

## AGENDA

### ASSEMBLY BUDGET SUBCOMMITTEE No. 5 ON PUBLIC SAFETY

**ASSEMBLYMEMBER REGINALD BYRON JONES-SAWYER SR., CHAIR**

**TUESDAY, MAY 21, 2013  
2:00P.M. - STATE CAPITOL ROOM 437**

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## VOTE ONLY AGENDA

### 0820 DEPARTMENT OF JUSTICE

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<b>VOTE-ONLY ISSUE 1: REMOTE CALLER BINGO - SENATE BILL 1369 (CHAPTER 748, STATUTES OF 2008)</b>
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**Governor's Proposal.** The issue before the Subcommittee is The Department of Justice's request for \$48,000 in overtime funding from the California Bingo Fund, beginning July 1, 2013, to complete the backlogged workload from the California Gambling Control Commission, and associated licensing and field enforcement oversight of remote caller bingo charitable organizations, manufacturers, distributors, and vendors as mandated by Senate Bill 1369, Chapter 748, Statutes of 2008, California Penal Code section 326.3.

<b>VOTE-ONLY ISSUE 2: CONTROLLED SUBSTANCE UTILIZATION REVIEW &amp; EVALUATION SYSTEM (CURES) 2.0</b>
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<b>BACKGROUND</b>
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Created in 1939, California's Triplicate Prescription Program (TPP) was the nation's first multiple-copy prescription program to regulate the distribution of controlled prescription drugs. For 60 years, the TPP captured information regarding prescriptions of Schedule II controlled substances. In 1996, the Legislature initiated the development of the Controlled Substance Utilization Review & Evaluation System (CURES) in an attempt to identify solutions to the programmatic challenges facing the TPP. Specifically, inadequate staffing and an outdated automated system had reduced the effectiveness of the TPP hampering efforts to prevent, investigate, and prosecute serious cases of abuse and misuse of controlled prescription drugs.

Initiated in 1997, CURES operated in parallel with the TPP and the Automated Triplicate Prescription System (ATPS) to examine the comparative efficiencies between the two systems over a three-year period. After only ten months of evaluation, it was evident that the CURES far outperformed the ATPS. The comparison of the two systems was suspended permanently in March 1999. The ATPS was decommissioned in January 2005 when SB 151 (Burton), Chapter 406, Statutes of 2003 eliminated the triplicate prescription requirement for Schedule II controlled substances and made the CURES permanent.

While the CURES represented a significant improvement over ATPS, the system did not provide licensed healthcare practitioners and pharmacies with access to uniform and timely information to proactively diminish and deter the diversion of controlled substances. To address the issues with the CURES system, in 2009, the DOJ initiated the Prescription Drug Monitoring Program (PDMP). The PDMP allows licensed prescribers and dispensers to access PDMP data at the point of care through the PDMP system. Consistent with California Health and Safety Code section 11165 et seq, the DOJ uses the PDMP system to collect and store data on the prescription and dispensation of controlled substances.

State law requires the DOJ to assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of controlled substances. The Health and Safety Code specifically allows licensed prescribers and dispensers to access the system in order to prevent and intervene with patients under their care who may be abusing controlled substances.

Currently, less than 9,000 prescribers and pharmacists are registered users of the CURES/PDMP system. This represents 3.6 percent of the possible 245,186 licensed California prescribers and pharmacists. Consequently, diversion prevention and intervention efforts have been less than stellar.

**0690 CALIFORNIA OFFICE OF EMERGENCY SERVICES****VOTE-ONLY ISSUE 1: CALIFORNIA DISASTER ASSISTANCE ACT REDUCTION**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposal to permanently reduce General Fund support for the California Disaster Assistance Act (CDAA) by \$10 million.

**BACKGROUND**

The Governor's 2013-14 Budget includes a request of \$39.1 million for the Office of Emergency Services to support CDAA. The funds are utilized to pay the matching portion of either a state or federally declared local disaster. The state pays 75 percent of local project costs when a disaster proclamation is made by the Governor, and pays roughly 18 percent in the event of a federal disaster proclamation. This reduction should not negatively impact the CDAA program as this request merely aligns expenditure authority with projected needs. Further, the Governor has broad authority to increase funding, as necessary, in the event of a disaster.

