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**SB-112 State government.** (2017-2018)

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Date Published: 09/28/2017 09:00 PM

**Senate Bill No. 112**

**CHAPTER 363**

An act to amend Section 19859 of the Business and Professions Code, to amend Sections 179.9, 3557, 7310, and 15820.948 of, and to add Section 31680.15 to, the Government Code, to add Section 13143.7 to the Health and Safety Code, and to amend Section 4032 of, and to add Section 29581 to, the Penal Code, relating to state government, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[ Approved by Governor September 28, 2017. Filed with Secretary of State September 28, 2017. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 112, Committee on Budget and Fiscal Review. State government.

(1) The Gambling Control Act, among other things, generally requires a person to be licensed by the California Gambling Control Commission to participate in operation of a controlled game. The act requires the commission to deny a license to an applicant who has been convicted of a felony, including a conviction by a federal court or a court in another state for a crime that would constitute a felony if committed in California.

This bill would except from the requirement to deny a license a conviction of a felony for the possession of cannabis, the facts of which would not constitute a felony or misdemeanor under California law on the date the application for a license is submitted.

(2) Existing law ratifies, approves, and sets forth the provisions of the Emergency Management Assistance Compact, an interstate agreement that provides for mutual assistance between states responding to emergencies and disasters. The compact becomes inoperative on March 1, 2018, and as of January 1, 2019, is repealed.

This bill instead would make the compact inoperative on March 1, 2023, and repeal it on January 1, 2024.

(3) Existing law requires each public employer, as defined, to provide the exclusive representative mandatory access to its new employee orientations, and requires the parties, upon request of the employer or the exclusive representative, to negotiate regarding the structure, time, and manner of the access of the exclusive representative to a new employee orientation. Existing law provides that if any dispute has not been resolved within 45 days after the first meeting of the parties, or within 60 days after the initial request to negotiate, whichever comes first, either party may make a demand for compulsory interest arbitration. Existing law requires the arbitrator selection process to commence no later than 14 days prior to the negotiation period.

This bill would instead require the arbitrator selection process to commence within 14 days of a party's demand for compulsory interest arbitration. The bill would also require the party demanding compulsory interest arbitration to be responsible for requesting a panel of arbitrators from the State Mediation and Conciliation Service.

(4) Existing law requires compulsory interest arbitration to commence either on the arbitrator's earliest available date or any other date to which the parties agree, and to be completed within not less than 30 days.

This bill would instead require interest arbitration to be completed within 30 days.

(5) Existing law prohibits a city or county or local law enforcement agency from, on or after June 15, 2017, entering into a contract with the federal government or any federal agency to house or detain an adult noncitizen in a locked detention facility for purposes of civil immigration custody.

This bill would revise the reference to locked detention facilities as being those facilities owned and operated by a local entity.

(6) Existing law authorizes the Board of State and Community Corrections or the Department of Corrections and Rehabilitation, the State Public Works Board, and a participating county, as defined, to acquire, design, and construct an adult local criminal justice facility, as defined, and provides funding for those purposes. Existing regulations of the Board of State and Community Corrections specify the number of visits that inmates held in certain types of correctional facilities are required to be provided.

Existing law requires that specified conditional funding to a participating county for the construction or renovation of a local jail facility or adult local criminal justice facility be used to construct or renovate a facility that meets or surpasses the minimum number of weekly visits as specified in regulations through the use of in-person visitation space.

This bill would make technical, clarifying changes to these provisions.

(7) The County Employees Retirement Law of 1937 authorizes the formation of retirement systems pursuant to its provisions for the purpose of providing benefits to employees of counties, cities, and districts and prescribes conditions for service after retirement. The California Public Employees' Pension Reform Act of 2013 (PEPRA) establishes various limits on retirement benefits generally applicable to specified public employee retirement systems in the state and, among other things, prescribes limits on service after retirement without reinstatement.

The Public Employees' Retirement System permits a retired person to serve as an elective officer without reinstatement from retirement, provided that any portion of his or her retirement allowance based on service in that elective office is suspended during incumbency, which provisions prevail over those of PEPRA.

This bill, for the purposes of a retirement system formed under the County Employees Retirement Law of 1937, would permit a retired person to serve as an elective officer without reinstatement from retirement or loss or interruption of benefits, provided that his or her retirement allowance is suspended to the extent that it is based on service in that elective office.

(8) Existing law establishes the Office of the State Fire Marshal in the Department of Forestry and Fire Protection and requires the office to foster, promote, and develop ways and means of protecting life and property against fire and panic.

