

**AGENDA**  
**ASSEMBLY BUDGET SUBCOMMITTEE NO. 4**  
**ON STATE ADMINISTRATION**

**Assemblymember Rudy Bermudez, Chair**

**WEDNESDAY, APRIL 13, 2005, 1:30 PM**  
**STATE CAPITOL, ROOM 437**

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**ITEMS TO BE HEARD****OPEN ITEMS (FROM MARCH 30<sup>TH</sup> HEARING)****ITEM 5240 DEPARTMENT OF CORRECTIONS****ISSUE 1: UNBUDGETED PROGRAMS**

The Legislative Analyst's Office reports that the Department of Corrections has entered into unbudgeted activities related to the activation of, two fire camps and a Community Correctional Facility (CCF). The two fire camps are facilities transferred from the Department of Youth Authority and are expected to be brought on-line for the 2005 fire season. The LAO estimates the cost of these facilities to be approximately \$300,000 to modify and operate. The CCF is expected to provide substance abuse treatment at an estimated cost of \$1.2 million. The costs associated with these initiatives would be offset by the reduction in the population in the institutions and the accrual of enhanced (2 days for every one day served) sentencing credits earned by fire camp inmates).

The subcommittee may want the Department to provide information on the following

- What is the status of the conversion of the two fire camps, the estimated operational date and the projected costs in the current and budget year.
- What are the estimated additional sentencing credits that will be earned by fire camp inmates in the current and budget year?
- What is the status of the CCF contract, estimated operational status, how many beds will be filled in the current and budget year?
- What types of treatment programs provided by the CCF contract beds?
- What are the estimated costs and savings associated with the CCF contract?
- Is the Department anticipating a future request for additional funding associated with the activation of the fire camps and CCF?

**March 30 Action:** Item open awaiting additional information.

**ISSUE 2: FOREIGN PRISONER TRANSFER PROGRAM**

The Foreign Prisoner Transfer Treaty Program is administered jointly between the Board of Prison Terms (BPT) and the Department of Corrections (CDC) and allows inmates, who are citizens of a foreign country, to be transferred to their home country to serve the remainder of their California imposed prison sentence. Under this program the process of transfer is initiated by the inmate, and then approved by the State, the United States government, and the receiving country. According to the Legislative Analyst's Office (LAO), the transfer of an inmate out of a California prison results in a savings of approximately \$18,000 annually. Currently, the BPT has less than two positions dedicated to the Foreign Prisoner Transfer Treaty Program pursuant to an augmentation in the 2002 fiscal year.

The LAO proposes supplemental report language that would direct the Department of Corrections to update its Operations Manual to include current state policies and procedures regarding this program. This would be in addition to a recommendation that the Board of Prison Terms develop updated information regarding this program for distribution to all new inmates. The LAO also recommends providing additional staff to the BPT to process the increase in anticipated requests for transfer related to the enhanced distribution of information on the program to inmates. The additional staff could also be utilized to train CDC staff regarding the requirements to operate this program. This augmentation is estimated to increase the number of persons participating in his program with a commensurate reduction in the inmate population in CDC institutions, thus resulting in a cost savings to the department. The LAO has suggested a savings of \$125,000 for CDC to offset a cost increase of \$110,000 for BPT.

Since the Foreign Prisoner Transfer Treaty Program is jointly operated by CDC and BPT, the subcommittee may want to direct the Youth and Adult Corrections Agency to report pursuant to budget bill language on the following in order to monitor the progress of this program:

- Report by October 1, 2005 on the progress in developing an informational brochure for the Foreign Prisoner Transfer Treaty Program that would be made available to all incoming inmates. If at the time of the report, there are not sufficient copies made for distribution, the Agency shall provide the Legislature with a corrective action plan that includes deadlines for compliance with this requirement and will require the Agency to report by April 1, 2006 on the status their progress.
- Report quarterly beginning October 1, 2005, on its progress in increasing the number of languages that information on the Foreign Prisoner Transfer Treaty Program can be presented to inmates. This should identify the languages in which the brochures are available. The agency may also include information on efforts to provide information related to the program to inmates in when

translated brochures are not available, or where the inmate has limited reading abilities.