**VOTE-ONLY ISSUE 2: ANTITERRORISM FUND**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposed reduction of \$500,000 in General Fund for the California Specialized Training Institute, and a corresponding increase of \$500,000 in Antiterrorism Fund support to the California Specialized Training Institute. This request includes trailer bill language specifying that administrative costs associated with funding local antiterrorism efforts are capped at five percent.

**BACKGROUND**

The 2012-13 Budget allocated \$750,000 General Fund for the California Specialized Training Institute. This proposal would reduce General Fund support for the California Specialized Training Institute to \$250,000.

Existing law authorizes the Department of Motor Vehicles, in conjunction with the California Highway Patrol, to issue memorial license plates. The revenue generated from the fees charged for the issuance, renewal, transfer, and substitution of the memorial license plates is deposited into the Antiterrorism Fund for use on terrorism fighting activities.

The Antiterrorism Fund is stable and has the capacity to absorb costs associated with this proposal.

**VOTE-ONLY ISSUE 3: PUBLIC SAFETY COMMUNICATIONS OFFICE**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposed transfer of the Public Safety Communications Office (PSCO) from the Department of Technology to the Office of Emergency Services. This is a cost neutral proposal as all existing positions and funding would be transferred with the associated duties.

**BACKGROUND**

The PSCO serves the State of California by providing and supporting public safety communications to the State's first responders and oversight of the 9-1-1 system to the People of California. The PSCO is dedicated to the preservation and protection of human life and public safety by delivering reliable and dependable communication services keeping the public connected during times of crisis. The PSCO has 50 offices located throughout California supporting the public safety agencies. PSCO staff are required to be on standby and respond to radio communications outages at all times.

The PSCO has been a part of the Department of Technology (formerly the Technology Agency) since early 2009. The Department of Technology's primary function is technology. The Department of Technology achieves this by working with the Agency Information Officers, Departmental Chief Information Officers, Information Security Officers, and the Information Technology Industry. PSCO's mission as identified above does not align to the Department of Technology's primary function, but aligns as one of the many state programs that benefit from the Department of Technology's endeavors.

The Office of Emergency Services (OES, formerly the California Emergency Management Agency) is responsible for the coordination of overall state response to major disasters in support of state and local government. OES is responsible for protecting lives and property by effectively preparing for, preventing, responding to, and recovering from all threats, crimes, hazards, and emergencies. Emergency and public safety communication is critical to carry out this mission.

**5227 BOARD OF STATE AND COMMUNITY CORRECTIONS**

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**VOTE-ONLY ISSUE 1: EXECUTIVE COMMITTEE LANGUAGE (GOVERNMENT CODE SECTION 1090)**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposed trailer bill language intended to provide that members of the Board are not financially interested in any contract made by the Board based upon the receipt of compensation for holding public office or public employment. This would ensure the continued use of the historically effective Executive Steering Committee process for developing recommendations to the Board.

**VOTE-ONLY ISSUE 2: BOARD COMPOSITION/LEADERSHIP LANGUAGE**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposed trailer bill language intended to change the composition of the Board commencing July 1, 2013. Currently, the Board is comprised of 12 members and is chaired by the Secretary of the California Department of Corrections and Rehabilitation (CDCR). The proposed trailer bill language would add the Executive Officer of the Board of State and Community Corrections as a member of the Board, and name the Executive Officer as the Chair. The Secretary of CDCR remains a member of the Board but no longer serves as the chair.

**5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION****VOTE-ONLY ISSUE 1: PROPOSITION 36 WORKLOAD**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposed two-year limited-term augmentation of \$766,000 (General Fund) in 2013-14 and \$153,000 (General Fund) in 2014-15 to support Division of Adult Institutions (DAI) and Office of Victim and Survivor Rights and Services (OVSRS) workload associated with the passage of Three Strikes Reform Act of 2012, (Proposition 36). Proposition 36 has a direct impact on the level of service which the CDCR provides to the Superior Court Judge, District Attorney (DA), Public Defender, Private Attorneys, Probation Departments, Law Enforcement, Victims, Inmates, and the community at large. The funding requested will enable the CDCR to comply with Proposition 36.

