

AMENDED IN SENATE APRIL 10, 2013

**SENATE BILL**

**No. 741**

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**Introduced by Senator Cannella**

**(Coauthors: Senators Fuller, Gaines, and Nielsen)**

(Coauthors: Assembly Members *Achadjian, Alejo*, Bigelow, Dahle,  
Gray, Olsen, Perea, V. Manuel Pérez, and Williams)

February 22, 2013

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An act to amend Sections 19606.1, 19614, 19620, and 19620.2 of, and to repeal Sections 19608.3 and 19620.1 of, the Business and Professions Code, to amend Sections 3954, 3965, 3965.1, and 3967 of, to repeal Sections 4051.1, 4051.2, 4057, and 4401.5 of, and to repeal and add Sections 3200, 4051, and 4053 of, the Food and Agricultural Code, and to amend Section 11011.2 of the Government Code, relating to fairs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 741, as amended, Cannella. California fairs: funding.

(1) Existing law regulates horse racing in this state and provides, among other things, for the payment and distribution of license fees in connection with horse racing meetings. Existing law establishes the Fair and Exposition Fund to, among other things, allocate moneys for the support of the network of California fairs. Existing law requires certain license fees from satellite wagering to be deposited into a separate account in the Fair and Exposition Fund, and continuously appropriates those moneys for specified purposes, including, among others, the payment of expenses incurred in establishing and operating satellite wagering facilities at fairs.

This bill would delete the provisions requiring satellite wagering license fees to be deposited into a separate account in the Fair and Exposition Fund and to be continuously appropriated for specified purposes. The bill would instead require certain revenues paid by racing associations and fairs generated by parimutuel wagering and certain revenues from live races paid by fair racing associations as license fees to be deposited into the Fair and Exposition Fund and would require those funds to be continuously appropriated for various purposes, including, among others, capital improvements at fairgrounds. The bill would also require all funds appropriated for California fairs and expositions to be deposited into the Fair and Exposition Fund and would continuously appropriate those funds for various purposes. By continuously appropriating the funds in the Fair and Exposition Fund, the bill would make an appropriation.

(2) Existing law provides that the Department of Food and Agriculture is responsible for providing oversight of activities carried out by each California fair, including, but not limited to, conducting fiscal and performance audits of county fairs and citrus fruit fairs that are either requested by the fair or that the department deems necessary, and conducting, or causing to be conducted, annual fiscal audits and periodic compliance audits.

This bill would delete the requirement that the department conduct the audits described above and would instead require the department to provide that the books and accounts for the prior calendar year of all ~~state-designated~~ fairs receiving money from the Fair and Exposition Fund be examined and reviewed annually and audited once every ~~5~~ 3 years by an independent certified public accountant or certified public accountancy firm. The bill would require a summary of the examination to be appended to the fair's annual statement of operation, and would provide that the costs of the annual review or audit be the responsibility of each fair.

(3) Existing law requires the Legislature, from the total revenue received from the Department of Food and Agriculture, to annually appropriate moneys to the department as it deems necessary for the oversight of the network of California fairs and to perform audits. Existing law continuously appropriates any of those funds that are unallocated to the Secretary of Food and Agriculture for specified purposes.

This bill would delete those provisions and instead would appropriate any unallocated balance in the Fair and Exposition Fund without regard

to fiscal years for allocation by the secretary for capital outlay to California fairs for specified purposes. The bill would also specify that no more than 10% of those funds may be used during any year by the Division of Fairs and Expositions to provide oversight and administration of the network of fairs. The bill would require the secretary to annually project the available funds from the Fair and Exposition Fund and to prepare an annual expenditure plan for review and approval by the Joint Committee on ~~Fairs~~ *Fairs*, Allocation, and Classification. The bill would require the secretary's recommendations to be deemed approved 30 days after they are received unless they are rejected by the committee.

(4) Existing law divides the state into agricultural districts and provides for the management of these districts by district agricultural associations. Existing law provides for a board of directors for each district agricultural association, and provides for the appointment of each director by the Governor.

This bill would authorize the Governor to remove a director for cause, upon recommendation by the board. *The bill would require the board to adopt a policy and procedure outlining the vote threshold necessary to recommend the removal of a director.*

(5) Existing law specifies the duties and responsibilities of district agricultural associations, and requires a district agricultural association to obtain the approval of the Department of Food and Agriculture prior to exercising certain powers, including, among others, the power to sue. Existing law also requires a district agricultural association to obtain the approval of both the Department of Food and Agriculture and the Department of General Services in order to exercise certain other powers, including the power to conduct activities upon the district agricultural association's property, contract, purchase, or convey an interest in either real or personal property, or to use or manage its real estate or personal property.

