

Date of Hearing: April 7, 2015

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND
INTERNET MEDIA

Ian Charles Calderon, Chair

AB 166 (Beth Gaines) – As Amended March 11, 2015

SUBJECT: Department of General Services: Peace Officers Memorial and Museum.

SUMMARY: Would authorize the Department of General Services (DGS), with the consent of the Department of Corrections and Rehabilitation (CDCR), to lease vacant real property on the grounds of California State Prison (CSP) at Folsom to a nonprofit entity formed especially for the implementation of the construction and operation of a peace officers memorial and museum facility at the prison. Specifically, **this bill:**

- 1) Authorizes DGS, with the approval of CDCR, to lease vacant property on the grounds of CSP Folsom to a nonprofit entity (lessee) formed specifically for the construction and operation of a peace officers memorial and museum facility (facility).
- 2) Permits DGS to lease the specified property for the facility in "as is" condition for a maximum 50-year term.
- 3) States that the operation of the facility must include, but not be limited to, museums, conference rooms, classrooms, exhibits, workshops for artifact preservation and repair, secure storage, parking, a gift shop, and a cafeteria, snack bar, or dining area.
- 4) Makes the lessee fully responsible for the maintenance and operation of the facility in a manner that does not disrupt the operation of adjacent correctional facilities and exempts the state from any liability for facility construction, operation, improvement or maintenance.
- 5) Requires the lessee to begin construction of the facility within 48 months, and to have substantially completed construction within 72 months, of the beginning of the lease.
- 6) Instructs DGS, with the approval of CDCR, to provide any necessary utility easements and specifies that utility connections constructed by the lessee for the facility must be separate from existing utilities used by the state and installed at the expense of the lessee, in accordance with the rules of the utility service providers.
- 7) Requires the terms of the lease to include specified circumstances under which the leased property and all improvements to the leased property revert to the state and authorizes DGS under these circumstances to charge the lessee for any costs incurred in the demolition of the facility and restoration of the property to its pre-leased condition.
- 8) Clarifies that the construction and operation of the facility are solely the responsibility of the lessee and shall not be considered public works.

- 9) Requires the lessee to pay all administrative costs incurred by DGS associated with the lease and any required easements.
- 10) Subjects the lease to periodic review every five years by the Director of DGS in order to determine whether the purposes of the lease are being carried out.

EXISTING LAW:

- 1) Authorizes DGS to develop and review an inventory of property surplus to the needs of the state in portions or their entirety, and allows DGS, subject to legislative approval, to sell, lease, exchange, or transfer various specified properties for current market value, or upon terms and conditions as DGS determines are in the best interests of the state.
- 2) Authorizes DGS, with the consent of the state agency concerned, to lease for a maximum period of five years, any real or personal property belonging to the state, if the Director of DGS deems the lease is not expressly prohibited by law and is in the state's best interest.
- 3) Requires legislative authority for leases of state land for periods exceeding five years and provides exemptions to the five year limit for specified parcels.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) *Stated need for legislation and support.*

The author's office states that in 1975, the Retired Correctional Peace Officers Association founded the museum at Folsom State Prison and dedicated it to prison staff members who had died from cancer. The museum is housed at Old House #8, just inside the entrance to Folsom Prison, and is staffed by volunteers. The author's office states that the current museum space is too small to adequately highlight the history of CDCR, honor the members of the profession, and help dispel negative stereotypes. The author's office notes that several artifacts have had to be placed in other storage areas of Folsom Prison due to the lack of space.

This bill allows a 50-year lease for a proposed museum site on land that is currently vacant and does not conflict with any CDCR operational or facility plans at either Old Folsom prison or New Folsom Prison. The facility will be built and operated using private donations. Once a lease is approved, CDCR will have no role or responsibility in its construction or operation. The museum will be principally operated by volunteers, many of whom are former CDCR correctional officers, and overseen by DGS through periodic review.

According to the bill's sponsors, the Old Guard Foundation (OGF), a nonprofit specifically organized to direct the construction and eventual operation of the Museum, "The OLF plans to sponsor, build and operate a world-class collection of artifacts, exhibits, videos, photographs, and first-hand descriptions of historical incidents so the public can explore the deep and colorful history of Corrections in Folsom and other locations across America...As a partner in the community, the national Big House Prison Museum will help cultivate a cooperative relationship between the Old Guard Foundation and local businesses by

promoting tourism and commerce, giving local residents and tourists an interesting and memorable experience."

2) *Background: AB 166 is reintroduction of prior vetoed legislation.*

AB 1503 (Gaines) of 2014 was similar to this bill but would have required, rather than permitted, the proposed lease between DGS, CDCR and the sponsor. AB 1503 passed through the Legislature without a single no vote, but was vetoed by the Governor with the following message: "Current law already allows the state to enter into shorter leases without specifying the lessee. Rather than forcing the state to allow a little-known, non-governmental entity to use public property for up to 50 years, I would prefer that supporters pursue the existing authority provided in statute." The author responded to this message by changing the terms to permit the DGS and CDCR to contract with the sponsor, rather than mandate the parties to the agreement. The author states that she is in contact with the Governor's office, and is working with his staff in order to avoid a similar fate for AB 166.

