

AMENDED IN SENATE MARCH 15, 2010

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 552

Introduced by Assembly Member ~~Furutani~~ Solorio

February 25, 2009

~~An act to amend Section 3003.5 of the Penal Code, relating to sex offenders.~~ *An act to amend Sections 15819.40, 15819.401, 15819.41, and 15819.411 of the Government Code, and to amend Section 7021 of the Penal Code, relating to correctional facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 552, as amended, ~~Furutani~~ Solorio. ~~Sex offenders.~~ *Correctional facilities.*

Existing law, the Public Safety and Offender Rehabilitation Services Act of 2007, authorized certain revenue bond construction of prison facilities. The act, among other things, authorized the Department of Corrections and Rehabilitation to design, construct, or renovate prison housing units, prison support buildings, and programming space in order to add new beds at existing adult correctional facilities. It also authorized the department to construct and establish new buildings at existing facilities under the jurisdiction of the department to provide medical, dental, and mental health treatment or housing, as specified.

This bill would additionally authorize the Department of Corrections and Rehabilitation to develop beds and treatment space to serve inmates

requiring mental health or medical services. The bill would provide that any beds developed with a medical or mental health purpose shall be supported with rehabilitative programming to the extent it is consistent with the medical or mental health services to be delivered. The bill would authorize the department, in addition to designing and constructing new buildings at existing facilities for medical, dental, and mental health treatment, to renovate existing buildings at existing facilities for medical, dental, and mental health treatment as well as to design, construct, or renovate any ancillary improvements, as specified. The bill would also make changes regarding the calculation of design-build project augmentations from these funds.

Because this bill would authorize different uses of continuously appropriated bond moneys, it would make an appropriation.

Although existing law allows the State Public Works Board to issue revenue bonds, negotiable notes, or negotiable bond anticipation notes for the purposes above, it forbids the board to release specified funds until a 3-member panel, composed as specified, certifies that certain conditions have been met.

This bill would alter one of those conditions.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law, as amended by Proposition 83, adopted by the voters at the November 7, 2006, statewide general election, makes it unlawful for any person who is required to register with law enforcement pursuant to a specified provision of the Sex Offender Registration Act to reside within 2,000 feet of any public or private school, or park where children regularly gather.~~

~~This bill would provide that this residency limitation applies regarding any public or private school including any or all of kindergarten and grades 1 to 12, inclusive. This bill would provide that the distance between the location where a registrant resides and a school or park, as specified, shall be measured property line to property line by the closest publicly accessible route. The initiative statute provides that any amendment of these provisions by the Legislature shall require a $\frac{2}{3}$ vote of the membership of each house unless the amendment expands the scope of its application or increases the punishments or penalties in which case it may be amended by a statute passed by majority vote of each house. Because this bill would amend the initiative statute to limit the scope of its application, it would require a $\frac{2}{3}$ vote.~~

Vote: $\frac{2}{3}$. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 15819.40 of the Government Code is*
2 *amended to read:*

3 15819.40. (a) (1) (A) The Department of Corrections and
4 Rehabilitation may design, construct, or renovate housing units,
5 support buildings, and programming space in order to add up to
6 12,000 beds at facilities under its jurisdiction. The department
7 shall complete site assessments at facilities at which it intends to
8 construct or renovate additional housing units, support buildings,
9 and programming space. The department may use the funding
10 provided in Section 28 of Chapter 7 of the Statutes of 2007 to
11 complete these site assessments. After completing these site
12 assessments, the department shall define the scope and cost of each
13 project pursuant to subdivision (d).

14 (B) The authority contained in subparagraph (A) may be used
15 to develop new beds including appropriate programmatic space
16 pursuant to paragraph (2) ~~of subdivision (a)~~ and, together with the
17 funds appropriated in Section 15819.403 for this purpose, shall
18 constitute the scope of a single capital outlay project for purposes
19 of calculating augmentations pursuant to Section 13332.11 *or*
20 *Section 13332.19* as described in Section 15819.401.

21 (2) Any new beds constructed pursuant to this section shall be
22 supported by rehabilitative programming for inmates, including,
23 but not limited to, education, vocational programs, substance abuse
24 treatment programs, employment programs, and prerelease
25 planning.

