

1990

## PRISON INMATE LABOR. TAX CREDIT.

Follow this and additional works at: [http://repository.uchastings.edu/ca\\_ballot\\_props](http://repository.uchastings.edu/ca_ballot_props)

---

### Recommended Citation

PRISON INMATE LABOR. TAX CREDIT. California Proposition 139 (1990).  
[http://repository.uchastings.edu/ca\\_ballot\\_props/1044](http://repository.uchastings.edu/ca_ballot_props/1044)

This Proposition is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Propositions by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact [marcusc@uchastings.edu](mailto:marcusc@uchastings.edu).

**Prison Inmate Labor. Tax Credit.  
Initiative Constitutional Amendment and Statute**

---

**Official Title and Summary:**

**PRISON INMATE LABOR. TAX CREDIT.  
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE**

- Amends state Constitution to permit state prison and county jail officials to contract with public entities, businesses and others, for inmate labor.
- Limits inmate labor during strike or lockout situations.
- Adds statutes requiring state prison director to establish joint venture programs for employment of inmates.
- Requires inmate wages be comparable to non-inmate wages for similar work.
- Makes inmate wages subject to deductions for: taxes, room and board, lawful restitution fines or victim compensation, and family support.
- Allows inmate's employer ten percent of wage tax credit against defined state taxes.

**Summary of Legislative Analyst's  
Estimate of Net State and Local Government Fiscal Impact:**

- This measure would likely result in net savings to the state because of wage deductions to offset cost of incarceration, reduction in amount of time spent in prison due to participation in joint venture program, and decreased state and local costs due to additional family support payments reducing public assistance costs.
  - These savings would be partially offset by costs due to revenue loss resulting from employer tax credits and possible additional administrative costs to operate program.
  - The magnitude of savings is impossible to quantify.
  - The measure's impact on local governments is impossible to estimate because the contents of local ordinances implementing contracts for use of jail labor are unknown.
  - Unknown indirect fiscal effects may occur to the extent this measure affects the number of jobs available in the private sector.
-

## Analysis by the Legislative Analyst

### Background

Currently, some inmates in state prison and local jails participate in various work programs. There are approximately 37,000 inmates currently working in the state prison system. Of that number, nearly 8,000 work in prison industries in various jobs, such as manufacturing furniture for state and local government offices. The remainder perform support services related to the operation of the prison system—for example, maintaining prison grounds. The programs are intended to reduce inmate idleness, minimize the cost of imprisonment, provide an incentive for good behavior, and provide job training.

There are restrictions on the use of inmates to perform work. For example, the California Constitution prohibits contracting with any private agency for the use of state prison or local jail inmate labor. In addition, if inmates produce a product, the product can only be sold to state and local governments. In most state prisons, there are not enough jobs for all the inmates. In local jails, the number and types of jobs vary.

State prison inmates who participate in work programs earn "credits" which reduce the amount of time they spend in prison. Work programs also provide inmates an opportunity to earn money for use upon release from prison. Inmates in local jails may receive similar credits.

### Proposal

This measure amends the California Constitution to allow state and local inmates to perform work for private organizations.

The key provisions of the measure are described below.

**Contracts for the Use of Prison and Jail Labor.** The measure allows state prison and local jail officials to contract with private organizations for the use of inmate labor. State prison contracts would be governed by rules and regulations established by the Director of Corrections. Jail contracts would be governed by local ordinances.

**Joint Venture Program in State Department of Corrections.** This measure requires the state to establish inmate labor contracts through a new "joint venture" program. The program requires the Department of Corrections to enter into joint venture programs with public and private organizations or businesses for the purpose of employing inmates. The measure establishes the Joint Venture Policy Advisory Board to govern the program. The board would consist of the Director of Corrections, the Director of the Employment Development Department, and five members appointed by the Governor. The members appointed by the Governor include one member representing industry, one member representing organized labor, and three public members.

Companies that participate in a joint venture program would be allowed to lease real property on prison grounds at or below market rates in order to set up work programs. Products and services produced by the programs would be available for sale to the public.

