

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 4

ON STATE ADMINISTRATION

Assemblymember Juan Arambula, Chair

Wednesday, May 28, 2008

5:30 or Upon Call of the Chair

State Capitol, Room 447

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Consent

ITEM 0160 LEGISLATIVE COUNSEL

ISSUE 1: BUDGET

The May Revision restores \$7 million of cuts that was incorrectly included in the Governor's January budget proposal.

ITEM 0500 GOVERNOR'S OFFICE

ISSUE 1: BUDGET

The Governor's proposed budget includes \$18.7 million for the Governor's Office; this includes a 10 percent reduction.

ITEM 095X VARIOUS TREASURER'S OFFICE SPECIAL FUND LOANS

ISSUE 1: SPECIAL FUND LOANS

The Governor's May Revision proposes a total of \$24 million in loans from various Treasurer's Office related special funds, including:

- ◆ \$2 million from the California Debt and Investment Advisory Commission Fund.
- ◆ \$2 million from the California Debt Limit Allocation Committee Fund.
- ◆ \$10 million from the California Tax Credit Allocation Committee's Occupancy Compliance Monitoring Account, Tax Credit Allocation Fee Account.
- ◆ \$10 million from the California Tax Credit Allocation Committee's Tax Credit Allocation Fee Account.

The Administration believes none of these loans will have any negative impacts on the programs they support. All of the loans will be repaid by June 30, 2011.

VARIOUS CENTRAL SERVICE AGENCIES CORRECTIONS

ISSUE 1: CENTRAL SERVICE AGENCY REDUCTIONS

The May Revision includes a proposal to correct problems with the Governor's 10 percent Budget Balancing Reductions in the January 10 proposed budget.

The May Revision corrects the problem of disproportionate cuts to agencies that provide central services.

It is important to note, however, that both the Senate and Assembly have opted to not be included in this Central Services proposal (the cut level for the Legislature is included in the Legislature's item above), and therefore should be excluded from this proposal.

In addition, the Bureau of State Audits (BSA) has some concerns regarding the proposal and potential infringements on the BSA's independence. The BSA's concerns should be addressed in the final drafting of the trailer bill language necessary to implement this proposal.

TBL & C.S. 35.50**ACCRUAL PROPOSAL****ISSUE 1: ACCRUAL PROPOSAL**

The Governor's January proposed budget included an accounting change that would accrue \$2 billion in revenues collected in September of 2009 back to June of 2009 so that they could be counted as budget year revenues.

This was scored as a \$2 billion solution to the General Fund budget shortfall.

The May Revision lowered the total amount of the accrual proposal to \$1.85 billion and splits the change between the current year (\$175 million) and the budget year (\$1.68 billion).

While there may be some merit to the accounting change, the LAO points out the risk that the amount that can be accrued back is not as great as identified by the Administration. In addition, the change does not actually bring in any additional revenues, so it really is more of a "paper shift" more than an actual budget solution.

ITEM 0855 CALIFORNIA GAMBLING CONTROL COMMISSION

ISSUE 1: LOAN TO THE GENERAL FUND

The May Revision proposes a \$10 million loan from the Gambling Control Fund to the General Fund.

COMMENTS

The Gambling Control Fund is used to support gambling regulation activities at the Gambling Control Commission and the Department of Justice. Revenues to this fund are from fees and penalties collected from persons operating cardrooms. This loan to the General Fund would leave the fund with approximately \$4 million in reserve in the budget year.

5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

ISSUE 1: FOLSOM PRISON GUARDS BUILDING

The May Revision proposes a General Fund decrease of \$6.3 million and a Lease Revenue Bond increase \$6.8 million. Upon further review, the Department of Finance determined that this project is eligible for lease revenue bond financing. There is an increased project cost of \$493,000 due to higher site work and material costs.

COMMENTS

In 2002, the department completed a \$2.5 million seismic retrofit of the historic Officers and Guards Building at Folsom State Prison. Further modifications are needed to this building before it can be used as office space. The Officer and Guards Building is outside of the secure perimeter of the prison.

ISSUE 2: CA REHABILITATION CENTER DORM REPLACEMENT

The May Revision proposes a General Fund decrease of \$15 million and a corresponding Lease Revenue Bond increase. Upon further review, the Department of Finance determined that this project is eligible for lease revenue bond financing.

COMMENTS

There are 28 100-bed dorms at the California Rehabilitation Center. These dorms were originally constructed in the 1940s by the Navy as temporary hospital wards. These buildings are wood construction and are seriously deteriorated.

The department has proposed to replace all 28 of these dorms over a number of years with 16 200-bed prototypical emergency bed dorm housing units. This plan would provide the department with 400 additional dorm beds.

ISSUE 3: TEHACHAPI - WASTEWATER TREATMENT PLANT

The May Revision proposes to reappropriate \$19.6 million in lease-revenue funds to complete the replacement of the existing primary treatment headworks and renovation of the secondary treatment aeration system in order to improve the existing waste water disposal system at the California Correction Institution in Tehachapi.

COMMENTS

This project has been delayed due to a delay in approval of final plans by the Regional Water Quality Control Board (RWQCB). Approval of final plans and specifications was received from the RWQCB in December 2007 and the project was approved to proceed to bid in January 2008.

ISSUE 4: WASCO – WASTE WATER TREATMENT PLANT

The May Revision proposes to reappropriate \$671,000 General Fund to complete the construction phase of the pre-screening facility Wasco State Prison, which will remove large fabric and plastic debris from the wastewater flow.

COMMENTS

The pre-screening facility at the wastewater treatment plant is scheduled for completion by May 2008. However, funding will need to be available for at least three additional months because of the manner in which some of the project activities are paid.

ISSUE 5: CA REHABILITATION CENTER – PORTABLE WATER SYSTEM UPGRADE

The May Revision proposes to revert \$1.7 million General Fund that was originally budgeted for upgrades to the internal water distribution system at the California Rehabilitation Center.

COMMENTS

Construction for this project was originally funded in 2002-03. However, working drawings were halted and construction was delayed pending negotiations with the City of Norco regarding water connection fees to the city water system.

ISSUE 6: PASO SHUTDOWN

The May Revision proposes \$775,000 General Fund and 5 positions to facilitate a “warm” shutdown of the El Paso de Robles Youth Correctional Facility.

COMMENTS

This funding will enable the department to maintain a small crew that will maintain the water, boiler, and wastewater systems and do minimal upkeep to the grounds to ensure that the facility can be utilized in the near future.

ISSUE 7: DIVISION OF JUVENILE JUSTICE PROGRAM REALIGNMENT

The May Revision proposes an additional adjustment of funding between programs (the Governor's Budget included a program realignment BCP) within the budget for the Division of Juvenile Justice.

COMMENTS

This request moves funding and positions between Program 20 (Juvenile Operations), Program 21 (Juvenile Education), and Program 23 (Juvenile Health Care). This request has a net zero General Fund impact.

ISSUE 8: CITIP TECHNICAL ADJUSTMENT

The May Revision proposes reductions of \$39.2 million General Fund in the current year and \$37.4 million General Fund in the budget year to funding proposed in the Governor's Budget for the Consolidated Information Technology Infrastructure Project. These adjustments are based on actual project costs and the removal of health care from this program.

COMMENTS

This reduction also impacts the amount that can be financed, thereby lowering the General Fund impact in the current year and budget year by \$1.6 million and \$19.7 million, respectively. The total cost of this project is now estimated to be \$212 million, which is \$77 million less than originally estimated, including the cost of financing a portion of the project.

ISSUE 9: ANNEX DEACTIVATION AND ACADEMY ADJUSTMENT

The Governor's Budget and the May Revision propose to reduce funding for correctional officer and parole officer recruitment and training by \$8.7 million General Fund in the current year and \$40 million General Fund in the budget year.

COMMENTS

This reduction is mainly due to the deactivation of the Correctional Training Center Annex that was being operated at the Northern California Women's Facility, which is now slated to be converted to the state's first re-entry facility. This proposal would shift some of the savings from this closure to expand the parole agent academy in the budget year. The department estimates that under this budget proposal it will have the capacity to graduate 1,940 correctional officers, 40 juvenile correctional officers, and 480 parole agents in the budget year.

ISSUE 10: RECEIVER TECHNICAL SCHEDULING ADJUSTMENT

The May Revision proposes a realignment of resources within the Receiver's medical care budget. This request has a net zero fiscal impact.

COMMENTS

This request would move all field custody related resources from Program 50.10 (Medical Services-Adult) to Program 25 (Adult Corrections and Rehabilitation Operations).

11: MAY REVISE – WITHDRAWAL OF EARLY RELEASE PROPOSAL

The May Revision proposes \$256.4 million to withdraw the Governor's Budget proposal to release specified offenders from prison prior to completion of their sentence.

COMMENTS

Early release of prison inmates as proposed by the Administration created significant policy, operational and public safety concerns.

ITEMS TO BE HEARD

ITEM 0250 JUDICIAL BRANCH

The California Constitution vests the state's judicial power in the Supreme Court, the Courts of Appeal, and the Trial Courts. The Supreme Court, the six Courts of Appeal, and the Judicial Council of California, which is the administrative body of the judicial system, are entirely state-supported. The Trial Court Funding program provides state funds (above a fixed county share) for support of the trial courts. Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle), shifted fiscal responsibility for the trial courts from the counties to the state. California has 58 trial courts, one in each county.

The Judicial Branch consists of two components: (1) the judiciary program (the Supreme Court, Courts of Appeal, Judicial Council, and the Habeas Corpus Resource Center), and (2) the Trial Court Funding program, which funds local superior courts. The 2005–06 Budget Act merged funding for the judiciary and Trial Court Funding programs under a single “Judicial Branch” budget item. It also shifted local assistance funding for a variety of programs, including the Child Support Commissioner program, the Drug Court Projects, and the Equal Access Fund from the Judicial Council budget to the Trial Court Funding budget.

ISSUE 1: OPERATIONAL SUPPORT FOR NEW TRIAL COURT FACILITIES

The Governor's Budget proposes to transfer \$525,000 General Fund to the Court Facilities Trust Fund to cover the additional operations and maintenance costs of the new Alameda Juvenile Justice Center, the new Fresno Juvenile Delinquency Courthouse, the new Madera County Superior Courthouse, and the new Merced Iris Garrett Juvenile Justice Center.