This bill would require the State Fire Marshal, in consultation with the Department of Corrections and Rehabilitation, to prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used or intended for use as a community correctional reentry facility, as specified. The bill would also require these standards and regulations to address buildings and structures that provide residential housing for parolees under contract with the Department of Corrections and Rehabilitation.

(9) Existing law prohibits a local detention facility, as defined, that provided in-person visitation as of January 1, 2017, from converting to only video visitation. Existing law prohibits a local detention facility from charging for visitation when visitors are onsite and participating in either in-person or video visitation. Existing law requires a local detention facility that does not offer in-person visitation to provide the first hour of remote video visitation each week free of charge.

This bill would provide that a local detention facility is required to offer the first hour of remote video visitation each week free of charge if that facility offers remote video visitation.

(10) Existing law prohibits a person who has an outstanding warrant for a felony from owning, purchasing, receiving, or possessing a firearm. A violation of this prohibition is punishable as a felony. Existing law also prohibits a person who has an outstanding warrant for certain misdemeanors from owning, purchasing, receiving, or possessing a firearm. A violation of this prohibition would be a crime, punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding \$1,000, or by both that imprisonment and fine.

This bill would provide that these provisions shall not apply to or affect a person who otherwise violates those provisions if the person did not have knowledge of the outstanding warrant.

(11) This bill would appropriate \$2,625,000 in reimbursement authority to the General Fund to the Office of Emergency Services to reimburse local fire departments for activities related to the October 2016 Little Valley Fire.

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

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 19859 of the Business and Professions Code is amended to read:

**19859.** The commission shall deny a license to any applicant who is disqualified for any of the following reasons:

- (a) Failure of the applicant to clearly establish eligibility and qualification in accordance with this chapter.
- (b) Failure of the applicant to provide information, documentation, and assurances required by this chapter or requested by the chief, or failure of the applicant to reveal any fact material to qualification, or the supplying of information that is untrue or misleading as to a material fact pertaining to the qualification criteria.
- (c) (1) Except as provided in paragraph (2), conviction of a felony, including a conviction by a federal court or a court in another state for a crime that would constitute a felony if committed in California.  
  
      (2) A conviction of a felony for the possession of cannabis, the facts of which would not constitute a felony or misdemeanor under California law on the date the application for a license is submitted, shall not constitute a basis to deny a license pursuant to this section.
- (d) Conviction of the applicant for any misdemeanor involving dishonesty or moral turpitude within the 10-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code; provided, however, that the granting of relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code shall not constitute a limitation on the discretion of the commission under Section 19856 or affect the applicant's burden under Section 19857.
- (e) Association of the applicant with criminal profiteering activity or organized crime, as defined by Section 186.2 of the Penal Code.
- (f) Contumacious defiance by the applicant of any legislative investigatory body, or other official investigatory body of any state or of the United States, when that body is engaged in the investigation of crimes relating to gambling; official corruption related to gambling activities; or criminal profiteering activity or organized crime, as defined by Section 186.2 of the Penal Code.
- (g) The applicant is less than 21 years of age.

**SEC. 2.** Section 179.9 of the Government Code is amended to read:

**179.9.** This article shall become inoperative on March 1, 2023, and, as of January 1, 2024, is repealed.

**SEC. 3.** Section 3557 of the Government Code is amended to read:

**3557.** (a) Except as provided in subdivision (g), upon request of the employer or the exclusive representative, the parties shall negotiate regarding the structure, time, and manner of the access of the exclusive representative to a new employee orientation. The failure to reach agreement on the structure, time, and manner of the access shall be subject to compulsory interest arbitration pursuant to this section.

(b) (1) (A) Except as provided in subparagraph (B), when negotiating access to a new employee orientation, if any dispute has not been resolved within 45 days after the first meeting of the parties, or within 60 days after the initial request to negotiate, whichever comes first, either party may make a demand for compulsory interest arbitration, and if a demand is made, the procedure prescribed by this subdivision shall apply. The arbitrator selection process described in paragraph (2) shall commence within 14 days of a party's demand for compulsory interest arbitration. The party demanding compulsory interest arbitration shall be responsible for requesting a panel of arbitrators from the State Mediation and Conciliation Service. A party shall not submit any proposal to compulsory interest arbitration that was not the parties' final proposal during the parties' negotiations. In the case of a school district employer whose administrative offices are closed during the summer, the timeline on this subdivision shall commence on the first day that the district administrative office reopens.

      (B) Notwithstanding subparagraph (A), the parties may mutually agree to submit their dispute to compulsory interest arbitration at any time.