The measure establishes provisions regarding inmate wages, tax credits, and the use of inmates to replace striking workers.

**Inmate Wages.** The measure requires that inmates be paid wages that are comparable to the wages paid to noninmate employees for similar work.

The measure authorizes the Director of Corrections to deduct up to 80 percent of an inmate's wages for: (1) federal, state, and local taxes, (2) charges for the costs of the inmate's room and board in prison, (3) contributions to a victim restitution fund, and (4) support of the inmate's family. The specific amounts withheld for room and board, victim restitution, and family support are left to the discretion of the Director of the Department of Corrections.

**Tax Incentives.** The measure provides state income tax incentives in the form of tax credits for businesses to enter into a joint venture program with the state Department of Corrections. Participating companies would be allowed a tax credit of 10 percent of the amount of wages paid to each inmate. This means that for each dollar the employer pays an inmate in the program, the employer can reduce business income taxes owed to the state by 10 cents. (The credit does not apply to any programs that employ local jail inmates.)

**Labor Disputes.** The measure restricts the ability of contractors to replace striking workers with inmate labor.

**Contracts for Local Jail Labor.** The measure allows contracting for the use of local jail inmate labor and provides that such contracts be governed by local ordinances. However, the measure does not specify the content of the local ordinances.

### Fiscal Effect

This measure would likely result in net savings to the state. Savings would be generated by (1) reductions in the amount of time inmates would spend in prison as a result of earning work credits from participation in the joint venture program, (2) deducting a portion of prison inmates' wages to offset the cost of incarceration, and (3) decreased state and local costs due to additional family support payments reducing public assistance costs. These savings would be partially offset by costs due to (1) the state revenue loss resulting from the employer tax credits and (2) possible additional administrative costs to operate the program. The magnitude of the savings is impossible to quantify and would depend on the number of inmates employed, the amount of wages paid, and the extent to which the state withholds inmate wages to offset the cost of incarceration.

It is not possible to estimate the impact of the measure on local governments. This is because local ordinances that would implement contracts for use of jail labor are not required to contain specific fiscal provisions.

In addition to the direct fiscal effects, the measure also could have unknown indirect fiscal effects on the state and local governments, depending on how it affects such factors as the number of jobs in the private sector and the profits of firms choosing to use inmate labor.

---

For text of Proposition 139 see page 136

## Argument in Favor of Proposition 139

It now costs taxpayers \$20,000 per year to maintain a convicted criminal in state prison. Think about it—\$20,000 per convict per year for food, clothing, shelter, medical and dental expenses and to provide adequate security.

All told, California taxpayers are paying \$2 BILLION every year to keep over 95,000 criminals behind bars!

Prisoners don't work to pay part of their upkeep. ISN'T IT ABOUT TIME THAT THEY DID?

Prisoners don't work to pay restitution to their victims. ISN'T IT ABOUT TIME THAT THEY DID?

*You can make it happen by voting YES ON PROPOSITION 139.*

For years, we have tried to get the California Legislature to pass a Constitutional Amendment that would put prisoners to work.

All the facts support this idea:

1. Taxpayers would save because a portion of inmates' wages would go toward paying part of their room and board, taxes, and compensation for victims of their crimes.
2. Prisoners would learn good work habits and job skills that would help them get jobs after they are released, making it less likely for them to return to a life of crime.
3. Studies have shown that inmates who participate in existing prison work programs have a much better record staying *out* of prison once they are back in society, compared to those convicts who don't work.

AND THE REDUCTION OF PRISONERS RETURNING TO THE CORRECTIONAL SYSTEM WOULD BE THE GREATEST SAVINGS. FOR EVERY INMATE NOT RETURNING TO PRISON, TAXPAYERS WOULD SAVE \$20,000 A YEAR AND WE WOULD HAVE FEWER VICTIMS OF CRIME.

We are proud that over ONE MILLION Californians signed our petitions.

