

AMENDED IN SENATE MARCH 16, 2009

SENATE BILL

No. 5

Introduced by Senator Maldonado

December 1, 2008

~~An act to amend Section 830.6 of the Penal Code, and to amend Section 3 of the Monterey Peninsula Airport District Act (Chapter 52 of the Statutes of 1941), relating to law enforcement. An act to amend Section 830.37 of the Penal Code, relating to peace officers.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 5, as amended, Maldonado. ~~Peace officers: Monterey Peninsula Airport District: reserve officers. Peace officers: certified bomb technicians.~~

~~Existing law authorizes qualified persons to be deputized or appointed as reserve or auxiliary sheriffs or police officers of various local governmental agencies, which reserve officers are assigned to the prevention and detection of crime and the general enforcement of the laws of this state, and are considered peace officers, under specified circumstances.~~

~~This bill would expressly include reserve officers of the Monterey Peninsula Airport District among those reserve officers who are considered peace officers.~~

~~By increasing the duties of local government officials, the bill would impose a state-mandated local program.~~

~~Existing law establishes the Monterey Peninsula Airport District and grants that district certain police powers, including maintaining a police department.~~

~~This bill would authorize the district to employ and equip reserve police officers.~~

Existing law establishes which persons are included in the definition of peace officers. Existing law provides that specified fire department, fire protection agency, and military personnel are peace officers.

This bill would include within the definition of peace officers fire department or fire protection agency bomb technicians certified by the Federal Bureau of Investigation, as specified. By expanding the number of local peace officers, this bill would expand the local agency duty to provide certain citizens' complaint handling procedures for allegations of peace officer misconduct, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 830.37 of the Penal Code is amended to
2 read:

3 830.37. The following persons are peace officers whose
4 authority extends to any place in the state for the purpose of
5 performing their primary duty or when making an arrest pursuant
6 to Section 836 as to any public offense with respect to which there
7 is immediate danger to person or property, or of the escape of the
8 perpetrator of that offense, or pursuant to Section 8597 or 8598 of
9 the Government Code. These peace officers may carry firearms
10 only if authorized and under terms and conditions specified by
11 their employing agency:

12 (a) Members of an arson-investigating unit, regularly paid and
13 employed in that capacity, of a fire department or fire protection
14 agency of a county, city, city and county, district, or the state, if
15 the primary duty of these peace officers is the detection and
16 apprehension of persons who have violated any fire law or
17 committed insurance fraud.

1 (b) Members of a bomb squad unit who are certified by the
 2 Federal Bureau of Investigation as certified bomb technicians,
 3 regularly paid and employed in that capacity, of a fire department
 4 or fire protection agency of a county, city, city and county, district,
 5 or the state, if the primary duty of these peace officers is the
 6 detection, render-safe, and investigation of explosives, and the
 7 apprehension of persons who have violated any explosives law.

8 (b)

9 (c) Members other than members of an arson-investigating unit,
 10 or a bomb squad unit as described in subdivision (b), regularly
 11 paid and employed in that capacity, of a fire department or fire
 12 protection agency of a county, city, city and county, district, or
 13 the state, if the primary duty of these peace officers, when acting
 14 in that capacity, is the enforcement of laws relating to fire
 15 prevention or fire suppression.

16 (e)

17 (d) Voluntary fire wardens as are designated by the Director of
 18 Forestry and Fire Protection pursuant to Section 4156 of the Public
 19 Resources Code, provided that the primary duty of these peace
 20 officers shall be the enforcement of the law as that duty is set forth
 21 in Section 4156 of the Public Resources Code.

22 (d)

23 (e) Firefighter/security guards by the Military Department, if
 24 the primary duty of the peace officer is the enforcement of the law
 25 in or about properties owned, operated, or administered by the
 26 employing agency or when performing necessary duties with
 27 respect to patrons, employees, and properties of the employing
 28 agency.

29 SEC. 2. If the Commission on State Mandates determines that
 30 this act contains costs mandated by the state, reimbursement to
 31 local agencies and school districts for those costs shall be made
 32 pursuant to Part 7 (commencing with Section 17500) of Division
 33 4 of Title 2 of the Government Code.

