

**Senate Bill No. 74**

\_\_\_\_\_

Passed the Senate June 14, 2013

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

Passed the Assembly June 14, 2013

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 12838, 12838.1, and 15820.922 of the Government Code, and to amend Sections 6025, 6025.1, 6126, 6126.2, 6126.3, 6126.6, 6129, and 6133 of, and to repeal Section 6131 of, the Penal Code, relating to corrections and making an appropriation therefor, to take effect immediately, bill related to the budget.

## LEGISLATIVE COUNSEL'S DIGEST

SB 74, Committee on Budget and Fiscal Review. Corrections.

Existing law establishes the Department of Corrections and Rehabilitation to oversee the state prison system. Within the department, existing law establishes 2 undersecretaries, one for administration and offender services and one for operations.

This bill would also establish within the department an Undersecretary for Health Care Services. The bill would establish, under that undersecretary, the Division of Health Care Operations and the Division of Health Care Policy and Administration to be headed by a director, who shall be appointed by the Governor.

Existing law establishes the Board of State and Community Corrections to collect and maintain available information and data about state and community correctional policies, practices, capacities, and needs, among other duties. Existing law prohibits those members of the board from receiving compensation, but allows them to be reimbursed for their actual and necessary travel expenses incurred in the performance of their duties.

Existing law prohibits Members of the Legislature and state, county, district, judicial district, and city officers or employees from having a financial interest in any contract made by them in their official capacity, or by any body or board of which they are members. Existing law provides that every officer or person who is prohibited by the laws of this state from making or having an interest in contracts who willfully violates any of the provisions of those laws may be punished by a fine of not more than \$1,000, or by imprisonment in the state prison, and is forever disqualified from holding any office in this state.

This bill would, commencing July 1, 2013, add to the Board of State and Community Corrections a chairperson to be appointed by the Governor, subject to Senate confirmation. The bill would require that the chairperson serve full time. The bill would also exclude the chairperson from the provision prohibiting members of the board from receiving compensation and would require the Department of Human Resources to fix the compensation for the chairperson.

This bill would provide that members of a committee created by the Board of State and Community Corrections, including a member of the board in his or her capacity as a member of a committee created by the board, are deemed to have no financial interest in any contract made by the board based upon the receipt of compensation for holding public office or public employment, for purposes of the provisions prohibiting public officers from having a financial interest in any contract made by them in their official capacity, or by any body or board of which they are members.

Existing law creates the Office of the Inspector General, that is responsible for contemporaneous oversight of internal affairs investigations and the disciplinary process of the Department of Corrections and Rehabilitation. Existing law requires the Inspector General, when requested by the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, to review policies, practices, and procedures of the department. Upon completion of the review, the Inspector General is required to prepare a public written report, as described, to be posted on its Internet Web site and a complete written report to be disclosed in confidence, along with all underlying materials the Inspector General deems appropriate, to the Governor, the Secretary of the Department of Corrections and Rehabilitation, and the appropriate law enforcement agency. Existing law prohibits the Inspector General from hiring any person known to be directly or indirectly involved in an open internal affairs investigation being conducted by any federal, state, or local law enforcement agency, or the Office of the Inspector General.

This bill would remove the Secretary as a party who would receive a copy of the complete written report, and would instead require the Inspector General to provide the report to the authorized entity that requested the report and the appropriate law enforcement

agency. The bill would delete the prohibition on hiring a person who is directly or indirectly involved in an open internal affairs investigation by the Office of the Inspector General, and would instead prohibit hiring someone who is directly or indirectly involved in an open internal affairs investigation by any federal, state, or local agency.

Existing law creates, within the Office of the Inspector General, a Bureau of Independent Review (BIR) subject to the direction of the Inspector General. The BIR is responsible for contemporaneous oversight of the department investigations conducted by its Office of Internal Affairs.

This bill would eliminate the BIR, make the Office of the Inspector General directly responsible for the BIR's duties and responsibilities, and require the Office of the Inspector General to have staff physically colocated with the department's Office of Internal Affairs.

The bill would delete obsolete provisions, and make conforming changes.

