

Date of Hearing: April 27, 2017

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 1499 (Gray) – As Introduced February 17, 2017

**SUBJECT:** Horse racing: state-designated fairs: allocation of revenues: gross receipts for sales and use tax

**SUMMARY:** Would establish a potential annual funding allocation for capital outlay to the network of California fairs for infrastructure projects, as specified. The bill would require that an amount equal to 3/4 of 1% of the total amount of gross receipts reported to the California Department of Finance (DOF) be included in the next annual Governor's budget for the California Department of Food and Agriculture (CDFA) for allocation to state-designated fairs, for among other things, fair projects involving public health and safety, and projects that are required to protect fair property, as specified. The allocation must be appropriated by the Legislature and enacted in the annual Budget Act. Specifically, **this bill:**

- 1) Provides that a return filed with the State Board of Equalization (BOE) to report gross receipts for sales and use tax purposes shall segregate the gross receipts of the seller and the sales price of the property on a form prescribed by BOE when the place of sale in this state or for use in this state is on or within the real property of a state-designated fair or any real property of a state-designated fair that is leased to another party.
- 2) Defines a "state-designated fair" as a state-designated fair, as defined in Business and Professions Code § 19418.1, 19418.2, and 19418.3. These fairs may also be referred to as part of the "network of California fairs."
- 3) Provides the BOE shall designate a separate line on the existing form, or develop a form for purposes of implementing this bill.
- 4) Provides BOE shall report the amount of the total gross receipts segregated on the returns filed pursuant to this bill to DOF on or before April 30 of each year.
- 5) States an amount equal to three-quarters of 1 percent of the total amount of gross receipts reported to the DOF, as defined, shall be included in the next annual Governor's Budget for CDFA for allocation to fairs pursuant to current law. Upon the enactment of the annual Budget Act, the amount appropriated by the Legislature to CDFA pursuant to this bill shall be transferred by the Controller to the Fair and Exposition Fund in the State Treasury, and shall be continuously appropriated and allocated as outlined in current law. (See Existing Law #3)
- 6) Provides BOE shall be paid the actual cost for administering the provisions of this bill from the funds appropriated, as defined, before any allocation is made to fairs, as specified.

**EXISTING LAW:**

- 1) Defines a state-designated fair as the California Exposition and State Fair in the City of Sacramento and those fairs specified in Business and Professions Code § 19418.1 (district agricultural associations), § 19418.2 (county fairs), and § 19418.3 (citrus fruit fairs) that may

receive financial support or are otherwise governed by § 19400 et seq. (governing horse racing). These fairs are also collectively referred to as the "network of California fairs."

2) Requires certain license fees from satellite wagering to be deposited into a separate account in the Satellite Wagering Account (SWA). These moneys are continuously appropriated for specified fair-related purposes, including the payment of expenses incurred in establishing and operating satellite-wagering facilities at fairs.

3) Declares in Horse Racing Law that any unallocated balance from the total revenue received by CDFA pursuant to that law, except as specified, is hereby appropriated without regard to fiscal years for allocation by the Secretary of Food and Agriculture for capital outlay to California fairs, including state-designated fairs, for among other things, fair projects involving public health and safety, and projects that are required to protect fair property. The statute also provides that a portion of these funds may be allocated to California fairs for general operational support.

4) Provides from the total revenue received by CDFA, exclusive of money received pursuant to Business and Professions Code § 19640 and 19641, the Legislature shall annually appropriate to the department those sums as it deems necessary for the following purposes:

(a) For the oversight of the network of California fairs receiving money from the fund.

(b) For the auditing of all district agricultural association fairs, county fairs, and citrus fruit fairs.

