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## SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Mike McGuire, Chair  
2019 - 2020 Regular

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**Bill No:** SB 281  
**Author:** Wiener  
**Version:** 3/20/19 Amended  
**Consultant:** Peterson

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**Tax Levy:** No  
**Fiscal:** Yes

### *COW PALACE AUTHORITY*

*Creates the Cow Palace Authority, requires state to transfer Cow Palace to this new entity, and bans gun shows on the premises.*

### Background

**Fairs in California.** Fairs in California began in 1854 and have since grown to encompass 80 fairs statewide. The network of California fairs includes 54 district agricultural associations (DAA), 23 county fairs, two citrus fruit fairs, and the California Exposition and State Fair (Cal Expo). DAAs are state government entities governed by nine-member gubernatorial appointed boards of directors. In contrast, county fairs are either directly operated by counties or not-for-profit organizations; citrus fruit fairs are not-for-profit organizations; and Cal Expo is a state agency.

The Division of Fairs and Expositions within California Department of Food and Agriculture (CDFA) 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. Prior to 2009, license fees imposed on horse racing wagers were deposited into the Fairs and Exposition Fund and the Satellite Wagering Account, which supports the annual budget of the California Horse Racing Board and supplements California fairs. However, in 2009, the Legislature shifted the horse racing industry's obligation to fund fairs through license fees imposed on wagers to the General Fund, instead providing an annual continuous appropriation of \$32 million from the General Fund to support fairs (SBx2 16, Ashburn). The 2011-12 State Budget Act eliminated General Fund contributions to the Fund, requiring DAAs and all other designated fairs to be self-sufficient as of January 1, 2012. To help fairs remain self-sufficient, the Legislature passed AB 1499 (Gray, 2017), which directs retailers to segregate the amount of gross receipts from sales at fairs. Three-fourths of one percent of these gross receipts go to CDFA to fund state-designated fairs.

State law allows DAAs to do the following:

- Contract for programs and for the purchase or lease of goods, either independently or in cooperation with individuals, public or private organizations, or other federal, state, or local governmental agencies.
- Purchase, acquire, hold, sell, exchange, or convey any interest in real property.
- Lease for the use of its real property, or any portion of that property, to any person or public body for whatever purpose.

- Use, manage, or operate any of its property jointly or in connection with any lessee or sublessee, for any purpose.

**Cow Palace.** The County of San Mateo and the City and County of San Francisco form Agricultural District 1-A. The Cow Palace operates as a DAA within this agricultural district. The venue is located in Daly City at the border of San Mateo and San Francisco counties. The Cow Palace constructed in 1941, originally served as a permanent structure to house an animal livestock exposition. It has since become a venue for various events including circuses, sports matches, concerts, and political conventions. Since the 1980s, the Cow Palace has also hosted gun shows four or five times a year.

**Gun shows.** State law places various restrictions on how gun shows can operate. Specifically, state law:

- Prohibits the sale, lease, or transfer of firearms without a license.
- Excludes persons with a valid federal firearms license and a certificate of eligibility issued by the California Department of Justice (DOJ) from the prohibitions on the sale, lease, or transfer of firearms at gun shows or events.
- Permits licensed dealers to sell firearms only from their licensed premises and at gun shows.
- States that a dealer operating at a gun show must comply with all applicable laws, including California's waiting period law, laws governing the transfer of firearms by dealers, and all local ordinances, regulations, and fees.
- States that no person shall produce, promote, sponsor, operate, or otherwise organize a gun show, unless that person possesses a valid certificate of eligibility from DOJ.
- Requires gun show operators to comply with certain conditions, including to:
  - Enter into a written contract with each gun show vendor selling firearms at the show,
  - Ensure that liability insurance is in effect for the duration of a gun show,
  - Post visible signs pertaining to gun show laws at the entrances of the event, and
  - Submit a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers to DOJ.

