

AMENDED IN SENATE APRIL 20, 2017

AMENDED IN SENATE APRIL 6, 2017

**SENATE BILL**

**No. 630**

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**Introduced by Senator Skinner**

February 17, 2017

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An act to amend ~~Sections 15820.916, 15820.926, 15820.936, and Section 15820.946~~ of the Government Code, relating to jail ~~financing, and declaring the urgency thereof, to take effect immediately.~~ *financing.*

LEGISLATIVE COUNSEL'S DIGEST

SB 630, as amended, Skinner. Jails: financing bonds.

Existing law authorizes the Board of State and Community Corrections or the Department of Corrections and Rehabilitation, the State Public Works Board, and a participating county, as defined, to acquire, design, and construct an adult local criminal justice facility approved by the Board of State and Community Corrections, or to acquire a site or sites owned by, or subject to a lease option to purchase held by, a participating county. Existing law authorizes the State Public Works Board to issue revenue bonds, notes, or bond anticipation notes to finance the acquisition, design, and construction of approved adult local criminal justice facilities. The funds derived from those revenue bonds, notes, or bond anticipation notes are continuously appropriated for those purposes.

Existing law restricts some of these funds by requiring a participating county that plans to use these funds to increase housing capacity to certify in writing that it is not presently, nor will it for a period of 10 years following the completion of construction, lease jail housing capacity to any private or public entity.

This bill would require a participating county that plans to use any certain of these funds for any project, regardless of whether or not that project increases housing capacity, an adult local criminal justice facility proposal that is approved by the Board of State and Community Corrections on or after the effective date of this act, January 1, 2018, to certify in writing that it is not presently, nor will it and will not for a period of 10 years following the completion of construction, facility, lease jail housing capacity to any private or public entity, except for leases with the state or another county.

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

Vote:  $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. ~~Section 15820.916 of the Government Code is~~  
 2 ~~amended to read:~~  
 3 15820.916. (a) ~~The BSCC shall adhere to its duly adopted~~  
 4 ~~regulations for the approval or disapproval of local jail facilities.~~  
 5 ~~The BSCC shall also consider cost-effectiveness in determining~~  
 6 ~~approval or disapproval. No state moneys shall be encumbered in~~  
 7 ~~contracts let by a participating county until either final architectural~~  
 8 ~~plans and specifications have been approved by the BSCC, and~~  
 9 ~~subsequent construction bids have been received, or documents~~  
 10 ~~prepared by a participating county pursuant to paragraph (1) of~~  
 11 ~~subdivision (d) of Section 20133 of the Public Contract Code have~~  
 12 ~~been approved by the BSCC, and a design-build contract has been~~  
 13 ~~awarded pursuant to that section. The review and approval of plans,~~  
 14 ~~specifications, or other documents by the BSCC are for the purpose~~  
 15 ~~of ensuring proper administration of moneys and determination~~  
 16 ~~of whether the project specifications comply with law and~~  
 17 ~~regulation. The BSCC may require changes in construction~~  
 18 ~~materials to enhance safety and security if materials proposed at~~  
 19 ~~the time of final plans and specifications are not essential and~~  
 20 ~~customary as used statewide for facilities of the same security~~  
 21 ~~level. Participating counties are responsible for the acquisition,~~  
 22 ~~design, construction, staffing, operation, repair, and maintenance~~  
 23 ~~of the project.~~

1 ~~(b) The BSCC shall establish minimum standards, funding~~  
2 ~~schedules, and procedures, which shall take into consideration,~~  
3 ~~but not be limited to, the following:~~

4 ~~(1) Certification by a participating county of project site control~~  
5 ~~through either fee simple ownership of the site or comparable~~  
6 ~~long-term possession of the site, and right of access to the projects~~  
7 ~~sufficient to assure undisturbed use and possession.~~

8 ~~(2) Documentation of need for the project.~~

9 ~~(3) A written project proposal.~~

10 ~~(4) Submittal of a staffing plan for the project, including~~  
11 ~~operational cost projections and documentation that the local jail~~  
12 ~~facility will be able to be safety staffed and operated within 90~~  
13 ~~days of completion.~~

14 ~~(5) Submittal of architectural drawings, which shall be approved~~  
15 ~~by the BSCC for compliance with minimum adult detention facility~~  
16 ~~standards and which shall also be approved by the State Fire~~  
17 ~~Marshal for compliance with fire safety and life safety~~  
18 ~~requirements.~~

19 ~~(6) Documentation evidencing the filing by a participating~~  
20 ~~county of a final notice of determination on its environmental~~  
21 ~~impact report.~~

22 ~~(7) Provisions intended to maintain the tax-exempt status of the~~  
23 ~~bonds, notes, or bond anticipation notes issued by the SPWB.~~

24 ~~(e) A county using this financing authority for a local jail facility~~  
25 ~~proposal that has been approved by the BSCC on or after the~~  
26 ~~effective date of the act adding this subdivision, shall be required~~  
27 ~~to certify and covenant in writing that the county is not and will~~  
28 ~~not be leasing housing capacity to any other public or private entity~~  
29 ~~for a period of 10 years beyond the completion date of the local~~  
30 ~~jail facility.~~

