

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



PART B

Wednesday, May 21, 2014, 10:00 a.m.
State Capitol - Room 113

Consultant: Julie Salley-Gray

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PROPOSED FOR VOTE ONLY**5225 Department of Corrections and Rehabilitation**

1. **Statewide Capital Outlay Budget Packages and Advanced Planning.** The Governor's budget proposes \$500,000 (General Fund) to support workload associated with planning capital outlay projects at youth and adult correctional facilities. This workload typically consists of site assessments, environmental reviews, and the development of scope, cost, and schedule projections.
2. **SB 105 Adjustment (Including Recidivism Reduction Fund).** The May Revision includes a decrease of \$26.8 million to reflect a decrease in the projected adult inmate contract bed need for 2014-15. As a result of this adjustment, the May Revision includes an increase of \$9.9 million in the Recidivism Reduction Fund, bringing total funding to \$91 million.
3. **Workers' Compensation Shortfall.** The Governor's budget includes a one-time \$75 million (General Fund) augmentation to address the California Department of Corrections and Rehabilitation's (CDCR) rising workers' compensation costs. From 2009-10 to 2012-13, CDCR's workers' compensation costs grew by nearly \$90 million due to increases in open claims, cost-of-living adjustments, retirement and medical benefits, and State Compensation Insurance Fund fees.
4. **Custody Relief.** The Governor's January budget proposes to change the methodology CDCR uses to calculate the relief factor. Under the proposal, the relief factor would be calculated based solely on statewide actual leave usage rather than a combination of actual leave usage and accrual rates. In addition, the proposed methodology would incorporate types of leave (such as furlough days) that are not accounted for in the current relief factor. These changes result in the need for an additional \$9 million in General Fund support and 84 positions in 2014-15. Under the Governor's proposal, the relief factor would be adjusted annually based on updated data on actual usage of staff leave in the prior year.
5. **Adult Population Adjustments.** The May Revision includes an increase of \$5.3 million General Fund in 2013-14 and \$4.2 million General Fund in 2014-15 for costs directly related to adult inmate and parole population changes. The revised average daily population projections for adult inmates are 134,214 in 2013-14 (a decrease of 771 inmates below the Governor's January budget) and 136,530 in 2014-15 (a decrease of 1,258 inmates below the Governor's January budget). The revised average daily parolee population projection is 47,247 in 2013-14 (an increase of 1,313 parolees above the Governor's January budget) and 41,866 in the budget year (an increase of 5,214 parolees above the Governor's January budget).

6. **Juvenile Population Adjustments.** The May Revision includes a decrease of \$271,000 General Fund in 2013-14 and an increase of \$258,000 General Fund in 2014-15 for juvenile population adjustments. The revised average daily population projections for wards are 707 in the current year (a decrease of four wards below the Governor's January budget) and 656 in the budget year (an increase of 11 wards over the Governor's January budget).
7. **Technical Amendments to SB 1022 Statutes.** The Governor's spring finance letter requests an amendment to the Government Code that would allow counties with awards from multiple lease revenue bond jail financing programs to enter into leases and agreements with either CDCR or the Board of State and Community Corrections.
8. **Community Corrections Performance Incentive Grant Funding.** The May Revision requests a reduction of \$3.5 million in funding for the Community Corrections Performance Incentive Grants based on updated caseload data.

0250 Judicial Branch

9. **Technical Adjustment to Reduce Excess Expenditure Authority.** The May Revision requests a \$2 million reduction in the Judicial Council's expenditure authority.

0280 Commission on Judicial Performance

10. **Rent Increase.** The May Revision requests a \$40,000 General Fund increase to reflect the increased rent costs for the Commission on Judicial Performance.

0855 California Gambling Control Commission

11. **Indian Gaming Revenue Sharing Trust Fund Transfer.** The May Revision requests the authority for the California Gambling Control Commission to increase the revenue contribution to the Indian Gaming Revenue Sharing Trust Fund in order to fulfill the quarterly payment obligations to non-gaming and limited gaming tribes.

ITEMS TO BE HEARD

5227 Board of State and Community Corrections

Issue 1: Realignment Funding Allocation Formula

Background. Under public safety realignment, the state requested that counties allocate criminal justice realignment funds among themselves. To this end, the California State Association of Counties (CSAC) asked the County Administrative Officers Association of California (CAOAC) to develop an AB 109 allocation formula. CAOAC created a Realignment Allocation Committee in 2011 composed of nine members, all CAOs. Three each came from urban, suburban, and rural counties.

