



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #249

Eliminate Parole Commission (Corrections -- Parole Commission)

[LFB 2017-19 Budget Summary: Page 145, #1]

CURRENT LAW

Under current law, the Parole Commission, which is attached to the Department of Corrections, is responsible for making prison release decisions for inmates. The Commission consists of eight members: the Chairperson, appointed for a two-year term by the Governor, with the advice and consent of the Senate, and seven other members in the classified service appointed by the Chairperson. The Commission conducts interviews with parole-eligible inmates and decides whether to grant a discretionary release. The Chairperson is the final authority in granting discretionary paroles. If discretionary parole is granted, the parolee is placed under the supervision of Corrections for a period not to exceed the court-imposed sentence, less time already served.

GOVERNOR

Delete funding (\$591,400 GPR in 2017-18 and \$1,184,500 GPR in 2018-19) and position authority (13.0 positions in 2018-19), and statutory language related to the Parole Commission as of January 1, 2018. Replace statutory duties related to the Parole Commission with the Department of Corrections. Replace statutory language related to the Parole Commission Chairperson with the Department of Corrections, Director of Parole. Reallocate 1.0 GPR position in the Division of Adult Institution's Bureau of Classification and Movement from classified to unclassified to create the Director of Parole position. Fund the position using existing resources.

DISCUSSION POINTS

1. Parole is only applicable to offenders convicted of offenses occurring before December 31, 1999. The decision to grant discretionary parole (release from prison at any time between the parole eligibility date and the mandatory release date) is made by the Parole Commission. Individual Commissioners review cases of parole-eligible inmates and make recommendations on whether to grant discretionary release. Authority for final discretionary parole decisions rests with the Parole Commission Chair.

2. Base funding for the Parole Commission is \$1,282,900 GPR annually. Staffing for the Parole Commission includes 13.0 GPR positions: the Parole Commission Chair, seven Parole Commission members, three office operations associates, one office management supervisor and one operations program associate. Under the bill, base funding would be adjusted for standard budget adjustments (-\$55,500 GPR annually), rent (-\$45,100 GPR in 2017-18 -\$43,600 GPR in 2018-19), and risk management reestimates (\$700 GPR annually), prior to being eliminated as of January 1, 2018 (-\$591,400 GPR in 2017-18 and -\$1,184,500 GPR in 2018-19).

3. On March 31, 2017, the Department of Administration (DOA) submitted an errata report to correct errors or better reflect the Governor's intent. Related to the Parole Commission provision, the errata report indicated that the bill should be modified to clarify that the Director of Parole position be appointed by the Governor. It should be noted that under current law, the Parole Commission Chair is appointed by the Governor, but also with the advice and consent of the Senate. Under the bill, modified by the errata, the Legislature would no longer have input into the appointment. If the Committee wished to support the Governor's recommendation, but retain oversight of the appointment, the bill could be modified to specify the Director of Parole be appointed by the Governor, with the advice and consent of the Senate. [Alternative 2]

4. According to the Department of Corrections, the number of inmates with a parole-eligible ("old law") sentence as of December, 2016, was 3,044 (2,961 males and 83 females). It should be noted, however, that 685 of these individuals are also serving sentences under newer truth-in-sentencing provisions. The total number of offenses for which the 3,044 inmates are currently serving sentences are 12,217 (a breakout of old law offenses and truth-in-sentencing offenses is not available). For calendar year 2016, the Parole Commissioners conducted 1,691 parole hearings. In 2016, 203 individuals with old law sentences were released from prison, including 68 individuals granted parole and 135 individuals released after completing the earned release or challenge incarceration program. Of the 203 individuals, the majority (126) were within one year of their mandatory release date.

5. Each Parole Commissioner is assigned specific correctional institutions to review the case files of parole eligible inmates at those facilities. Each institution reports monthly to the Parole Commission the names of inmates who are scheduled for a parole review approximately two months in advance of the parole review date. Parole hearings are scheduled by the Commissioners with each institution and inmate based on Commissioners' travel schedules and workload. Support staff coordinates with Corrections' Office of Victim Services to notify registered victims of the scheduled parole hearing.

6. To prepare for a parole hearing, a Commissioner will review the inmate's records, available either from the Department's computer system or located at the institution. Documents Commissioners review may include social services files, victim files, legal files, medical/clinical files, employment documents, institutional adjustment/disciplinary files, and prison program and treatment documents. Along with reviewing documents, Commissioners will consult with prison staff, including social workers, medical personnel, wardens, deputy wardens, and prison guards. Commissioners will also consult with crime victims, who may decide to attend the parole hearing.

