

SUBCOMMITTEE NO. 3

Agenda

Senator Ellen Corbett, Chair
Senator William Monning
Senator Mike Morrell



OUTCOMES

Monday, May 19, 2014
1:00 p.m. or Upon Adjournment of Session
State Capitol Room 4203

Agenda Part A

Consultant: Julie Salley-Gray

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PROPOSED FOR VOTE ONLY**4440 Department of State Hospitals (DSH)**

1. **Enhanced Treatment Units (ETU) Capital Outlay.** The Governor's budget requests \$1.5 million in General Fund for DHS and the Department of General Services (DGS) to prepare an analysis, estimate, and infrastructure design for the development of 44 locked ETUs in the five state hospitals. [See April 3, 2014 subcommittee agenda for details on this proposal.]

Action: Reject Vote: 2 – 1 (Morrell: No)

2. **Salinas Valley and Vacaville Psychiatric Programs.** DSH is requesting authority to continue operating an additional 137 beds at Salinas Valley and Vacaville (beyond the bed migration plan), at a cost of \$13.3 million in the current year (to be funded with savings from the delayed activation of beds at the Stockton program) and \$26.3 million General Fund in 2014-15 (and on-going). DSH requests these resources to permanently maintain 204.3 existing positions at Salinas Valley and Vacaville. [See April 3, 2014 subcommittee agenda for details on this proposal.]

Action: Approve Vote: 3 – 0

3. **Patient Management Unit.** The budget includes \$1.1 million General Fund and 10 two-year limited-term positions to establish a patient management unit to centralize admissions and transfers of patients throughout the state hospital system. [See April 3, 2014 subcommittee agenda for details on this proposal.]

Action: Approve Vote: 3 – 0

4. **Incompetent to Stand Trial Waiting List.** The budget proposes \$7.87 million General Fund for the current year (2013-14) and \$27.8 million General Fund for 2014-15, to increase bed capacity by 105 beds to address the waiting list specific to IST patients.

Specifically, DSH is proposing three new units with 35 beds each, anticipating activation of the first unit in March 2014, the second in May 2014, and the third in July 2014. DSH proposes to use savings realized from delays in the activation of the Stockton facility for the current year costs. [See April 3, 2014 subcommittee agenda for details on this proposal.]

Action: Reject Vote: 2 – 1 (Morrell: No)

ITEMS TO BE HEARD**0540 Health and Human Services Agency****Issue 1: Office of Investigations and Law Enforcement Support**

May Revise Proposal. The May Revision includes \$1.8 million (\$1.2 million General Fund and \$600,000 in reimbursements) for nine positions to create an Office of Investigations and Law Enforcement Support within the Health and Human Services Agency. The purpose of this office is to provide support and oversight for the public safety officers currently working within the state hospitals and developmental centers.

Legislative Analyst's Office (LAO):

The LAO believes that both Department of Developmental Services (DDS) and Department of State Hospitals (DSH) would benefit from increased oversight and training, but they have several questions and concerns about the proposal that should be considered. Given the compressed timeframe of the May revision, there is insufficient time to fully assess the proposal or to fully analyze potential alternatives. While they recognize the importance of these issues, they recommend that the Legislature reject this request at this time and require the administration to return in January with a proposal that addresses the questions and concerns listed below.

Differences in Populations Served by DSH and DDS. *The populations served by DSH and DDS are quite different and the issues the departments face can be unique. For example, in contrast to DDS, DSH serves a largely forensic population. How does this proposal serve the unique needs of each department? Would a proposal that provides separate offices for each department better serve their unique needs?*

Creation of Agency-Level Office. *The agency has noted that Atascadero State Hospital has an exemplary training program for DSH law enforcement staff. Why does the proposal create a new office at the Agency level, rather than scaling the Atascadero program to DSH statewide? Is it possible for these training services to be provided at the department level?*

Office of the Inspector General (OIG). *The OIG has audit and oversight experience related to both custody and clinical care, particularly through their management of state prison medical audits. In 2013-14, the LAO recommended an OIG for DDS. Did the Agency consider having the Office of the Inspector General provide audit and oversight services for DSH? Did the agency consider creating an OIG for DDS? Why is the current proposal preferable to having an OIG provide audit services for DSH and DDS?*

Limited Scope. *The current proposal includes oversight for law enforcement personnel and issues of serious misconduct; all other oversight will continue to be provided by the department-level staff. Why is this proposal limited to law enforcement staff, excluding issues of clinical competence? Wouldn't this leave a serious gap in accountability.*

Conflict of Interest. *Under the current proposal, the office would provide both training and audit services. They are concerned that this could create a conflict of interest. If the office provides training to staff, it would be in its interest to not identify problems with employees' performance, once they have been trained. How will the proposal address that potential conflict?*

Staff Recommendation: Hold Open

4440 Department of State Hospitals**Issue 2: Restoration of Competency Expansion**

May Revise Proposal. The Governor's May Revision includes an increase of \$3.9 million General fund and 13.5 positions to expand the restoration of competency program (ROC) by 45 to 55 beds.