Because the policy was so far-reaching and the committee's timeframe was short, and also because so much information was as yet unknown, the committee decided that the initial formula should be temporary and only apply to the first nine months of the operation of AB 109 (October 2011 through June 2012). The committee then developed subsequent short term formulas and has been tasked with developing a permanent formula for 2015-16. The committee has worked for over a year on the permanent formula and intends to complete their work late this summer.

Under current law, the formula is presented to the Department of Finance for their review and approval. The Legislature does not have a role in approving the final funding allocation formula.

Issue 2: City Law Enforcement Grants

May Revision Proposal. The May Revision includes a \$12.5 million General Fund augmentation to the existing law enforcement grant program. This increase brings the funding total to \$40 million. The grants are administered by the Board of State and Community Corrections (BSCC) and are intended for frontline law enforcement activities.

Background. The 2012 budget act established a three-year, \$20 million per year, grant program to help local law enforcement to mitigate the impact on cities from the economic downturn. The initial \$20 million funding has been raised in subsequent budget proposals. As noted above, the Governor's request would increase the 2014-15 funding to \$40 million and total funding for the three years would be \$91 million.

Legislative Analyst's Office (LAO). The LAO recommends rejecting this proposal for several reasons. According to DOF, the primary purpose of the grant program is to provide additional financial assistance to local law enforcement agencies that have reduced services as a result of economic decline. Despite this justification, the

Administration does not provide a rationale for why this funding amount is appropriate. For example, it is unclear how much additional service city law enforcement should be providing. Moreover, the LAO notes that these funds could be used to supplant current local funding. This would result in the funding burden being shifted to the state without necessarily increasing the level of police services. Additionally, it is unclear how the funds will be allocated as distribution of the funds has been delegated to the California Police Chief's Association.

Issue 3: Post Release Community Supervision (PRCS)

May Revision Proposal. The May Revision includes an increase of \$11.3 million General Fund to be allocated to county probation departments for the temporary increase in the PRCS caseload due to the federal court-ordered changes in the calculation of credit earnings for individuals who are serving terms for non-violent, non-sex offense second strikes. The May Revision assumes an increase in the PRCS caseload of 216 in 2013-14, and 819 in 2014-15, due to this change in policy.

Justification. The February 10, 2014 federal court order increased credit earnings for non-violent, non-sex second strikers, increasing credits from 20 percent to 33.3 percent. Under 2011 Realignment, inmates with non-violent and non-serious offenses are released onto post release community supervision under the jurisdiction of counties. While the initial intent was to retain these offenders on parole until they otherwise would have been released, law enforcement concurs that it is in the best interest of public safety for these offenders to be under the supervision of one jurisdiction for the length of their supervision term. The statewide post release community supervision average daily population impact is estimated to be 216 in 2013-14 and 819 in 2014-15.

Legislative Analyst's Office. The LAO recommends rejecting this proposal for several reasons. While these early inmate releases will increase the PRCS population, it is unclear whether the PRCS population in 2014-15 will be larger than originally projected. This is because, in prior years, data collected by the Chief Probation Officers of California (CPOC) suggest that actual PRCS populations were well below original projections. For example, counties expected to manage a population of 46,500 PRCS offenders in 2012-13, but CPOC data suggest that the actual PRCS population was only about 33,000. In addition, the expected increase in PRCS populations is not the product of new offenders being placed on PRCS; rather it is the result of offenders being released to PRCS ahead of schedule. Despite this, the Administration does not propose reducing future allocations to counties to account for the corresponding drop in the PRCS population, meaning that this proposal will result in counties being effectively being paid twice for these offenders. Finally, the 2011 realignment legislation did not envision the state providing counties funding based on actual caseloads. As such, this proposal is not consistent with the original intent of the legislation.

Issue 4: Executive Steering Committee for YOBG reporting

Trailer Bill Language. The Governor's January budget proposal includes trailer bill language creating an executive steering committee at BSCC to develop language that would streamline and potentially consolidate these reporting requirements for the Juvenile Justice Crime Prevention Act (JJCPA) and the Youthful Offender Block Grant (YOBG) programs, as well as make the reported information more useful for stakeholders at both the state and local level.

