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2017

Joint Committee on Finance

Paper #230

Inmate Populations, Prison Contract Bed Funding, and Population and Inflationary Costs (Corrections -- Adult Corrections)

[LFB 2017-19 Budget Summary: Pages 137, #1 and #2, and Page 139, #5]

CURRENT LAW

The Department of Corrections operates 36 adult correctional facilities, including 20 correctional institutions and 16 correctional centers. In addition, Corrections utilizes prison contract beds to place state inmates in county jails and federal facilities. The Department also places individuals at the Department of Health Services' Wisconsin Resource Center for inmates in need of mental health treatment.

GOVERNOR

Estimate a total average daily population in adult correctional institutions, centers, and contract beds of 23,330 inmates in 2017-18 and 23,233 inmates in 2018-19. Provide funding of \$8,630,500 GPR annually for prison contract beds. Provide \$16,495,800 GPR in 2017-18 and \$20,794,200 GPR in 2018-19 for population-related costs adjustments for inmates in facilities, including food costs, variable non-food costs, and inmate health care.

DISCUSSION POINTS

1. For each budget cycle, the Department of Corrections projects the total prison populations for the upcoming biennium. Generally, population-related costs are budgeted based on the total operating capacity of the prison system, including food, variable non-food costs (such as clothing, laundry, inmate wages, and other supplies), and inmate health care. To the extent that prison population projections exceed the total operating capacity, contract bed funding is provided for placements in certain county jails.

2. For the 2017-19 biennium, as with prior budgets, the Department of Corrections reviewed its monthly growth rates to determine the appropriate rate to estimate projections. Based on population data through July, 2016, Corrections utilized a median growth rate of 0.11 % for male inmates and 0.22% for female inmates for its projections. Unlike prior budgets, however, the Department additionally separately projected a population increase based on 2015 Act 371, which increased the penalties for conviction of fourth or subsequent driving while under the influence (OWI) offenses, as follows (note the penalties identified are prison time and do not include extended supervision):

<u>OWI Offense</u>	<u>Prior Law</u>	<u>2015 Act 371</u>
4th Offense	Misdemeanor (maximum confinement of less than 1 year), unless committed within 5 years of prior OWI offense (then a Class H felony, maximum confinement of 3 years)	Class H felony (deleted 4th offense within 5 years of prior)
5th-6th Offense	Class H felony	Class G felony
7th-9th Offense	Class G felony (maximum confinement of 5 years)	Class F felony
10th or Subsequent	Class F felony (maximum confinement of 7.5 years)	Class E felony (maximum confinement of 10 years)

3. To project population increases for Act 371, Corrections reviewed 2015 conviction data from the Department of Transportation (latest information available) and sentencing trends. Based on the data, the Department estimated that an additional 248 inmates in 2017-18 and 1,173 inmates in 2018-19 would be held in state prison as a result of Act 371. With both its traditional projection plus Act 371 increase, Corrections' population projection totaled 23,435 in 2017-18 and 24,678 in 2018-19.

4. Based on the projections, the Department requested contracted bed funding for 722 inmate beds in 2017-18 and 1,930 inmate beds in 2018-19. These contract bed figures exclude temporary placement beds for offenders, such as community corrections extended supervision sanctions or temporary lockups, as well as juvenile facility placements of youthful adult offenders which are also funded from the contract bed appropriation.

5. Typically, when the Governor introduces budget recommendations, the Department's projections may be adjusted, depending on any new initiatives included in the bill and/or revised population data. The Governor's 2017-19 biennial budget includes two provisions which are intended to reduce contract bed usage: (a) expanding capacity at the Racine Youthful Offender Correctional Facility (RYOCF) by 25 beds annually; and (b) expanding the earned release program, with estimated contract bed savings of 105 beds in 2017-18 and 237 beds in 2018-19. Combined, these provisions would reduce contract bed usage by 130 beds in 2017-18 and 262 beds in 2018-19. If these savings were applied to Corrections' agency request, contract bed funding would be for 592 beds in 2017-18 and 1,668 beds in 2018-19.

6. However, the Governor's recommendation would provide contract bed funding to

support 592 beds in 2017-18 and 460 beds in 2018-19, a difference of -1,208 beds in 2018-19 if applied to Corrections' agency request projections. The resulting difference is attributable to the Governor providing no increase in contract bed funding in 2018-19. In subsequent materials provided to the Committee, the Department of Administration indicated it determined the contract bed funding provided in 2017-18 was sufficient for both years:

"DOC's request anticipates a large impact on the contract bed population due to 2015 Act 371, which went into effect on January 1, 2017. The State Budget Office expects the contract bed population to increase based on the 2015 Act 371 OWI legislation, but without data to reflect the impact of the act the Office does not believe the effect of the act will be as significant as assumed by the department. The State Budget Office concluded that the amount provided in the Governor's Recommendation, which matched DOC's request for FY18, would be sufficient to fund county contract bed costs for FY18 and FY19. While the Governor's Recommendation reflects a growth in contract beds, the SBO does not believe additional inmates due to 2015 Act 371 will be a significant factor in driving that growth. Rather, the SBO believes that the growth in contract beds will be primarily related to the general growth in the adult male institutional population based on population trends."