34 SECTION 1. Section 830.6 of the Penal Code is amended to
 35 read:

36 ~~830.6. (a) (1) Whenever any qualified person is deputized or~~
 37 ~~appointed by the proper authority as a reserve or auxiliary sheriff~~
 38 ~~or city police officer, a reserve deputy sheriff, a reserve deputy~~
 39 ~~marshal, a reserve police officer of a regional park district or of a~~
 40 ~~transit district, a reserve park ranger, a reserve harbor or port police~~

1 officer of a county, city, or district as specified in Section 663.5
2 of the Harbors and Navigation Code, a reserve deputy of the
3 Department of Fish and Game, a reserve special agent of the
4 Department of Justice, a reserve officer of a community service
5 district which is authorized under subdivision (h) of Section 61600
6 of the Government Code to maintain a police department or other
7 police protection, a reserve officer of the Monterey Peninsula
8 Airport District, a reserve officer of a school district police
9 department under Section 35021.5 of the Education Code, a reserve
10 officer of a community college police department under Section
11 72330, a reserve officer of a police protection district formed under
12 Part 1 (commencing with Section 20000) of Division 14 of the
13 Health and Safety Code, or a reserve housing authority patrol
14 officer employed by a housing authority defined in subdivision
15 (d) of Section 830.31, and is assigned specific police functions by
16 that authority, the person is a peace officer, if the person qualifies
17 as set forth in Section 832.6. The authority of a person designated
18 as a peace officer pursuant to this paragraph extends only for the
19 duration of the person's specific assignment. A reserve park ranger
20 or a transit, harbor, or port district reserve officer may carry
21 firearms only if authorized by, and under those terms and
22 conditions as are specified by, his or her employing agency.

23 (2) Whenever any qualified person is deputized or appointed
24 by the proper authority as a reserve or auxiliary sheriff or city
25 police officer, a reserve deputy sheriff, a reserve deputy marshal,
26 a reserve park ranger, a reserve police officer of a regional park
27 district, transit district, community college district, or school
28 district, a reserve harbor or port police officer of a county, city, or
29 district as specified in Section 663.5 of the Harbors and Navigation
30 Code, a reserve officer of a community service district that is
31 authorized under subdivision (h) of Section 61600 of the
32 Government Code to maintain a police department or other police
33 protection, a reserve officer of the Monterey Peninsula Airport
34 District, or a reserve officer of a police protection district formed
35 under Part 1 (commencing with Section 20000) of Division 14 of
36 the Health and Safety Code, and is so designated by local ordinance
37 or, if the local agency is not authorized to act by ordinance, by
38 resolution, either individually or by class, and is assigned to the
39 prevention and detection of crime and the general enforcement of
40 the laws of this state by that authority, the person is a peace officer;

1 if the person qualifies as set forth in paragraph (1) of subdivision
2 (a) of Section 832.6. The authority of a person designated as a
3 peace officer pursuant to this paragraph includes the full powers
4 and duties of a peace officer as provided by Section 830.1. A
5 transit, harbor, or port district reserve police officer, or a city or
6 county reserve peace officer who is not provided with the powers
7 and duties authorized by Section 830.1, has the powers and duties
8 authorized in Section 830.33, or in the case of a reserve park ranger,
9 the powers and duties that are authorized in Section 830.31, or in
10 the case of a reserve housing authority patrol officer, the powers
11 and duties that are authorized in subdivision (d) of Section 830.31,
12 and a school district reserve police officer or a community college
13 district reserve police officer has the powers and duties authorized
14 in Section 830.32.

15 (b) Whenever any person designated by a Native American tribe
16 recognized by the United States Secretary of the Interior is
17 deputized or appointed by the county sheriff as a reserve or
18 auxiliary sheriff or a reserve deputy sheriff, and is assigned to the
19 prevention and detection of crime and the general enforcement of
20 the laws of this state by the county sheriff, the person is a peace
21 officer, if the person qualifies as set forth in paragraph (1) of
22 subdivision (a) of Section 832.6. The authority of a peace officer
23 pursuant to this subdivision includes the full powers and duties of
24 a peace officer as provided by Section 830.1.

25 (c) Whenever any person is summoned to the aid of any
26 uniformed peace officer, the summoned person is vested with the
27 powers of a peace officer that are expressly delegated to him or
28 her by the summoning officer or that are otherwise reasonably
29 necessary to properly assist the officer.

30 SEC. 2. Section 3 of the Monterey Peninsula Airport District
31 Act (Chapter 52 of the Statutes of 1941), as amended by Chapter
32 359 of the Statutes of 2006, is amended to read:

33 Sec. 3. Corporate Powers. The Monterey Peninsula Airport
34 District is hereby declared to be, and established as, a body
35 corporate and politic, and, in addition to other powers herein
36 granted, shall have and is hereby granted all of the following
37 powers:

38 (a) Perpetual Succession. To have perpetual succession.

