

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 20, 2008 in Room 313-S of the Capitol.

All members were present except:
Annie Kuether- excused

Committee staff present:
Jerry Ann Donaldson, Kansas Legislative Research
Athena Andaya, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Jason Thompson, Office of Revisor of Statutes
Cindy O'Neal, Committee Assistant

Conferees appearing before the committee:
Secretary Roger Werholtz
Judge Earnest Johnson, 29th Judicial District
Marilyn Scafe, Executive Director, Re-entry Policy Council
Representative Mike O'Neal
Dennis Williams, Finance Director, Department of Corrections

The hearing on **HB 2780 - criminal procedure; new crime committed on probation or community correction, services of warrant for violation of original conviction**, was opened.

Judge Earnest Johnson, 29th Judicial District, appeared before the committee as a proponent of the bill. He informed the committee that the Kansas Re-entry Policy Council (KRPC) has studied ways to improve inmate's chances of being reentered into society upon release from prison. Two important features are educational and rehabilitative programs. The Council found that if the inmate has a probation violation or bench warrant from an earlier case, he cannot participate in these programs. The bill would require the State to pursue the revocation of an earlier case at the beginning of a new felony imprisonment rather than at the end. The result being the elimination of the "holds" that prevent inmates from rehabilitative programs. (Attachment #1)

Secretary Roger Werholtz addressed the committee in support of **HB 2780**. While this bill affects a small number of offenders it is still an important bill. The bill would help the reentry efforts by resolving detainers in a timely manner. (Attachment #2)

Marilyn Scafe, Executive Director, Re-entry Policy Council, commented that they endorse this type of policy change. (Attachment #3)

The hearing on **HB 2780** was closed.

The hearing on **HB 2845 - increasing penalties for theft & aiding escape when such crimes concerning employees or volunteers of the department of corrections**, was opened.

Secretary Roger Werholtz explained that the proposed bill would make the failure to return security related property of the department a severity level 8 felony. It also raises assisting an offender in an escape to a severity level 4. (Attachment #4)

The hearing on **HB 2845** was closed.

The hearing on **HB 2873 - revoking the authorization of the issuance bonds for capital improvement projects to expand prison capacity**, was opened.

Jill Wolters provided background information on the bonds that were issued and explained the proposed bill. During the 2007 Legislative Session there was a proviso placed in an appropriations bill that authorized \$39.5 million bonding authority for the Department of Correction (DOC) contingent upon approval from the State Finance Council. The legislation that was approved specified the bonds must be used for bed capacity

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 19,2008 in Room 313-S of the Capitol.

expansion. (Attachment #5)

The Department of Corrections requested the bonds be issued and the Finance Council approved the bond anticipation note on October 12, 2007. Since that time, DOC has been in the preliminary planning stages on four specified facilities:

- Two cell houses at El Dorado Correctional Facility
- A substance abuse treatment center at Yates Center
- Minimum-security beds at Ellsworth Correctional Facility
- Additional beds at Stockton Correctional Facility

Secretary Werholtz explained that two RFP's have been issued for the facilities at Ellsworth & Stockton and El Dorado & Yates Center. Bidders for each project have been selected at a cost of \$1.7 million. However, the contracts have not been signed.

Secretary Werholtz stated that there "may have been" some soil testing done already at El Dorado Correctional Facility. Also, that K DFA has "loaned" DOC money until the bonds are actually issued. If the legislature passes this bill the department would have to pay K DFA back the money that they have advanced, including interest.

The committee expressed concern that there is no current need for increasing bed space and that DOC is planning too far out in the future (2017) for beds that might be needed and what is designed today might not be up to industry standards in fifteen years.

Many committee members commented that they didn't recall voting on which prisons would receive expansion and wondered what bill it was placed into and wondered if any testimony was presented before a committee as to the need of the projects in fifteen years.

Secretary Werholtz replied that the four projects were specified and got ironed out while working the omnibus appropriations bill.

Dennis Williams, Finance Director, explained that the \$1.7 million in borrowed money earns interest on the average daily balance rate which is currently higher than the interest rate charged for the bonds. In other words, the interest earned would more than offset the interest owed on the money. There would not be a net interest cost to the state.

HB 2768 - dead bodies, removal and delivery

Representative Watkins made the motion to report HB 2768 favorably for passage. Representative Kinzer seconded the motion.

Representative Pauls made the substitute motion to amend the bill to add a restriction on how dead bodies are transferred to the federally certified organ procurement organization. (Attachment #6) Representative Colloton seconded the motion. The motion carried.

Representative Kinzer made the motion to clarify that the making of an anatomical gift shall not itself under any circumstances be constructed to authorize or direct the health care whose withholding or withdrawal will result in or hasten death. Representative Watkins seconded the motion. With permission of the second Representative Watkins withdrew his motion. He will possibly offer an amendment on the floor.

Representative Pauls made the motion to report HB 2768 favorably for passage as amended. Representative Wolf seconded the motion. The motion carried.

The committee meeting adjourned at 4:30 P.M. The next meeting was scheduled for February 21, 2008.