26 (3) The purpose of beds constructed pursuant to this section is
27 to replace the temporary beds currently in use, and they are not
28 intended to house additional inmates. For the purposes of this
29 section, "temporary beds" shall be defined as those that are placed
30 in gymnasiums, classrooms, hallways, or other public spaces that
31 were not constructed for the purpose of housing inmates.

32 (4) *Notwithstanding paragraphs (2) and (3), the authority*
33 *contained in this subdivision may be used to develop beds and*
34 *treatment space to serve inmates requiring mental health or*
35 *medical services. Any beds developed with a medical or mental*

1 *health purpose shall be supported with rehabilitative programming*
2 *to the extent it is consistent with the medical or mental health*
3 *services to be delivered.*

4 (b) The Department of Corrections and Rehabilitation may
5 acquire land, design, construct, and renovate reentry program
6 facilities to provide housing for up to 6,000 inmates as authorized
7 in Chapter 9.8 (commencing with Section 6271) of the Penal Code
8 and, together with the funds appropriated in Section 15819.403
9 for this purpose, this shall constitute the scope and cost of a single
10 capital outlay project for purposes of calculating augmentations
11 pursuant to Section 13332.11 *or Section 13332.19* as described in
12 Section 15819.401.

13 (c) The Department of Corrections and Rehabilitation is
14 authorized to ~~design, construct, and establish new buildings~~ *design*
15 *and construct new, or renovate existing, buildings and any*
16 *necessary ancillary improvements,* at facilities under the
17 jurisdiction of the department to provide medical, dental, and
18 mental health treatment or housing for up to 6,000 inmates and,
19 together with the funds appropriated in Section 15819.403 for this
20 purpose, this shall constitute the scope and cost of a single capital
21 outlay project for purposes of calculating augmentations pursuant
22 to Section 13332.11 *or Section 13332.19* as described in Section
23 15819.401.

24 (d) (1) The reporting requirements set forth in Sections 7000
25 to 7003.5, inclusive, of the Penal Code, shall apply separately to
26 each institution or facility. The scope and cost of the project for
27 each institution or facility shall be established individually by the
28 State Public Works Board. The amount of the total appropriations
29 in Section 15819.403 that is necessary for each project shall be
30 allocated to each institution or facility project. The appropriations
31 may be allocated based on current estimates. These initial
32 allocations may be adjusted commensurate to changes that occur
33 during the progression of the projects. As allocations are made or
34 adjusted, the anticipated deficit or savings shall be continuously
35 tracked and reported. Once the total appropriation has been
36 allocated, any augmentation necessary to fund an anticipated deficit
37 shall be based on the total applicable capital outlay appropriation
38 in Section 15819.403 and applied to each project allocation as
39 necessary.

1 (2) For each institution, the Department of Corrections and
2 Rehabilitation shall report to the Joint Legislative Budget
3 Committee identifying those projects that the department proposes
4 to undertake, and any support buildings, and programming space
5 to support up to 12,000 new beds. For each institution, the
6 department shall describe the scope, budget, schedule, number of
7 beds by security level, along with approximate square footage of
8 support buildings, and programming space to be constructed or
9 renovated. If after providing these reports, the committee fails to
10 take any action with respect to each report within 30 days after
11 submittal, this inaction shall be deemed to be approval for purposes
12 of this section, and the department is authorized to proceed to
13 design, construct, or renovate housing units, support buildings,
14 and programming space for each institution for which a report has
15 been approved.

16 (3) The department shall notify the Joint Legislative Budget
17 Committee 45 days prior to the submission of preliminary plans
18 to the board for each project authorized in this section. If after
19 providing these notifications, the committee fails to take any action
20 with respect to each report within 45 days after submittal, this
21 inaction shall be deemed to be approval for purposes of this section,
22 and the department is authorized to design, construct, or renovate
23 housing units, support buildings, and programming space for each
24 institution for which a report has been approved.