1 ~~(b) Lawsuits. To sue and be sued in the name of the district in~~
2 ~~all actions and proceedings in all courts and tribunals of competent~~
3 ~~jurisdiction.~~

4 ~~(c) Seal. To adopt a seal and alter it at pleasure.~~

5 ~~(d) Property. To take by grant, purchase, gift, devise or lease,~~
6 ~~hold, use, enjoy, and to lease or dispose of, real or personal~~
7 ~~property of every kind within or outside the district necessary to~~
8 ~~the full exercise of its power.~~

9 ~~(e) Improvements. To acquire or contract to acquire lands,~~
10 ~~rights-of-way, easements, privileges and property of every kind,~~
11 ~~and construct, maintain, and operate any and all works or~~
12 ~~improvements within or outside the district necessary or proper to~~
13 ~~carry out any of the objects or purposes of this act, and to complete,~~
14 ~~extend, add to, repair, or otherwise improve, any works or~~
15 ~~improvements acquired by the district in accordance with this act.~~

16 ~~(f) Eminent Domain. To exercise the right of eminent domain~~
17 ~~to take any property necessary to carry out any of the objects or~~
18 ~~purposes of this act.~~

19 ~~(g) Indebtedness.~~

20 ~~(1) To incur indebtedness and to issue bonds pursuant to Section~~
21 ~~61126 of the Government Code.~~

22 ~~(2) To incur indebtedness and to issue bonds pursuant to the~~
23 ~~bond provisions of the Revenue Bond Law of 1941 (Chapter 6~~
24 ~~(commencing with Section 54300) of Part 1 of Division 2 of Title~~
25 ~~5 of the Government Code).~~

26 ~~(3) To incur indebtedness and to issue negotiable promissory~~
27 ~~notes pursuant to a resolution adopted by vote of a majority of the~~
28 ~~members of the district's board of directors. The amount of~~
29 ~~indebtedness under this paragraph shall not exceed one million~~
30 ~~dollars (\$1,000,000) and shall be repaid within 10 years from the~~
31 ~~date on which it is incurred.~~

32 ~~(4) To incur indebtedness using securitized limited obligation~~
33 ~~notes pursuant to Article 7.4 (commencing with Section 53835)~~
34 ~~of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government~~
35 ~~Code.~~

36 ~~(5) To borrow money from the United States or any federal~~
37 ~~agency or department for the acquisition or improvement of land~~
38 ~~for district purposes. The district may borrow this money pursuant~~
39 ~~to a resolution adopted by vote of a majority of the members of~~
40 ~~the district's board of directors. The resolution shall specify the~~

1 particular project being undertaken and the amount, term, and
2 method of repayment of the loan. When received, the money shall
3 be deposited in a special fund and spent only for the purposes for
4 which the loan was approved. If a surplus remains after the
5 completion of the project, the surplus shall be applied to repaying
6 the loan.

7 (6) Notwithstanding any other provision of law, the maximum
8 rate of interest on indebtedness issued pursuant to this subdivision
9 shall not exceed the rate prescribed by Article 7 (commencing with
10 Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of
11 the Government Code. The interest may be fixed or variable and
12 may be simple or compound. The interest shall be payable at the
13 time or times determined by the district.

14 (h) Taxes. To cause taxes to be levied and collected for the
15 purpose of paying any obligation of the district in accordance with
16 this act.

17 (i) Exercise of Powers—Contracts. To make contracts, and to
18 employ persons and labor, and to do all acts necessary for the full
19 exercise of all powers vested in the district, or in any of the officers
20 of the district, by this act.

21 (j) Disposal of Property. To lease, sell, or dispose of any
22 property, or any interest in property, acquired in fee, or otherwise,
23 whenever in the judgment of the board of directors the property,
24 or any interest or part of the property, is no longer required for the
25 purposes of the district, or may be leased for any purpose without
26 interfering with the use of the property for the purposes of the
27 district, and to pay any compensation received for the property
28 into the general fund of the district and use the compensation for
29 the purposes of this act.

30 (k) Operation and Concession Agreements. To make contracts
31 for the operation or maintenance of any airport of the district, or
32 for any concession thereupon necessary or convenient to the
33 district.

34 (l) Police Powers of District.

35 (1) To equip and maintain a police department, to adopt
36 ordinances, resolutions, and regulations for the protection of the
37 public peace, health, or safety, in or upon any airport of the district,
38 or in or upon any approach to the airport, owned or controlled by
39 the district and to prescribe penalties for the violation of those
40 ordinances, resolutions, or regulations. Violation of any ordinance,

1 resolution, or regulation shall constitute a misdemeanor, unless,
2 by ordinance, the district designates the violation as an infraction.

3 (2) ~~To employ and equip reserve police officers.~~

4 (m) ~~General Powers. To possess and exercise all powers~~
5 ~~necessary or appropriate to a public airport district that are not~~
6 ~~prohibited by the California Constitution, including all powers~~
7 ~~granted by, or that may be hereafter granted by, any general law~~
8 ~~of the state to any public airport district and all powers incidental~~
9 ~~to, and necessary or convenient in connection with, the exercise~~
10 ~~of the powers generally or specifically granted to the district by~~
11 ~~this act.~~

12 ~~SEC. 3. If the Commission on State Mandates determines that~~
13 ~~this act contains costs mandated by the state, reimbursement to~~
14 ~~local agencies and school districts for those costs shall be made~~
15 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
16 ~~4 of Title 2 of the Government Code.~~