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Prisoners. Joint Venture Program. Unemployment
Benefits. Parole.

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**Prisoners. Joint Venture Program.
Unemployment Benefits. Parole.
Legislative Initiative Amendment.**

Official Title and Summary Prepared by the Attorney General

**PRISONERS. JOINT VENTURE PROGRAM.
UNEMPLOYMENT BENEFITS. PAROLE.
LEGISLATIVE INITIATIVE AMENDMENT.**

- Provides that prisoner's employment in a joint venture program while in prison does not entitle the prisoner to unemployment benefits upon release from prison.

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

- Probably minor overall fiscal effect.

Final Votes Cast by the Legislature on SB 103 (Proposition 194)

Assembly: Ayes 44	Senate: Ayes 35
Noes 15	Noes 0

Analysis by the Legislative Analyst

Background

In November 1990, the California voters approved Proposition 139 which established the Joint Venture Program in the state prison system. Under this program, businesses may contract with the California Department of Corrections to hire inmates to produce, on the grounds of state prisons, various goods and services for sale. In 1995, about 200 inmates participated in Joint Venture businesses at any one time.

The Joint Venture Program generates revenues and savings to the state. For example, up to 80 percent of an inmate's Joint Venture wages is subject to: (1) federal, state, and local taxes; (2) payment of restitution to crime victims; (3) withholding for support of the prisoner's family; and (4) reimbursement to the state for the inmate's cost of room and board. Many inmates working in Joint Venture businesses are also eligible to earn credits that reduce the length of time they serve in prison, thereby reducing incarceration costs.

In general, businesses that participate in the Joint Venture Program pay the same types of taxes as firms not involved in the program. Among these taxes are unemployment insurance taxes, which support the state Unemployment Insurance program. This program pays unemployment benefits to workers who lose their jobs through no fault of their own. The state tax rate paid by employers to support the Unemployment Insurance program is higher for businesses whose former employees are frequently paid unemployment benefits than for businesses which generate fewer benefit payments. Existing law provides that inmates are eligible to collect unemployment benefits after their release from state prison on the basis of their employment in the Joint Venture Program. As a result, some Joint Venture businesses may eventually pay higher Unemployment Insurance taxes.

Federal law permits all California businesses to receive a federal tax credit which lowers their federal unemployment tax payments. In order for California businesses to receive this tax credit, the state's Unemployment Insurance program must conform to federal standards.

Proposal

This measure prohibits an inmate who participates in the Joint Venture Program, and is then released from state prison, from collecting unemployment insurance benefits based upon his or her participation in a Joint Venture business.

Fiscal Effect

The measure prohibits unemployment benefit payments to former inmates based on their participation in the Joint Venture Program. Thus, this measure is likely to result in a reduction in expenditures for the state Unemployment Insurance program, as well as a reduction in the taxes paid by businesses to support the Unemployment Insurance program. To the extent that this measure encourages increased business participation and thereby increased inmate employment in the Joint Venture Program, it is likely to generate additional revenues and payments to the state to offset a portion of the cost of the program. The overall fiscal effect of the measure is likely to be minor.

Federal authorities have initially advised the state that denial of unemployment benefits to former inmates who worked for Joint Venture businesses may violate federal standards. If federal authorities ultimately make such a determination, California businesses would risk the loss of their federal tax credits.

For the text of Proposition 194 see page 56

Prisoners. Joint Venture Program. Unemployment Benefits. Parole. Legislative Initiative Amendment.

Argument in Favor of Proposition 194

A yes vote on Proposition 194 will STOP released prisoners from perpetrating yet another crime on Californians: *collecting unemployment checks upon release from prison!*

The Joint Venture Program (JVP) was passed by voters in 1990, allowing businesses to set up operations inside prisons. The intent of JVP was many fold:

- To benefit businesses by lowering their costs to the consumer
- To benefit taxpayers by helping defray the costs of incarceration
- To benefit victims through a restitution program
- To benefit the prisoners by providing them savings and a marketable trade

JVP WAS NEVER INTENDED TO PROVIDE AN AVENUE TO FLEECE BUSINESSES AND TAXPAYERS OUT OF MORE OF THEIR HARD-EARNED MONEY, BUT THAT IS WHAT IS HAPPENING.

