small number of sex offender specialists. Not enough counselors.

097 SEN. HAMBY: Is "all persons convicted" in line 6 your concern?

DOWD: Correct.

100 SEN. HAMBY: Open to amendments.

CHAIR SPRINGER: Which line?

SEN. HAMBY: Line 6. What are your recommendations?

105 DOWD: Change statute to enabling statute rather than mandatory statute.

SEN. HAMBY: So "shall" on line 5 could be amended to "may".

113 CHAIR SPRINGER: Recesses on SB 928. Convenes hearing on SB 692.

SB 692: Provides that arrested parole or post-prison supervision violator  
must be held in Department of Corrections facility pending  
hearing  
on violation.

WITNESSES:

SENATOR MAY YIH

DENIS DOWD, DEPARTMENT OF CORRECTIONS

ART MARTINAK, OREGON STATE SHERIFFS ASSOCIATION

PAUL SNIDER, ASSOCIATION OF OREGON COUNTIES

VERN FAATZ, PAROLE BOARD

121 SENATOR YIH: Submits and reviews written testimony in support of  
the  
bill (EXHIBIT C).

156 CHAIR SPRINGER: Has no Ways and Means referral, does it need to  
be  
referred there?

SEN. YIH: Yes.

170 ART MARTINAK: Submits and reviews written testimony with  
reservations  
about the bill (EXHIBIT E).

256 SEN. SHOEMAKER: Reviews numbers. Ever had a bed not available?

MARTINAK: Yes.

261 SEN. SHOEMAKER: Frequent?

262 MARTINAK: Infrequent but in some jails it is continual. New jail  
makes  
it easier. Continues testimony.

327 PAUL SNIDER: Testifies with reservations concerning the bill.  
>Concerned about costs.

353 CHAIR SPRINGER: What was the bill from last session?  
SNIDER: SB 955. Didn't leave committee. Work group convened on the  
bill.

372 CHAIR SPRINGER: What is the figure on jail beds? 3000-3500?  
SNIDER: Approximately 3600, but will provide updated numbers.

380 CHAIR SPRINGER: Could quantify on an average day how many  
are  
pre-trial, sentenced, affected by the bill, etc.  
>Sense is that significant population is pre-trial?  
SNIDER: Correct, approximately 10% of jail beds are pre-trial and  
would  
be affected by SB 692.

409 DENIS DOWD: Submits and reviews written testimony with  
reservations  
about the bill (EXHIBIT D).

461 SEN. SHOEMAKER: What is cost per day for inmate in county jails?  
DOWD: \$65-80 per day.

469 SEN. SHOEMAKER: More expensive in county?  
DOWD: Yes.

TAPE 104, SIDE A

025 VERN FAATZ: Testifies with reservations about the bill.

060 SEN. SHOEMAKER: Does \$60-80 per day include depreciation or is it  
only  
operating costs?  
DOWD: No information on how county calculates.  
>Staff costs are the greatest.  
>Department of Corrections costs do not include depreciation.

068 SEN. SHOEMAKER: Don't know the answer for counties?  
DOWD: No.

069 SEN. SHOEMAKER: Real cost would be extra burden to the county  
of  
additional inmates in jail.  
>Any cost they incur regardless of additional inmates shouldn't be  
factored in?  
DOWD: No.

080 MARTINAK: Cost is figured with actual costs plus depreciation.

>Staff is greatest cost.  
>In addition a medical examination is required for those who stay over  
14 days.

094 SEN. SHOEMAKER: Wants accurate numbers on county costs  
before  
continuing on the bill.

MARTINAK: Reviews Corrections Division plan, average cost is listed as  
\$65 per day.  
>\$49.50 in state facility.

107 SEN. SHOEMAKER: Are those relevant costs? What is calculated?  
Could  
provide that information to committee?

MARTINAK: Will provide additional information to the committee.  
>Comments on prisoner transport issues and costs.

126 SEN. HAMBY: Why is a medical exam mandated after 14 days? What do  
you  
find in exam?

MARTINAK: Find all sorts of things.  
>Primarily get substance abusers.  
>\$17,000 over budget already in medical costs.

159 CHAIR SPRINGER: Reconvenes on SB 928. No further testimony on SB  
928 .

SB 780: Authorized board of community college district of 300,000 or  
more  
population to establish law enforcement agency for security  
purposes.

WITNESSES:  
CRAIG SMITH, OREGON COMMUNITY COLLEGE ASSOCIATION  
RUSS SPENCER, OREGON SHERIFFS ASSOCIATION

JAN COULTON, PORTLAND COMMUNITY COLLEGE submits written testimony only  
in  
support of the bill (EXHIBIT F).

172 CRAIG SMITH: Testifies in support of the bill.  
>Suggests further amendment to the bill on line 13.

242 SEN. SHOEMAKER: Statutory references, ORS 243.736, relate to what?

SMITH: Clarifies references which concern right and ability to  
strike.

252 SEN. SHOEMAKER: So they retain right to strike?

SMITH: Correct.