25 (4) The Department of Corrections and Rehabilitation shall
26 report quarterly to the Joint Legislative Budget Committee on the
27 allocations from the appropriations in Section 15819.403 and the
28 anticipated deficit or savings. Each reentry program facility
29 authorized under subdivision (b) shall be considered to be a
30 separate project for reporting purposes pursuant to Sections 7000
31 and 7003.5 of the Penal Code. Each medical, mental health, or
32 dental building improvement authorized under subdivision (c)
33 shall be considered to be a separate project, except that building
34 improvements that have a related purpose and that are located at
35 the same institution may be considered one project, for reporting
36 purposes pursuant to Sections 7000 and 7003.5 of the Penal Code.

37 *SEC. 2. Section 15819.401 of the Government Code is amended*
38 *to read:*

39 15819.401. The scope and costs of the projects authorized by
40 this chapter shall be subject to approval and administrative

1 oversight by the State Public Works Board, including
2 augmentations, pursuant to Section 13332.11 *or Section 13332.19*.
3 For purposes of this chapter, the availability of an augmentation
4 for each individual project allocation shall be calculated based on
5 the total applicable capital outlay appropriation contained in
6 Section 15819.403 and is not limited to 20 percent of the individual
7 project allocation.

8 *SEC. 3. Section 15819.41 of the Government Code is amended*
9 *to read:*

10 15819.41. (a) The Department of Corrections and
11 Rehabilitation shall complete site assessments at facilities where
12 it intends to construct or renovate additional housing units, support
13 buildings, and programming space in order to add up to 4,000 beds
14 at facilities under its jurisdiction. The department may use the
15 funding provided in Section 28 of Chapter 7 of the Statutes of 2007
16 to complete the site assessments. After completing these site
17 assessments the department shall define the scope and costs of
18 each project pursuant to subdivision (d). This authorization is in
19 addition to the authorization in subdivision (a) of Section 15819.40.
20 Any new beds constructed shall be supported by rehabilitative
21 programming for inmates, including, but not limited to, education,
22 vocational programs, substance abuse treatment programs,
23 employment programs, and prerelease planning. The Department
24 of Corrections and Rehabilitation is authorized to design, construct,
25 or renovate housing units, support buildings, and programming
26 space in order to add up to 4,000 beds at facilities under its
27 jurisdiction. This authorization is in addition to the authorization
28 in subdivision (a) of Section 15819.40. Any new beds constructed
29 shall be supported by rehabilitative programming for inmates,
30 including, but not limited to, education, vocational programs,
31 substance abuse treatment programs, employment programs, and
32 prerelease planning. *The authority in this subdivision may also be*
33 *used to develop beds and treatment space to serve inmates*
34 *requiring mental health or medical services. Any beds developed*
35 *with a medical or mental health purpose shall be supported with*
36 *rehabilitative programming to the extent it is consistent with the*
37 *medical or mental health services to be delivered. The authority*
38 *contained in this subdivision together with the funds appropriated*
39 *in Section 15819.413 for this purpose, shall constitute the scope*
40 *and cost of a single capital outlay project for purposes of*

1 calculating augmentations pursuant to Section 13332.11 *or Section*
2 *13332.19* as described in Section 15819.411.

3 (b) The Department of Corrections and Rehabilitation is
4 authorized to design and construct new, or renovate existing,
5 buildings *and any necessary ancillary improvements*, at facilities
6 under the jurisdiction of the department to provide medical, dental,
7 and mental health treatment or housing for up to 2,000 inmates.
8 This authorization is in addition to the authorization in subdivision
9 (c) of Section 15819.40. The authority contained in this subdivision
10 together with the funds appropriated in Section 15819.413 for this
11 purpose, shall constitute the scope and cost of a single capital
12 outlay project for purposes of calculating augmentations pursuant
13 to Section 13332.11 *or Section 13332.19* as described in Section
14 15819.411.

15 (c) The Department of Corrections and Rehabilitation is
16 authorized to *acquire land, design, construct, establish, and operate*
17 *and renovate* reentry program facilities throughout the state that
18 will house up to 10,000 inmates pursuant to Section 6271.1 of the
19 Penal Code, and together with the funds appropriated in Section
20 15819.413 for this purpose, this shall constitute the scope and cost
21 of a single capital outlay project for purposes of calculating
22 augmentations pursuant to Section 13332.11 *or Section 13332.19*
23 as described in Section 15819.411.

