

AMENDED IN SENATE JUNE 24, 2013

AMENDED IN SENATE JUNE 13, 2013

AMENDED IN SENATE JUNE 12, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 81**

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**Introduced by Committee on Budget (Blumenfield (Chair), Bloom, Bonilla, Campos, Chesbro, Daly, Dickinson, Gordon, Jones-Sawyer, Mitchell, Mullin, Muratsuchi, Nazarian, Skinner, Stone, and Ting)**

January 10, 2013

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An act to amend Sections ~~29552, 30027.9, 30061, and 30070~~ of the Government Code, to amend Sections ~~1170, 1203.2, 3000.08, 3003, 3451, and 13821~~ of, to amend and repeal Section ~~326.3~~ of, and to add Sections ~~4019.1 and 5003.2~~ to, the Penal Code, and to amend Sections ~~1955, 1984, 18220, and 18220.1~~ of the Welfare and Institutions Code, relating to public safety, and making an appropriation therefor, to take effect immediately, bill related to the budget ~~13701, 13710, and 13730~~ of the Penal Code, relating to domestic abuse, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 81, as amended, Committee on Budget. ~~Public safety. safety:~~ *domestic abuse.*

*Existing law, as amended by SB 71 of the 2012–13 Regular Session, authorizes every law enforcement agency in the state to develop, adopt, and implement written policies and standards for officers, responses to domestic violence calls, as specified. Existing law, as amended by SB 71 of the 2012–13 Regular Session, also authorizes law enforcement*

*agencies to maintain a complete and systemic record of all protection orders with respect to domestic violence incidents and to develop a system for recording all domestic violence-related calls for assistance, including whether weapons were involved.*

*This bill would provide that, if SB 71 of the 2012–13 Regular Session is enacted and becomes operative, these provisions are mandatory for law enforcement agencies. By expanding the duties of local law enforcement agencies, this bill would impose a state-mandated local program.*

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

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

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

~~(1) Existing law establishes in the State Treasury the Local Revenue Fund 2011, a continuously appropriated fund, and requires that its funds be allocated exclusively for public safety services, as defined. Existing law further establishes the Law Enforcement Services Account within that fund, and creates the Enhancing Law Enforcement Activities Subaccount and the Juvenile Justice Subaccount within the Law Enforcement Services Account.~~

~~Existing law, commencing with the 2012–13 fiscal year, allocates specified funds from the Enhancing Law Enforcement Activities Subaccount to local governments, including to cities and counties that charge fees to a city, special district, community college district, college, or university for the booking or detention of a person arrested and brought to a detention facility of the city or county, as specified. Existing law also allocates certain percentages of the moneys deposited in the subaccount as follows: 3.78% to county sheriffs' departments to enhance law enforcement efforts in specified counties; 8.35% for use by the California Multi-Jurisdictional Methamphetamine Enforcement Teams, Multi-Agency Gang Enforcement Consortium, Sexual Assault Felony Enforcement Teams, High Technology Theft Apprehension and Prosecution Program, Gang Violence Suppression Program, and the Central Valley and Central Coast Rural Crime Prevention Programs,~~

~~as specified; 30.99% to specified counties to serve children who are habitual truants, runaways, at risk of being wards of the court, or under juvenile court supervision or supervision of the probation department, as prescribed; and 6.01% to counties that operate juvenile camps and ranches, based on the number of beds in each camp.~~

~~Existing law requires each county to establish in the county treasury a Supplemental Law Enforcement Services Account for the receipt of all amounts allocated to a county for specified local law enforcement purposes, including jail construction and operation, criminal prosecution, and juvenile justice plans. Existing law requires the Controller to allocate funds to local jurisdictions for these purposes as annually calculated by the Director of Finance.~~

~~Existing law establishes the Youthful Offender Block Grant Special Account in the Juvenile Justice Subaccount, and requires that allocations from that account be used to enhance the capacity of county departments to provide appropriate rehabilitative and supervision services to youthful offenders. Existing law requires that these funds be allocated in 4 equal installments, to be paid in September, December, March, and June, pursuant to a specified formula.~~

