

AMENDED IN ASSEMBLY JUNE 30, 2011

AMENDED IN ASSEMBLY JUNE 14, 2011

AMENDED IN SENATE MAY 12, 2011

AMENDED IN SENATE APRIL 14, 2011

SENATE BILL

No. 340

Introduced by Senator Wolk
(Coauthor: Assembly Member Cedillo)

February 15, 2011

An act to repeal Sections 19850.5 and 19850.6 of the Business and Professions Code, and to amend Sections 326.3 and 326.5 of the Penal Code, relating to bingo, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 340, as amended, Wolk. Remote caller bingo.

The California Constitution allows the Legislature, by statute, to authorize cities and counties to provide for bingo games for charitable purposes. Existing law authorizes cities and counties to permit eligible nonprofit organizations to conduct bingo games and remote caller bingo games, as defined, for charitable purposes pursuant to an ordinance that allows those games to be conducted in accordance with specified requirements. Existing law sets forth a model ordinance for a city, county, or city and county to authorize remote caller bingo, and prohibits an organization from conducting remote caller bingo more than 2 days per week. Existing law requires an organization authorized to conduct remote caller bingo games to provide at least 30 days' advance written notice of its intent to conduct a remote caller bingo game.

This bill additionally would permit a city, county, or city and county to amend an existing local ordinance that allows bingo games to be conducted within that jurisdiction, by resolution, to permit the conduct of remote caller bingo games pursuant to that ordinance, as specified. The bill would include among those organizations eligible to conduct remote caller bingo a charitable organization affiliated with a community college district. ~~The bill would require an organization conducting remote caller bingo games to certify to the city, county, or city and county, that it is eligible to conduct remote caller bingo.~~ The bill would prohibit an organization from conducting remote caller bingo more than 2 days per week, but would permit an organization to hold one additional game, at its election, in each calendar quarter. The bill would require an organization authorized to conduct remote caller bingo games to provide at least 10 days' advance written notice of intent to conduct a remote caller bingo game on a form prescribed by the city, county, or city and county, and to provide notice within 24 hours if the location of the remote caller bingo game changes. The bill also would repeal the model ordinance.

Existing law requires the California Gambling Control Commission to regulate remote caller bingo, including licensure and operation. Among other things, any person who conducts a remote caller bingo game and any person who manufactures or otherwise provides equipment for use in the playing of a remote caller bingo game are required to be licensed. Existing law also requires the commission to approve all equipment used for remote caller bingo in advance, to monitor operation of the transmission and other equipment used for remote caller bingo, and to monitor the game.

This bill would delete all state licensure requirements for the conduct of remote caller bingo, *and would, instead, require an organization that is eligible to conduct remote caller bingo games to register annually with the Department of Justice, as specified. The bill would require the department to maintain a registry on its Internet Web site of all organizations registered to conduct remote caller bingo. The bill would authorize the department to charge an annual registration fee of \$100, to be deposited into the California Bingo Fund, to cover the department's actual costs to administer and enforce these provisions, and would authorize the department to adopt regulations.* The bill would make other technical and conforming changes relating to the duties of the Department of Justice and the commission, including setting forth procedures for a city, county, or city and county, as the

local licensing entity, to obtain a background check from the department. The bill would delete the requirement that the commission approve all equipment used for remote caller bingo in advance, but would require the city, county, or city and county to monitor operation of the transmission and other equipment used for remote caller bingo and to monitor the game. *The bill would authorize the department to audit the books and records of a licensed organization or vendor of equipment used in a remote caller bingo game at any time and to charge a fee for the audit.*

To ensure continuity of remote caller bingo games, this bill would, until June 1, 2012, authorize a city, county, or city and county to recognize a state license, work permit, or approval of equipment that was issued by the commission and effective on June 30, 2011, as specified. The bill would permit an authorized organization to contract with a management company to provide business services, but would require the organization to give notice of the contract to the city, county, or city and county and to meet other requirements, as specified. The bill would require the live, physical calling and broadcast of a remote caller bingo game to be conducted from a jurisdiction that authorizes by local ordinance the conduct of remote caller bingo games.

This bill would make additional changes relating to the requirements for cosponsoring remote caller bingo games, and would simplify other procedures and requirements applicable to the conduct of remote caller bingo games.

Under existing law, any violation of the remote caller *bingo* provisions described above is a misdemeanor, punishable as specified.

This bill would expand the scope of an existing crime by imposing different requirements for the conduct of remote caller bingo, thereby creating a state-mandated local program.