This bill would revise the duties and responsibilities of the Department of Food and Agriculture and the Department of General Services with respect to district agricultural associations, and, among other things, would delete the requirement that a district agricultural association obtain the Department of Food and Agriculture's approval prior to suing. The bill would also delete the requirement that a district agricultural association obtain prior approval from both the Department of Food and Agriculture and the Department of General Services prior to conducting activities upon the district agricultural association's own

property, or entering into a contract or exercising powers over its own real or personal property. The bill would require the board of directors of a district agricultural association to adopt policies and procedures for contracts, including adopting and publishing competitive bidding procedures for the award of any procurement or contract involving an expenditure of more than \$100,000, and would require a district agricultural association to contract in accordance with those procedures. *The bill would require a district agricultural association to adopt a fiscal review policy, as specified.* The bill would specify that the title, control, and possession of all personal property acquired, held, managed, or operated by a district agricultural association vests with the district agricultural association. The bill would delete a provision requiring the Secretary of Food and Agriculture to expend up to \$100,000 each fiscal year for an exhibit or exhibits at a fair that demonstrates the process of production and use of food and fiber, and would also delete a requirement that the secretary provide for a conference of fair judges to aid the department in prescribing regulations, and to expend up to \$15,000 for that purpose. The bill would make other conforming and related changes.

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

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 19606.1 of the Business and Professions  
2 Code is amended to read:  
3 19606.1. (a) All revenues transferred pursuant to Section  
4 19616.52 and subdivision (d) of Section 19614 shall be deposited  
5 in the Fair and Exposition Fund and, notwithstanding Section  
6 13340 of the Government Code, are continuously appropriated  
7 from the fund to the Department of Food and Agriculture, for  
8 allocation by the Secretary of Food and Agriculture, at his or her  
9 discretion, for the purposes set forth in paragraphs (1) to (6),  
10 inclusive. The concurrence of the Director of Finance shall be  
11 required for allocations pursuant to paragraphs (1) and (2).  
12 Allocations pursuant to paragraphs (3) to (6), inclusive, shall be  
13 made with the concurrence of the Joint Committee on ~~Fairs~~ *Fairs*,  
14 Allocation, and Classification.

1 (1) For the repayment of the principal of, interest on, and costs  
2 of issuance of, and as security, including any coverage factor,  
3 pledged to the payment of, bonds issued or to be issued by a joint  
4 powers agency or other debt service or expense, including  
5 repayment of any advances made or security required by any  
6 provider of credit enhancement or liquidity for those bonds or  
7 other indebtedness or expenses of maintaining that credit  
8 enhancement or liquidity, incurred for the purpose of constructing  
9 or acquiring improvements at a fair's racetrack inclosure, satellite  
10 wagering facilities at fairs, health and safety repair projects, or  
11 handicapped access compliance projects at fairs or for the purpose  
12 of refunding bonds or other indebtedness incurred for those  
13 purposes. As used in this paragraph, "coverage factor" means  
14 revenues in excess of the amount necessary to pay debt service on  
15 the bonds or other indebtedness, up to an amount equal to 100  
16 percent more than the amount of that debt service, which a joint  
17 powers agency, pursuant to the resolution or indenture under which  
18 the bonds or other indebtedness are or will be issued, pledges as  
19 additional security for the payment of that debt service or is  
20 required to have or maintain as a condition to the issuance of  
21 additional bonds or other indebtedness. Notwithstanding any other  
22 law, the department may also commit any funds available for  
23 allocation under Article 10 (commencing with Section 19620) to  
24 complete projects funded under this paragraph in the priority  
25 described in this paragraph.

26 (2) For payment to the State Race Track Leasing Commission  
27 to be pledged for the repayment of debt necessary to construct a  
28 racetrack grandstand at the 22nd District Agricultural Association  
29 fairgrounds. This payment shall be made only if the secretary  
30 determines, annually, that all other pledged revenues have been  
31 applied to the repayment of that debt and have been determined  
32 by the secretary to be inadequate for that purpose.

33 (3) For the general support of the network of California fairs  
34 pursuant to the provisions of this chapter.