Yet, some special interest groups oppose this program because they say prison inmate labor will take away jobs from honest California citizens. *THIS IS FALSE.* Inmate employment will support emerging California industries and create, retain or reclaim jobs now being exported overseas. And inmates may not be used as strikebreakers under this proposition.

Today, the law abiding citizens of California are paying double for criminals.

We pay by being the victims of their crimes, then we pay \$2 BILLION a year to keep them in prison, just so they can sit around and do nothing to pay for their crime, their upkeep or reform themselves.

Why should law abiding citizens have to work and pay taxes to support a free ride for convicted criminals. *When it comes to the cost of crime, it's the criminal who owes a debt to society, not the taxpayer.*

**PUT AN END TO THIS UNFAIRNESS. NO MORE FREE RIDE FOR FELONS!**

**PUT PRISONERS TO WORK. VOTE YES ON PROPOSITION 139.**

**GEORGE DEUKMEJIAN**  
*Governor, State of California*

**DON NOVEY**  
*President, California Correctional Peace Officers Association*

**DORIS TATE**  
*President, Coalition of Victims Equal Rights*

## Rebuttal to Argument in Favor of Proposition 139

PROPOSITION 139 WILL COST TAXPAYERS, RATHER THAN SAVE MONEY.

PRIVATE EMPLOYMENT OF PRISONERS WILL COST CALIFORNIANS UP TO \$34 MILLION A YEAR!

The portion of prisoners' wages the state collects to cover imprisonment is MORE THAN OFFSET by Proposition 139's EXPENSES AND SUBSIDIES TO PROFITABLE CORPORATIONS.

TAXPAYER COSTS INCLUDE:

Administration—\$36 million/year. Corporate tax credits—\$6 million/year.

Plus, millions in below-market rate leases to corporations.

Plus, millions in lost income tax revenues and added welfare costs as law-abiding Californians lose their jobs to low-wage prisoners.

Proposition 139 provides massive government giveaways to lure businesses into prisons. WHY SHOULD TAXPAYERS SUBSIDIZE PROFITABLE CORPORATIONS?

THE INITIATIVE HAS ABSOLUTELY NO PROVISION FOR JOB TRAINING.

Prisoners released early under Proposition 139 will be completely unprepared to hold a job.

Unskilled prisoners will be dumped out on our streets early, to join the unemployment lines. This includes both state prison and county jail inmates.

What is desperately needed in California's antiquated prisons is a massive training program to prepare prisoners for the skills required in the job market.

Proposition 139 is a bureaucratic quick fix that won't work—and all at taxpayer expense.

Proposition 139 will bring unemployment to California's workers. It happened in other states with similar programs. In Arizona, 400 WORKERS LOST THEIR JOBS when a major meatpacking company shifted production to a prison factory, and shut its existing plant nearby.

Save the jobs of free workers. Please vote No on Proposition 139.

**SHERIFF CHARLES P. GILLINGHAM**  
*Sheriff of Santa Clara County*

**SHERIFF MICHAEL HENNESSEY**  
*Sheriff of San Francisco*

**MELVIN H. JONES**  
*President, Association for Los Angeles Deputy Sheriffs*

# Prison Inmate Labor. Tax Credit. Initiative Constitutional Amendment and Statute

139

## Argument Against Proposition 139

Proposition 139 is a destructive bureaucratic dream come true. The comparable inmate work program in the California Youth Authority has cost the taxpayers \$3.00 to administer for every dollar returned to the state by inmates.

It is a disorderly scheme that would not only mean government waste but mean public danger and the denial of free employer competition.

In practice it would legalize the hiring of inmates of state prisons by private employers, thus overturning the convict labor prohibition of the state constitution adopted in 1879.

Next, it would provide for the employment of county jail prisoners by private companies beyond the confines of the jails. In the neighborhoods. Anywhere.

In both situations, the employment of inmates would gravely worsen the continuing crisis of high unemployment among minority youth now desperately seeking work.

As to the public danger, the state's legislative analyst this February warned that the employment of lawbreakers in the California Youth Authority program would "compromise the security of thousands of Californians."

