

AMENDED IN ASSEMBLY AUGUST 29, 2000

AMENDED IN ASSEMBLY JUNE 29, 2000

AMENDED IN ASSEMBLY AUGUST 24, 1999

AMENDED IN SENATE MAY 19, 1999

AMENDED IN SENATE APRIL 26, 1999

AMENDED IN SENATE MARCH 4, 1999

SENATE BILL

No. 128

Introduced by Senator Polanco
(Coauthor: Assembly Member Migden)

December 22, 1998

An act to ~~add Sections 54233 and 54233.1 to the Government Code, relating to imprisonment; amend Section 4420 of the Government Code, relating to state property.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 128, as amended, Polanco. ~~Prisons: San Quentin State property.~~

(1) Existing law authorizes the Director of General Services, with the consent of the state agency concerned, to sell, convey, or exchange surplus real property belonging to the state at fair market value under specified circumstances.

This bill would authorize the director, with approval of the Director of the Department of Transportation, to sell, lease, or exchange the real property located at 120 South Spring Street in the City of Los Angeles, including structures thereon totaling approximately 395,000 square feet.

(2) Existing law prohibits a state or local government agency, in connection with competitive bidding for a public building or construction contract, from requiring a bidder to obtain a surety bond or insurance in connection with the project from a particular surety or insurance company, agent, or broker, and authorizes use of owner-controlled or wrap-up insurance on a “construction or renovation project” for which the total cost exceeds \$50,000,000 if the agency meets certain conditions and certifies that it has made certain determinations.

This bill would clarify that law by authorizing owner-controlled or wrap-up insurance for a construction or renovation program, rather than project, for which the costs exceed \$50,000,000.

~~Existing law provides for the establishment and operation of a state prison at San Quentin in Marin County, and provides that all death row inmates shall be incarcerated therein and all judgments of death shall therein be executed.~~

~~This bill would direct the Department of Corrections to transfer, by January 1, 2002, ownership of the property and facilities of the state prison at San Quentin to the Department of General Services, and would declare that property and facilities to be surplus land. This bill would direct the Department of General Services to establish and support a task force of specified state and local representatives to determine the appropriate use and disposition of the property, and to develop a land use master plan to be considered for implementation by the department. This bill would also require the Department of Corrections to develop, by June 30, 2001, a proposal for the transfer of inmates housed in the state prison at San Quentin, subject to specified criteria.~~

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

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

1 ~~SECTION 1. The Legislature finds and declares as~~
2 *SECTION 1. The Director of General Services, with*
3 *approval of the Director of the Department of*
4 *Transportation, may sell, lease, or exchange the real*



1 *property located at 120 South Spring Street in the City of*
2 *Los Angeles, including structures thereon totaling*
3 *approximately 395,000 square feet, on those terms and*
4 *conditions and subject to the reservations and exceptions*
5 *that may be in the best interest of the state.*

6 *SEC. 2. Section 4420 of the Government Code is*
7 *amended to read:*

8 4420. (a) No state or local governmental agency and
9 no person acting on behalf of any state or local
10 governmental agency, except a governmental agency
11 created pursuant to agreement or compact with another
12 state, shall, with respect to any public building or
13 construction contract that is about to be or that has been
14 competitively bid, require the bidder to make application
15 to, furnish financial data to, or obtain or procure any
16 surety bond or contract of insurance specified in
17 connection with the contract or specified by any law,
18 ordinance, or regulation from, a particular surety or
19 insurance company, agent, or broker.

20 (b) Notwithstanding subdivision (a), a state or local
21 governmental agency may use owner-controlled or
22 wrap-up insurance with regard to a construction or
23 renovation ~~project~~ *program* for which the total cost
24 exceeds fifty million dollars (\$50,000,000) if the agency
25 meets all of the following conditions and certifies that it
26 has made the following determinations:

27 (1) Prospective bidders, including contractors and
28 subcontractors, meet minimum occupational safety and
29 health qualifications established to bid on the project. The
30 evaluation of prospective bidders shall be based on
31 consideration of the following factors:

32 (A) Serious and willful violations of Part 1
33 (commencing with Section 6300) of Division 5 of the
34 Labor Code, by a contractor or subcontractor during the
35 past five-year period.

36 (B) The contractor's or subcontractor's workers'
37 compensation experience modification factor.

38 (C) A contractor's or subcontractor's injury
39 prevention program instituted pursuant to Section 3201.5
40 or 6401.7 of the Labor Code.



1 (2) The use of owner-controlled or wrap-up insurance
2 will minimize the expenditure of public funds on the
3 project in conjunction with the exercise of appropriate
4 risk management.

5 (3) The program maintains completed operation
6 coverage for a term for which the Insurance
7 Commissioner has determined that coverage is
8 reasonably commercially available, but in no event less
9 than three years.

10 (4) Bid specifications clearly specify for all bidders the
11 insurance coverage provided under the program and
12 minimum safety requirements that must be met.

