

AMENDED IN ASSEMBLY AUGUST 15, 2011

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 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 also authorize the department to require any person who directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides supplies, devices, services, or other equipment designed for use in the playing of a remote caller bingo game by any nonprofit organization*

to register a copy of any local bingo license with the department. 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, *a management company contracted by a licensed organization*, or a 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.

1 (4) Many of these services would not be available if nonprofit
2 organizations did not provide them.

3 (5) There is a need to provide methods of fundraising to
4 nonprofit organizations to enable them to provide these essential
5 services.

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

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

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

17 (b) Neither the prohibition on gambling in this chapter nor in
18 Chapter 10 (commencing with Section 330) applies to any remote
19 caller bingo game that is played or conducted in a city, county, or
20 city and county pursuant to an ordinance enacted under Section
21 19 of Article IV of the California Constitution, if the ordinance
22 allows a remote caller bingo game to be played or conducted only
23 in accordance with the requirements of this section, including the
24 following requirements:

25 (1) The game may be conducted only by the following
26 organizations:

27 (A) An organization that is exempted from the payment of the
28 taxes imposed under the Corporation Tax Law by Section 23701a,
29 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or
30 23701w of the Revenue and Taxation Code.

31 (B) A mobilehome park association.

32 (C) A senior citizens organization.

33 (D) Charitable organizations affiliated with a school district or
34 community college district.

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

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

1 (4) The receipts of the game shall be used only for charitable
2 purposes. The organization conducting the game shall determine
3 the disbursement of the net receipts of the game.

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

6 (c) (1) To ensure continuity of remote caller bingo games, until
7 June 1, 2012, the local licensing entity may recognize a state
8 license, work permit, or approval of equipment that was issued by
9 the commission pursuant to this section, and effective on June 30,
10 2011, including, but not limited to, any of the following:

11 (A) An interim license of a person who conducts remote caller
12 bingo games approved by the commission, as of June 30, 2011.

13 (B) An interim work permit for personnel employed by an
14 organization that conducts remote caller bingo games.

15 (C) An interim approval of equipment used for remote caller
16 bingo games.

17 (2) If the local licensing entity decides to recognize a license,
18 work permit, or equipment approval issued by the commission,
19 the local licensing entity shall be responsible for regulatory
20 oversight and enforcement in accordance with the standards and
21 procedures applicable within its jurisdiction pursuant to local
22 ordinance.

23 (3) Any reference to the commission as the licensing authority
24 for the conduct of remote caller bingo games that appears in a local
25 ordinance adopted prior to the operative date of the act adding this
26 subdivision shall be deemed to refer to the local licensing entity.

27 (d) (1) It is a misdemeanor for any person to receive or pay a
28 profit, wage, or salary from any remote caller bingo game, provided
29 that administrative, managerial, technical, financial, and security
30 personnel employed by the organization conducting the bingo
31 game may be paid reasonable fees for services rendered from the
32 revenues of bingo games, as provided in subdivision (m), except
33 that fees paid under those agreements shall not be determined as
34 a percentage of receipts or other revenues from, or be dependent
35 on the outcome of, the game.

36 (2) A violation of this subdivision shall be punishable by a fine
37 not to exceed ten thousand dollars (\$10,000), which fine shall be
38 deposited in the general fund of the city, county, or city and county
39 that enacted the ordinance authorizing the remote caller bingo

1 game. A violation of any provision of this section, other than this
2 subdivision, is a misdemeanor.

3 (e) The city, county, or city and county that enacted the
4 ordinance authorizing the remote caller bingo game, or the Attorney
5 General, may bring an action to enjoin a violation of this section.

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

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

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

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

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

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

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

(j) (1) An organization eligible to conduct a remote caller bingo game pursuant to subdivision (b) shall register annually with the department in order to conduct remote caller bingo games pursuant to this section. The department shall create, by regulation, and provide to eligible nonprofit organizations, upon request, a registration form. The department also shall post the registration form on its Internet Web site. Only the information necessary for the department to implement this section shall be required for completion of the registration form, including, but not limited to, all of the following relative to the eligible organization:

(A) Name and address.

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

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

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

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

(4) The department may adopt regulations to implement this section. The initial adoption, amendment, or repeal of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption, amendment, or repeal of an emergency regulation pursuant to this section, the department may request approval from the Office of Administrative

1 Law to readopt the regulation as an emergency regulation pursuant
2 to Section 11346.1 of the Government Code.

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

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

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

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

39 (B) Ensure that the management company has a business license
40 and request a live scan background check for each employee or

1 consultant that has a 10 percent or greater ownership interest in
2 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) *The department shall require any person who directly*
4 *or indirectly manufactures, distributes, supplies, vends, leases, or*
5 *otherwise provides supplies, devices, services, or other equipment*
6 *designed for use in the playing of a remote caller bingo game by*
7 *any nonprofit organization to register any local bingo license with*
8 *the department.*

9 (2) *The department may charge an annual registration fee to*
10 *cover the actual costs to administer and enforce the registration*
11 *requirement described in paragraph (1). Fee revenues shall be*
12 *deposited by the department into the California Bingo Fund.*

13 ~~(q)~~

14 (r) (1) If the local licensing entity requests a background check
15 from the department of any person required to be licensed pursuant
16 to the applicable local ordinance, it shall submit to the department
17 fingerprint images and related information required by the
18 department for the purpose of obtaining information as to the
19 existence and content of a record of state and federal convictions
20 and arrests, including state or federal arrests for which the
21 department establishes that the person is free on bail or on his or
22 her own recognizance pending trial or appeal.

