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Governor's May Revision Proposal to Shift Certain Offenders to County Jails

LEGISLATIVE ANALYST'S OFFICE

Presented to:

Senate Budget and Fiscal Review Committee

Hon. Denise Moreno Ducheny, Chair





Overview of Governor's Proposals

- The Governor proposes to require that certain non-violent, non-serious, non-sex offenders who are sentenced to three years or less in state prison serve their sentence in a county jail. This would reduce the prison population by 10,600 inmates in 2010-11 and generate \$244 million in savings. Beginning in 2011-12, about one-half of the state's prior fiscal-year savings would be provided to counties in a public safety block grant.

- The Governor also proposes legislation to continuously appropriate \$503 million annually from the General Fund for various local public safety programs beginning in 2011-12. The programs now are funded with revenues from the temporary vehicle license fee (VLF) increase that is set to expire on June 30, 2011.

- Taken together, these two proposals would help balance the 2010-11 budget, but would result in a net General Fund cost increase of nearly \$300 million beginning in 2011-12.



Proposal Merits Consideration, But Raises Several Concerns

- Jails Not Designed for Longer-Term Commitments.*** Under the Governor's proposal, offenders could be held in county jail for up to three years. However, county jails are not designed to house offenders for longer than one year. For example, most jails lack space to operate rehabilitation programs.
- Many Jails at Maximum Capacity.*** Approximately one-half of county jails are under court-ordered or self-imposed population limits. Thus, many county sheriffs would likely have to release other inmates to make room for the shifted population. The Governor's proposal does not include additional funds to construct new jails.
- Proposed Block Grant Targeted Too Narrowly.*** The proposed block grant would be provided directly to county probation departments. While it makes sense to devote a portion of the funds to community supervision, allocating all of the funds to probation may preclude counties from considering other strategies to accommodate the shift of offenders (such as through jail expansion or drug and alcohol residential treatment).
- Basis for Block Grant Amount Unclear.*** Under the proposal, payments to counties would be calculated based on average daily population of inmates in jail who would otherwise have been in prison. It is not clear how these payments correspond with the cost impacts of the shifted population. In addition, the formula to determine the payments could be difficult to calculate and expensive to administer.
- Block Grant May Overlap With New Probation Incentive Program.*** Chapter 608, Statutes of 2009 (SB 678, Leno), established a new incentive funding program for county probation departments based on a reduction of probationers sent to prison. The Governor's proposed block grant may in fact allow probation departments to receive funding twice for the same offender.



Proposal Merits Consideration, But Raises Several Concerns

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No Need to Act Now on Future Funding for Local Public Safety Programs. Since the temporary VLF increase that is currently used to support various local public safety programs is not set to expire until June 30, 2011, the Legislature does not need to decide the future funding of these programs as part of the 2010-11 budget.



LAO Recommendations

- Change the Number and Types of Offenders Affected.*** The Legislature could modify the Governor's proposal so that it only applies to offenders with shorter prison sentences. Alternatively, the proposal could be modified to specify that offenders who commit certain "wobbler" crimes could only be charged with misdemeanors and would be punishable by jail and/or probation and not state prison. This would lessen the burden on county jail systems.
- Reexamine Local Jail Construction Program.*** Chapter 7, Statutes of 2007 (AB 900, Solorio) included about \$1.2 billion to help counties construct jail facilities. This program could be modified to ensure that counties are awarded funding for additional jail beds in a more timely manner.
- Provide Counties With More Flexibility.*** Counties could be given flexibility in allocating block grant funds among affected county departments. The Legislature could also permit counties to place additional offenders on electronic home monitoring in lieu of incarceration in jail.
- Modify Funding Formula.*** The Legislature could also modify the administration's proposed funding formula to a simpler approach, such as a fixed annual grant, that would eliminate the need for complicated and expensive administrative overhead.
- Provide Funding to Counties in 2010-11.*** The Governor's proposal does not provide counties any funding in the budget year. The Legislature may wish to provide counties with a portion of the estimated state savings for 2010-11 to address this issue.
- Reduce Potential Overlap With Probation Incentive Program.*** The Legislature should consider how to reduce potential overlap in payments with the probation incentive program. For example, the baseline calculations for the incentive program could be modified to reflect the proposed changes in sentencing laws.



LAO Recommendations

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- Reject Proposed Continuous Appropriation for Local Public Safety Grants.*** In order to ensure flexibility in addressing the state's fiscal shortfall, we recommend the Legislature reject at this time the administration's proposed budget trailer legislation that would authorize a continuous appropriation for various public safety grant programs beginning in 2011-12.



Additional Options for Reducing State Correctional Costs

- The Legislature could consider additional options that could reduce the inmate population and generate state savings. For example, we have recommended in the past the release of certain non-violent elderly inmates from prison early since these inmates represent a low risk of reoffending yet cost two to three times as much to incarcerate.

- As part of the 2009-10 budget package, the California Department of Corrections and Rehabilitation reduced its parole agent caseload ratio for general felon parolees from 70:1 to 48:1. This change was related to certain other changes in the parole system, including the department's plan to place approximately 32,000 parolees on "summary parole."

- We recommend that the Legislature reconsider this ratio change since (1) over 10,000 fewer offenders have been placed on summary parole than originally proposed by the administration as part of the 2009-10 budget package, and (2) the enhanced supervision provided in the 2009-10 budget offsets tens of millions of dollars in potential savings that could help to alleviate the state's severe fiscal shortfall. Restoring the general felon parole ratios to 70:1 would result in \$65 million in savings in 2010-11.