35 (4) For health and safety repair projects at fairs, including fire  
36 and life safety improvement projects, regulatory compliance  
37 projects, and long-term deferred maintenance projects.

38 (5) For capital improvements at fairgrounds. In making  
39 determinations to fund capital improvements pursuant to this

1 paragraph, the secretary may grant priority status to renewable  
2 energy generation projects.

3 (6) For the payment of expenses incurred in developing and  
4 operating revenue generating projects at fairs, or which directly  
5 benefit fairs, including the payment of expenses incurred in  
6 establishing and operating horse racing facilities, industry training,  
7 the establishment of pilot projects to restructure the current fair  
8 system, and for projects realizing a cost savings for more efficient  
9 utilization of existing fair resources.

10 (b) The secretary may not make an allocation for purposes of  
11 paragraphs (2) to (6), inclusive, of subdivision (a) until the  
12 payments required in any fiscal year pursuant to paragraph (1) of  
13 subdivision (a) have been funded.

14 (c) Pursuant to subdivision (a), the Joint Committee on ~~Fairs~~  
15 *Fairs*, Allocation, and Classification shall review and concur, or  
16 not concur, with the secretary's determination of the allocations  
17 to be made pursuant to paragraphs (3) to (6), inclusive, of  
18 subdivision (a) in total, and the committee may not add to, or delete  
19 projects or line items from, the proposed allocations.

20 (d) The secretary's recommendations to the Joint Committee  
21 on ~~Fairs~~ *Fairs*, Allocation, and Classification shall be deemed  
22 approved 30 days after they are received unless they are rejected  
23 by the committee.

24 (e) If the Joint Committee on ~~Fairs~~ *Fairs*, Allocation, and  
25 Classification does not concur with the secretary's  
26 recommendations, the secretary may submit another set of  
27 recommendations to the committee pursuant to this section.

28 (f) The payments required in any fiscal year for the purposes  
29 of paragraphs (1) and (2) of subdivision (a) shall be made before  
30 the secretary may utilize any moneys pursuant to subdivision (g).

31 (g) Except as otherwise provided in subdivision (f), when the  
32 revenues deposited in the Fair and Exposition Fund exceed the  
33 amount necessary to satisfy the purposes of paragraphs (1) and (2)  
34 of subdivision (a), the secretary may utilize the excess amounts  
35 plus the amounts deposited to the credit of the Fair and Exposition  
36 Fund pursuant to ~~subdivision (d) of Section 19614 and any other~~  
37 revenues deposited to the credit of the fund to make allocations  
38 from the fund for the purposes of Section 19620.2.

39 SEC. 2. Section 19608.3 of the Business and Professions Code  
40 is repealed.

1 SEC. 3. Section 19614 of the Business and Professions Code  
2 is amended to read:

3 19614. (a) Notwithstanding Sections 19611 and 19612, and  
4 except for an association that qualifies pursuant to Section 19612.6,  
5 for a fair conducting a live racing meeting, 1 percent of the total  
6 amount handled on live races, excluding wagering at a satellite  
7 facility, shall be retained by the fair association for payment to the  
8 state as a license fee.

9 (b) Additionally, 0.48 percent of the total amount handled on  
10 live racing, excluding wagering at a satellite facility, shall be  
11 deposited with the official registering agency pursuant to  
12 subdivision (a) of Section 19617.2, and shall thereafter be  
13 distributed in accordance with subdivisions (b), (c), and (d) of  
14 Section 19617.2.

15 (c) (1) After distribution of the applicable amounts as set forth  
16 in subdivisions (a) and (b) and the payments made pursuant to  
17 other relevant sections of this chapter, all funds remaining from  
18 the deductions provided in Section 19610 shall be distributed 47.5  
19 percent as commissions and 52.5 percent as purses. From the  
20 amount distributed as thoroughbred purses, a sum equal to 0.07  
21 percent of the total handle shall be held by the association to be  
22 deposited with the official registering agency pursuant to  
23 subdivision (a) of Section 19617.2, and shall thereafter be  
24 distributed in accordance with subdivisions (b), (c), and (d) of  
25 Section 19617.2.

26 (2) Any additional amount generated for purses and not  
27 distributed during the previous corresponding meeting shall be  
28 added to the purses at the current meeting.

