

**ASSEMBLY BILL**

**No. 752**

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**Introduced by Assembly Member Jones-Sawyer**

February 21, 2013

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An act to amend Section 1208 of the Penal Code, relating to work furlough.

LEGISLATIVE COUNSEL'S DIGEST

AB 752, as introduced, Jones-Sawyer. Work furlough: county jails.

Existing law authorizes a county, upon approval by the board of supervisors, to establish a work furlough program. Existing law authorizes the board to designate a county facility and a work furlough administrator for the program, as specified. Existing law provides that when a person is convicted of a misdemeanor and sentenced to a county jail, the work furlough administrator may, if he or she concludes that the person is a fit subject to continue in his or her regular employment or job training program, direct that the person be permitted to continue in that employment or job training program, as specified, or may authorize the person to secure employment or local job training for himself or herself, unless the court at the time of sentencing or committing has ordered that the person not be granted work furloughs. Existing law describes job training for purposes of these provisions.

Existing law, the 2011 Realignment Legislation addressing public safety and related statutes, requires that certain specified felonies be punished by a term of imprisonment in a county jail for 16 months, or 2 or 3 years and provides for postrelease community supervision by county officials for persons convicted of certain specified felonies upon release from prison or county jail.

This bill would make a change to the work furlough provision described above and authorize a person sentenced to county jail for a felony to participate in a work furlough program. The bill would also make a technical change to the provision describing job training for purposes of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

1 SECTION 1. Section 1208 of the Penal Code is amended to  
2 read:

3 1208. (a) (1) The provisions of this section, insofar as they  
4 relate to employment, shall be operative in any county in which  
5 the board of supervisors by ordinance finds, on the basis of  
6 employment conditions, the state of the county jail facilities, and  
7 other pertinent circumstances, that the operation of this section,  
8 insofar as it relates to employment, in that county is feasible. The  
9 provisions of this section, insofar as they relate to job training,  
10 shall be operative in any county in which the board of supervisors  
11 by ordinance finds, on the basis of job training conditions, the state  
12 of the county jail facilities, and other pertinent circumstances, that  
13 the operation of this section, insofar as it relates to job training, in  
14 that county is feasible. The provisions of this section, insofar as  
15 they relate to education, shall be operative in any county in which  
16 the board of supervisors by ordinance finds, on the basis of  
17 education conditions, the state of the county jail facilities, and  
18 other pertinent circumstances, that the operation of this section,  
19 insofar as it relates to education, in that county is feasible. In any  
20 ordinance the board shall prescribe whether the sheriff, the  
21 probation officer, the director of the county department of  
22 corrections, or the superintendent of a county industrial farm or  
23 industrial road camp in the county shall perform the functions of  
24 the work furlough administrator. The board may, in that ordinance,  
25 provide for the performance of any or all functions of the work  
26 furlough administrator by any one or more of those persons, acting  
27 separately or jointly as to any of the functions; and may, by a  
28 subsequent ordinance, revise the provisions within the authorization  
29 of this section. The board of supervisors may also terminate the  
30 operation of this section, either with respect to employment, job

1 training, or education in the county if it finds by ordinance that  
2 because of changed circumstances, the operation of this section,  
3 either with respect to employment, job training, or education in  
4 that county is no longer feasible.

5 **Notwithstanding**

6 (2) *Notwithstanding* any other provision of law, the board of  
7 supervisors may by ordinance designate a facility for confinement  
8 of prisoners classified for the work furlough program and designate  
9 the work furlough administrator as the custodian of the facility.  
10 The work furlough administrator may operate the work furlough  
11 facility or, with the approval of the board of supervisors, administer  
12 the work furlough facility pursuant to written contracts with  
13 appropriate public or private agencies or private entities. No agency  
14 or private entity may operate a work furlough program or facility  
15 without a written contract with the work furlough administrator,  
16 and no agency or private entity entering into a written contract  
17 may itself employ any person who is in the work furlough program.  
18 The sheriff or director of the county department of corrections, as  
19 the case may be, is authorized to transfer custody of prisoners to  
20 the work furlough administrator to be confined in a facility for the  
21 period during which they are in the work furlough program.

