

Senate Bill No. 99

CHAPTER 245

An act to add Chapter 3.12 (commencing with Section 15820.100) to Part 10b of Division 3 of Title 2 of the Government Code, relating to prisons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 2007. Filed with
Secretary of State September 26, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

SB 99, Committee on Budget and Fiscal Review. Prisons: construction.

Existing law charges the Department of Corrections and Rehabilitation with the responsibility of planning and constructing state correctional facilities and permits funding for the construction of various prisons through lease-purchase financing arrangements.

This bill would authorize funding for the design and construction of a central health facility at San Quentin State Prison, as specified, by means of state issued revenue bonds. It would authorize the State Public Works Board to issue up to \$146,160,000 in revenue bonds, notes, or bond anticipation notes for that purpose and would continuously appropriate the proceeds for that purpose.

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

Appropriation: yes.

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

SECTION 1. Chapter 3.12 (commencing with Section 15820.100) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 3.12. FINANCING OF SAN QUENTIN STATE PRISON CENTRAL HEALTH SERVICES FACILITIES

15820.100. The Legislature finds and declares all of the following:

(a) On February 14, 2006, the United States District Court in the case of *Plata v. Schwarzenegger* (No. C01-1351 TEH) suspended the exercise of authority by the Secretary of the Department of Corrections and Rehabilitation related to the administration, control, management, operation, and financing of the California prison medical health care system and vested those powers in a Medical Care Receiver appointed by the court commencing on April 17, 2006, until further order of the court.

(b) These powers included assessing the suitability of existing medical care facilities and the design and construction of upgrades or replacement facilities.

(c) It is necessary to design and construct a Central Health Services Building at San Quentin State Prison to provide medical, dental, and mental health treatment and a reception center to inmates.

(d) The purpose of this chapter is to authorize funding solely for this project and to describe the procurement method that the Medical Care Receiver is authorized to use for the project.

(e) This chapter is enacted for the sole purpose of addressing the urgent need for this building and for prison health care and shall not be cited as precedent for any other purpose.

15820.101. For the purposes of this chapter, the following definitions apply:

(a) “Department” means the Department of Corrections and Rehabilitation.

(b) “Medical Care Receiver” means the person appointed by the United States District Court in the case of *Plata v. Schwarzenegger* (No. C01-1351 TEH) to oversee management and operation of the state prison medical system.

(c) “Project” means the Central Health Services Building at San Quentin State Prison to provide medical, dental, and mental health treatment to inmates.

15820.102. (a) In order to expedite the improvement of medical, dental, and mental health at San Quentin State Prison and to expedite compliance with the case of *Plata v. Schwarzenegger* (No. C01-1351 TEH), notwithstanding any other provision of law, the Medical Care Receiver may solicit proposals and enter into contracts for the study, planning, design, development, construction, rebuilding, improvement, or repair, or any combination thereof, for the project based upon a value-based, competitive negotiation process.

(b) Solicitations or contracts authorized pursuant to this section may be executed by the Medical Care Receiver through the California Prison Health Care Receivership Corporation on behalf of the department. Entities may be selected by the Medical Care Receiver subject to the oversight of the federal court and to all of the following criteria:

(1) The Medical Care Receiver shall utilize, as the primary selection criteria, the demonstrated competence and qualifications for the studying, planning, design, developing, construction, rebuilding, improvement, or repair, or any combination thereof, of the project.

(2) The Medical Care Receiver shall ensure that the project is delivered under contracts entered into pursuant to this section at a fair and reasonable price.

(3) The Medical Care Receiver may not enter into any solicitation or contract that may result in unlawful activity, including, but not limited to, rebates or kickbacks.

(4) The Medical Care Receiver may not enter into a contract that uses employees or consultants of the Medical Care Receiver when those employees or consultants have a relationship with a person or business entity seeking a contract under this section that would subject those employees to the prohibition of Section 87100.

(c) The scope and cost of the project shall be subject to approval and administrative oversight by the board, pursuant to Section 13332.19, except that, for the purposes of this chapter, the duties assigned to the Director of General Services under that section shall be performed by the Medical Care Receiver.

15820.103. (a) For purposes of compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the board shall not be deemed a lead or responsible agency. However, nothing in this chapter exempts the department from the requirements of that division.

(b) Proceeds from bonds or notes authorized pursuant to this chapter shall be used to reimburse the General Fund for any costs incurred by the department for the preparation of an environmental impact report and related studies, and for any other costs associated with compliance with Division 13 (commencing with Section 21000) of the Public Resources Code in connection with the project.

15820.104. (a) The State Public Works Board may issue up to one hundred forty-six million one hundred sixty thousand dollars (\$146,160,000) in revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to this part, to finance the design and construction for the project. The revenue bonds, negotiable notes, or negotiable bond anticipation notes authorized in this chapter shall reduce the amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes the board is authorized to issue pursuant to subdivision (a) of Section 15819.403 for the construction authorized by subdivision (c) of Section 15819.40. None of the provisions of Chapter 3.2.1 of this part, as it may be amended from time to time, shall apply to the project.

(b) The department may borrow funds for project costs from the Pooled Money Investment Account pursuant to Sections 16312 and 16313 or from any other appropriate source. In the event any of the revenue bonds, notes, or bond anticipation notes authorized by this chapter are not sold, the department shall commit a sufficient amount of its support appropriation to repay any loans made from the Pooled Money Investment Account for an approved project.

(c) The costs of financing include, but are not limited to, interest during construction of the project, a reasonably required reserve fund, and the cost of issuance of permanent financing.

(d) The department and the board shall execute and deliver any and all leases, contracts, agreements, or other documents necessary for the sale of bonds or other financing for the project.

(e) Proceeds of the revenue bonds, notes, or bond anticipation notes may be used to reimburse the department for the costs of preliminary plans, working drawings, and construction, for the project.

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

15820.105. (a) All plans and specifications for the project shall comply with all applicable building codes.

(b) The project is hereby deemed a “public work” project for purposes of Sections 3082 to 3267, inclusive, of the Civil Code.

(c) The provisions of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code shall apply to all public works contracts entered into for the project.

(d) Other than as provided in this section and Sections 15820.101, 15820.102, 15820.103, and 15820.104, private sector methods may be used to deliver the project. Specifically, the procurement and contracting for the delivery of the project is not subject to the State Contract Act or any other provision of California law governing public procurement or public works projects.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Immediate commencement of construction of the Central Health Services Building is necessary to meet the needs of the medical, mental health, and dental services programs that provide health care for the inmates housed at San Quentin State Prison, and to comply with the directives of the Medical Care Receiver in the case of *Plata v. Schwarzenegger* (No. C01–1351 TEH). Therefore, it is necessary for this act to go into effect immediately.