
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: AB 2012 **Hearing Date:** June 21, 2016
Author: Bigelow
Version: April 7, 2016
Urgency: No **Fiscal:** No
Consultant: JRD

Subject: *Jail Industry Authority*

HISTORY

Source: L.A. County Sheriff and Tuolumne County Sheriff

Prior Legislation: SB 262 (Presley)--Chapter 1303, Statutes of 1987

Support: California Public Defenders Association; California State Association of Counties; California State Sheriffs' Association; Los Angeles County Board of Supervisors; Sacramento County Sheriff's Department; San Diego County Sheriff's Department; San Luis Obispo County Sheriff's Office; Stanislaus County Sheriff's Office; Tulare County Sheriff's Office; Ventura County Sheriff's Office

Opposition: Coalition of Small & Disabled Veteran Businesses

Assembly Floor Vote: 77 - 0

PURPOSE

The purpose of this bill is to replace the authorization of the Jail Industry Commission with an authorization for a Jail Industry Authority, which will have similar purposes, powers and duties as the Prison Industry Authority, as specified.

Existing law authorizes the Boards of Supervisors of counties of the 9th or 19th class, with the concurrence of the county sheriff to establish, by ordinance, a Jail Industry Commission (JIC) for that county. The JIC, if established, shall have the same purposes, powers and duties with respect to county jails as the Prison Industry Authority (PIA) has for institutions under the jurisdiction of the Department of Corrections. (Penal Code §§ 4325 and 2800, et seq.; Government Code §§ 28030 and 28040.)

Existing law states the JIC shall be composed of nine members, with four being appointed and serving at the pleasure of the Board of Supervisors, with three being appointed by and serving at the pleasure of the Sheriff, the Chairperson of the Board of Supervisors and the Sheriff as the ex officio Chairperson of the Commission. (Penal Code § 4326.)

Existing law requires the Boards of Supervisors, upon establishing a JIC, to establish a Jail Industries Fund to fund the operations of the Commission, to serve as a depository for any jail

industry income, and to pay compensation for prisoner participants. (Penal Code § 4327.)

Existing law sunsets the provision which states that no JIC program shall remain in existence four years after it is established. (Penal Code §§ 4325 and 4329.)

Existing law states that the purposes of the PIA are: to develop and operate industrial, agricultural and service enterprises employing prisoners under the jurisdiction of the Department of Corrections, to create and maintain working conditions as much like private industry as possible, to allow prisoners to earn funds and improve work habits and skills, and to operate programs which will ultimately be self-supporting financially. (Penal Code § 2801.)

Existing law grants the PIA: jurisdiction over the operation of all industrial, agricultural, and service operations formerly under the jurisdiction of the Correctional Industries Commission; authority to establish new industrial, agricultural and service enterprises; to initiate new vocational training programs; to assume authority over existing vocational training programs; and the power to buy and sell all equipment, supplies and materials used in the Prison Industry Authority's operations. (Penal Code § 2805.)

Existing law grants authority to the PIA to sell products and services to states and local agencies. (Penal Code § 2807.)

Existing law requires the PIA to fix a price schedule for all PIA products and services. (Penal Code § 2807.)

Existing law allows the PIA to sell products and services to nonprofits so long as they are 501(c)(3) organizations with a memorandum of understanding with a local education agency who provides public those products or services at no cost. (Penal Code § 2807; 26 U.S.C. § 501(c)(3).)

Existing law gives the PIA board the same authority as the board of directors of private corporations, including but not limited to the ability to enter into contracts. (Penal Code § 2808.)

Existing law grants the general manager of the board, with the approval of the Department of Finance, to borrow funds for operations, supply and equipment purchases, and construction and repair of facilities. (Penal Code § 2810.)

Existing law requires the PIA to adopt and maintain a compensation schedule for inmate employees, with no compensation to exceed half the minimum wage as specified. (Penal Code § 2811; Labor Code § 1182.)

Existing law prohibits any person from selling products manufactured in whole or in part by inmate labor. (Penal Code § 2812.)