The State Legislature's independent fiscal analyst said that the program did not contain enough safeguards to prevent the inmates from having access to a wealth of personal information on members of the public for whom services were being processed.

Proposition 139 could expose home addresses, telephone numbers, social security numbers, departures from residences on vacation or business purposes and like matters of personal confidence.

A California Youth Authority program, for example, involves the processing of plane reservations for a major carrier.

In both the state prison and county jail aspects of the Initiative, insurance companies, banks, realtors or any other

form of business could qualify for the use of the program.

Again, both programs would discriminate against employers of free labor. The state sponsored employers would not be obliged to pay for workers' compensation insurance, unemployment insurance, vacation periods, social security or health and welfare payments.

In the case of the state prison situation, the program employers would be charged minimal leasing fees for state property use and would receive tax incentives. The program is obviously anti-free enterprise employers.

As to inmate benefits, the work program will provide no lasting skills but will release the inmates upon completion of terms with no assurance that they have been trained for anything useful in the employment market.

Further, in state prisons both the convicts and supervising free workers of the employer will be under armed guard.

In the present gang-ridden environment of too many state prisons, the prospects of competitive violence will shadow the job operations.

Proposition 139 is turning back the clock of history to chain gang memories with controlled labor being exploited to the detriment of free labor and free business.

Lastly, it is a bureaucratic escape from the state government's duty to develop adequate vocational and apprenticeship training programs for the imparting of lasting skills in the important disciplines of the private labor market.

**JOHN F. HENNING**

*Executive Secretary-Treasurer, California Labor Federation*

**ALBIN J. GRUHN**

*President, California Labor Federation, AFL-CIO*

## Rebuttal to Argument Against Proposition 139

**DON'T BE FOOLED BY THE LIBERAL SPECIAL INTEREST GROUPS.** They come up with all kinds of excuses to cover up a simple fact: they don't think that criminals should have to work and earn their keep, just like the rest of us.

Inmates who work will:

—Provide restitution and compensation to their victims of crime.

—Reimburse the State or counties for a portion of their room and board costs.

—Pay federal, state and local taxes.

—Learn skills which may be used upon their return to free society.

● **INMATES WILL PERFORM THEIR JOBS INSIDE THE PRISON WALLS, NOT OUTSIDE.**

● Inmate labor program is patterned after a California Youth Authority program that has so far resulted in \$277,000 paid to victims, \$345,000 toward room and board costs, \$181,000 for income taxes, and a lower rate of repeat offenders returning to the system. And this four-year old program has had *no security* problems.

● Inmate employment will support emerging California industries and create, retain or reclaim jobs that are now being exported overseas.

We pay by being the victims of prisoners' crimes, then we pay \$2 BILLION a year to keep them in prison, while they sit around and do nothing to pay for their crime or reform themselves.

**JOIN THE MORE THAN ONE MILLION CALIFORNIANS WHO SIGNED OUR PETITIONS TO PUT THIS INITIATIVE ON THE BALLOT. END THE FELONS' FREE RIDE.**

**PUT PRISONERS TO WORK. VOTE YES ON PROPOSITION 139.**

**GEORGE DEUKMEJIAN**

*Governor, State of California*

**PETE WILSON**

*U.S. Senator, State of California*

**DAN LUNGREN**

*Attorney*

enforce that legal obligation. Any penalties or sanctions imposed under this Act shall be in addition to any penalties or sanctions otherwise prescribed by law.

(f) For purposes of this Act, "person" shall have the same meaning as in Section 26024 of the Health and Safety Code, and shall also include the United States, and its agencies and officials to the extent constitutionally permissible.

(g) Unless otherwise specifically provided in this Act, any action or proceeding to attack, review, set aside, void or annul a determination, finding, or decision, including a failure to act, of any public agency, on the grounds of non-compliance with the provisions of this Act must be brought within 30 days of any such act or decision of any public agency.

(h) (1) No action may be brought pursuant to subsection (g) unless the alleged grounds for non-compliance with this Act were presented to the public agency orally or in writing by the person bringing the action.