Despite these gun show restrictions, members of the community surrounding the Cow Palace have expressed concern over their continued operation at the facility. The author wants to address local concerns over gun shows at the Cow Palace by transferring ownership to a new board of local elected officials to make plans for the Cow Palace and ban gun shows.

### **Proposed Law**

Senate Bill 281 enacts the Cow Palace Authority Act. SB 281 establishes the Cow Palace Authority (CPA) and grants it specific powers, transfers property and contracts to the new authority, and bans gun shows at the Cow Palace.

**Creates CPA board and advisory committee.** SB 281 establishes the CPA board with seven members: three members of the Daly City Council appointed by its Mayor, two members of the San Francisco Board of Supervisors appointed by its Mayor, and two members of the San Mateo County Board of Supervisors it appoints. The bill requires the authority to take over management of the Cow Palace property from the DAA. SB 281 gives the board until June 1,

2020, to hold its first meeting and take steps to prepare for taking over ownership over the property. The measure also requires the board to create a Cow Palace Advisory Committee made up of representatives from state agencies, nongovernmental organizations, and members of the public surrounding the Cow Palace. This committee provides a formal mechanism for the public to provide input into plans for the Cow Palace.

**Outlines board powers.** SB 281 gives the board broad authority to manage the Cow Palace once it takes over management, including to:

- Receive grants from federal and state agencies.
- Accept gifts, fees, grants, and allocations from public and private properties.
- Issue revenue or general obligation bonds.
- Incur indebtedness up to \$2 billion.
- Receive and manage a dedicated revenue source.
- Deposit or invest moneys in banks and financial investments.
- Sue and be sued.
- Engage counsel and other professional services.
- Enter into and perform necessary contracts.
- Enter into a Joint Powers Agreement.
- Hire staff.
- Use interim or temporary staff provided by appropriate state agencies.
- Own real property.
- Award grants to public and private entities contributing to the goals of the CPA.
- Exercise land use authority over the property.
- Serve as lead agency for any environmental reviews pursuant to the California Environmental Quality Act (CEQA).

If the board uses its authority to generate revenues to (1) apply for and receive grants from federal and state agencies, or (2) receive and manage a dedicated revenue source, it is required to place a measure before voters through a special election consolidated with the next regularly scheduled election in San Francisco and San Mateo counties. The bill also lays out provisions regarding how to conduct the election. Because SB 281 finds that the new authority does not have any revenues at the time it is established, it requires the authority's appropriations limit to be established based on receipts from the initial revenue generation measure. The bill requires the authority to reimburse the county for the incremental costs associated with including a measure specific to the authority on the ballot.

**Property transfer.** SB 281 requires the DAA to transfer the property over to the CPA by January 1, 2021. In addition to the property, the bill also names the CPA the successor in interest to any contracts the DAA previously entered into. Once the DAA transfers the property to the CPA, the bill gives the CPA the power to do any of the following:

- Enter into contracts or agreements for the demolition of existing structures on the property.
- Enter into contracts or agreements for the development of the property for affordable or mixed-use housing.
- Operate the property as it was previously operated before the DAA transferred the property to the CPA.

- Specifies that the measure is not intended to interfere with contracts entered into on or before December 31, 2019.

The bill requires regular auditing of the authority's finances, including the preparation of an annual report available to the public.

**Gun shows.** SB 281 bans gun shows at the Cow Palace starting January 1, 2020. Specifically, SB 281 prohibits any entity that manages the property from conducting, contracting for, authorize, or allowing the sale of any firearms or ammunition on the property unless the parties entered into the contract on or before December 31, 2019. The bill exempts gun buy-back events held by a law enforcement agency from this restriction.

The measure includes legislative findings and declarations supporting its purposes.

### **State Revenue Impact**

No estimate.

