



Legislative Testimony

OREGON DEPARTMENT OF CORRECTIONS

March 11, 2021

The Honorable Ginny Burdick, Chair
Senate Committee on Finance and Revenue

RE: Senate Bill 19

Chair Burdick and members of the committee, I am Jim Paul, Assistant Director of the Administrative Services Division for the Oregon Department of Corrections (DOC). I am here to provide information related to Senate Bill (SB) 19.

Upon closure of a DOC institution, SB 19 would require the state promptly transfer all the state's interest in the title to the institution and all fixtures of the institution to the county in which the institution is sited.

If enacted in its current form, the implementation of this bill could potentially create disputes between the parties involved due to several property disposition issues which are either not addressed or clearly defined in the current version of the bill. These issues include the following:

1. State surplus statutes and Department of Administrative Services (DAS) rules: Currently under Oregon Revised Statutes (ORS) Chapter 270 and the DAS Division 45 real property disposition rules, it is at the discretion of the DAS Administrator to determine if real property transactions directed by the Legislature would be exempted from the DAS notice process and review by the state's Public Lands Advisory Committee. It would be helpful to clarify whether the bills intent is to have these property transfers follow those requirements or be exempt from them.
2. Transaction/closing costs: The bill does not address who is responsible for potential environmental clean-up costs, recording fees, escrow fees, title insurance, and other potential costs associated with the transfer of a property to another entity.
3. Definition of "closed" and "planned for closure:" Providing these definitions will help clarify the intent of the bill and allow for a clear interpretation. DOC uses different related terms in the process of closing a facility. These terms include the following:
 - Decommissioning: The activities involved with preparing the facility for closure. This includes the removal and repositioning of assets and preparing the physical institutions for eventual property disposition.
 - Closure: When an institution is no longer housing adults in custody (AICs), but still under DOC ownership.
 - Mothballing: The activities necessary to maintain a closed and decommissioned facility in an operable condition. DOC can maintain a mothballed facility for

several months or even years (i.e. Oregon State Penitentiary Minimum) until it is ultimately decided how to best utilize the property.

- Disposition: The final plan for a closed facility. Typically, this could mean sale or transfer, or keeping the facility in DOC control until final property disposition is determined.
4. Definition of “fixtures:” The law in Oregon with respect to fixtures is not clearly defined. Legal ambiguity could be reduced with amended language describing (even if just by category) those things not to be removed, rather than leaving it up to interpretation to determine what is and what is not defined as a fixture.
 5. DOC Authority to Dispose of Supersited Properties: DOC’s newest prisons were acquired under the authority of the state’s supersiting statutes. These statutes might impact DOC’s authority around the process of transferring the state’s interest in such properties, potentially requiring statutory language to address.

In summary, the current language of SB 19 does not address several potentially significant issues that would make implementation a challenge. DOC suggests these issues be addressed and clarified in future amendments, if the bill is to move forward.

Thank you for your time and consideration. I’m happy to answer any questions the committee may have.

Submitted by:

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