~~Existing law establishes the Juvenile Reentry Grant Special Account in the Juvenile Justice Subaccount and requires that its funds be allocated for the purpose of providing for the local supervision of persons discharged from the custody of the Division of Juvenile Facilities. Existing law requires that the amount allocated to each county probation department from that account be distributed in 2 equal payments to be paid on October 30 and May 30 of each fiscal year pursuant to specified criteria.~~

~~This bill would require the Controller to allocate funds from the above-described accounts for those same purposes and in the same amounts, but would require that the allocations be made in monthly installments.~~

~~(2) Existing law establishes the Law Enforcement Services Growth Subaccount within the Local Revenue Fund 2011 in the State Treasury. Existing law requires the Controller, in the 2012–13 fiscal year, to allocate funds from the Law Enforcement Services Growth Subaccount to specified accounts relating to criminal justice.~~

~~This bill would instead require the Controller to make those allocations commencing with the 2012–13 fiscal year.~~

~~(3) 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 requires the California Gambling Control Commission to regulate remote caller bingo, including licensure and operation. Existing law requires any person who conducts a remote caller bingo game to be licensed. Existing law 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. Existing law requires the Department of Justice to conduct background investigations and conduct field enforcement as it relates to remote caller bingo consistent with existing law and as specified in regulations promulgated by the commission.

Existing law and the Governor's Reorganization Plan No. 2 of 2012 (GRP 2), effective on July 3, 2012, and operative on July 1, 2013, consolidates the support, investigatory, auditing, and compliance functions of the California Gambling Control Commission and transfers these duties to the Department of Justice. The commission retains jurisdiction over the licensing, policies, regulations, criteria, and standards pertaining to gaming.

This bill would additionally require the licensure of any person who contracts to conduct remote caller bingo on behalf of an authorized organization or who is identified as having fiduciary responsibility of the game. The bill would establish an annual licensing fee in an amount determined by the department, not to exceed the reasonable regulatory costs to the department and in accordance with regulations adopted by the department. The bill would require that prior to the adoption of regulations, the nonrefundable license fee would be the amount of the reasonable regulatory costs to the department not to exceed \$3,000, for any person or entity that 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. The bill would require the department to conduct any background investigation related to remote caller bingo in accordance with existing law and as specified in regulations promulgated by the commission or the department.

This bill would reallocate additional functions among the commission and the department with regard to remote caller bingo. The bill would

~~require a remote caller bingo site, for each participating remote caller bingo site, to notify the department and local law enforcement of its intent to conduct a game, rather than the commission. The bill would require all equipment used for remote caller bingo to be certified as compliant with specified regulations by a manufacturing expert recognized by the department. The bill would require equipment certifications to be submitted to the department prior to the equipment's use. The bill would also authorize the department, rather than the commission, to monitor the operation of the transmission and other equipment used for remote caller bingo, and to monitor the game. The bill would transfer the auditing functions of the commission to the department, as those functions relate to remote caller bingo. The bill would also make various technical, nonsubstantive conforming changes to further reflect GRP 2.~~

~~Existing law authorizes certain loans from the Gambling Control Fund to the California Bingo Fund to fund operating, personnel, and other startup costs incurred by the commission related to remote caller bingo. Existing law requires these loans to be repaid no later than 5 years after the date of the loan. Existing law requires that funds from the California Bingo Fund be available to the commission upon appropriation by the Legislature in the annual Budget Act. Existing law also authorizes the commission to assess and collect reasonable fees and deposits as necessary to defray the costs of regulation and oversight.~~

~~This bill would require the previously described loans to the California Bingo Fund to be repaid by July 1, 2019. The bill would require funds from the California Bingo Fund be available to both the commission and the department upon appropriation by the Legislature in the annual Budget Act. The bill would additionally authorize the department to assess and collect reasonable fees and deposits to defray the costs of regulation and oversight.~~