31 ~~SEC. 2. Section 15820.926 of the Government Code is amended~~  
32 ~~to read:~~

33 ~~15820.926. (a) The participating county contribution for adult~~  
34 ~~local criminal justice facilities financed under this chapter shall~~  
35 ~~be a minimum of 10 percent of the total project costs. The BSCC~~  
36 ~~may reduce contribution requirements for participating counties~~  
37 ~~with a general population below 200,000 upon petition by a~~  
38 ~~participating county to the BSCC requesting a lower level of~~  
39 ~~contribution.~~

1 ~~(b) The BSCC shall determine the funding criteria. Funding~~  
2 ~~consideration shall be given to counties that are seeking to replace~~  
3 ~~existing compacted, outdated, or unsafe housing capacity or are~~  
4 ~~seeking to renovate existing or build new facilities that provide~~  
5 ~~adequate space for the provision of treatment and rehabilitation~~  
6 ~~services, including mental health treatment. Funding preference~~  
7 ~~shall be given to counties that are most prepared to proceed~~  
8 ~~successfully with this financing in a timely manner. The~~  
9 ~~determination of preparedness to proceed shall include, but not be~~  
10 ~~limited to, counties providing documentation of adequate, available~~  
11 ~~matching funds authorized by the county board of supervisors from~~  
12 ~~a source or sources compatible with this financing authority as~~  
13 ~~determined by the State Public Works Board in its sole discretion.~~  
14 ~~A participating county may only add housing capacity using this~~  
15 ~~financing authority if the requesting county clearly documents an~~  
16 ~~existing housing capacity deficiency. Any county requesting to~~  
17 ~~add housing capacity using this financing authority for a proposal~~  
18 ~~approved by the BSCC before the effective date of the act adding~~  
19 ~~subdivision (c), shall be required to certify and covenant in writing~~  
20 ~~that the county is not and will not be leasing housing capacity to~~  
21 ~~any other public or private entity for a period of 10 years beyond~~  
22 ~~the completion date of the adult local criminal justice facility.~~

23 ~~(c) A county using this financing authority for an adult local~~  
24 ~~criminal justice facility proposal that has been approved by the~~  
25 ~~BSCC on or after the effective date of the act adding this~~  
26 ~~subdivision, shall be required to certify and covenant in writing~~  
27 ~~that the county is not and will not be leasing housing capacity to~~  
28 ~~any other public or private entity for a period of 10 years beyond~~  
29 ~~the completion date of the adult local criminal justice facility.~~

30 ~~SEC. 3. Section 15820.936 of the Government Code is amended~~  
31 ~~to read:~~

32 ~~15820.936. (a) The participating county contribution for adult~~  
33 ~~local criminal justice facilities financed under this chapter shall~~  
34 ~~be a minimum of 10 percent of the total project costs. The BSCC~~  
35 ~~may reduce contribution requirements for participating counties~~  
36 ~~with a general population below 200,000 upon petition by a~~  
37 ~~participating county to the BSCC requesting a lower level of~~  
38 ~~contribution.~~

39 ~~(b) The BSCC shall determine the funding and scoring criteria.~~  
40 ~~The BSCC may consider award history in Chapters 3.11 to 3.13,~~

1 inclusive, in its scoring of adult local criminal justice facilities  
2 applications. The funding criteria shall include, as a mandatory  
3 criterion, documentation of the percentage of pretrial inmates in  
4 the county jail from January 1, 2013, to December 31, 2013,  
5 inclusive, and a description of the county's current  
6 risk-assessment-based pretrial release program. Funding preference  
7 shall also be given to counties that are most prepared to proceed  
8 successfully with this financing in a timely manner. The  
9 determination of preparedness to proceed shall include the  
10 following:

11 (1) Counties providing a board of supervisors' resolution  
12 authorizing an adequate amount of available matching funds to  
13 satisfy the counties' contribution and approving the forms of the  
14 project documents deemed necessary, as identified by the board  
15 to the BSCC, to effectuate the financing authorized by this chapter,  
16 and authorizing the appropriate signatory or signatories to execute  
17 those documents at the appropriate times. The identified matching  
18 funds in the resolution shall be compatible with the state's lease  
19 revenue bond financing.

20 (2) Counties providing documentation evidencing CEQA  
21 compliance has been completed. Documentation of CEQA  
22 compliance shall be either a final Notice of Determination or a  
23 final Notice of Exemption, as appropriate, and a letter from county  
24 counsel certifying the associated statute of limitations has expired  
25 and either no challenges were filed or identifying any challenges  
26 filed and explaining how they have been resolved in a manner that  
27 allows the project to proceed as proposed.

28 (e) Funding consideration shall be given to counties that are  
29 seeking to replace compacted, outdated, or unsafe housing capacity  
30 or are seeking to renovate existing or build new facilities that  
31 provide adequate space for the provision of treatment and  
32 rehabilitation services, including mental health treatment.

33 (d) A participating county may replace existing housing  
34 capacity, realizing only a minimal increase of capacity, using this  
35 financing authority if the requesting county clearly documents an  
36 existing housing capacity deficiency.

