

January 24, 2011

**Governor's "Structural Shortfall"
Proposal for the California Department of
Corrections and Rehabilitation (CDCR)**

L E G I S L A T I V E A N A L Y S T ' S O F F I C E





Governor Proposes Additional Funding for CDCR Salary and Other Costs

- Overview.** The Governor's budget for 2011-12 provides an additional \$395 million in General Fund support for CDCR for expenses that the department indicates have exceeded its budget authority in previous years.
- Security Staff Salary Steps (\$266.5 Million).** Correctional officer, sergeant, and lieutenant positions are currently budgeted based on the middle step of each position's salary range. However, CDCR reports that the average officer actually earns closer to the top step of the salary range. The budget proposes \$266.5 million in additional funding to support the actual earnings of security staff.
- Medical Guarding and Transportation (\$55.2 Million).** In recent years, CDCR has incurred additional costs for security staff to transport and guard inmates at health care facilities outside prison walls. However, CDCR reports that its base funding of \$66.4 million for such activities has not been adjusted accordingly. The budget proposes an additional \$55.2 million for medical guarding and transportation.
- Correctional Officer Overtime (\$35.7 Million).** The CDCR argues that its base budget to pay for overtime costs for custody staff—which it identifies to be \$104.3 million—has not been adjusted since 2000-01, despite a 34 percent base salary increase provided to correctional officer staff over that period. The budget proposes a \$35.7 million augmentation for correctional officer overtime to reflect these increases.



Governor Proposes Additional Funding for CDCR Salary and Other Costs *(Continued)*

- ☑ ***Legal Expenses (\$20.5 Million)***. According to CDCR, costs for various legal activities (including legal settlements and judgments, plaintiff attorney fees, special master fees, and expert witness fees) have exceeded its base budget of \$23.8 million for such activities. The budget proposes to increase funding for legal expenses by \$20.5 million to reflect prior-year costs.

- ☑ ***“Swing Space” for Inmate Housing (\$17.3 Million)***. The department’s staffing and funding levels for the inmate population are based on the number of inmates in the prison system. However, CDCR argues that it must keep some prison beds unoccupied (referred to as swing space) to accommodate changes in inmate housing placements, but does not receive funding for this. The budget includes \$17.3 million to support a relatively small percentage of swing space.



CDCR's Budget Shortfalls Raise Serious Concerns

- ☑ In each of the past several fiscal years, CDCR has experienced budget shortfalls in some of its programs. However, the department typically notifies the Legislature of a shortfall *after* the additional expenses were incurred and generally *after* the fiscal year ended. Thus, the Legislature has little choice but to either approve additional funding or authorize the transfer of funds from other program areas to cover the shortfall.

- ☑ For example, in 2009-10, the Legislature allowed CDCR to transfer nearly \$300 million in savings from certain programs (such as adult parole) to cover funding shortfalls in prison security and certain other areas. In addition, CDCR delayed paying \$90 million in contracts (such as for substance abuse treatment programs) that year—in effect, shifting its expenses into future fiscal years. Moreover, the federal Receiver overseeing inmate medical care received a \$500 million supplemental appropriation for increased contract medical expenses above the budgeted authority.

- ☑ The department frequently and purposely reduces program services—such as offender rehabilitation programs and prison maintenance—to “free up” funding to support increased prison security costs. This means that CDCR is not performing critical functions for which funding was specifically provided in the budget.

- ☑ Although we agree with the administration that CDCR's persistent budget shortfalls must be addressed, our analysis indicates that the administration's approach to address the issue has several shortcomings.



Governor's Proposal Not a Full Accounting of CDCR's Budget Imbalances



Excess Savings in Adult Parole

- In 2009-10, CDCR had over \$100 million in savings in its parole budget at the end of that year. This indicates that the department's parole operations may be over budgeted.
- For example, CDCR appears to be overfunded for parole supervision activities. This is because the Governor's budget for CDCR is based on parole supervision at a ratio of 48 parolees per one parole agent. However, the department reports that in practice parolees will be supervised at a much higher ratio of 70 parolees per agent in 2010-11. This is because the department is still in the process of implementing a new parole supervision model related to the lower caseloads.