Due to a loophole in state law, JVP employers are required to pay prisoners' unemployment insurance while the prisoners serve as employees. Once those prisoners are paroled, they can actually collect unemployment benefits; a fact which offends all notions of common sense! A yes vote on Proposition 194 will stop this nonsense.

THE UNEMPLOYMENT INSURANCE SYSTEM WAS NEVER INTENDED FOR MISUSE BY PRISONERS WHO WERE NOT LAID-OFF, BUT SIMPLY PAROLED OUT OF THEIR JOBS. THEY SHOULD NOT BE ENTITLED TO UNEMPLOYMENT BENEFITS, PERIOD!

Prisoners who work for JVP companies are *ENTITLED*, and in fact do collect unemployment checks

when paroled. The more unemployment checks that are cashed by paroled inmates, the higher the unemployment insurance premiums JVP businesses must pay for all their employees. This cost is not only an impediment for both businesses currently involved in the program and for those wishing to participate, it is an affront to the taxpayers as well. Proposition 194 will solve this problem by closing once and for all this abusive loophole.

Although the opponents of Proposition 194 argue that unemployment insurance benefits keep people from committing crimes upon release, this is simply not true. The fact is, the JVP participants are required to save 20% of their income for future release. Moreover, one must remember that the reason the prisoner was incarcerated was to pay a DEBT to society, not to reap unearned unemployment benefits. A fact the opponents too often lose sight of. A fact that costs ALL California workers!

If you want prisoners to be productive while they pay their debt to society, not reap another unmerited benefit, vote yes on Prop. 194.

Proposition 194 is supported by The California Taxpayers Association, business groups, victim's rights organizations, law enforcement, the state Department of Corrections, and COMMON SENSE.

Vote YES on Prop. 194.

ROB HURTT
Senate Republican Leader

TOM McCLINTOCK
Taxpayer Advocate

JEFF THOMPSON
Legislative Director, California Correctional Peace Officers Association (CCPOA)

Rebuttal to Argument in Favor of Proposition 194

Proponents of Proposition 194 imply that prisoners who work on forest fire suppression crews, in cafeterias, or in the laundry do not pay for and receive unemployment insurance. Because such work is of great value, it is not only fair, but in the interest of all Californians that those prisoners are now minimally compensated during an employment change resulting from a justifiable change in residence, just as other workers are.

Prison gives inmates important work experience and exposure to the fringe benefits of working. Unemployment insurance has been part of the fringe benefit package for prisoners for years. What the proponents of 194 really want is an exception from the general rule for the benefit of companies taking advantage of the Joint Venture prison labor program.

Consider the benefits Joint Venture Program (JVP) companies already receive for work done by prisoners:

RENT—The rent JVP employers pay is below the market rate, often **DRASTICALLY LOWER**.

TAXES—JVP employers receive a 10% tax **CREDIT**, far more valuable than a mere deduction.

BENEFITS—JVP employers do not have to pay for health and dental benefits for prisoners. Instead, taxpayers like us pay for these benefits.

As you can see, JVP employers get substantial advantages. Rather than being content with the benefits that taxpayers already have given them, they are asking for an exemption from rules all other employers adhere to. Thankfully, by voting **NO ON PROPOSITION 194** we can prevent damage to this successful program.

STEPHEN C. BIRDLEBOUGH
Member, Friends Committee on Legislation

**Prisoners. Joint Venture Program.
Unemployment Benefits. Parole.
Legislative Initiative Amendment.**

194

Argument Against Proposition 194

The safety of the public and the rights of victims demand a "NO" vote on Proposition 194. Public safety suffers when inmates leaving prison cannot plan on a stable source of minimal income until they find a job. Victims' rights suffer when inmates are not sufficiently reintegrated into society to pay full restitution. By preventing certain inmates from obtaining unemployment insurance, this measure would impair both public safety and the rights of victims of crime.

The law provides unemployment insurance for working prisoners because they often have great difficulty finding employment immediately upon release. Unemployment is a special problem for inmates released during an economic downturn when there is likely to be a weak job market. Without financial resources to fall back on, ex-prisoners would be more likely to return to crime to support themselves.

