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BILL ANALYSIS

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Senate Bill 106 (as reported without amendment by the Criminal Justice, Urban Affairs, and Economic Development Committee)

Sponsor: Senator Nick Smith

First Committee: Criminal Justice, Urban Affairs, and Economic Development

Second Committee: Appropriations

Date Completed: 3-24-87

RATIONALE

Public Act 16 of 1978 provides for reimbursements to counties for expenses incurred by prosecuting attorneys in cases involving charges of new felony offenses committed by State prisoners during periods of, or escape from, incarceration. Some people feel that the terms of such reimbursements are inequitable. Currently, the Act allows prosecutors of counties where State correctional facilities are located to bill the Department of Corrections (DOC) for expenses incurred in prosecuting new felonies charged to incarcerated escaped prisoners. These reimbursements, however, are limited to \$300 for each case, and the maximum hourly rate to be charged is left to the discretion of the DOC, which has not increased this rate from \$25 per hour since 1978. Court appointed defense attorneys, on the other hand, are allowed to submit their expenses to the circuit court at unlimited rates with no maximum total figure; after review by the circuit court the bill is forwarded to the State Court Administrative Office and the defense attorney is reimbursed. Some believe that reimbursements for county prosecutors should be treated and processed consistently with those for court appointed defense attorneys.

Another provision of the Act allows county jails to be reimbursed by the DOC for actual and reasonable costs incurred when housing an apprehended escaped State prisoner, an inmate who has not returned to a State facility pursuant to an agreement to do so, or a person who has violated terms of parole and has been apprehended under an order of the DOC. This type of refund is limited to \$20 per day, which some people feel is too low.

CONTENT

Senate Bill 106 would amend Public Act 16 of 1978 to do the following:

- Delete the \$300 maximum on reimbursement of counties for the prosecution of new felony offenses charged to incarcerated or escaped State prisoners.
- Specify additional costs that could be reimbursed.
- Increase the maximum amount of reimbursement to county jails for housing escaped State prisoners.
- Require itemized costs to be submitted to the State Court Administrator instead of the Department of Corrections.

Current law requires the State to reimburse counties for costs incurred by prosecuting attorneys in cases of new felony offenses committed by inmates of State correctional facilities and new felonies committed during escape. In addition to removing the \$300 per case maximum, the bill would require the State to reimburse counties for costs incurred for juror's fees, witness fees, and fees of appointed defense attorneys. The circuit court for each county would have to submit its itemized costs to the State Court Administrator, instead of the Department of

Corrections; the Administrator, not the Department, would determine the reasonableness of the amount to be paid.

The bill also would increase from \$20 to \$35 the per day maximum amount that the Department of Corrections is required to reimburse a county for holding an apprehended State-committed prisoner who had escaped, not returned pursuant to an agreement, or violated the terms of his or her parole.

MCL 800.452 and 800.454

FISCAL IMPACT

The bill has the potential for increasing estimated revenue to local units \$386,800 to \$895,905 in FY 1986-87 (on a full year basis) above the \$676,000 budgeted for these services. State GF/GP spending would increase accordingly.

Senate Bill 106 provides for three categories of State reimbursement to counties; (1) prosecuting attorney fees, (2) jurisdictional duty fees, and (3) county jail daily costs for housing State correctional facility escapees and parole violators. To estimate the fiscal implications of this legislation, State expenditures and case numbers for FY 1984-85, the most recent period for which data is available, were used to project FY 1986-87. A fiscal impact range is presented based on FY 1984-85's actual case numbers and average fees paid at the low end (the county jail daily reimbursement fee reflects the proposed \$35 figure) and modest growth rate assumptions for the upside estimate.

| | | FY 1986-87 | |
|------------------------------------|---------------|--------------|--------------|
| | | Low | High |
| Jurisdictional Fees: | No. of Cases | 825 | 1,000 a) |
| | Ave. Fee | \$348 | \$383 b) |
| | Subtotal | \$287,375 | \$383,000 |
| Prosecution Fees: | No. of Cases | 525 | 635 a) |
| | Ave. Fee | \$115 | \$383 c) |
| | Subtotal | \$60,375 | \$243,205 |
| County Jail Fees: | Prisoner Days | 20,430 | 27,020 d) |
| | Daily Fee | \$35 | \$35 |
| | Subtotal | \$715,050 | \$945,700 |
| Total | | \$1,062,800 | \$1,571,905 |
| Budgeted Appropriation FY 1986-87: | | \$ (676,000) | \$ (676,000) |
| Net Increase in Revenue to Locals: | | \$ 386,800 | \$ 895,905 |

a) 10% annual growth rate
b) 5% annual growth rate
c) Prosecution Ave. fee reflects Jurisdictional Ave. fee
d) 15% annual growth, reflects 1984-85 average rate

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ARGUMENTS

Supporting Argument

The bill would provide a more equitable delivery system for reimbursements to counties for costs incurred both in providing a defense for indigents and in prosecuting cases involving State prisoners. It also would provide for refunds to counties for other expenses related to such a court proceeding (i.e., juror and witness fees). The State is the proper entity to absorb these costs since it is responsible for inmates in the State correctional system. Also, the office of the State Court Administrator is a more reasonable avenue for review of expenses incurred in court proceedings than is the DOC.

Supporting Argument

The current rate of reimbursement to county jails for housing escaped State prisoners is much too low. A recent study placed the average daily cost of housing for Michigan county jails at \$39.74, while the current maximum rate of reimbursement is only \$20. An increase of the maximum rate to \$35 would help counties to defray their costs.

Response: The study of housing costs was methodologically questionable. Some counties included all kinds of ancillary costs such as medical and dental treatment that may not have been necessary and overhead costs that were not incurred as a result of housing State prisoners.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.