

Prison-related budget proposals

The CDCC/conference committee proposals result in a \$1.2 billion savings in 2009-10 (26,800 average daily population (ADP) reduction); \$1.5 billion in 2010-11 (37,100 ADP); and \$1.8 billion in 2011-12 (43,200 ADP).

All but the sentencing commission and the community corrections proposals were proposed by the administration and narrowed by the conference committee.

There are no early release proposals.

Not only must these proposals be viewed in the context of the budget solution, which scored \$1.2 billion in corrections reductions, they must also be viewed in the context of the August 4, 2009 order by a federal 3-judge panel to reduce the state prison ADP by about 40,000 inmates, based upon current capacity.

In brief, there are seven potentially controversial proposals, totaling \$656 million, one of which does not require a vote, and three that *Senate and Assembly Democrats already voted for* in December. About \$504 million of the \$1.2 billion scored as correctional savings in the 2009-10 budget/revision requires legislation. Savings/ADP referenced are for 2009-10.

- 1) **Immigration commutations (\$181 mil and 8,500 ADP)** - doesn't require a vote. Current law authorizes the governor to make these determinations.

Parolees with Immigration and Customs Enforcement (ICE) holds would be discharged from parole and the governor would commute the sentences of certain inmates with ICE holds. These inmates and parolees would be deported or released to federal custody.

- 2) **Summary parole/banked caseloads with search and seizure (\$178 mil and 4,000 ADP)** - had 47 votes for a more expansive version last Dec.

Establishes the Parole Reentry Accountability Program. As part of the program CDCC will use a parole violation decision-making instrument to determine the most appropriate parole sanctions for a parole violator. Parole violators with a history of substance abuse or mental illness may be referred to a re-entry court. The court will work with parole agents to determine the appropriate conditions of parole.

Low and moderate risk offenders with non-serious, non-violent and non-sex offenses will be placed on large (banked) caseloads and will not be subject to parole revocation, though they will be subject to search and seizure by law enforcement. Serious offenders will be eligible for early parole discharge based upon successfully completing drug treatment.

3) **Update property crime thresholds (\$34 mil and 1,400 ADP)** - had 47 votes in Dec. Property crime thresholds, many of which have not changed since 1982, would be indexed for inflation, except grand theft which increases to \$2,500.

4) **Program completion credits (\$42 mil and 1,700 ADP)** - had 47 votes in Dec for a broader package (maximum of four months rather than six weeks).

Sentence credits create an incentive for inmates to participate in programs that ultimately reduce recidivism. This proposal (a) revises and reinstates day-for-day credits and provides up to 6 weeks of credits for inmates who complete specific milestones in rehabilitative programming such as vocation, substance abuse treatment or education; (b) provides consistent credit status for jail and prison inmates, and (c) authorizes CDCR to extend fire camp credits to inmates awaiting transfer to a fire camp.

5) **Wobblers to misdemeanors (\$100 mil and 4,300 ADP)** - a new proposal by governor, which the conference committee reduced from dozens of offenses to just four offenses (check kiting, receiving stolen property, petty theft with a prior, and theft with a felony prior).

Rather than state prison, persons convicted of these offenses would be committed to county jail.

6) **Alternative custody via house arrest and GPS (\$120 mil and 6,300 ADP)** - a new proposal by governor, adopted by the conference committee.

The CDCR Secretary would have the authority to order home detention with electronic monitoring of individuals with less than 12 months to serve on their prison term. This custody alternative would also apply to inmates over age 60 and those permanently medically incapacitated regardless of the length of their sentence.

7) **Sentencing commission (cost of \$2 mil)** - a post-conference committee addition.

The 13 member commission would be independent and have a charge to establish sentencing guidelines by July 1, 2012. All members would be appointed by the governor and be subject to Senate confirmation. The guidelines would go into effect January 1, 2012 unless rejected by the Legislature and governor. Guidelines could be rejected by a majority vote of the Legislature. The Commission would be comprised of a diverse set of stakeholders including law enforcement, academic experts on criminal justice, representatives of the judiciary and defense counsel.