The bill would appropriate \$750,000 from the 1990 Prison Construction Fund to the Department of Corrections and Rehabilitation for statewide budget packages and advanced planning in its capital outlay program during the 2013–14 fiscal year, as specified. The bill would require that the funds be available for encumbrance until June 30, 2014, and be allocated by the Department of Corrections and Rehabilitation, upon approval by the Department of Finance.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. It is the intent of the Legislature in enacting Sections 2 and 3 of this act to demonstrate the state's will, capacity, and leadership in maintaining the improvements made in the delivery of medical services to inmates in prisons by the California Correctional Health Care Services under the leadership of the receiver appointed by the federal court. Furthermore, the Legislature recognizes that the receiver has implemented a well-functioning medical delivery system within prisons. Key

contributors to this success have been the specific focus on health care and the ability to develop executive management with health care expertise. To maintain these improvements and retake control of the prison medical care system, it is necessary to create the proper organizational structure within the Department of Corrections and Rehabilitation to support the delivery of medical services to prisoners. Establishing an additional undersecretary, who operates at a peer level with the existing undersecretaries, signifies the organizational importance of health care services and ensures the executive leadership necessary for the mutual success of both the health care and custody operations.

SEC. 2. Section 12838 of the Government Code is amended to read:

12838. (a) There is hereby created in state government the Department of Corrections and Rehabilitation, to be headed by a secretary, who shall be appointed by the Governor, subject to Senate confirmation, and shall serve at the pleasure of the Governor. The Department of Corrections and Rehabilitation shall consist of Adult Operations, Adult Programs, Health Care Services, Juvenile Justice, the Board of Parole Hearings, the State Commission on Juvenile Justice, the Prison Industry Authority, and the Prison Industry Board.

(b) The Governor, upon recommendation of the secretary, may appoint three undersecretaries of the Department of Corrections and Rehabilitation, subject to Senate confirmation. The undersecretaries shall hold office at the pleasure of the Governor. One undersecretary shall oversee administration and offender services, one undersecretary shall oversee health care services, and one undersecretary shall oversee operations for the department.

(c) The Governor, upon recommendation of the secretary, shall appoint a Chief for the Office of Victim Services, and a Chief for the Office of Correctional Safety, both of whom shall serve at the pleasure of the Governor.

SEC. 3. Section 12838.1 of the Government Code is amended to read:

12838.1. (a) There is hereby created within the Department of Corrections and Rehabilitation, under the Undersecretary for Administration and Offender Services, the following divisions:

(1) The Division of Enterprise Information Services, the Division of Facility Planning, Construction, and Management, and

the Division of Administrative Services. Each division shall be headed by a director, who shall be appointed by the Governor, upon recommendation of the secretary, subject to Senate confirmation, who shall serve at the pleasure of the Governor.

(2) The Division of Internal Oversight and Research. This division shall be headed by a director, who shall be appointed by the Governor, upon recommendation of the secretary, who shall serve at the pleasure of the Governor.

(b) There is hereby created in the Department of Corrections and Rehabilitation, under the Undersecretary for Health Care Services, the Division of Health Care Operations and the Division of Health Care Policy and Administration. Each division shall be headed by a director, who shall be appointed by the Governor, upon recommendation of the secretary, subject to Senate confirmation, who shall serve at the pleasure of the Governor.

(c) There is hereby created within the Department of Corrections and Rehabilitation, under the Undersecretary for Operations, the Division of Adult Institutions, the Division of Adult Parole Operations, the Division of Juvenile Justice, and the Division of Rehabilitative Programs. Each division shall be headed by a director, who shall be appointed by the Governor, upon recommendation of the secretary, subject to Senate confirmation, who shall serve at the pleasure of the Governor.

(d) The Governor shall, upon recommendation of the secretary, appoint four subordinate officers to the Division of Adult Institutions, subject to Senate confirmation, who shall serve at the pleasure of the Governor. Each subordinate officer appointed pursuant to this subdivision shall oversee an identified category of adult institutions, one of which shall be female offender facilities.

(e) (1) Unless the context clearly requires otherwise, whenever the term “Chief Deputy Secretary for Adult Operations” appears in any statute, regulation, or contract, it shall be construed to refer to the Director of the Division of Adult Institutions.

