

AMENDED IN SENATE OCTOBER 6, 2010
AMENDED IN SENATE SEPTEMBER 4, 2009
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 181

Introduced by Assembly Member Bass Saldaña
(Principal coauthor: Assembly Member De La Torre)
(Principal coauthor: Senator Steinberg Kehoe)

February 2, 2009

An act to amend and supplement the Budget Act of 2009 (Chapter 1 of the 2009–10 Third Extraordinary Session) by amending Section 3.90 of, and adding Section 3.91 to, that act, relating to the State Budget, and declaring the urgency thereof, to take effect immediately. *An act to add Sections 3873.1 and 3873.2 to the Food and Agricultural Code, and to add Article 11 (commencing with Section 54260) to Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, relating to the Del Mar Race Track and Fairgrounds, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 181, as amended, Bass Saldaña. *Budget Act of 2009. Del Mar Race Track and Fairgrounds: sale of state property.*

The Budget Act of 2009 (Chapter 1 of the 2009–10 Third Extraordinary Session, as amended) made appropriations for the support of state government for the 2009–10 fiscal year. The act, among other things, authorized the Director of Finance to reduce items of appropriation to reflect a reduction in employee compensation achieved through the collective bargaining process or through existing administrative authority in the total amounts of \$1,477,917,000 from

~~General Fund items and \$973,058,000 from items relating to other funds:~~

~~This bill would reduce those amounts to \$1,052,917,000 from General Fund items and \$658,058,000 from items relating to other funds. In addition, the bill would authorize the Director of Finance to reduce, with specified exceptions, items of appropriation for state operations in the total amounts of \$425,000,000 from General Fund items and \$315,000,000 from items relating to other funds. The bill would make the director's authority to make those reductions contingent on the imposition of no more than 2 furlough days per month on state employees.~~

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 that is a portion of District 22 that is owned by the 22nd District Agricultural Association, which includes that real property 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 of the real property that comprises District 22a and related personal property to the City of Del Mar; require the net sale proceeds to be deposited into the District 22a Disposition Fund, which the bill would create in the State Treasury; and require the department to report annually to the Legislature on the status of the purchase price balance.

This bill would require District 22a to be abolished and all funds in the District 22a Disposition Fund to be transferred to the General Fund, upon sale of all property that comprises District 22a, and ultimately be deposited into the Deficit Recovery Bond Retirement Sinking Fund

Subaccount, a continuously appropriated fund thereby resulting in an appropriation.

This bill would also authorize the City of Del Mar to enter into an agreement with the Department of General Services to purchase all of the real property that comprises District 22a and any related personal property, for \$120,000,000, as prescribed. The bill would authorize the city to issue revenue bonds, as specified, to finance a portion of the property purchase. The bill would require the city, if it exercises its authority to purchase the property, to establish a nonprofit corporation to manage the operation and maintenance of the property, as specified.

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

Vote: 2/3. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. Section 3873.1 is added to the Food and
- 2 Agricultural Code, to read:
- 3 3873.1. (a) There is hereby created District 22a, which consists
- 4 of all of that real property that is a portion of District 22 that is
- 5 owned by the 22nd District Agricultural Association, which
- 6 includes that real property commonly known as the Del Mar Race
- 7 Track and Fairgrounds located in the City of Del Mar and that
- 8 real property in the City of San Diego with parcel numbers
- 9 299-042-01, 299-042-02, 302-090-11, and 304-020-17.
- 10 (b) Notwithstanding any other law, any officer of the District
- 11 22a Agricultural Association may also be an officer of the 22nd
- 12 District Agricultural Association and shall be a resident of District
- 13 22. All otherwise applicable ethical duties and restrictions,
- 14 including those in Section 1090 of the Government Code,
- 15 subdivision (a) of Section 8920 of the Government Code, and the
- 16 Political Reform Act of 1974 (Title 9 (commencing with Section
- 17 81000) of the Government Code), shall apply to the officers of
- 18 both the 22nd District Agricultural Association and the District
- 19 22a Agricultural Association, and shall apply in regard to the
- 20 transactions contemplated by Section 3873.2.
- 21 (c) Upon the formation of the District 22a Agricultural
- 22 Association, the 22nd District Agricultural Association shall also

1 *transfer all personal property it owns to the District 22a*
2 *Agricultural Association.*

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*
6 *created in the State Treasury.*