254 SEN. SHOEMAKER: Not eligible for PERS as sheriffs? Wouldn't seek

that  
change until next session?

SMITH: Correct. Won't seek that change for some time.

260 CHAIR SPRINGER: Presents hypothetical, would this effect  
contracting  
out security services?

266 SMITH: Statute is permissive, so college could contract  
out.  
Contracted employees would not be officers.

276 CHAIR SPRINGER: If current officers don't have statute can't they  
still  
make "citizens arrest" and call for police assistance?

SMITH: Could but that is not what we are proposing.  
>Reviews difference between officers.

297 RUSS SPENCER: Testifies in support of the bill.

306 SEN. SHOEMAKER: Recesses hearing on SB 780.

#### Work Session

SB 743: Requires forfeiture proceeds first deposited to Special Crime  
and  
Forfeiture Account to be used for peer drug education programs  
administered by Volunteers in Service to Oregon.

314 TAYLOR: Reviews bill.

319 SEN. HAMBY: Reviews bill and suggested amendments.  
>Submits background information on the bill (EXHIBIT G & H).  
>Will speak to Ways and Means about funding issue.

358 CHAIR SPRINGER: Ways and Means referral?

SEN. HAMBY: Correct.

366 MOTION: SEN. HAMBY: moves SB 743 be sent to the floor with a DO  
PASS  
recommendation.  
VOTE: In a roll call vote all members present vote AYE. SEN. SMITH and  
SEN. WEBBER are excused.

373 CHAIR SPRINGER: The motion CARRIES.

SB 210: Provides that decrees, orders and settlement agreements  
in  
divorce, annulment an separation proceedings may provide that  
retirement benefits from any public employer retirement system,  
including Public Employee's Retirement System, be paid to spouse

or

376 TAYLOR: Reviews bill and SB 210-3 and SB 210-4 amendments (EXHIBITS I  
&  
J).  
>Submits background information on the bill (EXHIBIT L)

TAPE 103, SIDE B

010 CARL MYERS, OREGON STATE BAR: Comments on amendments and  
introduces  
other testifiers, Laura Parrish and Clark Williams.  
>Reviews history of the bill.  
>Recommends passing the bill including sections 5 and 6. Questions on  
fiscal impact can be addressed in Ways and Means.  
>Consulted with judicial administration and Bill Linden's office, who  
support the bill.

060 CHAIR SPRINGER: Preferred approach is SB 210-3 amendments with  
sections  
4 and 5?

MYERS: Correct.

062 CHAIR SPRINGER: No objections to SB 210-4 amendments?

MYERS: Yes, do have objections.

064 CHAIR SPRINGER: No questions concerning -3 amendments. Moves on to  
SB  
-4 amendments.

073 BILL SELBY, PORTLAND CITY ATTORNEY'S OFFICE: Testifies  
with  
reservations about the bill.  
>SB 210-4 amendments address concerns. concerned about costs.

115 SEN. SHOEMAKER: You are speaking for the City of Portland?

SELBY: Correct, only for the Fire and Police plan.

116 SEN. SHOEMAKER: You represent fire and police or the City?

SELBY: Both, but appearing on behalf of the fire and police plan.

118 SEN. SHOEMAKER: You favor allowing spouse to select plan different  
from  
employed spouse?

SELBY: As a practical matter there is only one benefit, the lifetime  
annuity.

122 SEN. SHOEMAKER: Thought you favored bill except for provision  
allowing  
spouse to pull out before employed spouse?

SELBY: Don't recall expressing preference. Spouse withdrawal issue is

of concern.

>Concern if spouse begins to receive benefits prior to member.

130 SEN. SHOEMAKER: If only one plan, why do you want the bill to apply?  
SELBY: Our preference would be to not be included, but the way it is  
written makes it apply to us.

142 CHAIR SPRINGER: Was Mr. Chamberlain for Firefighters involved?

SELBY: Not involved, but aware of the discussions.

>No objection from him.

>Clarifies bill which has two sections; one relating to PERS and the  
second dealing with everyone else.

156 CHAIR SPRINGER: Remind me of court ruling that says city benefits  
must be equal to state benefits.

SELBY: Reviews court ruling. Satisfaction of both requirements  
included in this one plan.

174 CHAIR SPRINGER: Do we need -4 amendments for this to proceed?  
You don't want the bill, is that correct?

177 SELBY: Correct.

181 SEN. SHOEMAKER: If we just did subsection 1 which applies to PERS  
then your plan would be violated?

SELBY: Doesn't think so. Reviews PERS provisions.

195 SEN. SHOEMAKER: Comments on keeping city in the bill.

200 LAURA PARRISH: Responds to Selby's concerns.  
>Clarifies amendments. -3 amendments apply to PERS, -4 amendments  
apply to all counties, municipalities. Both remove retroactivity.

240 SEN. SHOEMAKER: If committee adopts either without the other creates  
an imbalance, so we need to adopt both or nothing?

PARRISH: Correct.

>Sections 4 and 5 of SB 210-3 bring deferred compensation into the  
bill.