Existing law requires the California Gambling Control Commission to submit a report to the Legislature, on or before January 1, 2012, on the fundraising effectiveness and regulation of remote caller bingo. A loan from the Gambling Control Fund to the California Bingo Fund for the startup costs relating to remote caller bingo is required to be repaid within 5 years after the date of the loan.

This bill would delete that reporting requirement, and would delete the requirement that the startup loan be repaid within 5 years.

Existing law permits players who are physically present at a bingo game to use hand-held, portable card-minding devices, as specified, that are approved prior to use by the California Gambling Control

Commission. Additionally, the commission is required to license persons or entities that manufacture, supply, or service card-minding devices and related equipment, and may inspect and prohibit the use of any card-minding devices that are noncompliant. Existing law requires the commission to adopt regulations concerning remote caller bingo and card-minding devices.

This bill would repeal these provisions relating to card-minding devices and the duties of the commission.

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 no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 19850.5 of the Business and Professions
- 2 Code is repealed.
- 3 SEC. 2. Section 19850.6 of the Business and Professions Code
- 4 is repealed.
- 5 SEC. 3. Section 326.3 of the Penal Code is amended to read:
- 6 326.3. (a) The Legislature finds and declares all of the
- 7 following:
- 8 (1) Nonprofit organizations provide important and essential
- 9 educational, philanthropic, and social services to the people of the
- 10 State of California.
- 11 (2) One of the great strengths of California is a vibrant nonprofit
- 12 sector.
- 13 (3) Nonprofit and philanthropic organizations touch the lives
- 14 of every Californian through service and employment.
- 15 (4) Many of these services would not be available if nonprofit
- 16 organizations did not provide them.
- 17 (5) There is a need to provide methods of fundraising to
- 18 nonprofit organizations to enable them to provide these essential
- 19 services.

1 (6) Historically, many nonprofit organizations have used
2 charitable bingo as one of their key fundraising strategies to
3 promote the mission of the charity.

4 (7) Legislation is needed to provide greater revenues for
5 nonprofit organizations to enable them to fulfill their charitable
6 purposes, and especially to meet their increasing social service
7 obligations.

8 (8) Legislation is also needed to clarify that existing law requires
9 that all charitable bingo must be played using a tangible card and
10 that the only permissible electronic devices to be used by charitable
11 bingo players are card-minding devices.

12 (b) Neither the prohibition on gambling in this chapter nor in
13 Chapter 10 (commencing with Section 330) applies to any remote
14 caller bingo game that is played or conducted in a city, county, or
15 city and county pursuant to an ordinance enacted under Section
16 19 of Article IV of the California Constitution, if the ordinance
17 allows a remote caller bingo game to be played or conducted only
18 in accordance with the requirements of this section, including the
19 following requirements:

20 (1) The game may be conducted only by the following
21 organizations:

22 (A) An organization that is exempted from the payment of the
23 taxes imposed under the Corporation Tax Law by Section 23701a,
24 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or
25 23701w of the Revenue and Taxation Code.

26 (B) A mobilehome park association.

27 (C) A senior citizens organization.

28 (D) Charitable organizations affiliated with a school district or
29 community college district.

30 (2) The organization conducting the game shall have been
31 incorporated or in existence for three years or more.

32 (3) The organization conducting the game shall be licensed
33 pursuant to subdivision (l) of Section 326.5.

34 (4) The receipts of the game shall be used only for charitable
35 purposes. The organization conducting the game shall determine
36 the disbursement of the net receipts of the game.

37 (5) The operation of bingo may not be the primary purpose for
38 which the organization is organized.

39 ~~(6) The organization shall certify to the local licensing entity
40 that it is eligible to conduct remote caller bingo.~~

