1990

NEW PRISON CONSTRUCTION BOND ACT OF 1990-B

144 New Prison Construction Bond Act of 1990-B

Official Title and Summary

NEW PRISON CONSTRUCTION BOND ACT OF 1990-B

- 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 Votes Cast by the Legislature on AB 524 (Proposition 144)

Assembly:	Ayes 55	Senate:	Ayes 28
	Noes 13		Noes 7

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 July 1990, the prison system had room for 51,000 inmates, but housed 90,000 prisoners, resulting in an overcrowding level of 76 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, build more prisons and alter existing prisons. If this construction plan is completed by 1995, the prison system would have a capacity for 115,000 inmates and a population of 153,000 resulting in an overcrowding level of 34 percent. The department expects this construction work will cost about $4.8 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 June 1990, there were about 8,200 wards in youth correctional institutions. By mid-1994, the Department of the Youth Authority expects this number to increase to 8,600 wards. However, based on existing construction plans, these institutions at that time will have a capacity for 6,800 wards, resulting in an overcrowding level of 26 percent.

Proposal

This measure authorizes the state to sell $450 million of general obligation bonds. The money would be deposited in the 1990-B Prison Construction 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 personal income and corporate taxes and the state sales tax.

The proceeds in the 1990-B Prison Construction Fund would be used to buy land and construct, remodel, and maintain youth and adult correctional facilities, as determined by the Governor and the Legislature. Of the $450 million, $15 million would be used for the planning and construction of multipurpose, community-based facilities that will run programs designed to reduce drug use and violence in the state's prison system.

This measure also requires the Department of Corrections and the Department of the Youth Authority annually to submit five-year capital outlay plans to the Legislature and include in each plan a program of proposed expenditures from the 1990-B 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 annual payment would be about $34 million per year.

Cost to Operate New Prisons. The state will incur additional costs to operate new prisons constructed with these bond funds. These additional costs are unknown, but could be in the tens of millions of dollars annually.

For text of Proposition 144 see page 52

New Prison Construction Bond Act of 1990-B

Argument in Favor of Proposition 144

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 over 400 percent—from 23,000 to 95,000.

However, our state prisons are built to house 51,000 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 144 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 144.

GEORGE DEUKMEJIAN
Governor, State of California

ROBERT PRESLEY
State Senator, 36th District

WILLARD H. MURRAY, JR.
Member of the Assembly, 54th District

Rebuttal to Argument in Favor of Proposition 144

The proponents of Prop 144 have engineered today's failing $3 billion dollar prison system, and now they want us to pay even more for it!

Our prison budget has skyrocketed an average of 16% per year during the Deukmejian administration, while our education budget has averaged less than an 8% increase, and our services to needy families only a 5% increase.

Every dollar spent building and operating prisons is a dollar unavailable for perinatal services, parenting education, self-esteem development, literacy and vocational education, child abuse prevention, and substance abuse treatment—the front end solutions to our public safety problems.

We owe it to ourselves to invest in persons instead of prisons, to reduce conditions that breed criminals and make us all unsafe.

Our prisons don't deter crime, and they don't rehabilitate offenders. Half of the 95,000 inmates admitted to state prisons this year will be parole violators who have not committed new crimes.

A 1989 Department of Corrections report states: "The increasing number of short-term commitments being sent to state prison would appear to be an inappropriate use of state prison facilities in terms of cost to the public and opportunities to effect changes in inmate behavior."

Our Blue Ribbon Commission on Inmate Population Management unanimously endorsed 38 recommendations to address prison overcrowding. The Deukmejian administration opposes them all.

The bottom line: Put your vote and your money where hope is. Vote NO on Prop. 144!

ASSEMBLYMAN JOHN VASCONCELLOS
Chair, Assembly Ways and Means Committee

SENATOR ALFRED E. ALQUIST
Chair, Senate Budget Committee

VINCENT SCHIRALDI
Commissioner, Blue Ribbon Commission on Inmate Population Management

New Prison Construction Bond Act of 1990-B

144

Argument Against Proposition 144

Proposition 144 would authorize more bonds to raise more dollars to spend on more prisons—a terrible waste of our tax dollars.

Send a message to the Legislature and the Governor that we want our tax dollars invested in effective programs, not defective prisons. Vote NO on Proposition 144.

Every dollar spent on prisons is a dollar taken from the food, shelter, education and health care necessary to prepare our next generation to become law abiding adults. We must invest in people, not prisons.

In the 1980s, our California prison population increased from 20,000 to 90,000, our prison budget from $300 million to $3 billion, and we authorized $4 billion for new prisons. To what end? We are no safer. We are perpetuating conditions for criminal behavior by redirecting money from crucial education, prevention and treatment.