29 (d) In addition to the amounts deducted pursuant to Section  
30 19610, any fair racing association shall deduct 1 percent from the  
31 total amount handled in its daily conventional and exotic  
32 parimutuel pools. The additional 1 percent shall be deposited in  
33 the Fair and Exposition Fund and is hereby appropriated for the  
34 purposes specified in ~~Sections~~ *paragraph (6) of subdivision (a) of*  
35 *Section 19606.1 and 19620.2.*

36 SEC. 4. Section 19620 of the Business and Professions Code  
37 is amended to read:

38 19620. (a) The Legislature finds and declares that the  
39 Department of Food and Agriculture is responsible for ensuring  
40 the integrity of the Fair and Exposition Fund, administering

1 allocations from the fund to the network of California fairs, as  
2 defined in Sections 19418 to 19418.3, inclusive, and providing  
3 oversight of activities carried out by each California fair.

4 (b) Oversight shall include, but not be limited to, the following:

5 (1) Monitoring the solvency of the Fair and Exposition Fund.

6 (2) Distributing available state resources to the network of  
7 California fairs based on criteria for state allocations approved by  
8 the Secretary of Food and Agriculture. The criteria for the  
9 distribution of available state resources to the network of California  
10 fairs shall not include a consideration of the structure that governs  
11 the fair.

12 (3) Creating a framework for administration of the network of  
13 California fairs allowing for maximum autonomy and local  
14 decisionmaking authority, and conducting, or causing to be  
15 conducted, annual fiscal reviews.

16 (4) Requiring books and accounts for the prior calendar year of  
17 ~~all state-designated~~ fairs receiving money from the fund to be  
18 examined and reviewed annually and audited once every ~~five~~ *three*  
19 years by an independent certified public accountant or certified  
20 public accountancy firm selected by the fair. A summary of this  
21 examination, certified by the selected certified public accountant  
22 or certified public accountancy firm, shall be appended to the fair's  
23 annual statement of operations, along with the accountant or  
24 accounting firm's recommendations, for the approval of the  
25 secretary. The cost of a fair's annual review or audit shall be the  
26 responsibility of each fair. With the approval of the secretary, two  
27 or more fairs may conduct or contract for a joint review or audit.

28 (5) Guiding and providing incentives to fairs to seek matching  
29 funds and generate new revenue from a variety of sources.

30 (6) Supporting continuous improvement of fair programming  
31 to ensure that California fairs remain highly relevant community  
32 institutions.

33 SEC. 5. Section 19620.1 of the Business and Professions Code  
34 is repealed.

35 SEC. 6. Section 19620.2 of the Business and Professions Code  
36 is amended to read:

37 19620.2. (a) Any unallocated balance in the Fair and  
38 Exposition Fund is hereby appropriated without regard to fiscal  
39 years for allocation by the Secretary of Food and Agriculture for  
40 capital outlay to California fairs for fair projects involving public

1 health and safety, for fair projects involving major and deferred  
2 maintenance, for fair projects necessary due to any emergency,  
3 for projects that are required by physical changes to the fair site,  
4 for projects that are required to protect the fair property or  
5 installation, such as fencing and flood protection, and for the  
6 acquisition or improvement of any property or facility that will  
7 serve to enhance the operation of the fair.

8 (b) A portion of the funds subject to allocation pursuant to  
9 subdivision (a) may be allocated to California fairs for general  
10 operational support. It is the intent of the Legislature that these  
11 moneys be used primarily for those fairs whose sources of revenue  
12 may be limited for purposes specified in this section.

13 (c) Not more than 10 percent of the funds specified in  
14 subdivision (a) may be used during any year by the Division of  
15 Fairs and Expositions to provide oversight and administration of  
16 the network of California fairs pursuant to this chapter.

17 (d) The secretary shall annually project the available funds from  
18 the Fair and Exposition Fund and shall advise the Joint Committee  
19 on ~~Fairs~~ *Fairs*, Allocation, and Classification of the administrative  
20 budget of the Division of Fairs and Expositions and the additional  
21 staff and contracts necessary to develop and administer an  
22 operational and policy framework to oversee the network of  
23 California fairs and include that amount in the annual expenditure  
24 plan described in subdivision (e).

25 (e) The secretary shall prepare an annual expenditure plan for  
26 use of the moneys available from the Fair and Exposition Fund  
27 for review and approval by the Joint Committee on ~~Fairs Allocation~~  
28 *Fairs*, Allocation, and Classification. The Joint Committee on  
29 Fairs Allocation and Classification shall review and concur, or not  
30 concur, with the spending plan in total, and shall not add to, or  
31 delete projects or line items from, the proposed allocation.

