

## Pending Prison-related Budget Proposals

The CDCR/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 public safety 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 provided majority votes for* in December. About half of the \$1.2 billion scored as correctional savings in the 2009-10 budget/revision requires legislation. Savings/ADP referenced are for 2009-10.

According to the federal three-judge panel (3JP): *"There was overwhelming agreement among experts for plaintiffs, defendants, and defendant-intervenors that it is "absolutely" possible to reduce the prison population in California safely and effectively... the evidence demonstrates that the fears regarding increased crime, arrests, and jail population are largely unjustified, and that there are ways to achieve a reduction in California's prison population without unduly burdening the already limited resources of local communities."* (p 137/157)

- 1) **Immigration commutations (\$182 mil and 8,500 ADP)** – does not 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 CDCR 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.

According to the 3JP: *"The evidence shows, however, that many of the current problems with parole supervision are created by the poor allocation of resources. California's parole system is significantly out of step with that of other states. California is the only state that puts every inmate leaving the prison system on parole, usually for one to three years... The evidence conclusively showed that public safety would not be adversely affected by releasing low-risk, nonserious, nonviolent offenders from the prison system without placing them on parole supervision. Such individuals can be identified using a risk assessment tool."* (p 162)

- 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.

According to the 3JP: *The state might also consider changing the criminal law itself. For example, the Governor has proposed adjusting the threshold value at which certain property crimes become felonies to reflect inflation since 1982.... a strong indication that the proposals would not have an adverse affect on public safety."* (p 156)

- 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 recasts 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.

According to the 3JP: *"Experts presented by plaintiffs, defendants and defendant-intervenors all supported the expansion of this good time credits system as a way to reduce the prison population without adversely affecting public safety.... We credit the opinions of the numerous correctional experts that the expansion of good time credits would not adversely affect but rather would benefit the public safety and the operations of the criminal justice system."* (p 139/145)

- 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 three offenses (check kiting, receiving stolen property, petty theft with a 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 terms. This custody alternative would also apply to inmates over age 60 and those permanently medically incapacitated regardless of the length of their sentence.

- 7) **Public Safety 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, 2013 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.

According to the 3JP: *"In particular, the repeated recommendation that the state establish a sentencing commission and reform its determinate sentencing regime reflects an urgent need for the state to reconsider its counterproductive sentencing practices."*

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 may 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.

According to the 3JP: *"Instead of incarcerating all of these offenders, the CDCR could use risk assessment instruments to identify low-risk offenders and divert these offenders to community correctional programs to serve their sentences. The state might also consider implementing incentive-based funding for community corrections, similar to that adopted by California in the 1960s, when the state*

*provided fiscal reward to counties that reduced the number of people being sent to prison." (p 150)*

9) Reduction of prison rehabilitation programs (\$175 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 (\$80 mil). The governor proposed \$300 mil.

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

12) CDCR HQ administrative reduction (\$35 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 (\$53 mil).

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

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

18) Increased supervision – from 70:1 to 45:1 - for high risk parolees (*cost* of \$70 mil).

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