DAI is requesting overtime funds to be distributed amongst the Case Records Administration and approximately 33 Institution Litigation and Case Records Offices as follows: \$663,704 (2013-14); \$132,741 (2014-15). The OVSRS is requesting overtime funding of \$74,464 (2013-14); \$14,893 (2014-15). The OVSRS is requesting overtime funding for staff to research approximately 2,800 re-sentencing cases for victims, witnesses and/or next of kin who have requested services from the CDCR. Due to the limited-term nature of this workload and immediate need for resources, overtime funding is a more feasible option than hiring new full-time employees.

DAI has also included a request for \$33,995 for photocopying and overnight mail expenses incurred as DAs and Public Defenders/Private Attorneys receive copies of documents from the inmates' central file as specified in Proposition 36 as follows: \$28,329 (2013-14); \$5,666 (2014-15).

The Litigation Offices have begun receiving subpoenas from DAs and Public Defenders/Private Attorneys. Simultaneously, Case Records Offices have begun receiving legal documents from various Superior Courts for inmates who have been resentenced in absentia. The Case Records Administration staff, institution Litigation and Case Records Offices are receiving numerous inquiries and/or subpoenas from the DAs, Private Attorneys/Public Defenders, and/or written requests from the inmates. Both offices anticipate an increase in the requests and inquiries as the new law rolls out. The California Department of Corrections and Rehabilitation (CDCR) requests overtime funding in the amount of \$766,000 General Fund in 2013-14 and \$153,000 General Fund in 2014-15 to address workload resulting from the passage of the Three Strikes Reform Act of 2012 (Proposition 36).



**VOTE-ONLY ISSUE 2: PAROLE COURT REVOCATION AND COMPLIANCE WORKLOAD**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposal to provide one-time funding in the amount of \$8.252 million and position authority for 60.0 positions in Fiscal Year 2013-14 to address parole revocation workload associated with the revocation process transitioning to the courts and to address Valdivia compliance. AB 109 shifted responsibility for the revocation and warrant processes from the Board of Parole Hearings (BPH) to the county court system. Effective July 1, 2013, the BPH will cease to perform all functions related to the parole revocation process, and the Division of Adult Parole Operations (DAPO) will collaborate with each of the individual 58 county jurisdictions to adjudicate parole revocations for the parolee population under DAPO's jurisdiction.

**VOTE-ONLY ISSUE 3: ADULT POPULATION ADJUSTMENT**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposal to adjust the CDCR's Budget based on updated adult inmate and parolee population trends. This proposal includes an increase of \$11.5 million (General Fund) and 56.7 positions in 2013-14 and an increase of \$6.7 million (General Fund) and 12.5 positions in 2014-15.

Specifically, it is requested that Item 5225-001-0001 be decreased by \$10,339,000 and 62.4 positions, Item 5225-001-0001 be increased by \$11,983,000 and 74.9 positions, Item 5225-006-0001 be decreased by \$1,057,000, Item 5225-007-0001 be increased by \$7,075,000, Item 5225-008-0001 be increased by \$6,000, and Item 5225-009-0001 be decreased by \$1,018,000 to reflect revisions in the projected adult inmate and parolee populations. This reflects in a net increase of \$6,666,000 that is comprised of an increase of \$6,650,000 General Fund and an increase of \$16,000 Inmate Welfare Fund.

It is also requested that Provision 1 of Item 5225-006-0001 be amended to reflect the adjusted average daily population caps for each of the out-of-state facilities.

Adjusted for recent adult inmate population trends, the May Revision reflects an estimated average adult daily population of 128,885 in 2013-14. This is 280 higher than projected in the Governor's Budget. We note that the population adjustment reflects a net increase of \$4.5 million to provide sufficient funding to meet the Blueprint benchmark for in-state contract beds. Additionally, there is a \$0.04 increase in inmate meals related to increased Prison Industry Authority food prices.

The projected adult parolee average daily population is 46,358. This is a decrease of 1,262 from the projection in the Governor's Budget. The projected mental health population is expected to increase by 7.9 percent over the Governor's Budget projected level, to 31,753 in 2013-14. This is a 1.3-percent change in the mental health population since the beginning of 2012-13.