32 (f) The secretary's recommendations to the Joint Committee on  
33 ~~Fairs~~ *Fairs*, Allocation, and Classification shall be deemed  
34 approved 30 days after they are received unless they are rejected  
35 by the committee.

36 (g) If the Joint Committee on ~~Fairs~~ *Fairs*, Allocation, and  
37 Classification does not concur with the secretary's  
38 recommendations, the secretary may submit another set of  
39 recommendations to the committee.

1 SEC. 7. Section 3200 of the Food and Agricultural Code is  
2 repealed.

3 SEC. 8. Section 3200 is added to the Food and Agricultural  
4 Code, to read:

5 3200. (a) The Legislature finds and declares that funding for  
6 the network of California fairs is a cooperative venture and is  
7 anticipated to be generated from multiple sources, public and  
8 private. Because of the benefits that accrue to the state and to its  
9 residents by virtue of having the fair industry participate  
10 cooperatively with the state for the purpose of effectively  
11 overseeing and promoting fairs within the state, the Legislature  
12 finds and declares that the fairs shall work collectively to identify  
13 and designate new funding sources for fairs to be utilized for the  
14 benefit of all fairs in the network.

15 (b) Notwithstanding any other law, all funds appropriated for  
16 California fairs and expositions pursuant to this chapter or any  
17 other law shall be deposited in the Fair and Exposition Fund and  
18 are continuously appropriated as specified in Sections 19606.1  
19 and 19620.2 of the Business and Professions Code.

20 (c) Notwithstanding Article 2 (commencing with Section 11270)  
21 of Chapter 3 of Part 1 of Division 3 of Title 2 of the Government  
22 Code relating to administrative costs, the California Exposition  
23 and State Fair and the fairs specified in Sections 19418.1, 19418.2,  
24 and 19418.3 of the Business and Professions Code shall only be  
25 assessed and pay a share of those costs directly related to personnel  
26 administration and no other administrative costs for services from  
27 other state agencies except costs for services rendered pursuant to  
28 specific contracts entered into with other state agencies.

29 SEC. 9. Section 3954 of the Food and Agricultural Code is  
30 amended to read:

31 3954. Each association by its name has perpetual succession.  
32 It may have a seal. An association may be sued and may sue, and  
33 may do any and all things necessary to carry out the powers and  
34 the objects and purposes for which the association is formed.

35 SEC. 10. Section 3965 of the Food and Agricultural Code is  
36 amended to read:

37 3965. The board may, with the approval of the department:

38 (a) Fix the term of office, the amount of bond, salary, and  
39 prescribe the duties of the secretary and of the treasurer.

40 (b) Manage the affairs of the association.

1 (c) Make all necessary bylaws, rules, and regulations for the  
2 government of the association.

3 (d) Delegate, as it may deem advisable, to its officers or  
4 employees any of the powers that are vested in the board under  
5 subdivision (b). Any delegation of power may be revoked at any  
6 time.

7 SEC. 11. Section 3965.1 of the Food and Agricultural Code is  
8 amended to read:

9 3965.1. (a) Notwithstanding Section 3965 or 4051, the board  
10 may arrange for and conduct, or cause to be conducted, or by  
11 contract permit to be conducted, by any other individual, institution,  
12 corporation, or association, upon its property at a time as it may  
13 be deemed advisable, any activity.

14 (b) Notwithstanding subdivision (a), revenue generating  
15 contracts involving hazardous activities ~~may~~ shall not be approved  
16 by the board unless adequate insurance coverage is provided, as  
17 determined by the department in consultation with the Department  
18 of General Services.

19 SEC. 12. Section 3967 of the Food and Agricultural Code is  
20 amended to read:

21 3967. (a) Any director who misses three consecutive regular  
22 meetings of the board without the permission of the board is  
23 deemed to have resigned from the board.

24 (b) (1) A director may be removed for cause by the Governor,  
25 upon recommendation by the board.

26 (2) *The board shall adopt a policy and procedure outlining the*  
27 *vote threshold necessary to remove a director pursuant paragraph*  
28 *(1).*

29 SEC. 13. Section 4051 of the Food and Agricultural Code is  
30 repealed.

31 SEC. 14. Section 4051 is added to the Food and Agricultural  
32 Code, to read:

33 4051. (a) Subject only to the conditions specified in this  
34 chapter, an association may do any of the following:

35 (a)

36 (1) Contract in accordance with all of the following:

37 (1)

38 (A) The association shall develop, maintain, and comply with  
39 its own written policies and procedures for contracting.