Background. As discussed during the May 8th subcommittee hearing, experts in the field of juvenile justice in California have long pointed out the serious lack of information and data on the youth in the state and local juvenile justice systems. Within the BSCC is a Juvenile Justice Standing Committee (JJSC). The 13 member committee includes juvenile justice practitioners and experts representing courts, law enforcement, probation, education, health, philanthropy, youth service, and related disciplines. The members of the JJSC created a set of guiding principles. Among those principles was the need to establish performance outcomes to measure program effectiveness and that data, including data on caseloads and case outcomes, should be maintained and reported in a consistent and accessible manner at the local and state levels.

Issue 5: Alternative Custody Program for Women

Trailer Bill Language. The Governor's January budget proposal includes trailer bill language allowing county sheriffs or county directors of correction to establish Alternative Custody Programs (ACP) for female inmates at the county level.

Background. Under the ACP program, eligible female inmates, including pregnant inmates or inmates who were the primary caregivers of dependent children, are allowed to participate in lieu of their confinement in state prison. Through this program, female inmates may be placed in a residential home, a nonprofit residential drug-treatment program, or a transitional-care facility that offers individualized services based on an inmate's needs. The program focuses on reuniting low-level inmates with their families and reintegrating them back into their community.

CDCR implemented ACP on September 12, 2011. Since its inception, 345 women have participated in the program and an additional nine women are currently awaiting transfer into the program. As of February 25 of this year, the daily population was 77 women. There are currently 287 women in various stages of the application process. Approximately one-third of those women will be deemed eligible; the remainder will most likely be disqualified because of their offenses. Of the 345 participants to date, 39 have been returned to prison due to their behavior in the community or for committing new crimes.

5225 Department of Corrections and Rehabilitation

Issue 6: California Health Care Facility (CHCF) Custody Staffing

May Revision Proposal. The May Revision includes an increase of \$12.5 million General Fund to address problems raised by the federal healthcare receiver around plant operations, food services, and custody staffing.

Background. The California Health Care Facility (CHCF) was designed and constructed to be a state-of-the-art medical facility that would provide care to inmates with high medical and mental health care needs. The construction of CHCF was completed in July 2013 and the receiver and CDCR began shifting inmates to the new hospital facility. The facility provides about 1,800 total beds including about 1,000 beds for inpatient medical treatment, about 600 beds for inpatient mental health treatment, and 100 general population beds. The CHCF cost close to \$1 billion to construct and has an annual operating budget of almost \$300 million.

Almost immediately after activation began, serious problems started to emerge. Reports suggested that there was a shortage of latex gloves, catheters, soap, clothing, and shoes for the prisoners. In addition, over a six-month period, CHCF went through nearly 40,000 towels and washcloths for a prison that was housing approximately 1,300 men. Investigations by officials at the facility found that the linens were being thrown away, rather than laundered and sanitized. In addition, the prison kitchen did not pass the initial health inspections, resulting in the requirement that prepared meals be shipped in from outside the institution. The problems were further compounded by staffing shortages and a lack of training. For example, a lack of training for nurses on the prison's bedside call system may have contributed to the death of an inmate in January. In addition, early this year, the prison suffered from an outbreak of scabies which the receiver's office attributes to the unsanitary conditions at the hospital.

In February of this year, the receiver closed down intake at the facility and stopped admitting new prisoners. In addition, the receiver delayed the activation of the neighboring DeWitt-Nelson facility, which is designed to house inmate labor for CHCF, mentally ill prisoners, and prisoners with chronic medical conditions who need on-going care.

Prior Subcommittee Action. On May 1, 2014, the subcommittee received an update from CDCR, and the health care receiver on the activation of both CHCF and the DeWitt correctional facility. No action was taken at that time.

Legislative Analyst's Office (LAO). The LAO recommends rejecting this proposal unless CDCR is able to provide additional information regarding savings from delayed activation of CHCF. While the requested funding level assumes that CHCF will be fully occupied for the entire 2014-15 budget year, there have been significant activation delays at CHCF that make this unlikely. For example, CDCR's most recent activation

schedules indicates that Facility E will have an average population of 10 percent less than design capacity which could result in several million dollars in savings in 2014-15. In addition, the receiver has indefinitely suspended intake at Facilities C and D which is likely to result in further budget year savings. The LAO is also concerned that CDCR has also not provided a detailed accounting of how it used the savings from delays in the activation of CHCF in the 2013-14 fiscal year. The LAO recommends that the Legislature direct the department to provide an updated estimate of the savings that will result from the continuing delays in the activation of CHCF and that it adjust this proposal accordingly.

Issue 7: Conversion of Licensed Health Care Beds

May Revision Proposal. The May Revision includes a decrease of \$1.9 million General fund (\$5.6 million on-going) due to downgrading 420 in-institution licensed general acute care hospital or intermediate care facility beds to correctional treatment center beds.

The proposal requests converting General Acute Care Hospital (GACH) and Intermediate Care Facility (ICF) programs to more a more cost effective Correction Treatment Center (CTC) program at California State Prison – Corcoran, California Men’s Colony, and California Medical Facility. This change is expected to result in converting 336 GACH licensed beds and 84 ICF licensed beds to CTC licensed beds with an on-going out-year savings of almost \$5.6 million.

Issue 8: Enhanced Drug and Contraband Interdiction and Non-Reentry Hub Substance Abuse Treatment Program

Governor’s Budget. The Governor’s budget for 2014-15 proposes an augmentation of \$14 million in General Fund support and 81 positions to expand CDCR’s interdiction program. Under the proposal, these levels would increase to \$18.5 million and 148 positions in 2015-16. The proposal consists of four separate initiatives aimed at deterring the smuggling of drugs and contraband into prison and deterring inmates from using drugs. These initiatives involve: (1) increasing from 29 to 100 the number of trained canines to detect contraband possessed by inmates; (2) increasing from 7 to 35 the number of ion scanners available to detect drugs possessed by inmates, visitors, or staff; (3) purchasing an additional 240,000 urinalysis kits to randomly drug test inmates; and (4) equipping inmate visiting rooms with video surveillance technology and requiring inmates in visiting rooms to wear special clothing intended to prevent the smuggling of drugs and other contraband.

In addition, for 2014-15, the proposal requests \$11.8 million from the Recidivism Reduction Fund and 44 positions to contract with substance abuse treatment providers to administer the program at 10 institutions that do not have a reentry hub. In 2015-16,

CDCR requests a total of 91 positions and \$23.9 million General Fund to further expand substance abuse treatment programs to the 11 remaining institutions that do not house reentry hubs.

Prior Subcommittee Action. This budget proposal was originally discussed at the subcommittee's March 27th hearing and was held open.

Issue 9: Correctional Staff Training

Budget Proposal. The Governor's budget proposal includes \$61.7 million (General Fund) and 147 positions to increase the CDCR's Basic Correctional Officer Academy capacity from 720 in 2013-14 to 3,400 in 2014-15. This augmentation will allow CDCR to fill an increasing number of vacancies in its correctional officer classification due to retirements and other attrition.

Of the \$61.7 million, the Office of Peace Officer Selection (OPOS) would receive \$14.5 million and 69 positions to recruit and process up to 32,500 applicants annually, and process the applicants through the screening process.

The Office of Training and Professional Development, under this proposal, would receive \$47.3 million and 78 positions. \$38 million of that funding would be directly related to funding the Academy.

To facilitate an increased number of cadets, the Administration proposes shifting from a 16 week academy to a 12-week academy, with the final four weeks of training provided at an institution.

Prior Subcommittee Action. This budget proposal was originally discussed at the subcommittee's March 27th hearing and was held open.

Staff Comment. The subcommittee members and staff have expressed concern with the lack of certain types of training provided in the academy such as crisis intervention, motivational interviewing, mental health staff and custody staff collaboration, the importance of rehabilitation programming, and other types of training designed to help CDCR further their mission to prepare inmates to return to their communities and to help custody staff deal with an increasingly challenging population. The subcommittee expressed further concern with the shortening of the academy from 16 weeks to 12 weeks. Toward that end, the Legislature may wish to consider expanding the annual training requirements for institutional staff.

Issue 10: CDCR Overtime and Lump Sum Payouts

Budget Proposal. The Governor's 2014-15 budget proposes \$207.2 million in General Fund support for overtime costs. This represents a slight increase from the \$201.3 million included in the 2013-14 budget for overtime costs.

