

ASSEMBLY BILL

No. 326

Introduced by Assembly Member Leonard

February 11, 1999

An act to add Chapter 17 (commencing with Section 7440) to Title 7 of Part 3 of the Penal Code, relating to financing the construction of prison facilities by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds.

LEGISLATIVE COUNSEL'S DIGEST

AB 326, as introduced, Leonard. Prison construction.

(1) Existing law authorizes the construction of correctional facilities, as specified.

This bill, in addition, would authorize the Department of Corrections to construct and establish 6 medium, maximum, or combination thereof, security prisons throughout the State of California.

(2) Existing law contains various bond acts to finance the construction of state correctional facilities, including the New Prison Construction Bond Act of 1990, under which the proceeds of the sale of bonds in the amount of \$450,000,000 is available for the acquisition, construction, renovation, remodeling, and deferred maintenance of state youth and adult correctional facilities.

This bill would enact the New Prison Construction Bond Act of 1999, which, if adopted, would authorize the issuance, pursuant to the State General Obligation Bond Law, of bonds

in an unspecified amount to provide for the construction of the 6 state prisons described in (1) above, and for the purpose of refinancing interim debt incurred for these purposes.

The bill would provide for submission of the bond act to the voters at the March 7, 2000, statewide primary election in accordance with specified law.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. (a) The Department of Corrections is
2 hereby authorized to construct and establish six medium,
3 maximum, or combination thereof, security prisons
4 throughout the State of California.

5 (b) The location of the prisons established pursuant to
6 this act shall be consistent with the department's
7 Five-Year Facilities Master Plan for the fiscal years
8 1999–2000 to 2003–2004, inclusive.

9 (c) The department shall provide space in the prisons
10 established pursuant to this act to accommodate the need
11 of inmates needing drug and alcohol rehabilitation.

12 (d) The number of rehabilitation spaces shall be
13 consistent with the needs identified in the department's
14 Five-Year Facilities Master Plan for the fiscal years
15 1999–2000 to 2003–2004, inclusive.

16 SEC. 2. Chapter 17 (commencing with Section 7440)
17 is added to Title 7 of Part 3 of the Penal Code, to read:

18

19 CHAPTER 17. NEW PRISON CONSTRUCTION BOND ACT OF
20 1999

21

22 7440. This chapter shall be known and may be cited
23 as the New Prison Construction Bond Act of 1999.

24 7441. The State General Obligation Bond Law is
25 adopted for the purpose of the issuance, sale and
26 repayment of, and otherwise providing with respect to,
27 the bonds authorized to be issued by this chapter, and the
28 provisions of that law are included in this chapter as
29 though set out in full in this chapter except that,



1 notwithstanding anything in the State General
2 Obligation Bond Law, the maximum maturity of the
3 bonds shall not exceed 20 years from the date of each
4 respective series. The maturity of each respective series
5 shall be calculated from the date of that series.

6 7442. There is in the State Treasury the 1999 Prison
7 Construction Fund, which fund is hereby created. The
8 proceeds of the sale of bonds authorized by this chapter
9 shall be deposited in the fund. Upon request of the
10 Department of Corrections and upon approval of the
11 Director of Finance, appropriations or augmentations to
12 appropriations made from the 1984 Prison Construction
13 Fund established by Section 7202, the 1986 Prison
14 Construction Fund established by Section 7302, the 1988
15 Prison Construction Fund established by Section 7402, or
16 the 1990 Prison Construction Fund established by Section
17 7422, or any combination thereof, may be funded from
18 the 1999 Prison Construction Fund. If the moneys are so
19 funded, "fund" means the 1984 Prison Construction
20 Fund, the 1986 Prison Construction Fund, the 1988 Prison
21 Construction Fund, the 1990 Prison Construction Fund,
22 or the 1999 Prison Construction Fund created by this
23 section, or any combination thereof, as is appropriate. At
24 least 30 days prior to requesting funding for
25 appropriations or augmentations to appropriations for
26 other bond acts as authorized by this section, the
27 Department of Corrections shall notify the chairpersons
28 of the fiscal committees in each house of the Legislature,
29 and the chairperson and the vice chairperson of the Joint
30 Legislative Budget Committee.