- Send to the Joint Legislative Budget Committee no later than October 1, 2005, the revised operations manual provisions that include updated information on the Foreign Prisoner Transfer Treaty Program. No later than February 15, 2006, the Legislative Analyst's Office shall complete an analysis of the revised provisions and inform the Budget Committees in each house of their findings.
- Report quarterly for the 2005-06 fiscal year beginning October 1, 2005 on the number of new inmates receiving information on the Foreign Prisoner Transfer Treaty Program as compared with the total number of new inmates entering the institutions .
- Report quarterly beginning October 2005, on the number of adult inmates by home country with foreign citizenship incarcerated in state facilities.
- Report by October 1, 2005, of a plan to provide training to CDC staff regarding the Foreign Prisoner Transfer Treaty Program. The Agency shall report quarterly beginning January 1, 2006, on the implementation of the training program including the number of staff trained and the number of staff to be trained, until it has completed the training of all appropriate staff.
- Report by October 1, 2005 on plans to provide updated information to existing (not new) inmates related to the Foreign Prisoner Transfer Treaty Program to determine if inmates would like to participate in the program subsequent to their initial notice of the program.

**March 30 Action:** Issue not heard - awaiting additional information from the Board of Prison Terms on a revised plan for enhanced program.

**ISSUE 3: PLATA V DAVIS SETTLEMENT COSTS**

In April 2001, the Prison Law Office filed a class action lawsuit titled *Plata v Davis* on behalf of nine named inmates and other inmates challenging the State's ability to provide adequate medical care to prison inmates. Specifically the deficiencies included: lack of consistency with regard to policies that organize how services are provided that creates inconsistencies in the expectations of inmates and their advocates with regard to services they are seeking; inadequate coordination of effort between medical and custody administration resulting in breakdown in access to medical services in a correctional setting; inadequate number of registered nurses coupled with noncompetitive salaries for those positions; inadequate and inconsistent follow-up of medical treatment including medication, diagnostic tests and procedures and or therapies ordered by a physician; lack of consistency in managing inmates with chronic illness through the use of nationally recognized guidelines; lack of on-site monitoring of medical services; and the absence of automated systems to facilitate the scheduling and tracking of medical appointments. After settlement negotiations, the parties filed a proposed agreement with the federal court in the form of a Stipulation for Injunctive relief. United States District Judge Thelton Henderson conducted a fairness hearing related to the settlement agreement on June 13, 2002. At the hearing, the judge took testimony and issued his finding that the Stipulation for Injunctive Relief was fair, adequate and reasonable. Compliance with the terms and conditions of the settlement agreement is dependent upon the phase implementation of the Inmate Medical Services Program Policies as the Department of Corrections to meet the minimum level of care necessary to fulfill the department's obligation entered into a settlement. The benefits of the proposed changes include: more timely and comprehensive assessment of inmate needs as they enter CDC; improved access to medical services; the implementation of a comprehensive chronic care program using standardized data collection forms and guidelines consistent with National Commission on Correctional Health Care panels where at each visit, an assessment will be made on how well the inmate is doing as compared with established standards; staffing of emergency rooms by registered nurses 24 hours a day, seven days a week; 30 day follow-up assessment by the primary care physician whenever a referral of an inmate to a specialist has been made.

Consistent with the settlement agreement, a multi year plan was approved beginning in 2002-03 through 2007-08. According to the Legislative Analyst's Office this would ultimately result in the addition of approximately 1,400 positions and cost \$90 million annually. The Governor's Budget proposes the addition of \$30.1 million and 109 positions to address the following elements of the settlement: physician evaluation and training (\$14.7 million); treatment of high-risk patients (\$2.9 million); physician and nursing classification and supervision (\$2.2 million); Quality Medical Assistance Teams and Inmate Medical Scheduling and Tracking System (\$8.576 million total). In addition the department is seeking \$15 million in additional funding as a baseline adjustment in order to extend the Plata changes to another five institutions. The LAO recommended reductions in a number of areas totaling \$2.998 million. Our understanding is that the

Administration is currently in discussion with the LAO to re-evaluate its request and it is hoped that a compromise proposal will result from these discussions.

The LAO recommends supplemental report language directing the CDC to annually inform the Legislature on its progress in improving the inmate health care system.

On or before December 1, the California Department of Corrections shall annually provide a report to the chairs of the fiscal committees in both houses on the status of the implementation of the Plata settlement agreement. The report to the Legislature shall identify specific outcomes relating to the settlement agreement and its goal of providing increased access and higher quality health care services. The report shall include information on medical related inmate appeal, medical staff vacancies, and census data (bed usage) for each prison and community hospital facility.

The subcommittee may want to defer voting on the proposed reductions of \$2.998 million related to this issue until a compromise is reached. If the Administration believes that there will be no further discussions, the subcommittee may want to adopt the reductions proposed by the LAO.

The subcommittee may want to adopt the supplemental report language to have CDC report to the Legislature on its progress on improving medical care to inmates consistent with the Plata settlement. However, this language does not have provisions for terminating the reporting requirements. Alternately, the subcommittee may want to adopt trailer bill language directing CDC to report to the Legislature by October 1, 2005 and quarterly thereafter on the status of its compliance with the Plata settlement, until the court is no longer monitoring the department.