(2) No person shall maintain an action or proceeding unless that person objected to the action of the public agency orally or in writing.

(3) This subsection does not apply to the Attorney General.

(4) This subsection does not apply when there was no public hearing or other opportunity for members of the public to raise objections prior to the action of the agency being challenged or when the public agency failed to give the notice required by law.

(i) In any action or proceeding to attack, review, set aside, void or annul a determination, finding or decision of a public agency on grounds of non-compliance with the provisions of this Act, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.

(j) This initiative is inconsistent with, and intended as an alternative to specific provisions of the Environmental Protection Act of 1990, all of the terms of the Forest and Wildlife Protection and Bond Act of 1990, and all of the terms of any other initiative voted upon at the same election as this initiative which regulate registered professional foresters, timberland owners, timber owners, timber operators, or timber harvesting or which authorize or direct the condemnation of timberlands zoned for timber production and harvest or which modify the Z'berg-Nejedly Forest Practice Act or otherwise modify the authority or responsibility, or the method of appointment or composition, of the Board of Forestry or the Department of Forestry and Fire Protection. If this initiative and any such other inconsistent, alternative, or conflicting initiatives are passed by majorities voting thereon then the one with the most votes shall prevail.

1. The following specific provisions referred to in subparagraph (j) of the Environmental Protection Act of 1990 are inconsistent and in conflict with this

initiative and shall have no force and effect:

(i) Section 17, Chapter 5, Articles 1 and 2, being amendments to the Public Resources Code Sections 4801, 4802, 4803;

(ii) Section 17, Chapter 6, being amendments to the Public Resources Code Sections 4804-4817;

(iii) Section 17, Chapter 7, being amendments to the Public Resources Code Sections 4818 and 4819.

2. The following provisions of the Forest and Wildlife Protection and Bond Act of 1990 filed October 18, 1989, and revised November 6, 1989, are invalid and shall have no force and effect:

(i) Sections 1 through 8.

3. The following provisions of the Forest and Wildlife Protection and Bond Act of 1990 filed January 12, 1990 are invalid and shall have no force and effect:

(i) Section 1 through 23.

(k) It is the intent of the people that the provisions of this initiative measure constitute an integrated and comprehensive set of statutory provisions and amendments designed to strike a balance between the goal of environmental protection, including diminishment of global warming, wildlife protection, and the protection of old growth redwood, and the goal of providing forestry products for California's population and economy. The people find that these provisions present a balanced reform package and it is their intent that additional, simultaneous provisions related to the same subject not be placed on government agencies, registered professional foresters, timberland owners, timber owners, timber operators or the public. Accordingly, it is the intent of the people to implement this initiative measure to the exclusion of the Environmental Protection Act of 1990, the Forest and Wildlife Protection and Bond Act of 1990 filed October 18, 1989, and revised November 6, 1989, the Forest and Wildlife Protection and Bond Act of 1990 filed January 12, 1990, or any other conflicting initiative measure which may be adopted at the same time on the same subject. To that end, if this initiative measure receives a higher number of votes than the Environmental Protection Act of 1990, the Forest and Wildlife Protection and Bond Act of 1990, or another conflicting measure passed at the same election, such other initiative measures, to the extent they affect in any manner, planning, management, or implementation of timber protection or harvesting, the composition or authority of the Board of Forestry or the authority of the Department of Forestry and Fire Protection or the acquisition by the state of forestland or modifies the Z'berg-Nejedly Forest Practice Act, shall be deemed to be inconsistent and in conflict with this initiative measure within the meaning of Section 10, Subdivision (b) of Article II of the California Constitution.

## Proposition 139: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by repealing and adding sections thereto, and adds sections to the Government Code, the Penal Code, and the Revenue and Taxation Code; therefore, existing sections proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

#### PRISON INMATE LABOR INITIATIVE OF 1990

Section 1. This measure shall be known as the "Prison Inmate Labor Initiative of 1990."

