

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE

March 5, 2002
3:40 p.m.

MEMBERS PRESENT

Senator Gene Therriault, Chair
Senator Randy Phillips, Vice Chair
Senator Rick Halford
Senator Ben Stevens
Senator Bettye Davis

COMMITTEE CALENDAR

SENATE BILL NO. 336

"An Act giving notice of and approving the entry into, and the issuance of, certificates of participation for the upgrade, expansion, and replacement of certain correctional facilities and jails; giving notice of and approving the entry into, lease-financing agreements for certain of those projects; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

SB 336 - No previous action to record.

WITNESS REGISTER

Margo Knuth
Strategic Planning Coordinator
Department of Corrections
431 N. Franklin Ste 400
Juneau, AK 99801

POSITION STATEMENT: Testified on SB 336

Devon Mitchell
Debt Manager
Department of Revenue
PO Box 110405
Juneau, AK 99811-0405

POSITION STATEMENT: Testified on SB 336

Margaret Branson
P.O. Box 271

Seward, AK 99664

POSITION STATEMENT: Testified in support of SB 336

Scott Janke

P.O. Box 167

Seward, AK 99664

POSITION STATEMENT: Testified in support of SB 336

Steve Sweet

1108 Galena Street

Fairbanks, AK 99709

POSITION STATEMENT: Testified in support of SB 336

Jim Lacrone

7010 Staedem Drive

Anchorage 99504

POSITION STATEMENT: Testified in support of SB 336

George Avila

P.O. Box 872379

Wasilla, AK 99687

POSITION STATEMENT: Testified in support of SB 336

Brad Wilson

2444 Tulane Street

Anchorage, AK 99504

POSITION STATEMENT: Testified in support of SB 336

Dee Hubbard

P.O. Box 88

Sterling, AK 99672

POSITION STATEMENT: Testified in support of SB 336

Mayor John Williams

210 Fidalgo Street

Kenai, AK 99611

POSITION STATEMENT: Testified in support of SB 336

John Fulton

City Manager

P.O. Box 522

Dillingham, AK 99576

POSITION STATEMENT: Testified in support of SB 336

Paul Carr

North Slope Borough Chief of Police

P.O. Box 69

Barrow, AK 99723

POSITION STATEMENT: Testified in support of SB 336

John Duffy

Mat-Su Borough Manager
350 East Dahlia Avenue
Palmer, AK 99645

POSITION STATEMENT: Testified in support of SB 336

Don Ethridge
AFLCIO Representative
710 W. 9th Street
Juneau, AK 99801

POSITION STATEMENT: Testified in support of SB 336

Paul Richards
City of Bethel Representative
217 2nd Street Suite 201
Juneau, AK 99801

POSITION STATEMENT: Testified in support of SB 336

Joseph Reed
Department of Corrections
431 N. Franklin Ste 400
Juneau, AK 99801

POSITION STATEMENT: Testified on SB 336

ACTION NARRATIVE

TAPE 02-13, SIDE A

CHAIRMAN GENE THERRIault called the Senate State Affairs Committee meeting to order at 3:40 p.m. Present were Senators Davis and Stevens and Chairman Therriault. Senator Phillip arrived at 3:41p.m. and Senator Halford arrived at 3:45 p.m.

#SB 336

SB 336-LEASE-PURCHASE CORRECTIONAL FACILITY

CHAIRMAN THERRIault announced SB 336 was only one item on the calendar. It was introduced on behalf of the governor to deal with the expansion of prison facilities around the state.

He stated his intention was to hear the bill, listen to community testimony and hold it in committee. Because there were a number of testifiers from each community, he asked that a spokesperson be selected for each area so that support or opposition could be determined. He also wanted to ensure that there was enough time to discuss the financing mechanism with individuals from state agencies.

MARGO KNUTH, Department of Corrections Strategic Planning Coordinator, spoke for the administration. She said the bill represents a regional approach to expanding and upgrading some state prisons and jails. With the exception of the Anchorage jail, there has been no new construction in Alaska since Spring Creek was brought on line in the 1980s. Because of overcrowding, they have used a private prison in Arizona to deal with the overflow. There is an appreciation throughout the state that it would be better to house Alaskan inmates in the state. Through certificates of participation (COP), this bill will authorize the department to add 237 beds at the Palmer prison that is located in Sutton. The jails in Bethel and in Fairbanks are regional facilities that would be increased by 96 and 60 beds respectively. Those facilities have been overcrowded with pre-trial detainees and prisoners with short sentences, which has created significant logistical problems for the department. For instance, a person who hasn't gone to trial yet, hasn't been sentenced, or has just a few days to serve needs to stay in the local facility to keep transportation costs from becoming prohibitive.

