

Introduced by Senator VargasFebruary 23, 2012

An act to amend Section 15002.5 of the Government Code, and to amend Section 11489 of the Health and Safety Code, relating to the Department of Justice, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1261, as introduced, Vargas. Department of Justice.

Existing law establishes the Department of Justice under the direction and control of the Attorney General, and authorizes the Attorney General to, among other things, arrange and classify the work of the Department of Justice, and consolidate, abolish, or create divisions, bureaus, branches, sections, or units within the department. Existing law also authorizes the Attorney General, in conformity with the State Civil Service Act, to employ agents and other employees that are necessary for the conduct of the affairs of the Department of Justice in carrying out various responsibilities, including narcotic enforcement.

This bill would require the Attorney General to maintain a minimum of 190 special agents within the Bureau of Narcotic Enforcement, and a minimum of 90 special agents in the Bureau of Investigation and Intelligence.

Existing law provides for the seizure and forfeiture of property in connection with specified violations of law relating to controlled substances, including possession of a controlled substance for sale. Existing law requires the proceeds of property that is seized, forfeited, and sold by the Department of General Services or a local governmental entity to be distributed first to a bona fide or innocent purchaser, conditional sales vendor, or mortgagee of the property, if the court orders distribution to that person, and then to the Department of General

Services or the local governmental entity for expenditures relating to the sale of the property. Existing law requires the remaining funds to be distributed 65% to the state and local law enforcement agencies that participated in the seizure, 10% to the prosecutorial agency that processed the forfeiture action, 24% to the General Fund to be made available, upon appropriation by the Legislature, for school safety and security, and 1% to eligible nonprofit entities.

This bill would delete the allocation to the General Fund, and instead would require 24% to be continuously appropriated to the Department of Justice, Division of Law Enforcement, to be used to fund the efforts of special agents of the Department of Justice to investigate and enforce the Uniformed Controlled Substances Act and other violations of laws relating to controlled substances. The bill would make other technical, nonsubstantive changes.

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

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

- 1 SECTION 1. Section 15002.5 of the Government Code is
- 2 amended to read:
- 3 15002.5. (a) The Attorney General may arrange and classify
- 4 the work of the Department of Justice, and consolidate, abolish,
- 5 or create divisions, bureaus, branches, sections, or units within the
- 6 department. Any statutory or other reference to the Office of the
- 7 Attorney General, the ~~State Bureau of Criminal Identification and~~
- 8 ~~Investigation and Intelligence~~, the ~~Division Bureau~~ of Narcotic
- 9 ~~Enforcement~~, or the ~~Division Bureau~~ of Gambling Control shall
- 10 be construed to refer to the division, bureau, branch, section or
- 11 unit within the department which is performing the functions
- 12 referred to; and no ~~such~~ function shall be abolished without
- 13 express statutory authority.
- 14 (b) *To ensure that the Attorney General has sufficient resources*
- 15 *to carry out law enforcement functions required by law, including,*
- 16 *but not limited to, Sections 15002.5, 15006, 15025, 15026, 15050,*
- 17 *and 15051 of this code, and Section 11450 of the Health and Safety*
- 18 *Code, the Attorney General shall maintain minimum staffing of*
- 19 *special agents as follows:*
- 20 (1) *The Bureau of Narcotic Enforcement shall maintain a*
- 21 *minimum of 190 special agents.*

1 (2) *The Bureau of Investigation and Intelligence shall maintain*
2 *a minimum of 90 special agents.*

3 SEC. 2. Section 11489 of the Health and Safety Code is
4 amended to read:

5 11489. Notwithstanding Section 11502 and except as otherwise
6 provided in Section 11473, in all cases where the property is seized
7 pursuant to this chapter and forfeited to the state or local
8 governmental entity and, where necessary, sold by the Department
9 of General Services or local governmental entity, the money
10 forfeited or the proceeds of sale shall be distributed by the state
11 or local governmental entity as follows:

12 (a) To the bona fide or innocent purchaser, conditional sales
13 vendor, or mortgagee of the property, if any, up to the amount of
14 his or her interest in the property, when the court declaring the
15 forfeiture orders a distribution to that person.

16 (b) The balance, if any, to accumulate, and to be distributed and
17 transferred quarterly in the following manner:

18 (1) To the state agency or local governmental entity for all
19 expenditures made or incurred by it in connection with the sale of
20 the property, including expenditures for any necessary costs of
21 notice required by Section 11488.4, and for any necessary repairs,
22 storage, or transportation of any property seized under this chapter.

