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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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**Bill No:** SB 418                      **Hearing Date:** April 25, 2023  
**Author:** Padilla  
**Version:** February 9, 2023  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** HM

**Subject:** *California Prison Redevelopment Commission*

## HISTORY

**Source:** Author

**Prior Legislation:** AB 32 (Bonta), Ch. 739, Stat. 2019  
AB 200 (Committee on Budget), Ch. 58, Stat. 2022

**Support:** California Community Economic Development Association (CCEDA); County of Riverside Supervisor v. Manuel Perez; Imperial Community College District; Palo Verde Community College District; Palo Verde Transit Agency; Smart Justice California

**Opposition:** None known

## PURPOSE

***The purpose of this bill is to establish the California Prison Redevelopment Commission under the direction of the Director of the Governor's Office of Business. This bill requires the Commission to develop recommendations for creative uses of closed prison facilities and submit a report to the Legislature by August 1, 2024.***

*Existing law* requires the Department of Corrections and Rehabilitation to begin reducing private in-state male contract correctional facilities in a manner that maintains sufficient flexibility to comply with the federal court order to maintain the prison population at or below 137.5 percent of design capacity. (Pen. Code, § 2067 (a).)

*Existing law* prohibits the Department of Corrections and Rehabilitations on or after January 1, 2020 from entering into a contract with a private, for-profit prison facility located in or outside of the state to provide housing for state prison inmates. (Pen. Code, § 5003.1 (a).)

*Existing law* prohibits the Department of Corrections and Rehabilitation on or after January 1, 2020 from renewing contracts with a private, for-profit prisons located in or outside of the state to incarcerate state prison inmates. (Pen. Code, § 5003.1 (b).)

*Existing law* states that after January 1, 2028, a state prison inmate or other person under the jurisdiction of the Department of Corrections and Rehabilitation shall not be incarcerated in a private, for-profit prison facility. (Pen. Code, § 5003.1 (c).)

*Existing law* establishes the Governor's Office of Business and Economic Development (GO-Biz) that shall serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. (Gov. Code, § 12096.3)

*Existing law* states the Governor's Office of Business and Economic Development shall recommend to the Governor and the Legislature new state policies, programs, and actions, or amendments to existing programs, advance statewide economic goals and respond to emerging economic problems and opportunities, and ensure that all state policies and programs conform to the adopted state economic and business development goals. (Gov. Code, § 12096.3 (a).)

*This bill* would establish the California Prison Redevelopment Commission, under the direction of the Director of GO-Biz that consists of 15 members including:

- One representative from the Department of Corrections and Rehabilitation, appointed by the secretary of that department.
- One representative from the Department of Finance, appointed by the director of that department.
- One representative from the Department of General Services, appointed by the director of that department.
- One representative from the Department of Parks and Recreation, appointed by the director of that department.
- One representative from the Employment Development Department, appointed by the director of that department.
- One representative from the State Energy Resources Conservation and Development Commission, appointed by the State Energy Resources Conservation and Development Commission.
- A representative from a county impacted by the prison closure, appointed by the Governor.
- A representative from a city impacted by the prison closure, appointed by the Governor.
- A member of the public from a foundation whose focus is on domestic economic development, appointed by the Governor.
- A member of the public with expertise in real estate, appointed by the Governor.
- A member of the public with expertise in economic development, appointed by the Governor.
- A member of the public representing labor organizations, appointed by the Senate Rules Committee.

- A member of the public representing community-based organizations, appointed by the Senate Rules Committee.
- A member of the public representing local business, appointed by the Speaker of the Assembly.
- A member of the public with expertise in criminal justice reform, appointed by the Speaker of the Assembly.

*This bill* specifies that the task of the Commission is to prepare a report with findings and recommendations that deliver a set of clear and credible recommendations for creative uses of closed prison facilities and turn them into community assets.

*This bill* states that when preparing the report, the Commission shall include, but shall not be limited to, all of the following:

- Timeframes for each proposal.
- Key departments and partners and implementation guidance to better ensure the success of the redevelopment of these sites and economic revitalization of impacted communities.
- Recommendations that are tailored to the needs of the impacted local communities and that serve the larger economic interests of the state.

*This bill* provides that when preparing the report, the Commission shall do, at a minimum, all of the following:

- Engage regional leaders, stakeholders, and economic development, labor, health care, and business experts.
- Consider and investigate clean energy opportunities and partnerships.
- Identify economic development tools to attract investment and job creation.
- Identify economic opportunities for the local region built on community consensus.

*This bill* requires that the Commission submit a report to the Legislature by August 1, 2024 detailing the findings and recommendations.

*This bill* shall remain in effect only until January 1, 2026, and as of that date is repealed.