The May Revision proposes \$1.7 million (\$2.5 million ongoing) to provide funding for the operations and maintenance of 11 trial court facilities that are expected to transfer to state responsibility due to the enactment of Chapter 9, Statutes of 2008 (AB 1491). This funding is needed for facility operational costs for additional square footage acquired in new court facilities that will transfer to the state without corresponding operational funding from the counties. The 11 counties expected to transfer trial court facility responsibility to the state are; 1) Amador, 2) Butte, 3) Contra Costa, 4) Placer, 5) Sacramento, 6) San Bernardino, 7) San Luis Obispo, 8) Santa Cruz, 9) Shasta, 10) Sierra, and 11) Ventura.

BACKGROUND

Upon transfer of responsibility and/or title to the state, counties provide funding for facilities operation and maintenance costs based on historic funding patterns. These payments are referred to as county facility payments (CFPs) and are calculated for each facility prior to the transfer of responsibility and/or title of each court facility. County facility payments are deposited in the Court Facilities Trust Fund to support operations and maintenance of court buildings that have been transferred to the state.

Any costs for operating and maintaining court facilities above the CFPs made by counties are the responsibility of the state. Statutory changes that were enacted as part of the 2006-07 budget provide for increases in state funding for operating and maintaining court facilities in the future. Specifically, beginning two years after the transfer of a facility, inflationary cost adjustments for operations and maintenance are provided in accordance with the State Appropriations Limit.

COMMENTS

These projects will replace smaller outdated facilities and the AOC indicates that the CFPs for the existing facilities will not cover the costs of the new facilities. All of the new facilities identified in the Governor's Budget proposal have transferred to the state except for the Fresno Courthouse. The Fresno Courthouse is currently under construction and is scheduled to be completed by January 2009.

AB 1491 extends the date by which counties may transfer court facilities to the Judicial Council from June 30, 2007 to December 31, 2009.

ISSUE 2: TRIAL COURT FACILITY MODIFICATIONS

The Governor's Budget proposes \$17 million annually from the State Court Facilities Construction Fund and \$5 million in reimbursements to support facility modifications of trial court facilities that have been transferred to the state.

BACKGROUND

The AOC defines facility modifications as physical modification to a facility component that restores or improves the designed level of function of a facility. Facility modifications do not include acquisition of court facilities, or change space for court use. In December 2005, the Judicial Council approved a policy for the categorization and prioritization for court facility modifications. This policy defines facility modifications, categorizes facility modifications into six priorities, outlines a process for requesting and prioritizing facility modifications, and establishes a statewide working group. The six priority categories established by the policy are as follows:

1. Immediate or potentially critical
2. Necessary but not yet critical
3. Recommended
4. Does not meet current codes or standards
5. Beyond rated life, but serviceable
6. Hazardous material, managed but not abated

COMMENTS

According to the Judicial Council, the working group, referenced above, has reviewed over 400 requests to date totaling over \$21 million, of which 146 were funded for approximately \$8.5 million (primarily from the first three priority groups). This request anticipates needs based on the transfer of additional court facilities to the state.

ISSUE 3: TEMPORARY SPACE – THIRD APPELLATE DISTRICT COURT

The Governor's Budget proposes \$8 million General Fund (\$1.7 million in 2009-10 and \$3.7 million in 2010-2011) to temporarily relocate the Third Appellate District Court and clerk's staff during the construction phase of the historic Library and Courts Building capital outlay renovation project. The funding is needed for tenant improvements and rent for the temporary space.

BACKGROUND

The 2005-06 Budget Act appropriated \$49 million to renovate the historic State Library and Courts Building located on Capitol Mall in Sacramento. The current tenants of that building are the Third Appellate District Court, the Supreme Court, and the State Library.

After the remodel, the library staff will be permanently relocated to a building (900 N Street) across the street from the historic building and the Court and Clerk will be consolidated in the restored historic Library and Courts Building. (The Clerk is currently located in the 900 N Street building.)

COMMENTS

A study by the project manager for this project, Department of General Services, determined that maintaining occupancy during construction was not feasible without substantially compromising the safety and comfort of the occupants.

ISSUE 4: CAPITAL OUTLAY – GENERAL OBLIGATION BOND PROJECTS

The Governor's budget proposes \$62 million in funding from proceeds of a general obligation bond for four new court facilities proposed by the Governor.

BACKGROUND**Yolo County – New Woodland Courthouse**

The Governor's budget proposes \$8.1 million from a proposed general obligation bond for the acquisition phase to construct a new 14-court courthouse in or near the city of Woodland in Yolo County.

The AOC has identified property across the street from the historic courthouse on a site currently occupied by the Old Jail building. The city of Woodland has signed a resolution to donate this property for the new courthouse building. The total estimated project cost is \$158.4 million.

The project will consolidate court operations from six facilities, all of which will be vacated by the project. The following are the facilities that will be vacated by the new project; **1)** Historic Courthouse – county to maintain once vacated by the court. **2)** Old Jail (Department 9) – may be demolished to construct new courthouse. **3)** Family Support and Alternative Dispute Resolution (Department 16) – county to maintain once vacated by the court. **4)** Family and Designated Department (Department 11) – leased space, lease to be terminated. **5)** Fiscal, Human Resources, and Training – leased space, lease to be terminated. **6)** Traffic/Small Claims/UD and Drug Court/Proposition 36 courtrooms (Departments 10 and 12) – leased space, lease to be terminated. All six of the existing facilities have been transferred to the state.

Butte County – New North Butte County Courthouse

The Governor's budget proposes \$14.5 million from a proposed general obligation bond for the acquisition phase to construct a new 5 court courthouse in or near the city of Chico in Butte County.

The AOC and the county have not located a site for the new facility, but are evaluating alternative sites for a larger northern county government complex. The total estimated project cost is \$79.7 million.

The project will consolidate court operations from two facilities, both of which will be vacated by the court after construction of the new project. The following two facilities will be vacated by the new project; **1)** Chico Courthouse – county may keep this space. **2)** Paradise Courthouse – AOC will offer equity sale to county, but space may be vacated by county and court and sold. Both of the existing facilities have been transferred to the state.

Tehama County – New Red Bluff Courthouse

The Governor's budget proposes \$16.3 million from a proposed general obligation bond for the acquisition phase to construct a new 5-court courthouse in or near the city of Red Bluff in Tehama County.

The AOC and the county have not located a site for the new facility. The total estimated project cost is \$72.9 million.

The project will consolidate court operations from five facilities, all of which will be vacated by the project. The following are the facilities that will be vacated by the new project; 1) Historic Courthouse – county to maintain once vacated by the court. 2) Tehama County Courts Building (Annex 2) – county may keep this space.

Los Angeles County – New Southeast Los Angeles Courthouse

The Governor's proposes includes \$22.7 million from a proposed general obligation bond for the acquisition phase to construct a new 9-court courthouse in the Huntington Park-South Gate area of Los Angeles County. The total estimated project cost is \$122.5 million.

The AOC and the county have not located a site for the new facility. The total estimated project cost is \$72.9 million.

The project will consolidate court operations from five facilities, all of which will be vacated by the project. The following are the facilities that will be vacated by the new project; 1) Historic Courthouse – county to maintain once vacated by the court. 2) Tehama County Courts Building (Annex 2) – county may keep this space.

COMMENTS

The Governor has proposed \$2 billion in general obligation bonds for new and expanded court facilities. The Governor indicates that the \$2 billion being proposed will handle the most critical infrastructure needs and allow the courts to leverage private funding through public-private partnerships. Legislation (SB 1407, Perata) authorizing a court construction bond is currently pending in the Legislature.

ISSUE 5: TRIAL COURT SECURITY**BACKGROUND**

When the state took over as the primary funding source for trial court operations in 1998, varying levels of security were being provided among the courts. Subsequent legislation (SB 1396, Dunn) enacted in 2002 required the sheriff or marshal and presiding judge of any county to develop a court security plan to be utilized by the court. The legislation required the court and the sheriff or marshal to enter into an annual or multi-year memorandum of understanding specifying the level, costs, and terms of payment related to the court security.

In 2003, the Judicial Council was directed to establish a working group to promulgate uniform standards and guidelines in regard to court security services. The group was directed to implement policies, standards, and establish policy direction for court security in order to achieve efficiencies and reduce security operating costs.

The Governor's 2007 May Revision proposal contained \$36.6 million from the General Fund to augment trial court security. This funding would have grown to \$57.8 million General Fund to reflect full-year costs of the augmentation. This funding was proposed to augment the \$21 million that was already allocated to the trial courts for court security. Ultimately, this funding proposal was rejected by the Legislature and not included in the 2007-08 Budget Act.

The 2007 proposal was the result of the working group directed by the 2003 legislation. Specifically, the funding in the proposal would have addressed the following:

- **Ongoing Shortfalls for Courts Below Standards** - \$4.4 million to address ongoing security costs for existing levels of service at some courts that are below security standards.
- **Ongoing Shortfalls for Courts Above Standards** - \$6 million to address ongoing security costs at six courts (\$5.6 million for Los Angeles County) whose security services currently exceed statewide security funding standards.
- **New Court Security Standards** - \$21.2 million for half-year costs associated with implementing new court security standards at courts that are currently below security standards developed by the Court Security Working Group and approved by the Judicial Council.
- **Retiree Health Costs** - \$5 million to fund retiree health costs in six counties where the courts have historically funded these costs. The six counties are Contra Costa, Kern, Los Angeles, Sacramento, and Santa Clara.

COMMENTS

In most cases, the county sheriff determines the minimum level of security required in a court facility. In addition, the county board of supervisors, as opposed to the court, negotiates the level of salaries and benefits with the sheriff. Court security costs have grown rapidly over the past several years. Specifically, trial court security costs have increased from about \$263 million in 1999-00 to about \$450 million in 2006-07. This increase of about 8 percent annually is mainly attributed to negotiated salary increases received by sheriff's deputies.