Background. Expanding this program, which allows people who have been deemed incompetent to stand trial (IST) by reason of insanity to receive mental health services in the county jail, rather than being transferred to a state hospital, should help to reduce the IST waiting list for those who are waiting for space to open up in a state hospital.

Currently, two counties, Riverside and San Bernardino, have a restoration of competency program. The proposed augmentation would expand the ROC program to Los Angeles and Alameda counties. Currently, the ROC program is only available in a county jail setting and not in community mental health facilities.

Legislative Analyst's Office Recommendation (LAO). The LAO recommends modifying this proposal. While they do not have concerns with the funding for the expansion, they would recommend that the Legislature include budget bill language specifying that, if the department is unable to contract for the approved ROC capacity, unused funds would be reverted to the General Fund.

Staff Comments. The annual cost of the ROC program is approximately \$78,000 per bed, as opposed to an IST bed in a state hospital that costs approximately \$265,000 per year. Given the significant general fund savings associated with the ROC program, the Legislature may wish to consider expanding the number of ROC beds. As noted above, the program is only being offered in two county jails and, under this proposal, would be expanded to two more. However, even with the expansion, the ROC program will have less than 100 beds state-wide. In addition, patients' rights advocates express concern about expanding a program that treats mentally ill individuals in county jails. Given the limited capacity and the concerns of the advocates, the Legislature should consider expanding the program to allow community-based, mental health treatment providers with residential programs to participate in the ROC program.

Action: Augment the proposal by \$8.2 million, adopt draft placeholder trailer bill expanding the restoration of competency program to include both county jails and community-based residential mental health programs, and adopt budget bill language stating that any unspent funds will revert to the General Fund.

Vote: 2 – 0

Issue 3: Independent Staffing Analysis and Assessment of Current Capacity

Background. According to an analysis from the Legislative Analyst's Office (LAO), in recent years, there has been a significant mismatch between the size of the population DSH is funded to serve and the number of patients actually in the hospitals. This is because while DSH has received funding increases in recent years to support additional beds, the department has not been able to activate the planned beds at the rate expected—resulting in much lower-than-expected growth in the patient population. DSH has consistently maintained a smaller population than beds for which it is budgeted to support. In total, DSH is currently budgeted for 616 more beds than it has patients. Specifically, the department is over-budgeted by 365 beds in state hospitals and 251 beds in the psychiatric programs at correctional institutions. Despite this, the department has not reverted unused funds to the General Fund at the end of the year.

As discussed at the April 3, 2014, subcommittee hearing, despite DSH being budgeted for more beds than they need, the state hospitals have seen an increase in waiting lists for forensic patients. The largest waiting lists are for Incompetent to Stand Trial (IST) patients and *Coleman* commitments. As of May 12, 2014, there were 328 IST and 74 *Coleman* patients awaiting placement in DSH facilities. In an effort to reduce the waiting lists, the 2013-14 budget provided \$22.1 million to increase treatment capacity for IST patients and Mentally Disordered Offenders (MDOs) by 155 beds.

Action: Adopt the LAO recommendation to require the department to develop a proposal by January 10, 2015, to contract for an independent staffing analysis to determine the appropriate staffing level for each of the five hospitals and three programs. The staffing ratios should be based on licensing requirements, clinical need, necessary bed vacancies, and other factors as deemed appropriate by the independent assessor.

In addition, adopt the following draft supplemental reporting language:

Item 4440-001-0001

1. **Population and Personal Services Adjustments.** On or before March 1, 2015, the Department of State Hospitals (DSH) shall submit to the Joint Legislative Budget Committee a report assessing the department's funding needs for additional patient capacity. The report shall include the following information:
 - (a) A detailed analysis of the number of beds in all state hospitals and psychiatric programs broken out by licensure, acuity level, and patient type.
 - (b) An accounting of the one-year average and current number of licensed, budgeted, occupied, and vacant beds by licensure, acuity level, and patient type.
 - (c) A detailed analysis and explanation of the discrepancy between the number of licensed, budgeted, occupied, and vacant beds, including an

accounting of how funds budgeted for vacant beds were used including whether such funds were reverted to the General Fund.

- (d) A proposal for an independent staffing and population analysis. The requested analysis shall include an assessment of appropriate clinical and security staffing ratios for each hospital, psychiatric program, and patient type; necessary number of beds by licensure, acuity, and patient type; necessary bed vacancy rates; and other factors as deemed necessary or appropriate by the independent assessor.

Vote: 3 – 0