Existing law authorizes the PIA to allow inmates to make and sell small articles of handiwork, as provided. (Penal Code § 2813.)

Existing law allows the PIA to authorize inmates to rebuild or repair salvaged or abandoned vehicles, subject to the Vehicle Code, and requires the funds from these sales be deposited in the Restitution Fund. (Penal Code §§ 2054, 2808 and 2813.5; Vehicle Code §§ 22851.3 and 24007.5.)

Existing law allows the PIA to sell agricultural or animal husbandry products to private persons. (Penal Code § 2814.)

Existing law allows the PIA to sell goods and services to foreign governments, foreign corporations or individuals with agents in foreign markets. (Penal Code § 2815.)

This bill replaces the authorization for Jail Industry Commissions with an authorization for the Jail Industry Program.

This bill allows the Boards of Supervisors of the counties of Los Angeles, Sacramento, San Diego, San Joaquin, Sonoma, Stanislaus, Tulare, Tuolumne, and Ventura to establish a Jail Industry Program.

This bill states the purpose of the Jail Industry Authority includes the following:

- To develop and operate industrial, agricultural or service enterprises or programs under the jurisdiction of the Sheriff or Country Director of Corrections;
- To create and maintain working conditions within the enterprises as similar as possible to those in private industry;
- To ensure prisoners have the opportunity to earn funds and acquire work skills; and
- To allow inmates to earn time credits if so authorized.

This bill eliminates the sunset provision for programs established by any Jail Industry Commission.

This bill makes technical and conforming changes.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past several years this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In December of 2015 the administration reported that as "of December 9, 2015, 112,510 inmates were housed in the State's 34 adult institutions, which amounts to 136.0% of design bed capacity, and 5,264 inmates were housed in out-of-state facilities. The current population is 1,212 inmates below the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015." (Defendants' December

2015 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).) One year ago, 115,826 inmates were housed in the State's 34 adult institutions, which amounted to 140.0% of design bed capacity, and 8,864 inmates were housed in out-of-state facilities. (Defendants' December 2014 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).)

While significant gains have been made in reducing the prison population, the state must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for Legislation

According to the author:

Many counties across the nation have realized enormous benefits from their jail industry programs.

Counties that operate jail authorities agree that the programs offer one of the few win-win opportunities in corrections. Everyone benefits from a successful industry authority—the jail, taxpayers, communities, families, and inmates. The public benefits both financially (the program provides services or products at low or no cost, and there is less vandalism and property damage in the jail) and socially (the program increases the likelihood of inmate success upon release and reduces overcrowding).

Jail administrators and staff benefit from an improved jail environment (less tension, damage, and crowding) and are provided with a management tool both to encourage positive inmate behavior and to form a more visible and positive public image.

Inmates clearly benefit from increased work activities, experience, and, sometimes, earnings. Further, as tension, destruction, and crowding in the jail are reduced, inmates enjoy a better living environment. For some inmates, their experience in the industries program breaks a lifetime pattern of failure by helping them secure and maintain

meaningful post release employment. Every county within the state of California should have the authority to start a jail industries program within their jail system.

2. Effect of This Legislation

As stated above, this legislation would allow the Counties of Los Angeles, Sacramento, San Diego, San Joaquin, Sonoma, Stanislaus, Tulare, Tuolumne, and Ventura to create a Jail Industry Authority within the county jail system, to:

- Develop and operate industrial, agricultural, or service enterprises or programs employing prisoners in county correctional facilities under the jurisdiction of the sheriff or county director of corrections.
- Create and maintain working conditions within the enterprises or programs as similar as possible to those that prevail in private industry.
- Ensure prisoners have the opportunity to work productively and earn funds and to acquire or improve effective work habits and occupational skills.
- Allow inmates who participate in the enterprise or program the opportunity to earn additional time credits, if authorized by the sheriff or county director of corrections.

The author's office has indicated that the author will amend the bill to add San Luis Obispo to the list of counties contained in this legislation. Given that this legislation is permissive, and that there will likely be numerous pieces of legislation in coming years to expand this authority to other counties, members may wish to consider an amendment applying the provisions of this legislation to all counties.

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