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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

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**Bill No:** AB 1068                      **Hearing Date:** June 27, 2017  
**Author:** Gonzalez Fletcher  
**Version:** May 26, 2017  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** GC

**Subject:** *Prison Industry Authority: Private Employer: Pilot Program*

## HISTORY

Source: Author

Prior Legislation: AB 1507 (Mendoza), 2015, failed in Assembly Jobs Committee  
SB 608 (DeSaulnier), Ch. 307, Stats of 2011  
AB 2421 (Firebaugh), 2001, failed in Assembly Appropriations Comm.

Support: California Teamsters; California Workforce Association; Coalition of Small and Disabled Veteran Business

Opposition: None known

Assembly Floor Vote: 74 - 1

## PURPOSE

*The purpose of this bill is to require the California Prison Industry Authority (CALPIA) to establish a pilot program to provide goods to the California Department of Corrections and Rehabilitation (CDCR) or other state agencies.*

*Existing law* establishes the Department of General Services for the purpose of providing centralized services including, but not limited to, planning, acquisition, construction, and maintenance of state buildings and property; purchasing; printing; architectural services; administrative hearings; government claims; and accounting services. (Gov. Code, § 14600.)

*Existing law* provides that notwithstanding provisions of existing law, the director of the Department of General Services or his or her designee may procure goods from the private sector even though the goods may be available from the CALPIA, when in his or her discretion, it is cost beneficial to do so, and if the director or his or her designee continues to include CALPIA in soliciting quotations for goods. (Gov. Code, § 14612, subd. (e).)

*Existing law* establishes the CALPIA within the CDCR, with the following purposes:

- To develop and operate industrial, agricultural, and service enterprises employing prisoners in institutions, as specified;
- To create and maintain working conditions within the enterprises as much like those which prevail in private industry as possible, to assure prisoners employed

therein the opportunity to work productively, to earn funds, and to acquire or improve effective work habits and occupational skills; and

- To operate a work program for prisoners which will ultimately be self-supporting by generating sufficient funds from the sale of products and services to pay all the expenses of the program, and one which will provide goods and services which are or will be used by the Department of Corrections, thereby reducing the cost of its operation. (Pen. Code, § 2801.)

*Existing law* grants authority to the CALPIA to sell products and services to states and local agencies. (Pen. Code, § 2807.)

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

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

*Existing law* requires state agencies to accept an offer from the lowest responsible bidder if that offer meets appropriate specifications. (Pub. Contract Code, §10301)

*This bill* requires the CALPIA to establish a pilot program to select one private employer that employs ex-felons to provide goods, as specified, for the CDCR or other state agencies pursuant to a procurement contract with the Department of General Services.

*This bill* provides that the procurement contract shall be for a period of five years from the date the contract is awarded and the CALPIA shall post this date on its Internet Web site.

*This bill* states that, notwithstanding any other law and in addition to any other bid preferences under existing law, the private employer selected shall be entitled to the following bid preferences, if applicable, in the procurement contract with a state agency or department:

- Twenty percent if one-half or more of the nonexempt employees performing work on the contract are full-time employees who are ex-felons;
- Ten percent if one-quarter or more, but less than one-half, of the nonexempt employees performing work on the contract are full-time employees who are ex-felons;
- Ten percent if the employer provides employer-funded health care coverage and a retirement plan to its employees; and
- Ten percent if the employer has executed a labor peace agreement with a bona fide labor organization.

*This bill* requires the CALPIA to prepare and submit a report on the success of the pilot program to the Prison Industry Board and the Legislature, as specified, by the end of the third year after the date the contract is awarded. The report shall include, but not be limited to, all of the following:

- The turnover rate and retention rate of ex-felon employees hired by the employer selected;
- The career advancement of ex-felon employees in the pilot program;

- The number of ex-felon employees who reoffend while being employed pursuant to the pilot program; and,
- The authority's recommendations for improving the program.

*This bill* provides that the pilot program shall remain in effect only until six years after the date the contract is awarded, and is repealed as of that date.

*This bill* makes legislative findings regarding the following:

- The need for felons to obtain opportunities for employment in order to reduce recidivism;
- The need to refocus the CALPIA's activities regarding job training to felons serving sentences in county jails due to realignment; and
- The ability for the CDCR, through the CALPIA, to use the procurement process to help provide jobs in the private sector that will assist ex-felons to reenter society successfully.

*This bill* defines "ex-felon" as "a person released or paroled from a state correctional facility or from a county jail where he or she was housed pursuant to Chapter 15 of the Statutes of 2011 during the five-year period before the date the procurement contract described in subdivision (b) was awarded."