## COMMENTS

### 1. Need for This Bill

According to the author:

California's rural communities suffer from chronic underinvestment and we need to think carefully on how to convert former prisons in those communities into

economic assets. The state made an executive decision to open prisons in communities which lacked other forms of significant state investment making their local economies dependent on the prisons. Having economic development experts alongside community and state leaders carefully analyze redevelopment options will provide an important road map for replacing prisons with economic opportunity and investment in rural communities that welcomed state prisons and are now being left to fend for themselves.

## 2. Ending Private For-Profit Prisons

A 2016 report from the U.S. Department of Justice’s Office of the Inspector General investigated the conditions of private prisons nationwide. The report details how private prisons are more dangerous, with more safety and security-related incidents per capita, more incidents of contraband finds, use of force, lockdowns, and guilty findings on inmate discipline charges incidents per capital than federal prisons. While the report recommends the careful and routine examination of private prisons to ensure they’re meeting human rights standards<sup>1</sup>, both the U.S. Department of Justice and 26 states, including California, have either ended contracts or have begun phasing out contracts with private prisons as of 2021<sup>2</sup>.

The California Budget Act of 2018 required all out-of-state inmates to be returned to California and for the CDCR to begin reducing private prison contracts while also maintain the federal court order to maintain the state prison population at or below 137.5% of design capacity. As of March 8, 2023, the CRCR reports that the state is at 110.9% capacity, well below the federal order<sup>3</sup>. While this is in part due to California’s Public Safety Realignment of 2011, the phasing out of private prison contracts does not seem to impede the state’s effort to reduce the prison population.

As California primarily ends private prison contracts, effectively closing a facility, the adjacent communities face financial difficulties due to the lack of opportunities the private prisons once provided. Similar impacts are evident with the closure of state prisons.

## 3. AB 32 (Bonta) Injunction

The passage of AB 32 (Bonta) in 2019 saw the CDCR be prohibited from entering or renewing contracts with private, for-profit prisons starting January 1, 2020. All inmates under the jurisdiction of the CDCR are not to be incarcerated in a private prison after January 1, 2028. All inmates in the state are to not be incarcerated in a private, for-profit prison facility after January 1, 2028. (Pen. Code §5003.1 & 9500-9505).

However, the Ninth Circuit U.S. Court of Appeals has issued an injunction blocking the enforcement of AB 32’s effort to end California’s private prison contracts. The Court ruled that AB 32 conflicts with federal authority, mainly with the Immigration and Customs Enforcement’s (ICE) detention of immigrants. The 11-member appellate panel stated that the federal government preempts AB 32 under the U.S. Constitution’s “Supremacy Clause.” As previously

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<sup>1</sup> “Review of Federal Bureau of Prisons’ Monitoring of Contract Prisons,” accessed March 8, 2023, <https://oig.justice.gov/reports/2016/e1606.pdf>

<sup>2</sup> “Private Prisons in the United States,” accessed March 8, 2023, <https://www.sentencingproject.org/app/uploads/2022/10/Private-Prisons-in-the-United-States-2.pdf>

<sup>3</sup> “Population Reports - Office of Research,” accessed March 8, 2023, <https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2023/03/Tpop1d230301.pdf>

mentioned, only the U.S. Department of Justice has ended contracts with private prisons. This does not extend to operations under the U.S. Department of Homeland Security's ICE authority and thereby conflicting with the federal agency.

Writing for an eight-member majority, Circuit Judge Jacqueline Nguyen wrote: "AB 32 would prevent ICE's contractors from continuing to run detention facilities, requiring ICE to entirely transform its approach to detention in the state or else abandon its California facilities..."<sup>4</sup>

The case has been further remanded down to the District Court for further litigation. No subsequent developments as of March 9<sup>th</sup>, 2023 (See <https://cpoa.org/bill-32/> and <https://cdn.ca9.uscourts.gov/datastore/opinions/2022/09/26/20-56172.pdf>).

The implications of the injunction seem to have little impact on this bill since there is only one prison leased by a private company in California that has the capacity to house federal inmates, the California City Correctional Facility. This bill may still provide redevelopment recommendations for currently closed state prisons. However, in terms of AB 32, the Commission's recommendations will have issues concerning plans for the closure of the last private prison pending further litigation and federal policy.

The injunction has no conflict with the merits of this bill, just potential future plans concerning the end of private prison facilities and private prison contracts.

#### 4. Repurposing Closed Prison Facilities

The 2022-2023 California Budget Act states the further reduction in prison capacity by closing several prison facilities across the state including, the deactivation of certain facilities within six state-owned prisons by the end of 2023, the end of a private contract with California City Correctional Facility by March 2024 (pending litigation), and the closure of Chuckawalla Valley State Prison by March 2025<sup>5</sup>. The author notes that the location of the latter prison is in a rural area of the state and where the prison "represents a central economic driver in an otherwise economically disadvantaged community."