In the March 30, 2005 hearing on this issue, the subcommittee adopted proposed trailer bill language to report quarterly beginning October 1, 2005 on the status of its compliance with the Plata settlement.

On April 5, 2005, the LAO completed a further evaluation of the Plata settlement costs and recommended reductions totaling \$13.7 million or an additional reduction of \$10.702 million. These saving are to be allocated as follows:

- \$9 million savings for the two University of California contracts with the San Diego and San Francisco contracts for physician assessment and training, medical credentialing, peer review and on-site physician consultation.
- \$1.6 million savings to reduce the number of facilities captains (\$785,750) and attorneys (\$323,000) to train security staff on policies and procedures designed to ensure that inmates are escorted in a timely manner to their medical appointments and state implementation of the settlement agreement. This

proposal also includes over-budgeted costs for travel (\$237,000) and excess office space (\$275,000).

- \$3.1 million savings related to the price increase for operating expenses and equipment that does not reconcile with identified needs.

In addition, the Department has budgeted \$5.5 million for Plata compliance in the current year. The LAO has indicated that CDC only needs \$2.5 million and therefore \$3 million may be saved in the current year.

#### **ISSUE 4: PHARMACY COSTS**

The Department of Corrections is in a partnership with the Department of General Services (DGS) to purchase pharmaceuticals for Corrections as well as the Department of Mental Health, Department of Developmental Services, Department of Youth Authority and the California State University. According to the Legislative Analyst's Office (LAO) nearly one-half of the drugs purchased through the DGS are not acquired through the benefit of a contract. In addition, CDC pays approximately retail price for drugs provided to parolees. Further, CDC is in the process of implementing a pharmaceutical IT system. At this time it is not implemented on a system-wide basis nor is it integrated with the medical services system.

The State of Texas has implemented an integrated medical-pharmaceutical IT system that tracks the utilization and inventory of drugs which is believed to have resulted in cost savings for the State. Texas has also partnered with the University of Texas to utilize the purchasing power of the University to effect lower drug costs.

The LAO recommends that the State move toward additional contracting of state drug purchases including that for state parolees; encourage collaboration between major purchasers of drugs at the state level and the further the development of an integrated IT system that would track the location of the drugs as well as monitor the prescribing practices of physicians and the consumption of the medication by the patients.

On March 16, 2005, the subcommittee held an informational hearing on the DGS's role in the purchase of pharmaceuticals and CDC's efforts toward improving the efficiencies in pharmaceutical purchasing and utilization. At this time it is not clear that CDC will complete the implementation of its pharmaceutical projects before the end of 2005-06.

The subcommittee may want to adopt budget bill language that requires the Department of Corrections to report quarterly to the budget committees of both houses on the status of the ; implementation of projects to track the purchase and physical inventory of drugs; purchasing strategies to reduce the cost of drugs; unnecessary use of the medications; unnecessary disposal of the medications; prescribing practices within the department; and use by CDC patients as compared to standard profiles of similar patients.

**March 30 Action:** Issue not heard.



**ISSUE 5: IT PROJECTS – REPORT LANGUAGE**

The Department of Corrections has a number of IT projects being planned regarding accounting and fiscal administration, tracking of medical records, pharmaceutical tracking, and inmate and parole records. These projects may cost over \$100 million over a number of years before they become operational.

The subcommittee may want to adopt trailer bill language to direct the Department of Corrections to report quarterly to the budget committees of both houses beginning October 1, 2005, on the status of all pending IT projects with a cumulative cost exceeding \$10 million. Reporting on these projects would cease upon becoming fully operational. Reporting would not be required for project upgrades that would not increase the categories of data managed by the IT system.

**March 30 Action:** Issue not heard.

**ISSUE 6: TRAINING**

Law enforcement personnel generally have requirements for ongoing training to maintain and improve their skills. Correctional officers at the Department of Corrections are to annually receive 40 hours of classroom training. This covers topics such as blood borne pathogens, use of force or time on the shooting range. The department has developed an 8 hour course on Ethics which includes discussions on the "Code of Silence". This appears to be in response to a February 17, 2004 memo jointly signed by the Secretary of the Youth and Correctional Agency and the Director of Corrections which cites a department policy of zero tolerance toward any employee, regardless of rank that "fail to report violations of policy or who acts in a manner that fosters the code of silence".

The subcommittee may want to ask the following questions:

- What classes constitute the 40 hours of mandatory training for 2005? Is there a different group of classes for institutions and for camps?
- Does a correctional officer have any flexibility in which classes to take?
- Can a correctional officer earn more than 40 hours a year of training? Would it all be on paid time?

