
SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW

Senator Mark Leno, Chair

2015 - 2016 Regular

Bill No: SB 353 **Hearing Date:** May 22, 2015
Author: Nguyen
Version: February 24, 2015 Introduced
Urgency: No **Fiscal:** Yes
Consultant: Julie Salley-Gray

Subject: 2015 Realignment Legislation addressing justice reinvestment.

Summary: Establishes the Realignment Reinvestment Fund and a formula to annually calculate deposits into the fund for the purpose of providing local agencies additional funding for responsibilities resulting from the 2011 Realignment Legislation addressing public safety. For the 2015-16 fiscal year, \$1.544 billion would be transferred from the General Fund to the Realignment Reinvestment Fund.

Background: The 2011 Realignment moved programs and the ongoing fiscal responsibility for those programs to local agencies. The local agencies were also provided a dedicated revenue source along with increased control and flexibility over the realigned programs. Realigned programs include local public safety programs, mental health, substance abuse, foster care, child welfare services, and adult protective services. Many of these programs were already administered at the local level by counties.

The public safety programs realigned in the 2011 Realignment included: 1) trial court security, 2) law enforcement subvention grants, 3) juvenile justice grants (Youthful Offender Block Grant and Juvenile Reentry Grant), and 4) responsibility for certain criminal offenders as established by Chapter 15, Statutes of 2011 (AB 109). AB 109 consisted of the following primary components:

Key Features of AB 109	
Felon Incarceration	Restructured felon penalty by making specified non-violent, non-serious, non-sex offenses subject to local punishment
Post-Release Supervision	Created post release community supervision for certain offenders to be supervised locally upon release from prison
Parole Revocations	Parole revocation terms are served locally (with exception of lifers)

Funding for the 2011 Realignment was constitutionally guaranteed by Proposition 30 in 2012 and is primarily provided through 1.0625 percent of sales tax revenue (approximately \$6.6 billion in 2015-16), with a small portion coming from Motor Vehicle License Fee revenue (approximately \$546.1 million in 2015-16). Funding for the public safety-related programs included in the 2011 Realignment is displayed in the following table:

(dollars in millions)

2011 Realignment Funding (Public Safety Programs)			
	2013-14	2014-15	2015-16
Trial Court Security	\$517.8	\$535.1	\$550.3
Enhancing Law Enforcement Activities (Local Law Enforcement Subventions)	\$514.5	\$526.1	\$546.1
Community Corrections (AB 109 Programs)	\$1,072.0	\$1,061.8	\$1,175.4

District Attorney and Public Defender (related to AB 109 Programs)	\$22.0	\$24.3	\$31.9
Juvenile Justice	\$120.2	\$137.4	\$152.6
Total	\$2,246.5	\$2,284.7	\$2,456.3

Proposed Law:

1. States that this act shall be known and may be cited as the 2015 Realignment Legislation addressing justice reinvestment.
2. Establishes the Realignment Reinvestment Fund in the State Treasury. Moneys in the fund are continuously appropriated and shall be used exclusively for the purposes of this chapter.
3. Establishes that, beginning in 2016, on or after July 1, and no later than August 31 of each year, the Director of Finance shall, in consultation with the Legislative Analyst, annually calculate the net savings to the state for the immediately preceding fiscal year and the estimate of net savings for the current fiscal year resulting from the 2011 Realignment Legislation addressing public safety, as specified. Beginning in the 2016-17 fiscal year, this bill would transfer an amount equal to these net savings, plus \$453 million, from the General Fund to the Realignment Reinvestment Fund, on an annual basis.
4. Transfers, for the 2015-16 fiscal year, \$1.54 billion from the General Fund to the Realignment Reinvestment Fund.
5. Specifies that the Controller annually allocate moneys in the Realignment Reinvestment Fund, no later than September 1 of each year, to each county and city and county, for deposit in the county's or city and county's Realignment Services Account proportionately, based on the average daily population of realigned offenders under each county's supervision for the preceding fiscal year. The Controller shall consult the Board of State and Community Corrections (BSCC) to determine the average daily population (ADP) in each county.
6. Establishes a Realignment Reinvestment Services Account in each county or city and county treasury to receive all amounts allocated for the purposes of implementing this chapter.
7. Specifies that each county's local Community Corrections Partnership (CCP) shall recommend a comprehensive, locally run supplemental community-based corrections plan to the county board of supervisors. The purpose of the plan shall be to improve the outcomes of the 2011 Realignment Legislation addressing public safety.
8. Specifies that 1) each county's supplemental community based corrections plan shall identify specific objectives of the programs proposed for funding and specified outcome measures to determine the effectiveness of the programs and contain an accounting for all program participants, 2) each county or city and county shall report annually, beginning on October 15, 2016, to the county board of supervisors and the BSCC on the programs funded pursuant to this chapter and program outcomes, and 3) the BSCC shall report annually, beginning on March 15, 2017, to the Governor and Legislature on program expenditures, as specified.
9. Establishes that 1) each county's supplemental community-based corrections plan shall be voted on by an executive committee of each county's CCP, as specified, 2) if a supplemental community-based corrections plan has been previously approved, the plan shall be reviewed annually and modified as needed, and 3) the supplemental community-based corrections plan, or

modified plan, shall be deemed accepted by the county board of supervisors unless rejected by a four-fifths vote of the board.

