

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

Assemblymember Rudy Bermudez, Chair

**WEDNESDAY, APRIL 9, 2003
STATE CAPITOL, ROOM 437
1:30 p.m.**

ITEMS TO BE HEARD

ITEM	DESCRIPTION	PAGE
0390	CONTRIBUTIONS TO JUDGES' RETIREMENT SYSTEM	2
ISSUE 1	GENERAL FUND SWEEP	2
0550	SECRETARY FOR YOUTH AND ADULT CORRECTIONAL AGENCY (CONSENT)	3
0820	DEPARTMENT OF JUSTICE	4
ISSUE 1	WITNESS PROTECTION PROGRAM	4
ISSUE 2	SPOUSAL ABUSE PROSECUTION PROGRAM	5
ISSUE 3	FORENSIC FEES	6
5240	DEPARTMENT OF CORRECTIONS	7
ISSUE 1	SAN QUENTIN - CONDEMNED HOUSING	7
ISSUE 2	DEFICIENCY	9
5430	BOARD OF CORRECTIONS	10
ISSUE 1	JUVENILE JUSTICE GRANTS	10
5440	BOARD OF PRISON TERMS	11
ISSUE 1	FOREIGN PRISONER TRANSFER PROGRAM	11
5480	COMMISSION ON CORRECTIONAL PEACE OFFICERS' STANDARDS AND TRAINING (CONSENT)	12
ISSUE 1	GOVERNORS BUDGET PROPOSAL	12
8910	OFFICE OF ADMINISTRATIVE LAW	13
ISSUE 1	PROGRAM REDUCTIONS	13

CONSENT CALENDAR

- 0550 Secretary for Youth and Adult Correctional Agency
- 5480 Correctional Peace Officers' Standards and Training

ITEMS TO BE HEARD

ITEM # 0390 CONTRIBUTIONS TO THE JUDGES' RETIREMENT SYSTEM

The budget for this item provides funding of retirement benefits for judges retiring from the Supreme Court, Appellate Courts, Superior Courts and Municipal Courts. Retirement benefits are generally based upon the age at retirement, years of service and compensation of active judges. Income to the system takes the form of a portion of active judges' salaries, a contribution from the state, filing fees from specified civil cases, and investment income.

ISSUE 1: SWEEP OF FUND BALANCE TO THE GENERAL FUND

Judges elected or appointed prior to November 9, 1994 are participants in the original Judges' Retirement System or JRS I. Funding for this system is not on an actuarial basis, as no reserves have been set aside to pay for the present value of anticipated future obligations. In fact, the Governor's Budget proposes an ending balance in the budget year fund of \$20.4 million after estimated disbursements of \$121.4 million (\$5.7 million increase over estimated disbursements in the current year). The Administration estimates expenditures to increase in the budget year by an amount identical to the increase between the two previous years. This assumes that neither current fiscal conditions nor the scheduled general salary increase would have any impact on the existing trend of increased payments to retired judges and as it estimates that the rate of increase will be declining slightly.

The LAO recommends that JRS I would be able to operate adequately with a \$10 million year-end reserve. This would amount to approximately one month's funding obligation. The Subcommittee may want to consider adjusting the year-end fund balance to this lower amount by sweeping \$10.3 million to the General Fund.

ITEM # 0550 SECRETARY FOR YOUTH AND ADULT CORRECTIONAL AGENCY

ISSUE 1 GOVERNOR'S BUDGET PROPOSALS

The Youth and Adult Correctional Agency includes: the Department of Corrections; Department of Youth Authority; Board of Prison Terms; Youthful Offender Parole Board; Board of Corrections; Narcotic Addiction Evaluation Authority; and Commission on Correctional Peace Officers' Standards and Training.

The Governor's Budget proposes funding for the Agency of \$1.196 million in the budget year. This is \$53,000 less than the budget in the current year.

ITEM # 0820 DEPARTMENT OF JUSTICE

The Department of Justice (DOJ) serves as the chief law enforcement officer of the state. As such, it has the responsibility to ensure that the laws of California are uniformly and adequately enforced. In the Budget Year the Governor's Budget proposes expenditures of \$606.7 million of expenditures. This is a decrease of \$31.1 million from estimated expenditures in the current year. Unheard and open items from the March 12, 2003 agenda have been included for discussion in this hearing.

ISSUE 1: WITNESS PROTECTION PROGRAM

Under the Hertzberg-Leslie Witness Protection Act, the Attorney General is responsible for administering the Witness Protection Program (WPP), the purpose of which is to protect witnesses where credible evidence exists that they may be in substantial danger of intimidation or retaliatory violence because of their testimony. This is accomplished through the use of temporary and/or permanent relocation of witnesses and their later transition to safe and secure environments.