3) *AB 166 authorizes lease consistent with prior DGS agreements.*

According to the Senate Floor analysis of AB 1503 of last session (precursor to AB 166), "The DGS reports that it has several leases with nonprofit organizations, most of which are leased at below market rental value. The lease authorization contemplated in this bill is to expand the existing museum/memorial at Folsom State Prison.

"This bill allows DGS, CDCR, and the lessee to negotiate the price and other terms of the lease in order to provide for the continued use, enjoyment and new expansion of the museum on prison property. Under existing laws, DGS is authorized to enter into such agreements when the Director determines that doing so is in the best interests of the state.

"For example, DGS may lease part of Napa State Hospital for an independent living facility 'under terms and conditions determined by the director to be in the best interests of the state.' Another statute authorizes DGS, "in the best interests of the state," to re-negotiate a lease for the purpose of establishing an educational park, for a period not to exceed 50 years. Similarly, DGS may lease the Nurses Cottage at the Agnew's Developmental Center to nonprofits operating homeless shelters for \$1 per month in lease payments.

"Most relevant to this bill, existing statutes direct DGS, upon terms and conditions that DGS deems to be in the best interest of the state, to lease any or all of the Preston Castle portion of the Ione Youth Facility for a term not to exceed 55 years and for the consideration of \$1 per year."

Current law restricts the length for which the state may lease its own real property to private or other entities to no more than five years. Any lease for longer than five years, such as that proposed by AB 166, requires specific statutory authority. As mentioned, various individual statutes have been enacted over the years to allow the state to lease specific parcels of state property in excess of five years. These leases generally require the state to review the terms and conditions every five years to ensure the state's interests are protected, as does AB 166.

4) *Existing prison museums in California.*

Information provided by the Pennsylvania State Department of Corrections *Eastern State Penitentiary State Museum* Internet site notes, "People are fascinated by prisons. There are more than 100 prison museums worldwide; and in the tourist-rich cities of San Francisco, London and Dublin, historic prisons are the single largest attractions." In their extensive list of existing prison museums are the following California facilities and descriptions:

- Alcatraz, San Francisco, CA, USA. Born of necessity, perhaps even political expediency, Alcatraz represents the federal government's response to post-Prohibition, post-Depression America. Arguably America's most famous prison, Alcatraz operated as a Federal Prison from 1934 until 1963.
- Folsom Prison Museum, Sacramento, CA, USA. The Folsom Prison Museum offers a look at torturous prison conditions in decades after the California Gold Rush populated the Sierra Nevada foothills. The museum contains artifacts and records dating back to the 1800s.
- Manzanar National Historic Site, Independence, CA, USA. Manzanar War Relocation Center was one of ten camps at which Japanese American citizens and resident Japanese aliens were interned during World War II. Located at the foot of the imposing Sierra Nevada in eastern California's Owens Valley, Manzanar has been identified as the best preserved of these camps.
- Old Monterey Jail, Monterey, CA, USA. The Old Jail, located next to Colton Hall, was constructed in 1854 and served as the City Jail until 1956. The jail was an impenetrable fortress for its inmates; no one ever escaped from the thick granite walls during its history.
- San Quentin Prison Museum, San Quentin, CA, USA. California established a State Prison system in 1851 in response to increased criminal activity brought on by the sudden influx of men seeking their fortune in the gold fields. As it quickly became overcrowded and escapes common, building began for a permanent facility on Pt. San Quentin in 1852.

5) *Prior related legislation.*

- a) AB 1503 (Gaines) of 2014 (discussed above) was similar to this bill but would have required, rather than permitted, the proposed lease between DGS, CDCR and the sponsor. This bill was vetoed by Governor Brown.
- b) SB 148 (Oller), Chapter 271, Statutes of 2001, directs DGS to lease upon terms and conditions deemed in the best interest of the state, any or all, of the Preston Castle portion of the Ione Youth Facility for a maximum 55-year and a lease payment of \$1 per year to the nonprofit Preston Castle Foundation for specified uses.
- c) AB 434 (Waters), Chapter 146, Statutes of 1989, authorizes DGS, with the consent of CDCR, to enter into a 50-year lease with the City of Folsom for a specified parcel within the grounds of CSP Folsom for a water reservoir. Requires the lease to be for fair market value and periodically reviewed every five years by the Director of DGS.

REGISTERED SUPPORT / OPPOSITION:

Support

Old Guard Foundation (sponsor)

Opposition

There is no opposition on file.

Analysis Prepared by: Dana Mitchell / A.,E.,S.,T., & I.M. / (916) 319-3450