This would also authorize expansion of the Spring Creek facility by 170 beds. This would be specifically oriented toward expansion of the youthful offender facility. In the last decade there have been a number of initiatives that have waived juveniles to adult status. These individuals represent a discrete population that needs special management and special programs. This can be provided most efficiently by having a special program in just one place and Spring Creek already has a youthful offender program that has a 50 bed capacity. Offenders in the 16 to 25 year age group are more impulse driven, have less foresight into the cause of their problems, and need special programs and management.

The bill also outlines future needs including the Point MacKenzie Farm and the Mat-Su Pretrial Facility, which has the largest population increase in the state and will need a jail expansion in the near future. The Anchorage jail that will open in a month is designed for expansion and should be expanded by 200 beds in the next five years. In phase three they envision more prison beds in Kenai at the Wildwood facility and jail beds at Lemon Creek and Ketchikan.

The other component of the bill addresses some of the community jail needs around the state. There are a number of areas with no state jails or prisons but they still need to hold a small number of people until they can be transferred to a state facility. This is how community jails came about and many of them have had no

infrastructure upgrades in a long time. Dillingham, Kodiak, Kotzebue and North Slope Borough have the most pressing needs and this bill proposes authorizing matching funds of \$4 million each. It would be incumbent upon the community to find their match to bring the project online.

They have identified what the additional operating costs will be and unfortunately, incarceration is not cheap. To control costs in corrections, Alaska's sentencing laws would probably have to be readdressed. As the baby boomers age and populations increase, other states are reevaluating how much they want to allocate to corrections.

She noted the booklet put together by the Department of Corrections titled, "The New Way of Doing Business" and is based on community partnerships. [A copy can be found in the bill file.] It provides more information about the state jails and prisons identified in the bill.

SENATOR PHILLIPS asked if Alaska isn't in a different position than other states. People in his area are complaining about the increasing budget and the fact that the state is taking on more responsibility. He asked for a comparison with Washington and Oregon.

MS. KNUTH said Alaska has always been unique in not operating at the county level. In other states, jails are county responsibility while Alaska has a unified system for its prisons, jails and its court system. With the exception of the community jails outlined, they are operated at the state level. If we operated like California and Washington, we would only be responsible for prisons at the state level and they tend to operate efficiently and can have lower costs due to economy of scale. However, Alaska has the dual responsibility of providing both prisons and jails.

SENATOR PHILLIPS asked if local governments could take on the responsibility.

MS. KNUTH said that is theoretically possible, but it raises the political question of at what point is the state going to ask communities to assume more responsibility for law enforcement on several levels.

CHAIRMAN THERRIAULT noted he isn't in favor of putting "findings" on bills and asked if there was a reason for them.

MS. KNUTH though the bill would be just as effective without the

"findings."

SENATOR HALFORD said he was having trouble understanding the book. He asked what "two levels of 48 double occupant cells 96 total beds" meant.

MS. KNUTH though it was written awkwardly. There are 24 two bed cells per floor.

SENATOR HALFORD accepted the explanation.

CHAIRMAN THERRIAULT said he would like to talk about the funding mechanism.

DEVON MITCHELL, Debt Manager for the State of Alaska, explained that the bill proposes the use of certificates of participation for funding. The Spring Creek correctional facility, the Kenai Courthouse, the Palmer fire facility and the Fairbanks Courthouse have all used this mechanism. Although those were all single projects, this bill takes a group of projects to use the same financing mechanism. It would work as follows:

You have a piece of property with a facility on it. You give a title interest in that facility to a trustee bank. The trustee bank then enters into a lease with the Department of Administration. The revenue stream that is created by that lease becomes a security for investors who will put up the money to make the improvement or build the facility. In this case, we would be looking at entering into leases on a limited number of these facilities and then using those proceeds to fund both those facilities improvements as well as improvements outside the scope of those particular projects so the grants would go to the community jails as well as the design work on the facilities that would be contemplated for the future.

CHAIRMAN THERRIAULT asked whether the trustee bank gets title to the entire facility or just the addition.

MR. MITCHELL said they would have title to the entire facility.

CHAIRMAN THERRIAULT said the \$4 million isn't substantial but it's like taking a home equity loan on state jails to make a grant.