1 (c) (1) To ensure continuity of remote caller bingo games, until
2 June 1, 2012, the local licensing entity may recognize a state
3 license, work permit, or approval of equipment that was issued by
4 the commission pursuant to this section, and effective on June 30,
5 2011, including, but not limited to, any of the following:
6 (A) An interim license of a person who conducts remote caller
7 bingo games approved by the commission, as of June 30, 2011.
8 (B) An interim work permit for personnel employed by an
9 organization that conducts remote caller bingo games.
10 (C) An interim approval of equipment used for remote caller
11 bingo games.
12 (2) If the local licensing entity decides to recognize a license,
13 work permit, or equipment approval issued by the commission,
14 the local licensing entity shall be responsible for regulatory
15 oversight and enforcement in accordance with the standards and
16 procedures applicable within its jurisdiction pursuant to local
17 ordinance.
18 (3) Any reference to the commission as the licensing authority
19 for the conduct of remote caller bingo games that appears in a local
20 ordinance adopted prior to the operative date of the act adding this
21 subdivision shall be deemed to refer to the local licensing entity.
22 (d) (1) It is a misdemeanor for any person to receive or pay a
23 profit, wage, or salary from any remote caller bingo game, provided
24 that administrative, managerial, technical, financial, and security
25 personnel employed by the organization conducting the bingo
26 game may be paid reasonable fees for services rendered from the
27 revenues of bingo games, as provided in subdivision (m), except
28 that fees paid under those agreements shall not be determined as
29 a percentage of receipts or other revenues from, or be dependent
30 on the outcome of, the game.
31 (2) A violation of this subdivision shall be punishable by a fine
32 not to exceed ten thousand dollars (\$10,000), which fine shall be
33 deposited in the general fund of the city, county, or city and county
34 that enacted the ordinance authorizing the remote caller bingo
35 game. A violation of any provision of this section, other than this
36 subdivision, is a misdemeanor.
37 (e) The city, county, or city and county that enacted the
38 ordinance authorizing the remote caller bingo game, or the Attorney
39 General, may bring an action to enjoin a violation of this section.

1 (f) No minors shall be allowed to participate in any remote caller
2 bingo game.

3 (g) A remote caller bingo game shall not include any site that
4 is not located within this state.

5 (h) An organization authorized to conduct a remote caller bingo
6 game pursuant to subdivision (b) shall conduct the game only on
7 property that is owned or leased by the organization, or the use of
8 which is donated to the organization. Nothing in this subdivision
9 shall be construed to require that the property that is owned or
10 leased by, or the use of which is donated to, the organization be
11 used or leased exclusively by, or donated exclusively to, that
12 organization.

13 (i) (1) All remote caller bingo games shall be open to the public,
14 not just to the members of the authorized organization.

15 (2) No more than 750 players may participate in a remote caller
16 bingo game in a single location.

17 (3) If the Governor of California or the President of the United
18 States declares a state of emergency in response to a natural disaster
19 or other public catastrophe occurring in California, an organization
20 authorized to conduct remote caller bingo games may, while that
21 declaration is in effect, conduct a remote caller bingo game
22 pursuant to this section with more than 750 participants in a single
23 venue if the net proceeds of the game, after deduction of prizes
24 and overhead expenses, are donated to or expended exclusively
25 for the relief of the victims of the disaster or catastrophe, and the
26 organization gives the local licensing entity at least 10 days' written
27 notice of the intent to conduct that game.

28 (4) An organization authorized to conduct remote caller bingo
29 games shall provide the local licensing entity with at least 10 days'
30 advance written notice of its intent to conduct a remote caller bingo
31 game. That notice shall be on a form prescribed by the local
32 licensing entity. If the location of the remote caller bingo game
33 changes, the organization shall provide the local licensing entity
34 notice by e-mail, telephone, or fax within 24 hours of the change
35 of location.

36 (j) (1) *An organization eligible to conduct a remote caller bingo*
37 *game pursuant to subdivision (b) shall register annually with the*
38 *department in order to conduct remote caller bingo games pursuant*
39 *to this section. The department shall create, by regulation, and*
40 *provide to eligible nonprofit organizations, upon request, a*

1 registration form. The department also shall post the registration
2 form on its Internet Web site. Only the information necessary for
3 the department to implement this section shall be required for
4 completion of the registration form, including, but not limited to,
5 all of the following relative to the eligible organization:

6 (A) Name and address.

7 (B) Federal tax identification number, corporate number issued
8 by the Secretary of State, organization number issued by the
9 Franchise Tax Board, or California charitable trust identification
10 number.

11 (C) Name and title of a responsible fiduciary of the organization.

12 (2) The department shall maintain a registry on its Internet Web
13 site of all organizations registered to conduct remote caller bingo
14 pursuant to this section. Prior to issuing a license pursuant to a
15 local ordinance, the local licensing entity shall confirm that an
16 organization applying to operate a remote caller bingo game is
17 registered and in good standing according to the registry available
18 on the department's Internet Web site.

19 (3) The department may require an eligible organization to pay
20 an annual registration fee of one hundred dollars (\$100) to cover
21 the actual costs of the department to administer and enforce this
22 section. The department may, by regulation, adjust the annual
23 registration fee as needed to ensure that revenues will fully offset,
24 but not exceed, the actual costs incurred by the department
25 pursuant to this section. Fee revenues shall be deposited by the
26 department into the California Bingo Fund.