(2) Unless the context clearly requires otherwise, whenever the term “Chief Deputy Secretary for Adult Programs” appears in any statute, regulation, or contract, it shall be construed to refer to the Director of the Division of Rehabilitative Programs.

(3) Unless the context clearly requires otherwise, whenever the term “Chief Deputy Secretary for Juvenile Justice” appears in any

statute, regulation, or contract, it shall be construed to refer to the Director of the Division of Juvenile Justice.

SEC. 4. Section 15820.922 of the Government Code is amended to read:

15820.922. (a) The board may issue up to five hundred million dollars (\$500,000,000) in revenue bonds, notes, or bond anticipation notes, pursuant to Chapter 5 (commencing with Section 15830) to finance the acquisition, design, and construction, including, without limitation, renovation, and a reasonable construction reserve, of approved adult local criminal justice facilities described in Section 15820.92, and any additional amount authorized under Section 15849.6 to pay for the cost of financing.

(b) Proceeds from the revenue bonds, notes, or bond anticipation notes may be used to reimburse a participating county for the costs of acquisition, design, and construction, including, without limitation, renovation, for approved adult local criminal justice facilities.

(c) Notwithstanding Section 13340, funds derived pursuant to this section and Section 15820.921 are continuously appropriated for purposes of this chapter.

SEC. 5. Section 6025 of the Penal Code is amended to read:

6025. (a) Commencing July 1, 2012, the Board of State and Community Corrections shall be composed of 12 members, as follows:

(1) The Chair of the Board of State and Community Corrections, who shall be the Secretary of the Department of Corrections and Rehabilitation.

(2) The Director of the Division of Adult Parole Operations for the Department of Corrections and Rehabilitation.

(3) A county sheriff in charge of a local detention facility which has a Corrections Standards Authority rated capacity of 200 or less inmates, appointed by the Governor, subject to Senate confirmation.

(4) A county sheriff in charge of a local detention facility which has a Corrections Standards Authority rated capacity of over 200 inmates, appointed by the Governor, subject to Senate confirmation.

(5) A county supervisor or county administrative officer. This member shall be appointed by the Governor, subject to Senate confirmation.

(6) A chief probation officer from a county with a population over 200,000, appointed by the Governor, subject to Senate confirmation.

(7) A chief probation officer from a county with a population under 200,000, appointed by the Governor, subject to Senate confirmation.

(8) A judge appointed by the Judicial Council of California.

(9) A chief of police, appointed by the Governor, subject to Senate confirmation.

(10) A community provider of rehabilitative treatment or services for adult offenders, appointed by the Speaker of the Assembly.

(11) A community provider or advocate with expertise in effective programs, policies, and treatment of at-risk youth and juvenile offenders, appointed by the Senate Committee on Rules.

(12) A public member, appointed by the Governor, subject to Senate confirmation.

(b) Commencing July 1, 2013, the Board of State and Community Corrections shall be composed of 13 members, as follows:

(1) The Chair of the Board of State and Community Corrections, who shall be appointed by the Governor, subject to Senate confirmation.

(2) The Secretary of the Department of Corrections and Rehabilitation.

(3) The Director of the Division of Adult Parole Operations for the Department of Corrections and Rehabilitation.

(4) The individuals listed in paragraphs (3) to (12), inclusive, of subdivision (a), who shall serve or continue to serve terms as provided in subdivision (d).

(c) The Chair of the Board of State and Community Corrections shall serve full time.

(d) The terms of the members appointed by the Governor shall expire as follows: three on July 1, 2014, and four on July 1, 2015, as specified by the Governor. The term of the member appointed by the Senate Committee on Rules shall expire on July 1, 2014. The term of the member appointed by the Speaker of the Assembly shall expire on July 1, 2015. The term of the member appointed by the Judicial Council shall expire on July 1, 2015. Successor members shall hold office for terms of three years, each term to

commence on the expiration date of the predecessor. Any appointment to a vacancy that occurs for any reason other than expiration of the term shall be for the remainder of the unexpired term. Members are eligible for reappointment.

(e) The board shall select a vice chairperson from among its members, who shall be either a chief probation officer or a sheriff. Seven members of the board shall constitute a quorum.

