

Approved May 3, 1990
Date

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

The meeting was called to order by Elizabeth Baker
Chairperson

4:58 ~~am~~ p.m. on Wednesday, May 2, 1990 in room 423-S of the Capitol.

All members were present except: Representatives Barkis, Shumway, Chronister, Brady, Goossen, Heinemann, Gregory, Russell, Dean and Foster. Excused.

Committee staff present:
Bill Edds, Revisors Office
Lynn Holt, Research
Elaine Johnson, Secretary

Conferees appearing before the committee:
Chuck Simmons, Chief Legal Counsel, Department of Corrections

The meeting was called to order at 4:58 p.m. by Chairperson Baker.

Representative Baker opened the hearing on SB 787 and recognized Lynne Holt of Legislative Research who gave the committee a briefing on the bill.

Representative Baker recognized Chuck Simmons, Chief Legal Counsel for the Department of Corrections.

Mr. Simmons testified in support of SB 787. Mr. Simmons stated that recently questions have been raised regarding the interpretation of the restriction that inmate labor not have more than a "minimal negative impact on the private sector workforce." The Department of Corrections does not desire to get involved in different interpretations regarding each project for which inmate labor is requested. SB 787 will provide guidelines which appear to be reasonable but are not subject to varying interpretations and appears to be an appropriate solution to achieve the objectives of providing work to inmates as a rehabilitative tool, respecting the employment of the private sector workforce, and benefiting the general public by completing projects of a worthwhile nature. Attachment 1.

Mr. Simmons responded to questions from the committee.

Representative Kline made a motion to conceptually amend SB 787 by adding the wording other than assignment of work at state agencies on line 32 after the word section. Representative Aylward seconded the motion. Motion carried.

Representative Aylward made a motion to pass SB 787 favorably as amended. Representative Gjerstad seconded the motion. Motion carried.

The meeting adjourned at 5:34 p.m.

Elizabeth Baker

STATE OF KANSAS



DEPARTMENT OF CORRECTIONS

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Mike Hayden
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Steven J. Davies, Ph.D.
Secretary

To: HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

Re: SENATE BILL 787

K.S.A. 75-52,116 currently authorizes the Department of Corrections to provide inmate labor to work for any state agency, federal agency, city, county, school district, or non-profit organization organized for charitable purposes. The statute provides a restriction on such labor by specifying that it can only result in "minimal negative impact on the private sector work force."

When providing inmate labor to requesting entities, the Department of Corrections has applied a so called "but for" test. Simply stated, the point of this test is that if the work would not be done but for the use of inmate labor, the labor could be provided. However, if the entity had funds available to complete the project, inmate labor would not be provided.

The philosophy behind the department's policy is that work programs are of rehabilitative benefit to inmates. While the department wants inmates to work, it does not desire to take job opportunities away from citizens who have committed no crimes and are available and willing to work. However, if a governmental entity has no funds available to complete a project or to hire someone to do the work, inmates may be provided rather than have the project go undone. In such instances, the use of inmate labor is to the public's advantage.

The department's policy regarding inmate labor has for the most part worked well over the past several years. However, questions have recently been raised regarding the interpretation of the restriction that inmate labor not have more than a "minimal negative impact on the private sector workforce."

This phrase can mean different things to different people. The Department of Corrections does not desire to get involved in such interpretations regarding each project for which inmate labor is

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requested. Rather, straight forward guidelines regarding which projects qualify for inmate labor are preferred.

The amendments proposed in S.B. 787 provide guidelines which appear to be reasonable but are not subject to varying interpretations. The provisions of the proposed amendments lend themselves to a checklist format which can be submitted to the requesting entity in order to determine if the project qualifies for the use of inmate labor. If the entity certifies that the use of inmates will comply with the limitations set forth in the statute, inmates will be provided. Fiscal and personnel records of the requesting agency can be reviewed to determine if the agency's certification was appropriate.

S.B. 787 appears to be an appropriate solution to achieve the objectives of providing work to inmates as a rehabilitative tool, respecting the employment of the private sector workforce, and benefitting the general public by completing projects of a worthwhile nature.

The Department of Corrections supports S.B. 787.