27 (4) The department may adopt regulations to implement this
28 section. The initial adoption, amendment, or repeal of a regulation
29 authorized by this section is deemed to address an emergency, for
30 purposes of Sections 11346.1 and 11349.6 of the Government
31 Code, and the department is hereby exempted for that purpose
32 from the requirements of subdivision (b) of Section 11346.1 of the
33 Government Code. After the initial adoption, amendment, or repeal
34 of an emergency regulation pursuant to this section, the department
35 may request approval from the Office of Administrative Law to
36 readopt the regulation as an emergency regulation pursuant to
37 Section 11346.1 of the Government Code.

38 (j)

39 (5) The department shall have concurrent jurisdiction with local
40 law enforcement agencies to enforce this section.

1 (k) (1) A remote caller bingo game shall be operated and staffed
2 only by members of the authorized organization that organized it.
3 Those members shall not receive a profit, wage, or salary from
4 any remote caller bingo game. Only the organization authorized
5 to conduct a remote caller bingo game shall operate that game, or
6 participate in the promotion, supervision, or any other phase of a
7 remote caller bingo game. Subject to subdivision (m), this
8 subdivision shall not preclude the employment of administrative,
9 managerial, technical, financial, or security personnel who are not
10 members of the authorized organization at a location participating
11 in the remote caller bingo game by the organization conducting
12 the game. Notwithstanding any other law, exclusive or other
13 agreements between the authorized organization and other entities
14 or persons to provide services in the administration, management,
15 or conduct of the game shall not be considered a violation of the
16 prohibition against holding a legally cognizable financial interest
17 in the conduct of the remote caller bingo game by persons or
18 entities other than the charitable organization, or other entity
19 authorized to conduct the remote caller bingo games. Fees to be
20 paid under those agreements shall be reasonable and shall not be
21 determined as a percentage of receipts or other revenues from, or
22 be dependent on the outcome of, the game.

23 (2) An authorized organization may contract with a management
24 company to provide business services, including, but not limited
25 to, game accounting and bingo game consulting, including
26 operations of broadcasting and telecasting assistance. An authorized
27 organization that contracts with a management company shall do
28 all of the following:

29 (A) Indicate on the application to conduct remote caller bingo
30 games that is submitted to the local licensing entity that it has
31 contracted with a management company. The authorized
32 organization shall notify the local licensing entity in writing if it
33 contracts with a management company subsequent to the
34 submission of its application to the local licensing entity.

35 (B) Ensure that the management company has a business license
36 ~~and that a live scan background check has been completed for each~~
37 ~~employee or consultant that has a 10 percent or greater ownership~~
38 ~~interest in any management company. The live scan background~~
39 ~~check shall be conducted in the city or county in which the~~
40 ~~management company is located. and request a live scan~~

1 *background check for each employee or consultant that has a 10*
2 *percent or greater ownership interest in any management company.*

3 (C) Maintain on file the name, address, and contact numbers of
4 the management company, and provide that information to the
5 department upon request.

6 (3) The live, physical calling and broadcast of a remote caller
7 bingo game shall be conducted from a jurisdiction that authorizes
8 by local ordinance the conduct of remote caller bingo games.

9 (4) An organization that conducts a remote caller bingo game
10 shall designate a person as having fiduciary responsibility for the
11 game.

12 (l) No individual, corporation, partnership, or other legal entity,
13 except the organization authorized to conduct or participate in a
14 remote caller bingo game, shall hold a legally cognizable financial
15 interest in the conduct of that game.

16 (m) An organization authorized to conduct a remote caller bingo
17 game pursuant to this section shall not have overhead costs
18 exceeding 20 percent of gross sales, except that the limitations of
19 this section shall not apply to one-time, nonrecurring capital
20 acquisitions. For purposes of this subdivision, “overhead costs”
21 includes, but is not limited to, amounts paid for rent and equipment
22 leasing and the reasonable fees authorized to be paid to
23 administrative, managerial, technical, financial, and security
24 personnel employed by the organization pursuant to subdivision
25 (d). For the purpose of keeping its overhead costs below 20 percent
26 of gross sales, an authorized organization may elect to deduct all
27 or a portion of the fees paid to financial institutions for the use and
28 processing of credit card sales from the amount of gross revenues
29 awarded for prizes. In that case, the redirected fees for the use and
30 processing of credit card sales shall not be included in “overhead
31 costs” as defined in the California Remote Caller Bingo Act.
32 Additionally, fees paid to financial institutions for the use and
33 processing of credit card sales shall not be deducted from the
34 proceeds retained by the charitable organization.