The proposal submitted by the Governor in 2007 does not set consistent standards across jurisdictions related to the costs that the state will fund related to court security. Specifically, the state will continue to fund some courts for security service that exceeds state funding standards, while other courts will only be brought up to minimum standards by this proposal. Staff finds that this policy opens the state up to significant additional costs.

ISSUE 6: SAL GROWTH FACTOR

The Governor's Budget and May Revision propose \$128.6 million General Fund for growth related to the Trial Courts SAL adjustment.

BACKGROUND

According to state law, the Trial Court Funding program is to receive annual budget increases equivalent to the year-over-year growth in the State Appropriations Limit (SAL). The trial courts receive SAL adjustments for their baseline operations, and these adjustments are to exclude funding provided for judicial officers. Specifically, the SAL statute applies the SAL growth rate annually to the following funding sources for the trial courts:

- Specified General Fund appropriations for the trial courts;
- Maintenance of Effort payments by the counties (set at \$698,068,000 in statute);
- Historical state funding shift of revenues from the Trial Court Improvement Fund (fines and penalties) to the Trial Court Trust Fund to cover trial court operations (set at \$31,563,000 in statute);
- Funding deposited in the Court Facility Trust Fund (county facility payments) for court facilities that have transferred to the state not less than two years earlier.
- Court filing fees and surcharges deposited into the Trial Court Trust Fund in the 2005 06 fiscal year (set at \$369,672,000 in statute).

COMMENTS

The LAO notes that the trial courts currently have significant reserves and collectively trial courts are in strong financial condition. In a report submitted to the Legislature by the AOC, it was reported that revenue received by the 58 superior courts exceeded their expenditures in 2006-07 by \$54 million. In addition, the total amount of assets held in reserve by the trial courts in 2006-07 totaled \$590 million. (Of these reserves, \$235 million were classified as being restricted by contractual or statutory obligations leaving \$355 that were not obligated.) The LAO indicates that the trial courts could use their considerable reserves to buffer against the loss of state funding if the Legislature decided to suspend the SAL adjustment. The LAO notes that this action would likely force the trial courts to prioritize the use of its reserve funds and may impact or delay information technology projects and other projects planned by the trial courts to improve court operations. Staff notes that the AOC has proposed a one-time reduction from the trial courts reserve of \$168 million.

ISSUE 7: BUDGET BALANCING REDUCTION

The Governor's Budget proposes a \$246 million General Fund unallocated reduction to the Judicial Branch in the budget year as part of the Administration's across the board budget balancing reductions.

BACKGROUND

The AOC has provided another option for the Legislature to consider in meeting the reduction target set by the Governor. Under the AOC's scenario, the trial courts would be provided the full workload budget contained in the Governor's budget, including the full SAL adjustment. However, the funding to support the trial courts would come from the reserves held by the trial courts on a one-time basis. Under this scenario, the trial courts would continue to grow at the SAL rate, but would be funded with one-time reserve funds. Under this scenario, the Judicial Branch would not sustain an ongoing reduction to its operations.

The Judicial Branch's proposal would result in one-time reductions as follows (approximately just over \$4 million of these cuts may be considered ongoing):

- | | |
|---|---------|
| • Savings from Deferral of New Judgeships | \$54.2 |
| • Trial Court Funding (Reserves) | \$168.4 |
| • Supreme Court | \$2.4 |
| • Court of Appeal | \$10.8 |
| • Judicial Council/AOC | \$7.1 |
| • Judicial Branch Facility Program | \$2.3 |
| • Habeas Corpus Resource Center | \$.7 |

COMMENTS

Staff finds that, while the Judicial Branch has identified one-time savings that meet the unallocated target of \$246 million, the Judicial Branch has the capability of absorbing a level of ongoing cuts with minimal impact to operations.

ITEM 0520 BUSINESS TRANSPORTATION AND HOUSING AGENCY**ISSUE 1: MAY REVISION: SAN JOAQUIN VALLEY PARTNERSHIP**

In the May Revise, the Administration is requesting an augmentation for the Business Transportation and Housing Agency of \$2.0 million (General Fund) to support the California Partnership for the San Joaquin Valley secretariat and lead executive function, implementation of work group actions, public outreach, regional conferences and annual progress reports.

BACKGROUND

The California Partnership for the San Joaquin Valley was created by Governor Schwarzenegger when he signed Executive Order S-5-05. The partnership brings state agency secretaries and Central Valley representatives together to make recommendations to the Governor regarding changes that would improve the economic well-being of the Valley and the quality of life of its residents. The 26-member Partnership, led by the Secretary of the Business, Transportation and Housing Agency, is composed of eight state government members, eight local government members nominated by their County Council of Governments, and eight private sector members, along with two deputy chairs.

COMMENTS

Staff understands that this proposal would be used to support the one-half time limited term position to assist with the administration of the activities and \$1.9 million for consulting and professional services to support the partnership. At the hearing, the Agency should be prepared to provide the Subcommittee with a report on what deliverables this augmentation would provide the state.

ITEM 0855 CALIFORNIA GAMBLING CONTROL COMMISSION

The California Gambling Control Commission (Commission) has jurisdiction over card rooms and tribal casinos, pursuant to its authority under state law and Tribal-State Gaming Compacts (Compacts).

There are 91 licensed card rooms in California over which the Commission has regulatory authority. This authority extends to the operations, concentration, and supervision of the card rooms and all persons and things related to each licensed establishment.

In addition, the Commission has fiduciary, regulatory, and administrative responsibilities related to Tribal Gaming that include: (1) oversight of Class III gaming operations, which are primarily casino-type games, (2) distribution of Tribal Gaming revenues to various state funds and to authorized, federally-recognized, non-Compact tribes, (3) monitoring of Tribal Gaming through periodic background checks of tribal key employees, vendors, and financial sources, (4) validation of gaming operation standards through testing, auditing, and review, and (5) fiscal auditing of tribal payments to the state pursuant to Compact provisions.

ISSUE 1: ELECTRONIC GAMING DEVICE INSPECTION PROGRAM

The Commission is requesting \$1,008,000 payable from the Indian Gaming Special Distribution Fund to convert 8 limited-term positions to permanent and fund the Electronic Gaming Device Inspection Program, which would provide oversight of electronic gaming devices and associated equipment research, testing and inspection.

BACKGROUND

The Electronic Gaming Device Inspection Program was formed using these 8 positions that were established on a two-year limited-term basis, in fiscal year 2006-07, in two separate Budget Change Proposals (BCP). The BCPs provided 3 positions for the Field Inspection Program and 5 positions for the Technical Services Program.

Pursuant to supplemental reporting requirements of the 2007 Budget Act, the Commission has submitted to the Legislature a report describing the activities of its field inspection and technical services programs.

The Commission's report found that of the 1,275 components/software that were tested over 28 percent were obsolete. This means that the manufacturer had issued a newer version of the software and is no longer supporting the old version. The commission points out that obsolete software may not always pose a risk and therefore many not need to be removed from the casino floor. However, during the analysis of the obsolete software the commission staff found that some of the software did pose a risk and the staff made recommendations to have it upgraded or removed.

COMMENTS

The Commission indicates that when electronic gaming devices function improperly because of the use of revoked or obsolete software the devices may not be properly accounting for gaming revenue, which would impact the state's revenue.

The LAO recommends that the reporting requirement be continued so that the Legislature can continue to monitor the performance of this program. Also, the LAO finds that the information contained in the audit report from the Commission is useful to the Legislature and that this report should also be continued.

ISSUE 2: NEW AND AMENDED TRIBAL COMPACTS WORKLOAD

The Commission is requesting \$282,000 payable from the Indian Gaming Special Distribution Fund (SDF) and 2.3 positions for new and increased workload in the Licensing Division driven by five amended Tribal Compacts (Agua Caliente, Morongo, Pechanga, San Manuel, Sycuan), one new compact (Yurok), Memoranda of Understanding, and Letter of Agreement.

BACKGROUND

The Commission projects that the new and amended compacts will increase finding of suitability workload for the Licensing Division related to processing initial and renewal applications for Tribal Key Employees (TKEs) and resource suppliers and vendors.

The LAO has raised concerns regarding the solvency of the SDF. Under the five amended compacts listed above, the tribes will make payments directly to the General Fund and their payments to the SDF will end. This will substantially reduce SDF revenues. The first priority of the SDF is to fund any shortfalls of the Revenue Sharing Trust Fund (RSTF), which makes payments to non-compact tribes. While, under the amended compacts, tribes agreed to make increased payments to the RSTF, four of the compacts provide that "if it is determined that there is an insufficient amount in the RSTF" to distribute payments to each non-compact tribe, a portion of each tribe's General Fund payments must be directed to the RSTF in order to cure the deficiency.

ISSUE 3: LICENSING DIVISION WORKLOAD

The Commission is requesting \$444,000 payable from the SDF (\$400,000) and the Gambling Control Fund (\$44,000) and 5 positions to the Licensing Division's findings of suitability workload.

BACKGROUND

The Licensing Division is responsible for registering and/or licensing Third Party Providers of Proposition Player Services, gambling equipment manufacturers and distributors, resource suppliers and vendors, issuing work permits, and processing and reviewing initial and renewal applications for finding of suitability for TKEs or resource supplier and vendor employees.

The California Department of Justice plays a role in the licensing process. As work has increased in this area for the Commission, there may be a concern of overlap in functions/resources.

COMMENTS

Staff concurs that the new and amended compacts will increase finding of suitability workload for the Licensing Division. However, staff finds that the Commission has the ability to meet its current Licensing Division workload within existing resources. Given this, and the fact that the LAO has raised concerns regarding the long-term solvency of the SDF, staff's recommendation is to approve Issue number 2 for resources to perform workload related to new workload and reject Issue number 3 for resources to perform functions related to existing workload.

ISSUE 4: SPECIAL DISTRIBUTION FUND TRANSFER

The May Revision proposes a one-time \$40 million transfer from the Indian Gaming Special Distribution Fund (SDF) to the Indian Gaming Revenue Sharing Trust Fund (RSTF).

