

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Wednesday, March 2, 2022
1:30 p.m.
State Capitol - Room 4203

Consultants: Nora Brackbill and James Hacker

ITEMS FOR DISCUSSION

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)	2
Issue 1: Jail Oversight	2
5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)	11
Issue 2: Master Plan Annual Report and Supplemental Reporting Language	11
Issue 3: Capital Outlay Proposals.....	17
Issue 4: Various Facilities and Construction Proposals	22
2600 CALIFORNIA TRANSPORTATION COMMISSION	25
Issue 5: Implementation of SB 671	25

Public Comment

ALL ITEMS HELD OPEN

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ITEMS FOR DISCUSSION

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)

Issue 1: Jail Oversight

Background. Local governments are responsible for operating local detention facilities, which incarcerate people at various stages of the criminal justice process. In total, there are about 550 local detention facilities in California. These include jails, which can house people for significant periods of time while serving sentences or awaiting trial and are typically operated by county sheriffs. California jails had an average daily population of 73,500 in 2019. The population dropped significantly at the beginning of the pandemic, to under 50,000, but has begun to recover¹. Local detention facilities also include short-term detention facilities and holding cells, which can hold people for a few days or less following arrest or during court proceedings and are typically operated by city police departments. Local governments are also largely responsible for juvenile facilities, which are typically operated by county probation departments. With the pending closure of the Division of Juvenile Justice (DJJ) at California Department of Corrections and Rehabilitation (CDCR), counties will assume full responsibility for the juvenile justice system.

Realignment. Local detention facilities are largely supported by local funding, but the state provides some financial support. In 2011, the responsibility for incarcerating and supervising certain felony offenders was realigned from the state to the county level. The state pays counties around \$1 billion per year to cover this workload. With the pending closure of DJJ and the realignment of juvenile justice, the state will provide roughly \$200 million per year to counties. The state has also contributed significantly to facilities and construction and has provided other one-time support to local governments for correctional facilities.

Board of State and Community Corrections (BSCC). BSCC was established in its current form in 2012 to provide statewide coordination and technical assistance for local justice systems, largely in response to the 2011 realignment. BSCC is tasked with developing minimum standards for local detention facilities and inspecting and reporting on facility compliance. BSCC also sets standards for training correctional staff and administers facility funding and several grant programs for local corrections and law enforcement entities.

The agency is overseen by a 13-member board, largely consisting of corrections and law enforcement staff, including:

- 10 members appointed by the Governor and confirmed by the Senate, including:
 - Chair.
 - Secretary of CDCR.
 - Director of Division of Adult Parole Operations for CDCR.
 - Sheriff in charge of a small detention facility (capacity of 200 or less).
 - Sheriff in charge of a large detention facility (capacity over 200).
 - Chief probation officer from a small county (population of 200,000 or fewer).

¹ https://www.ppic.org/wp-content/uploads/JTF_CountyJailsJTF.pdf

- Chief probation officer from a large county (population over 200,000).
- County supervisor or county administrative officer.
- Chief of police.
- Member of the public.
- 3 members appointed by others, including:
 - Judge appointed by Judicial Council of California.
 - Community provider of rehabilitative treatment or services for adult offenders appointed by the Speaker of the Assembly.
 - Advocate or community provider of rehabilitative treatment or services for juvenile offenders appointed by the Senate Rules Committee.

In addition, BSCC is required to consult stakeholders and subject matter experts. BSCC typically fulfills this requirement through Executive Steering Committees (ESCs), which are appointed by the board to carry out specific tasks and provide recommendations, and working groups, which are appointed by ESCs to carry out subtasks and make recommendations. For example, BSCC routinely appoints an ESC to oversee the review of the local detention facility standards and recommend changes, and the ESC may assign working groups to review specific areas of the standards, such as nutritional health.

Local Detention Facility Standards and Inspections Program. The state has established minimum standards for local facilities, currently codified in Titles 15 and 24 of the California Code of Regulations. BSCC is responsible for creating these standards, updating them every two years, inspecting each facility once every two years, and reporting on facility compliance. The inspections usually involve a combination of reviewing the facility's written policies and touring the facility to assess implementation. BSCC standards are a minimum requirement, and counties each develop their own policies that at least meet these standards.

Enforcement. Areas of noncompliance are reported by BSCC, and BSCC staff work with the facilities to address any issues. However, for adult facilities, BSCC does not have any enforcement mechanisms if a facility refuses to comply. For juvenile facilities, if the issues are not addressed within sixty days, the facility is prohibited from housing minors until the issues are fixed.

Other Oversight of Local Detention Facilities in California. In addition to BSCC, oversight of local detention facilities in California is provided by other governmental and nongovernmental entities, each with different stakeholders, levels of authority, oversight methods and benchmarks for success. In California, these include:

- *State and Federal Courts.* Courts assess whether violations of law have occurred. At least 11 California counties have recently been subject to class wide court injunctions or consent decrees on jail conditions or are in the process of negotiating them. For example, inmates at the Santa Barbara County Jail sued Santa Barbara County and the Sheriff's Office in 2017 claiming that the jail violated state and federal law by (1) failing to provide basic health care; (2) overusing solitary confinement; (3) discriminating against people with disabilities; and (4) providing inhumane, unsanitary, and unsafe living conditions. In 2020, the parties reached a settlement agreement under which the county will make several

significant changes to jail policies and practices, such as implementing an electronic health records system.

- *United States Department of Justice (U.S. DOJ).* Federal law allows the U.S. DOJ to conduct investigations of alleged civil rights violations at correctional facilities, which may lead to an agreed-upon set of standards that the agency must follow, along with long-term compliance monitoring. For example, after several inmate deaths—including a death following extended use of a restraint chair—the U.S. DOJ initiated an ongoing investigation into the San Luis Obispo County Jail’s provision of medical and mental health care to inmates. The U.S. DOJ also oversees standards and inspections for mitigating sexual abuse in federal, state, and local detention facilities.
- *California Department of Justice.* The California DOJ can investigate local detention facilities and bring legal action against a local government if it determines that a practice or pattern of violation of constitutional rights has occurred in a detention facility administered by the local government.
- *Local Monitoring and Investigation Bodies.* A few counties in California have Inspector Generals and Citizen Oversight Boards, which can have subpoena power. Depending on how they are designed, these entities conduct investigations into specific allegations of wrongdoing and/or conduct ongoing holistic monitoring of the conditions inside the facilities. For example, Los Angeles County has both an Inspector General and a Civilian Oversight Commission². In addition, county grand juries and juvenile justice commissions may inquire into the conditions of county detention facilities.
- *Nongovernmental Entities.* Media and advocacy organizations contribute to oversight by making conditions inside local detention facilities more widely known to the public and can put pressure on local officials to address problems.