Unemployment insurance for an inmate who works for a private employer in a joint venture with the prison **DOES NOT COST TAXPAYERS ONE CENT.** It is paid for by the regular contributions of the employed prisoner and the private employer.

It is shortsighted simply to focus on the in-prison aspects of the Joint Venture Program, and to change it to

impair the ability of discharged inmates to maintain themselves and pay restitution to the victims of their crimes while they are trying to find work.

While some might like you to believe that the existing law treats Joint Venture employers unfairly, remember that they receive below-market rents, a 10% tax credit, and are not required to pay health and dental benefits for inmate labor.

Enormous amounts of energy and talent are currently going to waste in prisons, but government and victims need not come out on the short end of negotiations over how much money Joint Venture companies make from the work of prisoners. Instead, prison inmates who work in Joint Venture Programs should have the same chances as other working people to put those skills to work after they leave the institution.

Let's not impair programs which enable released prisoners to restore themselves as productive members of society and which reduce the likelihood that they will commit future crimes.

Vote "NO" on Proposition 194.

STEPHEN C. BIRDLEBOUGH
Member, Friends Committee on Legislation

Rebuttal to Argument Against Proposition 194

Through an unintended loophole in the Joint Venture Program (JVP) law, prisoners are granted an unemployment benefits package once they are released from state prison. Proposition 194, simply closes that loophole.

Opponents, including prisoner-rights activists and bureaucrats, want you to believe something different.

FALSE CLAIM

Proposition 194 would impair both public safety and the rights of victims of crime.

FACT

ABSURD: TWENTY PERCENT of the money earned by an inmate goes into a savings account which is his/her money upon release. In addition, another 20% goes into a victim restitution fund.

FALSE CLAIM

Unemployment insurance for the JVP inmates does not cost the taxpayers one cent.

FACT

NOT TRUE: Unemployment insurance costs incurred by businesses are simply passed on to the taxpayer.

FALSE CLAIM

Prison inmates who work in the JVP should have the same chances as other working people to put those skills to work after they leave the institution.

FACT

THEY DO: Proposition 194 does absolutely **NOTHING** to prevent prisoners from putting their skills to work once they are released. In fact, this measure will encourage more businesses to participate in the JVP, thereby broadening the trades available to inmates.

Proposition 194 will **STOP** the abuse of the unemployment insurance system by undeserving state prisoners!

YES ON 194!

ROB HURTT
Senate Republican Leader
DEAN ANDAL
Member, State Board of Equalization
HOWARD KALOGIAN
Member, California State Assembly, 74th District

for investment earnings, order the payment of those earnings to comply with any rebate requirement applicable under federal law, and may otherwise direct the use and investment of those proceeds 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.

8879.17. The Director of Transportation shall report annually to the Governor and the Legislature regarding the funds available for seismic retrofit projects and the expenditure of bond proceeds.

Proposition 193: Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 17 (Statutes of 1994, Resolution Chapter 110) expressly amends the Constitution by amending a section thereof; therefore, existing provisions 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 AMENDMENT TO SUBDIVISION (h) OF SECTION 2 OF ARTICLE XIII A

(h) (1) For purposes of subdivision (a), the terms "purchased" and "change of ownership" shall not include the purchase or transfer of the principal residence of the transferor in the case of a purchase or transfer between parents and their children, as defined by the Legislature, and the purchase or transfer of the first \$1,000,000 of the full cash value of all other real property between parents and their children, as defined by the Legislature. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.

(2) (A) *Subject to subparagraph (B), commencing with purchases or transfers that occur on or after the date upon which the measure adding this paragraph*

becomes effective, the exclusion established by paragraph (1) also applies to a purchase or transfer of real property between grandparents and their grandchild or grandchildren, as defined by the Legislature, that otherwise qualifies under paragraph (1), if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of the purchase or transfer.

(B) *A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (1), and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence, shall be included in applying, for purposes of subparagraph (A), the one million dollar (\$1,000,000) full cash value limit specified in paragraph (1).*

Proposition 194: Text of Proposed Law

This law proposed by Senate Bill 103 (Statutes of 1995, Chapter 440) is submitted to the people in accordance with the provisions of Article II, Section 10 of the Constitution.