### **Comments**

1. Purpose of the bill. According to the author, "SB 281 addresses a longstanding problem with the Cow Palace - the state agricultural fairground for San Francisco and San Mateo Counties - by creating more local control over the future of the Cow Palace's massively under-utilized land and by banning gun and ammunition sales at the site. SB 281 is co-authored by the entire state legislative delegation representing San Francisco and San Mateo Counties (both Senators and all four Assemblymembers). For decades, the local community in Daly City and San Francisco have asked the Cow Palace Board of Directors to end the site's longstanding gun shows and to work with the local community to redevelop the land with housing and mixed use development, so that it is not empty space. Unfortunately, for decades, the Cow Palace Board of Directors has ignored the local community's requests. To address this problem - a totally unresponsive agency - SB 281 bans gun shows at the Cow Palace and transfers the Cow Palace land to a locally controlled authority consisting of Daly City, San Mateo County, and San Francisco. This local authority can then decide what to do with the land. SB 281 has broad local support. Locally, it's not even remotely controversial to end the gun shows and to improve the use of the Cow Palace's land. People don't want gun shows in the heart of the Bay Area. Moreover, the Cow Palace's 68 acres of land, largely consisting of a massive parking lot, is not good land use. When combined with adjacent parcels owned by Daly City and a private property owner, more than 80 acres of land are available for potential housing and mixed use development. The Bay Area is in a deep housing crisis, and the local community should have the ability to make the best use of this land. SB 281 is a long overdue reform to ensure that this critical site is used in a way that benefits the local community and reflects its values."

2. A more direct approach? Previous legislative attempts to ban gun shows have sought to ban gun shows without making any changes to the management of the Cow Palace. However, previous governors have vetoed these attempts claiming the governor-appointed board already considered local perspectives. If the continued operation of the gun shows is the problem SB 281 wants to solve, simply banning the gun shows is a more direct approach. Creating a new regional authority to manage the property has many more potential pitfalls compared to simply banning the gun shows, such as figuring out an appropriate governance structure for the new authority, managing existing contracts, and deciding how to generate revenue if the new CPA

board decides to stop holding certain events on the property. The Committee may wish to consider whether banning gun shows without transferring the property would more directly address local concerns regarding the Cow Palace.

3. State control versus local control. Supporters of the new authority claim that the new regional Cow Palace Authority will better represent local interests than the existing Cow Palace DAA board. The local elected officials on the new CPA board may be in a better position to make significant changes to the property, such as developing affordable housing, compared to the Governor appointees on the current board whose charge is operating a self-sustaining fair. SB 281 also requires the creation of an advisory committee to give local residents and organizations a formal avenue for public input. If the CPA board decided to stop holding events at the Cow Palace, it will have to find other ways to make up for the loss of revenue coming from these events. SB 281 gives the CPA board various powers to raise revenue and requires voter approval in certain instances. The Committee may wish to consider whether transferring the property enables the new board of local elected officials to more effectively solicit input from their constituents and respond to the ongoing concerns about the future of the property.

4. Voter approval. SB 281 requires an election if the CPA board uses its authority to generate revenues to (1) apply for and receive grants from federal and state agencies, or (2) receive and manage a dedicated revenue source. It is unclear why voters would need to weigh in on the authority's ability to apply for and receive grants when other government agencies are not subject to such a requirement. In the case of receiving and managing a dedicated revenue source, the bill does not clearly state when this requirement applies. For example, it is unclear whether approving a contract or leasing property triggers this vote requirement. If there is an election, SB 281 requires San Francisco and San Mateo counties to place the measure on their respective ballots and CPA has to pay for the incremental costs associated with including the measure on the ballot. Typically, voter approval requirements concern a government agency's ability to issue debt, which is already subject to vote requirements in the California Constitution and state law. The Committee may wish to amend the bill to clarify when the authority needs voter approval to generate revenue.

5. Logistics. The bill requires the existing DAA to transfer the property, but the bill does not provide much time for the transfer to occur. The bill gives the new board six months to form, meet, and begin operations. It also provides both, the existing board and the new board, one year to transfer the property. One year may not provide sufficient time to resolve logistical issues regarding the transfer. The Committee may wish to consider whether the deadlines for executing the transfer are reasonable.

