

ASSEMBLY BILL

No. 35

Introduced by Assembly Member Solorio

December 6, 2010

An act to amend Section 3884.2 of the Food and Agricultural Code, relating to state property, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 35, as introduced, Solorio. State property: Orange County Fair: sale.

(1) Existing law creates State Agricultural District 32a, which consists of all of the real property that is commonly known as the Orange County Fair, and authorizes the Department of General Services to sell all or a portion of the real property that comprises it pursuant to a public bidding process, as specified. Existing law requires the Director of General Services to report specified information to the chairs of the fiscal committees of the Legislature 30 days prior to executing a transaction for the sale of the real property.

This bill would require the Director of General Services, prior to sale, to obtain an independent appraisal of the fair market value of the real property of District 32a, using specified approaches. The bill would require that the real property be sold at the minimum fair market value, which must be consistent with the independent appraisal, as specified. The bill would provide that if a proposed sale of the property requires legislative approval of the sale, the Legislature shall express that approval by statute. The bill would add information to that which the Director of General Services is required to report to the chairs of the

fiscal committees of the Legislature, and would revise the time within which that information is to be provided.

(2) 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: no.

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

1 SECTION 1. Section 3884.2 of the Food and Agricultural Code
 2 is amended to read:
 3 3884.2. (a) The District 32a Disposition Fund is hereby created
 4 in the State Treasury.
 5 (b) ~~The Subject to the limitations described in this section, the~~
 6 Department of General Services may sell all or any portion of the
 7 real property that composes District 32a. District 32a shall not
 8 enter into any contract, lease, or other agreement affecting the use
 9 or operation of the real property for a period that exceeds three
 10 months, and all of these contracts, leases, or other agreements shall
 11 contain a provision that they may be canceled upon a 30-day notice
 12 from the Department of General Services. The Department of
 13 General Services shall be reimbursed for any reasonable cost or
 14 expense incurred for the transactions described in this section.
 15 Additionally, to the extent bonds issued by the State Public Works
 16 Board or other entity involve the property to be sold pursuant to
 17 this section, all issuer- and trustee-related costs associated with
 18 the review of any proposed sale, together with the costs related to
 19 the defeasance or retirement of any bonds, which may include the
 20 cost of nationally recognized bond counsel, shall be paid from the
 21 proceeds of any sale or lease authorized by this section. The net
 22 proceeds from the sale shall be deposited into the District 32a
 23 Disposition Fund.
 24 (c) The sale of the real property authorized by this section shall
 25 be pursuant to a public bidding process designed to obtain the
 26 highest, most certain return for the state from a responsible bidder;
 27 ~~and any transaction based on such a bidding process shall be~~
 28 ~~deemed to be the~~ *that represents a* fair market value for the
 29 property. A notice of this bidding process shall be posted by the
 30 Department of General Services on its Internet Web site for at least
 31 30 days prior to the sale of the real property. *Prior to sale, the*

1 *Director of General Services shall obtain an independent appraisal*
2 *of the fair market value of the real property using a cost approach,*
3 *a sales comparison approach, and market capitalization approach.*
4 *The minimum fair market value of the real property shall be*
5 *consistent with the independent appraisal using at least one of*
6 *these approaches. The provisions of Section 11011.1 of the*
7 *Government Code are not applicable to the sale of real property*
8 *authorized under this section. If the proposed sale requires*
9 *legislative approval of the sale, the Legislature shall express that*
10 *approval by statute.*

11 (d) ~~Thirty days~~ (1) *Within the period described in paragraph*
12 *(2), prior to executing a transaction for a sale of real property*
13 *authorized by this section, the Director of General Services shall*
14 *report to the chairpersons of the fiscal committees of the*
15 *Legislature all of the following:*

16 ~~(1)~~

17 (A) *The financial terms of the transaction. If the sale of the real*
18 *property is for other than an all-cash offer, the Director of General*
19 *Services shall provide information on the creditworthiness of the*
20 *purchaser, including audited financial statements and a business*
21 *credit report.*