24 (d) (1) The reporting requirements set forth in Sections 7000
25 to 7003.5, inclusive, of the Penal Code, shall apply separately to
26 each institution or facility. The scope and cost of the project for
27 each institution or facility shall be established by the State Public
28 Works Board individually. The amount of the total appropriations
29 in Section 15819.413 that is necessary for each project shall be
30 allocated to each institution or facility project. The appropriations
31 may be allocated based on current estimates. These initial
32 allocations may be adjusted commensurate to changes that occur
33 during the progression of the projects. As allocations are made or
34 adjusted, the anticipated deficit or savings shall be continuously
35 traced and reported. Once the total appropriation has been allocated,
36 any augmentation necessary to fund an anticipated deficit shall be
37 based on the total applicable capital outlay appropriation in Section
38 15819.413 and applied to each project allocation as necessary.

39 (2) For each institution, the department shall report to the Joint
40 Legislative Budget Committee, identifying those projects that the

1 department proposes to undertake, and any support buildings, and
2 programming space to support up to 4,000 new beds. For each
3 institution, the department shall describe the scope, budget,
4 schedule, number of beds by security level, along with approximate
5 square footage of support buildings, and programming space to
6 be constructed or renovated. If after providing these reports, the
7 committee fails to take any action with respect to each report within
8 30 days after submittal, this inaction shall be deemed to be approval
9 for purposes of this section, and the department is authorized to
10 proceed to design, construct, or renovate housing units, support
11 buildings, and programming space for each institution for which
12 a report has been approved.

13 (3) The Department of Corrections and Rehabilitation shall
14 notify the Joint Legislative Budget Committee 45 days prior to
15 the submission of preliminary plans to the board for each project
16 authorized in this section. If after providing these notifications,
17 the committee fails to take any action with respect to each report
18 within 45 days after submittal, this inaction shall be deemed to be
19 approval for purposes of this section, and the department is
20 authorized to design, construct, or renovate housing units, support
21 buildings, and programming space for each institution for which
22 a report has been approved.

23 (4) The Department of Corrections and Rehabilitation shall
24 report quarterly to the Joint Legislative Budget Committee on the
25 allocations from the appropriations in Section 15819.413 and the
26 anticipated deficit or savings. Each reentry program facility
27 authorized under subdivision (c) shall be considered to be a
28 separate project. Each medical, mental health, or dental building
29 improvement authorized under subdivision (b) shall be considered
30 to be a separate project, except that building improvements that
31 have a related purpose and that are located at the same institution
32 may be considered one project, for reporting purposes pursuant to
33 Sections 7000 and 7003.5 of the Penal Code.

34 *SEC. 4. Section 15819.411 of the Government Code is amended*
35 *to read:*

36 15819.411. The scope and costs of the projects authorized by
37 this chapter shall be subject to approval and administrative
38 oversight by the State Public Works Board, including
39 augmentations, pursuant to Section 13332.11 or Section 13332.19.
40 For purposes of this chapter, the availability of an augmentation

1 for each individual project allocation shall be calculated based on
2 the total applicable capital outlay appropriation contained in
3 Section 15819.413 and is not limited to 20 percent of the individual
4 project allocation.

5 *SEC. 5. Section 7021 of the Penal Code is amended to read:*

6 7021. (a) The State Public Works Board may not release any
7 funds provided for projects in Section 15819.41 of the Government
8 Code or Section 6271.1, until a three-member panel, composed of
9 the State Auditor, the Inspector General, and an appointee of the
10 Judicial Council of California, verifies that the conditions outlined
11 in paragraphs (1) to (13), inclusive, have been met. The Legislative
12 Analyst shall provide information and input to the three-member
13 panel as it considers whether the conditions have been met.

14 (1) At least 4,000 beds authorized in subdivision (a) of Section
15 15819.40 of the Government Code ~~are under construction~~ *have*
16 *been established by the State Public Works Board.*

17 (2) The first 4,000 beds authorized in subdivision (a) of Section
18 15819.40 of the Government Code include space and will provide
19 opportunities for rehabilitation services for inmates.

20 (3) At least 2,000 of the beds authorized in subdivision (a) of
21 Section 6271 are under construction or sited.

22 (4) At least 2,000 substance abuse treatment slots established
23 in Section 2694 have been established, with aftercare in the
24 community.

