

AMENDED IN ASSEMBLY JUNE 6, 2012

AMENDED IN ASSEMBLY MAY 29, 2012

SENATE BILL

No. 1253

Introduced by Senator Runner
(Principal coauthor: Assembly Member Knight)

February 23, 2012

An act to amend Section 19418 of the Business and Professions Code, and to add Article 3.6 (commencing with Section 4165) to Chapter 6 of Part 3 of Division 3 of the Food and Agricultural Code, relating to district agricultural associations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1253, as amended, Runner. 28th District Agricultural Association: joint powers agreement.

Existing law divides the state into agricultural districts within the boundaries of which agricultural associations may be formed. Existing law provides that District 28 is the County of San Bernardino.

This bill would authorize the 28th District Agricultural Association, with the consent of the Secretary of Food and Agriculture, to enter into a joint powers agreement for the purpose of creating a joint powers agency to operate, maintain, and improve the facilities and functions of the 28th District Agricultural Association. The bill would specify the powers of the joint powers agency, and would authorize it to accept the donation of, acquire, own, sell, or lease real property and to pledge its property or revenue for the sale of bonds to construct, equip, and furnish related facilities, *except that the bill would prohibit the joint powers agency from selling, divesting, or pledging real property owned by the state without statutory authorization or the express consent of the Department of Food and Agriculture and the Department of General*

Services. The bill would permit employees of the 28th District Agricultural Association to make an election concerning employment with the joint powers agency, as provided. This bill would provide that the state is not liable for any debt of the joint powers agency.

Existing law authorizes a nonprofit organization or a joint powers agency that holds an annual fair, as specified, to elect to be a member of the network of California fairs on conditions mutually agreed upon by the Department of Food and Agriculture and the nonprofit organization.

This bill would also provide that the joint powers agency for the 28th District Agricultural Association may elect to be a member of the network of California fairs on terms and conditions mutually agreed upon by the Department of Food and Agriculture and the joint powers agency.

Vote: 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 19418 of the Business and Professions
- 2 Code is amended to read:
- 3 19418. (a) "State designated fairs," referred to in this chapter
- 4 as fairs, means the California Exposition and State Fair in the City
- 5 of Sacramento and those fairs specified in Sections 19418.1,
- 6 19418.2, and 19418.3 that may receive financial support or are
- 7 otherwise governed pursuant to this chapter. These fairs may also
- 8 be referred to as part of the "network of California fairs."
- 9 (b) A nonprofit organization that holds an annual fair pursuant
- 10 to Section 4163 of the Food and Agricultural Code may elect to
- 11 be a member of the network of California fairs on terms and
- 12 conditions mutually agreed upon by the Department of Food and
- 13 Agriculture and the nonprofit organization.
- 14 (c) A joint powers agency that holds an annual fair pursuant to
- 15 Section 4165 or 4171 of the Food and Agricultural Code may elect
- 16 to be a member of the network of California fairs on terms and
- 17 conditions mutually agreed upon by the Department of Food and
- 18 Agriculture and the joint powers agency.
- 19 SEC. 2. Article 3.6 (commencing with Section 4165) is added
- 20 to Chapter 6 of Part 3 of Division 3 of the Food and Agricultural
- 21 Code, to read:

Article 3.6. 28th District Agricultural Association

4165. (a) Notwithstanding any other provision of law, the 28th District Agricultural Association, with the consent of the secretary, may enter into a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code for the purpose of creating a joint powers agency to operate, maintain, and improve the facilities and functions of the 28th District Agricultural Association. This joint powers agency's duties shall include planning, designing, and constructing real property improvements, including new construction, alteration, extension, betterment, and repair, and purchasing fixed and movable equipment related to the facilities and functions of the 28th District Agricultural Association.

(b) ~~The~~ (1) *Except as provided in paragraph (2), the joint powers agency may accept the donation of, acquire, own, sell, or lease real property, and may pledge its property or revenue for the sale of bonds to construct, equip, and furnish the facilities, parking facilities, and any betterments, improvements, and facilities related thereto.*

(2) *The joint powers agency may not sell, divest, or pledge real property owned by the state without statutory authorization or the express consent of the Department of Food and Agriculture and the Department of General Services.*

(c) The joint powers agency may make and enter into contracts and employ agents and employees. The joint powers agency may manage, maintain, and operate the facilities, or may enter into management contracts for the operation of the facilities. The planning, designing, and constructing of these improvements, and the agency's other duties, as specified in this section, shall be undertaken in accordance only with those restrictions applicable to the joint powers agency.

(d) Prior to the commencement of the joint powers agreement, the parties to the agreement and the department shall ensure that every employee in the civil service of the 28th District Agricultural Association is provided with the option of continuing his or her employment with the state, or of accepting a position as an employee of the joint powers agency.

(1) With respect to an employee who chooses to continue his or her employment with the state, the employee shall continue to

1 be subject to all of the provisions governing civil service
2 employees, and, additionally, all of the following shall apply:

3 (A) The joint powers agency shall contract with the department
4 for the services of the employee, consistent with his or her civil
5 service classification and status.

6 (B) The employee has the right to continue to provide services
7 to the joint powers agency pursuant to that contract during the time
8 the employee continues in the civil service classification he or she
9 held at the time of the employee's election.

10 (2) With respect to an employee who chooses to leave his or
11 her employment with the state and become an employee of the
12 joint powers agency, those employees are not employees of the
13 state, and are not subject to the requirements of Chapter 10.3
14 (commencing with Section 3512) and Chapter 10.5 (commencing
15 with Section 3525) of Division 4 of Title 1 of the Government
16 Code.

17 (3) If a position filled by a civil service employee pursuant to
18 contract with the department becomes vacant, the joint powers
19 agency may fill the position with a non-civil-service employee.

20 (e) If the joint powers agency contracts with another entity for
21 the operation or management of the facilities, the requirements of
22 subdivision (d) shall apply to the new entity prior to
23 commencement of any agreement.

24 (f) The State of California is not liable for any debts, liabilities,
25 settlements, liens, or any other obligations incurred by or imposed
26 upon the joint powers agency. The joint powers agreement executed
27 pursuant to this section shall expressly provide that the General
28 Fund and the Fair and Exposition Fund shall be held harmless from
29 all debts, liabilities, settlements, judgments, or liens incurred by
30 the joint powers agency, and that neither the state nor any agency
31 or division thereof shall be liable for any contract, tort, action or
32 inaction, error in judgment, mistake, or other act taken by the joint
33 powers agency, or any of its employees, agents, servants, invitees,
34 guests, or anyone acting in concert with, or on the behalf of, the
35 joint powers agency.