BACKGROUND

This action will reverse the January 10 Governor's Budget proposal to use tribal compact gaming revenues that would have otherwise gone to the General Fund to backfill the RSTF, and will save the state an additional \$40 million General Fund in 2008-09. Additionally, General Fund revenues from tribal gaming compacts are anticipated to decrease by \$6.7 million in fiscal year 2007-08 and by \$23.7 million in 2008-09. This decrease is due to the delayed adoption of the Sycuan tribal compact by the Sycuan General Council. Pursuant to the compact's language, the amended 2007 compact will not become effective until ratified by the Sycuan General Council, which is expected to occur in January 2009. Therefore, the Department of Finance has adjusted its General Fund revenue estimates. The net effect of these two actions in 2008-09 would result in increased revenue to the General Fund of \$16.3 million.

COMMENTS

The LAO raised concerns that the Governor's Budget directed \$40 million of Tribal General Fund payments to the RSTF. Under current law, the first priority of the SDF is curing the RSTF shortfall.

**ITEM 5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND
REHABILITATION – HEALTH CARE RECEIVER**

In January 2002, the state entered into a settlement agreement in the *Plata* lawsuit, committing to significant changes in the delivery of health care services to inmates. In September 2004, the federal court issued an order finding significant deficiencies in the department's efforts to implement the terms of the settlement agreement and, in June 2005, the federal court decided to appoint a Receiver to manage CDCR's health care system. The Receiver would manage CDCR's health care system until the department proves to the court that it is capable and willing to manage a constitutional health care system or contract out for a similar level of care. The court appointed Robert Sillen as the Receiver in February 2006. Robert Sillen was replaced as the Receiver by the court in January of this year by J. Clark Kelso.

ISSUE 1: HEALTH CARE ACCESS UNITS

The Governor's Budget and an April Finance Letter propose \$110 million General Fund for Health Care Access Units at all *Plata* institutions (*Plata* institutions are all adult institutions except for Pelican Bay State Prison).

BACKGROUND

The Receivership started a pilot program at San Quentin State Prison in 2006 to assess the custody-related problems with the delivery of medical services. During the implementation of this pilot the Receiver found that there was a shortage of custody personnel to escort and transport inmates to medical appointments. The Receiver also found that the institution lacked an organized operational schedule of daily activities that integrated institution security operations with access to care requirements. This resulted in many missed appointments, significant scheduling workload, and increased backlogs of appointments. Furthermore, the Receiver also found that appropriate transportation vehicles were often not available and no formal medical emergency response procedures were in place.

To address these concerns the Receiver established Health Care Access Units. These units are designed to be accountable for escorting, transporting, and guarding inmates to and from medical appointments within the institution and to specialty care providers within the local community. In June 2007 all existing custody personnel involved in health care access were assigned to the new Health Care Access Units. However, the Receiver found significant additional staffing was needed to ensure adequate access to health care.

COMMENTS

This funding will support 1,333 positions (mainly custody positions) to augment the positions in the Health Care Access Units to ensure that inmates are escorted to appointments within the institution. The vast majority of the proposed positions (1,273 positions) are for various custody classifications to assist in providing the custody escorts within the institution to provide access to care. The proposal also allocates 30 Associate Government Program Analysts and 30 Office Technicians in order to provide each *Plata* institution (except San Quentin, California Medical Facility and Pelican Bay State Prison) with an analyst and an office support position.

The LAO finds that there is considerable uncertainty related to the CDCR's ability to fill all of the positions it is proposing to establish in the current year and the budget year and that given the uncertainty and relative magnitude of the task of filling these positions that the funding for this effort should be tracked separately in the budget year.

ISSUE 2: HEALTH CARE GUARDING AND TRANSPORTATION

The Governor's Budget and an April Finance Letter propose \$89.3 million General Fund to augment the CDCR's resources for medical guarding and transportation in the budget year.

The May Revision proposes to reduce the April 1 funding request by \$3.9 million to correct a technical error in the proposal.

BACKGROUND

As mentioned above, the Receiver is conducting a review of the custody resources needed to support providing CDCR inmates with increased access to health care. This includes medical guarding and transportation to routine clinical care, specialty care, and other appointments outside of the institution, as well as outside hospital care and other acute care as needed.

Health care guarding and transportation outside of the institution is very costly. For example, one inmate in a community hospital can require two custody staff to guard the inmate 24-hours a day.

COMMENTS

The funding requested is to establish 795 positions in the budget year and provide at least \$37 million to cover overtime expenditures. The LAO has concerns similar to those raised regarding the funding to support the Health Care Access Units. It is unclear whether the department can adequately fill these positions and there is some concern that these funds will not be expended in the budget year.

ISSUE 3: CENTRAL FILL PHARMACY AND SUPPLIES

A Finance Letter (dated April 4, 2008) contains two proposals for a total of \$55.9 million General Fund, which includes \$10.1 million to support the operating expenditures and start-up expenditures for a new central fill pharmacy in Sacramento and \$45.8 million to augment the budget for pharmaceutical and medical supplies.

BACKGROUND

One of the major projects implemented under the last Receiver was to overhaul CDCR's pharmacy operations. The Receiver adopted a Roadmap for improving pharmacy services.

The Receivership contracted with Maxor to help the Receivership reengineer the department's current decentralized pharmacy system into a more centralized pharmacy operation. In January 2007, Maxor started oversight of pharmacy operations for CDCR. Historically, CDCR used the Department of General Services for purchasing and pharmacy operations at each institution operated semi-autonomously. Maxor, in conjunction with the Receiver, is working to completely change this system to make it more centralized, uniform, and efficient.

In order to move to a more centralized system, the Receivership is currently developing a Request for Proposal for the operation of a central fill pharmacy. The Receivership is currently looking for a site in Sacramento for this facility. This facility will receive and manage the distribution of pharmaceuticals to each institution. This will enable the department to better manage its pharmaceutical inventory and enable pharmacy personnel in the institutions to focus more on medication management and less on managing pharmaceutical inventory.

The Receivership and Maxor are also in the process of implementing a new automated pharmacy information technology system called Guardian Rx. This window-based, networked system integrates dispensing, pharmacy management, work flow, and patient care. The system is capable of using bar-code technology for Rx scanning and verification and also has the capability of developing a unique electronic medication administration record for each inmate.

COMMENTS

The funding request for a new central fill pharmacy includes \$6.6 million for one-time and capital expenditures needed to set up the new facility in a leased space. The funding request also includes \$3.5 million to support operations of the facility. The Receivership indicates that it is currently developing a Request for Proposal to manage the central fill pharmacy. However, the Receivership also indicates that some CDCR staff will be needed to oversee operations of this facility and would be redirected internally to the central fill pharmacy.

The funding request for pharmaceutical and medical supplies is to cover all of the pharmaceutical and medical supplies needed because the current base budget for these supplies is inadequate. The Receivership has requested this increased amount for a three-year limited term starting in the current year until the centralized system is fully operational. Once the new centralized system is operational, the Receivership indicates that it will reevaluate its needs for pharmaceuticals and other medical supplies. The Receivership expects that once the centralized system is implemented, bulk purchasing and greater inventory control will enable these costs to be reduced.

ISSUE 4: MEDICAL OVERSIGHT PROGRAM

A Finance Letter (dated April 4, 2008) proposes \$2.3 million General Fund in the budget year, which is the full-year cost of implementing the new medical oversight program.

BACKGROUND

The Receiver started the implementation of a pilot Medical Oversight Program in the current year by transferring \$2.1 million from the unallocated account provided for Receiver directed expenditures included in the 2007 Budget Act. The Legislature was notified of this transfer in a Finance Letter (dated January 7, 2008).

The initial focus of this program will be to review death related cases with the overall goal of maximizing the effectiveness of the investigation and prosecution process for medical staff. The funds were used to establish 23 new positions in four different units to implement this program; 1) Medical Central Intake Unit, 2) Medical Investigations Unit, 3) Medical Advocacy Unit, and 4) Medical Monitoring Team.

COMMENTS

This effort will be a collaboration among the *Plata* Support Division, the CDCR's Office of Internal Affairs, CDCR's Office of Legal Affairs, and the Office of the Inspector General.

ISSUE 5: HEALTH CARE APPEALS UNIT

The Governor's budget proposes \$1.6 million General Fund to establish a new Office of Third Level Health Care Appeals under the direction of the Receiver.

BACKGROUND

The purpose of the inmate appeals process is to provide resolution of inmate grievances in a timely manner and at the lowest possible level. The process directs inmate complaints through one informal and two formal levels of appeal at the institution and a final third level known as the Third Level of Review (formerly the Director's Level of Review). The Inmate Appeals Branch is currently responsible for the oversight of all of CDCR's inmate appeals, including appeals related to health care.

COMMENTS

The new office will handle all appeals related to health care, including mental health and dental. These funds will be used to establish 17 positions, including nine clinical staff to review the inmate appeals related to health care.

ISSUE 6: SUPERVISING REGISTERED NURSE II STAFFING

The May Revision proposes \$12.5 million General Fund (\$18.8 million ongoing) to fund Supervising Registered Nurse (SRN) II staffing increases at all 33 institutions.

BACKGROUND

According to the Receivership, the current level of SRN IIs is not sufficient to provide nursing supervisory coverage for all institutions. Having strong first-line nursing leadership is essential to hiring and retaining a quality nursing staff. Proper supervision ensures that a quality patient care program can be established, evaluated and sustained. The SRN IIs provide staff nurses with direct supervision and help in interpreting clinical practice within the correctional setting.

The *Plata* Court, Prison Law Office, and Office of Inspector General have all acknowledged the lack of nursing supervisors in the institutions. Delays in access to care and inadequate, substandard patient care have been directly linked to the lack of adequate nursing supervision.

COMMENTS

There are currently 255.3 established SRN IIs statewide within the CDCR. This proposal would add an additional 138 SRN II positions.

ISSUE 7: RECEIVER OPERATING BUDGET

The Governor's Budget proposes \$26 million in a separate budget item to support the direct expenditures of the California Prison Health Care Receivership Corp.

BACKGROUND

The California Prison Health Care Receivership Corp. is a non-profit organization created to house the activities of the federal Receiver over California's prison medical care. The Receivership was established by the federal court and its operations are funded by the General Fund. Over the past year the budget for the Receivership has been funded from the unallocated account included in the 2007 Budget Act for expenditure by the Receiver.