According to the 2003 Annual Report by the Attorney General, WWP funded 376 cases that provided protection for 456 witnesses and 693 family members. This allowed prosecutors to proceed against 637 defendants.

Funding for this program is specified in the Governor's Budget and comes from the portion of the Restitution Fund that exceeds the amount needed to pay victims' claims under law. In 2002-03 WPP had a budget of \$3.096 million. Of this amount, \$2.946 million has been allocated to reimburse local criminal justice entities for the costs of witness protection. The remainder of the budget is allocated to the Department for administration costs.

In the budget year it is estimated that the Restitution Fund will not have sufficient funds to pay all victims' claims. As a result, the Governor's Budget does not provide funding WWP in 2003-04.

As part of the April 1, 2003 Finance Letter package, the Administration proposed a General Fund appropriation of \$3 million to support WWP. While the Administration's proposal provides for permanent funding from this source, the Subcommittee may want to explore the possibility of funding this program from a dedicated portion of the Restitution Fund to conserve General Funds. The revenue to the Restitution Fund appears to be relatively stable, so a fixed percentage of this fund allocated to WWP should provide it with an ongoing funding source. This option would require a statutory change either through urgency language for implementation in the budget year, or through the regular legislative process for implementation in 2004-05.

ITEM 0820 DEPARTMENT OF JUSTICE

ISSUE 2: SPOUSAL ABUSE PROSECUTION PROGRAM

Through 2002-03 the Attorney General's Office administered the Spousal Abuse Prosecution Program, which provides funding to local district attorney's offices for the vertical prosecution of felony domestic violence cases. Vertical prosecution programs are used by prosecutors to address difficult and complex cases by assigning a single prosecutor to all aspects of the state's case against the defendant. This is particularly effective in prosecution of spousal abuse cases, since the testimony can be very traumatic for the victim. The use of a single prosecutor would eliminate the need for multiple interviews over the same facts of the case. The Governor's Budget proposes the elimination of this program in the budget year.

ITEM 0820 DEPARTMENT OF JUSTICE

ISSUE 3: FORENSIC FEES

The Department of Justice, Bureau of Forensic Services (BFS) operates crime laboratories distributed throughout the state to provide forensics services to those law enforcement agencies and prosecutors that do not otherwise have access to these services. BFS has client agencies in 46 of the state's 58 counties. Currently the state does not charge fees to provide these services, which include the analysis of fingerprint information, trace evidence, DNA, ballistics and handwriting analysis. Fees, however, are charged to local governments to perform blood alcohol testing associated with driving under the influence of alcohol cases. Local governments receive criminal fine revenues to offset these costs. The Governor's Budget proposes that local governments reimburse the Department for \$3.5 million of costs in the budget year. These charges are estimated to increase to \$7.1 million in 2004-05 and future years.

The Department of Justice opposes the imposition of fees to its client agencies to provide forensic services.

ITEM # 5240 DEPARTMENT OF CORRECTIONS

The Department of Corrections (CDC) currently operates 33 correctional facilities with another, Delano II, under construction. The Governor's Budget estimates the Department will have 152,000 inmates in its correctional facilities and 128,000 parolees. The proposed budget for 2003-04 is \$5.3 billion, which represents a \$40 million increase over the current year.

ISSUE 1: SAN QUENTIN PRISON - HOUSING FOR CONDEMNED INMATES

The original death row was established in 1932 at the California State Prison, San Quentin, and was designed for a population of 68 inmates. At that time, the average time from commitment to execution was approximately one year. The current condemned population numbers just over 600 inmates and has expanded over three housing units. The housing facilities for these prisoners are not of current design and do not meet the minimum standards for high level (level IV) prisoners (electrified fencing). The existing housing uses multiple tiers of up to five tiers. Because the current death row does not comply with facilities access under the Americans with Disabilities Act, it is not clear whether the existing housing would be able to accommodate a severely disabled inmate. While this may have been a minor issue when the time from commitment to execution was rather short, the current population includes inmates that have been on Condemned Row for over 20 years, and therefore faces an increase in an aging population that will require accommodations.

The Department proposes the construction of a new housing project for condemned inmates on the San Quentin site. The cost of this project is estimated at \$220 million, to be funded through bonds. CDC estimates that a July 2003 approval of this project would result in completed construction by summer 2007. This project would have the capacity of 1,000 inmates between two units in a secure location. The units would use the 180-degree design, which is standard for level IV housing. The Department estimates the number of inmates committed to condemned status will increase by an average of 29 per year. At that rate, the new housing is expected to reach capacity within 15 years. The proposed design would allow for the construction at a later date of a third unit to house up to 500 condemned inmates.