**VOTE-ONLY ISSUE 4: JUVENILE POPULATION ADJUSTMENT**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposal to adjust the CDCR's Budget based on updated juvenile ward population trends. This proposal includes a decrease of \$425,000 (General Fund) and 4 positions in 2012-13 and a decrease of \$2.8 million (General Fund) in 2013-14 and 143 positions in 2014-15.

Specifically, it is requested that Item 5225-001-0001 be decreased by \$1,350,000 and 78.1 positions, reimbursements be decreased by \$416,000, and Item 5225-011-0001 be decreased by \$1,003,000 Proposition 98 General Fund and 12.6 positions to reflect revised juvenile population projections. Adjusted for recent juvenile population trends, the may Revision reflects an estimated average daily population of 679 wards in 2013-14, which is 234 less than projected in the Governor's Budget. This adjustment also addresses the following Division of Juvenile Justice (DJJ) budget changes necessary for DJJ to adequately serve a reduced juvenile population:

- Establishes a ward-driven Operating Expenses and Equipment budget adjustment.
- Augments DJJ's salaries and wages budget for actual custody salaries for filled positions consistent with the adjustments made to the Division of Adult Institutions (DAI) in 2011-12 and Division of Parole Operations in 2012-13
- Augments DJJ's budget for the actual cost of mental health treatment provided by the Department of State Hospitals

**VOTE-ONLY ISSUE 5: UNENCUMBERED FUNDING – BUDGET ACT ITEM 5225-008-0001**

**Proposal.** The issue before the Subcommittee is a proposal to create an Item in CDCR's budget to revert all unencumbered balances in Item 5225-008-0001, Budget Act of 2012, upon enactment of the 2013-14 Budget Act.

**BACKGROUND**

An appropriation grants authorization for a specific agency to make expenditures or create obligations from a specific fund for a specific purpose. It is typically limited in amount and period of time during which the expenditure is to be recognized. An appropriation made by the Budget Act is available for encumbrance for one year, unless otherwise specified. Appropriations made by other legislation are available for encumbrance for three years, unless otherwise specified, and appropriations stating "without regard to fiscal year" shall be available from year to year until fully expended.

Legislation or the California Constitution can provide continuous appropriations, and voters can also make appropriations by approving ballot measures. An appropriation shall be available for encumbrance during the period specified therein, or if not specified, for a period of three years after the date upon which it first became available for encumbrance. Except for federal funds, liquidation of encumbrances must be within two years of the expiration date of the period of availability for encumbrance, at which time the undisbursed (i.e., unliquidated) balance of the appropriation is reverted back into the fund. Federal funds have four years to liquidate. (GC 16304, 16304.1).

This proposal would cancel the liquidation period for all unencumbered balances in Item 5225-008-0001, Budget Act of 2012, making them available to be appropriated from the General Fund for new purposes upon enactment of the 2013-14 Budget Act.

**VOTE-ONLY ISSUE 6: HEALTH CARE REORGANIZATION**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposed trailer bill language intended to authorize the establishment of a third Undersecretary to oversee CDCR's adult inmate health care services programs. The proposal also includes two new director positions to report to the Undersecretary; one to oversee the Division of Health Care Operations and the other to oversee the Division of Health Care Policy and Administration.

The proposed positions will not be filled until the Administration has confirmed a transition timeline with the Receiver's Office and the federal court overseeing the Plata v. Brown litigation.

When necessary, funding to support the proposed positions will be redirected from within CDCR's budget.

**VOTE-ONLY ISSUE 7: WORKER'S COMPENSATION TECHNICAL ADJUSTMENT**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposal to shift \$1.1 million in workers compensation funding from the Division of Adult Institutions' budget to the Division of Juvenile Justice's budget. This change is necessary to align expenditure authority with the proper program.

**5420 CALIFORNIA PRISON INDUSTRY AUTHORITY****VOTE-ONLY ISSUE 1: CAREER TECHNICAL EDUCATION**

**Proposal.** The issue before the Subcommittee is a proposal to provide California Prison Industry Authority (CALPIA) with a \$3.086 million augmentation to support the Career Technical Education (CTE) program and raise the offender participant level to 342 offenders (206 females, 136 males) at six CDCR locations and 1 DJJ facility.

