

SFA

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bills 543 and 544 (as reported without amendment)

Sponsor: Senator Jack Welborn (Senate Bill 543)

Senator Lana Pollack (Senate Bill 544)

Committee: Criminal Justice and Urban Affairs

Date Completed: 10-20-89

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RATIONALE

Since the early 1950s, Michigan law has empowered the State Corrections Commission to determine corrections policies and programs. The Commission consists of five members from the general public, appointed to four-year terms by the Governor with the advice and consent of the Senate. The Commission is charged with appointing a Director of the Department of Corrections, who serves at the Commission's pleasure and has the responsibility to supervise the Department's affairs. While the relationship between the Commission and the Department has been characterized as one of "checks and balances" in which the Commission establishes policy and the Director executes that policy and administers the Department's day-to-day affairs, some claim that, in practice, the Director makes policy and the Commission merely gives it rubber-stamp approval. Further, some argue that the Commission's role has evolved from a once-useful policy-making function to a buffer between the Department and the Governor, the Legislature, and, ultimately, the electorate. These people contend that the Commission should be abolished in order to make the Department more accountable to elected officials and the public.

CONTENT

Senate Bill 543 would amend the Department of Corrections (DOC) law to delete references to the Corrections Commission and provide for the Governor, rather than the Commission, to

appoint a Director of the DOC. The Department would consist of and be administered by, instead of the Commission, the Director and other officers and assistants appointed or employed by the DOC. The Director also would be responsible for duties of the Commission specified in the Act, such as the administration of penal institutions, annual reporting to the Governor and the Legislature, site selection for correctional facilities, appointment of probation officers, and enforcement of orders with respect to jails and lockups.

Senate Bill 544 would amend the Code of Criminal Procedure to replace references to the Corrections Commission with references to the DOC or the Director.

The bills are tie-barred to Senate Bill 187, which would amend the Executive Organization Act to require the appointment of a Director of the DOC who, instead of the Corrections Commission, would head the Department.

MCL 791.201 et al. (S.B. 543)

762.13 and 762.11a (S.B. 544)

BACKGROUND

Senate Bills 187-197, which were passed by the Senate in 1989, comprised a package of bills to eliminate the Corrections Commission and transfer its authority to appoint the DOC Director to the Governor, as well as transfer

S.B. 543 & 544 (10-20-89)

the Commission's various administrative responsibilities to the Director and revise several acts to make them consistent with the transfer of responsibilities. Senate Bills 189 and 192, however, were substituted and enacted. The enacted versions of those bills imposed an administrative fee on probationers and parolees. Senate Bills 543 and 544 are identical to the Senate-passed versions of Senate Bills 192 and 189, respectively, and would replace those bills in the legislative package proposing the elimination of the Commission.

FISCAL IMPACT

The bills would have no fiscal impact on State or local government. (Senate Bill 187, to which the bills are tie-barred, would reduce State GF/GP expenditures by \$1,350 per month in FY 1989-1990.)

ARGUMENTS

Supporting Argument

The Corrections Commission is ineffective and unresponsive; its diffuse, fragmented authority has been inadequate to deal productively with the mounting problems of the State's corrections system. The Commission merely acts as a buffer, insulating the Department of Corrections from the Governor and the Legislature. As a result, the Department is unresponsive to public opinion. The Commission should be dissolved in order to facilitate responsiveness to the Governor, the Legislature, and the electorate.

Response: The Commission does not insulate the Department from accountability to the Governor and the Legislature. The Governor and the Legislature have far more influence on the operation of the Department than does the Commission, due to their powers of appropriation.

Supporting Argument

Several other Department Directors are appointed, directly, by the Governor: this procedure is successfully applied to a majority of State departments, including the Departments of Social Services, Mental Health, and Public Health. The bills should be passed to make the appointment of the Department of Corrections' Director consistent with that practice.

Opposing Argument

If the Legislature is interested in promoting open government that is accountable and responsive, it should retain the Corrections Commission. Since it holds regular meetings in various locations around the State, the Commission provides a public forum for citizen input and feedback regarding Michigan's corrections policies. Centralizing DOC policy decisions in the persons of the Governor and Director, while perhaps providing a more streamlined approach to the administration of the Department, would deny the opportunity for public comment.

Opposing Argument

Direct gubernatorial appointment of the Director could affect certain styles of management at the top levels, but little else would change. Also, being more susceptible to purely political influences, direct appointment could be more detrimental than the current process. The Commission system is a more professional approach to setting policy and appointing Department officials because the Commission consists of nonpartisan members who are knowledgeable in the corrections field.

Opposing Argument

The Corrections Commission was created in response to crisis conditions within the Department. Now, people claiming that the Department again is facing a crisis are calling for its abolition. The cycle merely would continue and some version of the Commission would be recreated in response to future emergencies. Indeed, some Legislators already have expressed a desire to eliminate the Commission, yet create some type of "policy advisory committee" to allow the airing of public concerns relating to DOC policy. The Commission already serves such a purpose and should be left intact.

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SFA BILL ANALYSIS

Senate Bill 544

Analysis First

See SB 543