Additionally, the department annually requires 12 hours of "on the job training" (OJT). This generally consists of self-study programming and may be intended to provide the student with a refresher of previously presented materials. These types of course may include crime scene evidence preservation and Information technology security. While the training materials seem to provide a list of subject matter experts, it is not clear whether the classes allow for reasonable access to these persons in a timely matter through the distribution of telephone numbers or e-mail addresses.

The subcommittee may want to ask the Department the following:

- A list of all OJT training classes, with a description of the course materials, and the relevance of the program to the mission of the department
- Are there only 12 hours of OJT available per institution? Is each class mandatory or does a correctional officer have some flexibility in how he/she earns the 12 hours of credit?
- Can a correctional officer earn more than 12 hours of OJT per year? How?

**ISSUE 7: NEW PAROLE MODEL– PART 2 –PAROLE VIOLATORS**

One part of the new parole model relates to alternate sanctions for parolees that were found to be in violation of the terms of parole. Under this provision, parolees could be sent to drug treatment programs, halfway houses or home detention in lieu of being returned to prison as a parole violator. This plan reduces state expenditures as it is generally less expensive to provide treatment to a parolee than to return him/her to the custody of an institution.

The subcommittee may want to ask the Department the following:

- What is the status of the alternate sanction element of the new parole model?
- Has the Administration collected any information on this element? If so, what does the data show?
- Does the Administration propose any changes to alternate sanctions? If so how are those changes estimated to affect the institutional population? Parole population? Costs to the department in the current and budget year?

**ISSUE 8: ELECTRICAL SAVINGS**

The Department of Corrections operates 32 institutions that hold over 150,000 inmates. These inmates require secure detention 24 hours a day 7 days a week. Lighting plays an important role in maintaining a safe and secure environment within and surrounding the prison. Light to illuminate dark areas within the prison prevent persons from hiding where they don't belong, Lighting to provide line of sight so that custody staff can watch the inmates so that they can be counted and their safety can be maintained. Lighting of the outside perimeter so that inmates attempting to escape can be stopped before they can actually leave the grounds, or electrocute themselves on a high voltage electric fence. Lighting becomes pervasive at an institution. While each light costs little to operate, primarily due to improvement of lighting technology, through the use of fluorescent and high intensity discharge lighting, when fixtures are used by the thousands, for many hours a day, the entire lighting bill for CDC could be in the millions of dollars.

The subcommittee may want to direct the CDC to pursue technology to reduce lighting costs. This could include:

- Setting goals of savings of up to 15 percent of lighting costs at CDC institutions in 2005-06.
- Directing the department to report on a plan by October 1, 2005 to save lighting costs.
- To include the exploration of public – private partnerships in achieving the light saving goals.
- Have the department consider the use of power management strategies to reduce lighting costs.

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**ITEM 5430            BOARD OF CORRECTIONS**

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<b>ISSUE 1: STANDARDS AND TRAINING FOR CORRECTIONS</b>
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The Board of Corrections is proposing an augmentation of \$2.7 million and 18 positions to provide technical assistance to cities and counties regarding standards and training to local correctional and probation employees in order to be in compliance with minimum statewide standards.

The LAO recommends withholding of this augmentation request pending the receipt of additional information.

The subcommittee may want to ask the LAO whether it has received the additional information and if a revised recommendation has been made.

**March 30 Action:** Issue not heard.

**ITEM 0840 BOARD OF PRISON TERMS**

The Board of Prison Terms (BPT) is the state's adult parole authority that sets the terms and conditions of parole. The BPT conducts hearings for those who have life sentences and those who have been charged with violating their parole. At the request of the Governor, the BPT investigates applications and forwards recommendations for pardons and commutations of sentences. It also has the discretion to recommend to the court that a prisoner be re-sentenced when circumstances warrant compassionate release.

**ISSUE 1: FOREIGN PRISONER TRANSFER TREATY PROGRAM**

The Board of Prison Terms and the Department of Corrections jointly operate the Foreign Prisoner Transfer Treaty Program. This allows the transfer of a foreign national to serve the remainder of inmate's term in his or her home country (see similar issue in Item # 5240, Issue 1)

The Legislative Analyst's Office (LAO) has proposed additional funding in support of outreach activities and to enhance the processing efficiencies of the program. The Board staff has been asked to review the LAO's recommendation and determine whether additional efficiencies could be obtained through an alternate staffing package. Any changes to the LAO recommendation would require commensurate savings to the Department of Corrections associated with a reduction in the inmate population.

The subcommittee may want to adopt enhancements to the Foreign Prisoner Transfer Treaty Program to provide adequate notice to the inmates of their right to seek advice from the consulate and the efficient processing of the inmate's request to transfer to his or her home country in accordance with international law.