(f) When the board is hearing charges against any member, the individual concerned shall not sit as a member of the board for the period of hearing of charges and the determination of recommendations to the Governor.

(g) If any appointed member is not in attendance for three meetings in any calendar year, the board shall inform the appointing authority, which may remove that member and make a new appointment, as provided in this section, for the remainder of the term.

SEC. 6. Section 6025.1 of the Penal Code is amended to read:

6025.1. (a) Members of the board, with the exception of the Chair of the Board of State and Community Corrections, shall receive no compensation, but shall be reimbursed for their actual and necessary travel expenses incurred in the performance of their duties. For purposes of compensation, attendance at meetings of the board shall be deemed performance by a member of the duties of his or her state or local governmental employment. For purposes of Section 1090 of the Government Code, members of a committee created by the board, including a member of the board in his or her capacity as a member of a committee created by the board, have no financial interest in any contract made by the board, including a grant or bond financing transaction, based upon the receipt of compensation for holding public office or public employment.

(b) The Chair of the Board of State and Community Corrections shall serve full time. The Department of Human Resources shall fix the compensation of the Chair of the Board of State and Community Corrections.

SEC. 7. Section 6126 of the Penal Code is amended to read:

6126. (a) The Inspector General shall be responsible for contemporaneous oversight of internal affairs investigations and the disciplinary process of the Department of Corrections and

Rehabilitation, pursuant to Section 6133 under policies to be developed by the Inspector General.

(b) When requested by the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, the Inspector General shall review policies, practices, and procedures of the department. The Inspector General, under policies developed by the Inspector General, may recommend that the Governor, the Senate Committee on Rules, or the Speaker of the Assembly request a review of a specific departmental policy, practice, or procedure that raises a significant correctional issue relevant to the effectiveness of the department. When exigent circumstances of unsafe or life threatening situations arise involving inmates, wards, parolees, or staff, the Inspector General may, by whatever means is most expeditious, notify the Governor, Senate Committee on Rules, or the Speaker of the Assembly.

(c) (1) Upon completion of a review, the Inspector General shall prepare a complete written report, which shall be held as confidential and disclosed in confidence, along with all underlying materials the Inspector General deems appropriate, to the requesting entity in subdivision (b) and the appropriate law enforcement agency.

(2) The Inspector General shall also prepare a public report. When necessary, the public report shall differ from the complete written report in the respect that the Inspector General shall have the discretion to redact or otherwise protect the names of individuals, specific locations, or other facts that, if not redacted, might hinder prosecution related to the review, or where disclosure of the information is otherwise prohibited by law, and to decline to produce any of the underlying materials. Copies of public reports shall be posted on the Office of the Inspector General's Internet Web site.

(d) The Inspector General shall, during the course of a review, identify areas of full and partial compliance, or noncompliance, with departmental policies and procedures, specify deficiencies in the completion and documentation of processes, and recommend corrective actions, including, but not limited to, additional training, additional policies, or changes in policy, as well as any other findings or recommendations that the Inspector General deems appropriate.

(e) The Inspector General, pursuant to Section 6126.6, shall review the Governor’s candidates for appointment to serve as warden for the state’s adult correctional institutions and as superintendents for the state’s juvenile facilities.

(f) The Inspector General shall conduct an objective, clinically appropriate, and metric-oriented medical inspection program to periodically review delivery of medical care at each state prison.

(g) The Inspector General shall conduct an objective, metric-oriented oversight and inspection program to periodically review delivery of the reforms identified in the document released by the Department of Corrections and Rehabilitation in April 2012, entitled *The Future of California Corrections: A Blueprint to Save Billions of Dollars, End Federal Court Oversight, and Improve the Prison System* (the blueprint), including, but not limited to, the following specific goals and reforms described by the blueprint:

(1) Whether the department has increased the percentage of inmates served in rehabilitative programs to 70 percent of the department’s target population prior to their release.

(2) The establishment of an adherence to the standardized staffing model at each institution.

(3) The establishment of an adherence to the new inmate classification score system.