23 (2) Upon receipt, the department shall forward requests for
24 federal summary criminal history information pursuant to this
25 section to the Federal Bureau of Investigation. The department
26 shall review the information returned from the Federal Bureau of
27 Investigation and compile and disseminate a response to the local
28 licensing entity.

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

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

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

37 (6) (A) Fees and revenue collected pursuant to this subdivision
38 shall be deposited in the California Bingo Fund, which is hereby
39 created in the State Treasury. The funds deposited in the California
40 Bingo Fund shall be available, upon appropriation by the

1 Legislature, for expenditure by the department exclusively for the
2 support of the department in carrying out its duties and
3 responsibilities under this section.

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

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

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

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

21 ~~(r)~~

22 (s) An organization that conducts remote caller bingo games
23 shall retain records in connection with the remote caller bingo
24 game for five years.

25 ~~(s)~~

26 (t) The local licensing entity shall monitor operation of the
27 transmission and other equipment used for remote caller bingo,
28 and monitor the game.

29 ~~(t)~~

30 (u) (1) As used in this section, "remote caller bingo game"
31 means a game of bingo, as defined in subdivision (o) of Section
32 326.5, in which the numbers or symbols on randomly drawn plastic
33 balls are announced by a natural person present at the site at which
34 the live game is conducted, and the organization conducting the
35 bingo game uses audio and video technology to link any of its
36 in-state facilities for the purpose of transmitting the remote calling
37 of a live bingo game from a single location to multiple locations
38 owned, leased, or rented by that organization, or as described in
39 subdivision (o) of this section. The audio or video technology used
40 to link the facilities may include cable, Internet, satellite,

1 broadband, or telephone technology, or any other means of
2 electronic transmission that ensures the secure, accurate, and
3 simultaneous transmission of the announcement of numbers or
4 symbols in the game from the location at which the game is called
5 by a natural person to the remote location or locations at which
6 players may participate in the game. The drawing of each ball
7 bearing a number or symbol by the natural person calling the game
8 shall be visible to all players as the ball is drawn, including through
9 a simultaneous live video feed at remote locations at which players
10 may participate in the game.

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

15 ~~(t)~~

16 (v) A location shall not be eligible to participate in a remote
17 caller bingo game if bingo games are conducted at that location
18 in violation of Section 326.5, including, but not limited to, a
19 location at which unlawful electronic devices are used.

20 ~~(v)~~

21 (w) The department may audit the books and records of a
22 licensed organization ~~or, a management company contracted by~~
23 *a licensed organization*, or a vendor of equipment used in a remote
24 caller bingo game at any time, and may charge a fee for the audit
25 sufficient to cover the costs of performing the audit.

26 ~~(w)~~

27 (x) (1) The provisions of this section are severable. If any
28 provision of this section or its application is held invalid, that
29 invalidity shall not affect other provisions or applications that can
30 be given effect without the invalid provision or application.

31 (2) Notwithstanding paragraph (1), if paragraph (1) or (2) of
32 subdivision ~~(t)~~ (u), or the application of either of those provisions,
33 is held invalid, this entire section shall be invalid.

34 ~~(w)~~

35 (y) The following definitions apply for purposes of this section:

36 (1) “Commission” means the California Gambling Control
37 Commission.

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

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

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

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

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

9 326.5. (a) Neither the prohibition on gambling in this chapter
10 nor in Chapter 10 (commencing with Section 330) applies to any
11 bingo game that is conducted in a city, county, or city and county
12 pursuant to an ordinance enacted under Section 19 of Article IV
13 of the California Constitution, if the ordinance allows games to be
14 conducted only in accordance with this section, and only by
15 organizations exempted from the payment of the bank and
16 corporation tax by Sections 23701a, 23701b, 23701d, 23701e,
17 23701f, 23701g, 23701k, 23701l, and 23701w, of the Revenue
18 and Taxation Code, and by mobilehome park associations, senior
19 citizens organizations, and charitable organizations affiliated with
20 a school district; and if the receipts of those games are used only
21 for charitable purposes. The ordinance may be amended by
22 resolution of the governing body of the city, county, or city and
23 county to allow a remote caller bingo game to be played or
24 conducted in accordance with the requirements of Section 326.3.

25 (b) It is a misdemeanor for any person to receive or pay a profit,
26 wage, or salary from any bingo game authorized by Section 19 of
27 Article IV of the California Constitution. Security personnel
28 employed by the organization conducting the bingo game may be
29 paid from the revenues of bingo games, as provided in subdivisions
30 (j) and (k).