The budget also proposes eliminating the separate budget item for custody overtime (Program 26) and including those overtime costs in the general custody salaries and wages budget item (Program 25).

Prior Subcommittee Action. This budget proposal was originally discussed at the subcommittee's March 27th hearing. The subcommittee rejected the Governor's proposal to eliminate Program 26. In addition, the subcommittee directed the Legislative Analyst's Office, CDCR, and the Department of Finance to determine exactly how much of the CDCR overtime budget is being used for overtime and how much is being shifted to fund worker's compensation and lump-sum salary payouts.

Issue 11: Workload Increase for Expanded Parole

May Revise Proposal. The May Revision request \$3.1 million dollars General Fund and 23.8 positions for the workload associated with expanded medical parole, implementing an elderly parole program, and establishing a parole process for non-violent, non-sex related second strikers that have served 50 percent of their sentence, and to reduce the hearing preparation timeline.

Prior Subcommittee Action. During the March 27th subcommittee hearing, the subcommittee rejected the BCP requesting funding for the workload associated with expanded parole. The proposal was rejected because the Administration informed the subcommittee that the initial proposal was a placeholder item and that they were unsure of the amount of additional funding they would need for the increased workload. This proposal represents their revised proposal and represents a decrease of approximately \$4 million.

Issue 12: California Men's Colony: Central Kitchen Replacement

Spring Finance Request. The Governor is requesting an increase of \$8,655,000 from the Public Buildings Construction Fund (lease-revenue bonds) for increased design and construction costs for the central kitchen replacement at the California Men's Colony in San Luis Obispo. In addition, the Governor is requesting the authority to re-appropriate \$15.3 million in unspent funding for working drawings and construction that was contained in the 2012 budget act.

Issue 13: AB 900 Health Care Facility Improvement Program (HCFIP)

May Revision Trailer Bill Proposal. The May Revision requests the adoption of trailer bill language to allow the use of AB 900 General Fund for the design and construction of projects in HCFIP. Essentially, the issue before the subcommittee is the Governor's request to authorize the use of unexpended bond authority (from 2007) to support the design and construction of CDCR construction projects intended to address directives outlined in the *Plata v. Brown* case on inmate medical care.

Background. HCFIP was established to perform facility assessment and identify areas of deficiency in terms of medical facilities at each institution. The assessment determined that HCFIP projects were needed at 31 institutions. Currently, 25 HCFIP projects have been established by the State Public Works Board and one project is proposed in the Governor's January budget. There are five remaining projects that have not been established and the existing expenditure authority of \$900.4 million has been fully allocated. The Administration estimates that CDCR will need approximately \$75 million in additional funding for the five remaining projects.

0250 Judicial Branch

Issue 14: Capital Outlay Spring Finance Letter

Spring Finance Letter. The Governor's spring finance letter requests an increase of \$44.6 million from the Immediate and Critical Needs Account (ICNA) for the design and construction of the Los Angeles County Mental Health Court House at the site of the Hollywood Courthouse. Renovating the Hollywood Courthouse represents a change in scope that is estimated to save approximately \$50 million.

In addition, the spring letter asks for a change in scope for the Alameda East County Hall of Justice. The change would shift the project from a lease purchase to a cash-funded acquisition. Finally, the letter asks for re-appropriations for projects in Imperial and Riverside Counties.

Issue 15: Trial Court Funding

May Revise Proposal. The May Revision includes an increase of \$60 million for trial court funding, for a total increase of \$160 million. The May Revision further revises the Governor's January proposal for trial court funding to specifically provide a five percent increase in state trial court operations, for a total increase of \$86.3 million. In addition, the May Revision includes an increase of \$42.8 million to reflect increased health benefit and retirement adjustment costs for trial court employees. Finally, the May Revision reflects a General Fund increase of \$30.9 million to account for an estimated shortfall in the Trial Court Revenue Trust Fund.

Issue 16: Rent Increases

May Revision Proposal. The May Revision requests an increase of \$2,240,000 General Fund to reflect increased rent costs for the Supreme Court, Courts of Appeal, and the Administrative Office of the Courts. This increase is based upon the Department of General Services' lease rates for state-owned buildings, as published in their annual price book.