Since the program is operated jointly with the Department of Corrections, the subcommittee may choose to place reporting requirements on the Youth and Adult Correctional Agency as identified in the Item # 5240 (Department of Corrections) discussion.

**March 30 Action:** Issue not heard: awaiting additional information from the Board of Prison Terms on a revised plan for Enhanced Program.

## NEW ITEMS

### **ITEM 0280                      COMMISSION ON JUDICIAL PERFORMANCE**

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The Commission on Judicial Performance is the independent state agency in California responsible for investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges, pursuant to article VI, section 18 of the California Constitution.

The commission's jurisdiction includes all active California state court judges. The commission also has authority to impose certain discipline on former judges and has shared authority with local courts over court commissioners and referees. The commission does not have authority over federal judges, judges pro tem or private judges.

The Commission is composed of eleven members: three judges appointed by the Supreme Court, two attorneys appointed by the Governor; and six public members, two appointed by the Senate Committee on Rules, two appointed by the Speaker of the Assembly, and two appointed by the Governor. Members are appointed to four year terms and may serve a maximum of two terms. Commission members do not receive a salary.

For calendar year 2004, the Commission received 1,114 new complaints, concluded review of 1,080 cases and ended the year with 80 cases.

<b>ISSUE 1: COMMISSION BUDGET</b>
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The budget for the Commission for 2004-05 is \$4.1 million and 27 positions. The Governor's Budget proposes minor adjustments in the budget year for a net increase of \$13,000 with no increase in the number of positions.

**ITEM 0250                      JUDICIARY**

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Article VI of the California Constitution created the Supreme Court and the Courts of Appeal in addition to the Judicial Council which acts as the administrative body of the judicial system including the superior courts.

Chapter 850, Statutes of 1997, shifted the fiscal responsibility of the trial (superior) courts from the counties to the state.

In the current year as well as previous years, the funding for the appellate courts and the Judicial Council was included in Item #0250, while funding for the trial courts were included in Item #0450. For 2005-06, the Governor's Budget merges the funding for all state courts into a single item (#0250 Judicial Branch).

**ISSUE 1: ORANGE COUNTY APPELLATE COURTHOUSE**

The Budget Act of 2000 (Chapter 52, Statutes of 2000) appropriated \$3.215 million From the General Fund for the acquisition and preliminary plan costs for the replacement appellate courthouse for the fourth appellate district currently located in Santa Ana. By the end of the 2000-01 fiscal year, the Judicial Council had not finalized the location for the new courthouse (Item #0250-301-0001).

As a result, for the following fiscal year, the Budget Act of 2002 (Chapter 379, Statutes of 2002) appropriated \$14.35 million in support of working drawings and construction costs associated for the new courthouse (Item 0250-310-0660). By the end of the 2002-03 year, the site for the replacement courthouse had still not been made by the Judicial Council. However, by that time a bid by the City of Santa Ana to locate a new courthouse near the existing facility had been rejected. The Budget Act of 2003 (Chapter 157, Statutes of 2003) re-appropriated the funds through June 30, 2005. Budget bill language to direct the courts to reconsider Santa Ana as site of the new courthouse was vetoed by the Governor.

By the end of March 2005, the Judicial Council has not made a determination on the location of the appellate courthouse. That decision may be made at the April 15, 2005 meeting of the Council.



The subcommittee may want to ask questions of the Courts regarding the following:

- Will the Judicial Council be able to encumber the funds for working drawings and construction costs pursuant to Budget Act of 2003? If not, will it require a re-appropriation of funds?
- If the funds are not encumbered by June 30, 2005, what is the estimated reversion to the General Fund?
- If the Council chooses a sight for the replacement courthouse and adopts the Santa Ana offer to sell the property to the State for \$1, (or if UC Irvine offers similar terms) could the courts revert some savings in 2005-06 related to a lower land cost (original costs for the property estimated at \$2.3 -\$2.4 million)?

## **ISSUE 2: UNIFORM CIVIL FILING FEE**

The 2002 Budget Act increased civil filing fees by ten percent and criminal penalties by twenty percent. The 2003 Budget Act increased fees for court security, probate and small claim cases. In 2005-06 the court security and undesignated fees will expire as sources of court revenue. This is expected to reduce revenue by \$46 million annually. The Governor's Budget proposes to offset this reduction by the implementation of a Uniform Civil Filing Fee, and the reauthorization of the undesignated fee transfer from the counties.

The Judicial Council has formed a working group to develop proposals to streamline the civil filing fee structure and achieve uniformity in the level of fees charged by courts across the state. This is expected by reducing the number of fees into a single fee as well as raising certain fees. While the Governor's Budget estimates the fee will generate \$17 million in the budget year, the actual amount collected would be determined by the final statutory language, and date of implementation.