MR. MITCHELL said they wouldn't enter into leases on every one of the state facilities that was listed. They would pick facilities that match the approximate value of the bill. This would amount

to approximately \$118 million including the cost of issuance so they would try to match that with certain state owned facilities. None of the investors would invest with the idea that they would actually own a prison in the State of Alaska; they would want to be repaid. The real security is the pledge of the State of Alaska to repay the money, subject to annual appropriation.

CHAIRMAN THERRIAULT asked if there was an added expense to the financing mechanism other than a straight general obligation (GO) bond.

MR. MITCHELL said it is more complex than that. The trustee bank would have an annual fee of between \$3 and \$5 thousand. Because there are more buildings, it might be as much as \$10,000 on an annual basis. With a GO it's a better credit because of the full faith credit pledge rather than the annual appropriation and it is a less complex transaction because the leases don't have to be completed. There would be a better credit rating, which would result in paying slightly less and because of that, the leases the state enters into are rated one full grade below the state's GO rating of AA2. This means it would be more expensive. Although he couldn't quantify the number right then, he would work on it.

CHAIRMAN THERRIAULT asked if he could address the policy call made by the administration regarding why they chose this route rather than the other.

MR. MITCHELL said he couldn't speak to the administration's policy, but could speak to the different mechanisms that exist to finance projects like these in the state. COPs and GOs were discussed previously. The third financing method is lease revenue bonds, which was the mechanism used to build the Anchorage Jail. This involves a financing that is similar to a certificate of participation except that the municipality owns the facility. Therefore the state enters into a lease with the municipality. Again, the credit is the State of Alaska appropriating money annually and making those lease payments. It's the same credit but a different structure. It doesn't fit this situation well because there are state projects as well as community jails. Also, there is some outstanding debt on the Spring Creek facility making it difficult to add debt of a different kind.

SENATOR PHILLIPS asked for the limit on COPs.

MR. MITCHELL replied it is \$1 million or \$10 million in repayments.

SENATOR PHILLIPS said, "That's why we're here. Otherwise you

probably would have done it a long time ago. Right?"

MR. MITCHELL had no answer.

There were no further questions on the financing mechanism.

MARGARET BRANSON testified from the Seward LIO and said they were primarily interested in the Spring Creek addition, but they support the entire bill.

SCOTT JENKE testified via teleconference from the Seward LIO and reinforced Ms. Branson's testimony. The city is prepared to move forward with the Spring Creek expansion. The bond that was sold to build Spring Creek expires in September 2006 and they are ready to move forward with the expansion.

CHAIRMAN THERRIAULT asked whether the community wants the COP financing mechanism used or would they favor any method that gets the project done.

MR. JENKE said they support any mechanism that gets the bill passed and the facility built.

STEVE SWEET testified via teleconference from the Fairbanks LIO in favor of SB 336. He said passage of the bill would result in a cost savings to the state and he thinks it is important that prisoners are incarcerated in state and reasonably close to family members.

CHAIRMAN THERRIAULT asked whether he was representing himself.

MR. SWEET replied he was representing himself.

JIM LACRONE testified via teleconference from the Anchorage LIO in support of SB 336. He said he is a retired corrections officer and sees this bill as a way for the state to have an impact on multiple regions and communities throughout the state. He supports placing prisoners close to their families, their support groups and their cultural heritage.

GEORGE AVILA testified via teleconference from the Anchorage LIO in support of SB 336. He is currently employed by the Department of Corrections and believes the bill makes good use of the existing infrastructure in the state and will keep inmates closer to their families.

BRAD WILSON testified via teleconference from the Anchorage LIO in support of SB 336. He said he is with the Public Safety

Employees Association and they represent the Alaska State Troopers and other law enforcement officers around the state. A state run facility is preferable to one that is privately run.

DEE HUBBARD testified via teleconference from the Anchorage LIO in support of SB 336. She said it is important to have inmates close to their families and their homes and it is preferable to build public facilities that benefit the entire state.

CHAIRMAN THERRIAULT asked Ms. Hubbard whether she was representing herself.

MS. HUBBARD said she was representing herself.

JOHN WILLIAMS, Mayor of Kenai, testified via teleconference in support of SB 336. He was an outspoken critic of the plan to build a private correctional facility in Kenai for many reasons. Most of those objections are discounted in SB 336. The location of beds is important as is the utilization of existing infrastructure. The citizens he represents feel it is the state's responsibility to operate correctional facilities rather than support private prisons. In fact, they voted three to one against the private prison concept.