31 7443. The 1999 Prison Construction Committee is
32 hereby created. The committee shall consist of the
33 Controller, the Treasurer, and the Director of Finance, or
34 their designated representatives. A majority may act for
35 the committee. The Treasurer shall chair the committee.
36 That committee shall be the "committee," as that term is
37 used in the State General Obligation Bond Law.

38 When funds are appropriated to the Department of
39 Corrections, the Department of Corrections is the



1 “board” for the purpose of the State General Obligation
2 Bond Law and this chapter.

3 7444. The committee is hereby authorized and
4 empowered to create a debt or debts, liability or
5 liabilities, of the State of California, in the aggregate
6 principal amount of _____ dollars (\$_____),
7 exclusive of refunding bonds, in the manner provided in
8 this chapter. That debt or debts, liability or liabilities, shall
9 be created for the purpose of providing the fund to be
10 used for the object and work specified in Section 7446 and
11 to be used to reimburse the General Obligation Bond
12 Expense Revolving Fund pursuant to Section 16724.5 of
13 the Government Code.

14 7445. The committee may determine whether or not
15 it is necessary or desirable to issue any bonds authorized
16 under this chapter, and if so, the amount of bonds then to
17 be issued and sold. The committee may authorize the
18 Treasurer to sell all or any part of the bonds herein
19 authorized at such time or times as may be fixed by the
20 Treasurer.

21 7446. The moneys in the fund shall be used for the
22 construction of the six state correctional facilities
23 authorized pursuant to the act that enacted this chapter.
24 In addition, moneys in the fund may be used to help
25 mitigate capital costs of school districts and local
26 governments impacted by those facilities, provided the
27 cost of the mitigation does not exceed two million dollars
28 (\$2,000,000) per school district or local government.
29 Moneys deposited in the fund may also be used for the
30 refinancing of interim debt incurred for any of the
31 purposes specified in this section.

32 7447. (a) All bonds herein authorized, which shall
33 have been duly sold and delivered as herein provided,
34 shall constitute valid and legally binding general
35 obligations of the State of California, and the full faith and
36 credit of the State of California is hereby pledged for the
37 punctual payment of both the principal thereof and
38 interest thereon.

39 (b) There shall be collected annually in the same
40 manner and at the same time as other state revenue is



1 collected, that sum, in addition to the ordinary revenues
2 of the state, that is required to pay the principal of, and
3 interest on those bonds, and it is hereby made the duty of
4 all officers charged by law with any duty in regard to the
5 collection of that revenue to do and perform each and
6 every act which shall be necessary to collect that
7 additional sum.

8 (c) All money deposited in the fund that has been
9 derived from premiums or accrued interest on bonds sold
10 shall be available for transfer to the General Fund as a
11 credit to expenditures for bond interest.

12 (d) All money deposited in the fund pursuant to any
13 provision of law requiring repayments to the state that is
14 financed by the proceeds of the bonds authorized by this
15 chapter shall be available for transfer to the General
16 Fund. When transferred to the General Fund that money
17 shall be applied as a reimbursement to the General Fund
18 on account of the principal of and interest on the bonds
19 which have been paid from the General Fund.

20 7448. Notwithstanding Section 13340 of the
21 Government Code, there is hereby appropriated from
22 the General Fund in the State Treasury for the purpose
23 of this chapter such an amount as will equal the following:

24 (a) That sum annually as will be necessary to pay the
25 principal of and the interest on the bonds issued and sold
26 pursuant to this chapter.

27 (b) That sum as is necessary to carry out the provisions
28 of Section 7449, which sum is appropriated without
29 regard to fiscal years.

30 7449. For the purpose of carrying out this chapter, the
31 Director of Finance may authorize, by executive order,
32 the withdrawal from the General Fund of an amount or
33 amounts not to exceed the amount of the unsold bonds
34 which the committee has authorized, by resolution, to be
35 sold for the purpose of carrying out this chapter. Any
36 amounts withdrawn shall be deposited in the fund and
37 shall be disbursed by the committee in accordance with
38 this chapter. Any money made available under this
39 section to the board shall be returned by the board to the
40 General Fund from moneys received from the sale of



1 bonds sold for the purpose of carrying out this chapter.
2 Those withdrawals from the General Fund shall be
3 returned to the General Fund with interest at the rate
4 which would otherwise have been earned by those sums
5 in the Pooled Money Investment Account.