35 (n) No person shall be allowed to participate in a remote caller
36 bingo game unless the person is physically present at the time and
37 place where the remote caller bingo game is being conducted. A
38 person shall be deemed to be physically present at the place where
39 the remote caller bingo game is being conducted if he or she is

1 present at any of the locations participating in the remote caller
2 bingo game in accordance with this section.

3 (o) (1) An organization shall not cosponsor a remote caller
4 bingo game with one or more other organizations unless all of the
5 cosponsors are affiliated under the master charter or articles and
6 bylaws of a single organization involved in the same type of
7 activity.

8 (2) Notwithstanding paragraph (1), a maximum of 10
9 unaffiliated organizations described in paragraph (1) of subdivision
10 (b) may enter into an agreement to cosponsor a remote caller game,
11 but the game shall have not more than 10 locations.

12 (3) An organization shall not conduct remote caller bingo more
13 than two days per week, except that an organization may hold one
14 additional game, at its election, in each calendar quarter.

15 (p) The value of prizes awarded during the conduct of any
16 remote caller bingo game shall not exceed 37 percent of the gross
17 receipts for that game. When an authorized organization elects to
18 deduct fees paid for the use and processing of credit card sales
19 from the amount of gross revenues for that game awarded for
20 prizes, the maximum amount of gross revenues that may be
21 awarded for prizes shall not exceed 37 percent of the gross receipts
22 for that game, less the amount of redirected fees paid for the use
23 and processing of credit card sales. Every remote caller bingo game
24 shall be played until a winner is declared. Progressive prizes are
25 prohibited. The declared winner of a remote caller bingo game
26 shall provide his or her identifying information and a mailing
27 address to a representative of the organization. Prizes shall be paid
28 only by check; no cash prizes shall be paid. The organization
29 conducting the remote caller bingo game may issue a check to the
30 winner at the time of the game, or may send a check to the declared
31 winner by United States Postal Service. All prize money exceeding
32 state and federal exemption limits on prize money shall be subject
33 to income tax reporting and withholding requirements under
34 applicable state and federal laws and regulations and those reports
35 and withholding shall be forwarded, within 10 business days, to
36 the appropriate state or federal agency on behalf of the winner. A
37 report shall accompany the amount withheld identifying the person
38 on whose behalf the money is being sent. Any game interrupted
39 by a transmission failure, electrical outage, or act of God shall be

1 considered void in the location that was affected. A refund for a
2 canceled game or games shall be provided to the purchasers.

3 (q) (1) If the local licensing entity requests a background check
4 from the department of any person required to be licensed pursuant
5 to the applicable local ordinance, it shall submit to the department
6 fingerprint images and related information required by the
7 department for the purpose of obtaining information as to the
8 existence and content of a record of state and federal convictions
9 and arrests, including state or federal arrests for which the
10 department establishes that the person is free on bail or on his or
11 her own recognizance pending trial or appeal.

12 (2) Upon receipt, the department shall forward requests for
13 federal summary criminal history information pursuant to this
14 section to the Federal Bureau of Investigation. The department
15 shall review the information returned from the Federal Bureau of
16 Investigation and compile and disseminate a response to the local
17 licensing entity.

18 (3) The department shall provide a state or federal level response
19 to the local licensing entity pursuant to paragraph (1) of subdivision
20 (p) of Section 11105.

21 (4) The local licensing entity shall request from the department
22 subsequent arrest notification service, as provided pursuant to
23 Section 11105.2, for persons described in paragraph (1).

24 (5) The department shall charge a fee sufficient to cover the
25 cost of processing requests pursuant to this subdivision.

26 (6) (A) Fees and revenue collected pursuant to this subdivision
27 shall be deposited in the California Bingo Fund, which is hereby
28 created in the State Treasury. The funds deposited in the California
29 Bingo Fund shall be available, upon appropriation by the
30 Legislature, for expenditure by the department exclusively for the
31 support of the department in carrying out its duties and
32 responsibilities under this section.

33 (B) A loan is hereby authorized from the Gambling Control
34 Fund to the California Bingo Fund on or after January 1, 2009, in
35 an amount of up to five hundred thousand dollars (\$500,000) to
36 fund operating, personnel, and other startup costs incurred by the
37 commission relating to this act. Funds from the California Bingo
38 Fund shall be available to the commission upon appropriation by
39 the Legislature in the annual Budget Act. The loan shall be subject
40 to all of the following conditions:

1 (i) The loan shall be repaid to the Gambling Control Fund as
2 soon as there is sufficient money in the California Bingo Fund to
3 repay the amount loaned.

4 (ii) Interest on the loan shall be paid from the California Bingo
5 Fund at the rate accruing to moneys in the Pooled Money
6 Investment Account.