13 (5) The program does not prohibit a contractor or
14 subcontractor from purchasing any additional insurance
15 coverage that a contractor or subcontractor believes is
16 necessary to protect from any liability arising out of the
17 contract.

18 (6) The program does not include surety insurance.

19 (c) Safety requirements for a project subject to this
20 section may be developed jointly between the agency
21 and the prime contractor. If the agency requires a safety
22 program different than the prime contractor's usual and
23 customary program, the program shall be mutually
24 agreed upon, taking into account the prime contractor's
25 experience, expertise, existing labor agreements relating
26 to safety issues, and any unique safety issues relating to
27 the project.

28 (d) This section shall not affect any provision in a
29 collective bargaining agreement specified in Section
30 3201.5 of the Labor Code that is submitted by the prime
31 contractor with its construction bid.

32 (e) The use of owner-controlled or wrap-up insurance
33 under this chapter does not abrogate, limit, or otherwise
34 affect any potential liability that is otherwise available at
35 law.

36 (f) For purposes of this section, the following terms
37 have the following meanings:

38 (1) "Owner-controlled or wrap-up insurance" means
39 a series of insurance policies issued to cover all of the



1 contractors and subcontractors on a given project for
2 purposes of general liability and workers' compensation.

3 (2) "State governmental agency" means any state
4 office, officer, department, division, bureau, board,
5 commission, the University of California, or the California
6 State University.

7 (3) "Local governmental agency" means any city,
8 county, city and county, special district, authority, or
9 other political subdivision of or within the state.

10 follows:

11 ~~(a) San Quentin State Prison, built in 1852 and the~~
12 ~~oldest prison in California, is no longer cost-effective to~~
13 ~~maintain and operate. Hundreds of millions of dollars~~
14 ~~have been spent to retrofit the prison and upgrade its~~
15 ~~infrastructure just to maintain minimum structural~~
16 ~~integrity. In addition, millions of dollars are requested~~
17 ~~every year to bring the prison up to modern standards.~~

18 ~~(b) San Quentin State Prison was recently designated~~
19 ~~the most seismically unsafe building in California.~~

20 ~~(c) Any long-term land use plans for the property at~~
21 ~~San Quentin State Prison shall be consistent with local bay~~
22 ~~area regional planning.~~

23 ~~SEC. 2. Section 54233 is added to the Government~~
24 ~~Code, to read:~~

25 ~~54233. (a) The Department of Corrections shall~~
26 ~~transfer the ownership of the property, including all~~
27 ~~facilities, comprising the California State Prison at San~~
28 ~~Quentin, located in Marin County, to the Department of~~
29 ~~General Services no later than January 1, 2002. Pursuant~~
30 ~~to Section 11011 of the Government Code, the~~
31 ~~Legislature finds and declares this property, including all~~
32 ~~facilities, to be surplus land.~~

33 ~~(b) The Department of General Services shall~~
34 ~~establish and support a task force of state and local~~
35 ~~representatives to recommend the appropriate use and~~
36 ~~disposition of the property. The task force shall include~~
37 ~~the Senate and Assembly representatives with districts~~
38 ~~that include San Quentin State Prison, the chair of the~~
39 ~~joint legislative committee with primary oversight of~~
40 ~~prison issues, one representative from the City of Corte~~



1 ~~Madera, one representative from the City of Larkspur,~~
 2 ~~one representative from the City of San Rafael, one~~
 3 ~~representative from the City of Tiburon, three~~
 4 ~~representatives from the County of Marin, and one~~
 5 ~~representative from the City of San Francisco. The task~~
 6 ~~force shall develop and recommend a land use master~~
 7 ~~plan which the Department of General Services shall~~
 8 ~~consider for implementation. The master plan may~~
 9 ~~include identifying a portion of the land as an historic~~
 10 ~~landmark, which portion may be transferred to the~~
 11 ~~Department of Parks and Recreation for maintenance.~~

12 ~~SEC. 3. Section 54233.1 is added to the Government~~
 13 ~~Code, to read:~~

14 ~~54233.1. (a) By June 30, 2001, the Department of~~
 15 ~~Corrections shall develop a proposal for the transfer of~~
 16 ~~inmates housed in San Quentin State Prison to alternative~~
 17 ~~sites consistent with the criteria identified in subdivision~~
 18 ~~(b) of this section.~~

19 ~~(b) The Department of Corrections shall consider the~~
 20 ~~following criteria in developing the inmate transfer~~
 21 ~~proposal:~~

22 ~~(1) No property at San Quentin State Prison may~~
 23 ~~continue to be used to house inmates.~~

24 ~~(2) Nothing in the proposal may exacerbate the unsafe~~
 25 ~~working conditions at overcrowded state facilities.~~
 26 ~~Excluding inmates housed on death row, no inmate may~~
 27 ~~be transferred to any state run facility operating at or~~
 28 ~~above 160 percent of design capacity.~~

29 ~~(3) Any new capacity deemed necessary to meet the~~
 30 ~~criteria set forth in this measure must be operated at least~~
 31 ~~10 percent below the average state cost of incarceration.~~
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