~~This bill would make these provisions inoperative on July 1, 2016, and would repeal the remote caller bingo program as of January 1, 2017.~~

~~(4) Existing law defines a felony as a crime that is punishable by death, imprisonment in the state prison, or imprisonment in a county jail for a term greater than one year, as specified. Existing law also provides exceptions to imprisonment in a county jail for a variety of felonies, including serious or violent felonies and any felony for which registration as a sex offender is required, among other exceptions.~~

~~Existing law provides that, when a court commits a person to county jail for a felony, the portion of a defendant's sentenced term during~~

which time he or she is supervised by the county probation officer is known as mandatory supervision.

This bill would specify that mandatory supervision begins upon release from custody. By increasing the duties of county probation officers, the bill would impose a state-mandated local program.

(5) Existing law generally requires that all persons released from prison on and after October 1, 2011, after serving a prison term for a felony, be subject to postrelease community supervision provided by a county agency for a period of 3 years immediately following release, except for persons released after serving a term for a serious felony, a violent felony, an offense for which the person was sentenced pursuant to the “Three Strikes” law, a crime where the person is classified as a high-risk sex offender, or a crime where the person is required to undergo treatment by the State Department of State Hospitals because the person has a severe mental disorder. Existing law requires these persons to be subject to parole supervision by the Department of Corrections and Rehabilitation following release from state prison and the jurisdiction of the court in the county in which the parolee is released or resides for the purpose of hearing petitions to revoke parole and impose a term of custody.

This bill would require persons subject to parole supervision to additionally be subject to the jurisdiction of the court in the county in which the alleged violation of supervision occurred for the purpose of hearing petitions to revoke parole and impose a term of custody. The bill would make conforming changes.

This bill would also require a person released to parole to remain on parole after having served 60 days on parole, regardless of a subsequent determination that the person should have been released to postrelease community supervision. The bill would likewise require a person released to postrelease community supervision to remain on postrelease community supervision after having served 60 days on postrelease community supervision, regardless of a subsequent determination that the person should have been released to parole.

By requiring county agencies to supervise persons on postrelease community supervision who should have been released to parole, this bill would impose a state-mandated local program.

(6) Existing law provides for postrelease community supervision by county officials for persons convicted of certain specified felonies upon release from the state prison or a county jail. Existing law requires the Department of Corrections and Rehabilitation to release prescribed

~~information to local law enforcement agencies regarding a paroled inmate or inmate placed on postrelease supervision, including the inmate's name, contact information, description, and the offense or offenses for which the inmate was incarcerated.~~

~~This bill would require the department to electronically transmit to the county agency responsible for postrelease community supervision the inmate's tuberculosis status, specific medical, mental health, and outpatient clinic needs, and any medical concerns or disabilities for the purpose of identifying the medical and mental health needs of the individual. The bill would require the information to be transferred in conformity with specified federal laws, including the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). Operation of the bill would be conditional on the Secretary of the United States Department of Health and Human Services, or his or her designee, determining that this provision is not preempted by HIPAA.~~

~~(7) Under existing law, when a prisoner is confined to county jail, an industrial farm, or a road camp, for each 4-day period in which he or she is confined, he or she may have one day or 2 days deducted from his or her period of confinement, as specified. Existing law allows any inmate sentenced to a county jail assigned to a conservation camp by a sheriff and who is eligible to earn one day of credit for every one day of incarceration to earn 2 days of credit for every one day of service. Existing law allows any inmate who has completed training for assignment to a conservation camp or to a state or county facility as an inmate firefighter or who is assigned to a county or state correctional institution as an inmate firefighter and who is eligible to earn one day of credit for every one day of incarceration to instead earn 2 days of credit for every one day served in that assignment or after completing that training.~~

