

CS for SB 1407

1 THE STATE SENATE  
2 Monday, February 28, 2000

3 Committee Substitute for  
4 Senate Bill No. 1407

5 COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1407 - By: MUEGGE of the  
6 Senate and REESE of the House.

7 [ prisons - powers of the State Board of Corrections and the  
8 Director of the Department - gender neutral -authorizing the  
9 State Board of Corrections to contract for the operation and  
10 management of private prison facilities - effective date ]

11  
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 57 O.S. 1991, Section 504, is  
14 amended to read as follows:

15 Section 504. ~~(a)~~ A. The State Board of Corrections shall  
16 elect from its members a ~~chairman~~ chair, vice ~~chairman~~ chair and a  
17 secretary. It shall adopt rules ~~and regulations~~ for its government  
18 and may adopt an official seal for the Department of Corrections.  
19 Members shall be reimbursed for travel expenses, as provided in the  
20 State Travel Reimbursement Act while attending meetings of the Board  
21 or while performing other official duties.

22 ~~(b)~~ B. The Board shall have the following powers and duties:

23 ~~(1)~~ 1. To establish policies for the operation of the  
24 Department;

25 ~~(2)~~ 2. To establish and maintain such institutions as are  
26 necessary or convenient for the operation of programs for the

1 education, training, vocational education and rehabilitation of  
2 prisoners under the jurisdiction of the Department;

3 ~~(3)~~ 3. To lease, from time to time, without restriction as to  
4 terms, any property which said Board shall determine advisable to  
5 more fully carry into effect the operation of prison industries;

6 ~~(4)~~ 4. To acquire, construct, extend, improve, maintain and  
7 operate any and all facilities of all kinds which in the judgment of  
8 the Board shall be necessary or convenient to foster the prison  
9 industries program;

10 ~~(5)~~ 5. To require the Director and any other personnel of the  
11 Department, when deemed necessary by the Board, to give bond for the  
12 faithful performance of their duties;

13 ~~(6)~~ 6. To appoint and fix the salary of the Director;

14 ~~(7)~~ 7. To enter into contracts with private prison contractors  
15 for the incarceration, supervision, and residential treatment of  
16 inmates in the custody of this state, and to enter into contracts  
17 for the operation and management of private prison facilities owned  
18 by a public trust and housing inmates from this state or another  
19 state or territory; provided, such contracts generate funds to the  
20 Department to cover all costs associated with the daily operation  
21 and management of such facility including, but not limited to, state  
22 employee salaries and benefits, and prisoner's litigation expense,

1 medical expense, food, clothing, housing, and maintenance expense;  
2 and

3 ~~(8)~~ 8. To provide training to employees of private prison  
4 contractors and other governmental entities on a fee basis.

5 SECTION 2. AMENDATORY 57 O.S. 1991, Section 510, as last  
6 amended by Section 1, Chapter 351, O.S.L. 1997 (57 O.S. Supp. 1999,  
7 Section 510), is amended to read as follows:

8 Section 510. A. The Director of the Department of Corrections  
9 shall have the following specific powers and duties relating to the  
10 penal institutions:

11 1. To appoint, subject to the approval of the State Board of  
12 Corrections, a warden or superintendent for each penal institution,  
13 who shall qualify for the position by character, personality,  
14 ability, training, and successful administrative experience in the  
15 correctional field; and if ~~he~~ the person is not the incumbent warden  
16 or superintendent of a penal institution, ~~he~~ the person shall have a  
17 college degree with a major in the behavioral sciences. As used in  
18 this section, "major in the behavioral sciences" means a major in  
19 psychology, sociology, criminology, education, corrections, human  
20 relations, guidance and counseling, administration, criminal justice  
21 administration, or penology;

22 2. To fix the duties of the wardens and superintendents and to  
23 appoint and fix the duties and compensation of such other personnel

1 for each institution as may be necessary for the proper operation  
2 thereof. However, correctional officers and guards hired after  
3 November 1, 1995, shall be subject to the following qualifications:

- 4 a. the minimum age for service shall be twenty-one (21)  
5 years of age and the maximum age for service shall be  
6 seventy (70) years of age. However, the Director  
7 shall have the authority to establish the maximum age  
8 for correctional officers entering service, ~~and~~
- 9 b. possession of a minimum of thirty (30) semester hours  
10 from an accredited college or university, or  
11 possession of a high school diploma acquired from an  
12 accredited high school or GED equivalent testing  
13 program and graduation from a training course  
14 conducted by or approved by the Department and  
15 certified by the Council on Law Enforcement Education  
16 and Training either prior to employment or during the  
17 first six (6) months of employment, ~~and~~
- 18 c. be a resident of this state during employment, ~~and~~
- 19 d. be of good moral character, ~~and~~
- 20 e. before going on duty alone, satisfactory completion of  
21 an adequate training program for correctional officers  
22 and guards, as prescribed and approved by the State  
23 Board of Corrections, ~~and~~

- 1           f.    satisfactory completion of minimum testing or  
2                    professional evaluation through the Merit System of  
3                    Personnel Administration to determine the fitness of  
4                    the individual to serve in the position written  
5                    evaluations shall be submitted to the Department of  
6                    Corrections, and
- 7           g.    satisfactory completion of a physical in keeping with  
8                    the conditions of ~~his~~ the job description on an annual  
9                    basis and along the guidelines as established by the  
10                  Department of Corrections;

11           3. To designate as peace officers qualified personnel in any  
12 Department of Corrections job classifications. The Director shall  
13 designate as peace officers correctional officers who are employed  
14 in K-9 units, certified emergency response teams, transportation  
15 positions, chief of security positions, or whose work location is at  
16 Griffin Memorial Hospital or University Hospital. The peace officer  
17 authority of employees designated as peace officers shall be limited  
18 to: maintaining custody of prisoners; preventing attempted escapes;  
19 pursuing, recapturing and incarcerating escapees and parole or  
20 probation violators and arresting such escapees, parole or probation  
21 violators, serving warrants, and performing any duties specifically  
22 required for their job descriptions. Such powers and duties of  
23 peace officers may be exercised for the purpose of maintaining

1 custody, security, and control of any prisoner being transported  
2 outside this state as authorized by the Uniform Criminal Extradition  
3 Act. To become qualified for designation as peace officers,  
4 employees shall meet the training and screening requirements  
5 conducted by the Department and certified by the Council on Law  
6 Enforcement Education and Training within twelve (12) months of  
7 employment or, in the case of employees designated as peace officers  
8 on or before July 1, 1997, by July 1, 1998, and shall not be subject  
9 to Section 3311 of Title 70 of the Oklahoma Statutes;

10 4. To maintain such industries, factories, plants, shops,  
11 farms, and other enterprises and operations, hereinafter referred to  
12 as prison industries, at each institution as the State Board of  
13 Corrections deems necessary or appropriate to employ the prisoners  
14 or teach them skills, or to sustain the institution; and as provided  
15 for by policies established by the State Board of Corrections, to  
16 allow compensation for the work of the prisoners, and to provide for  
17 apportionment of their wages, the amounts thus allowed to be kept in  
18 accounts by the Board for the prisoners and given to them upon their  
19 discharge from the institution, or upon their order paid to their  
20 families or dependents or used for the personal needs of the  
21 prisoners. Any industry which employs prisoners shall be deemed a  
22 "State Prison Industry" if the prisoners are paid from state funds  
23 including the proceeds of goods sold as authorized by Section 123f

1 of Title 74 of the Oklahoma Statutes. Any industry in which wages  
2 of prisoners are paid by a nongovernmental person, group, or  
3 corporation, except those industries employing prisoners in work-  
4 release centers under the authority of the Department of Corrections  
5 shall be deemed a "Private Prison Industry";

6 5. To assign residences at each institution to institutional  
7 personnel and their families;

8 6. To provide for the education, training, vocational  
9 education, rehabilitation, and recreation of prisoners;

10 7. To regulate the operation of canteens for prisoners;

11 8. To prescribe rules for the conduct, management, and  
12 operation of each institution, including rules for the demeanor of  
13 prisoners and punishment of recalcitrant prisoners or the treatment  
14 of incorrigible prisoners;

15 9. To transfer prisoners from one institution to another;

16 10. To transfer to a state hospital for the mentally ill for  
17 care and treatment, any prisoner who appears to be mentally ill.