Of our 90,000 inmates, 70,000 have substance abuse problems. We treat only 3,000. Our average prison inmate reads at a fifth grade level. More than 20,000 inmates are illiterate. Yet only 8,000 receive academic ation. More than two-thirds of all inmates return to ison within two years. Our prison system is a dismal failure.

The $450 million in this proposition will cost an additional $400 million in interest. Operating these prisons—at $20,000 per bed per year—will cost us another $200 million *per year*. The total cost: $4.9 billion over the 20 year repayment period.

An exhaustive review of the state prison system by the California Blue Ribbon Commission on Inmate Population Management—appointed mostly by Gov. George Deukmejian—concluded this year that California's reliance on prisons has actually *reduced* public safety.

The goal of our criminal justice system must be to have fewer victims, not more inmates. We Californians need to get smart, as well as tough, on crime.

Your NO vote on Proposition 144—and on Propositions 129 and 133, which add another $1.2 billion for prison and jail construction, is a vote for a smarter use of our tax dollar and a safer California for us all.

SENATOR ALFRED E. ALQUIST
Chair, Senate Budget Committee

ASSEMBLYMEMBER JOHN VASCONCELLOS
Chair, Assembly Ways and Means Committee

VINCENT SCHIRALDI
Commissioner, Blue Ribbon Commission on Inmate Population Management

Rebuttal to Argument Against Proposition 144

Proposition 144 is a small price for California 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 180% over capacity, providing the constant potential for prison violence and court-ordered 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 144 will help to take more criminals out of your neighborhood. We urge you to vote YES for continued public safety by voting YES on Proposition 144.

GEORGE DEUKMEJIAN
Governor, State of California

ROBERT PRESLEY
State Senator, 36th District

WILLARD H. MURRAY, JR.
Member of the Assembly, 54th District

exchange of any bonds issued to refund either those bonds or any previously issued refunding bonds.

67359.4. 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 that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and the investment earnings on these proceeds, and the Treasurer shall be authorized to use or direct the use of these 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 require 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.

Proposition 144: Text of Proposed Law

This law proposed by Assembly Bill 524 (Statutes of 1990, Ch. 576) is submitted to the people in accordance with the provisions of Article XVI 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 17 (commencing with Section 7440) is added to Title 7 of Part 3 of the Penal Code, to read:

CHAPTER 17. NEW PRISON CONSTRUCTION BOND ACT OF 1990-B

7440. This chapter shall be known and may be cited as the New Prison Construction Bond Act of 1990-B.

7441. 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.

7442. (a) There is in the State Treasury the 1990-B Prison Construction Fund which is hereby created. The proceeds of the sale of bonds authorized by this chapter shall be deposited in the 1990-B Prison Construction 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 the 1990 Prison Construction Fund established by Section 7422, or any combination thereof may be funded from the 1990-B Prison Construction Fund created by this section. If appropriations are so carried forward, "fund" means the 1984 Prison Construction Fund, the 1986 Prison Construction Fund, the 1988 Prison Construction Fund, the 1990 Prison Construction Fund established by Section 7422, or the 1990-B Prison Construction Fund established by Section 7442, or any combination thereof, as is appropriate. At least 30 days prior to requesting that an appropriation be carried forward 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.

(b) Notwithstanding any provision of this chapter or the State General Obligation Bond Law as 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 that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer shall be authorized to maintain separate accounts for the investment of bond proceeds and the investment earnings on such proceeds, and the Treasurer shall be authorized to use or direct the use of those 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.

7443. The 1990-B 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 can 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 is the "board" for the purpose of the State General Obligation Bond Law and this chapter. When funds are appropriated to the Department of the Youth Authority, the Department of the Youth Authority is the "board" for the purpose of the State General Obligation Bond Law and this chapter.

7444. 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, or so much thereof as is necessary, which may be issued and sold to provide a fund to be used for carrying out the purposes expressed in Section 7446 and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

7445. 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.

7446. The moneys in the fund shall be used for the acquisition, construction, renovation, remodeling, and deferred maintenance of state youth and adult correctional facilities. Moneys deposited in the fund may also be used for the refinancing of interim debt incurred for any of the purposes specified in this section. Of the moneys deposited in the fund pursuant to this chapter, fifteen million dollars ($15,000,000) shall be used for planning and construction by, or under the supervision of, the Department of Corrections of multipurpose community-based facilities for programs designed to reduce drug use, recidivism, and violence in the state's prison system, including, but not limited to, restitution centers, facilities for the incarceration and rehabilitation of drug offenders, and centers for intensive programs for parolees and offenders with nonviolent records, as recommended by the Blue Ribbon Commission on Inmate Population Management.

7447. (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 punctual 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.

7448. 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 7449, which sum is appropriated without regard to fiscal years.

7449. 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.*

7450. 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.

7451. 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.

7452. All proceeds from the sale of bonds, except those derived from premiums and accrued interest, shall be available for the purpose provided in Section 7446, 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 other provision of this chapter, or the State General Obligation Bond Law (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 that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and the use of those bond proceeds, as may be required or desirable under federal law in order 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.