~~This bill would instead allow the sheriff or county director of corrections to award one and a half days credit for every day of incarceration to any inmate sentenced to the county jail who participates in an in custody work or job training program other than those specified above.~~

~~(8) Existing law establishes the Department of Corrections and Rehabilitation, which has jurisdiction over state prisons and parole of offenders released from state prisons.~~

~~This bill would require, except in prescribed emergencies, the Secretary of the Department of Corrections and Rehabilitation, or his or her designee, to provide written notification to any county impacted~~

by the opening, closure, or change of location of any reception center that accepts prisoners from county facilities or a parole office and would require this notice to be sent to the California State Association of Counties, the California State Sheriffs' Association, and the Chief Probation Officers of California.

~~(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

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

~~(10) The bill would appropriate \$2,000 from the California Bingo Fund to the Gambling Control Commission for the purpose of supporting workload associated with the licensing of remote caller bingo vendors, as provided.~~

~~(11) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~yes-no~~. Fiscal committee: yes. State-mandated local program: yes.

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

1     SECTION 1. Section 13701 of the Penal Code, as amended by  
2     Section 47 of Senate Bill 71 of the 2012–13 Regular Session, is  
3     amended to read:

4     13701. (a) ~~As a best practice, every~~ Every law enforcement  
5     agency in this state ~~may shall~~ shall develop, adopt, and implement  
6     written policies and standards for officers' responses to domestic  
7     violence calls by January 1, 1986. These policies ~~may shall~~ shall reflect  
8     that domestic violence is alleged criminal conduct. Further, they  
9     ~~may shall~~ shall reflect existing policy that a request for assistance in a  
10    situation involving domestic violence is the same as any other  
11    request for assistance where violence has occurred.

12    (b) ~~As a best practice, the~~ The written policies ~~may shall~~  
13    encourage the arrest of domestic violence offenders if there is  
14    probable cause that an offense has been committed. These policies  
15    also ~~may shall~~ shall require the arrest of an offender, absent exigent  
16    circumstances, if there is probable cause that a protective order  
17    issued under Chapter 4 (commencing with Section 2040) of Part

1 1 of Division 6, Division 10 (commencing with Section 6200), or  
2 Chapter 6 (commencing with Section 7700) of Part 3 of Division  
3 12, of the Family Code, or Section 136.2 of this code, or by a court  
4 of any other state, a commonwealth, territory, or insular possession  
5 subject to the jurisdiction of the United States, a military tribunal,  
6 or a tribe has been violated. These policies ~~may~~ shall discourage,  
7 when appropriate, but not prohibit, dual arrests. Peace officers  
8 ~~may~~ shall make reasonable efforts to identify the dominant  
9 aggressor in any incident. The dominant aggressor is the person  
10 determined to be the most significant, rather than the first,  
11 aggressor. In identifying the dominant aggressor, an officer ~~may~~  
12 shall consider the intent of the law to protect victims of domestic  
13 violence from continuing abuse, the threats creating fear of physical  
14 injury, the history of domestic violence between the persons  
15 involved, and whether either person acted in self-defense. These  
16 arrest policies ~~may~~ shall be developed, adopted, and implemented  
17 by July 1, 1996. Notwithstanding subdivision (d), law enforcement  
18 agencies ~~may~~ shall develop these policies with the input of local  
19 domestic violence agencies.

20 (c) ~~As a best practice, these~~ These existing local policies and  
21 those developed ~~may~~ shall be in writing ~~and, if developed, and~~  
22 shall be available to the public upon request and ~~may~~ shall include  
23 specific standards for the following:

- 24 (1) Felony arrests.
- 25 (2) Misdemeanor arrests.
- 26 (3) Use of citizen arrests.
- 27 (4) Verification and enforcement of temporary restraining orders  
28 when (A) the suspect is present and (B) the suspect has fled.
- 29 (5) Verification and enforcement of stay-away orders.
- 30 (6) Cite and release policies.
- 31 (7) Emergency assistance to victims, such as medical care,  
32 transportation to a shelter, or a hospital for treatment when  
33 necessary, and police standbys for removing personal property  
34 and assistance in safe passage out of the victim's residence.
- 35 (8) Assisting victims in pursuing criminal options, such as giving  
36 the victim the report number and directing the victim to the proper  
37 investigation unit.
- 38 (9) Furnishing written notice to victims at the scene, including,  
39 but not limited to, all of the following information:

1 (A) A statement informing the victim that despite official  
2 restraint of the person alleged to have committed domestic  
3 violence, the restrained person may be released at any time.