40 (2)

1 (B) Notwithstanding any other law, in developing the policies  
2 and procedures referenced in ~~paragraph (1)~~ *subparagraph (A)*, the  
3 board shall incorporate the following to apply to contracts entered  
4 into or procurement by a district agricultural association:

5 (A)

6 (i) To ensure the fullest competition, the board shall adopt and  
7 publish competitive bidding procedures for the award of any  
8 procurement or contract involving an expenditure of more than  
9 one hundred thousand dollars (\$100,000). The competitive bidding  
10 procedures shall include, but not be limited to, requirements for  
11 submission of bids and accompanying documentation, guidelines  
12 for the use of requests for proposals, invitations to bid, or other  
13 methods of bidding, and a bid protest procedure. The general  
14 manager on behalf of the district agricultural association shall  
15 determine whether the goods or services subject to this paragraph  
16 are available through existing contracts or price schedules of the  
17 Department of General Services. The Legislature finds and declares  
18 that fairs are a valuable community resource and recognizes that  
19 local businesses and local communities make valuable  
20 contributions to fairs that include direct and indirect support of  
21 fair programs. The Legislature further finds and declares that local  
22 businesses often provide opportunity purchases to local fairs that,  
23 for similar things available through the state purchasing program,  
24 may be purchased locally at a price equivalent to or less than that  
25 available through the state purchasing program. As used in this  
26 ~~subdivision~~ *paragraph*, “opportunity purchases” means purchases  
27 made locally, either individually or cooperatively, at a price equal  
28 to or less than the price available through the state purchasing  
29 program on or off state contract.

30 (B)

31 (ii) The contracting standards, procedures, and rules contained  
32 in this subdivision shall also apply to any subcontract involving  
33 an expenditure of more than one hundred thousand dollars  
34 (\$100,000). The board shall establish, as part of the bidding  
35 procedures for general contracts, subcontracting guidelines that  
36 implement this requirement.

37 (C)

38 (iii) The board is subject to the Small Business Procurement  
39 and Contract Act (Chapter 6.5 (commencing with Section 14835)  
40 of Part 5.5 of Division 3 of Title 2 of the Government Code).

1     ~~(D) In advertising or awarding any general contract for the~~  
2 ~~procurement of goods and services exceeding one hundred~~  
3 ~~thousand dollars (\$100,000), the board and the general manager~~  
4 ~~shall require all bidders or contractors, or both, to include specific~~  
5 ~~plans or arrangements to utilize subcontracts with small business~~  
6 ~~entities owned by socially and economically disadvantaged persons.~~  
7 ~~The subcontracting plans shall delineate the nature and extent of~~  
8 ~~the services to be utilized, and those entities or individuals~~  
9 ~~identified for subcontracting, if known.~~

10     ~~(E) It is the intent of the Legislature in enacting this section to~~  
11 ~~establish as an objective of the utmost importance the advancement~~  
12 ~~of business opportunities for small business entities described in~~  
13 ~~subparagraph (D) in the business activities created by a district~~  
14 ~~agricultural association. In that regard, the board shall have an~~  
15 ~~affirmative duty to achieve the most feasible and practicable level~~  
16 ~~of participation by these small business entities in its procurement~~  
17 ~~programs.~~

18     ~~(iv) Notwithstanding clauses (i) and (ii), in contracting for~~  
19 ~~construction contracts involving an expenditure of more than~~  
20 ~~twenty-five thousand dollars (\$25,000), the board is subject to the~~  
21 ~~Public Contract Code.~~

22     ~~(b)~~

23     ~~(2) Accept funds or gifts of value from the United States or any~~  
24 ~~person to aid in carrying out the purposes of this part.~~

25     ~~(e)~~

26     ~~(3) Conduct or contract for programs, and contract for the~~  
27 ~~purchase or lease of goods and services as are necessary for~~  
28 ~~effectuating the purposes of this chapter, either independently or~~  
29 ~~in cooperation with any individual, public or private organization,~~  
30 ~~or federal, state, or local governmental agency.~~

31     ~~(d)~~

32     ~~(4) Establish and maintain a bank checking account or other~~  
33 ~~financial institution account, approved by the Director of Finance~~  
34 ~~in accordance with Sections 16506 and 16605 of the Government~~  
35 ~~Code, for depositing funds received by the district agricultural~~  
36 ~~association. Notwithstanding Section 13340 of the Government~~  
37 ~~Code, all funds maintained in an account authorized by this~~  
38 ~~subdivision paragraph are continuously appropriated to the board,~~  
39 ~~without regard to fiscal year, to carry out this part.~~