7 (iii) The terms and conditions of the loan are approved, prior
8 to the transfer of funds, by the Department of Finance pursuant to
9 appropriate fiscal standards.

10 (r) An organization that conducts remote caller bingo games
11 shall retain records in connection with the remote caller bingo
12 game for five years.

13 (s) The local licensing entity shall monitor operation of the
14 transmission and other equipment used for remote caller bingo,
15 and monitor the game.

16 (t) (1) As used in this section, “remote caller bingo game”
17 means a game of bingo, as defined in subdivision (o) of Section
18 326.5, in which the numbers or symbols on randomly drawn plastic
19 balls are announced by a natural person present at the site at which
20 the live game is conducted, and the organization conducting the
21 bingo game uses audio and video technology to link any of its
22 in-state facilities for the purpose of transmitting the remote calling
23 of a live bingo game from a single location to multiple locations
24 owned, leased, or rented by that organization, or as described in
25 subdivision (o) of this section. The audio or video technology used
26 to link the facilities may include cable, Internet, satellite,
27 broadband, or telephone technology, or any other means of
28 electronic transmission that ensures the secure, accurate, and
29 simultaneous transmission of the announcement of numbers or
30 symbols in the game from the location at which the game is called
31 by a natural person to the remote location or locations at which
32 players may participate in the game. The drawing of each ball
33 bearing a number or symbol by the natural person calling the game
34 shall be visible to all players as the ball is drawn, including through
35 a simultaneous live video feed at remote locations at which players
36 may participate in the game.

37 (2) Remote caller bingo games shall be played using traditional
38 paper or other tangible bingo cards and daubers, and shall not be
39 played by using electronic devices, except card-minding devices,
40 as described in paragraph (1) of subdivision (p) of Section 326.5.

1 (u) A location shall not be eligible to participate in a remote
 2 caller bingo game if bingo games are conducted at that location
 3 in violation of Section 326.5, including, but not limited to, a
 4 location at which unlawful electronic devices are used.

5 (v) *The department may audit the books and records of a*
 6 *licensed organization or vendor of equipment used in a remote*
 7 *caller bingo game at any time, and may charge a fee for the audit*
 8 *sufficient to cover the costs of performing the audit.*

9 ~~(w)~~

10 (w) (1) The provisions of this section are severable. If any
 11 provision of this section or its application is held invalid, that
 12 invalidity shall not affect other provisions or applications that can
 13 be given effect without the invalid provision or application.

14 (2) Notwithstanding paragraph (1), if paragraph (1) or (2) of
 15 subdivision (t), or the application of either of those provisions, is
 16 held invalid, this entire section shall be invalid.

17 (w) The following definitions apply for purposes of this section:

18 (1) “Commission” means the California Gambling Control
 19 Commission.

20 (2) “Department” means the Department of Justice.

21 (3) “Local licensing entity” means the city, county, or city and
 22 county.

23 (4) “Organization” means the principal organization that the
 24 cosponsors are affiliated with. All cosponsors shall be considered
 25 part of the organization with one person serving as the fiduciary
 26 for the organization and all affiliated cosponsors.

27 (5) “Person” includes a natural person, corporation, limited
 28 liability company, partnership, trust, joint venture, association, or
 29 any other business organization.

30 SEC. 4. Section 326.5 of the Penal Code is amended to read:

31 326.5. (a) Neither the prohibition on gambling in this chapter
 32 nor in Chapter 10 (commencing with Section 330) applies to any
 33 bingo game that is conducted in a city, county, or city and county
 34 pursuant to an ordinance enacted under Section 19 of Article IV
 35 of the ~~State~~ *California* Constitution, if the ordinance allows games
 36 to be conducted only in accordance with this section, and only by
 37 organizations exempted from the payment of the bank and
 38 corporation tax by Sections 23701a, 23701b, 23701d, 23701e,
 39 23701f, 23701g, 23701k, 23701l, and 23701w, of the Revenue
 40 and Taxation Code, and by mobilehome park associations, senior

1 citizens organizations, and charitable organizations affiliated with
2 a school district; and if the receipts of those games are used only
3 for charitable purposes. The ordinance may be amended by
4 resolution of the governing body of the city, county, or city and
5 county to allow a remote caller bingo game to be played or
6 conducted in accordance with the requirements of Section 326.3.

7 (b) It is a misdemeanor for any person to receive or pay a profit,
8 wage, or salary from any bingo game authorized by Section 19 of
9 Article IV of the ~~State~~ *California* Constitution. Security personnel
10 employed by the organization conducting the bingo game may be
11 paid from the revenues of bingo games, as provided in subdivisions
12 (j) and (k).