The subcommittee may want to ask questions regarding the uniform fee:

- What is the status of the uniform filing fee proposal? Is final language ready? How do the new fees compare with the current fees? What is the estimated implementation date for the fee? Will the implementation be statewide or will it be phased in?
- Can detail on the estimated revenues be provided by county? How will the estimated fee revenue for each county compare with the current fee revenues? (which county will experience the greatest increase in revenue on a percentage basis?) How was the Administration's estimate of \$17 million determined?

The 2003 Budget Act directed the counties to transfer \$31 million in undesignated fees to the courts. This decision was made because it was determined that the cost of services associated with those fees were borne by the courts. These fees were identified as "undesignated" because, after the implementation of the Trial Court Funding Act, it was not clear whether the fees were being deposited to the courts or the counties. Under current law, the transfer of undesignated fees to the courts is scheduled to sunset at the end of 2004-05. The Administration proposes to permanently extend the transfer. The Governor's Budget proposes \$29 million in revenues associate with this statutory change.

The subcommittee may want to ask the following questions:

- What is the status of any discussions between the courts and the counties regarding the transfer of the undesignated fees?
- How was the estimated revenue of \$29 million determined? Does the court, counties or the Administration have any revised estimate of this amount?
- Do the counties have any concerns about the appropriateness of the undesignated fees proposed to be transferred in the budget year?

**ISSUE 3: UNALLOCATED AUGMENTATIONS – GROWTH FACTOR/UNALLOCATED RESTORATION**

The Administration proposes to increase the base budget for the courts by \$97.4 million for the budget year. This increase is based upon a statutory growth factor of 4.8 percent. This is in addition to a \$92.6 million adjustment for increased court employee salary and benefits, retirement, court security and county provided services that began in the current year. The Governor's Budget also proposes the restoration of the one-time reduction taken in the current year. The Legislative Analyst's Office believes that this amount should be closer to 6 percent. This would result in additional funding of \$27 million.

The subcommittee may want to ask the following questions:

- Does the Administration propose to review the growth factor percentage during the May Revision process?
- Since the restoration of the one-time reduction and the growth factor augmentation is not tied to specific funding needs, how will the increase in available funds from these two provisions be allocated?

**ISSUE 4: FORENSIC EVALUATIONS**

The Administration proposes \$5.476 million to support increased costs associated with forensic evaluations as specified by a recent Attorney General opinion regarding the fiscal responsibility for these procedures.

Pursuant to a request from the County Counsel for Butte County, the Attorney General opined that the court would be fiscally responsible for the cost of five types of forensic evaluations (in consideration of the suspension of a sentence where the defendant has been convicted of lewd or lascivious act on a minor under 14; examination of a defendant's mental competency; determination of whether a civil commitment should be made related to a narcotics addiction; examination related to an involuntary civil commitment of a person believed to be imminently dangerous to others) while the counties were responsible for two types of evaluations (examination related to a civil commitment of a sexually violent predator; or a plea of "not guilty by reason of insanity"). Currently, counties are paying for the costs of evaluations that have been determined to be the responsibility of the state. According to the courts, based on a survey of 29 counties and 53 trial courts, the additional costs associated with the 5 types forensic evaluations will be \$5.5 million for the budget year. The Administration proposes to collect further data from the courts and the counties and provide a revised estimate of the costs during the May Revision. There may be an additional one-time cost associated with this proposal as the courts report that counties have accrued prior year costs that have not been paid at the time of the Attorney General's opinion.

**ISSUE 5: GRAND JURY MANDATES**

The Administration proposes the suspension of the following grand jury mandate (Item #0250-295-0001):

- Chapter 1170, Statutes of 1996 (AB 1457 Kopp) which required grand juries to provide additional detail regarding the findings of a grand jury.

In its analysis, the Legislative Analyst's Office proposes the suspension of two other similar mandates that affect grand juries:

- Chapter 43, Statutes of 1997 (AB 829 Thomson) which requires training of grand juries that includes the subject of report writing, interviewing techniques and the scope of its responsibility and authority.
- Chapter 230, Statutes of 1998 (AB 1907, Woods) which requires the county clerk to transmit a copy of the grand jury report to the State Archivist.

The Commission determined costs for these mandates from 1997-98 through 2004-05 to be \$12.6 million. The Administration proposes to suspend this mandate and provide no funding for the prior year claims.

The Legislative Analyst's Office proposes report language that reads as follows:

On or before December 1, 2005, the Administrative Office of the Courts shall report to the appropriate fiscal and policy committees of the Legislature on the Grand Jury Proceedings mandates. The report shall include, but not be limited to, the assessment of (1) the quality of grand jury reports, (2) the response of local government entities to the findings and recommendations of the grand jury reports, and (3) training provided to grand juries in a representative sample of counties to determine if the goals and objectives of the subject legislation have been achieved.