No Apparent Shortfall in Central Administration

- In 2009-10, CDCR had \$43 million in savings in its budget for central administration at the end of that year. Despite this surplus, however, the Governor's budget includes a \$20.5 million augmentation in 2011-12 in the central administration program for increased legal costs.
- The fact that the department has not spent all of its allocated funding for administration in the past suggests that there could be savings in other central administration functions that the department has not identified which could be redirected to cover the increased legal costs.



Other Proposals Run Counter to Addressing CDCR Budget Shortfalls



Significant Risks in Fully Achieving Assumed Proposed “Workforce Cap” Savings

- As a result of an unallocated 5 percent reduction to the personnel departments of most state departments, the 2010-11 budget assumed a total of \$292 million in personnel savings for CDCR. The Governor’s budget assumes that the department will only be able to achieve \$20 million of these savings in the current year—due to difficulties in reducing security staffing absent policy changes to reduce the inmate population.
- However, the proposed budget assumes that the full \$292 million savings will be achieved in 2011-12. At the time this analysis was prepared, the administration had not provided a plan for how these savings would be achieved.
- Given the absence of a specific plan to achieve personnel savings and the fact that the department’s personnel costs are largely tied to the operations of the state prisons—which must be staffed on a 24-hour basis—there are significant risks that the assumed savings will be achieved. This would create a new shortfall within CDCR’s budget.



Significant Risks in Fully Achieving Assumed Inmate Medical Care Savings

- The Governor’s budget includes a \$257 million unallocated reduction to the Receiver’s inmate medical services program.
- However, at this time, the administration has not presented a detailed plan as to how these savings will be achieved. In order to achieve the magnitude of savings proposed, major operational changes would need to be identified and implemented soon.
- Given the absence of such a plan, the assumed level of savings in inmate medical care might just result in a new shortfall within CDCR’s budget.



Governor's Proposal Does Not Hold CDCR Accountable



No Cost Control Measures

- The Governor's approach for addressing CDCR's budget shortfall is to provide the department additional funding. However, the administration has not proposed any changes that would reduce the need for the additional funding.
- For example, CDCR has not presented a plan for how it could reduce the number of security staff required to transport and guard inmates at community health facilities, minimize the usage of swing space, avoid costly litigation, and reduce correctional officer overtime.



No Guarantee CDCR Will Not Overspend in the Future

- The proposed budget includes language requiring CDCR to report to the Department of Finance (DOF) at certain intervals throughout the fiscal year on how prison expenditures track with allotted budget authority. However, the budget does not propose any changes on how the department should address any future funding shortfalls.
- This means that CDCR could still request a transfer of funding between programs or request that the Legislature approve additional funding after the fiscal year ended. In addition, the department could still delay paying its contractors in order to shift expenses to future fiscal years and hide a shortfall within its budget.



Require Administration to Revise Structural Shortfall Proposal

- We concur with the administration that CDCR's budget shortfalls are a serious issue that the Legislature must address. However, the administration has not presented a true accounting of CDCR's budget imbalances, as it has proposed separate budget adjustments that risk creating new shortfalls in the department's budget. Consequently, we recommend that the Legislature not approve the proposed \$395 million General Fund augmentation at this time.
- Instead, we recommend that the Legislature require the administration to present a more comprehensive proposal in the spring that would (1) present a more accurate accounting of CDCR's budget imbalances, and (2) include measures to reduce costs in the areas that otherwise would require additional funding.
- In addition, we recommend that—as part of the revised proposal—the administration demonstrate how the budget adjustments related to the workforce cap and other unallocated reductions would not create a new structural shortfall in CDCR. Specifically, the administration should provide a detailed plan demonstrating how these proposals would result in the level of savings assumed in CDCR's budget.



Exert Stronger Legislative Oversight of CDCR

- Given that CDCR overspends its budget each year without providing timely notification to the Legislature, we recommend that the Legislature exert stronger oversight of the department's requests to cover such shortfalls.
- For example, we recommend that CDCR and DOF be required to submit the reports tracking prison expenditures to the Legislature for review. In addition, the Legislature should hold hearings requiring department officials to testify as to the reasons for any pending shortfalls.
- Moreover, the Legislature should require the department to notify the Legislature when it delays paying contracts into future fiscal years, as well as place greater restrictions limiting the ability of the department to transfer funds between programs.