(4) The establishment of and adherence to the new prison gang management system, including changes to the department’s current policies for identifying prison-based gang members and associates and the use and conditions associated with the department’s security housing units.

(5) The implementation of and adherence to the Comprehensive Housing Plan described in the blueprint.

(h) The Inspector General shall, in consultation with the Department of Finance, develop a methodology for producing a workload budget to be used for annually adjusting the budget of the Office of the Inspector General, beginning with the budget for the 2005–06 fiscal year.

SEC. 8. Section 6126.2 of the Penal Code is amended to read:

6126.2. The Inspector General shall not hire any person known to be directly or indirectly involved in an open internal affairs investigation being conducted by any federal, state, or local agency.

SEC. 9. Section 6126.3 of the Penal Code is amended to read:

6126.3. (a) The Inspector General shall not destroy any papers or memoranda used to support a completed review within three years after a report is released.

(b) Except as provided in subdivision (c), all books, papers, records, and correspondence of the office pertaining to its work are public records subject to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code and shall be filed at any of the regularly maintained offices of the Inspector General.

(c) The following books, papers, records, and correspondence of the Office of the Inspector General pertaining to its work are not public records subject to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, nor shall they be subject to discovery pursuant to any provision of Title 3 (commencing with Section 1985) of Part 4 of the Code of Civil Procedure or Chapter 7 (commencing with Section 19570) of Part 2 of Division 5 of Title 2 of the Government Code in any manner:

(1) All reports, papers, correspondence, memoranda, electronic communications, or other documents that are otherwise exempt from disclosure pursuant to the provisions of subdivision (d) of Section 6126.5, Section 6126.6, subdivision (c) of Section 6128, subdivision (c) of Section 6126, or all other applicable laws regarding confidentiality, including, but not limited to, the California Public Records Act, the Public Safety Officers' Procedural Bill of Rights, the Information Practices Act of 1977, the Confidentiality of Medical Information Act of 1977, and the provisions of Section 832.7, relating to the disposition notification for complaints against peace officers.

(2) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to any review that has not been completed.

(3) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to internal discussions between the Inspector General and his or her staff, or between staff members of the Inspector General, or any personal notes of the Inspector General or his or her staff.

(4) All identifying information, and any personal papers or correspondence from any person requesting assistance from the Inspector General, except in those cases where the Inspector

General determines that disclosure of the information is necessary in the interests of justice.

(5) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to contemporaneous public oversight pursuant to Section 6133.

SEC. 10. Section 6126.6 of the Penal Code is amended to read:

6126.6. (a) Prior to filling a vacancy for warden by appointment pursuant to Section 6050, or superintendent pursuant to Section 1049 of the Welfare and Institutions Code, the Governor shall first submit to the Inspector General the names of candidates for the position of warden or superintendent for review of their qualifications.

(b) (1) Upon receipt of the names of those candidates and their completed personal data questionnaires, the Inspector General shall employ appropriate confidential procedures to evaluate and determine the qualifications of each candidate with regard to his or her ability to discharge the duties of the office to which the appointment or nomination is made.

(2) Within 90 days of submission by the Governor of those names, the Inspector General shall advise in confidence to the Governor his or her recommendation whether the candidate is exceptionally well-qualified, well-qualified, qualified, or not qualified and the reasons therefore, and may report, in confidence, any other information that the Inspector General deems pertinent to the qualifications of the candidate.

(c) In reviewing the qualifications of a candidate for the position of warden or superintendent, the Inspector General shall consider, among other appropriate factors, his or her experience in effectively managing correctional facilities and inmate or ward populations; ability to deal effectively with employees, detained persons and other interested persons in addressing management, confinement, and safety issues in an effective, fair, and professional manner; and knowledge of correctional best practices.

(d) The Inspector General shall establish and adopt rules and procedures regarding the review of the qualifications of candidates for the position of warden or superintendent. Those rules and procedures shall establish appropriate, confidential methods for disclosing to the candidate the subject matter of substantial and credible adverse allegations received regarding the candidate's reputation and integrity which, unless rebutted, would be

determinative of the candidate's unsuitability for appointment. A rule or procedure shall not be adopted that permits the disclosure to the candidate of information from which the candidate may infer the source, and information shall neither be disclosed to the candidate nor be obtainable by any process that would jeopardize the confidentiality of communications from persons whose opinion has been sought on the candidate's qualifications.