The Judicial Council opposes the adoption of the reporting language for two reasons:

- It would be a conflict of interest to perform such a review of the grand juries
- The reports would be costly and the budget does not provide the fiscal resources to support this effort.

The Senate budget subcommittee adopted the suspension of the three mandates and declined to adopt the reporting language proposed by the LAO.

**ITEM 0552            OFFICE OF THE INSPECTOR GENERAL**

The Office of the Inspector General (OIG) has the responsibility for the oversight of the state's correctional system. It provides independent investigations, reviews and audits of the various departments within the Youth and Adult Correctional Agency.

The Administration is developing workload standards for this Office that it proposes to present during the May Revision process.

**ISSUE 1: SB 1342 WORKLOAD BUDGET**

Chapter 733, Statutes of 2004 (SB 1342 Speier) directs the IG, in consultation with the Department of Finance, to develop a methodology for producing a workload budget to be used for annually adjusting the budget of the OIG, beginning with the budget for the 2005-06 fiscal year. The Administration has stated that this proposal was not included in the Governor's Budget but would be presented as part of the May Revision.

The subcommittee may want to ask the following:

- What is the status of the workload budget required by SB 1342?
- What criteria is being used to develop the workload?
- What data is being used to justify the positions and resources?
- What is the proposed workload beyond the budget year?
- What information does the Administration propose to report to the Legislature regarding the performance of the OIG, which would include but not be limited to backlog data?

**ITEM 1870 CALIFORNIA VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD**

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The California Victim Compensation and Government Claims Board (Board) consists of three members: the Secretary of State and Consumer Services; the State Controller; and a public member appointed by the Governor.

The primary objectives of the Board include:

- Compensation of victims of violent crime and eligible family members for certain crime-related financial losses;
- Civil claim against the State;
- Administering travel allowances for certain State governmental officials;
- Responding to bid protests against the State;
- Reimbursement of counties for the cost of special elections called by the Governor to fill vacant seat in the Legislature and Congress.

**ISSUE 1: CITIZENS INDEMNIFICATION**

Program 11 in the Board's budget indemnifies those citizens who are injured and suffer financial hardship as a direct result of a violent crime. The victim of a qualifying crime, and eligible family members, may file a claim with the Board for program benefits.

Eligible benefits include:

- Medical and medical-related expenses for the victim, including dental expenses.
- Outpatient mental health treatment or counseling.
- Funeral and burial expenses.
- Wage or income loss up to five years following the date of the crime. If the victim is permanently disabled, wage or income loss may be extended.
- Support loss for legal dependents of a deceased or injured victim.
- Up to 30 days wage loss for the parent or legal guardian of a minor victim who is hospitalized or dies as a direct result of a crime. Job retraining.



- Medically necessary renovation or retrofitting of a home or vehicle for a person permanently disabled as a result of the crime.
- Home security installation or improvements up to \$1,000 if the crime occurred in the victim's home.
- In-patient psychiatric hospitalization costs under dire or exceptional circumstances.
- Relocation expenses up to \$2,000 per household.
- Crime scene cleanup up to \$1,000 if a victim dies as a result of a crime in a residence

Funding for this program is from both the Restitution Fund and Federal Trust Funds. The level of federal funding is generally based upon prior year state expenditures. The Governor's Budget proposes to increase expenditures from the Restitution Fund by \$12.4 million in the Budget Year. This is offset by a reduction in available federal funds of \$8.4 million for a net increase of \$4 million.

**ITEM 8320 PUBLIC EMPLOYMENT RELATIONS BOARD**

The Public Employment Relations Board (PERB) is a quasi-judicial agency which oversees public sector collective bargaining in California. PERB administers seven collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties subject to them. The statutes administered by PERB include the Educational Employment Relations Act (EERA) of 1976 establishing collective bargaining in California's public schools (K-12) and community colleges; the State Employer-Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act), establishing collective bargaining for state government employees; and the Higher Education Employer-Employee Relations Act (HEERA) of 1979 extending the same coverage to the California State University System, the University of California System and Hastings College of Law. The Meyers-Milias-Brown Act (MMBA) of 1968 establishing collective bargaining for California's municipal, county, and local special district employers and employees was brought under PERB's jurisdiction pursuant to Senate Bill 739 (Chapter 901, Statutes of 2000), effective July 1, 2001. PERB's jurisdiction over the MMBA excludes peace officers, management employees and the City and County of Los Angeles. In addition, PERB is responsible for the administration of the Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA), covering supervisory employees of the transit agency. In addition, effective August 16, 2004, pursuant to Senate Bill 1102 (Chapter 227, Statutes of 2004), the Trial Court Employment Protection and Governance Act (Trial Court Act) and the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) were brought under PERB's jurisdiction. PERB has established regulations to implement the provisions of the EERA, Dills Act, HEERA, MMBA, TEERA, Trial Court Act and Court Interpreter Act.

