

1990

## New Prison Construction Bond Act Of 1990

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### 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.

### Final Vote Cast by the Legislature on SB 842 (Proposition 120)

Assembly: Ayes 54	Senate: Ayes 28
Noes 2	Noes 3

### Analysis by the Legislative Analyst

#### Background

In recent years there has been a large increase in the number of people sent to the state's adult prisons and youth correctional institutions. This trend is expected to continue. Existing facilities were not designed to house this increase.

**Adult Prison System.** In January 1990, the prison system had room for 48,000 inmates, but housed 84,000 prisoners resulting in overcrowding of 75 percent.

The state is addressing the prison capacity problem in several ways. In most prisons, the department is housing two inmates in cells intended to house only one. The department also has converted gymnasiums, classrooms, and other space into temporary dormitories. In addition, since 1981, the state has committed \$3 billion to increase prison capacity. Most of this money has come from bond funds.

In addition to these steps, the department plans to complete new prisons now under construction and build more prisons. If this construction plan is completed by 1995, the prison system would have a capacity for 106,000 inmates, and a population of 145,000, resulting in overcrowding of 37 percent. The department expects this construction work will cost about \$3.4 billion. The department plans to fund this effort with money from this measure, future general obligation bonds, and lease-revenue bonds.

**Youth Correctional Institutions.** In January 1990, there were about 8,400 wards in youth correctional institutions. By mid-1994, the Department of the Youth Authority expects this number to increase to 9,500 wards. However, based on existing construction plans, these institutions at that time will have a capacity for 6,800 wards, resulting in overcrowding of 40 percent.

#### Proposal

This measure authorizes the state to sell \$450 million of general obligation bonds. The money would be deposited

in the 1990 Prison Construction Bond Fund, created by this measure. General obligation bonds are backed by the state, meaning that the state is obligated to pay principal and interest costs on these bonds. General Fund revenues would be used to pay these costs. These revenues come primarily from the state corporate and personal income taxes and the state sales tax. (An overview of the state's bond debt is presented at the end of the arguments section in the supplemental ballot pamphlet.)

The proceeds in the 1990 Prison Construction Bond Fund would be used to buy land and construct, remove, and maintain youth and adult correctional facilities, as determined by the Governor and the Legislature. From this fund, about \$194 million has already been designated for a 2,200-bed adult prison in North Imperial County. In addition, the Governor's 1990-91 Budget proposes (contingent on approval of this bond measure by the voters) to spend about \$92 million for maintenance and alteration of existing youth and adult correctional facilities and for administrative costs associated with the youth and adult correctional facilities construction program.

This measure also requires the Department of Corrections and the Department of the Youth Authority to annually submit five-year plans to the Legislature on or before January 10 and include in each plan a program of proposed expenditures from the 1990 Prison Construction Fund.

#### Fiscal Effect

**Direct Cost of Paying Off the Bonds.** For these types of bonds, the state typically would make principal and interest payments from the state's General Fund over a period of about 20 years. If all of the bonds authorized by this measure are sold at an interest rate of 7.5 percent, the cost would be about \$805 million to pay off the principal (\$450 million) and interest (\$355 million). The average payment would be about \$40 million per year.

## 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 XVII 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

by 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.

### Argument in Favor of Proposition 120

As a result of tough new anti-crime laws, more and more convicted criminals are being sent to prison. In the past decade, the number of felons in our state prisons has increased nearly 400 percent—from 23,000 to 88,000.

However, our state prisons are built to house only about 48,000 prisoners. This overcrowding is a serious threat to public safety and it is a threat to the courageous correctional officers and staff who work in our state prisons. In 27 other states, the courts have issued orders limiting the prison population. We must prevent that from happening in California.

Proposition 120 will provide the funds needed to

continue building more prisons so that we can remove dangerous criminals from your neighborhoods and keep them behind bars where they belong.

**IF YOU WANT FEWER CRIMINALS ON THE STREETS AND MORE PUBLIC SAFETY, VOTE "YES" ON PROPOSITION 120.**

**GEORGE DUEKMEJIAN**  
*Governor*

**ROBERT PRESLEY**  
*State Senator, 36th District*

**ED DAVIS**  
*State Senator, 19th District*

### Rebuttal to Argument in Favor of Proposition 120

You are being asked to approve *\$450 million* for more prison cells. The proponents of Proposition 120 would have you believe that these cells are needed to protect you from dangerous criminals. In fact, *fewer than half* of the inmates in prison today have been convicted of violent crimes.

