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FISCAL IMPACT REPORT



SPONSOR: Martinez DATE TYPED: 02/04/02 HB 389

SHORT TITLE: Corrections Policy and Research Council SB _____

ANALYST: Trujillo

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
	\$700.0	Significant – See Narrative		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in The General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received

Juvenile Parole Board (JPB)
Corrections Department (CD)

SUMMARY

Synopsis of Bill

House Bill 389 appropriates \$700.0 from the general fund to the Corrections Policy and Research Council for the purpose of hiring an executive director and staff, purchasing equipment and supplies and carrying out its duties.

This bill creates the Corrections Policy and Research Council (“Council”). The Council is to be composed of eight (8) members, who serve at the pleasure of the appointing authority. The eight (8) members are:

- (1) one (1) public member appointed by the Governor;
- (2) one (1) public member appointed by the Speaker of the House;
- (3) one (1) public member appointed by the Minority Floor Leader of the House;
- (4) one (1) public member appointed by the President Pro Tempore of the Senate

- (5) one (1) public member appointed by the Minority Floor Leader of the Senate
- (6) the Attorney General or his designee;
- (7) the Secretary of Corrections or his designee; and
- (8) the Secretary of General Services or his designee.

The Council is required to hold meetings at times deemed necessary, hire an executive director and staff, as necessary, and prepare an annual budget.

The duties of the Council are as follows:

- (1) advise the Executive and Legislative branches on policy matters relating to Correctional facilities;
- (2) forecast projected growth in inmate populations’
- (3) analyze the sufficiency of educational, vocational, spiritual and treatment programs for inmates;
- (4) analyze the need to expand the availability of Community Corrections programs and other alternatives to incarceration;
- (5) maintain a central database of information regarding correctional facilities, including an inventory of staffing levels at individual correctional facilities;
- (6) analyze short term and long term strategies for recruiting and retaining qualified correctional officers;
- (7) analyze the need for future construction of additional correctional facilities;
- (8) develop a master plan for the Corrections Department; and
- (9) make recommendations to the Executive and Legislative branches regarding proposals to improve the Corrections system.

The members of the Council are to be paid pursuant to the provisions of the Per Diem and Mileage Act and shall receive no other compensation.

The Council is administratively attached to CD.

Significant Issues

According to CD, because the Council is administratively attached to CD, the bill will significantly increase the administrative burden upon certain department personnel who will be required to provide support to the Council. Furthermore, given the expansive duties of the Council, there will be a similar increase in the administrative burden upon department employees who will be required to provide the Council with the information requested.

The bill will create yet another layer of oversight and policy recommendations with regard to CD. Specifically, there are already several other existing entities which perform similar functions; including the Corrections Commission, the Criminal and Juvenile Justice Coordinating Council and the interim Corrections Oversight Committee. Furthermore, there is a bill pending in the current legislative session that would create the Corrections Population Control Commission.

CD reports the bill could dilute the ability of the Corrections Secretary to make and implement policy. It could also hinder the Corrections Secretary’s ability to effectively lead the department by

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creating another political body which could second guess his leadership and direction. This could result in a Corrections Department either run by committee or a department continually at odds with the Council. The end result could be either no effective direction or direction which is politically expedient but operationally unsound.

The Council could provide what might be perceived as a more objective and therefore more persuasive recommendation regarding the immediate need for additional correctional facilities. Similarly, there is some possibility that the bill could result in recommendations for additional inmate programming, and expand the availability of Community Correction programs and other alternatives to incarceration.

CD indicates the duties of the Council include forecasting projected growth in inmate populations. This fiscal year, CD contracted with George Washington University and developed a new inmate micro-simulation projection and forecast model. CD has an FTE dedicated to gather inmate information for the model and work with the contractor to produce the inmate population growth projections. Since CD has the expertise in this area, it would be appropriate for the department to continue to forecast inmate populations and allow the Council to analyze and make recommendations to the projections.

CD reports the bill seems to contemplate that the Council would have central database of information. It is noted that CD has an automated data system. It may be justified to consider if this system could meet the perceived need or be expanded to meet the need without investing in a potentially expensive separate system.

FISCAL IMPLICATIONS

The appropriation of \$700.0 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2003 shall revert to the general fund.

The bill contains no appropriation to the Corrections Department. Since the Council is administratively attached to CD, and the Council members are paid per diem and mileage, the bill will result in a moderate to substantial increase in costs to CD. There may also be additional cost increases to CD as a result of the need to supply the Council with information to allow it to perform its duties. CD reports it will be extremely difficult for the department to absorb these cost increases.

ADMINISTRATIVE IMPLICATIONS

CD reports this bill will significantly increase the administrative burden upon department personnel who will be required to provide administrative support and information to the Council.

RELATIONSHIP

Relates to HB 263 and SB 201.

TECHNICAL ISSUES

CD suggests in Section 1, page 2, item E(3) of this bill, the first word should be changed from “forecast” to analyze”.

The Juvenile Parole Board suggests being included in the council.

OTHER SUBSTANTIVE ISSUES

The Consultants’ Report on Prison Operations in New Mexico Correctional Institutions (IBI Report) includes the following recommendation:

“The parties should consider the development of a Correctional Policy and Research Council. The group might consist of members selected by the Governor, appointed for staggered terms of four to six years to ensure continuity during gubernatorial changeover. The Secretary of Corrections would serve as a permanent member and provide the Council with staff support as needed. The group could address inmate population growth, needed legislation, construction and siting of new institutions, the viability of further privatization initiatives, alternatives to incarceration and other major policy issues. When the position is vacant, the Council could screen candidates for the Secretary of Corrections post and recommend finalists for the Governor’s consideration. The Council should be bipartisan to limit politically motivated initiatives and judgments. Policy makers might wish to consider having representatives of the Legislature, the Judiciary and a law enforcement representative as permanent members of the Council. The Council would be prohibited from assuming operational duties or assessing day to day decision making. Its focus would be on broad-based policy issues and have the authority to recommend initiatives only, with no enforcement power.

In order to support the policy analysis, the NMCD would be required to increase personnel resources assigned to its Research Division so that the necessary research can be conducted and reported. In addition, a commitment of resources would be necessary to further the development of the management information system currently being introduced at the NMCD. The capacity of this new system should be examined further to ensure timely, quality data and analysis for the parties to consider. Secretary Perry should be commended for addressing the lack of an automated inmate tracking and management information system. At this writing, the new MIS system is in the process of going on-line in NMCD facilities and work units.”

Also included in recommendation findings of the report is:

“The present statutes addressing correctional service contracts contain some workable provisions, some conflicting provisions (e.g. county need not use procurement code process; state required to use procurement code), some gaps in what ought to be addressed, (notably in the area of “speculative” ventures), and some directions better left to the discretion of corrections professionals. Therefore, it is recommended that the legislature enact new legislation addressing all aspects of contracting for jail and prison bed space in New Mexico.

Although not within the scope of this study, it is clear that other private facilities are being operated in New Mexico without sufficient oversight. This should be addressed, as well.

It is recommended that legislation authorizing construction of correctional facilities not specify particular counties, unless recommended by the Corrections Department. Facilities should be located not on the basis of a county's economic need, but on proximity to inmate families, availability of support services and transportation, an adequate labor pool, and other factors best identified and evaluated by the Corrections Department. *(Crane)*"

LAT/ar