

AMENDED IN SENATE JANUARY 4, 2012

SENATE BILL

No. 1

Introduced by Senator Kehoe

December 6, 2010

An act to ~~add Sections 3873.1 and 3873.2 to amend Section 4351 of the Food and Agricultural Code, relating to agricultural districts, and making an appropriation therefor~~ *the State Race Track Leasing Commission.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1, as amended, Kehoe. ~~22nd District Agricultural Association; Del Mar Race Track and Fairgrounds; sale of state property. State Race Track Leasing Commission.~~

Existing law establishes the State Race Track Leasing Commission and authorizes the commission to enter into leases or other agreements for the use of the Del Mar Race Track and any other property owned or controlled by the 22nd District Agricultural Association that the commission deems necessary to provide horse racing at Del Mar Race Track. Existing law repeals the commission on January 1, 2013.

This bill would delete the repeal date, thereby indefinitely extending the existence of the commission.

~~Existing law provides that the state is divided into agricultural districts in which 50 or more persons, who are residents of a district, may form a district agricultural association for specified purposes, including holding fairs and constructing, maintaining, and operating recreational facilities. Existing law provides that District 22 is the County of San Diego.~~

~~Existing law authorizes the Director of General Services to dispose of surplus state property, subject to specified conditions, including that~~

the net proceeds of the sale be paid into the Deficit Recovery Bond Retirement Sinking Fund Subaccount, which is a continuously appropriated fund.

This bill would create District 22a, which would consist of all of that real property and personal property that is a portion of District 22 that is commonly known as the Del Mar Race Track and Fairgrounds located in the City of Del Mar and certain other property in the City of San Diego, and would prescribe certain matters applicable to officers of the 22nd District Agricultural Association and the District 22a Agricultural Association. The bill would, among other things, authorize the Department of General Services to sell all or any portion of the real property that comprises District 22a and related personal property to the City of Del Mar and require the net sale proceeds to be deposited into the District 22a Disposition Fund, which the bill would create in the State Treasury.

This bill would require, upon sale of all property that comprises District 22a, that District 22a be abolished and that all funds in the District 22a Disposition Fund ultimately be deposited into the Deficit Recovery Bond Retirement Sinking Fund Subaccount, a continuously appropriated fund, thereby resulting in an appropriation.

Vote: majority. Appropriation: *yes-no*. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 4351 of the Food and Agricultural Code
2 is amended to read:

3 4351. (a) There is hereby created the State Race Track Leasing
4 Commission which shall be composed of the Director of Food and
5 Agriculture, the Director of Finance, and the Director of General
6 Services and three individuals, appointed by the Governor, who
7 are members of the Board of Directors of the 22nd District
8 Agricultural Association. The Director of Finance shall serve as
9 chairperson of the commission. All meetings of the commission
10 shall be open and public.

11 (b) ~~This section shall remain in effect only until January 1, 2013,~~
12 ~~and as of that date is repealed, unless a later enacted statute, that~~
13 ~~is enacted before January 1, 2013, deletes or extends that date.~~

14 SECTION 1. Section 3873.1 is added to the Food and
15 Agricultural Code, to read:

1 3873.1. ~~(a) There is hereby created District 22a, which consists~~
2 ~~of all of that real property and any personal property that is a~~
3 ~~portion of District 22 that is commonly known as the Del Mar~~
4 ~~Race Track and Fairgrounds located in the City of Del Mar and~~
5 ~~that real property in the City of San Diego with parcel numbers~~
6 ~~299-042-01, 299-042-02, 302-090-11, and 304-020-17.~~
7 ~~Notwithstanding any other law, any officer of the District 22a~~
8 ~~Agricultural Association may also be an officer of the 22nd District~~
9 ~~Agricultural Association and shall be a resident of District 22.~~

10 ~~(b) The Department of General Services is authorized to transfer~~
11 ~~title of the property described in subdivision (a) to the District 22a~~
12 ~~Agricultural Association, and the 22nd District Agricultural~~
13 ~~Association shall cooperate in this transfer.~~

14 ~~(c) District 22a and the District 22a Agricultural Association~~
15 ~~shall be the successors to District 22 and the 22nd District~~
16 ~~Agricultural Association. All rights and obligations of the 22nd~~
17 ~~District Agricultural Association as it relates to the real property~~
18 ~~and personal property of the 22nd District Agricultural Association~~
19 ~~shall be transferred to the District 22a Agricultural Association~~
20 ~~pursuant to this section.~~

21 ~~(d) Notwithstanding Chapter 9 (commencing with Section 4351),~~
22 ~~the State Race Track Leasing Commission shall not enter into any~~
23 ~~agreement, lease, or contract for the use of the Del Mar Race Track~~
24 ~~or any other property owned or controlled by the 22nd District~~
25 ~~Agricultural Association or the District 22a Agricultural~~
26 ~~Association unless the agreement, lease, or contract is terminable~~
27 ~~or assignable at the option of the Department of General Services,~~
28 ~~and at no cost or liability to the State of California, its agencies~~
29 ~~and departments, the 22nd District Agricultural Association, and~~
30 ~~the District 22a Agricultural Association.~~

31 ~~(e) Any reference to the 22nd District Agricultural Association~~
32 ~~in Chapter 9 (commencing with Section 4351) shall be deemed to~~
33 ~~refer to the District 22a Agricultural Association.~~

34 ~~(f) All otherwise applicable ethical duties, including those in~~
35 ~~Section 1090 of the Government Code, subdivision (a) of Section~~
36 ~~8920 of the Government Code, and the Political Reform Act of~~
37 ~~1974 (Title 9 (commencing with Section 81000) of the Government~~
38 ~~Code), shall apply to the officers of both the 22nd District~~
39 ~~Agricultural Association and the District 22a Agricultural~~

1 Association, and shall apply in regard to the transactions
2 contemplated by Section 3873.2.

3 SEC. 2. Section 3873.2 is added to the Food and Agricultural
4 Code, to read:

5 3873.2. (a) The District 22a Disposition Fund is hereby created
6 in the State Treasury.