7. Further, in his remarks to the Committee on March 28, 2017, the Corrections' Secretary indicated that he was comfortable with the Governor's recommendations and that funding in the bill would be sufficient for the Department.

8. It should be noted, however, that by assuming the same number of contract beds in both years of the biennium, then incorporating the bill's contract bed savings provisions (the RYOCF capacity increase and the earned release program expansion), the effect is to reduce the population projection in the second year lower than the first year (23,330 inmates in 2017-18 and 23,233 inmates in 2018-19). By providing the same contract bed funding in each year, the bill essentially funds an increase for Act 371 populations in 2017-18, then deletes the increase in 2018-19. Further, both Corrections and the Governor funded the Act 371 increase solely through contract bed funding, which would support only male inmates sentenced under the increased OWI penalties (since female inmates are not placed in contract beds). The Department's budget request included the Act 371 increase of 2017-18 in 2018-19.

9. Regarding the overall monthly growth population projections, Corrections utilized a median growth rate of 0.11% for male inmates and 0.22% for female inmates for its projections based on data through July, 2016. Based on a review of more recent data from August, 2016, through April, 2017, the monthly growth rate for male inmates (0.11%) appears consistent and is an appropriate rate to utilize for the projections. However, data for female inmates has shown an average monthly growth of 0.45% over the past two and three years. As such, the female population projection should be revised. [Staffing issues related to supporting increased female prison populations are discussed in a separate issue paper.]

10. Incorporating the revisions of: (a) utilizing a 0.45% monthly growth rate for the female inmate projection; (b) adjusting funding related to Act 371 to support 233 contract beds for male inmates and 15 female inmates in facilities (rather than 248 contract beds); and (c) providing the same amount of Act 371 funding in 2018-19 (rather than just in 2017-18), the modified populations and funding in the bill would be:

	<u>Average Daily Population</u>			<u>Average Daily Population</u>	
	<u>2017-18</u>	<u>2018-19</u>		<u>2017-18</u>	<u>2018-19</u>
Male Inmate Population			Female Inmate Population		
Traditional Projection (0.11%)	21,729	22,008	Traditional Projection (0.45%)	1,546	1,632
Act 371 Increase (no growth in FY19)	<u>233</u>	<u>233</u>	Act 371 Increase (no growth in FY19)	<u>15</u>	<u>15</u>
Male Inmate Population Projection	21,962	22,241	Female Inmate Population Projection	1,561	1,647
Contract Bed Funding			Institutional Population & Inflationary Costs*		
Male Inmate Population Projection	21,962	22,241	Female Inmate Population Projection	1,561	1,647
Current Prison Capacity	21,255	21,255	Current Prison Capacity	1,338	1,338
Other Bill Provisions			Other Bill Provisions		
RYOCF Capacity Increase	-25	-25	Robert E. Ellsworth Center Staffing	-96	-104
Earned Release Program Expansion	<u>-105</u>	<u>-237</u>	Unfunded Female Inmate Population	127	205
Revised Contract Bed Need	577	724	Funding Modification	\$716,400	\$1,193,300
Bill Contract Beds	592	460			
Difference b/n Bill and Revised Beds	-15	264			
Funding Modification	-\$281,700	\$4,958,700			

*Population and inflationary costs total \$5,641 in 2017-18 and \$5,821 in 2018-19 for population-related costs adjustments for food, variable non-food, and inmate health care. Staffing related to supporting the increased female prison population is addressed in a separate paper.

11. As result of the above modifications, the estimated average daily population in 2017-19 would be 23,523 in 2017-18 (21,962 males and 1,561 females) and 23,888 in 2018-19 (22,241 males and 1,647 females). To fund these population estimates, additional GPR funding of \$435,800 in 2017-18 and \$6,152,400 would be required. This is presented in Alternative 2.

12. As previously indicated, the DOC Secretary, in his testimony before the Finance Committee, stated that his Department would be able to manage the Correction's budget for 2017-19 within the funding levels recommended by the Governor. Given the population estimates shown above, this would likely require the Department to adjust resources in other areas to accommodate the higher populations. Thus, the Committee could approve the funding level recommended by the Governor.

ALTERNATIVES

1. Approve the Governor's recommended funding level.

ALT 1	Change to	
	Base	Bill
GPR	\$54,551,000	\$0

2. Reestimate average daily populations in adult correctional facilities to be 23,523 in 2017-18 and 23,888 in 2018-19. As a result provide additional funding of \$434,700 GPR in 2017-18 and \$6,152,000 GPR in 2018-19 associated with: (a) contract bed funding for male inmates, -\$281,700 GPR in 2017-18 and \$4,958,700 GPR in 2018-19; and (b) population and inflationary costs for female inmates, \$716,400 GPR in 2017-18 and \$1,193,300 GPR in 2018-19.

ALT 2	Change to	
	Base	Bill
GPR	\$61,139,200	\$6,586,700

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