40     ~~(e)~~

- 1 (5) Approve the annual budget of the association and establish
- 2 a program for paying vendors who contract with the district
- 3 agricultural association.
- 4 ~~(f)~~
- 5 (6) Contract with any county or county fair association for
- 6 holding a fair jointly with the county or county fair association.
- 7 The joint fair is a district fair of the association.
- 8 ~~(g)~~
- 9 (7) Make or adopt all necessary orders, rules, or regulations for
- 10 governing the activities of the district agricultural association.
- 11 Notwithstanding Section 14, any orders, rules, or regulations
- 12 adopted by the board are exempt from Chapter 3.5 (commencing
- 13 with Section 11340) of Part 1 of Division 3 of Title 2 of the
- 14 Government Code. For informational purposes only, however, any
- 15 order, rule, or regulation adopted by the board may be transmitted
- 16 to the Office of Administrative Law for filing with the Secretary
- 17 of State pursuant to Section 11343 of the Government Code.
- 18 ~~(h)~~
- 19 (8) Operate a payroll system for paying employees, and a system
- 20 for accounting for vacation and sick leave credits of employees.
- 21 ~~(i)~~
- 22 (9) Delegate to the officers and employees of the district
- 23 agricultural association the exercise of powers vested in the board
- 24 as the board may deem desirable for the orderly management and
- 25 operation of the association.
- 26 ~~(j)~~
- 27 (10) Except as provided in ~~subdivision (A)~~ *paragraph (12)*, with
- 28 the approval of the Department of General Services, purchase,
- 29 acquire, hold, sell, or exchange, or convey any interest in real
- 30 property for a period in excess of ~~50~~ 20 years. Any acquisition of
- 31 land or other real property shall be subject to the Property
- 32 Acquisition Law (Part 11 (commencing with Section 15850) of
- 33 Division 3 of Title 2 of the Government Code).
- 34 ~~(k)~~
- 35 (11) Make permanent improvements upon publicly owned real
- 36 property adjacent to, or near the vicinity of, the real property of
- 37 the district agricultural association when the improvements
- 38 materially benefit the property of the association.
- 39 ~~(l)~~

1 (12) Lease, let, or grant licenses for the use of its real property  
2 or any portion of that property, to any person or public body for  
3 whatever purpose as may be approved by the board. Any lease of  
4 real property for a period in excess of 20 years shall be subject to  
5 the approval of the Department of General Services as provided  
6 in ~~subdivision (j)~~ paragraph (10).

7 ~~(m)~~

8 (13) Use or manage any of its property jointly or in connection  
9 with any lessee or sublessee, for any purpose approved by the  
10 board.

11 ~~(n)~~

12 (14) With the approval of the Department of General Services,  
13 pledge any and all revenues, moneys, accounts, accounts  
14 receivable, contract rights, and other rights to payment of whatever  
15 kind, pursuant to such terms and conditions as are approved by  
16 the board. The revenues, moneys, accounts, accounts receivable,  
17 contract rights, and other rights to payment of whatever kind  
18 pledged by the association or its assignees constitute a lien or  
19 security interest that immediately attaches to the property pledged,  
20 and is effective, binding, and enforceable against the association,  
21 its successors, purchasers of the property so pledged, creditors,  
22 and all others asserting rights therein, to the extent set forth, and  
23 in accordance with, the terms and conditions of the pledge,  
24 irrespective of whether those persons have notice of the pledge  
25 and without the need for any physical delivery, recordation, filing,  
26 or further action.

27 (b) Notwithstanding any other law, an association shall adopt  
28 a fiscal review policy as follows:

29 (1) An association with an annual budget exceeding ten million  
30 dollars (\$10,000,000) shall conduct an annual audit by an  
31 independent certified public accountant or certified public  
32 accountancy firm selected by the board.

33 (2) An association with an annual budget of less than ten million  
34 dollars (\$10,000,000) shall have its books and accounts examined  
35 and reviewed annually and audited once every three years by an  
36 independent certified public accountant or certified public  
37 accountancy firm selected by the board.