4 (B) A statement that, “For further information about a shelter  
5 you may contact \_\_\_\_.”

6 (C) A statement that, “For information about other services in  
7 the community, where available, you may contact \_\_\_\_.”

8 (D) A statement that, “For information about the California  
9 victims’ compensation program, you may contact 1-800-777-9229.”

10 (E) A statement informing the victim of domestic violence that  
11 he or she may ask the district attorney to file a criminal complaint.

12 (F) A statement informing the victim of the right to go to the  
13 superior court and file a petition requesting any of the following  
14 orders for relief:

15 (i) An order restraining the attacker from abusing the victim  
16 and other family members.

17 (ii) An order directing the attacker to leave the household.

18 (iii) An order preventing the attacker from entering the  
19 residence, school, business, or place of employment of the victim.

20 (iv) An order awarding the victim or the other parent custody  
21 of or visitation with a minor child or children.

22 (v) An order restraining the attacker from molesting or  
23 interfering with minor children in the custody of the victim.

24 (vi) An order directing the party not granted custody to pay  
25 support of minor children, if that party has a legal obligation to do  
26 so.

27 (vii) An order directing the defendant to make specified debit  
28 payments coming due while the order is in effect.

29 (viii) An order directing that either or both parties participate  
30 in counseling.

31 (G) A statement informing the victim of the right to file a civil  
32 suit for losses suffered as a result of the abuse, including medical  
33 expenses, loss of earnings, and other expenses for injuries sustained  
34 and damage to property, and any other related expenses incurred  
35 by the victim or any agency that shelters the victim.

36 (H) In the case of an alleged violation of subdivision (e) of  
37 Section 243 or Section 261, 261.5, 262, 273.5, 286, 288a, or 289,  
38 a “Victims of Domestic Violence” card which shall include, but  
39 is not limited to, the following information:

1 (i) The names and phone numbers of or local county hotlines  
2 for, or both the phone numbers of and local county hotlines for,  
3 local shelters for battered women and rape victim counseling  
4 centers within the county, including those centers specified in  
5 Section 13837, and their 24-hour counseling service telephone  
6 numbers.

7 (ii) A simple statement on the proper procedures for a victim  
8 to follow after a sexual assault.

9 (iii) A statement that sexual assault by a person who is known  
10 to the victim, including sexual assault by a person who is the  
11 spouse of the victim, is a crime.

12 (iv) A statement that domestic violence or assault by a person  
13 who is known to the victim, including domestic violence or assault  
14 by a person who is the spouse of the victim, is a crime.

15 (10) Writing of reports.

16 (d) In the development of these policies and standards, each  
17 local department is encouraged to consult with domestic violence  
18 experts, such as the staff of the local shelter for battered women  
19 and their children. Departments may utilize the response guidelines  
20 developed by the commission in developing local policies.

21 *SEC. 2. Section 13710 of the Penal Code, as amended by*  
22 *Section 48 of Senate Bill 71 of the 2012-13 Regular Session, is*  
23 *amended to read:*

24 13710. (a) (1) ~~As a best practice, law~~ Law enforcement  
25 agencies ~~may~~ shall maintain a complete and systematic record of  
26 all protection orders with respect to domestic violence incidents,  
27 including orders which have not yet been served, issued pursuant  
28 to Section 136.2, restraining orders, and proofs of service in effect.  
29 This ~~may~~ shall be used to inform law enforcement officers  
30 responding to domestic violence calls of the existence, terms, and  
31 effective dates of protection orders in effect.

