

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 2139

By: Leftwich

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5  
6 AS INTRODUCED

7 An Act relating to corrections; amending 57 O.S.  
8 2001, Sections 215, 216, 217, 218, 219, 220, 221, and  
9 222, which relate to Prisoner Public Works Act;  
10 modifying references; clarifying certain authority  
11 for public works projects; assigning certain  
12 responsibilities to the Director of Corrections;  
13 expanding eligible entities; modifying definition;  
14 allowing certain crews or teams; expanding work  
15 project types; limiting rules and charges;  
16 encouraging projects; construing use of convict  
17 labor; requiring certain medical and liability  
18 waiver; authorizing removal and reinstatement of  
19 earned credits for disciplinary sanction; expending  
20 use of labor on certain property for public purpose;  
21 adding penalty for first violation; providing an  
22 effective date; and declaring an emergency.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. AMENDATORY 57 O.S. 2001, Section 215, is  
amended to read as follows:

Section 215. This ~~act~~ Section through Section 222 of this title  
may be cited as the Prisoners Public Works Act.

SECTION 2. AMENDATORY 57 O.S. 2001, Section 216, is  
amended to read as follows:

1 Section 216. In ~~this act~~ the Prisoner Public Works Act, unless  
2 the context otherwise requires:

3 1. "Director" shall mean the Director of the State Department  
4 of Corrections.

5 2. "Public works project" means a project that has been  
6 determined by the ~~Board of Corrections~~ Director of the Department of  
7 Corrections to be of necessity for the public well-being conducive  
8 to inmate labor and employment, rehabilitation ~~and~~ or the reduction  
9 of recidivism among participating inmates which has been requested  
10 by ~~the written request of~~ a majority of the board of county  
11 commissioners, the governing body of any municipality, a public  
12 school principal or superintendent, a community representative, a  
13 neighborhood association, or any agency of the State of Oklahoma or  
14 of the United States or any subdivision thereof.

15 3. "Prisoner" shall mean any person who is under the custody  
16 ~~and~~ or control of the Department of Corrections, and shall include  
17 persons sentenced to probation, parole, community sentencing, and  
18 drug court. No prisoner shall be assigned to any public works  
19 project if the inmate:

- 20 a. is deemed by the Director to be a an imminent physical  
21 threat to public safety,
- 22 b. has escaped or attempted to escape from a correctional  
23 institution within the last ten (10) years, or  
24

1 c. ~~has been convicted, whether upon a verdict or plea of~~  
2 ~~guilty or upon a plea of nolo contendere, or received~~  
3 ~~a suspended sentence or any probationary term for a~~  
4 ~~crime or an attempt to commit a crime provided for in~~  
5 ~~Section 7115 of Title 10 of the Oklahoma Statutes if~~  
6 ~~the offense involved sexual abuse or sexual~~  
7 ~~exploitation as those terms are defined in Section~~  
8 ~~7102 of Title 10 of the Oklahoma Statutes or Section~~  
9 ~~741, 843.1, if the offense included sexual abuse or~~  
10 ~~sexual exploitation, 865 through 869, 885, 886, 888,~~  
11 ~~891, 1021, 1021.2, 1021.3, 1040.13a, 1040.51, 1087,~~  
12 ~~1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma~~  
13 ~~Statutes~~ of any offense required to be registered  
14 pursuant to the Oklahoma Sex Offender Registration  
15 Act.

16 SECTION 3. AMENDATORY 57 O.S. 2001, Section 217, is  
17 amended to read as follows:

18 Section 217. ~~Upon approval by the Board of Corrections, the~~ The  
19 Director of the Department of Corrections shall determine which  
20 prisoners shall be eligible for ~~said public project~~ projects  
21 pursuant to the Prison Public Works Act and security classification  
22 levels, and shall establish and may modify lists of prisoners,  
23 probationers, community sentenced offenders and drug court offenders  
24 who may have special skills for ~~the said public~~ projects. The drug

1 court and community sentencing judges may form work crews and teams  
2 of persons eligible for work under the Prisoners Public Works Act.  
3 The Probation and Parole Division may also form work crews or teams  
4 for public projects composed of persons without gainful employment,  
5 persons in need of work experience, or as a disciplinary sanction.  
6 Upon the approval of ~~said~~ a project by the ~~Board of Corrections~~  
7 Director, the Director may send to the place and at the time  
8 designated the number of prisoners, probationers, community  
9 sentenced or drug court offenders mutually agreed upon as necessary  
10 for the timely completion of ~~said~~ the project. The Director shall  
11 give primary consideration to, but shall not be limited to the  
12 following types of public projects:

- 13 1. School and school grounds improvement;
- 14 2. Ice and snow removal;
- 15 3. Road and street work;
- 16 4. Trash and debris pickup;
- 17 5. Damage remediation and restoration from weather and natural  
18 disasters;
- 19 6. Set up and cleanup of public events, including, but not  
20 limited to, state, county and city fairs, sporting events, parades,  
21 seasonal activities, and other events to which the public is  
22 invited;
- 23 7. City, county or state beautification projects, improvement  
24 and renovation efforts; and

1        8. Neighborhood and community projects that serve a public  
2 purpose including, but not limited to, beautification projects,  
3 assistance projects in low income or gang suppressed communities,  
4 construction projects, restoration or removal of dilapidated  
5 structures or houses, and graffiti removal.

