

VETO MESSAGE ON 2SHB 2010

June 15, 1995

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 22, 26, 34, 35, and 39, Second Engrossed Second Substitute House Bill No. 2010 entitled:

"AN ACT Relating to Corrections;"

Second Engrossed Second Substitute House Bill No. 2010 represents hard work and strong commitment. I applaud the 1995 legislature for taking on the rigorous task of examining ways to make inmates more accountable and the Department of Corrections more efficient. This legislation is far reaching and required an appreciation and understanding of varied and often conflicting philosophies and agendas. While I note some concerns with this legislation, it is vital to note my great confidence in our accomplishing the goals addressed.

I will begin by addressing an important issue raised in section 21, which I am not vetoing. This section authorizes the Department of Corrections to establish a camp for alien offenders. The Department of Corrections is also directed to develop an implementation plan for the camp by December 1, 1995 and be ready to assign offenders to a camp, if any is established, by January 1, 1997. Section 21, on its face, applies to all alien offenders, whether documented or undocumented, and whether or not the offenses for which they are incarcerated leave them subject to deportation. Further, the goals for the camp -- to expedite deportation and reduce costs -- envisions early release by the Department of Corrections and rapid deportation by federal officials. It is clear that a great deal of continued state and federal effort and cooperation will be necessary before this vision is realized.

Of most importance, however, is the need to avoid any appearance that the state of Washington is sending an anti-alien message generally. We have all seen the regrettable results of cost saving or efficiency measures escalating into issues of discrimination or even ethnic separation. I have been assured, however, that no such message should be read into the language of this section. I have received a letter signed by Representative Ballasiotes on behalf of the members of the conference committee who worked so hard on the details of this legislation. She states that only "non-legal" alien offenders are or ever were to be considered for participation in the proposed camp.

It is with that understanding that I approve this section. The Department of Corrections will have much needed time and flexibility to work with federal officials and return to the legislature with plans and concerns. I share the desire expressed by Representative Ballasiotes that we work closely together on further development and implementation. We will do so.

Section 22 requires the Department to create a "Corrections Advisory Team" at each institution with more than 100 offenders. While I strongly support the advisory value of stakeholders in the cost-effective operation of our prisons, there are a number of reasons for removing this section. First, the mandated advisory

teams are duplicative of existing oversight represented by state and local labor-management committees provided for in collective bargaining agreements; state and local law and justice planning committees provided for in RCW 72.09.300; the correctional industries board provided in RCW 72.09.070; and the institutional, community advisory committees authorized under RCW 43.88.500-515.

The advisory teams mandated by this section generate added costs to the taxpayers for team support services, travel expenses, per diem costs, and backfill expenses related to mandated staff membership. Further, in the absence of any mandate that these teams work together relative to the total operation of the prison system, there is high risk that program fragmentation would occur, exacerbating rather than reducing system inefficiencies and costs. In spite of the veto of this section, we must work together to promote operational efficiencies and I strongly encourage cooperation between management and line level employees at each institution through existing mechanisms.

Section 26 is divided into four subsections requiring that four different studies be conducted. The drafting in certain subsections is unclear as to exactly what is to be studied and no funds are provided to conduct them. Although technical and fiscal concerns as outlined below dictate a veto of this section, I will direct the affected agencies to work with legislators and legislative staff, to the greatest extent possible without additional resources, to provide the legislature with all of the information requested.

Subsection 1 directs the State Auditor to review the Department of Corrections budgeting process and operating budget request for the 1995-97 biennium. The agency budget request is a part of a complex budget process that ultimately produces several sections in an appropriations act. The Department of Corrections' budget is reviewed by the Office of Financial Management in preparation for my budget recommendation, and then reviewed by both House and Senate Committees. It is unclear what the Auditor is to make recommendations on. If the intent was to perform a performance audit, it is not stated here. Budget development and related policy implications are the arena of the executive branch and the legislature. The role of the Auditor is to ensure the legal implementation of those budgets.

Subsection 2 directs the Department of Transportation to review the feasibility and desirability of privatizing the Department of Corrections marine fleet, operation, or both. The Department of Transportation has expressed a willingness to conduct this feasibility study within existing resources, and will report to the legislature as outlined in this subsection.

Subsection 3 directs the Office of Financial Management and the Department of General Administration to review the food planning model developed by the Department of Corrections for possible expansion to a uniform state-wide system. I will direct these agencies to examine this topic and communicate their findings to the legislature.

Subsection 4 directs the printing and duplicating management center of the Department of General Administration (GA) to review the feasibility and desirability of establishing a class II

correctional industry within one or more correctional institutions. The printing and duplicating management center of GA no longer exists. In addition, Correctional Industries already operates printing facilities pursuant to agreements with the State Printer. With regard to the development of a printer's apprentice program, the Department of Corrections has consistently worked to expand apprentice programs across the entire continuum of Correctional Industries programs.

Section 34 conflicts with the assumptions contained in Section 223 (Department of Corrections) of Engrossed Substitute House Bill 1410, the Omnibus Appropriations Act. Staff reductions and efficiencies will be implemented consistent with the assumptions in the Omnibus Appropriations Act.

Section 35 places into statute the staffing ratios for recreational leader positions 2, 3, and 4 as provided for in the omnibus appropriations act. This approach fails to account for the expansion to new facilities or the changing environment within the corrections system. In addition, the language is inconsistent with other sections of this act which direct Correctional Industries (CI) to study the possibility of a work program to provide opportunities for support staffing in recreation and fitness programs. All of these could result in changes in these staffing levels. The Omnibus Appropriations Act is the appropriate vehicle to deal with this issue, placing it under a biennial review.

Section 39 states that this bill shall be null and void if it is not referenced in the biennial budget. Section 40 declares an emergency and states that the bill shall take effect immediately. These two sections are inconsistent. If a bill is "necessary for the immediate preservation of the public peace, health, and safety" it cannot also be subject to the uncertainties of the appropriation process. There are some elements of this bill that will provide immediate benefits and are consistent with the immediate implementation provided by section 40. Therefore, I am vetoing section 39.

For these reasons, I am vetoing sections 22, 26, 34, 35 and 39 of Second Engrossed Second Substitute House Bill No. 2010.

With the exception of sections 22, 26, 34, 35 and 39, Second Engrossed Second Substitute House Bill No. 2010 is approved.

Respectfully submitted,  
Mike Lowry  
Governor