6 7450. The board may request the Pooled Money
7 Investment Board to make a loan from the Pooled Money
8 Investment Account, in accordance with Section 16312 of
9 the Government Code, for the purposes of carrying out
10 the provisions of this chapter. The amount of the request
11 shall not exceed the amount of the unsold bonds which
12 the committee has authorized, by resolution, to be sold for
13 the purpose of carrying out this chapter. The board shall
14 execute any documents required by the Pooled Money
15 Investment Board to obtain and repay the loan. Any
16 amounts loaned shall be deposited in the fund to be
17 allocated by the board in accordance with this chapter.

18 7451. Any bonds issued and sold pursuant to this
19 chapter may be refunded by the issuance of refunding
20 bonds in accordance with Article 6 (commencing with
21 Section 16780) of Chapter 4 of Part 3 of Division 4 of Title
22 2 of the Government Code. Approval by the electors of
23 the state for the issuance of bonds shall include the
24 approval of the issuance of any bonds issued to refund any
25 bonds originally issued or any previously issued refunding
26 bonds.

27 7452. All proceeds from the sale of bonds, except those
28 derived from premiums and accrued interest, shall be
29 available for the purposes provided in Section 7446, but
30 shall not be available for transfer to the General Fund to
31 pay the principal of, and interest on, bonds. The money
32 in the fund may be expended only as herein provided.

33 Notwithstanding any provision of this chapter or the
34 State General Obligation Bond Law set forth in Chapter
35 4 (commencing with Section 16720) of Part 3 of Division
36 4 of Title 2 of the Government Code, if the Treasurer sells
37 bonds pursuant to this chapter that include a bond
38 counsel opinion to the effect that the interest on the
39 bonds is excluded from gross income for federal tax
40 purposes under designated conditions, the Treasurer may



1 maintain separate accounts for the bond proceeds
2 invested and the investment earnings on those proceeds,
3 and may use or direct the use of those proceeds or
4 earnings to pay any rebate, penalty, or other payment
5 required under federal law, or to take any other action
6 with respect to the investment and the use of those bond
7 proceeds, as may be required or desirable under federal
8 law in order to maintain the tax-exempt status of those
9 bonds and to obtain any other advantage under federal
10 law on behalf of the funds of this state.

11 7453. Money in the fund may be expended only
12 pursuant to appropriations by the Legislature. The
13 Department of Corrections, annually on or before
14 January 10, shall submit its five-year facility master plan
15 to the Legislature. The plan shall include a program of
16 proposed expenditures from the 1999 Prison
17 Construction Fund.

18 7454. The Legislature hereby finds and declares that,
19 inasmuch as the proceeds from the sale of bonds
20 authorized by this chapter are not “proceeds of taxes” as
21 that term is used in Article XIII B of the California
22 Constitution, the disbursement of these proceeds is not
23 subject to the limitations imposed by that article.

24 SEC. 3. The amount of the General Obligation Bond
25 authorized pursuant to Section 2 of this act, although
26 unspecified, shall be consistent with the amounts
27 necessary to construct the six prisons authorized pursuant
28 to Section 1 of this act.

29 SEC. 4. Section 2 of this act shall become effective
30 upon the approval by the voters, at the March 7, 2000,
31 statewide primary election, of the New Prison
32 Construction Bond Act of 1999, as set forth in Section 2 of
33 this act.

34 SEC. 5. Section 2 of this act shall be submitted to the
35 voters at the March 7, 2000, statewide primary election in
36 accordance with provisions of the Government Code and
37 the Elections Code governing submission of statewide
38 measures to the voters.

39 SEC. 6. (a) Notwithstanding any other provision of
40 law, all ballots of the March 7, 2000, statewide primary



1 election shall have printed thereon and in a square
2 thereof, exclusively the words: “New Prison Construction
3 Bond Act of 1999,” and in the same square under those
4 words, the following in 8-point type: “This act provides for
5 a bond issue of _____ dollars (\$____) to provide
6 funds to relieve overcrowding in the state’s prisons
7 through new construction.” Opposite the square, there
8 shall be left spaces in which voters may place a cross in the
9 manner required by law to indicate whether they vote for
10 or against the act.

11 (b) Where voting in the election is done by means of
12 voting machines used pursuant to law in a manner that
13 carries out the intent of this section, the use of the voting
14 machines and the expression of the voters’ choice by
15 means thereof are in compliance with this section.