(2) The appointment of an arbitrator for compulsory interest arbitration shall be made by the State Mediation and Conciliation Service using its process to obtain a panel of arbitrators, except as provided in paragraph (4). Within seven days of receipt of a request for a panel, the State Mediation and Conciliation Service shall send the parties a list of seven arbitrators selected from its roster. Within seven days following the receipt of the list, the parties shall make their selection. Unless the parties agree on an alternate selection procedure, they shall alternatively strike one name from the list provided by the service until only one

name remains. A coin toss shall determine which party shall strike the first name. In lieu of this process, the parties may mutually select any individual to serve as the arbitrator. Any party that fails to participate in the selection of an arbitrator within the prescribed period waives its right to strike names from the list. Interest arbitration shall commence either on the arbitrator's earliest available date or any other date to which the parties agree, and shall be completed within 30 days. The decision of the arbitrator shall be issued within 10 days and shall be final and binding on the parties. The decision shall provide the exclusive representative with reasonable access to new employee orientations. The arbitrator shall consider, weigh, and be guided by the following criteria:

(A) The ability of the exclusive representative to communicate with the public employees it represents.

(B) The legal obligations of the exclusive representative to the public employees.

(C) State, federal, and local laws that are applicable to the employer.

(D) Stipulations of the parties.

(E) The interests and welfare of the public and the financial condition of the public agency.

(F) The structure, time, and manner of access of an exclusive representative to a new employee orientation in comparable public agencies, including the access provisions in other memoranda of understanding or collective bargaining agreements containing those provisions.

(G) The Legislature's findings and declarations under Section 3555.

(H) Any other facts that are normally or traditionally taken into consideration in establishing the structure, time, and manner of access of an exclusive representative to a new employee orientation.

(3) The parties shall equally share all costs of arbitration.

(4) If a city or county objects to the procedure for appointment of an arbitrator pursuant to paragraph (2), that city or county, within five days of a demand for arbitration by the exclusive representative, may request that the Public Employment Relations Board appoint a PERB Administrative Law Judge or other PERB employee to serve as the arbitrator in lieu of an arbitrator appointed by the State Mediation and Conciliation Service. The city or county shall pay for the cost of that arbitrator. The board shall appoint the arbitrator within five days of receiving that request. The same procedures, criteria, and timeline for arbitrations set forth in paragraph (2) shall apply.

(c) During the period between the effective date of this section and the expiration of an existing memorandum of understanding or collective bargaining agreement between the parties, a request to meet and confer pursuant to subdivision (a) shall reopen the existing memorandum of understanding or collective bargaining agreement solely for the limited purpose of negotiating an agreement regarding access of the exclusive representative to new employee orientations. Either party may elect to negotiate a side letter or similar agreement in lieu of reopening the existing memorandum of understanding or collective bargaining agreement. This section, however, does not abrogate existing agreements between public agencies and recognized employee organizations.

(d) This section does not prohibit agreements between a public employer and an exclusive representative that provide for new employee orientations that vary from the requirements of this chapter. If such an agreement is negotiated, the requirements of this chapter shall not apply to the extent that they are inconsistent with the agreement. In the absence of a mutual agreement regarding new employee orientations, all of the requirements of this chapter shall apply.

(e) A public employer identified in subdivision (a) of Section 3555.5 does not unlawfully support or favor an employee organization or encourage employees to join any organization in preference to another as prohibited by subdivision (d) of Section 3506.5, subdivision (d) of Section 3519, subdivision (d) of Section 3543.5, or subdivision (d) of Section 3571 of this code, or subdivision (d) of Section 99563.7 of the Public Utilities Code, or any other state law, by permitting a recognized employee organization or an exclusive representative the opportunity to present at new employee orientations as required by this section or consistent with a negotiated agreement pursuant to this section.

(f) This section is not intended to modify the scope of bargaining or representation under any applicable employer-employee relations statute.

(g) A provision in a memorandum of understanding reached pursuant to Section 3517.5, and in effect on the effective date of the act adding this section, regarding the access of an exclusive representative to a new employee orientation shall control for the duration of that agreement, and the rights and duties established by this section shall apply only upon expiration of the agreement. The provisions of Section 12301.24 of the Welfare and Institutions Code regarding the access of representatives of a

recognized employee organization to an orientation shall control with respect to public employers and exclusive representatives who are governed by the provisions of that section.

**SEC. 4.** Section 7310 of the Government Code is amended to read:

**7310.** (a) A city, county, city and county, or local law enforcement agency that does not, as of June 15, 2017, have a contract with the federal government or any federal agency to detain adult noncitizens for purposes of civil immigration custody, is prohibited from entering into a contract with the federal government or any federal agency, to house or detain in a locked detention facility owned and operated by a local entity, noncitizens for purposes of civil immigration custody.