The federal court that created the Receivership directed the Receiver to coordinate with the Office of the Inspector General (OIG) to periodically review the expenditures of the Receiver. The OIG released its first review of the Receiver's expenditures in February 2008.

The first review by the OIG found that the Receivership's largest expense category was personnel services, comprising of the Receivership's employees and consultants. The Receivership also spent more than \$8.7 million on capital asset purchases made on behalf of CDCR.

The report found that when the Receivership was first established some employees were paid in lieu of benefits. The OIG identified \$611,000 that was expended for this purpose, including \$219,000 that was paid after the Receivership began to provide benefits. This practice was ended by the federal court in October 2007.

The report also identified 12 employees that had a projected annual salary that exceeded \$225,000. The report also identified that most of the professional fees (\$2.8 million) were paid to Maxor that is providing the Receivership with pharmacy management consulting services. The report identified that the Receivership had failed to require staff members to provide proper support before paying \$10,500 in travel expenditures. Furthermore, the department seemed to have inconsistent policies for treating the travel and per diem for consultants. The OIG recommended that the Receiver take actions to ensure that it safeguards public resources.

COMMENTS

The new Receiver agrees with the OIG's recommendations and has agreed to implement the recommendations as the Receivership proceeds with its activities. Since the new Receivership was appointed it has closed its offices in San Jose and several of the highest paid executives at the Receivership have been separated from the Receivership Corp. The Receiver estimates that these changes will reduce annual operating expenditures by approximately \$4 million.

ITEM 5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

The California Department of Corrections and Rehabilitation (CDCR) is responsible for the incarceration, training, education, and care of adult felons and non-felon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and re-incarceration of those parolees who commit new offenses or parole violations.

The department operates 33 adult prisons, including 12 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates eight juvenile correctional facilities, including three reception centers. In addition, CDCR manages 13 Community Correctional Facilities, 49 adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and 188 adult and juvenile parole offices, as well as houses inmates in 5 out-of-state correctional facilities.

ISSUE 1: COMMUNITY WORK CREWS

The Governor's Budget proposes \$2.4 million General Fund and 28.8 positions (\$5.8 million ongoing) to create inmate community work crews at most CDCR prisons.

The May Revision proposes a reduction of \$2.4 million to withdraw the Governor's Budget proposal related to activating inmate community work crews.

BACKGROUND

These work crews would provide services to local jurisdictions such as litter removal, weed abatement, and minor repairs. The department would not be reimbursed by the local jurisdictions for the services performed by the work crews. This funding would be used to establish correctional officers that would supervise the work crews as well as some one-time costs for equipment.

As part of a reduction plan in 2003-04, the CDCR eliminated correctional officer positions that provided custodial supervision to Inmate Community Work Crews. Once the positions were eliminated, local jurisdictions had to assume the responsibility of maintaining the level of service the CDCR's inmate workforce previously provided.

It is the CDCR's intent to provide this community service to all local jurisdictions that may need assistance, including those that currently reimburse the CDCR for services. This program is intended to establish good will with local communities and maintain collaborative partnerships statewide.

COMMENTS

Six prisons currently have community work crews, but local communities reimburse the state for its costs of providing the services. The LAO recommends modifying the department's request for funding related to inmate community work crews to (1) eliminate a General Fund augmentation for these new positions, and (2) reflect funding of the new positions from reimbursements from local jurisdictions. The LAO notes that there may also be additional institutional savings that will occur from providing additional inmates with work opportunities that can earn them work-time credits.

ISSUE 2: CONDEMNED ROW HOBBY PROGRAM

An April 1 Finance Letter proposes \$118,000 General Fund and 2 positions to comply with the *Thompson* Consent Decree by making art hobby craft available to all Grade A condemned inmates.

BACKGROUND

The *Thompson* Consent Decree states; 1) Grade A inmates shall be afforded art hobby craft; including oils; 2) other inmates shall be afforded art hobby craft; excluding oils. Grade A inmate participation has historically been limited to 90, which is the same number offered to General Population inmates. The Lancaster Order, dated June 21, 2007, found the CDCR in violation of the *Thompson* Decree in terms of providing or making available art hobby craft to all Grade A condemned inmates.

A cell front survey was conducted resulting in 301 of the approximately 485 potentially eligible Grade A condemned inmates indicating a desire to participate in the hobby program. The additional positions requested are to handle the workload required to manage the hobby program and comply with the court's order to provide in-cell hobby programming to all Grade A Condemned Inmates.

COMMENTS

Currently the Condemned Hobby Program is facilitated by one employee who serves approximately 90 inmates, which allows for one visit per week. Expanding the program without additional staff would increase the ratio to 301:1, which would allow for only one visit per month.

ISSUE 3: HUMAN RESOURCES SUPPORT

The Governor's Budget proposes \$4.7 million General Fund to support 10 new positions and convert 34 limited-term positions to permanent. The department is also requesting funding to continue 15 limited-term positions (which the CDCR currently redirects resources to fund) to support dental and mental health hiring in the budget year.

BACKGROUND

In 2006-07, the Legislature approved the Comprehensive Health Care Finance Letter, in which 71 limited-term positions were provided to the CDCR to assist with the statewide recruitment selection and hiring of vacant positions. These positions were to assist in meeting the expectations of the *Coleman* and *Perez* courts. In order to continue these efforts, the CDCR is requesting to continue 34 of these limited-term positions on an ongoing basis. In addition, the CDCR is requesting 10 new positions and the continuation of 15 limited-term positions into 2008-09 (which will eventually become permanent) to perform other Human Resource activities related to recruitment and hiring.

This request would provide positions to support the following:

- **Office of Executive Recruitment and Program Performance Management** - 4 new positions to support the recruitment and hiring of executive level management. This office currently has 10 permanent positions.
- **Office of Personnel Services, Customer Service Staff** - 6 new positions to provide managers and supervisors with technical expertise concerning the hiring process, classification and pay, merit issues, training, progressive discipline and general personnel management issues. This office is also responsible for developing consistent policies and procedures and work on numerous changes to classification and pay that are needed to better recruit and retain qualified individuals. This office currently has 188.3 permanent positions.
- **Office of Workforce Planning** - Convert 3 limited-term positions to permanent to continue support for recruitment efforts to attract trained staff for 500 plus classifications (excluding entry level peace officers). This office currently has 26 permanent positions.
- **Office of Selection Services** - Convert 4 limited-term positions to permanent to continue support for the administration of examinations required to hire qualified staff in a timely manner. This office currently has 44 permanent positions.
- **Institution Personnel Office Statewide** - Convert 27 limited-term positions to permanent to continue to support hiring and selection at the institutions.
- **Dental and Mental Health Hiring Plan** - Continue 15 limited-term positions to support a variety of hiring activities at the institutions and headquarters related to hiring large numbers of dental and mental health staff required by federal court actions. The department proposed to make these positions permanent starting in 2009-10.

COMMENTS

At the May 7th Subcommittee hearing, the LAO asked the subcommittee to hold open the Human Resources BCP issue so that they could have more time to review additional backup data CDCR provided. Upon further consideration the LAO recommends the Legislature reduce the request by \$2,309,000 by taking the following actions:

- Approve the department's request to make 34 LT positions permanent in the Office of Workforce Planning, Office of Selection Services, and institution personnel offices. These positions are the ones most directly related to recruiting and hiring positions required by various court orders and settlements, such as *Coleman*.
- Reject the 10 new positions requested for the Office of Executive Recruitment and Office of Personnel Services. These positions, while potentially beneficial, are not directly related to court requirements. In addition, we would note that in the case of the executive recruitment positions, the department is already meeting its AB 900 benchmark of filling at least 75 percent of its management positions according to the department.
- Reject the request to make 15 LT positions for the dental and mental health hiring plan permanently funded. These positions would continue as LT through 2008-09 and be funded internally by the department, as originally proposed. The activities for which these positions were originally requested appear to have been largely one-time in nature. In addition, we would note that these positions have just recently been established, making it difficult to determine at this time if they are required on an ongoing basis. If some of these activities should require ongoing resources, the department should come forward with a request as part of the 2009-10 budget process with the necessary justification.

ISSUE 4: TB TESTING AND HEPATITIS B VACCINATIONS

An April 1 Finance Letter proposes \$3.5 million General Fund to support a contract to provide TB testing and Hepatitis B vaccination service to CDCR staff.

BACKGROUND

State law requires that all CDCR employees get an annual TB test. New hires are also offered a Hepatitis B vaccination, which they can refuse if they choose. Historically, the department has used CDCR clinical staff to perform this testing and vaccination. In 2007 the Receiver decided that CDCR clinical staff would no longer perform this function.

COMMENTS

The Receiver has stopped performing these important health and safety functions that have historically been performed by CDCR staff that his office now oversees. It is reasonable to augment the CDCR's budget to provide them with resources to administer staff TB testing and Hepatitis B vaccinations. However, a portion of this request may be overstated.

ISSUE 5: COMMUNITY CORRECTIONAL FACILITY ENHANCEMENTS

An April 1 Finance Letter proposes \$529,000 to support converting 4.6 limited-term Correctional Sergeant positions to permanent positions for the following three private prisons: (1) Baker CCF, (2) Leo Chesney CCF, and (3) Mesa Verde CCF.

BACKGROUND

The department has contracts with several private prisons located in California to house CDCR inmates. These contracts are overseen by the department and the contractors are required to operate the facilities in accordance with CDCR rules and regulations. Custody at the private prisons is provided by the contractors, which are not sworn law enforcement staff. Historically there has been only a limited CDCR peace officer presence at these contracted facilities. Currently, each private prison facility has two CDCR peace officer staff and additional correctional counselors that are also CDCR peace officer staff. Funding was provided for 4.6 limited-term positions to provide three private prisons that are not located close to a state prison with one CDCR peace officer during third watch.

COMMENTS

The LAO finds that events at private prisons have been very few and in most cases the facility has been able to call for appropriate backup to address the situation. The CDCR has recently entered into contracts with several private prisons out-of-state and it is not staffing these facilities to provide CDCR peace officer coverage on third watch.

Issue 6: Rutherford/Lugo Lifer Hearings

The Governor's Budget proposes \$8.2 million General Fund to support 72.8 positions to ensure more efficient and timely parole suitability hearings for inmates sentenced to life terms.