**BACKGROUND**

CALPIA established the CTE program in 2006 as a pilot with CDCR. CALPIA's CTE program was the first in the nation to partner an offender rehabilitation program with trade unions to meet the rehabilitative needs of offenders. The program was founded to teach real-world trade skills and lower construction and maintenance costs for CALPIA, CDCR, and other state agencies. The program has been a partnership between CALPIA and Carpenters Local 46, Ironworkers Local 118, and Laborers Local 185.

The existing training programs are deep-sea diving/underwater welding, carpentry, iron working, construction labor and facilities maintenance, and will expand to include computer programming and computer assisted design.

The program provides a well-trained labor force for maintenance and construction projects at reduced cost. CTE participants have provided construction services for CDCR, Cal-Expo, the California Department of Parks and Recreation, local governments, and CALPIA. Along with industry skill certifications, pre-apprentice classes, and on-the-job training, all participants must achieve a GED degree.

Upon parole, a majority of participants are assisted with employment by the respective trade union or trade association in which they receive their certification. All participants receive a California Identification Card upon parole.

In 2007, CALPIA entered into a three-year contract with CDCR to reimburse CALPIA for the operating expenses of the program at \$3.086 million per year. After the second year of funding, CDCR reduced support by half and then ceased providing reimbursements in 2011. CALPIA has since entirely self-funded a scaled-back program through funding approved by the Prison Industry Board.

The CTE program is a non-statutory expense for CALPIA and the program's benefits do not accrue to CALPIA. During the two fiscal years in which CALPIA has self-funded the CTE program, CALPIA has experienced an overall net loss. CALPIA has a statutory obligation to maintain self-sufficiency and cannot continue funding the program.

Since the 2006 pilot year, CALPIA's CTE program has the lowest recidivism rate of any rehabilitative program in the California Department of Corrections and Rehabilitation (CDCR) with a three-year rate of less than 15 percent.

**ITEMS TO BE HEARD****5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION****ISSUE 1: SEX OFFENDER TREATMENT PROGRAM**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposal to augment the CDCR budget by \$5 million (General Fund) in fiscal year 2013-14 (growing to \$12.351 million in 2014-15 and ongoing) to help fund certified sex offender treatment for Non-High Risk Sex Offender (Non-HRSO) parolees.

The proposed funding, along with existing sex offender treatment funding for High Risk Sex Offender (HRSO) parolees, would allow the DAPO to provide mandatory sex offender treatment to both HRSO and Non-HRSO parolees, as required by Chapter 219, Statutes of 2010 (AB 1844), which is also known as the Chelsea King Child Predator Prevention Act of 2010 or "Chelsea's Law." In future years, the CDCR proposes to make necessary adjustments through the biannual population process via a Population Budget Change Proposal.

**PANELISTS**

- California Department of Corrections and Rehabilitation
- Department of Finance
- Legislative Analyst's Office

**BACKGROUND**

The Governor's 2013-14 Budget includes a request of \$39.1 million for the Office of Chelsea's Law, urgency legislation chaptered on September 9, 2010, mandates that all sex offenders on parole receive sex offender treatment in a program certified by the California Sex Offender Management Board (CASOMB). Beginning on July 1, 2012, all service providers, and programs must be certified by the CASOMB.

Prior to the passage of Chelsea's Law, the DAPO originally received \$42.7 million for HRSO treatment in the 2007-08 HRSO Task Force BCP based on an Average Daily Population (ADP) of 3,050 at an annual average treatment services cost of \$14,010 per ADP. After Chelsea's Law went into effect in 2010, the DAPO continued to receive sex offender treatment funding for HRSO parolees at the average treatment services cost of \$14,010, in addition the funding provided for polygraph testing as a part of sex offender treatment. During the realignment blueprint process last spring, the DAPO's budget was zero-based and the average treatment services cost was reduced to \$6,759 based on the DAPO's existing HRSO treatment contracts, which included polygraph testing. Initially, the DAPO had challenges locating sufficient sex offender treatment providers in the community, and subsequent certification requirements in Chelsea's Law added to

these challenges. As such, the DAPO had to prioritize the HRSO population and focused primarily on increasing and filling treatment slots for HRSO parolees. Currently, sex offender treatment funding is not yet provided for the Non-HRSO population. It should be noted, however, that after CASOMB developed the certification requirements and was able to certify treatment providers and treatment programs pursuant to Chelsea's Law, the available resources in the community to provide certified sex offender treatment increased significantly and are now sufficient to meet the department's needs.

