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California State Senate

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ROOM 5019, STATE CAPITOL
SACRAMENTO, CA 95814

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GLENDA HIGGINS
MARY TEABO

(916) 651-4103
FAX (916) 323-8386

April 11, 2011
12:30 p.m. or upon call of the Chair
State Capitol, Room 3191

Budget and Fiscal Review Hearing

A.B. No. 94 Committee on Budget. Criminal Justice Realignment

A.B. No. 117 Committee on Budget. Criminal Justice Realignment

SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW
Mark Leno, Chair

Bill No:	AB 94
Author:	Committee on Budget
As Amended:	April 11, 2011
Consultant:	Brian Brown
Fiscal:	Yes
Hearing Date:	April 11, 2011

Subject: Criminal Justice Realignment: AB 900 Bond Funding for Jail Construction

Summary: Makes technical changes to Assembly Bill 111 (Chapter 16, Statutes of 2011) pertaining to public safety realignment. These changes are intended to make it easier for locals to access and utilize jail construction funding authorized by Assembly Bill 900 (Chapter 7, Statutes of 2007), which established a two-phase construction plan for local jail facilities supported by \$1.22 billion in bond authority. Adding jail capacity will help mitigate the impact of increased public safety responsibilities at the local level. Specifically this bill:

1. Allows participating counties that received phase I conditional awards to relinquish the awards and reapply, provided that no state moneys have been encumbered.
2. Adds a funding preference to counties that relinquish their conditional awards, provided that those counties continue to assist the state in siting reentry facilities.
3. Reduces county contribution of project costs from 25 percent to 10 percent.
4. Specifies that participating counties shall not receive awards greater than \$100 million.

Background: Assembly Bill 900 (Chapter 7, Statutes of 2007) authorized \$1.2 billion in state lease revenue bond funding for the construction of local jail facilities. The original legislation split the funding into two phases. The first phase of funding was allocated as conditional awards in November 2009 and approximately \$620 million was awarded to the following counties:

- San Bernardino
- San Joaquin
- Kern
- Santa Barbara
- San Diego
- San Luis Obispo
- Solano
- Madera
- Calaveras
- Amador
- San Benito

Phase I originally included \$750 million, but since only \$620 million was awarded, the remaining funds were shifted to phase II in AB 111 (Budget). Assembly Bill 111 also removed requirements that 4,000 local jail beds and 2,000 reentry beds be constructed prior to making the phase II jail funds available. Assembly Bill 111 also changed the preferences for counties seeking jail construction funding to the counties that have the largest percentage of inmates in state prison in 2010. Previously preference had been given to counties that helped to site reentry facilities, establish mental health day treatment and crisis care, and establish continuum of care programs for parolees.

Fiscal Effect: This bill does not have a direct fiscal effect. However, lowering the county contribution for project costs may result in state bond funds being available for fewer projects

than was the case with the higher county match. This may result in added fiscal pressure in future years if it is determined that additional local jail facilities are needed.

Support: None on file.

Opposed: None on file.

Comments: This bill, along with AB 111 that was passed earlier this year, is intended to provide counties greater access to state bond funding for the construction of local jail facilities. These facilities will help counties deal with the inmates being transitioned from state prison to local jurisdictions by AB 109 public safety realignment.

SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW
Mark Leno, Chair

Bill No:	AB 117
Author:	Committee on Budget
As Amended:	April 11, 2011
Consultant:	Brian Brown
Fiscal:	Yes
Hearing Date:	April 11, 2011

Subject: Criminal Justice realignment

Summary: The intent of this bill is to make specified, largely technical corrections to AB 109 (Chapter 15, Statutes of 2011), concerning public safety realignment, consistent with the purposes of that measure.

These corrections do the following: (1) restore to current law certain amendments unintentionally made in AB 109 to several statutory provisions enacted or substantively amended by voter initiatives; (2) correct technical drafting errors in AB 109; and (3) correct two substantive drafting errors in AB 109 pertaining to the crime of petty theft with a prior, and the admission eligibility of juvenile sex offenders into the state Division of Juvenile Justice.

Proposed Law: This bill does the following:

1. Specifically, this bill restores specified statutory provisions enacted or substantively amended by the following voter approved initiatives which were unintentionally amended in AB 109:
 - a. **Proposition 21.** Proposition passed in 2000 that increased a variety of criminal penalties for crimes committed by youth and incorporated many youth offenders into the adult criminal justice system.
 - b. **Proposition 69.** Proposition passed in 2004 that allows for the collection of DNA samples from all felons and from people who have been arrested for certain crimes.
 - c. **Proposition 6.** Proposition passed in 1998 that created new felonies related to the killing of horse, donkey or mules for human consumption and the sale of horsemeat.
 - d. **Proposition 83.** Proposition passed in 2006 that, among other things, increased the penalties for sex offenders and broadened the definition of certain sexual offenses. This proposition is also referred to as Jessica's Law.
 - e. **Proposition 187.** Proposition passed in 1994 designed to create a state-run citizenship screening system in order to prohibit undocumented persons from using health care, public education, and other social services.
2. Under current law, Penal Code section 666 generally provides that petty theft with a prior, as specified, is a wobbler for persons who have been convicted *three or more times* of petty theft or a related petty theft crime, as specified. However, for persons who are

required to register as a sex offender, or have a prior violent or serious felony conviction, petty theft with a prior is a wobbler regardless of their prior theft conviction history. (Penal Code § 666.) AB 109 inadvertently changed the definition of this crime, as enacted in AB 1844 (Fletcher) (Ch. 219, Stats. 2010). These amendments undo this inadvertent drafting error by restoring the “petty with a prior” penalties applicable to registered sex offenders and persons with violent or serious felony priors as enacted in AB 1844.

3. Clarifies that counties may enter into a Memorandum of Understanding with the state to house minors who are adjudicated for specified sex offenses.
4. Allows counties to create a Joint Powers Authority to provide for supervision of juvenile offenders.
5. Makes purely technical reference change to Penal Code Section 3000.09 related to offenders that will continue to be supervised on state parole (serious, violent, third strike, and high risk sex offenders).

Fiscal Effect: Once AB 109 is implemented, this bill may result in approximately \$2.5 million annually to the state as the bill will result in an increase to the state prison population of approximately 100 inmates.