Continued Issues and Litigation. Despite these various forms of oversight, significant issues continue at county jails. As noted above, many counties have faced litigation in the last decade relating to conditions in county jails. The Prison Law Office (PLO) alone has successfully litigated cases related to jail conditions in Contra Costa, Riverside, Fresno, Santa Barbara, Sacramento, Santa Clara, and San Bernardino counties³. Most of these lawsuits revolved around use of solitary confinement, inadequate access to medical care (including mental health care), and/or failure to provide disability accommodations. Rosen, Bien, Galvan and Grunfeld (RBGG) has also successfully litigated class action cases related to conditions in jails in Santa Clara, Alameda, Monterey, and Yuba counties⁴, and recently filed suit in San Diego in response to the State Auditor’s report described below. This is by no means a complete list of lawsuits, and each one will not be discussed in detail here. Two recent examples, San Diego County and Alameda County, are discussed below.

² <https://coc.lacounty.gov/>

³ <https://prisonlaw.com/major-cases/>

⁴ <https://rbgg.com/practice-areas/class-actions/>

San Diego County Sheriff's Department. In February 2022, the California State Auditor released a report on the San Diego County Sheriff's Department⁵. The report found that San Diego County's jails had an above average rate of deaths, the Sheriff's Department had not taken adequate action in response to the deaths, and San Diego's local oversight entity, the Citizen's Law Enforcement Review Board (CLERB), had not conducted adequate oversight. The Auditor noted that "Given that the annual number of incarcerated individuals' deaths in county jails across the State increased from 130 in 2006 to 156 in 2020, improving the statewide standards is essential to ensuring the health and safety of individuals in custody in all counties."

The Auditor found several issues at the local level, including:

- Issues with the policies and procedures in place at the jails, including insufficient health evaluations at intake, inconsistent follow-up medical care, inadequate safety checks, and unnecessary delays in responses to medical emergencies.
- Insufficient reviews of in-custody deaths by the Sheriff's Department, which includes a review of the medical care provided in the 30 days preceding the death, and the Critical Incident Review, which focuses on protecting the department against liability and does not review natural deaths.
- Insufficient oversight by CLERB, whose reviews were not independent, timely, or thorough. CLERB failed to investigate roughly 30 percent of in-custody deaths, either because they were natural deaths, CLERB did not complete the investigation within the one-year time limit, or the Sheriff's Department did not inform CLERB of the death. CLERB also relied on evidence provided by the Sheriff's Department rather than conducting their own interviews and investigations.

The Auditor found that some of the Sheriff's Department's policy deficiencies were the result of statewide corrections standards designed by BSCC that are insufficient for maintaining the safety of incarcerated individuals. The Auditor also noted that many BSCC regulations were not specific enough, echoing a comment made by the LAO. Specifically:

- *Safety Checks.* BSCC's standards for safety checks, which are required by state law and require direct, visual observation, were insufficient, and did not even require the staff to check for proof of life, such as breathing or something equivalent, which CDCR staff are required to do at the state prison level.
- *Staff Training.* The Auditor also noted that BSCC regulations only require 24 hours of continuing training for adult correctional staff, which is less than for probation officers and juvenile staff, and that there is no requirement for continuing mental health training.
- *Intake Procedures.* There is no requirement for a mental health professional to conduct an intake screening.

⁵ <http://www.auditor.ca.gov/reports/2021-109/index.html>

Board Composition. The State Auditor also noted that unlike similar boards in New York City and Texas, BSCC does not have any requirement for medical or mental health professionals on its board. While BSCC is required to consult with professionals when developing the standards, requiring that expertise on its board could help prioritize these issues.

Recommendations. The Auditor made several recommendations related to the Sheriff's Departments policies and reviews, as well as to CLERB and the DOJ. Specific to BSCC, the Auditor recommended:

- The following amendments to BSCC standards:
 - County sheriff's departments with jails that have an average daily population of more than 1,000 must have a mental health professional perform mental health evaluations at intake.
 - Safety checks must include a procedure for checking to see that each individual is alive.
 - Local correctional officers working in local detention systems with an average daily population of more than 1,000, complete 40 hours of training annually and that at least four of those hours relate to mental and behavioral health.
- Requiring BSCC to include a medical professional and a mental health professional on its board and requiring BSCC to update all standards as needed once these members are added.

BSCC provided a response to the Auditor's report, which emphasized that BSCC sets a minimum standard that any county across the state, even small counties with minimal resources, can achieve. BSCC said that it is up to the county to decide to establish policies that exceed the minimum standards. BSCC also objected to creating different standards for small and large county systems.

On February 9, 2022, a federal class action lawsuit was filed against various authorities in San Diego County, in response to the Auditor's report and other reports and complaints by incarcerated individuals⁶. The State Auditor also noted that from 2006 through 2020, there were 22 lawsuits filed related to the deaths of incarcerated individuals at the San Diego Sheriff's Department's detention facilities. The Auditor noted that many of the same concerns had been raised previously in a report by Disability Rights California⁷, yet few improvements had been made.

Santa Rita Jail in Alameda County. The Santa Rita Jail is operated by the Alameda County Sheriff's Department and has had numerous reported issues, including inappropriate discipline; lack of an accessible grievance system; inadequate sanitation, clothing, family contact, and food; and lack of access to educational opportunities and legal information⁸. Santa Rita Jail was also under a four-year long investigation by the U.S. DOJ, which found that Alameda County was violating the Americans with Disabilities Act (ADA) and was not protecting the civil rights of people with mental illnesses⁹. The report emphasized a lack of investment in community mental health services and other prevention methods. Partway through the investigation, the U.S. DOJ

⁶ <https://rbgg.com/federal-class-action-lawsuit-seeks-to-improve-dangerous-deadly-conditions-in-san-diego-county-jails/>

⁷ <https://www.disabilityrightsca.org/public-reports/san-diego-jail-suicides-report>

⁸ <https://srjsolidarity.org/>; <https://srjsolidarity.org/wp-content/uploads/2020/04/SRJ-Collective-Grievance.pdf>;

<https://www.ktvu.com/news/protest-at-santa-rita-jail-over-inedible-food-and-sheriffs-profit-on-rising-commissary-prices>

⁹ <https://www.justice.gov/crt/case-document/file/1388891/download>

shared preliminary concerns with the county, but noted that no significant improvements were made.

Babu v. County of Alameda. In 2018, a federal class action lawsuit was filed on behalf of eight plaintiffs against Alameda County, challenging the unconstitutional use of isolation, denial of constitutionally adequate mental health treatment, and unlawful segregation of prisoners with mental illness into units without access to programming and other basic services. The case resulted in a settlement agreement, which was recently confirmed by a federal court¹⁰.

Under the agreement, Santa Rita Jail will be under court supervision for at least six years. The consent decree¹¹ requires the county to limit the use of isolation and solitary confinement, upgrade and expand mental health services, set stricter standards for use of force, and end discrimination against people with disabilities, especially psychiatric disorders. Some advocates oppose the consent decree because it will require the county to spend an estimated \$318 million over three years on jails to implement the reforms, rather than community programs for the diversion of people with mental health issues and re-entry support.