18 Said prisoner shall be returned to the institution when the  
19 superintendent of the hospital certifies that the prisoner has been  
20 restored to mental health;

21 11. To maintain courses of training and instruction for  
22 employees at each institution;

23 12. To maintain a program of research and statistics;

1       13. To provide for the periodic audit, at least once annually,  
2 of all funds and accounts of each institution and the funds of each  
3 prisoner;

4       14. To provide, subject to rules ~~and regulations~~ established by  
5 the State Board of Corrections, for the utilization of prison labor  
6 for any agency of the state, city, town, or subdivision of this  
7 state, upon the duly authorized request for such labor by said  
8 agency. Said labor shall not be used to reduce employees or replace  
9 regular maintenance or operations of the agency. The labor shall be  
10 used solely for public or state purposes. Any such prison labor  
11 shall not be used for private use or purpose. Insofar as it is  
12 practicable, all such prison labor shall be of such a nature and  
13 designed to assist and aid in the rehabilitation of inmates  
14 performing the labor;

15       15. To provide clerical services for, and keep and preserve the  
16 files and records of, the Pardon and Parole Board; make  
17 investigations and inquiries as to prisoners at the institutions who  
18 are to be, or who might be, considered for parole or other clemency;  
19 assist prisoners who are to be, or who might be, considered for  
20 parole or discharge in obtaining suitable employment in the event of  
21 parole or discharge; report to the Pardon and Parole Board, for  
22 recommendation to the Governor, violations of terms and conditions  
23 of paroles; upon request of the Governor, make investigations and

1 inquiries as to persons who are to be, or who might be, considered  
2 for reprieves or leaves of absence; report to the Pardon and Parole  
3 Board, for recommendation to the Governor, whether a parolee is  
4 entitled to a pardon, when the terms and conditions of ~~his~~ parole  
5 have been completed; make presentence investigations for, and make  
6 reports thereof to, trial judges in criminal cases before sentences  
7 are pronounced; supervise persons undergoing suspended sentences, or  
8 who are on probation or parole; and develop and operate, subject to  
9 the policies and guidelines of the Board, work-release centers,  
10 community treatment facilities or prerelease programs at appropriate  
11 sites throughout this state; ~~and~~

12 16. To conduct continual planning and research and periodically  
13 evaluate the effectiveness of the various correctional programs  
14 instituted by the Department; manage the designing, building, and  
15 maintaining of all the capital improvements of the Department;  
16 establish and maintain current and efficient business, bookkeeping,  
17 and accounting practices and procedures for the operations of all  
18 institutions and facilities, and for the Department's fiscal  
19 affairs; conduct initial orientation and continuing in-service  
20 training for the Department employees; provide public information  
21 services; inspect and examine the condition and management of state  
22 penal and correctional institutions; investigate complaints  
23 concerning the management of prisons or alleged mistreatment of

1 inmates thereof; and hear and investigate complaints as to  
2 misfeasance or nonfeasance of employees of the Department;

3 17. To operate and manage private prison facilities not owned  
4 by the Department as approved by the State Board of Corrections; and

5 18. To assign and train staff, whether state employees or  
6 private employees, to perform duties within a private prison  
7 facility under contract with the Department of Corrections for  
8 management as authorized by Section 504 of this title.

9 B. When an employee of the Department of Corrections has been  
10 charged with a violation of the rules of the Department or with a  
11 felony pursuant to the provisions of a state or federal statute, the  
12 Director may, ~~in his~~ at the director's discretion, suspend the  
13 charged employee, in accordance with the Oklahoma Personnel Act  
14 and/or the Merit System of Personnel Administration Rules, pending  
15 the hearing and final determination of the charges. Notice of  
16 suspension shall be given by the Director, in accordance with the  
17 provisions of the Oklahoma Personnel Act. If after completion of  
18 the investigation of the charges, it is determined that such charges  
19 are without merit or are not sustained before the Oklahoma Merit  
20 Protection Commission or in a court of law, the employee shall be  
21 reinstated and shall be entitled to receive all lost pay and  
22 benefits.

1           This subsection shall in no way deprive an employee of the right  
2 of appeal according to the Oklahoma Personnel Act, Section 840-6.5  
3 of Title 74 of the Oklahoma Statutes.

4           SECTION 3. This act shall become effective November 1, 2000.

5 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-23-00 - DO  
6 PASS, As Amended and Coauthored.