254 SEN. SHOEMAKER: Those bring deferred compensation in for cities as  
well as PERS?

PARRISH: Correct.

258 BOB ANDREWS, PERS: Testifies with reservations on the bill and  
submits

background information on the bill (EXHIBIT K).

>Suggests further amendments to section 1, line 12 and section 3, line 37.

312 SEN. SHOEMAKER: If further amended, then \$1,200,000 would come out of \$15 billion.

ANDREWS: Yes.

318 SEN. SHOEMAKER: Those earnings are sufficient without touching principal?

ANDREWS: Yes, currently.

324 SEN. SHOEMAKER: In addition to supporting all other demands on the trust?

ANDREWS: Yes.

331 CHAIR SPRINGER: Further comments from anyone?

341 SEN. RASMUSSEN: Prefers original bill with amendments from Andrews and -3 amendments including sections 4 and 5.

347 MOTION: SEN. RASMUSSEN: moves to ADOPT Andrews amendments and SB 210 -3 amendments with sections 4 and 5, dated 4/12/93.

348 SEN. SHOEMAKER: Suggests friendly amendment to line 1, page 3 with same language from line 12, section 1, page 1.

356 CHAIR SPRINGER: Clarifies Rasmussen motion. Includes only sections 4 and 5 of SB 210-3 amendments?

SEN. RASMUSSEN: Correct.

367 VOTE: Hearing no objection the amendments are ADOPTED.

368 MOTION: CHAIR SPRINGER: moves to ADOPT Andrews amendments to line 12, page 1; page 3, line 1; and page 3, line 37.

VOTE: Hearing no objections the amendments are ADOPTED.

378 CHAIR SPRINGER: Clarifies SB 210-4 amendments regarding page 2, subsection 5 may need to be rewritten?

SELBY: Correct.

384 CHAIR SPRINGER: How does the need to be done, is that something we can do here?

SELBY: I believe so.

392 SEN. SHOEMAKER: What do balance of -3 and -4 amendments do, assuming committee wants bill as originally proposed?

402 PARRISH: Conceptually, removes from original version when alternate payee takes benefit.

406 SEN. SHOEMAKER: If committee wants original version, then we don't want remaining -3 and -4 amendments?

PARRISH: Correct.

420 SELBY: Clarifies committee actions that -4 amendments are not being considered further?

CHAIR SPRINGER: That is correct if committee chooses not address Portland situation.

429 SEN. SHOEMAKER: Portland's concerns are already included in the bill.

435 SELBY: -4 amendments will not be considered?

SEN. SHOEMAKER: Well it has been.  
>Comments on effect of the amendments.

458 SELBY: Disagrees.  
>Doesn't think Portland violates equal benefits requirements because of PERS definition of equal to or better than.  
>Applies only in fire or police situation.

TAPE 104, SIDE B

025 PARRISH: Adopting -4 amendments allows municipal employees to be treated differently than PERS people; and there is no reason to do so from public policy standpoint.  
>Private employers have been doing this for years.

042 SEN. SHOEMAKER: Comments on differences because of different funding levels.

PARRISH: Heard that but it doesn't apply under this bill.  
>Total system costs are no greater under this bill than currently.

055 SEN. SHOEMAKER: Small additional expense in setup and tracking but notes agreement with Parrish.

063 MOTION: SEN. SHOEMAKER: moves SB 210, AS AMENDED, be sent to Ways and

Means with a DO PASS recommendation.

064 CHAIR SPRINGER: Does it go to floor or Ways and Means?

SEN. SHOEMAKER: No impact on the general fund.

066 CHAIR SPRINGER: Is there an expenditure limitation?

ANDREWS: Yes. Do not currently have resources and it is not included in the Governors budget.

070 SEN. SHOEMAKER: Resources are there but you cannot access them?

ANDREWS: Correct.

071 CHAIR SPRINGER: Can't expend funds unless Ways and Means says so.

079 VOTE: In a roll call vote all members present vote AYE. SEN. WEBBER

and SEN. HAMBY are excused.

081 CHAIR SPRINGER: The motion CARRIES.

CHAIR SPRINGER: Adjourns hearing at 3:00 pm.

Submitted by:

Reviewed by:

Kirk Bailey  
Assistant

Bill Taylor  
Administrator

#### EXHIBIT LOG:

- A - Testimony on SB 928, Sen. Hamby, 25 pages
- B - Testimony on SB 928, Denis Dowd, 1 page
- C - Testimony on SB 692, Sen. Yih, 2 pages
- D - Testimony on SB 692, Denis Dowd, 1 page
- E - Testimony on SB 692, Art Martinak, 6 pages
- F - Testimony on SB 780, Jan Coulton, 1 page
- G - Testimony on SB 743, Sen. Hamby, 2 pages
- H - Testimony on SB 743, Sen. Hamby, 2 pages
- I - Amendments to SB 210, staff, 8 pages
- J - Amendments to SB 210, Staff, 3 pages
- K - Testimony on SB 210, Bob Andrews, 2 pages
- L - Testimony on SB 210, Bill Taylor, 2 pages