The remaining major provisions in the prison reduction package, only one of which requires legislation, are:

8) **Community corrections (\$30 mil)** - also in SB 678. (Requires legislation; part of the trailer bill.)

County probation departments would receive a portion of CDCR savings so felony probationers who would otherwise be sent to prison remain under the jurisdiction of the counties. Probation Departments, which support this proposal, will use these funds for additional officers and evidence based programs. Seed money is provided for 2009-10 via a \$45 million appropriation from federal funds.

9) Reduction of prison rehabilitation programs (\$1.75 mil).

The governor proposed eliminating all rehab programs for a \$439.5 mil savings, the conference committee proposal maintains demonstrably effective programs.

10) Unallocated cut (\$100 mil). The governor proposed \$300 mil.

11) Eliminate CDCR's special repairs budget (\$48 mil).

12) CDCR HQ administrative reduction (\$20 mil). The governor proposed \$15 mil.

13) Shift AB 900 construction funds to existing cap outlay to free up GF (\$20 mil).

14) Operational savings related to parole reform proposals (\$175 million)

15) Technical inmate and parole population adjustments (\$51 mil)

16) GPS alternative sanctions (\$16 mil).

17) DOJ positions and contract reductions (\$13 mil).

18) Increased supervision – from 79.1 to 45.1 - for high risk parolees (cost of \$70 mil).

19) Related implementation costs (cost of \$70 mil)

CALIFORNIA PUBLIC SAFETY COMMISSION

The California Public Safety Commission will provide a nonpartisan forum for statewide policy development, information development, research, and planning concerning criminal sentences and their effects.

The commission will seek to achieve sentencing practices that are grounded in data and based on sound policy. The Commission shall evaluate and monitor adult and juvenile sentencing policies and practices, recommend modifications to the Governor and the Legislature and serve as a clearinghouse and information center on adult and juvenile sentencing.

MEMBERSHIP

The commission shall be composed of 15 voting members, one of whom shall be the secretary of the Department of Corrections and Rehabilitation, or his or her designee.

One member shall be the Chief Justice of the California Supreme Court, or his designee, who shall chair the commission.

One member shall be a sitting or retired appellate court justice appointed by the Chief Justice of the California Supreme Court.

One member shall be a sitting or retired trial court judge appointed by the Chief Justice of the California Supreme Court.

One member shall be the state Public Defender.

The Governor shall appoint eight voting members, subject to confirmation by the Senate: a California district attorney recommended by the California District Attorney Association, a county sheriff recommended by the California State Sheriffs Association, a chief of police recommended by the California Police Chiefs Association, two academic experts in criminal justice policy, a chief probation officer recommended by the Chief Probation Officers of California, a public defender with expertise in inmate or inmate family rights recommended by the California Public Defenders Association, and a legal scholar with expertise in sentencing law.

There shall also be three nonvoting members, one ex-felon appointed by the Speaker of the Assembly, one crime victim appointed by the Governor, and one member who shall be either a county mental health director or a substance abuse expert with substantial experience in offender treatment appointed by the Senate Committee on Rules, none of whom shall be subject to confirmation by the Senate.

TIMELINE MILESTONES

* June 1, 2012: The Commission is to promulgate and present to the Legislature an initial set of sentencing and parole rules.

* January 1, 2013: The Legislature must reject the rules before this date by a statute passed and signed by the Governor or the rules become operative.

* July 1, 2013: The Commission will submit a report to the Legislature and the Governor setting forth recommended statutory changes in statutory provisions added or affected by initiative measures necessary to conform to those provisions to the requirements of the Commission.

* June 1, 2014 (annually): The Commission will publish a report to the Legislature and the public on the commission's activities, including data collection and research, reports of any special research undertaken by the commission, and other reports directed by the Legislature.