Recent changes to BSCC Oversight. In response to reports of systemic issues in California jails¹², the Governor directed BSCC to modify its standards and inspection program to (1) ensure standards are consistent with national best practices, (2) provide additional inspections and technical assistance for facilities with a history of noncompliance, and (3) ask the agency to attend a public BSCC board meeting to discuss the issue. The 2020 Governor's budget included the intent to strengthen BSCC¹³, and BSCC began plans to make changes, although they were delayed by the onset of the pandemic¹⁴. The 2021 Budget Act included statutory changes to allow BSCC to conduct unannounced inspections and provided \$3.1 million ongoing General Fund for additional positions and electronic data entry. However, additional changes could still be made to improve BSCC's oversight of jail conditions, some of which would require statutory changes and a significant shift in the structure and methods of BSCC¹⁵.

LAO Comments and Recommendations. The LAO reviewed the local detention facility standards and inspection program in February 2021¹⁶. The LAO noted that it was difficult to assess the program's effectiveness primarily because state law does not specify the mission or goals BSCC should pursue as it implements the program. This leaves significant discretion to BSCC and the administration in determining how to operate the program and undermines the Legislature's ability to assess whether the program is operating effectively and is consistent with Legislative priorities.

¹⁰ <https://oaklandside.org/2022/02/08/judge-places-santa-rita-jail-under-external-oversight-ending-mental-health-abuse-lawsuit/>

¹¹ <https://oaklandside.org/wp-content/uploads/2021/08/Dkt-266-1-Janssen-Decl-ISO-PLAINTIFFS-Unopposed-Motion-for-Preliminary-Approval-of-Consent-Decree-08-26-2021-1378-1.pdf>

¹² <https://www.propublica.org/series/overcorrection>

¹³ <https://www.ebudget.ca.gov/2020-21/pdf/BudgetSummary/FullBudgetSummary.pdf>; <https://www.sacbee.com/news/politics-government/capitol-alert/article239181978.html>

¹⁴ <https://www.sacbee.com/news/investigations/california-prisons/article240321881.html>; <http://www.bscc.ca.gov/wp-content/uploads/Agenda-Item-C-FSO-Inspection-FINAL.pdf>

¹⁵ <https://www.bscc.ca.gov/wp-content/uploads/Attachment-2-Listening-Session-Response-Chart-FINAL.pdf>

¹⁶ <https://lao.ca.gov/Publications/Report/4371>

Establish Clear Program Mission and Goals. The LAO recommended that the Legislature establish in statute that the mission of the program is to promote legal, humane, and safe conditions for youth, inmates, and staff in local detention facilities. To further this mission, the LAO recommends establishing four goals for the program: (1) maintain standards that help local leaders determine and meet evolving legal requirements based on case law; (2) facilitate transparency and accountability through standards and inspections; (3) promote equitable provision of legal, humane, and safe conditions; and (4) provide technical assistance and statewide leadership to facilitate systemic improvement in detention conditions.

Balance Board Membership to Facilitate Oversight. The LAO found that the current BSCC membership does not have sufficient expertise and balance of perspectives to oversee local detention facilities based on the above mission and goals. Specifically:

- Six of the thirteen BSCC board members are currently administrators of correctional agencies, with at least four of them overseeing detention facilities that are subject to the BSCC standards and inspection program. While those who operate detention facilities provide critical perspectives for standards development, they have an incentive to avoid approving standards that they believe would be difficult or costly to meet. This raises questions about their ability to provide objective external oversight of their own operations and those of other counties. In addition, the board contains two CDCR representatives, even though BSCC is focused on local, not state, corrections.
- The board does not include designated slots for members with experience providing external oversight of such facilities, such as someone with experience in litigating local detention condition issues. This lack of expertise in external oversight of detention facilities is concerning given that approval of the standards is one of the board's core functions and arguably more important duties given the standards' nexus to health, life, and safety.
- Ten of the 13 board members are appointed by the Governor, two by the Legislature, and one by the Judicial Council.

Accordingly, the LAO recommends that:

- The Legislature adopt legislation to add board members with professional expertise in advocacy for and oversight of detention conditions.
- More board members be appointed by the Legislature, to create a better balance between Governor's and legislative appointees.

Require Plan to Align Program With Mission and Goals. The LAO recommends that the Legislature direct BSCC to develop a detailed plan for how to align the program with the proposed mission and goals. To guide development of the plan, the LAO recommends that the Legislature require that the plan include the following elements:

- *Standards Reflecting Minimum Legal, Safe, and Humane Conditions.* The plan should outline how the standards will be revised to (1) be more specific such that they effectively

communicate what legal, safe, and humane conditions are and (2) ensure that standards equitably address the specialized needs of all inmates and detained youth. In order to develop these standards, BSCC may need to revise its working groups to ensure the process is not dominated by correctional administrators, but also includes the perspectives of experts in standards development and oversight and others, such as formerly incarcerated people.

- *High-Quality, Risk-Based Inspection Strategy to Ensure Pressing Issues Are Found Quickly.* The plan should include consideration of key information (such as reported standards violations) that BSCC could use to more strategically target inspections. For example, the Texas Commission on Jail Standards conducts additional inspections at facilities where data, such as numbers of inmate deaths and public complaints, suggest problems may exist.
- *Specific Benchmarks to Ensure Inspections Effectively Provide Transparency.* The plan should indicate how BSCC will develop clear, transparent benchmarks for inspections; guidance for interpreting subjectivity in the standards; and a quality assurance process to ensure inspectors meet these benchmarks.
- *Quality Reporting to Support Transparency and Accountability.* The plan should outline how BSCC will improve the quality of its reporting on the results of inspections, such as by ensuring reports clearly describe violations and issuing special reports to highlight serious violations, as well as ensure the reports are understandable by a wide audience. BSCC inspectors should also note issues of concern that may not be in direct violation of a specific standard. BSCC should also produce statewide trend reports, which would help identify systematic issues and help BSCC provide statewide leadership.
- *Technical Assistance and Statewide Leadership.* The plan should give consideration to (1) providing longer-term, more complex technical assistance to facilities and (2) how BSCC can help highlight and promote promising practices to facilitate continuous, systemic improvement in detention facilities.

Staff Comment.

Proactive oversight. Many other forms of oversight provided to local facilities are reactive: lawsuits responding to existing mistreatment, or state or federal DOJ investigations of allegations of wrongdoing. BSCC is uniquely positioned to provide proactive oversight, through setting high (but achievable) standards, providing routine monitoring and follow-up, and assisting local entities in interpreting and applying up-to-date best practices and case law. The Legislature should consider how BSCC can help prevent local facilities from reaching the point where there is significant mistreatment of incarcerated people, resulting in lawsuits, audits, and other reports.