7 *(b) Notwithstanding any other law, the Department of General*
8 *Services may sell all of the real property that comprises District*
9 *22a and related personal property to the City of Del Mar for one*
10 *hundred twenty million dollars (\$120,000,000) or such other price*
11 *as the Department of General Services deems to be the reasonable*
12 *fair market value of the property, under terms and conditions*
13 *satisfactory to the Director of General Services. The District 22a*
14 *Agricultural Association shall not enter into any contract, lease,*
15 *or other agreement affecting the use or operation of the real*
16 *property for a period that exceeds three months, and all of these*
17 *contracts, leases, or other agreements shall contain a provision*
18 *that they may be canceled upon a 30-day notice from the*
19 *Department of General Services. The Department of General*
20 *Services shall be reimbursed from the proceeds of the sale of the*
21 *property for any reasonable cost or expense incurred for the*
22 *transactions described in this section. Additionally, to the extent*
23 *bonds issued by the State Public Works Board or other entity*
24 *involve the property to be sold pursuant to this section, all issuer*
25 *and trustee related costs associated with the review of any*
26 *proposed sale, together with the costs related to the defeasance*
27 *or retirement of any bonds, which may include the cost of*
28 *nationally recognized bond counsel, shall be paid from the*
29 *proceeds of any sale or lease authorized by this section. The net*
30 *proceeds from the sale shall be deposited into the District 22a*
31 *Disposition Fund.*

32 *(c) Thirty days prior to executing a transaction for the sale of*
33 *real and personal property as authorized by this section, the*
34 *Director of General Services shall report in writing to the chairs*
35 *of the fiscal committees of the Legislature all of the following:*

36 *(1) The financial terms of the transaction.*

37 *(2) A comparison of fair market value for the real property and*
38 *the terms listed in paragraph (1).*

39 *(3) Any basis for agreeing to terms and conditions other than*
40 *fair market value.*

1 (d) 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 (e) The Department of General Services shall report in writing
13 to the Legislature on or before June 30 of each year on the status
14 of the payments by the purchaser toward the balance of the
15 purchase price for the sale of property authorized by this section,
16 until the balance is fully paid. A report to be submitted pursuant
17 to this subdivision shall be submitted in compliance with Section
18 9795 of the Government Code.

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

24 (g) The sale of the real property authorized by subdivision (b)
25 is made on an “as is” basis, without the customary representations
26 and warranties as to known conditions, including any unresolved
27 issues involving those portions of the property that are subject to
28 the public trust doctrine, and shall be exempt from Chapter 3
29 (commencing with Section 21100) to Chapter 6 (commencing with
30 Section 21165), inclusive, of Division 13 of the Public Resources
31 Code. Upon title to the parcel vesting in the purchaser or transferee
32 of the property, the purchaser or transferee shall be subject to any
33 local governmental land use entitlement approval requirements,
34 including local zoning as adopted by the Cities of Del Mar and
35 San Diego within their respective jurisdictions. Uses for the
36 property within the jurisdiction of the City of Del Mar shall be
37 consistent with the existing uses at the time of the property transfer
38 that are permissible under the City of Del Mar’s “Fairgrounds -
39 Racetrack” land use designation as provided in the City of Del
40 Mar’s certified local coastal program, which shall serve as the

1 applicable local coastal program for the property within the City
 2 of Del Mar until the City of Del Mar adopts and the California
 3 Coastal Commission certifies an amendment to the local coastal
 4 program pursuant to Article 2 (commencing with Section 30510)
 5 of Chapter 6 of Division 20 of the Public Resources Code. Upon
 6 title to the parcel vesting in the purchaser or transferee of the
 7 property, the purchaser or transferee shall also be subject to
 8 Chapter 3 (commencing with Section 21100) to Chapter 6
 9 (commencing with Section 21165), inclusive, of Division 13 of the
 10 Public Resources Code.

11 SEC. 3. Article 11 (commencing with Section 54260) is added
 12 to Chapter 5 of Part 1 of Division 2 of Title 5 of the Government
 13 Code, to read:

14
 15 *Article 11. Del Mar Race Track and Fairgrounds*

16
 17 54260. For purposes of this article, the following terms shall
 18 have the following meanings:

19 (a) "City" means the City of Del Mar located in San Diego
 20 County.

21 (b) "Del Mar property" means the real property that comprises
 22 District 22a as described in Section 3873.1 of the Food and
 23 Agricultural Code, and any related personal property.