5) States the Legislature finds and declares that CDFA is responsible for ensuring the integrity of the Fair and Exposition Fund, administering allocations from the fund to the network of California fairs, as defined in Business and Professions Code § 19418 to 19418.3, inclusive, and providing oversight of activities carried out by each California fair. Oversight shall include, but not be limited to, the following:

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

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

(3) Creating a framework for administration of the network of California fairs allowing for maximum autonomy and local decision making authority, and conducting, or causing to be conducted, annual fiscal audits and periodic compliance audits.

(4) Conducting fiscal and performance audits of county fairs and citrus fruit fairs that are requested by the fair that is the subject of the audit, and that CDFA deems to be necessary.

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

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

6) Imposes a sales tax on retailers for the privilege of selling tangible personal property (TPP), absent a specific exemption. The tax is based upon the retailer's gross receipts from TPP sales in this state.

7) Imposes a complimentary use tax on the storage, use, or other consumption of TPP purchased out-of-state and brought into California. The use tax is imposed on the purchaser, and unless the purchaser pays the use tax to an out-of-state retailer registered to collect California's use tax, the purchaser remains liable for the tax. The use tax is set at the same rate as the state's sales tax and must generally be remitted to the BOE.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

**Background.**

California fairs have been in existence since 1854 and have since grown to encompass 78 fairs statewide. The network of California fairs is composed of 52 district agricultural associations (DAA), 23 county fairs, 2 citrus fruit fairs, and The California Exposition and State Fair (Cal Expo). DAAs are state government entities that are governed by nine-member gubernatorial appointed boards of directors. In contrast, county fairs are county government or not-for-profit organizations; citrus fruit fairs are not-for-profit organizations; and Cal Expo is a state agency.

- DAA's – Hold fairs, expositions, and exhibitions to highlight various industries, enterprises, resources, and products of the state.
- County fairs – Hold fairs to highlight a county's natural and agricultural resources.
- Citrus fruit fairs – Hold annual fairs to celebrate the citrus fruit harvest.
- California Exposition and State Fair (Cal Expo) – Holds the annual California State Fair, expositions and exhibitions to highlight various industries, enterprises, resources, and products of the state.

According to CDFFA, the economic impact of fairs consists of attendees' spending at the fair and interim events, spending by the fair organizations, and indirect and induced impacts created by the fair's spending. Indirect and induced spending are secondary ripple effect impacts, occurring as the initial direct spending moves through suppliers, vendors, payrolls and other subsequent spending. In 2009, the total economic impact on the State of California in terms of estimated spending, income, jobs and public tax revenue were as follows:

- Spending Impact: \$2.85 billion in spending
- Tax Impact: \$127 million in state and local tax revenue
- Income Impact: \$856 million in wages
- Employment Impact: 25,223 full-time equivalents (jobs)

The Division of Fairs and Expositions within CDFFA provides fiscal and policy oversight for the network of California fairs, and the Department of General Services (DGS) provides oversight for use of state property, procurement, and services contracts. The vision of this oversight is to enrich the lives of California's citizens by ensuring the network of California fairs continue to

exist as viable, recreational and cultural facilities of general public interest. California's fairs serve as world leaders in providing educational and competitive exhibits that highlight California's industry and industrial enterprises, resources and products of every kind & nature. California fairs focus on improvement, promotion, encouragement and reward of excellence in those endeavors.

Purpose of the bill. According to the author, AB 1499 will provide a potential source of reliable funding for California's network of fairs and offer much needed financial support for specific fair-related purposes and projects on fairgrounds. Over the past 75 years, there has been a designated funding source for fairs from which the state has made significant investments in promoting the business operations and improving the infrastructure of California's fairs.

The network of California fairs has faced many challenges, the most recent being the loss of continuous fair funding in the 2011-12 Budget due to the state's growing fiscal problems, thus requiring the fairs to be self-sufficient as of January 1, 2012. Without further state funding, these properties will continue to deteriorate and in their demise create public safety issues. The reality is that, through the sales tax, the network of fairs is a huge revenue generator for the state of California. Without funding to maintain the infrastructure, what were once valuable state assets may become state liabilities. Currently, the state and local fairs are one of the few public entities that do not receive a portion of the locally generated sales tax, even though they are major contributors to sales tax revenue and create a significant number of jobs in their communities.