37 (e) A county using this financing authority for an adult local  
38 criminal justice facility proposal that has been approved by the  
39 BSCC on or after the effective date of the act adding this  
40 subdivision, shall be required to certify and covenant in writing

1 ~~that the county is not and will not be leasing housing capacity to~~  
2 ~~any other public or private entity for a period of 10 years beyond~~  
3 ~~the completion date of the adult local criminal justice facility.~~

4 ~~SEC. 4.~~

5 *SECTION 1.* Section 15820.946 of the Government Code is  
6 amended to read:

7 15820.946. (a) The participating county contribution for adult  
8 local criminal justice facilities financed under this chapter shall  
9 be a minimum of 10 percent of the total project costs. The BSCC  
10 may reduce contribution requirements for participating counties  
11 with a general population below 200,000 upon petition by a  
12 participating county to the BSCC requesting a lower level of  
13 contribution.

14 (b) The BSCC shall determine the funding and scoring criteria  
15 consistent with the requirements of this chapter. Financing shall  
16 be awarded only to those counties that have previously received  
17 only a partial award or have never received an award from the  
18 state within the financing programs authorized in Chapters 3.11  
19 (commencing with Section 15820.90) to 3.131 (commencing with  
20 Section 15820.93), inclusive. The funding criteria shall include,  
21 as a mandatory criterion, documentation of the percentage of  
22 pretrial inmates in the county jail from January 1, 2015, to  
23 December 31, 2015, inclusive, and a description of the county's  
24 current risk assessment based pretrial release program. Funding  
25 preference shall also be given to counties that are most prepared  
26 to proceed successfully with this financing in a timely manner.  
27 The determination of preparedness to proceed shall include the  
28 following:

29 (1) Counties providing a board of supervisors' resolution  
30 authorizing an adequate amount of available matching funds to  
31 satisfy the counties' contribution and approving the forms of the  
32 project documents deemed necessary, as identified by the board  
33 to the BSCC, to effectuate the financing authorized by this chapter,  
34 and authorizing the appropriate signatory or signatories to execute  
35 those documents at the appropriate times. The identified matching  
36 funds in the resolution shall be compatible with the state's  
37 lease-revenue bond financing.

38 (2) Counties providing documentation evidencing CEQA  
39 compliance has been completed. Documentation of CEQA  
40 compliance shall be either a final Notice of Determination or a

1 final Notice of Exemption, as appropriate, and a letter from county  
2 counsel certifying the associated statute of limitations has expired  
3 and either no challenges were filed or identifying any challenges  
4 filed and explaining how they have been resolved in a manner that  
5 allows the project to proceed as proposed.

6 (c) Funding consideration shall be given to counties that are  
7 seeking to replace compacted, outdated, or unsafe housing capacity  
8 that will also add treatment space or counties that are seeking to  
9 renovate existing or build new facilities that provide adequate  
10 space for the provision of treatment and rehabilitation services,  
11 including mental health treatment.

12 (d) A participating county may replace existing housing  
13 capacity, realizing only a minimal increase of capacity, using this  
14 financing authority if the requesting county clearly documents an  
15 existing housing capacity deficiency.

16 (e) (1) A participating county with a request resulting in any  
17 increase in capacity using this financing authority ~~for a proposal~~  
18 ~~approved by the BSCC before the effective date of the act adding~~  
19 ~~paragraph (2)~~, shall be required to certify and covenant in writing  
20 that the county is not, and will not be, leasing housing capacity to  
21 any other public or private entity for a period of 10 years beyond  
22 the completion date of the adult local criminal justice facility.

23 (2) A county using this financing authority for an adult local  
24 criminal justice facility proposal that has been approved by the  
25 BSCC on or after ~~the effective date of the act adding this paragraph,~~  
26 *January 1, 2018*, shall be required to certify and covenant in  
27 writing that the county is not and will not be leasing housing  
28 capacity to any other public or private ~~entity~~ *entity, except for*  
29 *leases with the state or another county*, for a period of 10 years  
30 beyond the completion date of the adult local criminal justice  
31 facility.

32 (f) Any locked facility constructed or renovated with state  
33 funding awarded under this program shall include space to provide  
34 onsite, in-person visitation capable of meeting or surpassing the  
35 minimum number of weekly visits required by state regulations  
36 for persons detained in the facility.

37 (g) Any county applying for financing authority under this  
38 program shall include a description of efforts to address sexual  
39 abuse in its adult local criminal justice facility constructed or  
40 renovated pursuant to this chapter.

1     ~~SEC. 5.—This act is an urgency statute necessary for the~~  
2 ~~immediate preservation of the public peace, health, or safety within~~  
3 ~~the meaning of Article IV of the California Constitution and shall~~  
4 ~~go into immediate effect. The facts constituting the necessity are:~~  
5     ~~In order to ensure that limited financial resources are expended~~  
6 ~~in a manner that most effectively addresses the criminal justice~~  
7 ~~needs of the state at the earliest possible time, it is necessary that~~  
8 ~~this act take effect immediately.~~