Dual roles of BSCC. BSCC currently operates as both the oversight for local detention facilities, and as a member organization for information sharing and assistance across local detention facilities. However, its oversight role has been hampered by its lack of enforcement ability, the composition of the board, and the approach BSCC has taken regarding reviewing facilities and

focusing on technical assistance. For example, many BSCC reports are technical and are designed for jail administrators, not the public. While this is certainly useful, it has not resulted in significant progress at institutions with histories of noncompliance and other issues. By comparison, the Office of the Inspector General has a very different culture, approach, and relationship to CDCR than BSCC has to local correctional facilities. The Legislature should consider whether BSCC is the appropriate entity to apply the type of oversight desired, and if so, what changes are needed for it to be effective.

Board composition. Both the State Auditor and the LAO recommended changes to the composition of the BSCC board. The board is primarily Governor's appointees and is largely made up of correctional administrators and local law enforcement, including at least four who run facilities overseen by BSCC. The State Auditor recommended adding a medical professional and a mental health professional, and the LAO recommended adding people with experience in standards development and detention oversight and advocacy.

Lack of specificity in regulations. Both the State Auditor and the LAO noted that many BSCC standards are too vague to provide meaningful guidance. For example, the LAO noted that BSCC requires policies on the use of restraint devices that include addressing hydration and sanitation needs. However, it does not specify what that means, for example how often those needs should be addressed. The Auditor noted that BSCC requires hourly safety checks by direct, visual observation, but doesn't specify what must be included in a safety check. This lack of specificity allows local facilities to develop policies that are technically in compliance with BSCC standards, but do not result in humane conditions.

Role of BSCC in Juvenile Justice. After the closure of DJJ, juvenile justice will be an entirely local responsibility. BSCC is the entity currently responsible for oversight of conditions in juvenile facilities. Unlike adult facilities, BSCC does have a method for enforcing standards in juvenile facilities – it can declare them unsuitable for youth habitation. However, given the juvenile justice realignment, the Legislature should consider how BSCC's oversight can be further improved.

Staff Recommendation. This is an informational item, and no action is needed.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)**Issue 2: Master Plan Annual Report and Supplemental Reporting Language**

Governor’s Budget. Along with the Governor’s budget, CDCR’s Facility Planning, Construction and Management (FPCM) produces a Master Plan Annual Report (MPAR), which outlines major programs and recently completed, active, and proposed capital outlay projects at each institution. In addition, last year’s budget included Supplemental Reporting Language (SRL) that directed CDCR to prepare a prison infrastructure strategy, which was released along with the MPAR¹⁷.

Background.

CDCR’s population is undergoing significant changes in response to policy reforms, realignments, the pandemic, and other factors. Overall, the incarcerated population is declining, and CDCR projects this decline to continue in the long-term (although in the short-term the population is unstable due to pandemic impacts). In addition, CDCR has indicated changing programming needs, including increased rehabilitative programming, the expansion of health care services (such as substance use disorder treatment), and an overall aging population. Other factors to provide better treatment of the incarcerated including improving accessibility in prisons, increasing visitation opportunities, and addressing the use of remotely located facilities and facilities with environmental and health hazards have also been discussed. These factors significantly impact CDCR’s facility needs over the next decade.

Over the past few years, the Legislature has had difficulty assessing CDCR’s infrastructure requests and needs due to the lack of a strategic plan that incorporates the changes discussed above. For example, the state made significant infrastructure investments at prisons that were shortly thereafter slated for closure. Given the continued decrease in the population and other concerns related to prison conditions, additional prison closures may be warranted¹⁸.

CDCR produces a Master Plan Annual Report (MPAR) that provides an overview of CDCR’s current infrastructure portfolio, major infrastructure programs, and a list of recently completed, active, and proposed projects for each institution. This includes both Capital Outlay projects, which alter the function of a building, and special repair/deferred maintenance projects, which are required to keep a building functioning as intended. However, the MPAR does not usually include the type of long-term strategy that the Legislature needs to assess infrastructure proposals.

The 2021 Budget included Supplemental Reporting Language (SRL) to address this need, which directed CDCR to prepare a long-term prison infrastructure strategy that incorporated potential closures and consolidation opportunities and outlined a vision for CDCR’s portfolio of facilities in the future.

Summary of the Master Plan Annual Report. The 2021 MPAR, released in February of this year, identified 45 future projects at 25 institutions with an approximate value of \$1.8 billion (\$1.1

¹⁷ <https://www.cdcr.ca.gov/fpcm/cdcr-master-plan-annual-report/>

¹⁸ <https://lao.ca.gov/Publications/Report/4304>; <https://lao.ca.gov/Publications/Report/4186>;
<https://www.curbprisonspending.org/wp-content/uploads/2021/04/Peoples-Plan-for-Prison-Closure.pdf>

billion capital outlay and \$700 million Deferred Maintenance). The average age of CDCR's correctional facility portfolio exceeds 45 years, with approximately 35 percent of the portfolio exceeding 50 years of age. Funding and staffing resources required to maintain, repair, and replace aging facility equipment and structures at the rate required to maintain institutions has not been available historically. Budget restrictions in the early 2000s led to a backlog of infrastructure needs and deteriorating buildings. However, recent investments, including additional funding for ongoing repairs and maintenance, will hopefully improve the durability of infrastructure moving forward. Some of the major infrastructure programs are outlined below:

- *Health Care Facility Improvement Program (HCFIP)*. HCFIP provides upgrades in existing prisons to provide adequate clinical and support service spaces to meet the health care treatment needs of patients, and to comply with court orders related to the *Plata* and *Coleman* litigation. As of December 2021, HCFIP is approximately 88 percent complete. All construction activities have been completed at 13 prisons: Avenal State Prison (ASP), CCC, CEN, CIM, CIW, CMF, KVSP, LAC, MCSP, PBSP, RJD, SAC, and SVSP. A significant number of new clinics, pharmacies, medication distribution, and other support buildings have been completed at the 17 prisons where construction is ongoing.

Other CDCR health-related capital outlay projects include the Statewide Medication Distribution Improvements, which allow safer and more effective distribution of medications, and a 50-bed Inpatient Mental Health Housing being constructed at CIM to replace a temporary solution and provide additional capacity in Southern California.

- *Roof Replacements*. Approximately \$313 million has been appropriated since 2017 for roof replacements at 11 institutions totaling approximately 7 million sf. This additional funding allows CDCR's SR/DM funding allotment to focus on maintaining sitewide infrastructure systems. CDCR is also requesting \$2 million for the design phase of roof replacements in 2022-23 and \$71 million for the construction phase in 2023-24 at CIM and CMF.
- *Accessibility Plan*. CDCR's Accessibility Plan has been incorporated into the existing Disability Placement Program (DPP), resulting in a comprehensive implementation plan identifying the most appropriate facilities at which incarcerated individuals with disabilities can be clustered and housed and established the scope of work for ADA modification projects at DPP designated institutions. The Accessibility Plan is needed to comply with the ADA and to respond to the *Armstrong* settlement agreement.

