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New Prison Construction Bond Act of 1990

Official Title and Summary

NEW PRISON CONSTRUCTION BOND ACT OF 1990. This act provides for a bond issue of four hundred fifty million dollars (\$450,000,000) to provide funds to relieve overcrowding in the state's prisons and the Youth Authority facilities through new construction.

Text of Proposed Law

This law proposed by Senate Bill 842 (Statutes of 1989, Ch. 5) is submitted to the people in accordance with the provisions of Article XXI of the Constitution.

This proposed law adds sections to the Penal Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Chapter 16 (commencing with Section 7420) is added to Title 7 of Part 3 of the Penal Code, to read:

CHAPTER 16. NEW PRISON CONSTRUCTION BOND ACT OF 1990

7420. *This chapter shall be known and may be cited as the New Prison Construction Bond Act of 1990.*

7421. *The State General Obligation Bond Law is adopted for the purpose of the issuance, sale and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter except that, notwithstanding anything in the State General Obligation Bond Law, the maximum maturity of the bonds shall not exceed 20 years from the date of each respective series. The maturity of each respective series shall be calculated from the date of that series.*

7422. *There is in the State Treasury the 1990 Prison Construction Fund, which fund is hereby created. The proceeds of the sale of bonds authorized by this chapter shall be deposited in the fund. Upon request of the Department of Corrections and upon approval of the Director of Finance, appropriations or augmentations to appropriations made from the 1984 Prison Construction Fund established by Section 7202, the 1986 Prison Construction Fund established by Section 7302, or the 1988 Prison Construction Fund established by Section 7402, or any combination thereof, may be funded from the 1990 Prison Construction Fund. If the moneys are so funded, "fund" means the 1984 Prison Construction Fund, the 1986 Prison Construction Fund, or the 1988 Prison Construction Fund, or any combination thereof, as is appropriate. At least 30 days prior to requesting funding for appropriations or augmentations to appropriations for other bond acts as authorized by this section, the Department of Corrections shall notify the chairpersons of the fiscal committees in each house of the Legislature, and the chairperson and the vice chairperson of the Joint Legislative Budget Committee.*

7423. *The 1990 Prison Construction Committee is hereby created. The committee shall consist of the Controller, the Treasurer, and the Director of Finance, or their designated representatives. A majority may act for the committee. The Treasurer shall chair the committee. That committee shall be the "committee," as that term is used in the State General Obligation Bond Law.*

When funds are appropriated to the Department of Corrections, the Department of Corrections is the "board" for the purpose of the State General Obligation Bond Law and this chapter. When funds are appropriated to the Department of Youth Authority, the Department of Youth Authority is the "board" for the purpose of the State General Obligation Bond Law and this chapter.

7424. *The committee is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate principal amount of four hundred fifty million dollars (\$450,000,000), exclusive of refunding bonds, in the manner provided in this chapter. That debt or debts, liability or liabilities, shall be created for the purpose of providing the fund to be used for the object and work specified in Section 7426.*

7425. *The committee may determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter, and if so, the amount of bonds then to be issued and sold. The committee may authorize the Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the Treasurer.*

7426. *The moneys in the fund shall be used for the acquisition, construction, renovation, remodeling, and deferred maintenance of state youth and adult correctional facilities.*

7426.5. *Moneys deposited in the fund may also be used for the refinancing of interim debt incurred for any of the purposes specified in Section 7426.*

7427. (a) *All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the actual payment of both the principal thereof and interest thereon.*

(b) *There shall be collected annually in the same manner and at the same time as other state revenue is collected that sum, in addition to the ordinary revenues of the state, that is required to pay the principal of and interest on those bonds, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of that*

revenue to do and perform each and every act which shall be necessary to collect that additional sum.

(c) *All money deposited in the fund that has been derived from premiums or accrued interest on bonds sold shall be available for transfer to the General Fund as a credit to expenditures for bond interest.*

(d) *All money deposited in the fund pursuant to any provision of law requiring repayments to the state that is financed by the proceeds of the bonds authorized by this chapter shall be available for transfer to the General Fund. When transferred to the General Fund that money shall be applied as a reimbursement to the General Fund on account of the principal of and interest on the bonds which have been paid from the General Fund.*

7428. *Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter such an amount as will equal the following:*

(a) *That sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to this chapter.*

(b) *That sum as is necessary to carry out the provisions of Section 7429, which sum is appropriated without regard to fiscal years.*

7429. *For the purpose of carrying out this chapter, the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund and shall be disbursed by the committee in accordance with this chapter. Any money made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this chapter. Those withdrawals from the General Fund shall be returned to the General Fund with interest at the rate which would otherwise have been earned by those sums in the Pooled Money Investment Account.*

7430. *The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out the provisions of this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. The board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.*

7431. *Any bonds issued and sold pursuant to this chapter may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code. Approval by the electors of the state for the issuance of bonds shall include the approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.*

7432. *All proceeds from the sale of bonds, except those derived from premiums and accrued interest, shall be available for the purpose provided in Section 7426 but shall not be available for transfer to the General Fund to pay the principal of and interest on bonds. The money in the fund may be expended only as herein provided.*

Notwithstanding any provision of this chapter or the State General Obligation Bond Law set forth in Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, if the Treasurer sells bonds pursuant to this chapter the interest on which is intended to be excluded from gross income from federal tax purposes, the Treasurer is authorized to maintain separate accounts for the investment of bond proceeds and the investment earnings on the proceeds, and the Treasurer is authorized to use or direct the use of the proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

7433. *Money in the fund may only be expended pursuant to appropriations by the Legislature. The Department of Corrections and the Department of the Youth Authority, annually on or before January 10, shall submit their respective five-year facility master plans to the Legislature. Each plan shall include a program of proposed expenditures from the 1990 Prison Construction Fund.*

7434. *The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.*