25 (5) Prison institutional drug treatment slots have averaged at
26 least 75 percent participation over the previous six months.

27 (6) The Department of Corrections and Rehabilitation has
28 implemented an inmate assessment at reception centers, pursuant
29 to Section 3020, and has used the assessment to assign inmates to
30 rehabilitation programs for at least six consecutive months.

31 (7) The Department of Corrections and Rehabilitation has
32 completed the Inmate Treatment and Prison-to-Employment Plan,
33 pursuant to Section 3105.

34 (8) At least 300 parolees are being served in day treatment or
35 crisis care services, pursuant to Section 3073.

36 (9) The California Rehabilitation Oversight Board (C-ROB),
37 created pursuant to Section 6140, has been in operation for at least
38 one year, and is regularly reviewing the Department of Corrections
39 and Rehabilitation's programs. This condition may be waived if

1 the appointments to the C-ROB have not been made by the
2 Legislature.

3 (10) The Department of Corrections and Rehabilitation has
4 implemented a plan to address management deficiencies, pursuant
5 to Section 2061, and at least 75 percent of management positions
6 have been filled for at least six months.

7 (11) The Department of Corrections and Rehabilitation has
8 increased full-time participation in inmate academic and vocation
9 education programs by 10 percent from the levels of participation
10 on April 1, 2007.

11 (12) The Department of Corrections and Rehabilitation has
12 developed and implemented a plan to obtain additional
13 rehabilitation services, pursuant to Section 2062, and the vacancy
14 rate for positions dedicated to rehabilitation and treatment services
15 in prisons and parole offices is no greater than the statewide
16 average vacancy rate for all state positions.

17 (13) The Department of Corrections and Rehabilitation has
18 reviewed existing parole procedures.

19 (b) The provisions of Section 15819.41 of the Government Code
20 and Section 6271.1 shall not authorize construction of facilities
21 until the three-member panel specified in subdivision (a) has
22 certified that the requirements of that subdivision have been met.
23 Those sections shall become inoperative on January 1, 2014. Any
24 projects already underway may continue, and funding for those
25 projects shall remain authorized in order to allow for the issuance
26 of bonds.

27 (c) The requirements set forth in ~~Section 7021~~ *this section* are
28 contingent upon the Legislature making funds available for the
29 rehabilitation programs set forth in the Public Safety and Offender
30 Rehabilitation Services Act of 2007.

31 *SEC. 6. This act is an urgency statute necessary for the*
32 *immediate preservation of the public peace, health, or safety within*
33 *the meaning of Article IV of the Constitution and shall go into*
34 *immediate effect. The facts constituting the necessity are:*

35 *In order to address California's prison overcrowding at the*
36 *earliest possible time, it is necessary that this act take effect*
37 *immediately.*

38 ~~SECTION 1. Section 3003.5 of the Penal Code is amended to~~
39 ~~read:~~

1 ~~3003.5.—(a) Notwithstanding any other provision of law, when~~
2 ~~a person is released on parole after having served a term of~~
3 ~~imprisonment in state prison for any offense for which registration~~
4 ~~is required pursuant to Section 290, that person may not, during~~
5 ~~the period of parole, reside in any single-family dwelling with any~~
6 ~~other person also required to register pursuant to Section 290,~~
7 ~~unless those persons are legally related by blood, marriage, or~~
8 ~~adoption. For purposes of this section, “single-family dwelling”~~
9 ~~shall not include a residential facility which serves six or fewer~~
10 ~~persons.~~

11 ~~(b) Notwithstanding any other provision of law, it is unlawful~~
12 ~~for any person for whom registration is required pursuant to Section~~
13 ~~290 to reside within 2000 feet of any public or private school, as~~
14 ~~specified in subdivision (g) of Section 3003, or park where children~~
15 ~~regularly gather. For purposes of this section, 2,000 feet shall be~~
16 ~~measured property line to property line by the closest publicly~~
17 ~~accessible route traveled.~~

18 ~~(c) Nothing in this section shall prohibit municipal jurisdictions~~
19 ~~from enacting local ordinances that further restrict the residency~~
20 ~~of any person for whom registration is required pursuant to Section~~
21 ~~290.~~