

47th SPECIAL SESSION II

MINUTES OF MEETING
OF
JOINT SENATE-HOUSE JUDICIARY
COMMITTEE

The third meeting of the Joint Senate-House Judiciary Committee was called to order at 1:30 p.m., June 23, 1982, in Room 108 of the State Capitol Building by Chairman Mike Anderson with Rep. Kerry Keyser as co-chairman.

ROLL CALL: Roll Call indicated all members of the Senate Committee were present; one member of the House Committee was excused.

There was some general discussion and the Chairman distributed copies of the Ranch/Industry Inmate Employees Classification list to the members, see attached Exh. A. Rep. Ramirez asked where the individuals would come from, within the prison, who might be scheduled to be sent to the pre-release centers, and total numbers of the inmates. Daniel Russell of the Department of Institutions stated there would be around 100 people, and could have the exact figures and detailed information for the committee the next day.

SENATE BILL 5: Sen. Van Valkenberg, Dist. 50, introduced his bill, which would authorize the warden to grant a temporary furlough to an inmate up to ten days, during which he could find a job, interview for it, and a place to live. Sen. Van Valkenberg said he had information that there were 62 people who had reached the parole plane, but had not actually been released, the biggest problem being that the Parole Board is adamant that someone have a job before they are released. He stated it was most difficult for an inmate to get a job, and even more difficult to obtain one without first seeing an employer through a job interview. He felt this would be a good program and would help reduce the prison population, and also benefit the prisoners themselves.

Mr. Russell, Administrator in the Department of Institutions, Corrections Division, spoke as a proponent of the bill and said there are always about 20 people at the prison who could benefit from such a leave furlough. He stated the inmate would still be under the jurisdiction of the prison and if they skipped when on furlough, would be guilty of the same felony charge as he would if incarcerated. Rep. Gould, Dist. 98, spoke as a member of the Prison Alternative Committee, and said with the safeguard referred to by Mr. Russell, felt this

to be a good bill and urged the committee's support. Next to speak as a proponent was Hank Risley, Warden of the State Prison. He said he was familiar with this type of arrangement. He stated the prisoner would be under his supervision in the community for the time of his furlough, and still in actuality a prisoner and would be prosecuted for an escape, were he to do so. He said the program would have an impact on the prison population and get some of those prisoners, who have been scheduled for parole, out of the prison sooner.

Following this testimony, Chairman called for further proponents of the bill and there being none, for opponents. The committee was then permitted to ask questions of the witnesses. Sen. Crippin asked about circumstances where a prisoner was unable to find a job in the time allowed, if he could obtain one or more extensions to the furlough and the Chairman asked if only the one furlough could be granted to any one individual. Sen. Van Valkenberg said he felt the Warden could grant an extension, and he hoped he would not show favoritism in granting extensions. Warden Risley also replied that although guide lines had not been established for such a plan, he knew the system worked elsewhere, and he stated that in most cases the prisoner would have scheduled his job interviews before being granted the furlough, thus should not need the entire ten-day furlough, and he could then return to prison and await results of interview, with time remaining of the furlough.

In answer to language in the bill of 'other conditions,' Sen. Van Valkenberg said he was referring to medical treatments which might be scheduled, requiring out-of-prison treatment. The senator added that the Parole Board and staff were in support of the bill.

Following conclusion of the questions and some discussion, the hearing on SB5 was concluded.

SENATE BILL No. 6: Sen. Van Valkenberg also was sponsor of this legislation and presented the bill which called for an early granting of parole if the population at the State Prison exceeds designed capacity. He said this was an attempt to again bring to the Legislature's attention something that had been discussed by the Prison Alternatives Committee, although they had not formally acted upon it. He said the bill was a device wherein the Parole Board could consider inmates for parole up to 90 days before they were otherwise eligible, the device being triggered by the population total. He said the bill was experimental only, and was scheduled to terminate on September 30, 1983, thus would expire by itself, if the Legislature

Judiciary Committee

June 23, 1982

Page 3

determined that the legislation was not acceptable, or not workable. Sen. Van Valkenberg stated that if the inmate was a good candidate for parole at all, he was a good candidate 3 months sooner as well. He also pointed out that the costs of keeping a prisoner was about \$30 per day for an inmate; paroled prisoners cost about \$3.00 per day he said.

Hank Burgess, Chairman of the State Parole Board, also spoke as a proponent of the bill and said that at one of the meetings of the PAC, the members had looked at some sort of a 'release mechanism' without setting up any potential danger for society. He felt this bill would accomplish that. He felt that some sort of a device was necessary and that some sort of immediate relief to over-population of the prison called for such a plan.