Previously appropriated funding is supporting current and phased construction of improvements at 11 prisons: CCWF, CMF, COR, KVSP, MCSP, NKSP, PVSP, SAC, SATF, SVSP, and WSP. CDCR continues to adjust its housing plan for incarcerated individuals based on program needs and ongoing interaction with the *Armstrong* plaintiffs. Construction for additional improvements at CIW were completed in June 2021 and design of improvements at MCSP were completed in December 2020; funding for construction at both locations were included in the 2019 and 2020 Budget Acts. Additional improvements that are needed to complete the agreed upon transition plans at CIM, CIW, LAC, and RJD are currently under design and funding for construction are requested in the 2022-23

Governor’s Budget. Additional funding requests in future fiscal years are anticipated to be needed to complete the agreed upon transition plan for other prison locations.

- *Maintenance Funding.* The 2019 Budget Act established a new funding methodology to base the maintenance budget on total statewide building area (square foot), rather than population. This new funding methodology provided approximately \$75 million for prison maintenance in the 2021-22 budget. This methodology allows prison maintenance staff to replace aging equipment before it fails and creates emergency conditions.
- *Rehabilitative Programming.* The Division of Rehabilitative Programs (DRP) offers Cognitive Behavioral Intervention (CBI) programs to incarcerated individuals who are within 24 months of their release date, to prepare individuals for reentry. CBI programs are a component of the Integrated Substance Use Disorder Treatment (ISUDT) program and include SUD treatment, Anger Management, Criminal Thinking, and Family Relationships. Construction to renovate a storage room at PBSP for classroom space was completed in September 2021. In addition, design phase funding was included in the 2018 and 2019 Budget Acts for new classroom buildings at SAC and to renovate a vocational building at SQ for CBI programs. Design is currently underway at SAC and SQ for CBI program space. Construction phase funding for SAC has been requested in the 2022-23 Governor’s Budget.
- *Energy Management, Sustainability, and Conservation.* CDCR has taken steps to improve the sustainability of its buildings, including installing renewable energy generators like solar panels, aiming for Zero Net Energy and/or LEED certified green buildings, improving water heating systems and other related systems to improve energy efficiency, reducing water usage, composting, and converting to zero emission vehicles and installing charging stations.

Project Summary

	Infrastructure	SR/DM	Energy	Housing	Health Care	Totals
Number of Projects	48	172	24	0	46	290
Value of Projects (\$ millions)	\$1,432	\$1,410	\$19	\$0	\$1,131	\$3,992

*SR/DM = Special Repair/Deferred Maintenance. Source: CDCR Master Plan Annual Report 2021¹⁹

The projects included in the report are summarized in the above table.

The specific capital outlay items proposed for funding this year will be discussed in the next item.

¹⁹ <https://www.cdcr.ca.gov/fpcm/wp-content/uploads/sites/184/2022/02/MasterPlanAnnualReportforCalendarYear2021.pdf>

Supplemental Reporting Language (SRL). The 2021 Budget included supplemental reporting language (SRL) requiring CDCR to prepare a long-term prison infrastructure strategy. The SRL required CDCR to:

- A. Identify and prioritize all major (over \$5 million) infrastructure projects likely to be needed in the next ten years, and include details such as how these projects were identified and, in cases of significant repairs or rebuilds, what alternatives were considered.
- B. In identifying projects, seek opportunities to consolidate prisons.
- C. Describe how the projects support a long-term, durable portfolio of facilities consistent with the department's mission and long-term capacity needs.
- D. Describe steps taken to minimize investments in prisons that may close.
- E. Provide updates to the budget committees and LAO if the identified projects change.

Item A was largely incorporated into the MPAR, and items B-D were addressed in a separate response. However, the processes for selection and consideration of alternatives in A were addressed generally in the separate response and were not outlined for each anticipated project included in the MPAR. Item E will be incorporated into future MPARs.

Summary of SRL Response.

A: Identifying Major Infrastructure Needs. The Administration included anticipated projects needed at each institution in the next ten years in the MPAR. The MPAR identified 45 future projects at 25 institutions with an approximate value of \$1.8 billion (\$1.1 billion capital outlay and \$700 million Deferred Maintenance).

This section also included direction for CDCR to outline the alternatives considered if a significant portion of a facility was identified for repair or replacement, but CDCR indicated that there were no such significant needs were anticipated. The Administration also outlined its general process for identifying and approving projects, and how alternatives (such as renovation versus replacement) are considered and evaluated.

B: Seeking Opportunities for Consolidation. The Administration included a general description of how consolidation decisions would be made, and what factors would be considered. CDCR indicated that any facility consolidation or relocation would need to consider how CDCR could meet the mission and the needs of the incarcerated population being relocated or consolidated. CDCR's institutions have separate missions to serve different components of CDCR's population that intersect, such as medical, security, and mental health needs, among others.

CDCR indicated that they would consider the following factors in a potential closure or consolidation decision:

- Facility condition and needed improvements.
- Continuity of services for the incarcerated population.

- Ability to recruit and retain employees, particularly specialized medical professionals.
- Annual operating costs.
- Need for secure housing, medical and mental health care, and accessibility to programming.

C: Establishing a Durable Portfolio of Facilities. CDCR stated that a durable portfolio of prison capacity would need to meet a variety of housing and treatment needs, including varying levels of secure housing, medical and mental health needs, rehabilitative programming, educational programming, vocational education programming, and reentry services. CDCR emphasized the need to build flexible spaces that can adapt to future changes in the population. However, no details were provided about what CDCR anticipated its housing and treatment needs to be, or how the proposed projects would address those needs or could work as flexible spaces.

D: Minimizing Investments in Prisons that may Close. The Administration indicated that they are not considering any additional prisons for closure or consolidation at the current time, and therefore the projects proposed here do not take potential closures into account. The Administration included a general description of their project identification process and indicated that projects are reviewed by CDCR leadership and Department of Finance, who would have knowledge of potential closures.

CDCR stated that “prison closure decisions are point-in-time decisions due to the dynamic nature of the inputs that inform the decision.” They indicated that this risk is mitigated by incorporating careful consideration of prison closure factors into the project approval process, including trends in the population, recruitment and retention of staff, and other programmatic goals. However, they indicated that these factors were not considered in the list of the anticipated projects in the MPAR because no prison closures are planned at this time and in the meantime, infrastructure needs must continue to be addressed.

