

AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
STATE ADMINISTRATION

ASSEMBLYMEMBER GEORGE NAKANO, CHAIR

TUESDAY, APRIL 9, 2002
STATE CAPITOL, ROOM 447
1:30 PM

CONSENT CALENDAR

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ITEM #5420 DEPARTMENT OF CORRECTION

ISSUE 1: CLOSURE OF NORTHERN CALIFORNIA WOMENS' PRISON**BACKGROUND:**

The California Department of Corrections (CDC) is currently experiencing a decline in its female inmate population. From 11,500 as of June 30, 1999, the department estimates 9,800 by the end of the budget year. In total, CDC has 2,600 excess beds for female prisoners statewide. This surplus unused capacity may be a contributing factor in the budgetary shortfall predicted by the Department of up to \$277 million.

While the average annual cost to incarcerate an inmate in a state institution is \$26,690, the average cost for an inmate in the Northern California Women's Prison (NCWF) is \$38,764.

COMMENTS:

CDC estimates that the closure of the Northern California Women's Prison would require the transfer of 630 inmates to other facilities and would result in a savings of \$8.5 million in 2002-03 and \$10.2 million in future years. This includes annual maintenance costs of \$2 million a year which may no longer be needed should the property be sold or converted to another use.

The closure of a NCWF would allow the department to save an average of \$38,764 per inmate annually. Since this is higher than the statewide average of cost of incarceration the closure of NCWF would place downward pressure on the department's average cost per inmate. While the savings associated with the closure of NCWF would be offset by the costs to transfer the inmates to another lower cost facility, the net savings to the state would be \$13,557 per inmate.

ITEM #5420 DEPARTMENT OF CORRECTIONS**ISSUE 2: CLOSURE OF CALIFORNIA INSTITUTE FOR WOMEN****BACKGROUND:**

The California Department of Corrections (CDC) is currently experiencing a decline in its female inmate population. From 11,500 as of June 30, 1999, the department estimates 9,800 by the end of the budget year. In total, CDC has 2,600 excess beds for female prisoners statewide. This surplus unused capacity may be a contributing factor in the budgetary shortfall predicted by the Department of up to \$277 million.

While the average annual cost to incarcerate an inmate in a state institution is \$26,690, the average cost for an inmate in the California Institution for Women (CIW) is \$35,897

COMMENTS:

CDC estimates that the closure of the California Institution for Women Prison would require the transfer of 1,608 inmates to other facilities and would result in a savings of \$18.8 million in 2002-03 and \$25.7 million in future years. This includes annual maintenance costs of \$3 million a year which may no longer be needed should the property be sold or converted to another use.

The complete closure of a CIW would allow the department to save an average of \$35,897 per inmate annually. The closure of this institution would place downward pressure on the average cost per inmate. While the savings associated with the closure of NCWF would be offset by the costs to transfer the inmates to another lower cost facility, the net savings to the state would be \$11,692 per inmate.

ITEM # 5420 DEPARTMENT OF CORRECTIONS (DESCRIPTION)**ISSUE 3: INCREASED WORKERS' COMPENSATION COSTS****BACKGROUND:**

The Department of Corrections requests a permanent augmentation of \$22.4 million from the General Fund to address anticipated increased workers' compensation costs. This amount is comprised of \$21.3 million in additional payments and \$1.1 million in additional service fees to the State Compensation Insurance Fund to administer the workers' compensation claims processing.

COMMENTS:

The department has experienced an increase workers' compensation costs which it attributes to increases in salaries and number of budgeted positions. Expenditures exceeded its budget for this item by \$32 million in 1999-00, \$28 million in 2000-01 and estimated \$21.3 million in 2001-02.

In 2001-02 the department directed 8 positions to investigate workers' compensation fraud. The Department has not determined the effect of these changes upon the number claims and the costs to the workers' compensation program.

While the level of workers' compensation costs within the department have the potential to vary from year to year and the impact of the department's efforts to investigate and reduce fraudulent claims is fund to the department has not been fully determined, funding to the department should be at a level that reflects actual costs. It is anticipated that the departmental total workers' compensation obligations should decrease in future years as the number of vacancies is reduced and that amount of overtime required of departmental employees is reduced.

As a result the subcommittee may want to consider an augmentation to the department for a one year limited term so the department can submit a request for funding based upon more current estimates of actual costs.

ITEM # 5440 BOARD OF PRISON TERMS / 5240 DEPARTMENT OF CORRECTIONS**ISSUE 1: FOREIGN PRISONER TREATY TRANSFER PROGRAM****BACKGROUND:**

The Board of Prison Terms has authority to transfer foreign born inmates in California correctional institutions to their native country. Currently the Board estimates that there are 27,000 foreign born inmates in the State. At an estimated average incarceration cost of \$26,690 (2002-03) per inmate annually, the State would incur yearly costs of \$720 million for this population.

BPT has reviewed 539 applications for transfer through December 1995 but it is uncertain how many additional applications have been processed since that time.