One reason for prison overcrowding is the increase in numbers of drug abusers being incarcerated. Four out of five inmates are believed to have substance abuse problems—yet there are virtually no drug treatment programs available in prison.

A second reason for overcrowding is the large number of parolees returned to prison for breaching a condition of parole. These parolees constitute 45% of prison admissions, with technical breaches and drug use offenses dramatically outnumbering property and violent offenses.

The proponents of this measure tell you that

overcrowding is a threat to public safety. But the facts prove there is one staff person to guard every three inmates—one of the highest staff-to-inmate ratios in the country.

In the last few years, *\$6.3 billion* has been spent on prison construction, and by 1994 you will be asked to approve *\$5.2 billion* more! But, unless sentencing policies are changed and drug treatment programs are established, prisons will still be overcrowded. California's practice of locking up thousands of petty offenders in expensive cells for very short terms does not serve public safety. Don't be fooled.

Vote no on Proposition 120.

**EMMA CHILDERS**  
*Legislative Advocate*  
*Friends Committee on Legislation*

**PATRICIA WHITNEY-WISE**  
*California Council of Churches*

## Argument Against Proposition 120

*Four hundred and fifty million dollars* for additional prison construction!

Since 1981, voters have approved \$3.6 billion for 37,000 new prison beds, and seven new prisons. Now the Legislature is asking for almost *one half a billion dollars more*. The supporters of this measure would have us believe the money is needed because our prisons are overcrowded with dangerous criminals.

The Blue Ribbon Commission on Inmate Population Management—established by the Legislature to study California's prison population—recently concluded that our correctional system is *out of balance*. The commissioners—prison officials, law enforcement officers, and correctional experts—found that most lawbreakers receive either probation at one extreme—or prison at the other.

The Commission concluded that California lacks badly needed intermediate punishment options, such as local jail space, alcohol and drug treatment facilities, work furlough, house arrest, and electronic monitoring. Judges are forced to sentence non-violent, less serious offenders to prison term, when an intermediate option would be more effective.

The Commission also found that since drugs and alcohol are implicated in an estimated 90% of all crimes committed in California, treatment programs are sadly lacking.

Why should California lack intermediate punishment options—and drug treatment and counseling programs? The experts know they cost less than imprisonment and are more effective in preventing the offender's return to prison. The answer is there is simply not enough money to build so many prisons—and provide the other options as well.

Yet the Legislature is again asking you to approve spending almost half a billion dollars to build more prison cells. These cells cost \$100,000 each to build. Each will cost more than \$1 million over 30 years of operation. *More than half of the offenders housed in these cells are non-violent*, and could be dealt with much more effectively and cheaply in the community. Other states using community sanctions have found that their crime rate has *not* risen.

The Legislature is again asking you to spend almost half a billion dollars for prisons. All in the name of public safety. But will we be any safer when thousands of prisoners—who serve less than one year, and who have had no job training, drug treatment, or work experience—are released? Will we be any safer when millions of dollars—that could be spent on education, health care, transportation, the environment, and other human services—are drained off to support a giant network of prisons?

The answer is no.

Please vote against spending more money on prison construction. It is time for California taxpayers to demand that their money be spent on a balanced correctional system. We need local punishment and treatment programs. We don't need more enormously expensive, high-security prisons that provide warehousing, but little else.

Vote no on Proposition 120.

**EMMA CHILDERS**  
*Legislative Advocate*  
*Friends Committee on Legislation*  
**PATRICIA WHITNEY-WISE**  
*California Council of Churches*

## Rebuttal to Argument Against Proposition 120

PROPOSITION 120 is a small price for Californians to pay in order to keep thousands of dangerous criminals, drug dealers and gang members behind bars. Letting these convicted felons out of prison is not the solution. We must continue to build more correctional facilities if we want to keep our communities safer places to live, work and raise our families.

Our successful prison construction program has allowed us to open 14 new prison facilities in the past eight years. But even with this tremendous building effort, our prison system is still 175% over capacity, providing the constant potential for prison violence and untimely releases of dangerous and violent criminals.

Who is sentenced to state prison? Only those criminals who commit serious felony crimes. Those who commit

lesser misdemeanor crimes are sent to county jail, fined or placed on probation.

We must guarantee that our law enforcement agencies' efforts to stop the drug- and gang-related violence are not thwarted by our inability to provide sufficient prison space for these criminals.

Proposition 120 won't raise your taxes. It will help to take more criminals out of our neighborhoods. We urge you to vote YES for continued public safety by voting YES on Proposition 120.

**GEORGE DEUKMEJIAN**  
*Governor*  
**ROBERT PRESLEY**  
*State Senator, 36th District*