32 (2) The police department of a community college or school  
33 district described in subdivision (a) or (b) of Section 830.32 shall  
34 notify the sheriff or police chief of the city in whose jurisdiction  
35 the department is located of any protection order served by the  
36 department pursuant to this section.

37 (b) The terms and conditions of the protection order remain  
38 enforceable, notwithstanding the acts of the parties, and may be  
39 changed only by order of the court.

1 (c) Upon request, law enforcement agencies shall serve the party  
 2 to be restrained at the scene of a domestic violence incident or at  
 3 any time the party is in custody.

4 *SEC. 3. Section 13730 of the Penal Code, as amended by*  
 5 *Section 49 of Senate Bill 71 of the 2012-13 Regular Session, is*  
 6 *amended to read:*

7 13730. (a) ~~As a best practice, each~~ *Each* law enforcement  
 8 agency ~~may shall~~ develop a system, by January 1, 1986, for  
 9 recording all domestic violence-related calls for assistance made  
 10 to the department including whether weapons are involved. All  
 11 domestic violence-related calls for assistance ~~may shall~~ be  
 12 supported with a written incident report, as described in subdivision  
 13 (c), identifying the domestic violence incident. Monthly, the total  
 14 number of domestic violence calls received and the numbers of  
 15 those cases involving weapons ~~may shall~~ be compiled by each law  
 16 enforcement agency and submitted to the Attorney General.

17 (b) The Attorney General shall report annually to the Governor,  
 18 the Legislature, and the public the total number of domestic  
 19 violence-related calls received by California law enforcement  
 20 agencies, the number of cases involving weapons, and a breakdown  
 21 of calls received by agency, city, and county.

22 (c) ~~As a best practice, each~~ *Each* law enforcement agency ~~may~~  
 23 *shall* develop an incident report form that includes a domestic  
 24 violence identification code by January 1, 1986. In all incidents  
 25 of domestic violence, a report ~~may shall~~ be written and ~~may shall~~  
 26 be identified on the face of the report as a domestic violence  
 27 incident. The report ~~may shall~~ include at least all of the following:

28 (1) A notation of whether the officer or officers who responded  
 29 to the domestic violence call observed any signs that the alleged  
 30 abuser was under the influence of alcohol or a controlled substance.

31 (2) A notation of whether the officer or officers who responded  
 32 to the domestic violence call determined if any law enforcement  
 33 agency had previously responded to a domestic violence call at  
 34 the same address involving the same alleged abuser or victim.

35 (3) A notation of whether the officer or officers who responded  
 36 to the domestic violence call found it necessary, for the protection  
 37 of the peace officer or other persons present, to inquire of the  
 38 victim, the alleged abuser, or both, whether a firearm or other  
 39 deadly weapon was present at the location, and, if there is an  
 40 inquiry, whether that inquiry disclosed the presence of a firearm

1 or other deadly weapon. Any firearm or other deadly weapon  
2 discovered by an officer at the scene of a domestic violence  
3 incident shall be subject to confiscation pursuant to Division 4  
4 (commencing with Section 18250) of Title 2 of Part 6.

5 *SEC. 4. If the Commission on State Mandates determines that*  
6 *this act contains costs mandated by the state, reimbursement to*  
7 *local agencies and school districts for those costs shall be made*  
8 *pursuant to Part 7 (commencing with Section 17500) of Division*  
9 *4 of Title 2 of the Government Code.*

10 *SEC. 5. This act shall only become operative if Senate Bill 71*  
11 *of the 2012–13 Regular Session becomes operative.*

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

16 *In order to protect the health and safety of victims of domestic*  
17 *violence at the earliest possible time, it is necessary that this act*  
18 *take effect immediately.*

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**All matter omitted in this version of the bill  
appears in the bill as amended in the  
Senate, June 13, 2013. (JR11)**