In the 2013-14 Governor's Budget, the DAPO's 2013-14 funding authority for HRSO treatment was \$27.692 million based on a projected ADP of 4,097 HRSO parolees multiplied by the annual average treatment services cost of \$6,759. The DAPO uses vendor contracts to provide HRSO treatment. At the start of 2012-13, the DAPO had 600 contracted sex offender treatment slots, which were filled. Since then, the DAPO has significantly increased the number of contracted HRSO treatment slots and is diligently enrolling HRSO parolees into the new contracted sex offender treatment slots.

**ISSUE 2: CORRECTIONAL OFFICER ACADEMY LANGUAGE**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposal to include Budget Bill Language that would allow the amount available for expenditure to support Correctional Officer (CO) academies to be augmented on a one-time basis by the amount necessary to train the number of cadets exceeding the Department's current training capacity.

**PANELISTS**

- California Department of Corrections and Rehabilitation
- Department of Finance
- Legislative Analyst's Office

**BACKGROUND**

The projected cadet need is dependent upon a number of variables, including: attrition rates, assumptions about transfers, and estimates of how many staff will move back to CO positions in lieu of layoff. Given the amount of change occurring during Blueprint implementation, there is a possibility that the projected cadet need will change.

As part of "Blueprint," the CDCR received funding to accommodate 720 cadets for 2013-14. At the time of the Blueprint, the assumptions that drove the need-included recognition that CDCR would be reducing a significant number of Parole Agents (PA) who could transfer to CO, becoming an available resource to fill CO vacancies. As such, CDCR developed and implemented a PA transitional academy and received funding in 2012-13 to support this transition. While CDCR is able to manage with current funding levels, the cadet need will be monitored to identify if there are trends that affect the premises (attrition rate, PA transfers, reemployment, etc.) on which the 720 need was developed. If CDCR experiences an increase in the vacancy rate, additional funds may be needed to increase the number of CO hires for the remainder of 2013-14.



**ISSUE 3: EXPAND FIRE CAMP CAPACITY**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposal to augment the CDCR budget by \$15.4 million (on an ongoing basis) to support 140 positions and keep all of the state's 39 male fire camps operating.

**PANELISTS**

- California Department of Corrections and Rehabilitation
- Department of Finance
- Legislative Analyst's Office

**BACKGROUND**

Under Penal Code §§ 2780, 6200, 6301- 6304 and Public Resource Code §§ 4951–4958, CAL FIRE and CDCR have the authority to administer, fund, and operate conservation (fire) camps. The California conservation camps program has become the model nationwide in developing fire suppression and correctional agency cooperative agreements.

Since its origin in 1945 with nine crews, the program has risen to a high of 231 crews in 1991, and declined with funding cuts to its current level of 191 crews.

In 2011-12, camp inmate hand crews (12 to 17 inmates per crew) worked a total of 31,514 non-emergency crew hours, at a rate of \$200 per day, plus administration fees. Inmate hand crews also worked 1,063,648 emergency crew hours statewide. The majority of these emergency assignments were for fire or flood duty. An inmate hand crew costs \$3,457 per day for a fire assignment. A non-inmate crew, if available, costs \$13,373 per day, a difference of \$9,916. Other hand crews cost as much as \$22,866 per day. Consequently, reduction of these crews would cost significantly more. CDCR has been able to regularly maintain the minimum crew size of 12 inmates and the maximum crew size of 17 inmates, based on population. Camps are rated for 4 to 7 fire crews per camp design/population.

The CDCR's Blueprint contains inmate projections from the Spring of 2012, which predicted a fire camp average daily population (ADP) of 2,500 as of July 1, 2013. This is a decrease of 1,300 (ADP) from 2012-13. The Governor's Budget includes standardized staffing adjustments for 2013-14 that reduce custody staffing by \$15.4 million and 140 positions pursuant to the projected decline. Based on results of the CDCR's revised Inmate Classification Score System (ICSS) and increased felony admissions from Spring 2012 projections, the CDCR now projects a fire camp ADP of 3,700 for 2013-14 and ongoing. This proposal retains the custody staffing scheduled to be reduced in 2013-14.