24 (c) "Revenue bond" means any bond, warrant, note, or other
 25 evidence of indebtedness payable from funds other than the
 26 proceeds of the city's ad valorem taxes or assessments levied
 27 without limitation as to rate or amount upon property in the city.

28 54261. Notwithstanding any other law, the city may enter into
 29 an agreement with the Department of General Services for the
 30 purchase of the Del Mar property, consistent with the requirements
 31 of this section and Section 3873.2 of the Food and Agricultural
 32 Code. The purchase price shall be one hundred twenty million
 33 dollars (\$120,000,000) or such other price as the Department of
 34 General Services deems to be the reasonable fair market value of
 35 the property.

36 54262. (a) The city may issue revenue bonds, pursuant to this
 37 article or any other revenue bond law under which the city is
 38 otherwise authorized to issue revenue bonds, for the purpose of
 39 financing or refinancing the acquisition, operation, improvement,
 40 or maintenance of the Del Mar property and any costs related

1 *thereto, including, but not limited to, the funding of reserve funds*
2 *and the costs of issuing and carrying the revenue bonds.*

3 *(b) The city may issue the revenue bonds after the city council*
4 *authorizes the issuance of the revenue bonds by adopting a*
5 *resolution or enacting an ordinance to that effect. The resolution*
6 *or ordinance may provide, among other things, for the following:*

7 *(1) The bonds be issued as serial bonds, term bonds, installment*
8 *bonds, or any combination thereof.*

9 *(2) The date or dates to be borne by the bonds.*

10 *(3) The time or times of maturity of the bonds.*

11 *(4) The interest, whether fixed or variable, to be borne by the*
12 *bonds.*

13 *(5) The time or times when the bonds shall be payable.*

14 *(6) The place or places where the bonds shall be payable.*

15 *(7) The denominations, form, and registration privileges of the*
16 *bonds.*

17 *(8) The manner of execution of the bonds.*

18 *(9) The terms of redemption.*

19 *(10) Any other terms or conditions that the city determines to*
20 *be necessary.*

21 *(c) The city may issue the bonds at public or private sale or on*
22 *a negotiated sale basis and at the prices, above or below par, as*
23 *the city determines.*

24 *54263. The principal and interest of revenue bonds issued by*
25 *the city pursuant to this article shall be payable from the nontax*
26 *revenues derived from the operation of the Del Mar property, and*
27 *neither the payment of the principal nor interest of the bonds*
28 *constitutes a debt, liability, or obligation of the city, except as*
29 *described in this section, or of the State of California. All bonds*
30 *issued by the city pursuant to this article shall contain a recital*
31 *on their face that neither the payment of the principal nor any part*
32 *thereof nor any interest thereon constitutes a debt, liability, or*
33 *obligation of the city, except as described in this section, or of the*
34 *state.*

35 *54264. (a) If the city exercises its authority to purchase the*
36 *Del Mar property, revenues derived by the city from the operation*
37 *of the Del Mar property, including, but not limited to, revenues*
38 *from fairs, expositions, and exhibitions, and lease payments for*
39 *the race track or other facilities on the property, shall be deposited*
40 *into the Del Mar Property Revenue Fund, to be established by the*

1 city. The fund shall be comprised only of these revenues and no
2 other moneys shall be deposited into the fund. Moneys in the fund
3 shall be used for the purpose of retiring revenue bond debt and
4 any other property purchase obligations incurred pursuant to this
5 article, as provided in subdivision (b).

6 (b) Subject to any priorities created by the pledge of particular
7 moneys in the fund to secure any issuance of bonds of the city, to
8 the operation and maintenance costs incurred in the operation of
9 the Del Mar property, to reserve funds set aside for the renewal
10 and replacement of, and improvement to, the facilities of the Del
11 Mar property, and to reasonable administrative costs incurred by
12 the city in implementing this article, all moneys in the Del Mar
13 Property Revenue Fund shall be held in trust for the security and
14 payment of bonds and other property purchase obligations, and
15 shall not be used or pledged for any other purpose while any bonds
16 or other property purchase obligations are outstanding and unpaid.

17 54265. To the extent that the provisions of this article are
18 inconsistent with any other provisions of any general statute or
19 special act or parts thereof, the provisions of this article shall be
20 deemed controlling.