The author states, AB 1499 would require that an amount equal to a small percentage (3/4 of 1%) of the total amount of gross receipts on California fairgrounds be included in the annual Governor's budget proposal to serve as a "baseline" amount for allocation by CDFR to benefit the network of California fairs. The specified "baseline" amount would be subject to the normal annual budget deliberations by the Legislature that could leave the amount as it is, increase the amount, decrease the amount, or eliminate the amount altogether.

Past and present fair funding. Prior to 2009, license fees imposed on horse racing wagers were deposited into the Fairs and Exposition Fund (F&E Fund) and the SWA, which, in addition to supporting the annual budget of the California Horse Racing Board, also supplemented the income of the network of California fairs. SB 16 X2 (Ashburn), Chapter 12, Statutes of 2009, in turn, shifted the horse racing industry's obligation to fund fairs through license fees imposed on wagers to the GF. Specifically, SB 16 X2 provided an annual continuous appropriation of \$32 million from the GF to support fairs. This change was done as part of a package of measures designed to provide economic stimulus for the horse racing industry.

In 2009, the Legislature recognized the need for a new source of funding for the continuation of fairs and, thus, continuously appropriated \$32 million from the state's General Fund to be paid into the F&E Fund. However, the 2011-12 state budget eliminated General Fund contributions to the F&E Fund, requiring DAAs and all other designated fairs to be self-sufficient as of January 1, 2012. The FY 2016-17 budget appropriated \$3 million to support the fairs and an additional \$4 million for infrastructure needs.

Application. Each year the BOE will report the amount of the "total gross receipts" segregated on the returns filed by sellers when the place of sale in this state or for use in this state is on or within the real property of a state-designated fair to the DOF on or before April 30 of each year. DOF will then include in the next annual Governor's budget proposal an amount equal to 3/4 of

1 percent of the number reported by BOE to the DOF. This specified “amount” is just a number, which gives DOF an annual baseline from which to make its calculation. The amount has nothing to do with sales tax generated on fairgrounds property. No sales tax revenue will be used in the calculation or in the appropriation. The source of the funds to be allocated or proposed to be allocated will be General Fund. DOF will then include the specified amount in the Governor’s budget and the budget process begins. The Legislature in its deliberations can leave the budget allocation amount as it is, increase the allocation, decrease the allocation, or eliminate the allocation altogether.

If, after the budget bill has gone through the Legislative process, and there is an amount remaining in the final budget, as enacted by the Legislature and signed into law by the Governor, the allocated amount shall be transferred from the General Fund to the F&E Fund for allocation by CDFA pursuant to Business and Professions Code Section 19620.2. Section 19620.2, in turn, provides for the allocation of moneys for capital outlay to California fairs for fair projects:

- i) Involving public health and safety;
- ii) Involving major and deferred maintenance;
- iii) Necessary due to any emergency;
- iv) Required by physical changes to the fair site; and,
- v) Required to protect the fair property or installation, such as fencing and flood protection.

The money may also be used for the acquisition or improvement of any property or facility that will serve to enhance the operation of the fair.

The bill provides that BOE shall be paid the actual cost for administering the provisions of this bill from the funds appropriated, as defined, before any allocation is made to fairs, as outlined in current law.

In support. Proponents note, "more than 12 million Californians attend their hometown fair each year, creating jobs, tax income, and building community pride and harmony throughout the state. Another 20 million Californians attend non-fair events at fairgrounds each year, most with a non-profit or charitable element. Additionally, California's fairgrounds are vital to the state's ability to protect the public during times of natural disasters and other emergencies. As it currently stands, none of the resulting locally generated dollars come back to assist fairgrounds with infrastructure or operating needs. AB 1499 will provide fairs with an important starting point to be part of the discussion when the governor and the legislature set funding priorities in the annual budget process. The network of California Fairs will continue to serve our communities in good times and bad; from the fun and excitement of fair time to the times of flood and fires."