Staff Comment. This report was supposed to help the Legislature assess various infrastructure investments proposed by the Administration. It was intended to provide a long-term view on CDCR’s anticipated infrastructure needs and strategy. However, the Administration’s response lacked the detail necessary for the Legislature to assess the strategy. Specifically:

- The response included general process information on how CDCR selects projects and evaluates alternatives but did not provide any information specific to the list of anticipated projects.
- The Administration did not seek consolidation options, and instead included a general discussion of how a consolidation or closure decision would be made and what factors would be considered.
- The Administration specified that a long-term, durable portfolio of facilities would entail enough space to cover different needs in the population, including levels of security and medical and programming needs. However, it did not discuss what those needs are, either now or in the future, or how the anticipated projects outlined here would fulfill those needs.

- For the anticipated projects listed in the annual infrastructure report, no considerations for potential closures were made. The Administration indicated that prison closures are a point in time decision that cannot be predicted, and as no closures are currently planned, infrastructure improvements must continue as if no closures will occur.

Staff Recommendation. This is an informational item, and no action is needed.

Issue 3: Capital Outlay Proposals

Governor’s Budget. The proposed budget includes the following resources for capital outlay projects and related facility projects that address a variety of infrastructure needs:

- \$265.3 million one-time General Fund to convert two projects from Lease Revenue Bonds to General Fund.
- \$35.2 million General Fund in 2022-23 to start two new and continue five other capital outlay projects.
- \$8.205 million in reappropriations for five capital outlay projects that have been delayed.

Background.

CDCR operates 36 youth and adult correctional facilities, 35 firefighting and conservation camps, and jointly administers the state financing programs for construction of new county jails with the Board of State and Community Corrections. CDCR's aging infrastructure and changing population drives significant infrastructure needs.

The Administration’s Five-Year Infrastructure Plan includes \$776.5 million (\$429.6 million General Fund and \$346.9 million Public Buildings Construction Fund) for CDCR over the next five years for various capital projects statewide²⁰. These projects fall into the following major categories: fire and life safety upgrades; heating, ventilation, and air cooling upgrades; emergency power generation backup; kitchen and dining facilities; and medical facilities and classrooms.

CDCR in 2021 progressed with construction and capital outlay activities at multiple prisons. These projects address a variety of needs including health care facilities, roof replacements, mental health treatment and housing facilities, exercise yards, restrooms, classrooms, cell door retrofits, new kitchen and dining facilities, and infrastructure providing potable water treatment and storage, and heating and cooling. The specific projects requesting funding this year are outlined below.

Conversions of Lease Revenue Bonds to General Fund. CDCR is requesting \$265.3 million one-time General Fund to convert two projects from Lease Revenue Bonds to General Fund. These projects were established and authorized through the Public Buildings Construction Fund. The State Public Works Board typically provides an interim loan for the project, then issues tax-exempt lease revenue bonds upon project completion. Federal tax code for the issuance of tax-exempt bonds requires, among other things, that bonds must be issued within three years of initial project expenditures. Due to delays in the construction completion schedule, these projects no longer qualify for tax-exempt financing, and would likely require the issuance of taxable bonds, which could significantly increase the cost of financing. The Administration is proposing to pay off the loan directly using General Fund, resulting in approximately \$185 million in debt service savings.

²⁰ <https://www.ebudget.ca.gov/2022-Infrastructure-Plan.pdf>

Project	Description	Approximate Debt Service Avoidance
Monterey County AB 900 Jail Project	\$82.9 million to pay off the Pooled Money Investment Account (PMIA) loan that is currently outstanding for the preliminary plans, working drawings, and construction phases of the Monterey County Jail project. The project includes the design and construction of an addition to the existing jail in the City of Salinas. The expansion will include housing and program space and provide approximately 600 beds.	\$45 million over the 15-year life of the bonds
Ironwood State Prison, Blythe: Heating, Ventilation, and Air Conditioning System	\$182.4 million General Fund to pay off a PMIA loan that is currently outstanding for the construction phase of the Ironwood State Prison, Blythe: Heating, Ventilation, and Air Conditioning System project in Riverside County. The project includes the construction of a new central chilled water plant as well as replacement of existing air handling units and improvements to existing roofs, fire dampers, and smoke evacuation systems.	\$140 million over the 25-year life of the bonds

New and Continuing Construction Projects. The proposed budget includes \$35.2 million General Fund in 2022-23 for two new and five continuing capital outlay projects, outlined below.

New Projects	Description	Phase
California State Prison, Corcoran: Radio Tower and Equipment Vault FY 22-23: \$806,000 Total Project Cost: \$9.8 million	This proposal requests funding to design a radio communications system with the necessary infrastructure to support a new radio tower and a new radio communications vault at the California State Prison, Corcoran (COR). The radio equipment vault will provide the space and infrastructure necessary to install a new radio system to support radio communications at both COR and the California Substance Abuse Treatment Facility and State Prison.	Preliminary Plans: July 2022 - September 2023 Working Plans: October 2023 - July 2024 Construction: November 2024 - May 2026
California State Prison, Corcoran: Correctional Treatment Center Individual Exercise Yards FY 22-23: \$381,000 Total Project Cost: \$1.8 million	This proposal requests funding to design two individual exercise yards (IEYs) adjacent to the Correctional Treatment Center at COR. The IEYs will allow maximum custody Mental Health Crisis Bed patients receiving inpatient mental health treatment at COR to participate in out-of-cell recreation therapy that is consistent with their treatment plan.	Preliminary Plans: July 2022 - April 2023 Working Plans: May 2023 - July 2023 Construction: August 2023 - October 2024

