

Date of Hearing: June 21, 2017

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

SB 368 (McGuire) – As Amended March 21, 2017

SENATE VOTE: 40-0

SUBJECT: Horse racing: fairs: funding

SUMMARY: This bill would provide that any unallocated balance, as specified, from the Fair and Exposition (F&E) Fund, as well as funding appropriated by the Legislature or otherwise designated from California fairs, is to be continuously appropriated to the Secretary of the California Department of Food and Agriculture (CDFA) for capital outlay to California fairs. Specifically, **this bill:**

- 1) States that any unallocated funds from satellite wagering licensing fees, the distribution of handle from live racing at fairs, and funding appropriated by the Legislature or otherwise designated for California fairs be deposited into the F&E Fund and appropriated, without regard to fiscal years, for allocation by the Secretary of CDFA for capital outlay to California fairs, as specified.
- 2) Deletes reference to certain obsolete Business and Professions Code sections that appear in Section 3200 of the Food and Agriculture Code relating to the F&E Fund and specifies that all funds appropriated or designated for California fairs and expositions shall be deposited in the F&E Fund and be continuously appropriated, as specified in Horse Racing Law.

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, as specified.
- 3) Declares in Horse Racing Law that any unallocated balance from the total revenue received by CDFA, 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) Requires any fair racing association to deduct an additional 1% from the total amount handled in its daily conventional and exotic pari-mutuel pools, and provides for the deposit

of the moneys in the F&E Fund for expenditure for the construction or operation of recreational and cultural facilities of general public interest at fairs throughout the state.

- 5) 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:
 - a) Monitoring the solvency of the F&E Fund.
 - b) 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.
 - c) 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.
 - d) 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.
 - e) Guiding and providing incentives to fairs to seek matching funds and generate new revenue from a variety of sources.
 - f) Supporting continuous improvement of fair programming to ensure that California fairs remain highly relevant community institutions.

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the bill: According to the author's office, "SB 368 would renew the authority CDFA had over moneys appropriated by the Legislature as they had under previous funding mechanisms when horse racing revenues or the General Fund supported fairs prior to being eliminated. This legislation would expedite the turnaround time for delivering these funds to local fairs to roughly less than three months which would be a huge improvement from the long delays occurring now."

Background: California fairs have been in existence since 1854 and have since grown to encompass 78 fairs statewide. This 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.

The CDFA maintains regulatory oversight over fairs and delegates general authority to its Division of Fairs and Expositions. 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.

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. Current law requires specific license fees in Horse Racing Law from satellite wagering be deposited into a separate account in the Fair and Exposition Fund, and continuously appropriates those moneys for specified fair-related purposes, including, among others, the payment of expenses incurred in establishing and operating satellite wagering facilities at fairs and for health and safety repair and other projects at fairs.

The source of state funding for fairs has historically been dependent on horse racing license fees, which in recent years have significantly declined. 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 those General Fund contributions, requiring DAAs to be self-sufficient as of January 1, 2012.

Since 2011, CDFA has received \$3 million in the FY 2015-16 budget in part to replace allocations to fairs in the F&E Fund. Additionally, CDFA received \$7 million in the FY 2015-16 budget and \$4 million in the FY 2016-17 budget for deferred maintenance of the fairs. The network of California fairs have an approximate \$325 million in deferred maintenance projects.

2016 California Five-Year Infrastructure Plan: The 2016 California Five-Year Infrastructure Plan issued by the Governor's Office identified an approximate \$89 million in deferred maintenance projects for fairs. The report also noted, "infrastructure needs for the network of California fairs is primarily driven by the age of the facilities. The majority of the state's fair facilities date back to the 1940's and were constructed through the Federal Works Projects Administration and the California Conservation Corps. Due to the limited availability of funding in recent years, the network of California fairs now faces a backlog of deferred maintenance needs in many of its 3,000 buildings. The most common deferred maintenance issues include the need for sewer and water line replacement, electrical repairs, asphalt repairs, roofing replacement and retrofits for ADA compliance."

Double-referral: This bill is double-referred to the Assembly Agriculture Committee, where it will be heard if passed by this Committee.

Related legislation: SB 274 (Glazer of 2017) would authorize the use of funds collected from live racing fees and pari-mutuel pools for payment to a fair conducting a live racing meeting or as a payment to a joint powers authority for the purposes of improving a fair enclosure, racetrack maintenance, safety at fairs, or other similar activities. This bill is pending in the Assembly G.O. Committee.

AB 1499 (Gray of 2017) would require the Board of Equalization (BOE) to report the amount of taxable sales and purchases within a state designated fair area, as defined, to the Department of Finance (DOF). Of this reported amount, 0.75% of it must be included in the Governor's Budget for allocation to the Fair and Exposition Fund. This bill is pending in Senate Governance and Finance Committee.

Prior legislation: AB 2226 (Bigelow, 2016) would have specified that any unallocated balance of revenues derived from license fees from satellite wagering and distribution of handle from live racing at fairs is continuously appropriated for allocation by CDFR to California fairs. This bill was held in the Assembly Appropriations Committee.

SB 741 (Cannella, 2013), among other things, would have deleted provisions requiring satellite wagering license fees to be deposited into a separate account in the F&E Fund for specified purposes and instead would have required certain revenues to be paid by racing associations and fairs generated by pari-mutuel wagering and certain revenues from live races paid by fair racing associations as license fees to be deposited into the F&E Fund for various purposes, including capital improvements at fairgrounds. This bill was held in the Assembly Appropriations Committee.

AB 95 (Committee on Budget, Chapter 2, Statutes of 2011) among other things, discontinued the \$32 million annually appropriated from the General Fund to the F&E Fund.

SBX2 16 (Ashburn, Chapter 12, Statutes of 2009) eliminated the \$40 million minimum required for the racing associations and fairs to pay annually to the state. The bill also eliminated the license fee on horse racing wagers and provided that beginning July 1, 2009, and annually thereafter, \$32 million shall be appropriated from the General Fund and paid into the F&E Fund for the support of the state's fairs.

AB 765 (Evans, Chapter 613, Statutes of 2007) provides that a fair, combination of fairs, or an association conducting racing at a fair may, with CHRB approval, deduct an additional 1% from its handle to be used for maintenance and improvements at a fair's racetrack enclosure.

SB 1825 (Kelley, Chapter 342, Statutes of 2000) requires a \$40 million minimum for racing associations and fairs to pay annually to the state.

REGISTERED SUPPORT / OPPOSITION:

Support

California Fairs Alliance
Stanislaus County Fair
Western Fairs Association

Opposition

None on file

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