Should the Department move forward with the implementation of the Blueprint for the Conservation Camp program in July 2013, the current population of 3,876 will have to be reduced to 2,500. Due to the camp inmate population not declining, 1,376 inmates will have to return to prison beds. In an effort to comply with the United States (U.S.) Supreme Court, this could adversely impact prisons overcrowding percentages. The U.S. Supreme Court ruling in 2011 ordered the Department to reduce prison crowding to 137.5 percent of the prison system's design bed capacity by June 2013. There are few options available to satisfy the U.S. Supreme Court, but one of the options is to keep all male fire camps open. If the custody positions are not restored, the camp inmates that would return to prison would fill Level I and Level II beds that could best be utilized by other Level I and Level II inmates that are not camp eligible.

**ISSUE 4: COMMUNITY CORRECTIONS PERFORMANCE INCENTIVE GRANT (SB 678)**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposal to include \$72.1 million, and trailer bill language, to support county probation departments that are successful in reducing felony probation failure rates.

Trailer Bill Language proposes to:

- 1) require the AOC to collect additional data on the felony probation population relating to the number of Penal Code section 1170(h) convictions;
- 2) revise the probation failure rate calculation so that it includes revocations resulting in county jail incarceration;
- 3) add a third tier of performance incentive payments for counties that demonstrate improved felony probation outcomes, but that still have combined probation failure rates above the 2006 through 2008 baseline statewide average; and,
- 4) remove the statutory authority to fund the Administrative Office of the Courts' (AOC) workload associated with SB 678 and realignment (a separate appropriation was proposed in the Governor's Budget); and 5) extends the \$200,000 minimum payment to counties performing better than the statewide average.

**PANELISTS**

- Department of Finance
- Legislative Analyst's Office

**BACKGROUND**

The California Community Corrections Performance Incentive Act of 2009 (SB 678) established a system of performance-based funding that shares state General Fund savings with county probation departments when they demonstrate success in reducing the number of adult felony probationers going to state prison because of committing new crimes or violating the terms of probation. SB678 was designed to help decrease California's prison admissions by reducing criminal behavior, and thus relieve prison overcrowding and save public funds.

Based on a jurisdiction's success, measured by the reduction of felony probationers who are sent to prison, the state shares a portion of its savings achieved with those jurisdictions that are successful in reducing the number of felony probationers committed to state prison. At the end of every calendar year, the California Department of Finance (Finance) is required to determine the statewide and county specific felony probation failure rates. Using a baseline felony probation failure rate for calendar years

2006 through 2008, Finance calculates the amount of savings to be provided to each county probation department.

Based on improvements in probation failure rates reflected in the increase in grant funding provided to counties, the SB 678 grant program was very successful. The county funding level grew from \$89.2 million in 2011-12 to \$138.9 million in 2012-13 due to improved performance in the prevention of probation failures. Over these two years, it is estimated that SB 678 prevented over 15,000 prison admissions.

### **Governor's Budget Proposal**

Based on data from the first two quarters of calendar year 2012, Finance estimated SB 678 payments to counties to total \$35 million according to the calculation methodology laid out in current law. Following this methodology, the amount of funding available under SB 678 was reduced significantly due to the implementation of 2011 public safety realignment and standardized staffing within California's prisons.

As a result of realignment, a large portion of adult felony probationers who are revoked or commit new crimes now serve their sentences in county jails instead of prison (50.1 percent). The amount of state savings to be shared with county probation departments was reduced because these offenders are no longer eligible for state prison. In order to estimate this impact with available data, the ADP avoidance attributable to revocations served in county jail was not included in the calculation used to determine the performance incentive payment for the county. This required an adjustment to the 2006 through 2008 established baseline rate in order to isolate the impact of the prison eligible offenders by estimating that 49.9 percent of the offenders would have had prison eligible crimes.

Additionally, CDCR implemented standardized staffing on July 1, 2012, which provides for a cost-effective, safe, and efficient prison system. Standardized staffing allows for the inmate density to range from 100 to 160 percent of design capacity without the need to adjust the number of correctional officers. As a result, the new marginal rate used to calculate SB 678 state cost savings has decreased from almost \$30,000 to approximately \$10,000 per inmate annually.