The City of Kenai is a First-Class Home Rule Chartered City, which means they have broad and far-reaching powers. Among those powers is the power to issue revenue bonds for economic development in and around the city. If they were included, they could bond, with the permission of the State of Alaska, and build 286 beds at Wildwood in the immediate future. They successfully partnered with the state to build the Kenai Courthouse then leased the facility from the state. They are prepared to do the same thing for the Wildwood expansion.

With regard to the issue of local jails that Senator Phillips mentioned, the city did run a jail many years ago and found it difficult to do so as a small municipality. They were pleased when the Wildwood Pre-Trial Facility was built and took them out of the jail business.

He thanked the committee and asked them to consider amending the bill to allow the City of Kenai to participate in the bonding process for construction at Wildwood.

CHAIRMAN THERRIAULT asked whether the community did follow up polling following the local election regarding the private prison to determine why the vote turned out the way it did.

He challenged whether the Mayor could really say the vote was three to one against the private prison concept unless polls were taken.

MAYOR WILLIAMS replied he had the privilege of running for his sixth three year term of office during that same period. His platform was against the private prison concept and in favor of the public prison concept. Although he hasn't done any official polling since the election, he won by a greater percentage this time than in any of the previous six elections. In fact, one precinct in the City of Kenai voted 181 votes against the prison and 181 votes for him as mayor. He took that as a signal that the community was on his side of that issue.

JOHN FULTON, Dillingham City Manager, testified via teleconference in support of SB 336. He said the Dillingham Contract Jail operates at or near its eight bed capacity most of the time and the Alaska State Troopers and Department of Corrections continually have to move prisoners to accommodate the space limitations. Depending on the season, it costs the state between \$900 and \$1,200 per prisoner for one way in state transportation. Frequently the prisoners have to return to Dillingham a few days after they have left so a larger facility would relieve the need to transport.

The tax base in Dillingham is very limited and they can't afford to build or run a 25 bed facility with their own resources. They look to the state for help and they support this bill or one that is similar. He agreed with Mayor Williams and would like this to be a state run facility but they are willing to continue to operate the jail. They only enforce state laws so the prisoners that enter that jail have violated state laws not municipal ones.

CHAIRMAN THERRIAULT asked whether Dillingham would be able to come up with the dollar for dollar match as envisioned under section 5 of the bill.

MR. FULTON replied he isn't even sure how he will keep all his departments this year. He does not have \$4 million in the bank.

PAUL CARR, Chief of Police for the North Slope Borough, testified via teleconference in support of SB 336. The existing nine bed jail in Barrow was built in 1980 and due to code violation, they aren't able to expand their facility. Because of the size of their facility, they have problems with segregation and classification of prisoners. They have supported the idea of regionalized corrections for many years and are willing to commit to the matching capital requirements to the extent the state is willing to commit to the operating funds.

CHAIRMAN THERRIAULT asked whether he is able to speak to the

local government's ability to match funds dollar for dollar.

CHIEF CARR said they are committed to do so.

CHAIRMAN THERRIAULT noted the wording allows one community to provide the match for another. He asked how much the North Slope Borough could come up with.

CHIEF CARR wasn't sure he understood the question.

CHAIRMAN THERRIAULT said that he believes the North Slope Borough is the most able to come up with the required match funds and the wording in the bill would permit them to put up more than their match to build the facility. They could help other rural communities and he wondered if they had thought about that possibility.

CHIEF CARR replied that sort of decision is over his head.

CHAIRMAN THERRIAULT thought some of the National Petroleum Reserve-Alaska (NPR-A) money that flows through the borough could also be used to make the match for all the rural community jails. He commented it is an interesting issue.

JOHN DUFFY, Mat-Su Borough Manager, testified in support of SB 336. They agree with the regional concept because it addresses community needs and spreads the economic impact throughout the state. They also agree with the concept of expanding existing facilities because it is cost effective to do so.

Mat-Su does prefer SB 231 as the mechanism for expansion of existing prisons. It better addresses today's needs as well as the future needs of the prison population and utilized Alaska Industrial Development and Export Authority (AIDEA) funding as the mechanism and better addresses the needs of Mat Su, Fairbanks and Ketchikan.

There was no additional teleconferenced testimony.

DON ETHRIDGE, AFL-CIO representative, spoke in support of SB 336. They like to see the facilities spread throughout the region with jobs created statewide.

SIDE B
4:30 p.m.

PAUL RICHARDS represented the City of Bethel and spoke in support of SB 336. He called member's attention to the resolution from the City of Bethel that was in their packets. The concept is unanimously supported by the city council.