22 **AH**

23 (3) *All* privately operated local work furlough facilities and  
24 programs shall be under the jurisdiction of, and subject to the terms  
25 of a written contract entered into with, the work furlough  
26 administrator. Each contract shall include, but not be limited to, a  
27 provision whereby the private agency or entity agrees to operate  
28 in compliance with all appropriate state and local building, zoning,  
29 health, safety, and fire statutes, ordinances, and regulations and  
30 the minimum jail standards for Type IV facilities as established  
31 by regulations adopted by the Board of *State and Community*  
32 Corrections, and a provision whereby the private agency or entity  
33 agrees to operate in compliance with Section 1208.2, which  
34 provides that no eligible person shall be denied consideration for,  
35 or be removed from, participation in a work furlough program  
36 because of an inability to pay all or a portion of the program fees.  
37 The private agency or entity shall select and train its personnel in  
38 accordance with selection and training requirements adopted by  
39 the Board of *State and Community* Corrections as set forth in  
40 Subchapter 1 (commencing with Section 100) of Chapter 1 of

1 Division 1 of Title 15 of the California Code of Regulations.  
 2 Failure to comply with the appropriate health, safety, and fire laws  
 3 or minimum jail standards adopted by the board may be cause for  
 4 termination of the contract. Upon discovery of a failure to comply  
 5 with these requirements, the work furlough administrator shall  
 6 notify the privately operated program director that the contract  
 7 may be canceled if the specified deficiencies are not corrected  
 8 within 60 days.

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10 (4) All private work furlough facilities and programs shall be  
 11 inspected biennially by the Board of *State and Community*  
 12 Corrections unless the work furlough administrator requests an  
 13 earlier inspection pursuant to Section 6031.1. Each private agency  
 14 or entity shall pay a fee to the Board of *State and Community*  
 15 Corrections commensurate with the cost of those inspections and  
 16 a fee commensurate with the cost of the initial review of the  
 17 facility.

18 (b) When a person is convicted of a misdemeanor and sentenced  
 19 to the county jail, or is imprisoned in the county jail for  
 20 nonpayment of a fine, for contempt, or as a condition of probation  
 21 for any criminal offense, the work furlough administrator may, if  
 22 he or she concludes that the person is a fit subject to continue in  
 23 his or her regular employment, direct that the person be permitted  
 24 to continue in that employment, if that is compatible with the  
 25 requirements of subdivision (c), or may authorize the person to  
 26 secure employment for himself or herself, unless the court at the  
 27 time of sentencing or committing has ordered that the person not  
 28 be granted work furloughs. The work furlough administrator may,  
 29 if he or she concludes that the person is a fit subject to continue  
 30 in his or her job training program, direct that the person be  
 31 permitted to continue in that job training program, if that is  
 32 compatible with the requirements of subdivision (c), or may  
 33 authorize the person to secure local job training for himself or  
 34 herself, unless the court at the time of sentencing has ordered that  
 35 person not be granted work furloughs. The work furlough  
 36 administrator may, if he or she concludes that the person is a fit  
 37 subject to continue in his or her regular educational program, direct  
 38 that the person be permitted to continue in that educational  
 39 program, if that is compatible with the requirements of subdivision  
 40 (c), or may authorize the person to secure education for himself

1 or herself, unless the court at the time of sentencing has ordered  
2 that person not be granted work furloughs.

3 (c) If the work furlough administrator so directs that the prisoner  
4 be permitted to continue in his or her regular employment, job  
5 training, or educational program, the administrator shall arrange  
6 for a continuation of that employment or for that job training or  
7 education, so far as possible without interruption. If the prisoner  
8 does not have regular employment or a regular job training or  
9 educational program, and the administrator has authorized the  
10 prisoner to secure employment, job training, or education for  
11 himself or herself, the prisoner may do so, and the administrator  
12 may assist the prisoner in doing so. Any employment, job training,  
13 or education so secured shall be suitable for the prisoner. The  
14 employment, and the job training or educational program if it  
15 includes earnings by the prisoner, shall be at a wage at least as  
16 high as the prevailing wage for similar work in the area where the  
17 work is performed and in accordance with the prevailing working  
18 conditions in that area. In no event may any employment, job  
19 training, or educational program involving earnings by the prisoner  
20 be permitted where there is a labor dispute in the establishment in  
21 which the prisoner is, or is to be, employed, trained, or educated.