SB 1544 currently before the Senate Public Safety committee would direct the Board of Prison Terms to initiate the transfer of foreign born prisoners to the countries of Canada, Mexico or European countries that have a treaty with the United States government regarding the transfer of these prisoners. The transfer would be based upon acceptance by the foreign country and agreement that the prisoner's time incarcerated would be similar to that in California.

COMMENTS:

Should BPT process the transfer of 1,000 foreign born prisoners a year, the savings to the state could be \$15 - \$26 million. Since it may take 6 to 12 months to process the transfer, if the transfer program were to begin in the budget year, the savings would be significantly less than the amount in 2003-04. If the Department were able to process a combination of existing and new applications beginning in the budget year, savings should be realized in the Department of Corrections budget.

In the April 2, 2002 budget hearing, the subcommittee directed the department to provide it with information regarding the resources required to implement the screening of 5,000 foreign born prisoners annually for participation in this program.

BPT estimates a cost of \$363,000 a year and 4 positions to meet this requirement. Based upon prior experience BPT estimates 80 prisoners would be eligible for transfer a year. The actual number of transfers may be larger in the budget year due the number of outstanding applications already pending before the Board and the likelihood that there may be a review of previously denied applications. Currently, a prisoner entering a Department of Corrections (CDC) facility is asked if they would like to pursue completing their sentence in their native country. As CDC only provides the forms in English and Spanish and provides limited translator services, there is no guarantee that all previously screened persons have been adequately noticed. Nor is it clear that there are procedures to allow a foreign-born prisoner, after further contemplation, to later apply for transfer to his or her native country after initially refusing this option. The number of transfers could also be higher if the State provides notice to the diplomatic representative of native country of the foreign born prisoner of his or her

incarceration. It is believed that the BPT may be able to transfer up to 250 prisoners in the budget year. This would provide a savings of \$3.7 –6.7 million.

ITEM # 5420 DEPARTMENT OF CORRECTIONS (DESCRIPTION)**ISSUE 2: CLOSURE OF CCF****BACKGROUND:**

The California Department of Corrections (CDC) currently contracts with private vendors to operate facilities (also referred to as Community Correctional Facilities [CCF]) to hold low level inmates. Generally these are persons who do not have a history of violating the rules of incarceration, are not considered a risk to escape and are within a year of their release from incarceration. The use of CCFs began when the State's prison population was increasing faster than its ability to create new bed space. Contracts with Five CCFs will expire in 2002-03, and the Department of Corrections proposes not to renew them.

COMMENTS:

CDC estimates a net savings of \$5.1 million resulting from the termination of the CCF contract. The 1435 affected inmates would be placed within existing institutions (\$19.7 million additional costs for CDC institutions and a savings of \$24.8 million in contracts with CCFs). LAO has revised the estimate of savings by the closure to be no more than \$2.8 million based upon more current budget year allotments for additional inmates.

It is not clear if the department's proposal to close the CCFs would result in an actual savings to the State as it is difficult to compare the true costs of the inmates. The major reasons for this is that the costs per inmate numbers for CCFs and State institutions include different cost components. CCFs in question include the costs for facilities in their per capita numbers while State institutions are funded by bonds so those cost are not included in the per capita numbers. In another comparison, health costs for these inmates are not fully included in the CCF costs but would be included in the State institution's costs.

For CDC this proposal would result in an increase in population by approximately 1435 inmates as they would no longer be transferred to the Community Correctional Facilities. As a result funding for the department would increase based upon per capita allotments. In 2002-03 this should total \$19.7 million.

It is not clear what the correlation is between the amount of additional funding to address increases to the inmate population and the actual cost. In fact the \$14,797 allotted to the Department for each incremental inmate may not be sufficient to cover the actual costs. CDC cannot provide information on what the actual costs would be for the inmates to be transferred from the CCFs to its institutions. Further, the Department has not been able to provide information on the annual cost to incarcerate a Level I or level II inmate. In the current year CDC anticipates costs will exceed its budgeted allotments by up to \$277 million (the revised number may be less as additional funding is redirected or other obligations are forgiven) based upon the estimated inmate population on June 30, 2002 of 156,409, this shortfall in funding would average \$1,770 per inmate. For 1435 inmates, this cost differential would be \$2.5 million.

CDC currently anticipates the need to hire up to 3,800 new correctional officers by the end of 2002-03. Since the safety of a CDC institution depends upon filling all of the posted (correctional officer) positions, any staffing shortages need to be filled utilizing current staff paid at an overtime rate. Should the CCF contracts be terminated it would place an increasing strain on the shortage of staff. The current staffing shortfall would likely increase the actual cost of the incremental inmate over the budgeted allotment thus increasing the likelihood of a budget shortfall in future years.

The continuation of the CCF contracts will not likely result in additional costs to the state but will avoid increase the need for additional correctional officers and would avoid making the current shortage of correctional officers worse.

The incremental allotments for additional inmates in State institutions is \$14,797 annually. While not all CCFs are have a comparable rate, one CCF has entered into an agreement to receive \$8,000 per inmate. If other CCFs could enter into similar agreements, a savings of \$6,797 per inmate may be realized by the transfer of inmates from State institution to CCFs.