Chairman Anderson then called for other proponents or opponents of the bill and there being none, permitted questions from the committee.

Sen. Halligan suggested an amendment to the bill proposing 125% of designed capacity of prison population rather than setting an actual figure. Rep. Ramirez asked if the bill violated the certainty of sentencing in any way and Warden Risley replied it should not interfere with the sentencing statutes. He also said he knew of several other states that employed this method, mentioning Michigan in particular where he had come from. The members then discussed the figure of 515, as specified in the bill, being the design capacity of the prison, and wondered about the manageable figure the prison could contain. The question was raised about the success ratio experienced in the other states employing this method and Warden Risley said the ratio apparently is no different than the regular parole success percentage. This concluded discussion on SB6.

Mr. Burgess, who hadn't arrived in time to hear presentation of and join the discussion on SB5 addressed it briefly, and said he was very much in favor of the bill.

HOUSE JOINT RESOLUTION 4: Rep. Gould, Dist. 98, spoke on his bill which reaffirmed the duties of the Parole Board, and felt this legislation gave the Board the 'stick' to enforce the legislation making annual parole reviews mandatory.

Mr. Burgess of the State Parole Board also testified for the bill and said he felt that a year was adequate time for an inmate to wait before his case was again reviewed by the Board. He said he spoke for the entire Board on this bill and they would like to see the year kept in tact.

Following the presentation of HJR 4 the House Judiciary Committee, with Chairman Keyser presiding, voted on the bill and it received a DO PASS by an 11-4 majority.

The House Committee then left and Chairman Anderson asked the Senate Committee for a comment or motion on the recently-heard 'furlough bill,' SB6. Sen. Halligan proposed an amendment on SB6, to put in a ceiling on the prison population. A roll call vote was taken, attached, which resulted in the amendment being approved by an 8-2 majority.

Following a brief adjournment, the committee again discussed SB6. Several of the committee members stated they did not like the philosophy of trying to regulate the population of the prison by the parole system and thought it the duties of the Parole Board to do this, rather than attempt to legislate it. Sen. Steve Brown thought this to be an artificial solution to the problem.

Sen. Halligan then Moved SENATE BILL 6, As Amended, DO PASS. There followed a roll call vote, attached, which resulted in a Tie Vote, 5-5 and the motion failed.

Sen. Halligan then Moved SENATE BILL 5 DO PASS. A roll call vote was taken, attached, which resulted in a unanimous vote, 10 Yes, 0 No.

The House Judiciary Committee returned at this point and Chairman Anderson introduced Rep. Kitzelman who prepared to present his bill.

HOUSE BILL No. 15: Rep. Kitzelman's bill would call for guard personnel at the State Prison to improve their general appearance and their physical fitness as well, in the interest of prison security, and as a general improvement in the appearance of the prison itself.

He cited several examples of a general unkempt look of a number of guards, in addition to obvious overweight and general lack of physical fitness. He believed such examples not only affected security at the prison, but also had a bearing on the general morale at the prison.

Following his presentation committee members asked several questions concerning the time the guards were to put into a fitness program each day, whether or not it would involve extra time, thus extra pay. It was also questioned if the guards could avail themselves of the use of the gym at the prison, and if there were issued uniforms available to them. Rep. Kitzelman said the guards had uniforms issued to them and said

Judiciary Committee
June 23, 1982
Page 5

also that he felt the short time required for exercise need not be done in a gym, but that the guards might run, etc., to improve their physical fitness.

There followed general discussion by the committee and several mentioned the fact that the foregoing could be a policy of the prison, included in basic hiring requirements, rather than for the Legislature to attempt to enforce such improvements in present personnel, or make them mandatory for new personnel. In action then taken by the House Judiciary Committee the motion was made that HB 15 BE TABLED. The committee also voted to have Mr. McMasters of the Legislative Council draft a letter to the State Prison Warden, expressing the committee's agreement with the essence of the bill, and asking him to do what he could to assure the guards' conformance with the recommendations.

Chairman Anderson then introduced Sen. Ryan who presented his bill.

SENATE BILL 4: Sen. Ryan, a Parole Officer from Great Falls, presented his bill which would prohibit judges in the justice, city and municipal courts from using the services of probation and parole officers. He said such a service often involved many hours of checking the accused' histories, family background, etc., and meant many hours of extra work for parole officers. He said parole officers have provided such services on a voluntary basis in the past, and too, that much of his time was spent in the J.P. Court and often the work done on checking the files was a delaying tactic on the part of an attorney.