22 (d) (1) Whenever the prisoner is not employed or being trained  
23 or educated and between the hours or periods of employment,  
24 training, or education, the prisoner shall be confined in the facility  
25 designated by the board of supervisors for work furlough  
26 confinement unless the work furlough administrator directs  
27 otherwise. If the prisoner is injured during a period of employment,  
28 job training, or education, the work furlough administrator shall  
29 have the authority to release him or her from the facility for  
30 continued medical treatment by private physicians or at medical  
31 facilities at the expense of the employer, workers' compensation  
32 insurer, or the prisoner. The release shall not be construed as  
33 assumption of liability by the county or work furlough  
34 administrator for medical treatment obtained.

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36 (2) *The* work furlough administrator may release any prisoner  
37 classified for the work furlough program for a period not to exceed  
38 72 hours for medical, dental, or psychiatric care, or for family  
39 emergencies or pressing business which would result in severe  
40 hardship if the release were not granted, or to attend those activities

1 as the administrator deems may effectively promote the prisoner's  
2 successful return to the community, including, but not limited to,  
3 an attempt to secure housing, employment, entry into educational  
4 programs, or participation in community programs.

5 (e) The earnings of the prisoner may be collected by the work  
6 furlough administrator, and it shall be the duty of the prisoner's  
7 employer to transmit the wages to the administrator at the latter's  
8 request. Earnings levied upon pursuant to writ of execution or in  
9 other lawful manner shall not be transmitted to the administrator.  
10 If the administrator has requested transmittal of earnings prior to  
11 levy, that request shall have priority. In a case in which the  
12 functions of the administrator are performed by a sheriff, and the  
13 sheriff receives a writ of execution for the earnings of a prisoner  
14 subject to this section but has not yet requested transmittal of the  
15 prisoner's earnings pursuant to this section, the sheriff shall first  
16 levy on the earnings pursuant to the writ. When an employer or  
17 educator transmits earnings to the administrator pursuant to this  
18 subdivision, the sheriff shall have no liability to the prisoner for  
19 those earnings. From the earnings the administrator shall pay the  
20 prisoner's board and personal expenses, both inside and outside  
21 the jail, and shall deduct so much of the costs of administration of  
22 this section as is allocable to the prisoner or if the prisoner is unable  
23 to pay that sum, a lesser sum as is reasonable, and, in an amount  
24 determined by the administrator, shall pay the support of the  
25 prisoner's dependents, if any. If sufficient funds are available after  
26 making the foregoing payments, the administrator may, with the  
27 consent of the prisoner, pay, in whole or in part, the preexisting  
28 debts of the prisoner. Any balance shall be retained until the  
29 prisoner's discharge. Upon discharge the balance shall be paid to  
30 the prisoner.

31 (f) The prisoner shall be eligible for time credits pursuant to  
32 Sections 4018 and 4019.

33 (g) In the event the prisoner violates the conditions laid down  
34 for his or her conduct, custody, job training, education, or  
35 employment, the work furlough administrator may order the  
36 balance of the prisoner's sentence to be spent in actual confinement.

37 (h) Willful failure of the prisoner to return to the place of  
38 confinement not later than the expiration of any period during  
39 which he or she is authorized to be away from the place of

1 confinement pursuant to this section is punishable as provided in  
2 Section 4532.

3 (i) The court may recommend or refer a person to the work  
4 furlough administrator for consideration for placement in the work  
5 furlough program or a particular work furlough facility. The  
6 recommendation or referral of the court shall be given great weight  
7 in the determination of acceptance or denial for placement in the  
8 work furlough program or a particular work furlough facility.

9 (j) As used in this section, the following definitions apply:

10 (1) "Education" includes vocational and educational training  
11 and counseling, and psychological, drug abuse, alcoholic, and  
12 other rehabilitative counseling.

13 (2) "Educator" includes a person or institution providing that  
14 training or counseling.

15 (3) "Employment" includes care of children, including the  
16 daytime care of children of the prisoner.

17 (4) "Job training" may include, but shall not be limited to, job  
18 training assistance as provided through the Job Training Partnership  
19 Act (Public Law 97-300; 29 U.S.C.A. Sec. 1501 et seq.).

20 (k) This section shall be known and may be cited as the "Cobey  
21 Work Furlough Law."