### **May Revision Proposal**

The May Revision proposes a \$72.1 million augmentation to the SB 678 funding allocation formula, bringing the total funding for county probation departments to \$106.9 million for fiscal year 2013-14. The revised formula: 1) now includes felony probation failures resulting in jail incarceration, in addition to those resulting in prison incarceration, to determine a county's overall probation failure rate; 2) makes an adjustment to the 2012 marginal rate for CDCR inmates; 3) adds a third tier for performance incentive payments; and 4) adds counties with failure rates below the statewide average to the counties entitled to receive a minimum of \$200,000.

Overall county performance and the determination of which counties are eligible for High Performance and Tier payments, is based on a comparison between the historical baseline probation failure rate and: 1) the rate of felony probationers who fail and are sent to prison for new crimes or revocations; and 2) the rate of felony probationers who fail and are sent to jail for new crimes or revocations. The baseline probation failure rate was based on data from 2006 through 2008, when all felony probationers had convictions for prison eligible crimes. However, we do not have data on the commitment offense for each of these felony probationers. Consequently, there is no data on the number of felony probationers that committed crimes that have since been realigned and are now eligible for incarceration in jail. Without this data, there is no accurate way to measure a county's performance in preventing prison incarcerations against the established baseline rate for 2012. As a result, in order to maintain a fair measure of felony probation performance for 2012, Finance proposes to include felony probation failures resulting in prison *and* jail incarceration to measure a county's overall performance.

Secondly, the marginal rate has been adjusted to account for the implementation of standardized staffing on July 1, 2012. As discussed above, standardized staffing resulted in a reduction in the marginal rate for each prisoner prevented from coming to prison. Standardized staffing reduced the marginal cost from close to \$30,000 per inmate to approximately \$10,000 per inmate annually. As a result, the revised marginal rate used for SB 678 is \$20,000 per inmate since standardized staffing was in place for only half of calendar year 2012.

New to the SB 678 formula this year is the establishment of a third tier for performance incentive payments. The third tier of performance will provide an incentive payment equal to the estimated number of probationers successfully prevented from being sent to prison or jail multiplied by 30 percent of the cost the state would have incurred for that inmate (\$20,000 for 2012). This third tier will be applied to any county that demonstrated an improvement in its felony probation failure rate, but that still has a felony probation rate that is above the 2006 through 2008 baseline statewide failure rate of 7.88 percent.

The funding made available by the establishment of the third tier was used to provide counties with probation failure rates below the 2012 statewide average with a minimum payment of \$200,000. Current law provides that any county eligible for a tier payment award shall receive a minimum of \$200,000. This proposal would add counties with a probation failure rate below the statewide average, but that did not show improvement compared to its baseline rate, with the same minimum payment. This change, in combination with the establishment of the third tier payments, provides for a more equitable distribution of SB 678 funding.

**ISSUE 5: REALIGNMENT TRAILER BILL LANGUAGE**

**Governor's Proposal.** The issue before the Subcommittee is the Governor's proposed trailer bill language intended to improve the Public Safety Realignment of 2011.

The proposal includes four components intended to do the following:

Notification of Reception Center or Parole Office Closure – Would require CDCR to provide written notification at least 90 days prior to the opening, closure, or change of location of a reception center or parole office.

Misclassified Post-Release Community Supervision or Parole Placement – Would provide a 60-day period during which an offender can be transferred from the jurisdiction of parole to probation or from probation to parole. After this period, the offender would remain under the supervision of the jurisdiction to which the offender was released for the remainder of his/her supervision term regardless of the original offense.

Supervision of Decertified Mentally Disordered Offenders - Would require CDCR to provide parole supervision for court-decertified Mentally Disordered Offenders released from a state hospital, even if the offender is otherwise eligible for Post-Release Community Supervision.

Long-Term Offenders in County Jails - Would authorizes County Parole Boards to send long-term offenders to CDCR after serving the first three years of their sentence in county jail and establishes a presumption of a minimum level of split sentencing, but retains a judge's discretion to impose a straight sentence.

**PANELISTS**

- Department of Finance
- Legislative Analyst's Office