The Rural County Representatives of California writes in support, AB 1499 would be a significant step in assuring the long-term viability of the network of California fairs and the fairgrounds. Many of the fairgrounds that serve such a critical role for the State and local community in which they are located remain in jeopardy without a sustainable source of funding. We would encourage any fiscal analysis of AB 1499 to include the costs to the State if CAL FIRE and other state disaster-related agencies no longer have access to fairground facilities – a scenario that is extremely plausible if further funding is not provided. AB 1499 would be a critical link in providing that long-term sustainable funding for the operations and maintenance of the fairgrounds.

Prior legislation. AB 2678 (Gray) of 2016. Requires taxable sales and purchases within a "state-designated fair" to be segregated on the Sales and Use Tax return and also mandates that 30% of the state's General Fund SUT revenues derived from those segregated sales and purchases be deposited in the Fair and Exposition Fund. (*Held on Senate Appropriations Suspense File*)

The author states, this bill addresses concerns expressed by the Senate Appropriations Committee analysis in 2016 relating to the continuous appropriation authority, as it was thought to limit Legislative discretion. This bill mandates that any appropriation would need to be made through the annual state budget process.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Alameda County Fair  
Amador County Fair  
Antelope Valley Fair  
Big Fresno Fair  
Butte County Fair  
Calaveras County Fair & Jumping Frog Jubilee  
California Fairs Alliance  
California Mid-State Fair  
California Mid-Winter Fair and Fiesta  
Chowchilla-Madera County Fair  
Cloverdale Citrus Fruit Fair  
Colorado River Fair  
Colusa County Fair  
Contra Costa County Fair  
Del Norte County Fair  
Desert Empire Fair  
Dixon May Fair  
Eastern Sierra Tri-County Fair  
El Dorado County Fair  
Gold Country Fair  
Grand National Rodeo, Horse & Livestock Show  
Humboldt County Fair  
Inter-Mountain Fair  
Kern County Fair  
Lake County Fair  
Lassen County Fair  
Lodi Grape Festival & Harvest Fair  
Los Angeles County Fair  
Madera District Fair  
Marin County Fair  
Mariposa Fairgrounds & Exposition Center  
Mendocino County Fair  
Merced County Fair  
Monterey County Fair  
Mother Lode Fair

Nap Valley Exposition  
Napa County Fair & Fireworks  
National Orange Show Event Center  
Nevada County Fair  
OC Fair & Event Center  
Placer County Fair  
Plumas-Sierra County Fair  
Redwood Acres Fair  
Redwood Empire Fair  
Riverside County Fair and National Date Festival  
Rural County Representatives of California  
Sacramento County Fair  
Salinas Valley Fair  
San Benito County Fair  
San Benito County Saddle Horse Show & Rodeo  
San Bernardino County Fair  
San Diego County Fair  
San Joaquin County Fair  
San Mateo County Fair  
Santa Barbara County Fair  
Santa Barbara Fair & Expo  
Santa Clara County Fair  
Santa Cruz County Fair  
Schools' Agriculture and Nutrition Fair  
Shasta District Fair  
Silver Dollar Fair  
Siskiyou Golden Fair  
Solano County Fair  
Sonoma County Fair & Exposition, Inc.  
Sonoma County Fair and Event Center  
Southern California Fair  
Stanislaus County Fair  
Tehama District Fair  
The Kings Fair  
The Valley Fair  
Trinity County Fair  
Tulare County Fair  
Tulelake-Butte Valley Fair  
Ventura County Fair  
Western Fairs Association Service Member Board  
Yolo County Fair  
Yuba-Sutter Fair

**Opposition**

None on file

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