Section 2. The people of the State of California find and declare that inmates who are confined in state prison or county jails should work as hard as the taxpayers who provide for their upkeep, and that those inmates may be required to perform work and services in order to do all of the following:

(a) Reimburse the State of California or counties for a portion of the costs associated with their incarceration.

(b) Provide restitution and compensation to the victims of crime.

(c) Encourage and maintain safety in prison and jail operations.

(d) Support their families to the extent possible.

(e) Learn skills which may be used upon their return to free society.

(f) Assist in their own rehabilitation in order to become responsible law-abiding citizens upon their release from state prison or local jail.

Section 3. Section 5 of Article XIV of the State Constitution is repealed.

~~SEC. 5. The labor of convicts shall not be let out by contract to any person, copartnership, company or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the state.~~

Section 4. Section 5 is added to Article XIV of the State Constitution to read:

SECTION 5. (a) *The Director of Corrections or any county Sheriff or other local government official charged with jail operations, may enter into contracts with public entities, nonprofit or for profit organizations, entities, or businesses for the purpose of conducting programs which use inmate labor. Such programs shall be operated and implemented pursuant to statutes enacted by or in accordance with the provisions of the Prison Inmate Labor Initiative of 1990, and by rules and regulations prescribed by the Director of Corrections and, for county jail programs, by local ordinances.*

(b) *No contract shall be executed with an employer that will initiate employment by inmates in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990. Total daily hours worked by inmates employed in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990, shall not exceed, for the duration of the strike, the average daily hours worked for the*

*preceding six months, or if the program has been in operation for less than six months, the average for the period of operation.*

(c) *Nothing in this section shall be interpreted as creating a right of inmate to work.*

Section 5. Article 1.5 is added to Chapter 5 of Title 1 of Part 3 of the Penal Code to read:

#### Article 1.5.

##### Joint Venture Program

###### 2717.1. Definitions.

(a) *For the purposes of this section, joint venture program means a contract entered into between the Director of Corrections and any public entity, nonprofit or for profit entity, organization, or business for the purpose of employing inmate labor.*

(b) *Joint venture employer means any public entity, nonprofit or for profit entity, organization, or business which contracts with the Director of Corrections for the purpose of employing inmate labor.*

2717.2. *The Director of Corrections shall establish joint venture programs within state prison facilities to allow joint venture employers to employ inmates confined in the state prison system for the purpose of producing goods or services. While recognizing the constraints of operating within the prison system, such programs will be patterned after operations outside of prison so as to provide inmates with the skills and work habits necessary to become productive members of society upon their release from state prison.*

2717.3. *The Director of Corrections shall prescribe by rules and regulations provisions governing the operation and implementation of joint venture programs, which shall be in furtherance of the findings and declarations in the Prison Inmate Labor Initiative of 1990.*

2717.4. *There is hereby established within the Department of Corrections the Joint Venture Policy Advisory Board. The Joint Venture Policy Advisory Board shall consist of the Director of Corrections, who shall serve as chair, the Director of the Employment Development Department, and five members, to be appointed by the Governor, three of whom shall be public members, one of whom shall represent organized labor and one of whom shall represent industry. Five members shall constitute a quorum and a vote of the majority of the members in office shall be necessary for the transaction of the business of the board. Appointed members of the board shall be compensated at the rate of two hundred dollars (\$200) for each day while on official business of the board and shall be reimbursed for necessary expenses. The initial terms of the members appointed by the Governor shall be for one year (one member), two years (two members), three years (one member), and four years (one member), as determined by the Governor. After the initial term, all members shall serve for four years.*

(b) *The board shall advise the Director of Corrections of policies that fulfill the purposes of the Prison Inmate Labor Initiative of 1990 to be considered in the implementation of joint venture programs.*

2717.5. *In establishing joint venture contracts the Director of Corrections shall consider the impact on the working people of California and give priority consideration to inmate employment which will retain or reclaim jobs in*

California, support emerging California industries, or create jobs for a deficient labor market.

2717.6. (a) No contract shall be executed with a joint venture employer that will initiate employment by inmates in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990.