Following his presentation committee members asked several questions of Sen. Ryan. It was brought out that if the legislation were passed parole officers could not then by law do such work for the courts and parole officers could then decline such requests. The committee discussed the bill but declined to take any action on it at this time.

Chairman Anderson then adjourned the meeting to reconvene at the call of the chair.


Chairman

47th SPECIAL SESSION II

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION -- 1981

Date 6-23-82

| NAME | PRESENT | ABSENT | EXCUSED |
|---------------------------|---------|--------|---------|
| BERG, HARRY K. | ✓ | | |
| BROWN, BOB | ✓ | | |
| BROWN, STEVE | ✓ | | |
| CRIPPEN, BRUCE | ✓ | | |
| HALLIGAN, MICHAEL | ✓ | | |
| MAZUREK, JOE | ✓ | | |
| OLSON, S. A. | ✓ | | |
| TVEIT, LARRY | ✓ | | |
| O'HARA, JESSE, VICE-CHRM. | ✓ | | |
| ANDERSON, MIKE, CHAIRMAN | ✓ | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Each day attach to minutes.

SENATE COMMITTEE JUDICIARY

Date 6-23-82 SEN Bill No. 6 Time _____

| NAME | YES | NO |
|---------------------------|-----|----|
| BERG, HARRY K. | ✓ | |
| BROWN, BOB | ✓ | |
| BROWN, STEVE | ✓ | |
| CRIPPEN, BRUCE | | ✓ |
| HALLIGAN, MICHAEL | ✓ | |
| MAZUREK, JOE | ✓ | |
| OLSON, S.A. | ✓ | |
| TVEIT, LARRY | ✓ | |
| O'HARA, JESSE, VICE CHRM. | ✓ | |
| ANDERSON, MIKE, CHAIRMAN | | ✓ |
| | | |
| | | |

8 2

N. Fjeseth
Secretary

M. Anderson by M. J.
Chairman

Motion: TO AMEND Page 3, line 3.
following capacity, strike "of 515" thru "that" insert
"is 12.5% of"

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date 6-23-82 ~~TIME~~ Time _____

| NAME | SB No 6 | | S.B. NO. | |
|---------------------------|---------|----|----------|----|
| | YES | NO | YES | NO |
| BERG, HARRY K. | ✓ | | | |
| BROWN, BOB | | ✓ | | |
| BROWN, STEVE | ✓ | | | |
| CRIPPEN, BRUCE | | ✓ | | |
| HALLIGAN, MICHAEL | ✓ | | | |
| MAZUREK, JOE | ✓ | | | |
| OLSON, S.A. | | ✓ | | |
| TVEIT, LARRY | | ✓ | | |
| O'HARA, JESSE, VICE CHRM. | | ✓ | | |
| ANDERSON, MIKE, CHAIRMAN | ✓ | | | |
| | | | | |
| | | | | |

5 5

N. Fjeseth
Secretary

M. Anderson By Myself
Chairman

Motion: S.B. 6 - Do PASS AS Amended

TIE VOTE

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date 6-23-82 SEN Bill No. 5 Time 2:55 p.m.

| NAME | YES | NO |
|---------------------------|-----|----|
| BERG, HARRY K. | X | |
| BROWN, BOB | X | |
| BROWN, STEVE | X | |
| CRIPPEN, BRUCE | X | |
| HALLIGAN, MICHAEL | X | |
| MAZUREK, JOE | X | |
| OLSON, S.A. | X | |
| TVEIT, LARRY | X | |
| O'HARA, JESSE, VICE CHRM. | X | |
| ANDERSON, MIKE, CHAIRMAN | X | |
| | | |
| | | |

N. Fjeseth
Secretary

M. Anderson by Mbf.
Chairman

Motion: Do PASS TOTAL 10-Yes

(include enough information on motion--put with yellow copy of committee report.)

..... June 23 19 82

MR. **PRESIDENT**

We, your committee on **JUDICIARY**

having had under consideration **SENATE** Bill No. **5**

Respectfully report as follows: That **SENATE** Bill No. **5**

DO PASS

.....
MIKE ANDERSON, Chairman.

..... JUNE 23 19 82

MR. **PRESIDENT:**

We, your committee on **JUDICIARY**

having had under consideration **SENATE** Bill No. **2**

Respectfully report as follows: That **SENATE** Bill No. **2**

DO NOT PASS

~~XXXXXXXX~~

.....
MIKE ANDERSON chairman.