6. How would this transfer work? Fairs pool some of their sales tax revenues to keep the entire network afloat, which means that a decrease of sales tax revenue at one fair reduces the revenue available for capital projects in the entire fair system. SB 281 bans gun sales and transfers the property to the CPA, which can choose whether to continue holding events at the Cow Palace or to develop it into housing. As a result, CDFA would lose the portion of the AB 1499 sales tax revenue from the Cow Palace, meaning this transfer would have some impact on the entire fair system. Second, the bill does not address what happens to the DAA once it transfers the property. When fairs sell property, they can typically use the revenue from the sale to move into other facilities. If the DAA transfers the property, rather than selling it, the DAA will not only lose the venue, but also the revenue it could use to relocate. After the transfer, the state will have to decide what to do with the existing DAA and its board. For example, it could disband the

DAA or purchase another property for the fair. The Committee may wish to amend SB 281 to address the financial impact on the state when it transfers the property to the new board.

7. Gift of public funds. Section 6 of Article 16 of the California Constitution bans gifts of public funds even when they are between different government agencies unless they are for a public purpose. The bill includes provisions that explain that the transfer of property from the DAA to the CPA is not a gift of public funds. However, the ultimate decision about whether the transfer constitutes a gift of public funds lies with the courts.

8. Mandate. The California Constitution generally requires the state to reimburse local agencies for their costs when the state imposes new programs or additional duties on them. According to the Legislative Counsel's Office, SB 281 creates a new state-mandated local program. The bill includes provisions stating that it does not constitute a mandate because it creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime. However, if there are other mandated costs as determined by the Commission on State Mandates, the bill states that those reimbursements shall be made pursuant to existing statutory procedures. Ultimately, the Commission on State Mandates determines if a mandate is reimbursable and the amount of reimbursement to be provided.

9. Special legislation. Section 16 of Article 4 of the California Constitution prohibits special legislation when a general law can apply. SB 281 contains findings and declarations explaining the need for legislation that applies only to the Cow Palace.

10. Sunset. The bill includes language that sunsets the new authority in 2120, which gives it 100 years to operate. The Committee may wish to consider whether 100 years provides too much time for the authority to operate before requiring additional legislative scrutiny.

11. Triple-referred. The Senate Rules Committee has ordered a triple-referral of SB 281: first to the Senate Governance & Finance Committee, which has jurisdiction over bills relating to local government finance issues; second to the Senate Governmental Organization Committee, which has jurisdiction over bills relating to state government organization; and third to the Senate Public Safety Committee, which has jurisdiction over issues regarding the sale and use of firearms and ammunition.

12. Related legislation. The Legislature has made several attempts to ban gun shows at the Cow Palace—most notably, SB 221 (Wiener, 2018), SB 475 (Leno, 2014) and SB 585 (Leno, 2010), which were all vetoed on account of pre-empting the Board of Directors of the Cow Palace from exercising its contracting authority. When Governor Brown vetoed SB 221 last year, his veto message stated;

“...this bill has been vetoed twice over the last ten years, once by myself, and once by Governor Schwarzenegger. The decision on what kind of shows occur at the Cow Palace rests with the local board of directors, which, incidentally represents a broad cross section of the community. They are in the best position to make these decisions.”

### **Support and Opposition** (3/22/19)

Support: Bay Area Student Activists; California State Treasurer; Office of the Mayor, San Francisco

Opposition: B & L Productions DbA Crossroads Of The West Gun Shows; California Rifle And Pistol Association, Inc.; California Sportsman'S Lobby, Inc.; Gun Owners Of California, Inc.; National Shooting Sports Foundation, Inc.; Outdoor Sportsmen'S Coalition Of California; Safari Club International - California Chapters; Western Fairs Association

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