CHAIRMAN THERRIAULT announced for the benefit of those testifying

via teleconference that committee members have copies of resolutions from a number of municipalities in their packets.

SENATOR HALFORD referred to the fiscal note and said that 1,222 new beds would be available. Currently there are about 800 inmates housed in Arizona for which the state pays an annual cost of \$20 million. He said, "The operating component picks up in 2006 with about \$11 million, so what is the offset on the operating side or is this net of complete offset?"

JOSEPH REED with the Department of Corrections and author of the fiscal note replied that, "When this bill kicks in, in FY 2006, at the end of this fiscal year we will be down to 585 beds in central Arizona. We are anticipating maintaining that 585 beds in other words our \$20 million contract our \$18 million contract in Arizona is going to go down to \$13 or \$14 million. On page two of the fiscal note I have built in state institutions you'll see less out of state costs of 563 beds and \$13.357 million that offsets the operating costs that are anticipated. The FY 2006 operating expense has already factored out the offsetting cost of moving the Arizona prisoners back in the state."

CHAIRMAN THERRIAULT said it's the net increase.

MR. REED agreed it's a net increase on the front of the fiscal note.

SENATOR HALFORD asked for the projected increase in the number of prisoners. 1,222 beds are added, 563 are taken away, which leaves a net increase of about 650. He was trying to determine the cost comparison between the two methods.

MS. KNUTH said they didn't have any appreciable increase for a few years but this last year saw a net increase of 300 inmates. They book in 33,000 inmates each year and book out 32,700. They estimate that the trend is going to be between 150 and 300 additional "keepers" each year. The percentage of pretrial detainees has been increasing for several years and is now at about 50 percent. This is a result of judges feeling uncomfortable releasing defendants on bail.

From a cost perspective, prisoners can be housed more cheaply in Arizona so bringing them home does come with a price tag.

SENATOR HALFORD asked, "What is that, just in round numbers, per Arizona versus per bringing them back per prisoner."

MS. KNUTH replied it's about \$30 per prisoner per day.

SENATOR HALFORD asked, "The cost in Arizona is what?"

MS. KNUTH replied that it is \$57 per day.

MR. REED clarified that it costs \$65 per prisoner per day for the central Arizona detention. That includes transportation, inmate wages and incidental prisoner expenses but excludes any major medical expenses. In state costs are between \$114 and \$115 per prisoner per day.

SENATOR HALFORD noted that's almost double.

MR. REED agreed. The fiscal note indicates that the 563 beds in Arizona are offset but they will have to ask the Legislature for an additional \$8.2 million to bring those prisoners back.

SENATOR HALFORD asked what the cost per bed in Bethel is. He explained he was interested in the comparison between a fairly large but rural facility versus [Mr. Reed anticipated the question.]

MR. REED estimated it is about \$140 per day in Bethel.

SENATOR HALFORD confirmed \$140 in Bethel and \$114 in Anchorage.

MR. REED reminded members that Bethel has a 38 percent cost of living allowance and Nome has a 42 percent allowance.

SENATOR HALFORD emphasized that he wasn't being critical; he's an advocate of spending money on wages rather than transfer payments. He simply wanted to know the comparison.

CHAIRMAN THERRIAULT asked whether the constitutional issue of getting prisoners rehabilitated and back into society and housing prisoners out of state had been litigated.

MS. KNUTH replied federal appellate courts have ruled that being incarcerated out of state is within the purview of a state. A "Law Review" article suggested the Alaska Supreme Court should go beyond federal ruling and require that inmates be kept in Alaska, but that has not been pursued in litigation.

SENATOR PHILLIPS commented that is an opinion.

MS. KNUTH agreed.

CHAIRMAN THERRIAULT noted they needed information from Mr. Mitchell regarding the cost of the COP versus the GO.

MS. KNUTH said she wanted to note that Kotzebue has a \$4 million federal grant that they can use for their matching share. Half of the communities know where their match would come from and half do not know.

SENATOR PHILLIPS asked how Kotzebue got the grant.

MS. KNUTH wasn't sure whether it was through BIA but she thought it was based on native population. Recently there have been several criminal justice grant programs available to native organizations.

CHAIRMAN THERRIAULT asked committee members to contact his staff if they had questions or wanted any information before the bill was heard again. If members wanted to work independently, he asked that they keep him informed.

SB 336 was held in committee.

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There being no further business to come before the committee, Chairman Therriault adjourned the meeting at 4:40 p.m.