An April 1 Finance Letter reduces this request by \$306,000 in the budget year to account for a delay in the Deputy Commissioner start date and trailer bill language to establish three new Commissioners at the Board of Parole Hearings.

BACKGROUND

The department entered into a Stipulated Agreement and accompanying remedial plan in March 2006 to settle the *Rutherford v. Schwarzenegger* lawsuit. This class action lawsuit was filed on behalf of lifer prisoners that had reached their minimum eligible parole dates without receiving a parole suitability hearing within the timeframes required by law. The remedial plan requires the department to develop and implement a statewide scheduling and tracking system for life prisoner parole hearings. The court specifically included an information technology project component in the remedial plan. This case is now referred to as *Lugo v. Schwarzenegger* since the inmate named Rutherford has passed away.

In December 2007, the *Lugo* court ordered the Board of Parole Hearings (BPD) to develop a plan by February 1, 2008 that would clear up the backlog of hearings by June 1, 2009. The department is currently working on a plan for eliminating the backlog with the plaintiffs in the case and the court.

The board continues to have problems with the postponement of lifer hearings. The board indicates that over one-third of the hearings continue to be postponed by the board because of (1) panel unavailability, (2) backlog in getting updated psychological evaluations, and (3) errors or delays caused by case records. The board estimates that it currently has a backlog of 1,200 to 1,300 hearings. The board indicates that it is working on many fronts to try and reduce the number of postponements and backlog

Another factor exacerbating the board's ability to get rid of the backlog is the continued debate over the tool or tools it should use in conducting the psychological examination. There has been considerable debate over the last few years and the board indicates that it has still not determined what examination it will use. Until this is decided there will continue be problems with postponements related to the psychological evaluation and general confusion that has arisen about when a psychological evaluation is too old and what type of psychological examination should be conducted.

COMMENTS

The department is requesting resources in the following three areas:

- **Hearings Division** - \$628,000 is requested to add three commissioner positions to reduce the number of postponements due to panel unavailability. The budget includes trailer bill language to implement this effort.
- **Forensic Assessment Division** - \$6.2 million (\$3.8 million limited-term) for clinical staff to enable more timely psychological evaluations prior to parole suitability hearings. The limited-term funding will be used to contract for clinical staff to address the current backlog of assessments that need conducted. The backlog was estimated to be over 600 as of July 2007.
- **Case Records Unit** - \$1.4 million for additional case records staff to support the field records offices that have the largest volume of life inmates.

The Legislature has provided \$8.3 million in on-going funding to support changes at the BPH to comply with the *Lugo* lawsuit.

ISSUE 7: RELOCATION OF DIVISION OF HEALTH CARE SERVICES

The Governor's Budget proposes \$5 million General Fund (\$2.6 million of which is ongoing to lease new office space and \$2.4 million one-time for new furniture) in order to relocate the Division of Correctional Health Care Services (DCHCS).

BACKGROUND

The DCHCS houses three main units: Mental Health, Dental Health, and Administration. The Dental Health and Administration units are currently located at 501 J Street in Sacramento, in the same building that houses the medical Receiver's Plata Support Division. Due to a lack of available space in this building, the Mental Health unit is currently operating out of a temporary site at 1300 National Drive in Sacramento.

This proposal would consolidate all three units into a single space at a location in the Sacramento area that is still to be determined. The primary reason for this proposed consolidation and relocation is the Receiver's expansion plan of the Plata Support Division at 501 J. The CDCR also cites the potential for better coordination among units.

COMMENTS

The DCHCS is currently authorized to have 292 positions. However, the department based its calculation for office space on 478 staff. The administration has indicated that it did so in anticipation of future court orders that it believes will expand its staff. However, the administration was unable to point to any specific court rulings to justify such a large increase. In addition, even if there were justification for leasing so much space, we find little justification for buying so much furniture now for staff that is not yet authorized.

ISSUE 8: E-FENCE

The May Revision proposes a reduction of \$2.8 million General Fund to account for the deactivation of guard towers that no longer need to be staffed once institutional electric fences have been activated.

BACKGROUND

The CDCR has been constructing new electric fences at the California Men's Colony and the Sierra Conservation Center. These new fences were activated in August 2007 and May 2008, respectively. Historically, the activation of electric fences has allowed the department to deactivate some perimeter gun towers and replace these positions with staff that patrol the fence. Staffing the perimeter gun towers is more staff intensive than providing staff to patrol the fence.

COMMENTS

The LAO recommends approving the savings proposed in the May Revision related to activating the electric fences at the California Men's Colony and the Sierra Conservation Center. The LAO also recommends that \$1.5 million in additional General Fund savings can be scored in the current year since both of these fences were activated in the current year.

ISSUE 9: CDCR MAY REVISE POPULATION ADJUSTMENT

The May Revision proposes the following adjustments related to the CDCR's Adult and Juvenile inmate and parole populations:

- A net reduction of \$67.9 million comprised of a decrease of \$66.5 million General Fund and a decrease of \$1.4 million from the Inmate Welfare Fund, to account for a projected decrease of inmate and adult parole populations.
- A decrease of \$4.3 million General Fund to account for contract savings since the Division of Juvenile Justice (DJJ) does not anticipate serving females in secure placements outside of DJJ facilities until January 2009.
- A decrease of \$217,000 Reimbursements to account for adjustments in the Breakfast-Lunch and County Referral Reimbursements.
- A net reduction of \$583,000 General Fund to account for adjustments in local assistance payments for claims related to the prosecution of inmate crimes and housing parole violators in jails.
- The addition of budget bill language to authorize budgetary adjustments between the Division of Adult Institutions and the Division of Addiction and Recovery Services for the purposes of reconciling expenditures related to the operation of the In-Custody Drug Treatment Program.

BACKGROUND

The May Revision reflects an estimated institutional average adult daily population of 170,641 in the budget year. This is 6,380 less than projected in the Governor's Budget. The change in adult inmate population is mainly due to a projected decrease in new admissions from the court and parole violators return to custody. The projected adult parolee average daily population is 122,872. This is a decrease of 10,189 from the number projected in the Governor's Budget. The parole population is expected to decrease due to an increase in the number of parolees discharged from parole.

The Governor's January budget proposal estimated that as of June 30, 2007, 2,516 wards reside in DJJ facilities. The January budget proposal forecasts that the ward population will decrease to 1,703 wards by June 30, 2009, a projected two-year decrease of 813 wards, or about 32 percent, compared to the beginning of the current fiscal year.

As of June 30, 2007, CDCR supervised 2,765 youthful offenders on parole. The department forecasts the parole population will decrease to 2,175 by June 30, 2009, a projected two-year decrease of 590 parolees, or about 21 percent.

The May Revision does not propose a change in funding for the juvenile population despite spring projection provided by the department that indicates some increase in population was assumed above the Governor's January budget in both the current and budget years. The total decrease in funding related to the juvenile population estimate is \$11.7 million in the current year and \$61.3 million in the budget year.

COMMENTS

The LAO is concerned that the reductions proposed by the CDCR related to the adult inmate population may be overstated if recent admissions trends do not hold. In particular, they have concerns with the department's projection that court admissions will continue to decline over the next couple of years and remain at a level lower than what has actually occurred over the past few years. Therefore, the LAO recommends increasing the department's request for adult caseload funding by \$20.4 million in the budget year. This reflects an increase of about 700 inmates and 1,500 parolees relative to the Governor's May Revision budget, about half of the reduction in caseload projected by the department.

The LAO also finds that several months of weekly population reports have indicated that the juvenile population is down by an average of more than 60 wards on an average daily population basis relative to the Governor's January budget. They recommend that the Legislature reduce caseload funding for the current year by \$7.6 million General Fund and that the related technical budgeting changes be made accordingly. Because of the likelihood that this population trend will continue into 2008-09, the LAO also recommends that the Legislature should reduce caseload funding by \$15.6 million in the budget year.

Staff finds that the CDCR has proposed adjustments based on changes to its adult population consistent with historical population projections. Further, staff finds that although there are no adjustments made in the May Revision based on juvenile population projects, the DJJ's budget is being decreased significantly in the budget year (as noted above).

ISSUE 10: SUMMARY PAROLE

The Governor's Budget and the May Revision proposes a reduction of \$173.6 million General Fund related to the implementation of Summary Parole.

BACKGROUND

The CDCR supervises parolees released from prison. The length of supervision is dependent on the commitment offense and the behavior of the parolee while on parole. Successful specified parolees are discharged from parole supervision in their 13th month of parole. Currently CDCR supervises over 120,000 parolees in California communities. There are also an approximately 18,000 parolees at large. The level of supervision is dependent upon several factors, including the actions of the parolee, and the severity of the commitment offense. The Department has a variety of rehabilitative programs available for eligible offenders, including substance abuse treatment, literacy training, job services, and mental health treatment. A majority of parolees violate the conditions of their parole or commit new crimes and are returned to prison within two years of release from prison.

The Department would place non-serious, non-violent, non-sex offenders with no prior serious, violent or strikeable offenses on summary parole after serving their prison term. This proposal would eliminate the option of returning an individual on summary parole using the administrative process and instead would require a new conviction. These parolees would continue to be subject to search and seizure by any peace officer, as well as drug testing by any peace officer. By not supervising these parolees and eliminating the administrative return process, this results in both parole and institutional savings.

Most states do not place all inmates released from prison on parole. This would allow limited parole resources to be focused on offenders who are most likely to have difficulty reintegrating into society. This would result in the elimination of parole agent positions which would significantly reduce the number of vacant parole agents, and would have a positive impact on the Department's efforts to comply with the requirements of Jessica's Law.

COMMENTS

The LAO has found that that summary parole has some merit on its own, particularly now that the 20-month early release proposal has been withdrawn. Further the LAO notes that if adopted, there may be additional associated savings that the Legislature should consider.

ISSUE 11: CHANGING WOBLERS TO MISDEMEANORS

The LAO has recommended changing the punishment for certain crimes from Wobblers to Misdemeanors, which would result in budget year savings of between \$200 million and \$300 million (growing to approximately \$700 million ongoing).