13 (c) A violation of subdivision (b) shall be punishable by a fine
14 not to exceed ten thousand dollars (\$10,000), which fine is
15 deposited in the general fund of the city, county, or city and county
16 that enacted the ordinance authorizing the bingo game. A violation
17 of any provision of this section, other than subdivision (b), is a
18 misdemeanor.

19 (d) The city, county, or city and county that enacted the
20 ordinance authorizing the bingo game may bring an action to enjoin
21 a violation of this section.

22 (e) No minors shall be allowed to participate in any bingo game.

23 (f) An organization authorized to conduct bingo games pursuant
24 to subdivision (a) shall conduct a bingo game only on property
25 owned or leased by it, or property whose use is donated to the
26 organization, and which property is used by that organization for
27 an office or for performance of the purposes for which the
28 organization is organized. Nothing in this subdivision shall be
29 construed to require that the property owned or leased by, or whose
30 use is donated to, the organization be used or leased exclusively
31 by, or donated exclusively to, that organization.

32 (g) All bingo games shall be open to the public, not just to the
33 members of the authorized organization.

34 (h) A bingo game shall be operated and staffed only by members
35 of the authorized organization that organized it. Those members
36 shall not receive a profit, wage, or salary from any bingo game.
37 Only the organization authorized to conduct a bingo game shall
38 operate such a game, or participate in the promotion, supervision,
39 or any other phase of a bingo game. This subdivision does not
40 preclude the employment of security personnel who are not

1 members of the authorized organization at a bingo game by the
2 organization conducting the game.

3 (i) No individual, corporation, partnership, or other legal entity,
4 except the organization authorized to conduct a bingo game, shall
5 hold a financial interest in the conduct of a bingo game.

6 (j) With respect to organizations exempt from payment of the
7 bank and corporation tax by Section 23701d of the Revenue and
8 Taxation Code, all profits derived from a bingo game shall be kept
9 in a special fund or account and shall not be commingled with any
10 other fund or account. Those profits shall be used only for
11 charitable purposes.

12 (k) With respect to other organizations authorized to conduct
13 bingo games pursuant to this section, all proceeds derived from a
14 bingo game shall be kept in a special fund or account and shall not
15 be commingled with any other fund or account. Proceeds are the
16 receipts of bingo games conducted by organizations not within
17 subdivision (j). Those proceeds shall be used only for charitable
18 purposes, except as follows:

19 (1) The proceeds may be used for prizes.

20 (2) (A) Except as provided in subparagraph (B), a portion of
21 the proceeds, not to exceed 20 percent of the proceeds before the
22 deduction for prizes, or two thousand dollars (\$2,000) per month,
23 whichever is less, may be used for the rental of property and for
24 overhead, including the purchase of bingo equipment,
25 administrative expenses, security equipment, and security
26 personnel.

27 (B) For the purposes of bingo games conducted by the Lake
28 Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20
29 percent of the proceeds before the deduction for prizes, or three
30 thousand dollars (\$3,000) per month, whichever is less, may be
31 used for the rental of property and for overhead, including the
32 purchase of bingo equipment, administrative expenses, security
33 equipment, and security personnel. Any amount of the proceeds
34 that is additional to that permitted under subparagraph (A), up to
35 one thousand dollars (\$1,000), shall be used for the purpose of
36 financing the rebuilding of the facility and the replacement of
37 equipment that was destroyed by fire in 2007. The exception to
38 subparagraph (A) that is provided by this subparagraph shall remain
39 in effect only until the cost of rebuilding the facility is repaid, or
40 January 1, 2019, whichever occurs first.

1 (3) The proceeds may be used to pay license fees.

2 (4) A city, county, or city and county that enacts an ordinance
3 permitting bingo games may specify in the ordinance that if the
4 monthly gross receipts from bingo games of an organization within
5 this subdivision exceed five thousand dollars (\$5,000), a minimum
6 percentage of the proceeds shall be used only for charitable
7 purposes not relating to the conducting of bingo games and that
8 the balance shall be used for prizes, rental of property, overhead,
9 administrative expenses, and payment of license fees. The amount
10 of proceeds used for rental of property, overhead, and
11 administrative expenses is subject to the limitations specified in
12 paragraph (2).

13 (l) (1) A city, county, or city and county may impose a license
14 fee on each organization that it authorizes to conduct bingo games.
15 The fee, whether for the initial license or renewal, shall not exceed
16 fifty dollars (\$50) annually, except as provided in paragraph (2).
17 If an application for a license is denied, one-half of any license
18 fee paid shall be refunded to the organization.