According to the CDCR:

The California Department of Corrections and Rehabilitation (CDCR) will begin the process to close Chuckawalla Valley State Prison (CVSP) in Blythe, with an anticipated closure in March 2025. Similar to the recent announcement by the [Newsom] Administration for workers impacted by the pending closure of the California Correctional Center in Lassen County, the Administration plans to work directly with community stakeholders in Riverside County to help support workers and foster a bottom-up economic resilience plan for the community impacted by the closure of CVSP.

While the author recognizes the governor's efforts to mitigate some financial hardship, they state that the resiliency plan does not address the economic impact on local communities but only the

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<sup>4</sup> "Appeals court blocks California ban on for-profit prisons," accessed March 9, 2023, <https://apnews.com/article/prisons-california-immigration-gavin-newsom-1de2378e8bfd5523cb8a6fe5f2c10684>

<sup>5</sup> "Prison closure, facility deactivations," accessed March 9, 2023, <https://www.cdcr.ca.gov/insidecdcr/2022/12/12/prison-closure-and-facility-deactivations/>

immediate needs of the prison's workforce. The city of Blythe has a bachelor's attainment rate of about 7.3% compared to the state average of 36.3% and the median income in Blythe is almost half of the state's median. The lack of state investment in other aspects of the local economy makes the correctional facilities central to the wellbeing of the city's infrastructure, schools and hospitals. Chuckawalla Valley State Prison illustrates the potential for the redevelopment of other facilities to lessen the economic burden on the communities that spur financial incentives in the region that benefit the state at large. Plans to redevelop the prison may act as a blueprint for other closed facilities and those to be closed in the future.

A report analyzing the 2022-2023 Budget Act estimates that the state's prison population will drop to 20,000 individuals with the closure of five additional prisons by 2027. With currently some 15,000 empty beds, this number will exacerbate the need to repurpose the closed facilities to avoid costly maintenance costs and better serve the surrounding community<sup>6</sup>.

The author also recognizes that New York is in the process of redeveloping closed prison facilities, which are also primarily in rural communities, to drive local economic development. The New York Prison Redevelopment Commission has issued a 140-page report<sup>7</sup> detailing short and long-term recommendations to the closed facilities and surrounding communities. The report includes recommendations such as, repurposing closed sites for public housing developments, renewable energy opportunities, and the emphasis of partnering with local organizations for recreational use.

Currently, closed prison facilities in the state are operating in a "warm shutdown" capacity where staff and funding are ensuring basic facility operation and maintenance. The CDCR allocates millions of dollars to ensure these operations. For example, the Deuel Vocational Institute, which closed in 2021, is costing taxpayers \$2.2 million dollars per year. These numbers indicate that the state and surrounding communities will substantially benefit from prison redevelopment<sup>8</sup>.

## 5. Argument in Support

According to Smart Justice California:

SB 418 would create the Prison Redevelopment Commission to provide California with a detailed strategy to convert closed correctional facilities into local assets that are responsive to the needs and conditions of local communities.

As part of his 2022-2023 budget plan, Governor Newsom directed the Department of Corrections and Rehabilitation to close Chuckawalla Valley State Prison (CVSP) in the City of Blythe. The Governor directed that a "resiliency plan" be developed for impacted employees providing them with hiring preferences at state agencies and other forms of employment and economic assistance. However, the plan did not address how to repurpose the closed prisons so that they can continue to be economic assets for the local communities. The Governor also announced the planned deactivation of portions of six other prisons.

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<sup>6</sup> "The 2023-24 Budget: The California Department of Corrections and Rehabilitation," accessed March 13, 2023, <https://lao.ca.gov/reports/2023/4686/CDCR-Budget-021623.pdf>

<sup>7</sup> "Prison-Redevelopment-Commission-Report-2022," accessed March 9, 2023, <https://esd.ny.gov/sites/default/files/Prison-Redevelopment-Commission-Report-2022.pdf>

<sup>8</sup> "Op-Ed: What to do with California's recently closed prisons," accessed March 9, 2023, <https://www.latimes.com/opinion/story/2022-12-22/california-repurpose-prisons>

While the governor's resiliency plan sought to address the immediate needs of the workforce affected by the prison closure, it did not address the economic impact on local economies. SB 418 seeks to address the repurposing of closed prison facilities so that they can continue to be assets and economic drivers for these rural, economically disadvantaged communities. Modeled after a successful effort in New York, SB 418 will provide a path forward for rural communities impacted by prison closures.

**-- END --**