

# HOUSE BILL REPORT

## HB 1777

---

*As Reported By House Committee on:  
Human Services  
Capital Facilities & Financing*

**Title:** An act relating to expedited prison construction.

**Brief Description:** Expediting new prison construction.

**Sponsor(s):** Representatives H. Sommers, Schmidt, Hargrove, Braddock, Leonard, Winsley, Fraser, Bowman, Zellinsky, Holland, Paris, Basich and May; by request of Department of Corrections.

**Brief History:**

Reported by House Committee on:  
Human Services, February 21, 1991, DPS;  
Capital Fac. & Financing, March 5, 1991, DPS(HS)-A.

---

**HOUSE COMMITTEE ON  
HUMAN SERVICES**

**Majority Report:** *That Substitute House Bill No. 1777 be substituted therefor, and the substitute bill do pass.*  
Signed by 11 members: Representatives Leonard, Chair; Riley, Vice Chair; Winsley, Ranking Minority Member; Tate, Assistant Ranking Minority Member; Anderson; Beck; Brekke; Hargrove; Hochstatter; R. King; and H. Myers.

**Staff:** Antonio Sanchez (786-7146).

**Background:** Prison population forecasts by the Department of Corrections indicate that the number of prison beds that need to be constructed in the near future is substantial. The current prison capacity of 7,471 will need to approximately double by the year 2000, to house the expected additional prisoners.

Public works laws require that a sequential process must be followed that involves complete design by the state or by an architect/engineer firm: advertisement, bid, award to the lowest bidder, followed by construction.

In an effort to expedite the building of new prison space, several construction models were reviewed by the Department of General Administration and the Department of Corrections. One model was identified that could reduce the construction

time by eliminating the sequential process of design, then build and replace it with a expedited model that uses a professional general construction/contract manager firm to coordinate the design and construction simultaneously. A similar model has been tried in others states, and in Oregon specifically, for expediting prison construction.

**Summary of Substitute Bill:** Public works laws outlining the sequence required for designing and constructing a publicly funded facility are temporally amended. The director of the Department of General Administration is given the ability to contract with a single general contractor/construction manager (GC/CM) firm, to provide concurrent preparation of design plans, specifications and advertising, and competitive bidding of construction contracts.

The authorization is limited to:

- 1) Department of Corrections capital projects funded in the 1991-1993 biennium for over \$10,0000 at the McNeil Island Correction Center, Clallam Bay Corrections Center, and for the construction of two 399-bed drug camps, three 499-bed work camps, and a 1,024-bed prison;
- 2) any other additional correctional facilities that may be authorized by the Legislature during the biennium ending June 30, 1993; and
- 3) contracts signed before July 1, 1996.

The Department of General Administration is required to establish an independent oversight committee to review selection and contracting procedures. Membership of the committee will include representatives of a variety of interest groups, the Department of Corrections, and the private sector. The director of the Department of General Administration is required to establish a committee to evaluate contract proposals using the following criteria: the ability of the professional personnel; past performance in negotiated and complex projects; ability to meet time requirements; location; ability to meet time and budget requirements; and the overall concept of the proposal.

The Department of General Administration is required to negotiate a guaranteed, maximum allowable construction cost for the projects while the contractor (GC/CM) is required to guarantee the maximum allowable costs. Any cost increases above the negotiated and contracted maximum allowable costs, will be incurred by the firm unless the State has requested the contract change.

An incentive clause of up to five percent of the maximum allowable cost for the project, could be included in the contract with the general contractor/construction manager firm. All sub-contract work is required to be competitively bid with public bid openings. The firm is required to provide a performance and payment bond.

All new construction subject to this act is required to conform to the guidelines outlined in the 1981 Prison Reform Act. Design, specifications and construction would accommodate 50 percent employment in Class I, Class II, and Class IV jobs. It would also require the department and the designers to design prison space that includes modular portable, recreational, or other amenities that could be purchased by inmates through wages earned through correctional industries employment. Inmates are allowed to retain 25 percent of their gross wages to pay for room and board and amenities.

Design and construction of the proposed 1024 bed medium facility, is required to contain enough square footage to employ 25 percent of the employable employees in each of the Class I and Class II programs. In addition, the facility design must include 10 percent of the total cells with removable portable amenities.