21 54266. The holder of any bond issued pursuant to this article
22 may by mandamus or other appropriate proceeding require and
23 compel the performance of any of the duties imposed upon the city
24 or upon any official or employee or assumed by any thereof, in
25 connection with the purchase, acquisition, operation, improvement,
26 or maintenance of the Del Mar property, or the collection, deposit,
27 investment, application, and disbursement of revenues derived
28 from the Del Mar property, or in connection with the deposit,
29 investment, and disbursement of the proceeds received from the
30 sale of bonds under this article. The enumeration of these rights
31 and remedies does not, however, exclude the exercise or
32 prosecution of any other rights or remedies available to the holders
33 of bonds issued pursuant to this article.

34 54267. (a) If the city purchases the Del Mar property pursuant
35 to this article, the city shall form a nonprofit corporation, with the
36 city as the sole member of the corporation, to oversee the operation
37 and maintenance of the Del Mar property. The nonprofit
38 corporation shall be established by city ordinance which, consistent
39 with the provisions of this section, shall provide for, at a minimum,
40 the board of directors and the administrative authority of the

1 corporation, including the authority to operate and maintain the
2 Del Mar property.

3 (b) The corporation shall consist of nine members, to be
4 appointed by the city, as follows:

5 (1) The city shall appoint the executive director of the San
6 Dieguito River Park Joint Powers Authority. The executive director
7 may be represented at board meetings by a deputy who is
8 designated by the executive director.

9 (2) The city shall appoint directors nominated as follows, if the
10 nominated directors meet the qualifications in subdivision (c):

11 (A) Five directors nominated by the City of Del Mar.

12 (B) One director nominated by the City of Solana Beach.

13 (C) One director nominated by the City of San Diego.

14 (D) One director nominated by the County of San Diego.

15 (c) The directors appointed pursuant to paragraph (2) of
16 subdivision (b) shall meet the following qualifications:

17 (1) The nominated director shall be a resident of the nominating
18 jurisdiction.

19 (2) The nominated director shall not be an elected official.

20 (3) The nominated director shall have no fewer than 10 years
21 of experience in the business, administrative, or legal fields and
22 have any other skills or qualifications, as determined by the city,
23 necessary to carry out the duties and responsibilities related to
24 the operation and maintenance of the Del Mar property.

25 (4) The initial board of directors shall include no more than
26 three of the District 22a Agricultural Association board of
27 directors. A director from the District 22a Agricultural Association
28 board nominated pursuant to this paragraph shall serve a term of
29 one year. To the extent not prohibited by the charter of the
30 nonprofit corporation, the City of Del Mar may renominate a
31 director who is appointed pursuant to this paragraph to serve
32 subsequent terms.

33 (d) The nonprofit corporation established pursuant to this
34 section shall be subject to the requirements of the Ralph M. Brown
35 Act (Chapter 9 (commencing with Section 54950)), the Political
36 Reform Act of 1974 (Chapter 1 (commencing with Section 81000)
37 of Title 9), and the California Public Records Act (Chapter 3.5
38 (commencing with Section 6250) of Division 7 of Title 1).

39 (e) To the extent not prohibited by law, the nonprofit corporation
40 shall retain personnel of the District 22a Agricultural Association

1 for a period of at least one year and honor any union personnel
 2 contracts in place at the time that the city acquires the Del Mar
 3 property.

4 (f) (1) The nonprofit corporation shall report annually to the
 5 city regarding the operation and maintenance of the Del Mar
 6 property, as directed by the city.

7 (2) The city shall report annually to the Legislature regarding
 8 the operations of the fairgrounds and the race track. The city shall
 9 also continue communications with the Department of Food and
 10 Agriculture regarding fair operations.

11 SEC. 4. This act is an urgency statute necessary for the
 12 immediate preservation of the public peace, health, or safety within
 13 the meaning of Article IV of the Constitution and shall go into
 14 immediate effect. The facts constituting the necessity are:

15 In order to enable the Department of General Services to
 16 generate revenues for the state at the earliest possible time, it is
 17 necessary for this act to take effect immediately.