The Women's CCF in Live Oak has the ability to expand its capacity to accommodate an additional 200 inmates. These additional bed could be used to address any unanticipated increase in the inmate population subsequent to the closure of the Northern California Women's Prison and the California Institute for Women in the Budget Year (see Issue X).

Current agreements between the CCF and its employees require a 30 day notice of termination of employment prior to the closure of the facilities. Notification of the closure and termination of employment isscheduled to be made on June 1, 2002. Should the subcommittee elect to keep open the option of extending the CCF contracts, it should direct the Department to notify the CCFs that the contracts be extended until at least 30 days after the enactment of the 2002 Budget Act.

ITEM # 5420 DEPARTMENT OF CORRECTIONS (DESCRIPTION)**ISSUE 3: FISCAL IMPACT OF COLLECTIVE BARGAINING****BACKGROUND:**

As of March 12, 2002 The State and representative collective bargaining units have reached agreement with 16 of the state's 21 bargaining units operating in the State. Generally, the terms of the contracts are effective through June 30, 2003.

COMMENTS:

Collective bargaining agreements outline the terms of employment for the State's employees. They generally cover the issues related to salaries, overtime, vacation, sick leave, Health benefit contributions, classification changes, and other issues. If the contracts are available for review, the subcommittee would be able to make decisions consistent with this agreement.

The Department of Corrections have indicated that copies of the collective bargaining agreement between the state and bargaining unit number 6 will not be available until April 30, 2002. Further the Department of Finance has indicated that the analysis of the costs of the fiscal impact of the bargaining agreement is not yet available but it is hoped that this information would be available before the may revision.

Understanding the fiscal impact of collective bargaining agreements between the State and its employees is an important part of the budget review process. Departmental proposals before the subcommittee related to the terms of employment may require a review of the collective bargaining contracts to assure that its actions are not in conflict with previous contractual agreements. The lack of information on agreements will make it difficult for the subcommittee to make fully informed decisions on the proposals before it. It is hoped that the Administration make available information related to the collective bargaining agreements as soon as possible.

The subcommittee may want to ask the administration when an analysis of the collective bargaining unit contracts may be available for review. The administration may also may want to identify what information is currently available to provide the subcommittee that would be useful in analyzing the impact of collective bargaining contracts in the context of the proposals included in the Governor's Budget.

ITEM # 5420 DEPARTMENT OF CORRECTIONS (DESCRIPTION)**ISSUE 4: ACTIVATION OF INSTITUTIONAL VACANCY POSITIONS****BACKGROUND:**

The Department requests a permanent augmentation of \$5.1 million in general funds to pay for the activation of 98.0 positions. These positions have been filled in the current year pursuant to the provisions of the collective bargaining agreement with bargaining unit 6. The Department's BCP would continue funding for this obligation in the budget year and future years. Additional position authority has not been requested at this time, as the department proposes fill previously authorized positions left vacant as the department attempted to address the personal services expenditures for its other positions. Since the department now lacks the funds to support these previously budgeted positions it will require additional funding.

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COMMENTS:

Collective bargaining agreements outline the terms of employment for the State's employees. They generally cover the issues related to salaries, overtime, vacation, sick leave, Health benefit contributions, classification changes, activation of new positions, and other issues. If the contracts were available for review, the subcommittee would be able to make decisions consistent with this agreement.

The Department of Corrections have indicated that copies of the collective bargaining agreement between the state and bargaining unit number 6 will not be available until April 30, 2002. Further the Department of Finance has indicated that the analysis of the costs of the fiscal impact of the bargaining agreement is not yet available but it is hoped that this information would be available before the may revision.

Since the Department indicates that the activation of these positions is pursuant to compliance with the collective bargaining agreement between the State and its employees, perhaps the associated costs should be identified in the Employee Compensation Item (Item # 9800) of the Budget

Understanding the fiscal impact of collective bargaining agreements between the State and its employees is an important part of the budget review process. Departmental proposals before the subcommittee related to the terms of employment may require a review of the collective bargaining contracts to assure that its actions are not in conflict with previous contractual agreements. The lack of information on agreements will make it difficult for the subcommittee to make fully informed decisions on the proposals before it. It is hoped that the Administration make available information related to the collective bargaining agreements as soon as possible.

The subcommittee may want to ask the administration when an analysis of the collective bargaining unit contracts may be available for review. The administration may also want to identify what information is currently available to provide the subcommittee that would be useful in analyzing the impact of collective bargaining contracts in the context of this proposal presented in the Governor's Budget.

ITEM # 8830 CALIFORNIA LAW REVIEW COMMISSION

ISSUE 1: PROTECTION OF PERSONAL INFORMATION

BACKGROUND:

ACR 125 (Papan) directs the California Law Review Commission to study and provide recommendations on future legislation regarding the protection of personal information arising out of a financial transaction.

This bill has been referred to the Assembly Appropriations Committee after passing the Assembly Judiciary Committee

COMMENTS:

The Law Review Commission has estimated the costs to implement this at \$150, 000 for two years (\$75,000 per year for two years).