This proposed law adds a section 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. Section 2717.9 is added to the Penal Code, to read:

2717.9. Notwithstanding any other provision of law, a prisoner who participates in a joint venture program is ineligible for unemployment benefits upon his or her release from prison based upon participation in that program.

Proposition 195: Text of Proposed Law

This law proposed by Senate Bill 32 (Statutes of 1995, Chapter 477) is submitted to the people in accordance with the provisions of Article II, Section 10 of the Constitution.

This proposed law amends a section of the Penal Code; therefore, existing provisions 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

SECTION 1. Section 190.2 of the Penal Code is amended to read:

190.2. (a) The penalty for a defendant *who is found guilty of murder in the first degree shall be death or confinement imprisonment in the state prison for a term of life without the possibility of parole in any case in which if* one or more of the following special circumstances has been found under Section 190.4; to be true:

(1) The murder was intentional and carried out for financial gain.

(2) The defendant was ~~previously convicted previously~~ of murder in the first degree or second degree. For the purpose of this paragraph, an offense committed in another jurisdiction, which if committed in California would be punishable as first or second degree murder, shall be deemed murder in the first or second degree.

(3) The defendant ~~has~~, in this proceeding, *has* been convicted of more than one offense of murder in the first or second degree.

(4) The murder was committed by means of a destructive device, bomb, or explosive planted, hidden, or concealed in any place, area, dwelling, building, or structure, and the defendant knew, or reasonably should have known, that his or her act or acts would create a great risk of death to ~~a human being one or more~~ human beings.

(5) The murder was committed for the purpose of avoiding or preventing a lawful arrest ~~or to perfect, or attempt, or perfecting or attempting to perfect~~, an escape from lawful custody.

(6) The murder was committed by means of a destructive device, bomb, or explosive that the defendant mailed or delivered, attempted to mail or deliver, or ~~cause caused~~ to be mailed or delivered, and the defendant knew, or reasonably should have known, that his or her act or acts would create a great risk of death to ~~a human being one or more~~ human beings.

(7) The victim was a peace officer, as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.4, 830.5, 830.6, 830.10, 830.11, or 830.12, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties; or the victim was a peace officer, as defined in the ~~above enumerated above-enumerated~~ sections of the Penal Code, or a former peace officer under any of ~~such those~~ sections, and was intentionally killed in retaliation for the performance of his or her official duties.

(8) The victim was a federal law enforcement officer or agent; who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a federal law enforcement officer or agent; engaged in the performance of his or her duties; or the victim was a federal law enforcement officer or agent, and was intentionally killed in retaliation for the performance of his or her official duties.

(9) The victim was a firefighter, as defined in Section 245.1, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a firefighter engaged in the performance of his or her duties.

(10) The victim was a witness to a crime who was intentionally killed for the purpose of preventing his or her testimony in any criminal or juvenile proceeding, and the killing was not committed during the commission; or attempted commission; of the crime to which he or she was a witness; or the victim was a witness to a crime and was intentionally killed in retaliation for his or her testimony in any criminal or juvenile proceeding. As used in this paragraph, "juvenile proceeding" means a proceeding brought pursuant to Section 602 or 707 of the Welfare and Institutions Code.

(11) The victim was a prosecutor or assistant prosecutor or a former prosecutor or assistant prosecutor of any local or state prosecutor's office in this state or any other state, or of a federal prosecutor's office, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(12) The victim was a judge or former judge of any court of record in the local, state, or federal system in ~~the State of California, or in this or any other state of the United States~~, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(13) The victim was an elected or appointed official or former official of the federal government, ~~or of a any local or state government of California, or of any local or state government of any other state in the United States this or any other state~~, and the killing was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(14) The murder was especially heinous, atrocious, or cruel, manifesting exceptional depravity. As ~~utilized used~~ in this section, the phrase ~~especially especially~~ heinous, atrocious, or cruel, manifesting exceptional ~~depravity depravity~~ means a conscienceless; or pitiless crime ~~which that~~ is unnecessarily torturous to the victim.

(15) The defendant intentionally killed the victim while lying in wait.

(16) The victim was intentionally killed because of his or her race, color, religion, nationality, or country of origin.

(17) The murder was committed while the defendant was engaged in, or was an accomplice in, the commission of, attempted commission of, or the immediate flight after committing, or attempting to commit, the following felonies: