

Prop. 47 may result in windfall for courts

By L.J. Williamson

Finding state administration estimates off by a substantial margin, the California Legislative Analyst's Office has determined that the amount of savings generated by Proposition 47 could be around \$100 million higher than what state officials calculated.

The administration estimates a total of \$62.7 million in savings from Proposition 47 in 2015-16 - the sum of \$52.2 million in prison savings, \$8.7 million in savings from Department of State Hospitals (DSH), and \$1.7 million in court savings.

The LAO's report determined, however, that court savings are underestimated, potentially by \$10 million or more, because the administration's calculations failed to account for the reduced processing time of misdemeanor cases.

The LAO also estimates that prison savings are actually \$83 million higher, bringing the total to \$135 million, primarily because the administration did not calculate savings generated by thwarted facility overcrowding that would have necessitated the use of higher cost "contract beds" for inmates at outside facilities.

The report explains that administration projections of court savings were based on a total estimated decrease of 6,000 cases, but that estimate did not take into account any savings in workload from converting a felony case to a misdemeanor. The report recommends that the judicial branch recalculate based on average case processing times for felonies and misdemeanors to account for differences in resources needed.

"It's unclear which report is accurate -- whether \$1.7 million, approximately \$10 million or some other savings would be returned to the courts," said Eric C. Taylor, president of the California Judges Association. "There still remains a large gap to bridge the existing multi-million dollar WAFM (Workload Allocation Funding Methodology) shortfall in the 58 trial courts that now struggle to restore public access to 39 million Californians."

Proposition 47, which reduced several non-violent, non-serious felonies and wobblers to misdemeanors, requires the Department of Finance to annually estimate savings to the state resulting from the measure and deposit that amount into a special fund devoted to mental health and substance use services, truancy and dropout prevention, and victim services. The measure requires the first deposit to be made in July 2016.

The analysts weren't surprised that the estimated savings were so high, but that the administration's estimates were so low, said Aaron T. Edwards, senior fiscal & policy analyst with the LAO.

Because the California Department of Corrections and Rehabilitation's budget is population-based, adjustments are automatic as prison population's change. But the state must take legislative action to reduce the budgets of the DSH and the courts if it wants to recoup savings from reduced operating costs, and so far it has not done so.

That means a potential windfall for courts, and one which leaves them free to redirect the savings to other programs and services without the need for legislative review or approval, the report says.

"The public wanted criminal reform, however with criminals held accountable," said retired Santa Clara County Superior Court Judge Eugene M. Hyman, who would like to see the additional funds go toward helping the measure fulfill its promises.

"The court needs to spend some of the money providing for judicial reviews, as many counties do not have misdemeanor probation services, and if the judge does not do a judicial review, the defendant will have no incentive to comply with the court's orders," Hyman said.

"The Legislative Analyst's Office report on the savings claimed to have occurred as a result of Prop. 47 is not only interesting in what they studied, but also in what they failed to analyze," said Marc Debbaudt, president of the Los Angeles County Association of Deputy District Attorneys via email.

"The report does not discuss the costs of having those inmates housed as misdemeanors in the county jails, so, no mention of the inevitable offset of cost-shifting crime from the state to the county."

"Sadly, not everything can be measured in dollars and cents," Debbaudt continued, "and there is not one mention of the real costs, economic and emotional, associated with releasing criminals."

Margaret Dooley-Sammuli, criminal justice and drug policy director for ACLU of California, was pleased by the report's level of detail and explanation of how the figures were arrived at. Reports from the Department of Finance, on the other hand, came up with similar numbers but contained little detail on calculations, Dooley-Sammuli said.

"I think that it reflects people's expectations and feels right given that we have so many fewer people behind bars," she said. "It will be so important to voters who want to stop flushing these resources down the drain on jail and lengthy prison stays and redirect them to prevention."

LJ_Williamson@dailyjournal.com