Continuing Projects	Description	Phase
<p>Chuckawalla Valley State Prison, Blythe: New Potable Water Wells</p> <p>FY 22-23: \$1.1 million Total Project Cost: \$12.3 million</p>	<p>This proposal requests funding to design two new groundwater wells to supply adequate amounts of potable water for incarcerated individuals and staff at Chuckawalla Valley State Prison (CVSP) and Ironwood State Prison (ISP).</p>	<p>Preliminary Plans: July 2021 - November 2022 Working Plans: November 2022 - August 2023 Construction: December 2023 - February 2025</p>
<p>California State Prison, Sacramento, Folsom: New Cognitive Behavioral Treatment Classrooms</p> <p>FY 22-23: \$14.4 million Total Project Cost: \$15.3 million</p>	<p>This proposal requests reappropriation of funding for the working drawings phase and funding for the construction phase to design and construct three approximately 1,440 square foot (sf) classroom buildings (three classrooms per building) with restrooms for incarcerated individuals and staff and staff offices to support the Cognitive Behavioral Intervention (CBI) program, previously known as Cognitive Behavioral Treatment, at California State Prison, Sacramento (SAC).</p>	<p>Preliminary Plans: July 2018 - February 2020 Working Plans: February 2020 - August 2022 Construction: September 2022 - September 2024</p>
<p>California Health Care Facility, Stockton: Facility B Individual Exercise Yards</p> <p>FY 22-23: \$2 million Total Project Cost: \$2.6 million</p>	<p>This proposal requests funding to construct 10 individual exercise yards (IEYs) in Facility B at the California Health Care Facility (CHCF). The IEYs will allow maximum custody patients receiving inpatient mental health treatment at CHCF to participate in out-of-cell recreation therapy that is consistent with their mental health treatment plan.</p>	<p>Preliminary Plans: July 2021 - April 2022 Working Plans: May 2022 - August 2022 Construction: August 2022 - December 2023</p>
<p>California State Prison, Los Angeles County, Lancaster: Medication Preparation Room Unit D5</p> <p>FY 22-23: \$3 million Total Project Cost: \$3.7 million</p>	<p>This proposal requests funding to construct a Medication Preparation Room (MPR) at the California State Prison, Los Angeles County (LAC) in housing unit D5. This improvement will increase staff productivity and safety as well as provide timely patient access to medication in compliance with the <i>Plata</i> court directives.</p>	<p>Preliminary Plans: July 2020 - November 2021 Working Plans: November 2021 - December 2022 Construction: December 2022 - July 2024</p>
<p>California Substance Abuse Treatment Facility and State Prison, Corcoran: Air Cooling Facility F and G</p> <p>FY 22-23: \$13.4 million Total Project Cost: \$16.1 million</p>	<p>This proposal requests funding to install air cooling systems with required fire/life/safety improvements in rehabilitative treatment, education, and office space within Facility F and G housing units at the California Substance Abuse Treatment Facility and State Prison, Corcoran (SATF) to provide indoor temperatures suitable for incarcerated individuals to receive treatment and education. High temperatures in these areas lead to missed treatment and education hours for incarcerated individuals through refusal to attend treatment and education, as well as the cancellation of sessions.</p>	<p>Preliminary Plans: July 2021 - April 2022 Working Plans: May 2022 - September 2022 Construction: February 2023 - May 2025</p>

Reappropriations for Continuing Construction Projects. The proposed budget reappropriates \$8.205 million for five projects that have been delayed, outlined below.

Continuing Projects	Description	Phase and Delay Reason
<p>Valley State Prison, Chowchilla: Arsenic and Manganese Removal Water Treatment Plant</p> <p>FY 22-23: \$375,000 Total Project Cost: \$32.5 million</p>	<p>This proposal requests reappropriation of funding of an arsenic and manganese removal water treatment plant at Valley State Prison (VSP) due to the increase in the levels of these constituents in the wells at VSP and the adjacent Central California Women’s Facility (CCWF). This treatment plant will reduce arsenic and manganese levels to comply with the Environmental Protection Agency and State Water Resources Control Board drinking water quality standards at both VSP and CCWF.</p>	<p>Working Plans: May 2021 - March 2023 Construction: July 2023 - April 2025</p> <p>Due to water table changes related to the drought, additional water constituent analysis is necessary during the working drawings phase.</p>
<p>Correctional Training Facility, Soledad: Health Care Facility Improvement Program – Specialty Care Clinic</p> <p>FY 22-23: \$1.6 Total Project Cost: \$13.6 million</p>	<p>This project is part of the California Department of Corrections and Rehabilitation’s Health Care Facility Improvement Program to remedy deficiencies to health care facilities statewide. The improvements at the Correctional Training Facility have been divided into two phases. Phase I includes new Primary Care Clinics for Facilities A, C, and D, and renovation of Facility B’s Primary Care Clinic and Facility C’s Triage and Treatment Area. Phase II includes renovations to the Specialty Care Clinic in Facility C.</p>	<p>Construction: July 2019 - May 2023</p> <p>Due to design errors and omissions, construction will be extended into the 2022-23 fiscal year.</p>
<p>Folsom State Prison, Folsom: Water Storage Tanks</p> <p>FY 22-23: \$1.4 million Total Project Cost: \$9.6 million</p>	<p>This proposal requests reappropriation of funding to construct two new 750,000 gallon water storage tanks necessary to support building fire suppression requirements as part of the Health Care Facility Improvement Program projects constructed at Folsom State Prison and California State Prison, Sacramento.</p>	<p>Construction: December 2020 - July 2022</p> <p>As a result of additional coordination during the construction phase of electrical, fire alarm and controls, construction will be extended into the 2022-23 fiscal year.</p>
<p>San Quentin State Prison, San Quentin: New Boiler Facility</p> <p>FY 22-23: \$2.9 million Total Project Cost: \$27.8 million</p>	<p>This proposal requests reappropriation of funding of a new central high-pressure steam boiler facility at San Quentin State Prison. Boiler replacement is required for compliance with Bay Area Air Quality Management District regulations for gas-fired boiler emissions standards.</p>	<p>Construction: January 2021 - December 2023</p> <p>Due to COVID-19 related delays, construction will extend beyond June 30, 2022.</p>

<p>Sierra Conservation Center, Jamestown: Health Care Facility Improvement Program – Central Health Services Building Renovation</p> <p>FY 22-23: \$1.9 million Total Project Cost: \$12.0 million</p>	<p>This project is part of the California Department of Corrections and Rehabilitation’s Health Care Facility Improvement Program to remedy deficiencies to health care facilities statewide. The improvements at the Sierra Conservation Center have been divided into two phases. Phase I includes a new Pharmacy and Lab, a new Health Care Administration Building, and Facility C Primary Care Clinic renovation and addition. Phase II includes renovations to the Central Health Services (CHS) building.</p>	<p>Construction: July 2019 - March 2023</p> <p>As a result of design errors and omissions and COVID-19 related delays, construction will be extended into the 2022-23 fiscal year.</p>
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Staff Recommendation. Hold Open.

Issue 4: Various Facilities and Construction Proposals

Governor's Budget. The proposed budget includes \$4.5 million one-time General Fund, \$22.2 million ongoing General Fund, and \$1.1 million reimbursement authority for related construction and facility projects, such as support for statewide capital outlay planning and roof repair projects.

Background.

- ***Statewide: Budget Packages and Advanced Planning.*** The proposed budget includes \$1 million to perform advanced planning functions and prepare budget packages for capital outlay projects to enable CDCR to provide detailed information on scope and costs on requests for planned projects.
- ***Roof Replacement Design and Construction.*** The proposed budget includes \$2 million General Fund in 2022-23 for the design phase and \$71 million General Fund in 2023-24 for the construction phase of roof replacements at the California Institution for Men and California Medical Facility.

Approximately \$313 million over the past five budget years for roof replacements at 11 adult institutions. CDCR has prepared a phased schedule for statewide institution roof replacements that prioritizes roof replacements at prisons housing significant high risk medical populations and those providing accessible housing. Roof replacements at CIM and CMF have been prioritized as the next institutions to be replaced based on the statewide prioritization list.

- ***Support for Inmate-Ward Labor Construction Projections.*** The proposed budget includes \$1.1 million in reimbursement authority and 13 positions ongoing to support the Inmate/Ward Labor (IWL) Program.