(e) All communications, written, verbal, or otherwise, of and to the Governor, the Governor's authorized agents or employees, including, but not limited to, the Governor's Legal Affairs Secretary and Appointments Secretary, or of and to the Inspector General in furtherance of the purposes of this section are absolutely privileged from disclosure and confidential, and any communication made in the discretion of the Governor or the Inspector General with a candidate or person providing information in furtherance of the purposes of this section shall not constitute a waiver of the privilege or a breach of confidentiality.

(f) When the Governor has appointed a person to the position of warden or superintendent who has been found not qualified by the Inspector General, the Inspector General shall make public that finding, after due notice to the appointee of his or her intention to do so. That notice and disclosure shall not constitute a waiver of privilege or breach of confidentiality with respect to communications of or to the Inspector General concerning the qualifications of the appointee.

(g) A person or entity shall not be liable for any injury caused by any act or failure to act, be it negligent, intentional, discretionary, or otherwise, in the furtherance of the purposes of this section, including, but not limited to, providing or receiving any information, making any recommendations, and giving any reasons therefore.

(h) As used in this section, the term "Inspector General" includes employees and agents of the Office of the Inspector General.

(i) At any time prior to the receipt of the review from the Inspector General specified in subdivision (b), the Governor may withdraw the name of any person submitted to the Inspector General for evaluation pursuant to this section.

(j) No candidate for the position of warden or superintendent may be appointed until the Inspector General has advised the Governor pursuant to this section, or until 90 days have elapsed

after submission of the candidate's name to the Inspector General, whichever occurs earlier. The requirement of this subdivision shall not apply to any vacancy in the position of warden or superintendent occurring within the 90 days preceding the expiration of the Governor's term of office, provided, however, that with respect to those vacancies, the Governor shall be required to submit any candidate's name to the Inspector General in order to provide him or her an opportunity, if time permits, to review and make a report.

(k) This section shall not be construed as imposing an additional requirement for an appointment or nomination to the position of warden or superintendent, nor shall anything in this section be construed as adding any additional qualifications for the position of warden or superintendent.

SEC. 11. Section 6129 of the Penal Code is amended to read:

6129. (a) (1) For purposes of this section, "employee" means any person employed by the Department of Corrections and Rehabilitation.

(2) For purposes of this section, "retaliation" means intentionally engaging in acts of reprisal, retaliation, threats, coercion, or similar acts against another employee who has done any of the following:

(A) Has disclosed or is disclosing to any employee at a supervisory or managerial level, what the employee, in good faith, believes to be improper governmental activities.

(B) Has cooperated or is cooperating with any investigation of improper governmental activities.

(C) Has refused to obey an illegal order or directive.

(b) (1) Upon receiving a complaint of retaliation from an employee against a member of management at the Department of Corrections and Rehabilitation, the Inspector General shall commence an inquiry into the complaint and conduct a formal investigation where a legally cognizable cause of action is presented. All investigations conducted pursuant to this section shall be performed in accordance with Sections 6126.5 and 6127.3. The Inspector General may refer all other matters for investigation by the appropriate employing entity, subject to oversight by the Inspector General. In a case in which the employing entity declines to investigate the complaint, it shall, within 30 days of receipt of the referral by the Inspector General, notify the Inspector General of its decision. The Inspector General shall thereafter, conduct his

or her own inquiry into the complaint. If, after reviewing the complaint, the Inspector General determines that a legally cognizable cause of action has not been presented by the complaint, the Inspector General shall thereafter notify the complaining employee and the State Personnel Board that a formal investigation is not warranted.

(2) When investigating a complaint, in determining whether retaliation has occurred, the Inspector General or the employing entity shall consider, among other things, whether any of the following either actually occurred or were threatened:

(A) Unwarranted or unjustified staff changes.

(B) Unwarranted or unjustified letters of reprimand or other disciplinary actions, or unsatisfactory evaluations.

(C) Unwarranted or unjustified formal or informal investigations.