The department must establish an amenities program for all facilities identified in the act. The program will allow inmate employees to earn higher wages based on performance, production, and behavior and use those wages to purchase an array of amenities after a percentage of their wages are taken for the cost of room and board. Funds recovered by the Department of Corrections from inmate wages, other than the amount an inmate owes for legal financial obligation, shall be returned to the Department of Corrections to pay for the cost of prison operations, as defined by the department and for the Victim Restitution Fund.

The Department of Corrections is required to report to the Legislature and governor on the ability to achieve the program goals and suggest modifications if the goals cannot be reached. The reports will be yearly until 1996.

The entire act is valid only if sections 3 and 4 remain valid.

The authority granted under this measure would expire June 30, 1996, except for those contracts signed on or before that date.

An emergency is declared, allowing the law to take effect immediately.

**Substitute Bill Compared to Original Bill:** All new construction subject to this act, is required to conform to the guidelines outlined in the 1981 Prison Reform Act. Additional design and specifications requirements are included. Design, specifications and construction must accommodate 50 percent employment in Class I, Class II, and Class IV jobs. It would also require the Department and the designers to design prison space that includes modular portable, recreational, or other amenities that could be purchased by inmates through wages earned through correctional industries employment. Inmates are allowed to retain 25 percent of their gross wages to pay for room and board and amenities.

Design and construction of the proposed 1024 bed medium facility, is required to contain enough square footage to employ 25 percent of the employable employee in each of the Class I and Class II programs. In addition, the facility design must include 10 percent of the total cells with removable portable amenities.

The department must establish an amenities program for all facilities identified in the act. The program will allow inmate employees to earn higher wages based on performance, production, and behavior and use those wages to purchase an array of amenities after a percentage of their wages are taken for the cost of room and board. Funds recovered by the Department of Corrections from inmate wages, other than the amount an inmate owes for legal financial obligation, shall be returned to the Department of Corrections to pay for the cost of prison operations, as defined by the department, and for the Victim Restitution Fund.

The Department of Corrections is required to report to the Legislature and governor on the ability to achieve the program goals and suggest modifications if the goals cannot be reached. The reports will be yearly until 1996.

The entire act is valid only if sections 3 and 4 remain valid.

**Fiscal Note:** Requested February 12, 1991.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** The current and expected growth of our state's inmate population will require the State to build new prisons quickly. The proposed method for cutting construction time will enable the State to meet it's construction goals and insure that the projects will come in on time and on budget.

**Testimony Against:** None.

**Witnesses:** John King, Department of Corrections; Paul Parker, Association of Counties; Don Avery, City of Dayton; Don Graedel, City of Odessa; Richard Habarmon, Mayor of Forks; Lawrence Gaydesri, Clallam County; and Roland Dahurst, Associated General Contractors of Washington.

---

**HOUSE COMMITTEE ON  
CAPITAL FACILITIES & FINANCING**

**Majority Report:** *The substitute bill by Committee on Human Services be substituted therefor and the substitute bill as amended by Committee on Capital Facilities & Financing do pass.* Signed by 14 members: Representatives H. Sommers, Chair; Rasmussen, Vice Chair; Schmidt, Ranking Minority Member; Neher, Assistant Ranking Minority Member; Beck; Braddock; Brough; Casada; Fraser; Jacobsen; Ogden; Peery; Silver; and Wang.

**Minority Report:** *Do not pass.* Signed by 1 member: Representative Heavey.

**Staff:** Victor Moore (786-7143).

**Summary of Recommendation of Committee on Capital Facilities & Financing Compared to Recommendation of Committee on Human Services:** Requirements relating to the design and construction of Class I, Class II, and Class IV program space and portable amenities in cells are deleted. Inmate incentive and wage recovery provisions relating to wages earned in Class I and Class II industries are removed. A requirement that the Department of Corrections report to the Legislature on implementation of the employment program is eliminated. A standard severability clause is substituted for the specific clause.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** The bill will allow the state to save time in the construction of new correctional facilities. The process has been tried and implemented successfully in the state of Oregon.

**Testimony Against:** The lack of a requirement to name subcontractors in any of the public bids will allow for "bid shopping" to the detriment of potential subcontractors.

**Witnesses:** John King, Department of Corrections (in favor); Grant Fredericks, Department of General Administration (in favor); Bill Hirsch, state of Oregon (in favor); Duke Shaub, Association of General Contractors (in favor); and Larry Stevens, Mechanical and Electrical Contractors.