6        SECTION 4.        AMENDATORY        57 O.S. 2001, Section 218, is  
7 amended to read as follows:

8        Section 218. The Department of Corrections may contract with  
9 any requesting public agency or requestor to provide inmate labor  
10 for public works projects or projects where the public will be  
11 substantially benefited, including work on private property for a  
12 public purpose as authorized in Section 222 of this title. The  
13 Department of Corrections shall promulgate and adopt rules which may  
14 require the requesting agency for the public works project to pay up  
15 to the base cost plus ten percent (10%), on a monthly billing. The  
16 rules shall provide guidelines which establish the criteria for how  
17 ~~said~~ the charges are determined and the amounts the agencies are to  
18 be charged. The requesting agency or entity shall furnish all tools  
19 and materials, unless otherwise agreed upon, necessary in the  
20 performance of ~~said~~ the public works project. The prisoner or  
21 probationer, community sentenced offender or drug court offender,  
22 while assigned on ~~said~~ a public works project, shall, for the  
23 purpose of punishment for escape, be deemed to be on a trusty status  
24 and shall be under the custody and control of the Department of

1 Corrections. The rules, charges, and any materials and equipment  
2 requirements shall not be more than is necessary to facilitate use  
3 of convicted persons in work projects within the community.

4 SECTION 5. AMENDATORY 57 O.S. 2001, Section 219, is  
5 amended to read as follows:

6 Section 219. The Director shall have full jurisdiction at all  
7 times over the discipline and control of ~~prisoners~~ persons  
8 performing work under ~~this article~~ the Prisoners Public Works Act.

9 SECTION 6. AMENDATORY 57 O.S. 2001, Section 220, is  
10 amended to read as follows:

11 Section 220. ~~This act~~ The Prisoners Public Works Act is not  
12 intended to restore, in whole or in part, the civil rights of any  
13 confined prisoner used hereunder and ~~said~~ the act shall not be so  
14 construed. The use of convicted persons under the provisions of the  
15 Prisoners Public Works Act for manual labor shall not grant any  
16 right to liberty or reduction in any term or condition of the  
17 sentence; provided, however, any person successfully performing in  
18 public works projects repeatedly and demonstrating progress towards  
19 pro social behavior may be provided further opportunity to be  
20 involved, or allowed other privileges commensurate with the security  
21 level of such person. No prisoner so used shall be considered as an  
22 employee of the requesting agency; nor shall any such prisoner come  
23 within any of the provisions of the Labor Code or be entitled to any  
24 benefits thereunder whether on behalf of ~~himself~~ self or that of any

1 other person. All persons working on any public works project shall  
2 sign a medical waiver and liability release for all participating  
3 parties.

4 SECTION 7. AMENDATORY 57 O.S. 2001, Section 221, is  
5 amended to read as follows:

6 Section 221. Whenever a ~~prisoner~~ convicted person willfully  
7 violates rules ~~and regulations~~ for the public works project as  
8 promulgated by the Director, the Director may, after proper hearing,  
9 determine what portion, if any, of the time credits earned shall be  
10 forfeited. The Director shall use only those sanctions measured  
11 against the circumstances that are sufficient to discourage the  
12 person and any others similarly situated from attempting or  
13 repeating the prohibited behavior. Earned credits removed as a  
14 disciplinary sanction may be restored as provided in the rules  
15 promulgated for the Prisoners Public Works Act.

16 SECTION 8. AMENDATORY 57 O.S. 2001, Section 222, is  
17 amended to read as follows:

18 Section 222. A. It shall be unlawful to use prisoners assigned  
19 to ~~said~~ the public works project on any private property ~~other than~~  
20 ~~public property, except that inmate~~ for a private purpose. However,  
21 prisoners, probations, community sentenced and drug court offenders  
22 may supply manual labor may be used on private property for a public  
23 purpose or a substantially public purpose.

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1 B. As used in this section "public purpose" means a purpose  
2 affecting the inhabitants of the state or political subdivision  
3 utilizing the ~~inmate~~ labor, as a group, and not merely as  
4 individuals. The work performed shall be essentially public and for  
5 the general good of the inhabitants of the state or its political  
6 ~~subdivision~~ subdivisions, including cities, towns, communities and  
7 neighborhoods, and may include eradication of graffiti on private  
8 buildings, removal of trash, grass, weeds or debris around private  
9 structures, demolition, repair or boarding up of private structures,  
10 and beautification of common areas or whole neighborhoods in gang or  
11 low income areas where such beautification prevents crime or  
12 enhances public safety. For purposes of this section:

13 1. "Graffiti" shall ~~include~~ includes but is not be limited to  
14 any inscription, slogan or drawing, crudely scratched, drawn,  
15 printed, painted or scribbled on a wall or other surface visible to  
16 the public ~~and~~ of which is likely to endanger the health or safety  
17 of the public or encourage more graffiti or any gang activity.

18 Provided, however, that this definition shall never be construed to  
19 include any sign or advertising device lawfully erected or installed  
20 by the owner of property or ~~his~~ a lessee or authorized agent;

21 2. "Owner" means the owner of record as shown by the most  
22 current tax rolls of the county treasurer.

23 C. The purpose of the work performed shall may be to aid the  
24 federal government, a state agency or a political subdivision,

1 utilizing the ~~inmate~~ labor in the exercise of a governmental  
2 function. Any person convicted of ~~willfully~~ violating the  
3 provisions of this section shall be guilty of a misdemeanor on a  
4 first offense and a felony for any second or subsequent offense of  
5 using prison labor for a private purpose.

6 SECTION 9. This act shall become effective July 1, 2008.

7 SECTION 10. It being immediately necessary for the preservation  
8 of the public peace, health and safety, an emergency is hereby  
9 declared to exist, by reason whereof this act shall take effect and  
10 be in full force from and after its passage and approval.

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