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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

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Fiscal Impacts of Proposition 47

Presented to:

Assembly Budget Subcommittee No. 5

On Public Safety

Hon. Reginald B. Jones-Sawyer, Sr., Chair





Overview of Proposition 47

- Reduced Certain Crimes From Felonies to Misdemeanors.***
Proposition 47 (2014) reduced certain nonserious and non-violent property and drug offenses from felonies to misdemeanors and allows for the resentencing of certain offenders currently serving sentences for such crimes. In addition, certain offenders who have already completed a sentence for such crimes can apply to the courts to have their felony conviction reclassified as a misdemeanor.

- Requires Deposit of Savings Into New Special Fund.***
Proposition 47 requires the Department of Finance to annually estimate savings to the state resulting from the measure in the preceding fiscal year and that an equivalent amount from the General Fund be deposited into a new special fund—the Safe Neighborhoods and Schools Fund (SNSF)—to be expended on mental health and substance use treatment, truancy and dropout prevention, and victims services. The measure requires the first deposit to be made in August 2016 based on the level of savings created in 2015-16.

- Does Not Specify How Estimate or Deposit Must Be Made.***
The measure does not lay out a detailed process for how the state must estimate and pay for the deposit into the SNSF. As such, there essentially is no one “correct” way to meet the proposition’s fiscal requirements.



Framework for Meeting Fiscal Requirements

- No Net Impact on State Expenditures.*** In order to assist the Legislature, we provide a general framework for how we believe (1) the amount of the deposit should be determined and (2) how program budgets should be adjusted to pay for the deposit. Our recommended framework is based on a key principle that the overall intent of the measure was to have no net impact on state expenditures.

- Account for All Costs and Savings Within Each Fiscal Year.*** We find that the most reasonable method to determine the annual SNSF deposit amount is to estimate the total amount of savings that resulted from the proposition in the prior fiscal year minus any increased costs resulting from implementing the measure in that year.

- Budget Savings and Costs Separately.*** To pay for the deposit in a way that results in no net impact on the General Fund and provides the greatest transparency, we recommend that the Legislature (1) reduce program budgets to account for savings and (2) augment program budgets to account for increased costs.



How Much Money Should Be Deposited to SNSF in 2016-17?

Administration's Estimate of Proposition 47's Fiscal Effects in 2015-16

(Dollars in Millions)

	Amount	Department
Savings		
Inmate population reduction	-\$52.2	CDCR
Patient population reduction	-8.7	DSH
Reduced criminal justice caseload	-1.7	Judicial Branch
Total Savings	-\$62.7	
Costs		
Parole population increase	\$6.5	CDCR
Resentencing costs	26.9	Judicial Branch
Total Costs	\$33.4	
Net Savings—SNSF Deposit	-\$29.3	

CDCR = California Department of Corrections and Rehabilitation; DSH = Department of State Hospitals; and SNSF = Safe Neighborhoods and Schools Fund.

- As shown in the above figure, the administration estimates that \$29.3 million from the General Fund would be deposited into the SNSF for expenditure in 2016-17.
- Overall, we find that the administration likely underestimates the savings and overestimates the costs resulting from the proposition.
- In addition, we find that the administration did not account for all costs and savings from the measure in the fiscal year in which they occur, as we recommend as part of our proposed framework.
- Specifically, we estimate that the SNSF deposit in 2016-17 could be around \$100 million higher than the administration's estimate.



Prison Savings Likely Underestimated

- ☑ The administration assumes that the California Department of Corrections and Rehabilitation (CDCR) was able to reduce the number of contract beds by about 400 due to Proposition 47 and that the balance of the population reduction from the measure—about 4,300 inmates—resulted in a reduction in the inmate population in the state's 34 prisons.
- ☑ We find that the administration's assumption is unrealistic. This is because CDCR is currently housing just 900 inmates less than the federal court-ordered limit on the prison population. As such, adding 4,300 inmates to the state's prisons would have resulted in the state exceeding the population cap by 3,400 inmates.
- ☑ In our view, it is more realistic to assume that CDCR would have attempted to maintain a similar population level in the state prisons—along with a similar cushion below the population limit—and thus accommodated the additional inmates by contracting out for an additional 4,700 beds.
- ☑ In other words, we estimate that Proposition 47 allowed CDCR to avoid the need for 4,700 contract beds in 2015-16. This alternative assumption yields a prison savings estimate for 2015-16 that is \$83 million higher than the administration's estimate—bringing total prison savings to \$135 million.



Court Savings Likely Underestimated

- By reducing certain offenses from felonies to misdemeanors, Proposition 47 results in cases being filed as misdemeanors rather than as felonies. To estimate how this would affect the courts, the administration made two key assumptions:

 - Assumed 80,000 fewer felony cases would be filed and 74,000 additional misdemeanor cases would be filed, resulting in a total decrease of 6,000 cases in 2015-16.
 - Assumed that these misdemeanor and felony cases take the same amount of time to process. As a result, the administration's estimate of \$1.7 million in savings is due solely to their projection that 6,000 fewer cases will be filed.

- However, the judicial branch's existing workload studies show that misdemeanor cases take significantly less time on average to process than felony cases. While these averages may not apply directly to Proposition 47 cases, the administration has not accounted for any difference between these cases. Thus, it is likely that the administration's court savings are underestimated—potentially by \$10 million or more.

- We recommend the Legislature direct the judicial branch to provide an updated calculation of savings by April 1 that uses adjusted average case processing times for felonies and misdemeanors to account for differences in the resources needed for these different case types.



Court Costs Likely Overestimated

- ☑ ***Includes Court Costs Incurred in 2014-15.*** Of the \$26.9 million in court costs identified by the administration, we find that \$25 million relates to resentencing hearing workload that occurred in 2014-15—and was thus inappropriately included.
- ☑ ***Excludes Some Court Costs Incurred in 2015-16.*** The administration also excludes \$14 million in additional resentencing and reclassification workload costs that occurred in 2015-16. (Funding for this workload is being requested in the 2016-17 budget.)
- ☑ ***Likely Overestimates Court Costs Related to Reclassifications.*** The administration assumes that courts require the same level of resources to process resentencing and reclassification cases. However, judicial branch preliminary data suggests that it costs less to process reclassifications, suggesting resentencing costs are overestimated.
- ☑ ***On Net, Administration's Estimate Likely Overstates Court Costs.*** After adjusting for the various concerns raised above, we estimate that the actual level of 2015-16 court costs is at least \$10 million lower than the administration's estimate.
- ☑ ***Recommend Judicial Branch Provide Updated Cost Calculation.*** Given these concerns, we recommend that the Legislature direct the judicial branch to recalculate estimated costs by using actual data on the time and resources needed for reclassification and resentencing workload by April 1.



How to Pay for the SNSF Deposit in 2016-17?

- Administration's Proposal.** The administration proposes to allow both the judicial branch to keep the \$1.7 million it is estimated to have saved and the Department of State Hospitals (DSH) to keep the \$9 million it is estimated to have saved from Proposition 47.
- Proposal Reduces Legislative Oversight.** The administration's approach would reduce legislative oversight by allowing these agencies to redirect their savings to other programs and services without legislative review or approval.
- Recommend Reducing Courts and DSH Budgets.** Because we believe the overall intent of Proposition 47 is to have no net impact on state expenditures, we recommend that the Legislature reduce the budgets for the courts and DSH to account for the savings resulting from this measure.