(D) Engaging in acts, or encouraging or permitting other employees to engage in acts, that are unprofessional, or foster a hostile work environment.

(E) Engaging in acts, or encouraging or permitting other employees to engage in acts, that are contrary to the rules, regulations, or policies of the workplace.

(3) In a case in which the complaining employee has also filed a retaliation complaint with the State Personnel Board pursuant to Sections 8547.8 and 19683 of the Government Code, the State Personnel Board shall have the discretion to toll any investigation, hearing, or other proceeding that would otherwise be conducted by the State Personnel Board in response to that complaint, pending either the completion of the Inspector General's or the employing entity's investigation, or until the complaint is rejected or otherwise dismissed by the Inspector General or the employing entity. An employee, however, may not be required to first file a retaliation complaint with the Inspector General prior to filing a complaint with the State Personnel Board.

(A) In a case in which the complaining employee has filed a retaliation complaint with the Inspector General but not with the State Personnel Board, the limitation period for filing a retaliation complaint with the State Personnel Board shall be tolled until the time the Inspector General or the employing entity either issues its report to the State Personnel Board, or until the complaint is rejected or otherwise dismissed by the Inspector General or the employing entity.

(B) In order to facilitate coordination of efforts between the Inspector General and the State Personnel Board, the Inspector General shall notify the State Personnel Board of the identity of any employee who has filed a retaliation complaint with the Inspector General, and the State Personnel Board shall notify the Inspector General of the identity of any employee who has filed a retaliation complaint with the State Personnel Board.

(c) (1) In a case in which the Inspector General determines, as a result of his or her own investigation, that an employee has been subjected to acts of reprisal, retaliation, threats, or similar acts in violation of this section, the Inspector General shall provide a copy of the report, together with all other underlying materials the Inspector General determines to be relevant, to the appropriate director or chair who shall take appropriate corrective action. In a case in which the Inspector General determines, based on an independent review of the investigation conducted by the employing entity, that an employee has been subjected to acts of reprisal, retaliation, threats, or similar acts in violation of this section, the Inspector General shall submit a written recommendation to the appropriate director or chair who shall take appropriate corrective action. If the hiring authority initiates disciplinary action as defined in Section 19570 of the Government Code, it shall provide the subject with all materials required by law.

(2) Any employee at any rank and file, supervisory, or managerial level, who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against another employee, pursuant to paragraph (2) of subdivision (a), shall be disciplined by the employing entity by adverse action as provided in Section 19572 of the Government Code. The disciplinary action shall require, at a minimum, a suspension for not less than 30 days without pay, except in a case in which the employing entity determines that a lesser penalty is warranted. In that case, the employing entity shall, within 30 days of receipt of the report, provide written justification for that decision to the Inspector General. The employing entity shall also, within 30 days of receipt of the written report, notify the Inspector General in writing as to what steps, if any, it has taken to remedy the retaliatory conduct found to have been committed by any of its employees.

(d) (1) In an instance in which the appropriate director or chair declines to take adverse action against any employee found by the Inspector General to have engaged in acts of reprisal, retaliation, threats, or similar acts in violation of this section, the director or chair shall notify the Inspector General of that fact in writing within 30 days of receipt of the report from the Inspector General, and shall notify the Inspector General of the specific reasons why the director or chair declined to invoke adverse action proceedings against the employee.

(2) The Inspector General shall, thereafter, with the written consent of the complaining employee, forward an unredacted copy of the report, together with all other underlying materials the Inspector General deems to be relevant, to the State Personnel Board so that the complaining employee can request leave to file charges against the employee found to have engaged in acts of reprisal, retaliation, threats, or similar acts, in accordance with the provisions of Section 19583.5 of the Government Code. If the State Personnel Board accepts the complaint, the board shall provide the charged and complaining parties with a copy of all relevant materials.

(3) In addition to all other penalties provided by law, including Section 8547.8 of the Government Code or any other penalties that the sanctioning authority may determine to be appropriate, any state employee at any rank and file, supervisory, or managerial level found by the State Personnel Board to have intentionally engaged in acts of reprisal, retaliation, threats, or coercion shall be suspended for not less than 30 days without pay, and shall be liable in an action for damages brought against him or her by the injured party. If the State Personnel Board determines that a lesser period of suspension is warranted, the reasons for that determination must be justified in writing in the decision.