The Legislative Analyst's Office has expressed the following concerns regarding this project:

- The new housing unit would be filled in a relatively short period of time, and the Department does not have a concrete plan to house more than 1,000 condemned inmates.
- Costs per cell are substantially higher than those for the Delano II prison currently under construction.
- Additional details need to be developed to determine more accurate costs for the project.
- The Legislature needs to decide whether the condemned inmates should remain at San Quentin, or whether the Department should explore relocating its population to another institution.

A number of existing correctional facilities house high level (level IV) prisoners. The Penal Code provides for alternate condemned housing at California State Prison, Sacramento. Currently, the law limits the number of condemned inmates at Sacramento to 15. Transfer to Sacramento from San Quentin occurs only after the inmate commits additional infractions. Since the location of execution and the location of condemned housing is specified in statute, additional legislation

would likely be required to move the housing of these prisoners. The Subcommittee may want to ask the Department if there are existing facilities that currently hold level IV prisoners that may be converted to condemned housing in the absence of the new San Quentin project.

ITEM 5240 DEPARTMENT OF CORRECTIONS

ISSUE 2: DEFICIENCY

In response to the size and complexity of the Department's budget, CDC has developed an annual process for reviewing current year expenditures to determine whether it will expend at a rate that would cause a deficiency. The Subcommittee may want to ask the Department to comment on the current status of its budget and to comment whether it expects to require a deficiency appropriation in the current year. If a determination has not yet been made with regard to the need for a deficiency, then the department may be able to inform the Subcommittee when such a determination would be made.

ITEM 5430 BOARD OF CORRECTIONS

ISSUE 1 JUVENILE JUSTICE GRANTS

The Board of Corrections (BOC) works in partnership with city and county officials to develop and maintain standards for the construction and operations of local jail and juvenile correctional facilities. The Board also administers a number of juvenile justice grants including those under the Juvenile Justice Crime Prevention Act. These grants require Board approval of local plans to expend funds under this act. The Governor's Budget proposes a BOC budget of \$132.1 million. This is \$2.8 million (2 percent) higher than the current year estimate.

The Legislative Analyst's Office proposes the transfer of juvenile justice grants currently administered by the Office of Criminal Justice Planning to BOC.

ITEM 5440 BOARD OF PRISON TERMS

The Board of Prison Terms (BPT) considers parole release and establishes the length and conditions of parole for persons serving sentences of less than a life term, and those with a life sentence with the possibility of parole. The Board may also revoke the parole of any offender who has violated the terms of parole. BPT's authority also extends to the waiver of parole and discharge prior to the expiration of the maximum parole period. The Board advises the Governor on applications of clemency.

The Governor's Budget proposes a budget of \$30.6 million. This is \$1.8 million (5.5 percent) less than the estimated budget in the current year.

ISSUE 1: FOREIGN PRISONER TRANSFER

The Budget Act of 2002 provided additional funding to BPT to enhance the Foreign Prisoner Transfer Program. Under this program the Board transfers inmates who are citizens of foreign countries to their country of origin to fulfill the rest of their prison term. The transfer requires the approval of the inmate, incarcerating government, federal government and receiving government.

The Subcommittee may want to ask the Board about the number of inmates in state correctional facilities who are foreign citizens and the number of those inmates that have been transferred out of state custody.

ITEM 5480 COMMISSION ON CORRECTIONAL PEACE OFFICERS' STANDARDS AND TRAINING

ISSUE 1 GOVERNORS BUDGET PROPOSAL

The purpose of the Commission on Correctional Peace Officers' Standards and Training (CPOST) is to enhance the training and professionalism of the state's correctional peace officers through the development of sound selection practices. The Governor's Budget proposes a budget for CPOST of \$2.2 million. This is \$52,000 greater than the budget in the current year.

ITEM 8910 OFFICE OF ADMINISTRATIVE LAW

The Office of Administrative Law (OAL) is responsible for: reviewing administrative regulations proposed by state regulatory agencies in compliance with the standards set forth in California's Administrative Procedure Act; transmitting the regulations to the Secretary of State; and publishing regulations in the California Code of Regulation. The office also issues opinions as to whether a state agency rule meets the statutory definition of a regulation pursuant to the Administrative Procedure Act.

ISSUE 1: PROGRAM REDUCTIONS

The Governor's Budget proposes a budget of \$2,004,000. This is a reduction of \$480,000 (19 percent) from the current year's budget. The Subcommittee may want to ask the Department to comment on the impact of the General Fund reduction on its operations.