BACKGROUND

Current law makes some crimes punishable as misdemeanors—where jail, probation, and/or fines are the criminal punishments allowed—or as felonies—where a sentence to state prison is defined. These crimes are sometimes referred to as wobblers. The sentencing decision on wobblers is left up to the criminal court, with the court's decision generally based on the specific circumstances of the crime and the criminal history of the offender. Most wobblers are property or drug offenses and include crimes such as forgery, petty theft with a prior theft, and some drug possession offenses.

The LAO recommends changing criminal penalties to make wobblers misdemeanors. While this approach would limit the discretion judges now have to send persons convicted of wobblers to prison, it would prioritize the use of expensive state prison beds for violent and serious offenders. Following is a list of the criminal offense categories that include wobblers, the number of inmates in prison for those crimes, and the annual cost to incarcerate those offenders:

- 1) **Drug Possession** – As of Dec. 31, 2006 there were 7,742 inmates in CDCR institutions convicted of this crime, their average time served is 17 months at a total annual cost of \$170 million.
- 2) **Vehicle Theft** – As of Dec. 31, 2006 there were 5,143 inmates in CDCR institutions convicted of this crime, their average time served is 17 months at a total annual cost of \$113 million.
- 3) **Petty Theft with a Prior Theft** – As of Dec. 31, 2006 there were 5,174 inmates in CDCR institutions convicted of this crime, their average time served is 18 months at a total annual cost of \$114 million.
- 4) **Receiving Stolen Property** – As of Dec. 31, 2006 there were 4,077 inmates in CDCR institutions convicted of this crime, their average time served is 15 months at a total annual cost of \$90 million.
- 5) **Grand Theft** – As of Dec. 31, 2006 there were 2,905 inmates in CDCR institutions convicted of this crime, their average time served is 17 months at a total annual cost of \$64 million.
- 6) **Forgery/Fraud** – As of Dec. 31, 2006 there were 2,888 inmates in CDCR institutions convicted of these crimes, their average time served is 17 months at a total annual cost of \$64 million.
- 7) **DUI** – As of Dec. 31, 2006 there were 2,375 inmates in CDCR institutions convicted of this crime, their average time served is 17 months at a total annual cost of \$52 million.
- 8) **Other Property Crimes** – As of Dec. 31, 2006 there were 903 inmates in CDCR institutions convicted of these crimes, their average time served is 15 months at a total annual cost of \$20 million.

- 9) **Other Drug Crimes** – As of Dec. 31, 2006 there were 188 inmates in CDCR institutions convicted of these crimes, their average time served is 24 months at a total annual cost of \$4 million.
- 10) **Hashish Possession** – As of Dec. 31, 2006 there were 33 inmates in CDCR institutions convicted of this crime, their average time served is 12 months at a total annual cost of \$1 million.

As shown above, the LAO estimates that about and 31,000 inmates are in state prison for wobbler offenses at any given time.

COMMENTS

The approach of changing certain punishments from wobblers to misdemeanors would not require CDCR to complete tens of thousands of case file reviews. Instead, it would simply eliminate prison as a sentencing option for these offenders, resulting in no additional workload for CDCR or the courts.

The LAO has also presented an option that would exclude offenders with prior violent or sex offenses from being sentenced as misdemeanants. Doing so would reduce the estimated savings by about \$150 million to \$200 million annually upon full implementation. Even with such a change, we estimate that our approach would still result in annual savings of \$500 million to \$550 million.

ISSUE 12: JUVENILE PROBATION AND CAMPS FUNDING

The Governor's Budget proposes \$181.3 million General Fund for the Juvenile Probation and Camps Funding Program (JPCF). This is a reduction of \$20.1 million due to the Governor's across the board budget balancing reduction.

The May Revision proposes a reduction of \$151.8 million General Fund and an increase in Reimbursements of an identical amount to transfer General Fund support for the Juvenile Probation Program to the Department of Social Services and replace this funding with Temporary Assistance for Needy Families (TANF) Block Grant funds.

BACKGROUND

In the current year, the JPCF provides \$201 million to counties for public safety programs targeting juveniles. Of this amount, \$168 million is directed to support various county probation programs for at-risk youth, juvenile offenders and their families, and another \$33 million is allocated separately to counties to assist in their operation of juvenile camps and ranches. The authorizing statute stipulates a fixed allocation amount for each county for the probation support program, but allows the camp-specific funding to vary annually based on the proportionate number of occupied camp and ranch beds in each county. The CSA is responsible for administering the program funds.

LAO Alternative

The LAO notes that the JPCF Overlaps With the Juvenile Justice Crime Prevention Act Program (JJCPA). According to the LAO, much of the funding provided to juvenile programs through the JJCPA program is duplicative with JPCF funding. However, unlike the JJCPA program, the JPCF program is not required to report on specific outcome measures. The latest annual report from CSA only contains statistical information on the number of youths entering and exiting programs—it does not contain data on actual youth crime outcomes, such as arrest and incarceration rates. Thus, it is not possible to assess the program's effectiveness. Nevertheless, the program's similarities to the JJCPA program, which has demonstrated results, as well as the overall declining juvenile crime rate over the past several years, indicate that the program likely is effective at reducing juvenile crime.

Given the similarities between the two programs, and the results demonstrated by the JJCPA program, the LAO recommends that the Legislature consolidate funding for the two juvenile crime reduction local assistance programs, and provide them with a total of \$304 million in funding. This level of funding is the sum of the budgets of the two programs (before the Governor's proposed reductions), reduced by 5 percent to reflect anticipated administrative savings. The LAO also recommends that the Legislature adopt budget trailer bill language creating a statutory framework for the consolidated program similar to the existing JJCPA statute.

COMMENTS

Although the LAO's alternative to consolidate the JPCF and JJCPA programs would provide a greater level of funding available to locals than the Governor's Budget proposals, the CSA has raised concerns regarding its ability to administer the consolidated program within existing resources. Further, the Administration's May Revise proposal to fund the Juvenile Probation Program with TANF funds would not work due to the restoration of funds for social services programs.

ISSUE 13: MENTALLY III OFFENDER CRIME REDUCTION GRANT

The Governor's Budget proposes \$40.1 million General Fund for the Mentally III Offender Crime Reduction Grant (MIOCR). This is a reduction of \$4.5 million due to the Governor's across the board budget balancing reduction.

BACKGROUND

The MIOCR program was designed as a demonstration grant project to aid counties in finding new collaborative strategies for more effectively responding to the mentally ill offenders who cycle through already overcrowded county jails. Services provided through the MIOCR program vary by project but have often included housing support, employment training, benefits advocacy, and day treatment. Different projects target different populations, but most projects focus on soon-to-be-released offenders transitioning out of custody. MIOCR funding is split 50/50 between programs that target adult offenders and programs that target juvenile offenders.

Issues raised by the LAO

The LAO has noted that in 2004 the voters passed Proposition 63, the Mental Health Services Act, which funds county services for mentally ill individuals. While the act prohibits spending funds on individuals incarcerated in state prison or on parole, there are no restrictions on using the funds to pay for services for offenders in county jail or on probation, the target group of MIOCR programs. In fact, the statute explicitly states that counties "shall consider ways to provide services to those established pursuant to the Mentally III Offender Crime Reduction Grant Program." As of September 2007, close to \$300 million remained in Proposition 63's Mental Health Services Fund for investment in community mental health programs such as MIOCR.

The LAO further notes that the latest report from The Department of Mental Health (DMH) on the implementation of Prop 63 programs indicates that counties are indeed using Prop 63 funds to target offenders (in fact, some counties that had started programs with Prop 63 funds to target offenders are now using MIOCR funds to augment these programs). The DMH report only covers seven counties, but they selected them based on their geographic and economic diversity, so presumably they should be representative of what's going on statewide. The report notes the counties surveyed are using Prop 63 monies to fund "forensic initiatives", which are defined as those mental health service programs that are integrated with law enforcement, probation and/or the courts. For example:

- El Dorado County is using Prop 63 funds for mental health courts (MIOCR grants have been used in other counties to fund mental health courts in the past).
- LA County is using Prop 63 funds for two jail linkage programs (one for adults, one for juveniles) that assist with the transition from custody to the community (MIOCR funds these same types of programs).

- Madera County chose adults with jail involvement as a priority population for Prop 63 services and established a mental health treatment center near the county jail. This program has actually been augmented with MIOCR funds.

Lastly, according to the LAO, at the end of the first quarter of 2007–08, counties had only spent approximately \$3 million of the available MIOCR funds.

COMMENTS

Given the availability of Prop 63 funding and the states fiscal situation, the Legislature should consider whether funding for the MIOCR program is a priority use of state resources.

ITEM 5225 CDCR – CAPITAL OUTLAY**ISSUE 1: SAN QUENTIN CONDEMNED INMATE COMPLEX**

The Governor's Budget Proposes \$136 million in lease-revenue bonds to address additional funding needed to complete construction of the Condemned Inmate Complex at California State Prison, San Quentin.

BACKGROUND

The 2003-04 Budget Act authorized \$220 million in lease-revenue bonds for the design and construction of a new Condemned Inmate Complex for condemned male inmates at California State Prison, San Quentin. The original project was designed to provide 1,408 beds which were projected to meet the department's condemned inmate population needs through 2037.

However, because of increased costs related to this project, cost containment measures were taken in September 2005 to: (1) eliminate one housing unit, thereby reducing the number of beds by 18 percent; and (2) change the project scope for warehouse and maintenance support space from the construction of freestanding buildings to the conversion of existing dormitory buildings. Even with these cost containment measures, it was recognized that the project had a 6 percent budget deficiency in September 2005. The preliminary plans for this project were approved by the Public Works Board in November 2005.

There are currently 669 condemned inmates at San Quentin. The capacity of the current condemned housing is 634 beds. The new Condemned Inmate Complex would provide 1,152 beds.

COMMENTS

In the past, the LAO has recommended canceling the Condemned Inmate Complex project at San Quentin and use the remaining funding authorized to build additional prison capacity for condemned and maximum-security inmates at a lower cost per bed elsewhere. This could include: (1) building a new condemned inmate complex at an existing prison or at a new site, or (2) constructing new Level IV capacity and moving condemned inmates to Level IV housing at an existing prison. The LAO indicates that some states house condemned inmates with other Level IV population in a single facility and suggests that this could also be an option.