(b) A city, county, city and county, or local law enforcement agency that, as of June 15, 2017, has an existing contract with the federal government or any federal agency to detain adult noncitizens for purposes of civil immigration custody, shall not renew or modify that contract in such a way as to expand the maximum number of contract beds that may be utilized to house or detain in a locked detention facility noncitizens for purposes of civil immigration custody.

**SEC. 5.** Section 15820.948 of the Government Code is amended to read:

**15820.948.** (a) Notwithstanding any other law, any funding conditionally awarded after the effective date of the legislation that added this section by the Board of State and Community Corrections pursuant to Chapter 3.11 (commencing with Section 15820.90), Chapter 3.12 (commencing with Section 15820.91), Chapter 3.13 (commencing with Section 15820.92), or Chapter 3.131 (commencing with Section 15820.93), to a participating county for the construction or renovation of a local jail facility or adult local criminal justice facility shall be used to construct or renovate a facility that meets or surpasses the minimum number of weekly visits as specified by Section 1062 of Title 15 of the California Code of Regulations through the use of in-person visitation space.

(b) For any proposals previously submitted to the board pursuant to the funding authority referenced in subdivision (a) that only provided for video visitation, the board shall require the participating county to submit a scope change to include in-person visitation prior to the board's approval of the conditional award.

(c) For purposes of this section, the following definitions shall apply:

(1) "In-person visit" means an on-site visit that may include barriers. In-person visits include interactions in which an inmate has physical contact with a visitor, the inmate is able to see a visitor through a barrier, or the inmate is otherwise in a room with a visitor without physical contact. "In-person visit" does not include an interaction between an inmate and a visitor through the use of an on-site, two-way, audio-video terminal.

(2) "Video visitation" means interaction between an inmate and a member of the public through the means of an audio-visual communication device when the member of the public is located at a local detention facility or at a remote location.

**SEC. 6.** Section 31680.15 is added to the Government Code, to read:

**31680.15.** (a) On and after January 1, 2018, a person who has retired under this chapter may serve without reinstatement from retirement or loss or interruption of benefits under this chapter, as an elective officer.

(b) If a retired person serves without reinstatement from retirement in an elective office and part or all of his or her retirement allowance is based on service in that elective office, the portion of the allowance based on service in that elective office shall be suspended during incumbency in that elective office. The entire retirement allowance shall be paid for time on and after the person vacates the elective office in the monthly amount payable had the allowance not been suspended.

**SEC. 7.** Section 13143.7 is added to the Health and Safety Code, to read:

**13143.7.** (a) Except as provided in Section 18930, the State Fire Marshal, in consultation with the Department of Corrections and Rehabilitation, shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used or intended for use as a community correctional reentry facility, as defined in Section 6258 of the Penal Code. The State Fire Marshal shall adopt and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 for the purposes described in this section.

(b) The regulations and building standards developed pursuant to subdivision (a) shall also address buildings and structures that provide residential housing for parolees under contract with the Department of Corrections and Rehabilitation.

**SEC. 8.** Section 4032 of the Penal Code is amended to read:

**4032.** (a) For purposes of this section, the following definitions shall apply:

(1) "In-person visit" means an on-site visit that may include barriers. In-person visits include interactions in which an inmate has physical contact with a visitor, the inmate is able to see a visitor through a barrier, or the inmate is otherwise in a room with a visitor without physical contact. "In-person visit" does not include an interaction between an inmate and a visitor through the use of an on-site, two-way, audio-video terminal.

(2) "Video visitation" means interaction between an inmate and a member of the public through the means of an audio-visual communication device when the member of the public is located at a local detention facility or at a remote location.

(3) "Local detention facility" has the same meaning as defined in Section 6031.4.

(b) A local detention facility that offered in-person visitation as of January 1, 2017, may not convert to video visitation only.

(c) A local detention facility shall not charge for visitation when visitors are onsite and participating in either in-person or video visitation. For purposes of this subdivision, "onsite" is defined as at the location where the inmate is housed.

(d) If a local detention facility offered video visitation only as of January 1, 2017, on-site video visitation shall be offered free of charge, and the first hour of remote video visitation per week shall be offered free of charge if the facility offers remote video visitation.

**SEC. 9.** Section 29581 is added to the Penal Code, to read:

**29581.** Sections 29800 and 29805 shall not apply to or affect a person who otherwise violates those sections if the person did not have knowledge of the outstanding warrant.

**SEC. 10.** The sum of two million six hundred twenty-five thousand dollars (\$2,625,000) in reimbursement authority to the General Fund is hereby appropriated to the Office of Emergency Services, as the state's Emergency Management Assistance Compact coordinator, to reimburse local fire departments for activities provided in support of the State of Nevada during the October 2016 Little Valley Fire.

**SEC. 11.** This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.