(b) Total daily hours worked by inmates employed in the same job classification as non-inmate employees of the same joint venture employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990, shall not exceed, for the duration of the strike, the average daily hours worked for the preceding six months, or if the program has been in operation for less than six months, the average for the period of operation.

(c) The determination that a condition described in paragraph (b) above shall be made by the Director after notification by the union representing the workers on strike or subject to lockout. The limitation on work hours shall take effect 48 hours after receipt by the Director of written notice of the condition by the union.

2717.7. Notwithstanding Section 2812 of the Penal Code or any other provision of law which restricts the sale of inmate-provided services or inmate-manufactured goods, services performed and articles manufactured by joint venture programs may be sold to the public.

2717.8. The compensation of prisoners engaged in programs pursuant to contract between the Department of Corrections and joint venture employers for the purpose of conducting programs which use inmate labor shall be comparable to wages paid by the joint venture employer to non-inmate employees performing similar work for that employer. If the joint venture employer does not employ such non-inmate employees in similar work, compensation shall be comparable to wages paid for work of a similar nature in the locality in which the work is to be performed. Such wages shall be subject to deductions, as determined by the Director of Corrections, which shall not, in the aggregate, exceed 80 percent of gross wages and shall be limited to the following:

(1) Federal, state, and local taxes.

(2) Reasonable charges for room and board, which shall be remitted to the Director of Corrections.

(3) Any lawful restitution fine or contributions to any fund established by law to compensate the victims of crime of not more than 20 percent, but not less than 5 percent, of gross wages, which shall be remitted to the Director of Corrections for disbursement.

(4) Allocations for support of family pursuant to state statute, court order, or agreement by the prisoner.

Section 6. Section 14672.16 is added to the Government Code to read:

14672.16. (a) Notwithstanding Section 14670, the Director of General Services, with the consent of the Department of Corrections or the Department of the Youth Authority may let, in the best interest of the state, any real property located within the grounds of a facility of the Department of Corrections or the Department of the Youth Authority to a public or private entity for a period not to exceed 20 years for the purpose of conducting programs for the employment and training of prisoners or wards in institutions under the jurisdiction of the Department of Corrections or the Department of the Youth Authority.

(b) The lease may provide for the renewing of the lease for additional successive 10-year terms, but those additional terms shall not exceed three in number. Any lease of state property entered into pursuant to this section may be at less than market value when the Director of General Services determines it will serve a statewide public purpose.

Section 7. Section 17053.6 is added to the Revenue and Taxation Code to read:

17053.6. There shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to 10 percent of the amount of wages paid to each prisoner who is employed in a joint venture program established pursuant to Article 1.5 of Chapter 5 of Title 1 of Part 3 of the Penal Code, through agreement with the Director of Corrections.

Section 8. Section 23624 is added to the Revenue and Taxation Code to read: 23624. There shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount equal to 10 percent of the amount of wages paid to each prisoner who is employed in a joint venture program established pursuant to Article 1.5 of Chapter 5 of Title 1 of Part 3 of the Penal Code, through agreement with the Director of Corrections.

Section 9. If any provision of this measure or the application thereof to any person or circumstances is held invalid or unconstitutional, that invalidity shall not effect other provisions or applications of the measure which can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

Section 10. The statutory provisions contained in this measure may not be amended by the Legislature except to further its purposes by statute passed in each house by roll call vote entered in the journal, two thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

## Proposition 140: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by amending and adding sections thereof; therefore, new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

SECTION 1. This measure shall be known and may be cited as "The Political Reform Act of 1990."