**ISSUE 1: INCREASED WORKLOAD FOR TRANSIT AND COURT EMPLOYEES**

Chapter 833, Statutes of 2003 and Chapter 227, Statutes of 2004 expanded the jurisdiction of the PERB to include transit employees, trial court employees, and court interpreters. These two statutes expand the jurisdiction of the Board to include 63 additional employers and 25,000 employees. The Administration proposes an augmentation of \$438,000 and 3 attorneys in support of this increased workload.

**ITEM 9800                    AUGMENTATION FOR EMPLOYEE COMPENSATION**

This budget includes funding for state civil service and related employee compensation. Employee compensation funding is based upon approved Memoranda of Understanding for represented employees that are ratified by the Legislature. Compensation for excluded employees are determined by the Department of Personnel Administration or other authorized entities.

**ISSUE 1: EMPLOYER CONTRIBUTION FOR MEDICAL PREMIUMS**

The Administration proposes funding of bargaining unit contracts for units 5, 6 and 8 as well as employer contributions for dental and vision premium increases. The Administration proposes to eliminate employer funding for medical insurance premium increases. This would require a statutory change. Currently, the amount of the employer contribution is generally dependent upon the provisions of a collective bargaining agreement and represents a percentage of the average HMO premium.

**ISSUE 2: DEFERRAL OF MEDICAL COVERAGE FOR NEW EMPLOYEES**

The Governor's Budget proposes to eliminate all employer contributions for medical insurance for new employees until they have passed their probationary period. The Administration estimates this proposal will result in General Fund savings in 2005-06 of \$30 million.

The probationary period for state employees is not the same for all employees. In addition, some employee categories such as exempt employees do not have a probationary period. Further, an employee could remain on probation for an extended period of time as a result of moving from one job classification to another before completing the probationary period for any particular position category. Therefore it is not clear how much time a new employee would go without employer subsidized health care insurance.

The subcommittee may want to ask the Administration the following:

- Does the Administration propose a uniform period of time for new employees to go without employer subsidized health care insurance?
- What about for exempt or other employees who have no probationary period?
- What about new employees that move from one position to another and do not complete the original probationary period?

The Administration's proposal has not proposed how the new employee would obtain health insurance coverage.

The subcommittee may want to ask the following questions:

- Would the new employee be eligible to participate in the same health plans as non-probationary employees?
- Would the options for new employees be limited?
- Would new employees be required to obtain health insurance coverage independently?

Under the Consolidated Omnibus Budget Reconciliation Act (COBRA) employees are allowed to continue medical coverage (health, dental & vision) if they become ineligible for continuation of their current State coverage. The employee must submit a request for COBRA within 60 days following notification of ineligibility and is responsible for paying 102% of the group monthly premium rate. This allows for the continuous medical coverage of employees while on temporary separations, such as a non-paid leave of absences. If the Administration proposes to allow new employees to participate in the same health insurance plans as non-probationary employees, it is not clear if it intends to charge that employee a premium over the group monthly premium rate or would it charge the same amount as for established employees.

The subcommittee may want to ask the Administration:

- If the Administration allows a new employee to participate in a state health insurance plan, would it charge an amount over the group monthly premium rate.
- Would the Administration propose to limit any surcharge by statute to a percentage of the total premium or fixed dollar amount?

**ISSUE 3: BUDGET ACT PRESENTATION**

The Budget Act identifies individual appropriations that are generally separated by department or agency and by funding source within that entity. These appropriations represent the Legislature's statutory limits on the expenditure of funds pursuant to the Budget Act. Changes to the appropriation generally require approval by (or notice to based upon specific authority) the Legislature. Often within an appropriation is a schedule of sub-appropriations. The purpose of the schedule is twofold. First it is to avoid the need for separate appropriations for each schedule item. Second, it acts to limit the unrestricted transfers between schedule items within an appropriation. Control Section 26.00 provides some flexibility for intraschedule transfers however. it is limited to 10 percent for appropriations over \$4 million. The Administration proposes the Budget Act to provide separate augmentations for salaries and benefits for Item #9800 by collective bargaining unit. However, it also proposes to exempt itself from any limits on intraschedule transfers. Thus proposed Budget Act presentation would provide the illusion of separation of the schedule items by bargaining unit. If the purpose of the presentation is informational, this would be more appropriately displayed in the Governor's Budget or a separate reporting document that does not restrict expenditures. A single schedule item per appropriation for Item #9800 would be more appropriate.