Since the 1980s, CDCR has operated the IWL Program, which provides incarcerated individuals on-the-job vocational skills in construction, renovation, and repairing buildings/infrastructure while also providing significant construction and repair benefits to prison infrastructure. The IWL Program has participation from the State Building and Construction Trades Council of California, local trade unions, as well as institutional executive and education staff.

Some of the types of projects that IWL is currently working on include HCFIP projects, statewide roofing projects, Americans with Disabilities Act (ADA) improvements, and medication distribution projects. Nearly 650 incarcerated individuals and juvenile offenders participated in IWL Program construction projects during 2021.

The increased workload is the direct result of both court-mandated construction projects, which address statewide medical, mental health, and disabled accessibility issues, and a variety of other infrastructure projects. These positions will provide necessary administrative support in construction field offices by performing administrative tasks required for current construction projects.

- ***Updating the Utilities and Waste Removal Funding Methodology.*** The proposed budget includes \$22.2 million ongoing General Fund to establish an updated funding methodology for utilities and waste removal expenditures.

Currently, both utilities and waste removal are funded using a combination of base funding and annual population-driven funding adjustments. Over time and with the decreasing incarcerated population, this funding methodology has not kept pace with rising costs, and CDCR has had to realign funding to make up the shortfalls.

CDCR proposes to adjust utilities and waste removal methodologies to disassociate the funding from population changes, and to establish a base of the average of three years of actual expenditures. In future years, CDCR will adjust utilities and waste removal funding annually by applying an adjustment based on the California Consumer Price Index (CPI). This methodology will better match CDCR's annual utilities and waste removal liabilities.

- ***Repurposing Condemned Housing.*** The proposed budget includes \$1.5 million one-time General Fund for a consulting contract to repurpose condemned housing and support spaces at San Quentin State Prison. Over the next two years, CDCR will be shutting down the condemned housing unit at San Quentin and transferring people to other housing, to provide access to work-related programs and enable them to pay court-ordered restitution, as required by Proposition 66.

LAO Comments and Recommendations on Repurposing Condemned Housing.

Governor's Proposal. The Governor proposes \$1.5 million one-time General Fund for the California Department of Corrections and Rehabilitation (CDCR) to hire a consultant to assess and recommend options for repurposing condemned inmate housing facilities at San Quentin State Prison. The department indicates that the scope of the consultant's work has not yet been fully defined. However, it anticipates that the consultant would generally be tasked with recommending ways to modify facilities to house and meet the needs of non-condemned, lower security inmates. For example, the consultant would likely be required to recommend options for identifying space for inmate rehabilitation programs.

Public Health Concerns Identified with San Quentin Facilities. Rapid spread of COVID-19 at San Quentin—particularly during a major outbreak in the summer of 2020—has raised significant public health concerns about the safety of housing facilities at San Quentin, including the condemned inmate housing facilities. This is because these facilities consist of five housing tiers stacked on each other with barred cell doors and generally poor ventilation. According to an infectious disease epidemiologist and professor at the University of California Irvine who testified in a court case related to CDCR's handling of COVID-19 at San Quentin, the architecture of these facilities presents a major problem. Specifically, barred cell doors allow air to flow between neighboring cells and stacked tiers allow infectious droplets to travel from the top to the bottom of the facilities, entering cells along the way. Moreover, there is very little outside air intake to these facilities, meaning that air containing the virus can be recirculated throughout the facility.

Direct CDCR to Provide Additional Information. Although CDCR has not fully defined the scope of the proposed consultant’s work, the department indicates that it does not plan to require the consultant to consider the above public health concerns. We note, however, that to the extent CDCR later modified the facility to address public health concerns—such as by improving outside air intake—such changes could require the department to remove or destroy the modifications made resulting from the work of the consultant. In order to ensure that the Governor’s proposal is aligned with legislative priorities in assessing and addressing the needs of the housing facilities at San Quentin, we recommend the Legislature direct the department to report the following information at spring budget hearings: (1) the defined scope of the proposed consultant’s work, (2) the rationale for not having the consultant consider the public health concerns that have recently been identified, and (3) the cost of requiring the consultant to make recommendations on how to address these concerns.

Staff Comment.

Redirection of resources and new utility and waste calculation. CDCR has indicated that they have been absorbing the excess utility and waste removal costs in their general operating budget. This proposal would free up a significant amount of funding. In addition, the proposed CPI adjustment would not account for increased energy and water efficiency programs, or any eventual prison closures or consolidations that would accompany a significant decline in the incarcerated population. The Legislature should consider how these could be incorporated in the new calculation.

Staff Recommendation. Hold Open.

2600 CALIFORNIA TRANSPORTATION COMMISSION**Issue 5: Implementation of SB 671**

Governor’s Budget. The budget includes \$770,000 in 20223-23, and \$320,000 per year for 2023-24 and 2024-25, for two full-time, limited-term positions and for a one-time consultant contract to implement the provisions of SB 671 (Gonzalez), Chapter 769, Statutes of 2021, relating to the development of the Clean Freight Corridor Efficiency Assessment. This request is consistent with the fiscal estimate of the bill at time of enactment.

Background. SB 671 (Gonzalez, Chapter 769, Statutes of 2021), which establishes the Clean Freight Corridor Efficiency Assessment (Assessment), to be developed by the Commission in coordination with other state agencies. It also codifies parts of the Commission’s Trade Corridor Enhancement Program (TCEP) guidelines that deem eligible for funding projects that employ advanced and innovative technology to improve the flow of freight and environmental and community mitigation of freight movement impacts. The Commission is required to coordinate with the State Air Resources Board (CARB), Public Utilities Commission, State Energy Resources Conservation and Development Commission (CEC), and the Governor’s Office of Business and Economic Development in developing the Assessment, and must submit a report detailing the Assessment and its recommendations for the deployment of zero-emission medium- and heavy-duty vehicles to the Legislature by December 1, 2023. The bill directs the Commission, CARB, CEC, and Caltrans to incorporate the findings of the Assessment, to the extent feasible and applicable, into programs and guideline documents related to freight infrastructure and technology.

Staff Comments. Upon the passage of SB 671, the CTC estimated that implementation of the bill would require one-time costs of approximately \$900,000 for a consultant contract for the performance of research and data analysis necessary to identify the freight corridors and infrastructure needed to support medium- and heavy-duty zero emissions vehicles, and provide other expertise and materials. It also estimated ongoing administrative costs of approximately \$323,000 for three years and \$178,000 annually thereafter for two staff (one three-year limited term, one permanent) to oversee the consultant contract, coordinate with state agencies, and consult with other specified public and private entities to develop the Assessment and recommendations, issue the report and ensure adequate adoption into other programs and guidelines.

The budget proposal here suggests implementation costs that are significantly lower than initially estimated by the CTC. The Legislature may want to consider the extent to which the requested resources are appropriate and sufficient for the requirements of the bill, or if additional resources are required.

Staff Recommendation: Hold Open.