38 SEC. 15. Section 4051.1 of the Food and Agricultural Code is  
39 repealed.

1 SEC. 16. Section 4051.2 of the Food and Agricultural Code is  
2 repealed.

3 SEC. 17. Section 4053 of the Food and Agricultural Code is  
4 repealed.

5 SEC. 18. Section 4053 is added to the Food and Agricultural  
6 Code, to read:

7 4053. Notwithstanding Section 14660.5 of the Government  
8 Code, the title, control, and possession of all personal property  
9 acquired, held, managed, or operated by a district agricultural  
10 association, including property controlled or possessed by the  
11 association before the enactment of this section, vests with the  
12 association.

13 SEC. 19. Section 4057 of the Food and Agricultural Code is  
14 repealed.

15 SEC. 20. Section 4401.5 of the Food and Agricultural Code is  
16 repealed.

17 SEC. 21. Section 11011.2 of the Government Code is amended  
18 to read:

19 11011.2. (a) (1) Notwithstanding any other law, including,  
20 but not limited to, Sections 11011 and 14670, except as provided  
21 in this section, the Department of General Services may lease real  
22 property under the jurisdiction of a state agency or department, if  
23 the Director of General Services determines that the real property  
24 is of no immediate need to the state but may have some potential  
25 future use to the program needs of the agency or department.

26 (2) The Director of General Services may not lease any of the  
27 following real property pursuant to this section:

28 (A) Tax-deeded land or lands under the jurisdiction of the State  
29 Lands Commission.

30 (B) Land that has escheated to the state or that has been  
31 distributed to the state by court decree in estates of deceased  
32 persons.

33 (C) Lands under the jurisdiction of the State Coastal  
34 Conservancy or another state conservancy.

35 (D) Lands under the jurisdiction of the Department of  
36 Transportation or the California State University system, or land  
37 owned by the Regents of the University of California.

38 (E) Lands under the jurisdiction of the Department of Parks and  
39 Recreation.

1 (F) Lands under the jurisdiction of the Department of Fish and  
2 Wildlife.

3 (3) A lease entered into pursuant to this section shall be set at  
4 the amount of the lease's fair market value, as determined by the  
5 Director of General Services. The Director of General Services  
6 may determine the length of term or a use of the lease, and specify  
7 any other terms and conditions that are determined to be in the  
8 best interest of the state.

9 (b) The Department of General Services may enter into a  
10 long-term lease of real property pursuant to this section that has  
11 outstanding lease revenue bonds and for which the real property  
12 cannot be disencumbered from the bonds, only if the issuer and  
13 trustee for the bonds approves the lease transaction, and this  
14 approval takes into consideration, among other things, that the  
15 proposed lease transaction does not breach a covenant or obligation  
16 of the issuer or trustee.

17 (c) (1) All issuer- and trustee-related costs for reviewing a  
18 proposed lease transaction pursuant to this section, and all other  
19 costs of the lease transaction related to the defeasance or other  
20 retirement of any bonds, including the cost of nationally recognized  
21 bond counsel, shall be paid from the proceeds of that lease.

22 (2) The Department of General Services shall be reimbursed  
23 for any reasonable costs or expenses incurred in conducting a  
24 transaction pursuant to this section.

25 (3) Notwithstanding subdivision (g) of Section 11011, the  
26 Department of General Services shall deposit into the General  
27 Fund the net proceeds of a lease entered into pursuant to this  
28 section, after deducting the amount of the reimbursement of costs  
29 incurred pursuant to this section or the reimbursement of  
30 adjustments to the General Fund loan made pursuant to Section 8  
31 of Chapter 20 of the 2009–10 Fourth Extraordinary Session from  
32 the lease.

33 (d) The Department of General Services shall transmit a report  
34 to each house of the Legislature on or before June 30, 2011, and  
35 on or before June 30 each year thereafter, listing every new lease  
36 that exceeds a period of five years entered into under the authority  
37 of this section and the following information regarding each listed  
38 lease:

- 39 (1) Lease payments.
- 40 (2) Length of the lease.

- 1 (3) Identification of the leasing parties.
- 2 (4) Identification of the leased property.
- 3 (5) Any other information the Director of General Services
- 4 determines should be included in the report to adequately describe
- 5 the material provisions of the lease.

6 SEC. 22. This act is an urgency statute necessary for the  
7 immediate preservation of the public peace, health, or safety within  
8 the meaning of Article IV of the Constitution and shall go into  
9 immediate effect. The facts constituting the necessity are:

10 In order to restore the viability of California fairs as soon as  
11 possible, it is necessary that this act take effect immediately.