7 (b) The Department of General Services may sell all or any
8 portion of the real property that comprises District 22a and related
9 personal property to the City of Del Mar under terms and
10 conditions satisfactory to the Director of General Services,
11 including, but not limited to, seller financing, notes, or security,
12 and the security for notes. Neither the District 22a Agricultural
13 Association nor the 22nd District Agricultural Association shall
14 enter into any contract, lease, or other agreement affecting the use
15 or operation of the real property for a period that exceeds three
16 months, and all of these contracts, leases, or other agreements shall
17 contain a provision that they may be canceled upon a 30-day notice
18 from the Department of General Services. The Department of
19 General Services shall be reimbursed for any reasonable cost or
20 expense incurred for the transactions described in this section.
21 Additionally, to the extent bonds issued by the State Public Works
22 Board or other entity involve the property to be sold pursuant to
23 this section, all issuer and trustee related costs associated with the
24 review of any proposed sale, together with the costs related to the
25 defeasance or retirement of any bonds, which may include the cost
26 of nationally recognized bond counsel, shall be paid from the
27 proceeds of any sale or lease authorized by this section. The net
28 proceeds from the sale shall be deposited into the District 22a
29 Disposition Fund.

30 (c) The sale of the real property authorized by this section may
31 be pursuant to a public bidding process designed to obtain the
32 highest, most certain return for the state from a responsible bidder,
33 and any transaction based on such a bidding process shall be
34 deemed to be the fair market value for the property, or may be a
35 negotiated sale to the City of Del Mar. If a public bidding process
36 is used, a notice of this bidding process shall be posted by the
37 Department of General Services on its Internet Web site for at least
38 30 days prior to the sale of the real property. The provisions of
39 Section 11011.1 of the Government Code are not applicable to the
40 sale of real property authorized under this section.

1 ~~(d) Thirty days prior to executing a transaction for the sale of~~
2 ~~real and personal property as authorized by this section, the~~
3 ~~Director of General Services shall report in writing to the chairs~~
4 ~~of the fiscal committees of the Legislature all of the following:~~

5 ~~(1) The financial terms of the transaction.~~

6 ~~(2) A comparison of fair market value for the real property and~~
7 ~~the terms listed in paragraph (1).~~

8 ~~(3) Any basis for agreeing to terms and conditions other than~~
9 ~~fair market value.~~

10 ~~(e) As to the real property sold pursuant to this section, the~~
11 ~~Director of General Services shall except and reserve to the state~~
12 ~~all mineral deposits, as defined in Section 6407 of the Public~~
13 ~~Resources Code, together with the right to prospect for, mine, and~~
14 ~~remove the deposits. If, however, the Director of General Services~~
15 ~~determines that there is little or no potential for mineral deposits,~~
16 ~~the reservation may be without surface right of entry above a depth~~
17 ~~of 500 feet, or the rights to prospect for, mine, and remove the~~
18 ~~deposits shall be limited to those areas of the real property~~
19 ~~conveyed that the director determines to be reasonably necessary~~
20 ~~for the removal of the deposits.~~

21 ~~(f) Upon the sale of all property that comprises District 22a,~~
22 ~~District 22a shall be abolished and all funds in the District 22a~~
23 ~~Disposition Fund shall be transferred to the General Fund for use~~
24 ~~consistent with subdivision (g) of Section 11011 of the Government~~
25 ~~Code and Section 9 of Article III of the California Constitution.~~

26 ~~(g) (1) The disposition of state real property or buildings~~
27 ~~specified in subdivision (b) that are made on an “as is” basis shall~~
28 ~~be exempt from Chapter 3 (commencing with Section 21100) to~~
29 ~~Chapter 6 (commencing with Section 21165), inclusive, of Division~~
30 ~~13 of the Public Resources Code. Upon title to the parcel vesting~~
31 ~~in the purchaser or transferee of the property, the purchaser or~~
32 ~~transferee shall be subject to any local governmental land use~~
33 ~~entitlement approval requirements and to Chapter 3 (commencing~~
34 ~~with Section 21100) to Chapter 6 (commencing with Section~~
35 ~~21165), inclusive, of Division 13 of the Public Resources Code.~~

36 ~~(2) If the disposition of state real property or buildings specified~~
37 ~~in subdivision (b), is not made on an “as is” basis and close of~~
38 ~~escrow is contingent on the satisfaction of a local governmental~~
39 ~~land use entitlement approval requirement or compliance by the~~
40 ~~local government with Chapter 3 (commencing with Section 21100)~~

1 to Chapter 6 (commencing with Section 21165), inclusive, of
2 Division 13 of the Public Resources Code, the execution of the
3 purchase and sale agreement or of the exchange agreement by all
4 parties to the agreement shall be exempt from Chapter 3
5 (commencing with Section 21100) to Chapter 6 (commencing with
6 Section 21165), inclusive, of Division 13 of the Public Resources
7 Code.
8 (3) For the purposes of this subdivision, “disposition” means
9 the sale, lease, or repurchase of state property or buildings specified
10 in subdivision (b).