7453. 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-B Prison Construction Fund.

7454. 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.

Proposition 145: Text of Proposed Law

This law proposed by Senate Bill 2456 (Statutes of 1990, Ch. 577) is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

This proposed law amends, amends and renumbers, repeals, and adds sections to the Health and Safety 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

SEC. 2. Section 52501 of the Health and Safety Code is amended to read:

52501. This part shall be administered by the California Housing Finance Agency and all of the provisions of Part 3 (commencing with Section 50900) which are not inconsistent with the provisions of this part shall apply to the agency and its administration of this part. *In addition to the purposes of the agency specified in Sections 50154 and 50950, the purpose and role of the agency includes making available financing opportunities for first-time homebuyers in California in the manner provided in this part.*

SEC. 3. Section 52502 of the Health and Safety Code is repealed.

~~52502. The First/Time Home Buyers Policy Committee is hereby created within the agency for the purpose of exercising those powers and responsibilities of the agency as specifically set forth in this division and, in the exercise of those powers and responsibilities, the acts of the policy committee shall be the acts of the agency.~~

~~The members of the policy committee shall be subject to the provisions of Part 3 (commencing with Section 50900) in the same manner as members of the board of directors of the agency.~~

SEC. 4. Section 52504 of the Health and Safety Code is amended and renumbered to read:

52502. The First-Time Home Buyers Fund is hereby created in the State Treasury. "Fund," as used in this part, means the First-Time Home Buyers Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are hereby continuously appropriated to the agency, without regard to fiscal years, for expenditure pursuant to this part, and for defraying actual administrative costs of the agency. Notwithstanding the provisions of Section 16305.7 of the Government Code and Section 52530, any interest earned or other increment derived from investments made from moneys in the fund shall be deposited in the fund. The agency may pledge any or all of the moneys in the fund as security for payment of the principal of, and interest on, and redemption premiums on, bonds issued pursuant to this part, and for such purpose or as necessary or convenient to the accomplishment of any other purpose of the agency pursuant to this part, may divide the fund into separate accounts. All moneys accruing to the agency pursuant to this part from whatever source shall be deposited in the fund.

SEC. 5. Section 52506 of the Health and Safety Code is repealed.

~~52506. The agency shall have the power to adopt, and from time to time to amend and repeal, by action of the policy committee, rules and regulations, not inconsistent with the provisions of this part, to carry into effect the powers and purposes of the agency pursuant to this part and the conduct of its business. Rules and regulations of the agency shall be adopted, amended, repealed, and published in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.~~

SEC. 6. Section 52506 is added to the Health and Safety Code, to read:

52506. The agency may, by resolution of the board, adopt, amend, and repeal rules to effectuate the powers and purposes of the agency and for the administration of the mortgage loan program authorized pursuant to this part.

SEC. 7. Chapter 2 (commencing with Section 52510) of Part 6 of Division 31 of the Health and Safety Code is repealed.

~~CHAPTER 2. BUY/DOWN MORTGAGE PLAN~~

~~52510. The agency may contract with qualified mortgage lenders with respect to mortgage loans qualified under this part to pay to such lenders, subject to the provisions of Section 52513, a sum of money as consideration for a reduction of the effective interest cost to the purchaser of an owner/occupied housing unit below market interest rates.~~

~~The buy/down mortgage program conducted under this part may be applicable to and include mortgage revenue bond financed programs. With respect to mortgage revenue bond financed programs, "market interest rate" means the effective mortgage interest rate to the borrower without the buy/down authorized by this part.~~

~~52511. The agency may make commitments to qualified mortgage lenders to make contracts for buy/down mortgage plans which conform to this part.~~

~~The agency may require the payment to the agency of a commitment fee to cover agency costs in extending such commitments and associated administrative costs; except that the total of commitment fees pursuant to this section and the projected recovery of administrative costs pursuant to Sections 52512 and 52514 shall not exceed the costs reasonably expected, in a prudent manner, to be incurred by the agency in the implementation of this part.~~

~~Commitments shall be made by the agency, acting through the policy committee, in a manner to best serve the purposes of this part and the interests of the first/time home buyer in the various geographical areas of this state, in varying forms of ownership where feasible, and including purchase of previously occupied housing, existing but not previously occupied housing, and housing to be constructed (with preference to housing which can be marketable within three months of the date of the commitment).~~

~~52512. The mortgage loan by a qualified mortgage lender for which a buy/down contract may be executed by the agency shall be in such form as determined by the regulations of the agency adopted by the policy committee. Such a loan shall be for a term of not less than six years or more than 30 years, but the repayments of principal and interest on such loan may be scheduled to provide for amortization in 30 years subject to a balloon payment at the end of the loan term. Such loan shall bear a fixed interest rate yield to the qualified mortgage~~