23 (2) The remaining funds shall be distributed as follows:

24 (A) Sixty-five percent to the state, local, or state and local law
25 enforcement entities that participated in the seizure distributed so
26 as to reflect the proportionate contribution of each agency.

27 (i) Fifteen percent of the funds distributed pursuant to this
28 subparagraph shall be deposited in a special fund maintained by
29 the county, city, or city and county of any agency making the
30 seizure or seeking an order for forfeiture. This fund shall be used
31 for the sole purpose of funding programs designed to combat drug
32 abuse and divert gang activity, and shall wherever possible involve
33 educators, parents, community-based organizations and local
34 businesses, and uniformed law enforcement officers. Those
35 programs that have been evaluated as successful shall be given
36 priority. These funds shall not be used to supplant any state or
37 local funds that would, in the absence of this clause, otherwise be
38 made available to the programs.

39 It is the intent of the Legislature to cause the development and
40 continuation of positive intervention programs for high-risk

1 elementary and secondary schoolage students. Local law
2 enforcement should work in partnership with state and local
3 agencies and the private sector in administering these programs.

4 (ii) The actual distribution of funds set aside pursuant to clause
5 (i) is to be determined by a panel consisting of the sheriff of the
6 county, a police chief selected by the other chiefs in the county,
7 and the district attorney and the chief probation officer of the
8 county.

9 (B) Ten percent to the prosecutorial agency which processes
10 the forfeiture action.

11 ~~(C) Twenty-four percent to the General Fund. Notwithstanding~~
12 ~~Section 13340 of the Government Code, the moneys are hereby~~
13 ~~continuously appropriated to the General Fund. Commencing~~
14 ~~January 1, 1995, all moneys deposited in the General Fund pursuant~~
15 ~~to this subparagraph, in an amount not to exceed ten million dollars~~
16 ~~(\$10,000,000), shall be made available for school safety and~~
17 ~~security, upon appropriation by the Legislature, and shall be~~
18 ~~disbursed pursuant to Senate Bill 1255 of the 1993-94 Regular~~
19 ~~Session, as enacted.~~

20 *(C) Twenty-four percent to the Department of Justice, Division*
21 *of Law Enforcement. Notwithstanding Section 13340 of the*
22 *Government Code, the moneys subject to this subparagraph are*
23 *continuously appropriated and shall be used for the sole purpose*
24 *of funding the efforts of special agents of the Department of Justice*
25 *to investigate and enforce laws relating to narcotics, including*
26 *the Uniform Controlled Substances Act (Division 10 (commencing*
27 *with Section 11000), and to ensure the Attorney General has*
28 *sufficient resources to carry out assigned law enforcement*
29 *functions required by law, including, but not limited to, Section*
30 *11450 of this code, and Sections 15002.5, 15006, 15025, 15050,*
31 *and 15051 of the Government Code.*

32 (D) One percent to a private nonprofit organization composed
33 of local prosecutors which shall use these funds for the exclusive
34 purpose of providing a statewide program of education and training
35 for prosecutors and law enforcement officers in ethics and the
36 proper use of laws permitting the seizure and forfeiture of assets
37 under this chapter.

38 (c) Notwithstanding Item 0820-101-469 of the Budget Act of
39 1985 (Chapter 111 of the Statutes of 1985), all funds allocated to
40 the Department of Justice pursuant to subparagraph (A) of

1 paragraph (2) of subdivision (b) shall be deposited into the
2 Department of Justice Special Deposit Fund—State Asset Forfeiture
3 Account and used for the law enforcement efforts of the state or
4 for state or local law enforcement efforts pursuant to Section
5 11493.

6 All funds allocated to the Department of Justice by the federal
7 government under its Federal Asset Forfeiture program authorized
8 by the Comprehensive Crime Control Act of 1984 may be
9 deposited directly into the Narcotics Assistance and
10 Relinquishment by Criminal Offender Fund and used for state and
11 local law enforcement efforts pursuant to Section 11493.

12 Funds which are not deposited pursuant to the above paragraph
13 shall be deposited into the Department of Justice Special Deposit
14 Fund—Federal Asset Forfeiture Account.

15 (d) All the funds distributed to the state or local governmental
16 entity pursuant to subparagraphs (A) and (B) of paragraph (2) of
17 subdivision (b) shall not supplant any state or local funds that
18 would, in the absence of this subdivision, be made available to
19 support the law enforcement and prosecutorial efforts of these
20 agencies.

21 The court shall order the forfeiture proceeds distributed to the
22 state, local, or state and local governmental entities as provided in
23 this section.

24 For the purposes of this section, “local governmental entity”
25 means any city, county, or city and county in this state.

26 ~~(e) This section shall become operative on January 1, 1994.~~