(e) Nothing in this section shall prohibit the employing entity from exercising its authority to terminate, suspend, or discipline an employee who engages in conduct prohibited by this section.

SEC. 12. Section 6131 of the Penal Code is repealed.

SEC. 13. Section 6133 of the Penal Code is amended to read:

6133. (a) The Office of the Inspector General shall be responsible for contemporaneous public oversight of the Department of Corrections and Rehabilitation investigations conducted by the Department of Corrections and Rehabilitation's

Office of Internal Affairs. To facilitate oversight, the Office of the Inspector General shall have staff physically colocated with the Department of Corrections and Rehabilitation's Office of Internal Affairs, within a reasonable timeframe and without any undue delays. The Office of the Inspector General shall also be responsible for advising the public regarding the adequacy of each investigation, and whether discipline of the subject of the investigation is warranted. Office of the Inspector General shall have discretion to provide public oversight of other Department of Corrections and Rehabilitation personnel investigations as needed.

(b) (1) The Office of the Inspector General shall issue regular reports, no less than annually, to the Governor and the Legislature summarizing its recommendations concerning its oversight of the Department of Corrections and Rehabilitation allegations of internal misconduct and use of force. The Office of the Inspector General shall also issue regular reports, no less than semiannually, summarizing its oversight of Office of Internal Affairs investigations pursuant to subdivision (a). The reports shall include, but not be limited to, all of the following:

(A) Data on the number, type, and disposition of complaints made against correctional officers and staff.

(B) A synopsis of each matter reviewed by the Office of the Inspector General.

(C) An assessment of the quality of the investigation, the appropriateness of any disciplinary charges, the Office of the Inspector General's recommendations regarding the disposition in the case and when founded, the level of discipline afforded, and the degree to which the agency's authorities agreed with the Office of the Inspector General recommendations regarding disposition and level of discipline.

(D) The report of any settlement and whether the Office of the Inspector General concurred with the settlement.

(E) The extent to which any discipline was modified after imposition.

(2) The reports shall be in a form that does not identify the agency employees involved in the alleged misconduct.

(3) The reports shall be posted on the Inspector General's Internet Web site and otherwise made available to the public upon their release to the Governor and the Legislature.

SEC. 14. (a) The amount of seven hundred fifty thousand dollars (\$750,000) is hereby appropriated from the 1990 Prison Construction Fund to the Department of Corrections and Rehabilitation for statewide budget packages and advanced planning in its capital outlay program during the 2013–14 fiscal year. The funds hereby appropriated shall be available for encumbrance until June 30, 2014. These funds are to be allocated by the Department of Corrections and Rehabilitation, upon approval by the Department of Finance to develop design and cost information for new projects for which funds have not been previously appropriated, but for which preliminary plans funds, working drawings funds, or working drawings and construction funds are expected to be included in the Budget Act of 2014 or Budget Act of 2015, and for which cost estimates or preliminary plans can be developed prior to legislative hearings on the Budget Act of 2014 or Budget Act of 2015, respectively. Upon approval by the Department of Finance, these funds may also be used to develop scope and cost information for projects authorized by Sections 15819.40 to 15819.404, inclusive, of the Government Code.

(b) (1) These funds may be used for studies, budget package development, environmental services, architectural programming, engineering assessments, schematic design, and preliminary plans.

(2) As used in this section, “studies” shall include site studies and suitability reports, environmental studies, master planning, architectural programming, and schematics.

(3) Before using these funds for preliminary plans, the Department of Corrections and Rehabilitation shall provide a 20-day notification to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the respective fiscal committee of each house of the Legislature, and the legislative members of the State Public Works Board, discussing the scope, cost, and future implications of the use of funds for preliminary plans.

(c) The amount appropriated hereby is not to be construed as a commitment by the Legislature as to the amount of capital outlay funds the Legislature will appropriate in any future year.

SEC. 15. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified

as related to the budget in the Budget Bill, and shall take effect immediately.





















Approved \_\_\_\_\_, 2013

---

*Governor*