*This bill* defines "health care coverage" as "a policy of health care coverage where all of the following conditions are met:

- Health care services under the policy meets the specified requirements;
- Prescription drug coverage under the policy meets the specified requirements;
- The actuarial value of the policy is no less than 85% of the average cost of care for the population; and
- The employer share of the policy's premium for employee-only coverage is no less than 75% of the premium cost."

*This bill* defines "labor peace agreement" as "an agreement between a contracting employer and a bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the contracting employer's business. This agreement means that the contracting employer has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the employer's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas where employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state or federal law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization."

*This bill* defines "nonexempt employee" as "an employee who is required to be paid overtime compensation under state or federal law."

*This bill* defines "retirement plan" as "a defined benefit or defined contribution plan in which the employer contributes a fixed amount to the plan."

## COMMENTS

### 1. Need for This Bill

According to the author:

Assembly Bill 1068 will create a pilot program under the California Prison Industry Authority (CALPIA) to contract with one private employer for five years and provide bid preferences for employing ex-felons during the procurement process with the Department of Corrections. This pilot program is important since we need to work on reducing recidivism and redirect efforts to training the reentry population. It's a way of making sure we have restorative justice policies in our state that focus on our reentry population.

Unemployed ex-felons face challenges as a result of their criminal background and are more likely to end up incarcerated. Incentivizing employers to pursue a state contract with the Department of Corrections and hire ex-felons is a first step towards ensuring that ex-felons are given a second chance to prove themselves after serving time in prison or jail.

It'll ultimately create tax-paying citizens and positively contribute to our society. The jobs created under AB 1068 will provide career ladders for ex-felons while ensuring that they are given an opportunity to avoid recommitting offenses.

### 2. Realignment and Workforce Training

On November 4, 2014, voters approved the Safe Neighborhoods and Schools Act, which was a citizen's initiative placed on the ballot as Proposition 47. Proposition 47 made significant changes to the state's criminal justice system by reducing penalties for certain non-violent, nonserious drug and property crimes, and requiring that the resulting savings be spent, among other things, on programs to aid realignment and keep offenders out of prison and jail. In addition, Californians recently approved Proposition 57, which allows for parole consideration of certain non-violent felons. Due to resentencing and increased parole consideration under these propositions and other realignment efforts, California is expected to see a significant increase in the state prison parole and ex-offender populations, which makes the implementation and expansion of re-entry programs a priority if recidivism is to be avoided among the newly released population. Furthermore, the realigned inmate population that was moved from state prison to county jails does not have access to the same job training resources that may have been available in the state prison program and therefore may be released with limited skills and opportunities for a career. Since workforce training programs are a key element of reducing recidivism during re-entry, it is essential that these populations receive training services during incarceration or shortly thereafter.<sup>1</sup>

AB 1068 would work to expand the availability of workforce training and employment programs by creating a pilot program to employ ex-felons in the private sector. By doing so, AB 1068 will

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<sup>1</sup> [https://www.doleta.gov/Performance/Results/AnnualReports/PY2013/CA-PY13\\_WIA\\_AnnualReport.pdf](https://www.doleta.gov/Performance/Results/AnnualReports/PY2013/CA-PY13_WIA_AnnualReport.pdf)

likely lessen the burden on state programs and provide ex-felons with opportunities that may lead to long term job placement. In addition, this program will provide valuable information regarding recidivism and job training in the context of the private sector by requiring the PIA to make a report on the pilot program.

### **3. Argument in Support**

According to the Teamsters:

Under Prison realignment, many non-violent felons now serve out their sentences in county jails. When they are released, these prisoners will need to reenter society. If we really want to give them a fighting chance to become productive citizens, they need to find good jobs that will allow them to take care of themselves and their families. The Prison Industry Authority's role is to put prisoners serving out their sentences in state prison to work in jobs fulfilling contracts for state agencies in areas such as food production and uniform manufacturing that will give them job skills when they are released. However, prison realignment has moved many of the prisoners eligible for the program out of state prisons, leaving CALPIA with a shortage of workers.

AB 1068 will take a new approach. Under the pilot program, contractors bidding on designated procurement projects for the Department of Corrections will get bid preferences for hiring a minimum percentage of ex-felons and additional bid preferences if those workers receive healthcare and retirement benefits, and if the employer signs a labor-peace agreement. These jobs will give ex-felons the skills they need to become fully productive, taxpaying citizens. More importantly, they will be jobs with career ladders that give them opportunity for advancement. Moreover, the CALPIA will be able to continue its historic mission to prepare prisoners for successful reentry into society under the new reality of prison realignment.

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