18 SECTION 1. ~~The Legislature hereby finds and declares all of~~
 19 ~~the following:~~

20 (a) ~~The imposition by the Governor of a third furlough day each~~
 21 ~~month for state employees is unlikely to achieve its goal of saving~~
 22 ~~approximately four hundred twenty-five million dollars~~
 23 ~~(\$425,000,000) from the General Fund in the 2009-10 fiscal year.~~

24 (b) ~~The third furlough day will likely result in all of the~~
 25 ~~following:~~

26 (1) ~~Revenue loss of up to three hundred sixty million dollars~~
 27 ~~(\$360,000,000) from the General Fund in the 2009-10 fiscal year.~~

28 (2) ~~Additional and significant loss of federal funds due to the~~
 29 ~~inflexible manner in which the furloughs have been implemented~~
 30 ~~across the whole of the executive branch without regard to fund~~
 31 ~~source.~~

32 (3) ~~Diminished and delayed services to the public.~~

33 (4) ~~Additional and unnecessary hardship on state employees~~
 34 ~~who have already endured a nearly 10-percent reduction in~~
 35 ~~compensation due to the imposition of two furlough days each~~
 36 ~~month.~~

37 (e) ~~It is the intent of the Legislature to eliminate the need for~~
 38 ~~the third furlough day by providing the Governor with the authority~~
 39 ~~to achieve, through other means, savings equivalent to those~~

1 originally anticipated to occur as a result of the implementation
2 of the third furlough day.

3 SEC. 2. Section 3.90 of the Budget Act of 2009 is amended to
4 read:

5 Sec. 3.90. (a) Notwithstanding any other provision of this act,
6 each item of appropriation in this act, with the exception of those
7 items for the California State University, the University of
8 California, Hastings College of the Law, the Bureau of State
9 Audits, the Legislature (including the Legislative Counsel Bureau),
10 and the judicial branch, shall be reduced, as appropriate, to reflect
11 a reduction in employee compensation achieved through the
12 collective bargaining process for represented employees or through
13 existing administration authority and a proportionate reduction for
14 nonrepresented employees (utilizing existing authority of the
15 administration to adjust compensation for nonrepresented
16 employees) in the total amounts of \$1,052,917,000 from General
17 Fund items and \$658,058,000 from items relating to other funds.
18 The Director of Finance shall allocate the necessary reductions to
19 each item of appropriation to accomplish the employee
20 compensation reductions required by this section.

21 (b) The Department of Personnel Administration shall transmit
22 proposed memoranda of understanding to the Legislature promptly
23 and shall include with each such transmission estimated savings
24 pursuant to this section of each agreement.

25 (c) Nothing in this section shall change or supersede the
26 provisions of the Ralph C. Dills Act (Chapter 10.3 (commencing
27 with Section 3512) of Division 4 of Title 1 of the Government
28 Code).

29 SEC. 3. Section 3.91 is added to the Budget Act of 2009, to
30 read:

31 Sec. 3.91. (a) Notwithstanding any other provision of this act,
32 the Director of Finance shall reduce items of appropriation in this
33 act for state operations in the 2009-10 fiscal year, with the
34 exception of those items for the Bureau of State Audits, the
35 Legislature (including the Legislative Counsel Bureau), the judicial
36 branch, and constitutional officers, in the total amounts of
37 \$425,000,000 from General Fund items and \$315,000,000 from
38 items relating to other funds.

39 (b) The authority conferred upon the Director of Finance by
40 this section shall not become operative until Executive Order

1 ~~S-13-09 is either rescinded or is amended to impose no more than~~
2 ~~two furlough days each month on state employees, and shall remain~~
3 ~~operative only while no more than two furlough days each month~~
4 ~~are imposed on state employees. Nothing in this section confers~~
5 ~~any authority upon the Director of Finance to modify or eliminate~~
6 ~~any other provision of existing law.~~

7 ~~(e) Not later than February 15, 2010, the Director of Finance~~
8 ~~shall report to the Chairperson of the Joint Legislative Budget~~
9 ~~Committee and the chairpersons of the committees of each house~~
10 ~~of the Legislature that consider appropriations the amount of~~
11 ~~reductions made in each item of appropriation pursuant to this~~
12 ~~section. The report shall include each specific reduction by~~
13 ~~department, agency, and program; a description of programmatic~~
14 ~~effects; the number and description of positions affected; and any~~
15 ~~other description necessary to fully disclose the reduction's impact.~~

16 ~~SEC. 4. This act is an urgency statute necessary for the~~
17 ~~immediate preservation of the public peace, health, or safety within~~
18 ~~the meaning of Article IV of the Constitution and shall go into~~
19 ~~immediate effect. The facts constituting the necessity are:~~

20 ~~In order to prevent losses to the General Fund, and to avoid~~
21 ~~diminished services to the public as well as hardship on state~~
22 ~~employees as a result of the imposition of a third furlough day~~
23 ~~each month, it is necessary that this act go into immediate effect.~~