7. The parole hearing involves an in-person interview between the Commissioner and the inmate, where the inmate's case will be reviewed and discussed, including the facts of the crime and the inmate's activities while incarcerated. According to the Parole Commission, the principal goal of the hearing is to determine how the inmate has progressed during his or her imprisonment, with considerations of the inmate's attitude toward the crime, the victim, and harm caused. Further, the inmate's plans after release are discussed. If the victim is in attendance, the victim may make a statement. If the inmate agrees, the victim may ask the inmate questions. The inmate may also make a statement but is not permitted to ask the victim questions.

8. After the hearing, the Commissioner will write a summary of the case with a recommendation for release to parole or to defer parole. The Chairperson makes the final decision whether to grant a discretionary release. If not granted, the Commissioner determines when the next parole review hearing will be scheduled.

9. Sentencing systems and release of inmates range greatly among states, with variations of indeterminate sentencing, determinate sentencing, or a combination of both. Similarly, states vary on how they utilize parole boards, with some boards completely independent agencies, attached to the Department of Corrections (as in Wisconsin), or functioning as a division or bureau within Corrections. According to a summary of state parole boards compiled by the National Conference of State Legislatures, all states except for Minnesota utilize a parole board (in Minnesota, the Commissioner of Corrections makes release decisions). In addition, all the parole boards, except for Kansas, have at least three members to make release or conditions of release decisions (Kansas has two).

10. Concerns were raised at the March 28, 2017, agency briefing about having one individual making all parole eligibility determinations instead of the current eight members. Similar concerns were raised by members of the public at the public hearings that the Committee held around the state. Further, one could argue that if the Director of Parole is a Department of Corrections employee, rather than independent from the agency, parole decisions may be unduly influenced by departmental concerns rather than an unbiased review of an individual offender's incarceration and rehabilitative history.

11. If all Commissioner positions are filled and each eligible inmate is reviewed, Commissioners could each review approximately 380 cases per year. Given the concerns that were raised, the Committee may wish to delete the provision and retain the current Commission. [Alternative 4] However, the Department of Corrections' Secretary expressed support for the provision at the agency briefing and stated that the Department would be able to continue to provide administrative support to the one position remaining to make parole decisions. The Committee

could, therefore, support the provision. [Alternative 1]

12. Of the eight Parole Commissioner positions, four are currently vacant: two positions have been vacant since June, 2013, one position since June, 2015, and one position since January, 2016. As a result, three Commissioners and the Chairperson have been hearing cases for over a year. If the filled Commissioner positions reviewed eligible inmates' cases, the Commissioners could each review approximately 760 cases per year. Balancing the concerns raised by some legislators and members of the public about limiting parole decisions to one individual along with the Department's support of the provision, the Committee could delete the 4.0 vacant member positions (-\$275,800 GPR annually), retaining the Parole Commission as a separate entity, but reducing the Commission to four members instead of the current eight. [Alternative 3]

ALTERNATIVES

1. Approve the Governor's recommendation to delete funding (\$591,400 GPR in 2017-18 and \$1,184,500 in 2018-19) and position authority (13.0 positions in 2018-19), and statutory language related to the Parole Commission as of January 1, 2018. Replace statutory duties related to the Parole Commission with the Department of Corrections. Replace statutory language related to the Parole Commission Chairperson with the Department of Corrections Director of Parole. Reallocate 1.0 GPR position in the Division of Adult Institution's Bureau of Classification and Movement from classified to unclassified to create the Director of Parole position.

ALT 1	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	-\$1,775,900	- 13.00	\$0	0.00

2. Modify the Governor's recommendation to specify that the Director of Parole position be not only appointed by the Governor (as identified under DOA's errata), but also with the advice and consent of the Senate.

3. Delete the Governor's recommendation and retain statutory language related to the Parole Commission, modified to a four-member Commission. Delete funding and position authority related to the four vacant member positions.

ALT 3	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	-\$551,600	- 4.00	\$1,224,300	9.00

4. Delete the provision. [The bill would retain funding modifications for standard budget adjustments, rent, and risk management reestimates (-\$99,900 GPR in 2017-18 and -\$98,400 GPR in 2018-19.)

ALT 4	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	-\$198,300	0.00	\$1,775,900	13.00

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