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BILL ANALYSIS

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Senate Fiscal Agency

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Senate Bills 185-188, 190, and 192-195 (as reported without amendment)

Sponsors: Senator Jack Welborn (S.B. 185, 187, 192, and 195)

Senator Christopher D. Dingell (S.B. 186, 193, and 194)

Senator Rudy J. Nichols (S.B. 188 and 190)

Committee: Criminal Justice, Urban Affairs, and Economic Development

Date Completed: 4-27-87

RATIONALE

Since the early 1950s, Michigan statute has empowered the State Corrections Commission to determine corrections policies and programs. The Commission consists of five members from the general public, appointed by the Governor with the advice and consent of the Senate to four-year terms. The Commission is charged with appointing a Director of the Department of Corrections to serve at the Commission's pleasure, who has the authority and the responsibility to supervise the Department's affairs. Some have said that the Commission's role is to establish policy, subject to State laws, and the Director's role is to execute that policy and administer the Department's day-to-day affairs. The relationship between the Commission and the Department also has been characterized as one of "checks and balances"; according to this perspective, the Department may propose a policy change or a new correctional program to the Commission, but it is up to the Commission, which theoretically functions independently of the Department, to approve, disapprove or recommend changes in what the Department proposes. Further, because of the role the Commission must play, by law, in prison site selection and enforcement of orders regarding county jails and lockups, it frequently is called upon to respond not only to the Department's needs and requests but also to those of local officials and communities. Some argue, however, that the Commission's role has evolved from a useful policy-making function to a buffer that reduces accountability 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.

CONTENT

Senate Bill 185 would amend the Executive Organization Act to require the appointment of a Director of the Department of Corrections who, instead of the Corrections Commission, would head that Department. Senate Bill 187 would amend the Department of Corrections Act to transfer administrative responsibilities of the Commission to the Director. Senate Bills 186, 188, 190, and 192 through 195 would amend various Acts to make them consistent with Senate Bill 185.

Senate Bills 186 through 195 are tie-barred to Senate Bill 185. (Senate Bill 189, which would repeal the Act that regulates probation recovery camps, has not been reported from the Senate Committee on Criminal Justice, Urban Affairs, and Economic Development at this time. Senate Bill 191, which would repeal the Prison Overcrowding Emergency Powers Act, has been analyzed separately.)

Senate Bill 185

The bill would amend the Executive Organization Act to require that a Director of the Department of Corrections be appointed by the Governor, with the advice and consent of the Senate, to serve at the pleasure of the Governor. The bill also would repeal two sections of law (MCL 16.378 and 16.379) pertaining to the transfer of the Department and the composition of the Corrections Commission.

MCL 16.376

FISCAL IMPACT

The bill would reduce State GF/GP expenditures in FY 1987-88 by \$16,300, which is the amount appropriated for the Commission's per diem expenses. The bill would have no fiscal impact on local government.

Senate Bill 187

The bill would amend the Department of Corrections Act to delete references to the Corrections Commission and provide for the Governor, rather than the Commission, to appoint a Director of the Department of Corrections. 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 Department. 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.

MCL 791.201 et al.

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Senate Bills 186, 188, 190, and 192-195

The bills would amend the following Acts to replace references to the Corrections Commission with references to the Department of Corrections or the Director of the Department:

- Public Act 325 of 1982, in regard to "rated design capacity" (i.e., the Department of Corrections' determination of the actual available bed space of the general population of a county jail). (Senate Bill 186)
- The Code of Criminal Procedure, in regard to the appointment of probation officers, and the failure to carry out the terms of a sentence reduced for time served upon a void sentence. (Senate Bill 188)

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- The Correctional Officers' Training Act, in regard to membership on the correctional officers' training council and certification of State correctional officers. (Senate Bill 190)
- Public Act 181 of 1911, in regard to the payment of prisoners for work on public projects. (Senate Bill 192)
- Public Act 17 of 1909, in regard to the definition of "prisoner" under that Act, which pertains to limiting prisoners' access to weapons, liquor, and controlled substances. (Senate Bill 193)
- The Correctional Industries Act, in regard to the employment of inmates. (Senate Bill 194)
- The Prison Reimbursement Act, in regard to the determination of prisoners' cost of care. (Senate Bill 195)

MCL 801.51 (Senate Bill 186)
 762.13 and 769.11a (Senate Bill 188)
 791.503 et al. (Senate Bill 190)
 800.101 (Senate Bill 192)
 800.281a (Senate Bill 193)
 800.323 et al. (Senate Bill 194)
 800.401a (Senate Bill 195)

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

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 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

Direct appointment 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 crisis conditions are calling for its abolition. The cycle merely would continue and some version of the Commission would be recreated in response to future crises. The Commission should be left intact.

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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.