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

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

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

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

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

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

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

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

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

(1) The proceeds may be used for prizes.

(2) (A) Except as provided in subparagraph (B), a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or two thousand dollars (\$2,000) per month,

1 whichever is less, may be used for the rental of property and for
2 overhead, including the purchase of bingo equipment,
3 administrative expenses, security equipment, and security
4 personnel.

5 (B) For the purposes of bingo games conducted by the Lake
6 Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20
7 percent of the proceeds before the deduction for prizes, or three
8 thousand dollars (\$3,000) per month, whichever is less, may be
9 used for the rental of property and for overhead, including the
10 purchase of bingo equipment, administrative expenses, security
11 equipment, and security personnel. Any amount of the proceeds
12 that is additional to that permitted under subparagraph (A), up to
13 one thousand dollars (\$1,000), shall be used for the purpose of
14 financing the rebuilding of the facility and the replacement of
15 equipment that was destroyed by fire in 2007. The exception to
16 subparagraph (A) that is provided by this subparagraph shall remain
17 in effect only until the cost of rebuilding the facility is repaid, or
18 January 1, 2019, whichever occurs first.

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

20 (4) A city, county, or city and county that enacts an ordinance
21 permitting bingo games may specify in the ordinance that if the
22 monthly gross receipts from bingo games of an organization within
23 this subdivision exceed five thousand dollars (\$5,000), a minimum
24 percentage of the proceeds shall be used only for charitable
25 purposes not relating to the conducting of bingo games and that
26 the balance shall be used for prizes, rental of property, overhead,
27 administrative expenses, and payment of license fees. The amount
28 of proceeds used for rental of property, overhead, and
29 administrative expenses is subject to the limitations specified in
30 paragraph (2).

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

37 (2) In lieu of the license fee permitted under paragraph (1), a
38 city, county, or city and county may impose a license fee of fifty
39 dollars (\$50) paid upon application. If an application for a license
40 is denied, one-half of the application fee shall be refunded to the

1 organization. An additional fee for law enforcement and public
2 safety costs incurred by the city, county, or city and county that
3 are directly related to bingo activities may be imposed and shall
4 be collected monthly by the city, county, or city and county issuing
5 the license; however, the fee shall not exceed the actual costs
6 incurred in providing the service.

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

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

14 (o) As used in this section, “bingo” means a game of chance in
15 which prizes are awarded on the basis of designated numbers or
16 symbols that are marked or covered by the player on a tangible
17 card in the player’s possession and that conform to numbers or
18 symbols, selected at random and announced by a live caller.
19 Notwithstanding Section 330c, as used in this section, the game
20 of bingo includes tangible cards having numbers or symbols that
21 are concealed and preprinted in a manner providing for distribution
22 of prizes. Electronics or video displays shall not be used in
23 connection with the game of bingo, except in connection with the
24 caller’s drawing of numbers or symbols and the public display of
25 that drawing, and except as provided in subdivision (p). The
26 winning cards shall not be known prior to the game by any person
27 participating in the playing or operation of the bingo game. All
28 preprinted cards shall bear the legend, “for sale or use only in a
29 bingo game authorized under California law and pursuant to local
30 ordinance.” Only a covered or marked tangible card possessed by
31 a player and presented to an attendant may be used to claim a prize.
32 It is the intention of the Legislature that bingo as defined in this
33 subdivision applies exclusively to this section and shall not be
34 applied in the construction or enforcement of any other provision
35 of law.

36 (p) (1) Players who are physically present at a bingo game may
37 use hand-held, portable card-minding devices, as described in this
38 subdivision, to assist in monitoring the numbers or symbols
39 announced by a live caller as those numbers or symbols are called
40 in a live game. Card-minding devices may not be used in

1 connection with any game where a bingo card may be sold or
2 distributed after the start of the ball draw for that game. A
3 card-minding device shall do all of the following:

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

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

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

10 (D) Identify winning bingo patterns that exist on the stored
11 bingo faces.

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

15 (A) Be capable of accepting or dispensing any coins, currency,
16 or other representative of value or on which value has been
17 encoded.

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

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

27 (D) Determine the outcome of any game or be physically or
28 electronically connected to any component that determines the
29 outcome of a game or to any other bingo equipment, including,
30 but not limited to, the ball call station, or to any other card-minding
31 device. No other player-operated or player-activated electronic or
32 electromechanical device or equipment is permitted to be used in
33 connection with a bingo game.

34 SEC. 5. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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

7 The California Gambling Control Commission's current funding
8 authority for the remote caller bingo program, which is a loan from
9 the Gambling Control Fund, and limited-term positions expire on
10 June 30, 2011. Without that funding authority and those positions,
11 the commission cannot perform work related to the remote caller
12 bingo program after June 30, 2011. In order to provide continuity
13 for charitable organizations that are conducting remote caller bingo,
14 it is necessary that this act take effect immediately.