

BILL # HB 2302

TITLE: corrections department; water facilities

SPONSOR: Jayne

STATUS: As Introduced

REQUESTED BY: House

PREPARED BY: Tony Vidale

FISCAL ANALYSIS

Description

HB 2302 would require the Arizona Department of Corrections (ADC) to enter into contracts for the sale of all water and sewage facilities owned by the department and lease-back these facilities over a 40-year period. Proceeds from the sale are to be deposited into the newly created Corrections Employee Pay Fund and used for pay increases and hiring of new employees.

Estimated Impact

JLBC Staff estimates total one-time revenues up to \$31.9 million from the sale of water and sewage facilities, which would be deposited into the Corrections Employee Pay Fund. The bill does not specify the annual level of expenditure for pay adjustments. Once the revenue is exhausted, the department would need to shift these expenditures to another funding source, most likely the General Fund, or eliminate the pay increases.

The JLBC Staff estimates that annual General Fund debt service cost would be \$1.8 million.

Analysis

There are currently 28 water and sewage facilities operated at ADC's prison complexes. Of these facilities, 10 are located on ADC-owned land with a replacement value of \$17.6 million and 12 are located on state trust land, leased from the State Land Department, with a replacement value of \$14.3 million. The other 6 facilities are located on land leased by the Arizona State Hospital, Apache County, and Cochise County, and would not be available for sale because ADC does not own the facilities, as the bill requires. The JLBC Staff estimates revenue collections up to \$31.9 million and assumes only water and sewage facilities located on ADC-owned land and state trust land are sold. Under the provisions of the bill, ADC would also lease back the water and sewage facilities over 40 years at an estimated debt service of \$73.8 million (based on sales of \$31.9 million with an interest rate of 5%). Operating costs could not be determined because ADC does not account specifically for water and sewage facility costs. The JLBC estimate assumes that operating costs charged by private companies to operate the facilities will not differ significantly from current costs.

The JLBC revenue estimate assumes that the water and sewage facilities are sold at their replacement values as reported by the Arizona Department of Administration (ADOA). The replacement value represents the estimated cost to replace water and sewage facilities and does not necessarily equate to sale price. The sale price may differ due to market effects, such as the number of water and sewage facilities available to buyers, the number of buyers willing to bid for purchase, and associated costs to prepare these facilities for sale. In addition, the total amount of revenue from the sale would depend on the number of facilities sold and the respective appraised values (statute requires the state to receive at least the appraised value). A total of 22 facilities would be available for sale, however, 12 of the facilities are located on state trust land and would likely be leased to the buyer on a short-term basis. This arrangement may limit the department's ability to sell these water and sewage facilities due to the uncertain nature of the short-term lease. The facilities located on ADC-owned land present the least obstacles to overcome and would be easier to sell and lease back. Proceeds from the sale would depend on the appraised value, less the costs associated with selling the prison facilities.

The 12 water and sewage facilities located on state trust land are leased from the State Land Department for a period of 10 years. Since the sale of these facilities would include the sale of the land they are located on, the land must be sold in compliance with statute governing the sale of state trust land. State trust land can be leased on a short-term or long-term basis or sold to the highest and best bidder. Leases greater than 10 years and the sale of state trust land must be offered at public auction to the highest and best bidder. Statute allows the lease of state trust land on a short-term basis, for a term of

not more than 10 years, without offering the lease at a public auction. ADC could sell the water and sewage facilities located on state trust land and sublease the land to the buyer or the buyer could arrange a short-term lease agreement with the State Land Department. It is unknown, however, if the uncertainty of a short-term lease arrangement would impede this type of sale or how many buyers would offer to purchase the facilities and lease the land. In the event the facilities and land are sold, proceeds from the facility sale could be deposited into the Corrections Employee Pay Fund but proceeds from the land sale must go to the state trust land beneficiary.

The State Land Department also raised some concerns regarding land sales of state trust land. According to the department, while the Legislature can specify that land be sold in statute, all such sales must be in the best interest of the beneficiaries to the state trust land. Any elements identified in the processing of the sales that could serve to violate this fiduciary responsibility could jeopardize the final sale. In addition, other environmental, archaeological, and legal appeals could be raised, which could delay or preclude the final land sale. In any case, the State Land Department would not be able to limit the land sale to buyers intending to operate the facilities as water and sewage facilities.

Local Government Impact

None.

2/17/04