

AMENDED IN ASSEMBLY APRIL 7, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 35**

---

---

**Introduced by Assembly Member Solorio**

December 6, 2010

---

---

An act to ~~amend Section 3884.2 of~~ *add Section 3884.05* to 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 amended, Solorio. State property: ~~Orange County Fair: sale.~~ *32nd District Agricultural Association.*

*Existing law divides the state into agricultural districts within the boundaries of which agricultural associations may be formed. Existing law provides that District 32 is the County of Orange. Existing law creates District 32a which consists of all that real property that is a portion of District 32 that is commonly known as the Orange County Fair and authorizes the Department of General Services to sell all or any portion of the real property that composes District 32a pursuant to a public bidding process.*

*This bill would authorize the Board of Directors of the Orange County Fair, or an agent of that entity, as specified, to enter into a revenue sharing plan with the state regarding property of the Orange County Fairgrounds, as specified, if the plan would generate an amount in excess of \$100,000,000.*

~~(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:  $\frac{2}{3}$ -majority. 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 3884.05 is added to the Food and
- 2 Agricultural Code, to read:
- 3 3884.05. In addition to any other power authorized by law, the
- 4 Board of Directors of the Orange County Fair, or an agent of that
- 5 entity who contracts with the state on behalf of that entity, may
- 6 enter into a revenue sharing plan with the state regarding the real
- 7 property that composes District 32a, along with any personal
- 8 property owned by the 32nd District Agricultural Association and
- 9 the 32nd District Agricultural Association's right to operate the
- 10 Orange County Fair, if the plan would generate an amount in
- 11 excess of one hundred million dollars (\$100,000,000).
- 12 SECTION 1. Section 3884.2 of the Food and Agricultural Code
- 13 is amended to read:
- 14 3884.2. (a) The District 32a Disposition Fund is hereby created
- 15 in the State Treasury.
- 16 (b) Subject to the limitations described in this section, the
- 17 Department of General Services may sell all or any portion of the
- 18 real property that composes District 32a. District 32a shall not

1 enter into any contract, lease, or other agreement affecting the use  
2 or operation of the real property for a period that exceeds three  
3 months, and all of these contracts, leases, or other agreements shall  
4 contain a provision that they may be canceled upon a 30-day notice  
5 from the Department of General Services. The Department of  
6 General Services shall be reimbursed for any reasonable cost or  
7 expense incurred for the transactions described in this section.  
8 Additionally, to the extent bonds issued by the State Public Works  
9 Board or other entity involve the property to be sold pursuant to  
10 this section, all issuer- and trustee-related costs associated with  
11 the review of any proposed sale, together with the costs related to  
12 the defeasance or retirement of any bonds, which may include the  
13 cost of nationally recognized bond counsel, shall be paid from the  
14 proceeds of any sale or lease authorized by this section. The net  
15 proceeds from the sale shall be deposited into the District 32a  
16 Disposition Fund.

17 (e) ~~The sale of the real property authorized by this section shall~~  
18 ~~be pursuant to a public bidding process designed to obtain the~~  
19 ~~highest, most certain return for the state from a responsible bidder~~  
20 ~~that represents a fair market value for the property. A notice of~~  
21 ~~this bidding process shall be posted by the Department of General~~  
22 ~~Services on its Internet Web site for at least 30 days prior to the~~  
23 ~~sale of the real property. Prior to sale, the Director of General~~  
24 ~~Services shall obtain an independent appraisal of the fair market~~  
25 ~~value of the real property using a cost approach, a sales comparison~~  
26 ~~approach, and market capitalization approach. The minimum fair~~  
27 ~~market value of the real property shall be consistent with the~~  
28 ~~independent appraisal using at least one of these approaches. The~~  
29 ~~provisions of Section 11011.1 of the Government Code are not~~  
30 ~~applicable to the sale of real property authorized under this section.~~  
31 ~~If the proposed sale requires legislative approval of the sale, the~~  
32 ~~Legislature shall express that approval by statute.~~

33 (d) (1) ~~Within the period described in paragraph (2), prior to~~  
34 ~~executing a transaction for a sale of real property authorized by~~  
35 ~~this section, the Director of General Services shall report to the~~  
36 ~~chairpersons of the fiscal committees of the Legislature all of the~~  
37 ~~following:~~

38 (A) ~~The financial terms of the transaction. If the sale of the real~~  
39 ~~property is for other than an all-cash offer, the Director of General~~  
40 ~~Services shall provide information on the creditworthiness of the~~

1 purchaser, including audited financial statements and a business  
2 credit report.

3 (B) A comparison of fair market value for the real property and  
4 the terms listed subparagraph (A).

5 (C) Any basis for agreeing to terms and conditions other than  
6 fair market value.

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

9 (2) The Director of General Services shall provide the  
10 information required by this subdivision at the earliest possible  
11 time, and not later than 30 days prior to the proposed transaction  
12 when the Legislature is in session. If the information is provided  
13 and the Legislature is not in session, then the 30-day period shall  
14 not begin to run until the Legislature is in session. Upon request  
15 of the Chairperson of the Joint Legislative Budget Committee, the  
16 Director of General Services may extend the period that the  
17 Legislature may review the information on the proposed transaction  
18 prior to its execution by an additional 30 days.

19 (e) As to the real property sold pursuant to this section, the  
20 Director of General Services shall except and reserve to the state  
21 all mineral deposits, as defined in Section 6407 of the Public  
22 Resources Code, together with the right to prospect for, mine, and  
23 remove the deposits. If, however, the Director of General Services  
24 determines that there is little or no potential for mineral deposits,  
25 the reservation may be without surface right of entry above a depth  
26 of 500 feet, or the rights to prospect for, mine, and remove the  
27 deposits shall be limited to those areas of the real property  
28 conveyed that the director determines to be reasonably necessary  
29 for the removal of the deposits.

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

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

36 (h) (1) The disposition of state real property or buildings  
37 specified in subdivision (b) that are made on an "as is" basis shall  
38 be exempt from Chapter 3 (commencing with Section 21100) to  
39 Chapter 6 (commencing with Section 21165), inclusive, of Division  
40 13 of the Public Resources Code. Upon title to the parcel vesting

1 in the purchaser or transferee of the property, the purchaser or  
 2 transferee shall be subject to any local governmental land use  
 3 entitlement approval requirements and to Chapter 3 (commencing  
 4 with Section 21100) to Chapter 6 (commencing with Section  
 5 21165), inclusive, of Division 13 of the Public Resources Code.

6 (2) If the disposition of state real property or buildings specified  
 7 in subdivision (b) is not made on an “as-is” basis and close of  
 8 escrow is contingent on the satisfaction of a local governmental  
 9 land use entitlement approval requirement or compliance by the  
 10 local government with Chapter 3 (commencing with Section 21100)  
 11 to Chapter 6 (commencing with Section 21165), inclusive, of  
 12 Division 13 of the Public Resources Code, the execution of the  
 13 purchase and sale agreement or of the exchange agreement by all  
 14 parties to the agreement shall be exempt from Chapter 3  
 15 (commencing with Section 21100) to Chapter 6 (commencing with  
 16 Section 21165), inclusive, of Division 13 of the Public Resources  
 17 Code.

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

21 (i) The disposition of real property or buildings, or both,  
 22 pursuant to this section does not constitute a sale or other  
 23 disposition of state surplus property within the meaning of Section  
 24 9 of Article III of the California Constitution and shall not be  
 25 subject to subdivision (g) of Section 11011 of the Government  
 26 Code.

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

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