This year the LAO withholds recommendation on the project until questions about the costs of the project and the impacts of the possible inmate population limits are resolved. The LAO recommends that the department retain an independent outside expert to assess the department's cost estimates for this project. This is similar to the recommendation the LAO made with regard to the infill bed projects authorized by Chapter 7, Statutes of 2007 (AB 900, Solorio).

The LAO also recommends that the department report on the following: (1) the maximum capacity of San Quentin now, including potential overcrowding of the facility; (2) the maximum potential capacity of San Quentin, including potential overcrowding of the facility, if the Condemned Inmate Complex is completed; (3) any specific limits on the inmate population at San Quentin to which the state has agreed as a result of the environmental review process for the Condemned Inmate Complex; (4) the department's rationale for building the Condemned Inmate Complex at San Quentin if in fact that means other existing space at the prison could not be used to hold inmates in the future.

ISSUE 2: BUDGET PACKAGE ADVANCED PLANNING AND STATEWIDE RE-ENTRY FACILITY SITE EVALUATIONS

The Governor's Budget proposes \$3 million General Fund for advanced planning and budget packages for future capital outlay projects. This is \$1 million more than is allocated in the current year for pre-planning activities.

The Governor's Budget also proposes to amend budget bill language to allow these funds to be used to support advanced planning for projects authorized by AB 900 and trailer bill language to make it clear that the expenditures to prepare pre-planning capital outlay budget proposals for projects authorized by AB 900 should be reimbursable from AB 900 lease-revenue bond funding.

A Finance Letter (dated April 1, 2008) requests \$6 million General Fund for site investigation and real estate due diligence activities required prior to site selection and acquisition of re-entry facility properties. The Finance Letter also includes budget bill language to authorize the department to enter into agreements for the acquisition of an option to purchase real property with the approval of the State Public Works Board.

BACKGROUND

Chapter 7, Statutes of 2007 (AB 900, Solorio) was passed last year to authorize the department to construct up to 40,000 new prison beds. Subsequent legislation (Chapter 175, Statutes of 2007 [SB 81, Budget]) required that capital outlay budget packages be submitted to the Legislature for projects funded by AB 900.

Funding to support the advanced planning required to complete capital outlay budget packages was not included in AB 900 or in SB 81. This is especially problematic in the case of the re-entry facilities since the state has not built this type of facility before. While many of these preplanning activities would be eligible for reimbursement once the lease-revenue bonds were issued, the department did not have sufficient dedicated resources to support the pre-planning work.

COMMENTS

While AB 900 is clearly driving an increase need for advanced planning activities, it is unclear why an increase in General Fund resources would be needed if the trailer bill language is approved to make it clear that the expenditures to prepare pre-planning capital outlay budget proposals for projects authorized by AB 900 should be reimbursable from AB 900 lease-revenue bond funding.

ISSUE 3: CA INSTITUTION FOR WOMEN – PSYCHIATRIC SERVICES UNIT

The Governor's Budget and a Finance Letter (dated April 1, 2008) request funding to convert the east wing of the Women Support Care Unit at the California Institution for Women to a 20-bed Psychiatric Services Unit (PSU). This project was court-ordered in March 2007 by the *Coleman* court.

BACKGROUND

The Governor's budget proposal includes \$601,000 General Fund for working drawings to build this new unit. The Finance Letter requests an additional \$64,000 for preliminary plans and \$82,000 for working drawings to complete the planning for this project. The increased costs are a result of adding additional office and treatment space to the project scope for staff to support the PSU.

The Legislature appropriated \$423,000 General Fund to support this project in the 2007 Budget Act. The total estimated project cost is \$7 million or \$350,000 per bed to convert these beds.

Coleman is a lawsuit in which the court found that the entire mental health system operated by the CDCR (California Department of Corrections at the time of the suit) was unconstitutional and that prison officials were deliberately indifferent to the needs of mentally ill inmates. All thirty-three institutions in the CDCR are presently being monitored by a court-appointed special master to evaluate the CDCR's compliance with the Court's order.

The Special Master and the court overseeing the settlement of the *Coleman* lawsuit have taken a multi-pronged effort to improve mental health care facilities within the department. The court has pursued interim and temporary measures to improve mental health care facilities in the short-term. Many of these short-term efforts have already been implemented or are currently being constructed.

COMMENTS

The Finance Letter includes an alternative that costs \$1 million more but appears to be fundable by lease-revenue bond and adds capacity (as opposed to this proposal, which reduces capacity from 46 to 20 beds). The CDCR has since indicated that the alternative was understated and the actual costs would be closer to \$2 million greater than this request.

ISSUE 4: SMALL MANAGEMENT YARDS

The Governor's Budget includes \$25.4 million General Fund to support the construction of 476 small management yards for Administrative Segregation Units (ASU) at 26 institutions. This includes funding for the design phase for 327 of the yards.

An April 1 Finance Letter proposes \$1.6 million General Fund on a one-time basis to facilitate the expansion of the ASU yard program into 3rd Watch. This request would allow eight institutions to meet the minimum 10 hours per week exercise period.

BACKGROUND

The judge overseeing the *Coleman* lawsuit issued an order on May 31, 2007, that the department submit a plan to provide sufficient small management yards to provide for at least ten hours per week of out of cell exercise to all inmates in administrative segregation. The order requires that the plan call for funding and construction of all yards by the end of the 2008-09 fiscal year. The plan also required provisions for better utilization of the existing small management yards and coordination with available staff to maximize yard usage.

The department estimates that as of October 2007, 1,162 small management yards were needed statewide for administrative segregation units. The department indicates that of the total needed (1) 578 had already been constructed, (2) 108 were under construction, (3) 149 were in the design phase, and (4) 327 still needed to be funded.

The 2007-08 Budget Act included \$911,000 for preliminary plans and working drawings to add 179 small management yards at the six institutions, including 149 yards for administrative segregation units and 30 yards for the security housing units.

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The Special Master and the court overseeing the settlement of the *Coleman* lawsuit have taken a multi-pronged effort to improve mental health care facilities within the department. The court has pursued interim and temporary measures to improve mental health care facilities in the short-term. Many of these short-term efforts have already been implemented or are currently being constructed.

COMMENTS

Staff notes that the Governor's Budget proposes to complete this construction project by January 2010. This is six months beyond what was ordered by the court. The CDCR has submitted a request seeking additional funds to speed up construction to complete this project by June 2009.

ITEM 9210 LOCAL PUBLIC SAFETY PROGRAMS

ISSUE 1: PROGRAMS ADMINISTERED BY THE SCO

The Governor's Budget proposes funding for the following local programs that is allocated directly to counties by the State Controller's Office (SCO):

- Citizen's Option for Public Safety \$107 million
- Juvenile Justice Crime Prevention Act \$107 million
- Small/Rural Sheriffs Grants \$17 million
- Local Detention Facility Subventions \$32 million

These programs have all been reduced by 10 percent over the current year funding level to account for the Administration's across the board budget balancing reduction.

BACKGROUND

The SCO provides fiscal control for the receipt and disbursement of public funds. Certain local assistance programs—generally those that allocate funds on a formulaic rather than a competitive basis—are administered by the SCO. The SCO disburses the funds directly to local government entities, which then report back to SCO on their expenditure of the funds.

Citizen's Option for Public Safety

Under the Citizens' Option for Public Safety (COPS) program, counties and cities receive state funds, on a population basis, to augment primarily local funds for district attorneys, county jail construction and operation, and front-line law enforcement. An oversight committee in each county is responsible for reviewing local government expenditures of funds to ensure statutory compliance and reporting on expenditures annually to SCO.

Juvenile Justice Crime Prevention Act

In 2000, the Legislature modified the structure of the COPS program by enacting Chapter 353 (AB 1913, Cardenas), which added a new juvenile justice component, commonly referred to as the Juvenile Justice Crime Prevention Act (JJCPA). The JJCPA program provides funding to local governments for services that target at-risk juveniles, juvenile offenders, and their families. Additional reporting requirements for the JJCPA program include an annual report that each county must submit to the Corrections Standard Authority (CSA), which then must compile an overall annual report on the program's effectiveness and outcomes.

Small/Rural Sheriffs Grants

By statute, the Small/Rural Sheriffs Grant program appropriates \$500,000 annually from the General Fund to each of 37 county sheriff departments, for a total annual appropriation of \$18.5 million. The program includes no reporting requirements on the expenditure of funds or the effectiveness of the funding. The only stated objective in the authorizing statute is to "enhance law enforcement efforts."

Local Detention Facility Subventions

Booking fees are charges that counties impose on cities and other local agencies to recover the costs associated with booking persons into the county jail. The Legislature first authorized the use of such charges over a decade ago and, since that time, it has provided some fiscal relief for cities facing these fees. Currently, the state restricts counties from charging booking fees and, in exchange, provides counties with subventions intended to offset the resulting loss in revenue.

COMMENTS

Staff notes that the LAO recommends that the Legislature eliminate funding for the COPS, Small/Rural Sheriffs, and Local Detention Subvention Facility Programs.

ITEM 0820 DEPARTMENT OF JUSTICE

ISSUE 1: WILLIAMS ENERGY SETTLEMENT

The Department of Justice has identified \$68.7 million available from the Williams Energy Settlement that could potentially be transferred to the General Fund.

BACKGROUND

Early on in the aftermath of the California energy crisis the DOJ settled a lawsuit with the Williams Energy Company. The terms of this settlement included the allocation of some cash funds to a new Alternative Energy Retrofit Account to be used to retrofit school and other public buildings with renewable energy and energy efficiency projects.

After this initial settlement the Legislature enacted legislation that would direct future settlement monies to the Ratepayer Relief Account that is used to finance the energy litigation and investigations, reduce rates to ratepayers, and pay off the energy bonds issued during the energy crisis.

There are no statutory restrictions on how the state uses this money and thereby could be transferred to the General Fund. Nevertheless, it should be noted that customers of the state's three large investor-owned utilities are the ones that paid the entire bill for the electricity crisis. Therefore, it would be appropriate that settlements received by the state benefit the ratepayers of the investor-owned utilities.