10. Requires the Controller to allocate funds in accordance with this section, as specified, and requires local agencies to remit unspent moneys in the Realignment Reinvestment Services Account to the controller for deposit in the Realignment Reinvestment Fund.
11. Requires, beginning in 2016, and no later than May 1 of each year, the Director of Finance, in consultation with the Legislative Analyst, to develop an estimate of the cost avoidances expected to be realized by the California Department of Corrections and Rehabilitation (CDCR) in the current fiscal year that are the result of the 2011 Realignment Legislation addressing public safety and report those estimates to the Chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee. The Legislature may consider each year whether to appropriate funds in augmentation of the moneys otherwise allocated pursuant to this chapter in an amount up to and including the amount of cost avoidances reported.
12. Includes a non-supplantation provision to ensure funds deposited in the Realignment Reinvestment Services Account do not support other local programs.
13. Prohibits expenditure of funds from each county's or city and county's Realignment Reinvestment Services Account on administrative overhead in excess of one percent of each entity's allocation for that fiscal year or the cost of any capital project or construction project that does not directly support programs or activities included in the supplemental community-based corrections plan.

Fiscal Effect: This bill transfers \$1.54 billion from the General Fund to the Realignment Reinvestment Fund for expenditure by local agencies in 2015-16.

This bill also may result in additional state costs of tens of millions of dollars for required reports and other activities by local agencies that could be deemed mandates by the Commission on State Mandates.

Support:

Aaron Read & Associates, LLC
City of Santa Ana Police Department
Crime Victims United of California

Opposed:

None on file.

Comments: Realignment Funded with Growing Funding Source. The 2011 Realignment dedicated 1.0625 percent of the state sales tax to fund the local programs that were realigned. This dedicated tax is projected to generate \$5.9 billion for the realigned programs in 2013-14. Any growth above this level of funding is also dedicated to local programs realigned under 2011 Realignment. This includes over \$1 billion in funding just to address community corrections (AB 109 programs). AB 109 programs are expected to receive approximately \$90 million more than they received in the current fiscal year due to underlying revenue growth.

Treatment of Vehicle License Fee Revenues Unclear. The 2011 Realignment provided budgetary savings in CDCR of approximately \$1.45 billion. This would suggest that the state did transfer the majority of the savings related to the AB 109 population to the counties. However, the author has indicated that this bill would also include an additional allocation of \$453 million General Fund that represents vehicle license fee revenue that was permanently dedicated to the local law enforcement subventions under 2011 Realignment. It is unclear whether the author proposes to provide this funding

twice (with vehicle license fee revenues and General Fund) or if they propose to repeal the allocation of the vehicle license fee revenues.

Realignment Also About Reducing Prison Overcrowding.

The 2011 Realignment of the low-level offenders was important for reducing the state prison population in order to comply with federal court orders to reduce prison overcrowding, that were upheld by the US Supreme Court. Realignment of certain low-level offenders and parole violators allowed the state prison population to be reduced without early release of any state prisoner. Even after the significant population reduction related to 2011 Realignment (approximately 24,500 inmates), the federal courts have recently ordered that the state reduce the population by an additional 9,000 inmates in order to reach the court order population cap of approximately 110,000 (137.5 percent of design capacity).

Allocation of Funding Among Counties Determined by CSAC.

The allocation of funding for the community correction programs funded as part of 2011 Realignment was allocated by the California State Association of Counties (CSAC). In the first year of realignment (2011-12), the formula was based on three factors (60 percent caseload [ADP], 30 percent adult population [ages 18-64], and 10 percent county SB 678 [felony probation incentive program] success rate), with the most weight placed on the average daily population of low-level offenders realigned under AB 109. The allocation formula for the second and third years of realignment (2012-13 and 2013-14) allows counties to choose from the best of three options (population [ages 18 to 64], status quo [first year 60/30/10 formula], or adjusted ADP of realigned offenders). The funding was not allocated on just an ADP basis because this would have disregarded important efforts many counties had made in supervising low-level offenders locally prior to 2011 Realignment.

The author's office indicates that rural counties, especially those in the Central Valley, have not been provided with enough funding to address the offenders rehabilitation needs as these counties had very few community rehabilitation resources prior to realignment. The author indicates that allocating these additional funds strictly on an ADP basis will ensure that Central Valley counties receive additional funding to support rehabilitation programs for criminal offenders realigned under 2011 Realignment.

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