22 ~~(2)~~

23 (B) *A comparison of fair market value for the real property and*
24 *the terms listed in paragraph (1) subparagraph (A).*

25 ~~(3)~~

26 (C) *Any basis for agreeing to terms and conditions other than fair*
27 *market value.*

28 (D) *A full description of payment schedules, annual cashflows,*
29 *and default risks if the state finances all or any portion of the sale.*

30 (2) *The Director of General Services shall provide the*
31 *information required by this subdivision at the earliest possible*
32 *time, and not later than 30 days prior to the proposed transaction*
33 *when the Legislature is in session. If the information is provided*
34 *and the Legislature is not in session, then the 30-day period shall*
35 *not begin to run until the Legislature is in session. Upon request*
36 *of the Chairperson of the Joint Legislative Budget Committee, the*
37 *Director of General Services may extend the period that the*
38 *Legislature may review the information on the proposed*
39 *transaction prior to its execution by an additional 30 days.*

1 (e) As to the real property sold pursuant to this section, the
2 Director of General Services shall except and reserve to the state
3 all mineral deposits, as defined in Section 6407 of the Public
4 Resources Code, together with the right to prospect for, mine, and
5 remove the deposits. If, however, the Director of General Services
6 determines that there is little or no potential for mineral deposits,
7 the reservation may be without surface right of entry above a depth
8 of 500 feet, or the rights to prospect for, mine, and remove the
9 deposits shall be limited to those areas of the real property
10 conveyed that the director determines to be reasonably necessary
11 for the removal of the deposits.

12 (f) The Department of General Services shall report to the
13 Legislature on or before June 30 of each year on the status of the
14 sale of real property authorized by this section.

15 (g) Upon the sale of all property that composes District 32a,
16 District 32a shall be abolished and all funds in the District 32a
17 Disposition Fund shall be transferred to the General Fund.

18 (h) (1) The disposition of state real property or buildings
19 specified in subdivision (b) that are made on an “as is” basis shall
20 be exempt from Chapter 3 (commencing with Section 21100) to
21 Chapter 6 (commencing with Section 21165), inclusive, of Division
22 13 of the Public Resources Code. Upon title to the parcel vesting
23 in the purchaser or transferee of the property, the purchaser or
24 transferee shall be subject to any local governmental land use
25 entitlement approval requirements and to Chapter 3 (commencing
26 with Section 21100) to Chapter 6 (commencing with Section
27 21165), inclusive, of Division 13 of the Public Resources Code.

28 (2) If the disposition of state real property or buildings specified
29 in subdivision (b) is not made on an “as is” basis and close of
30 escrow is contingent on the satisfaction of a local governmental
31 land use entitlement approval requirement or compliance by the
32 local government with Chapter 3 (commencing with Section 21100)
33 to Chapter 6 (commencing with Section 21165), inclusive, of
34 Division 13 of the Public Resources Code, the execution of the
35 purchase and sale agreement or of the exchange agreement by all
36 parties to the agreement shall be exempt from Chapter 3
37 (commencing with Section 21100) to Chapter 6 (commencing with
38 Section 21165), inclusive, of Division 13 of the Public Resources
39 Code.

1 (3) For the purposes of this subdivision, “disposition” means
2 the sale, lease, or repurchase of state property or buildings specified
3 in subdivision (b).

4 (i) The disposition of real property or buildings, or both,
5 pursuant to this section does not constitute a sale or other
6 disposition of state surplus property within the meaning of Section
7 9 of Article III of the California Constitution and shall not be
8 subject to subdivision (g) of Section 11011 of the Government
9 Code.

10 SEC. 2. This act is an urgency statute necessary for the
11 immediate preservation of the public peace, health, or safety within
12 the meaning of Article IV of the Constitution and shall go into
13 immediate effect. The facts constituting the necessity are:

14 In order that the sale of the real property that composes District
15 32a achieves the Legislature’s intended purposes and remains in
16 the best interests of the people of California and the residents of
17 Orange County, and that the Legislature is provided the time
18 necessary to review the terms of the sale, it is necessary that this
19 act go into effect immediately.