19 (2) In lieu of the license fee permitted under paragraph (1), a
20 city, county, or city and county may impose a license fee of fifty
21 dollars (\$50) paid upon application. If an application for a license
22 is denied, one-half of the application fee shall be refunded to the
23 organization. An additional fee for law enforcement and public
24 safety costs incurred by the city, county, or city and county that
25 are directly related to bingo activities may be imposed and shall
26 be collected monthly by the city, county, or city and county issuing
27 the license; however, the fee shall not exceed the actual costs
28 incurred in providing the service.

29 (m) No person shall be allowed to participate in a bingo game,
30 unless the person is physically present at the time and place where
31 the bingo game is being conducted.

32 (n) The total value of prizes available to be awarded during the
33 conduct of any bingo games shall not exceed five hundred dollars
34 (\$500) in cash or kind, or both, for each separate game which is
35 held.

36 (o) As used in this section, “bingo” means a game of chance in
37 which prizes are awarded on the basis of designated numbers or
38 symbols that are marked or covered by the player on a tangible
39 card in the player’s possession and that conform to numbers or
40 symbols, selected at random and announced by a live caller.

1 Notwithstanding Section 330c, as used in this section, the game
2 of bingo includes tangible cards having numbers or symbols that
3 are concealed and preprinted in a manner providing for distribution
4 of prizes. Electronics or video displays shall not be used in
5 connection with the game of bingo, except in connection with the
6 caller's drawing of numbers or symbols and the public display of
7 that drawing, and except as provided in subdivision (p). The
8 winning cards shall not be known prior to the game by any person
9 participating in the playing or operation of the bingo game. All
10 preprinted cards shall bear the legend, "for sale or use only in a
11 bingo game authorized under California law and pursuant to local
12 ordinance." Only a covered or marked tangible card possessed by
13 a player and presented to an attendant may be used to claim a prize.
14 It is the intention of the Legislature that bingo as defined in this
15 subdivision applies exclusively to this section and shall not be
16 applied in the construction or enforcement of any other provision
17 of law.

18 (p) (1) Players who are physically present at a bingo game may
19 use hand-held, portable card-minding devices, as described in this
20 subdivision, to assist in monitoring the numbers or symbols
21 announced by a live caller as those numbers or symbols are called
22 in a live game. Card-minding devices may not be used in
23 connection with any game where a bingo card may be sold or
24 distributed after the start of the ball draw for that game. A
25 card-minding device shall do all of the following:

26 (A) Be capable of storing in the memory of the device bingo
27 faces of tangible cards purchased by a player.

28 (B) Provide a means for bingo players to input manually each
29 individual number or symbol announced by a live caller.

30 (C) Compare the numbers or symbols entered by the player to
31 the bingo faces previously stored in the memory of the device.

32 (D) Identify winning bingo patterns that exist on the stored
33 bingo faces.

34 (2) A card-minding device shall perform no functions involving
35 the play of the game other than those described in paragraph (1).
36 Card-minding devices shall not do any of the following:

37 (A) Be capable of accepting or dispensing any coins, currency,
38 or other representative of value or on which value has been
39 encoded.

1 (B) Be capable of monitoring any bingo card face other than
2 the faces of the tangible bingo card or cards purchased by the
3 player for that game.

4 (C) Display or represent the game result through any means,
5 including, but not limited to, video or mechanical reels or other
6 slot machine or casino game themes, other than highlighting the
7 winning numbers or symbols marked or covered on the tangible
8 bingo cards or giving an audio alert that the player's card has a
9 prize-winning pattern.

10 (D) Determine the outcome of any game or be physically or
11 electronically connected to any component that determines the
12 outcome of a game or to any other bingo equipment, including,
13 but not limited to, the ball call station, or to any other card-minding
14 device. No other player-operated or player-activated electronic or
15 electromechanical device or equipment is permitted to be used in
16 connection with a bingo game.

17 SEC. 5. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.

26 SEC. 6. This act is an urgency statute necessary for the
27 immediate preservation of the public peace, health, or safety within
28 the meaning of Article IV of the Constitution and shall go into
29 immediate effect. The facts constituting the necessity are:

30 The California Gambling Control Commission's current funding
31 authority for the remote caller bingo program, which is a loan from
32 the Gambling Control Fund, and limited-term positions expire on
33 June 30, 2011. Without that funding authority and those positions,
34 the commission cannot perform work related to the remote caller
35 bingo program after June 30, 2011. In order to provide continuity
36 for charitable organizations that are conducting remote caller bingo,
37 it is necessary that this act take effect immediately.