SEC. 2. Section 1.5 is added to Article IV of the California Constitution, to read:

SEC. 1.5. *The people find and declare that the Founding Fathers established a system of representative government based upon free, fair, and competitive elections. The increased concentration of political power in the hands of incumbent representatives has made our electoral system less free, less competitive, and less representative.*

*The ability of legislators to serve unlimited number of terms, to establish their own retirement system, and to pay for staff and support services at state expense contribute heavily to the extremely high number of incumbents who are reelected. These unfair incumbent advantages discourage qualified candidates from seeking public office and create a class of career politicians, instead of the citizen representatives envisioned by the Founding Fathers. These career politicians become representatives of the bureaucracy, rather than of the people whom they are elected to represent.*

*To restore a free and democratic system of fair elections, and to encourage qualified candidates to seek public office, the people find and declare that the powers of incumbency must be limited. Retirement benefits must be restricted, state-financed incumbent staff and support services limited, and limitations placed upon the number of terms which may be served.*

SEC. 3. Section 2 of Article IV of the California Constitution is amended to read:

SEC. 2. (a) The Senate has a membership of 40 Senators elected for 4-year terms, 20 to begin every 2 years. *No Senator may serve more than 2 terms.*

The Assembly has a membership of 80 members elected for 2-year terms. *No member of the Assembly may serve more than 3 terms.*

Their terms shall commence on the first Monday in December next following their election.

(b) Election of members of the Assembly shall be on the first Tuesday after the first Monday in November of even-numbered years unless otherwise prescribed by the Legislature. Senators shall be elected at the same time and places as members of the Assembly.

A person is ineligible to be a member of the Legislature unless the person is an elector and has been a resident of the legislative district for one year, and a citizen of the United States and a resident of California for 3 years, immediately preceding the election.

(d) When a vacancy occurs in the Legislature the Governor immediately shall call an election to fill the vacancy.

SEC. 4. Section 4.5 is added to Article IV of the California Constitution, to read:

SEC. 4.5. *Notwithstanding any other provision of this Constitution or existing law, a person elected to or serving in the Legislature on or after November 1, 1990, shall participate in the Federal Social Security (Retirement, Disability, Health Insurance) Program and the State shall pay only the employer's share of the contribution necessary to such participation. No other pension or retirement benefit shall accrue as a result of service in the Legislature, such service not being intended as a career occupation. This Section shall not be construed to abrogate or diminish any vested pension or retirement benefit which may have accrued under an existing law to a person holding or having held office in the Legislature, but upon adoption of this Act no further entitlement to nor vesting in any existing program shall accrue to any such person, other than Social Security to the extent herein provided.*

SEC. 5. Section 7.5 is added to Article IV of the California Constitution, to read:

SEC. 7.5. *In the fiscal year immediately following the adoption of this Act, the total aggregate expenditures of the Legislature for the compensation of members and employees of, and the operating expenses and equipment for, the Legislature may not exceed an amount equal to nine hundred fifty thousand dollars (\$950,000) per member for that fiscal year or 80 percent of the amount of money expended for those purposes in the preceding fiscal year, whichever is less. For each fiscal year thereafter, the total aggregate expenditures may not exceed an amount equal to that expended for those purposes in the preceding fiscal year, adjusted and compounded by an amount equal to the percentage increase in the appropriations limit for the state established pursuant to Article XIII B.*

SEC. 6. Section 2 of Article V of the California Constitution is amended to read:

SEC. 2. The Governor shall be elected every fourth year at the same time and places as members of the Assembly and hold office from the Monday after January 1 following the election until a successor qualifies. The Governor shall be an elector who has been a citizen of the United States and a resident of this State for 5 years immediately preceding the Governor's election. *The Governor may not hold other public office. No Governor may serve more than 2 terms.*

SEC. 7. Section 11 of Article V of the California Constitution is amended to read:

SEC. 11. The Lieutenant Governor, Attorney General, Controller, Secretary of State, and Treasurer shall be elected at the same time and places and for the same term as the Governor. *No Lieutenant Governor, Attorney General, Controller, Secretary of State, or Treasurer may serve in the same office for more than 2 terms.*

SEC. 8. Section 2 of Article IX of the California Constitution is amended to read:

SEC. 2. A Superintendent of Public Instruction shall be elected by the qualified electors of the State at each gubernatorial election. The Superintendent of Public Instruction shall enter upon the duties of the office on the first Monday after the first day of January next succeeding each gubernatorial election. *No Superintendent of Public Instruction may serve more than 2 terms.*