
SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION**Senator Bill Dodd****Chair****2019 - 2020 Regular**

Bill No:	SB 281	Hearing Date:	4/9/2019
Author:	Wiener, et al.		
Version:	3/28/2019 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Felipe Lopez		

SUBJECT: Cow Palace Authority

DIGEST: This bill requires the property known as the Cow Palace to be transferred to a newly established Cow Palace Authority (Authority) for the purpose of managing, developing or disposing of the property. Additionally, the bill bans gun shows at the Cow Palace.

ANALYSIS:

Existing law:

- 1) Authorizes the Department of General Services (DGS), subject to legislative approval, to sell, lease, exchange, or transfer various specified properties for current market value, or upon such other terms and conditions that DGS determines are in the best interest of the state.
- 2) Establishes criteria for state agencies to use in determining and reporting excess lands. A state agency must report land as surplus that is:
 - a) Not currently utilized, or is underutilized, for any existing or ongoing programs;
 - b) Land for which the agency cannot identify a specific utilization relative to future needs; and,
 - c) Land not identified by the state agency within its master plan for facility development.
- 3) Requires DGS to dispose of surplus state real property in a specified manner, and prescribes the priority of disposition of the property before DGS may offer it for sale to private entities or individuals.

- 4) Authorizes DGS to sell surplus real property to a local agency or to a nonprofit affordable housing sponsor for affordable housing projects at a sales price less than fair market value if DGS determines that such a discount will enable housing for persons and families of low or moderate income.
- 5) Divides the state into district agricultural associations (DAAs) for the purpose of, among other things, holding fairs and expositions exhibiting all of the industries and industrial enterprises, resources, and products of every kind or nature of the state with a view toward improving, exploiting, encouraging, and stimulating those industries.
- 6) Provides that the 1-A DAA governs the agricultural district that encompasses the County of San Mateo and the City and County of San Francisco.
- 7) Requires the directors of DAA's to consist of a board of directors of nine members. The directors are required to be citizens and residents of the district.
- 8) Requires the Governor to appoint directors. The term of office of each director is four years. However, any director may be removed for cause by the Governor prior to expiration of the director's term.
- 9) Directs retailers to segregate the amount of gross receipts from sales at fairs and three-fourths of one percent of these gross receipts go to the California Department of Food and Agriculture (CDFA) to fund state-designated fairs.
- 10) Provides that it is an offense to bring or possess, among other things, a firearm within any state or local public building. Among other exceptions, existing law provides an exception for guns brought to a gun show conducted pursuant to specified provisions of law.
- 11) Specifies the requirements that gun show operators must comply with at gun shows, including entering into a written contract with each gun show vendor selling firearms at the show, ensuring that liability insurance is in effect for the duration of a gun show, posting visible signs pertaining to gun show laws at the entrances of the event, and submitting a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers by the Department of Justice (DOJ), as specified.

This bill:

- 1) Requires, on or before January 1, 2021, the real property known as the Cow Palace to be transferred to the Authority.

- 2) Specifies that it is the intent of the Legislature to ensure that the transfer of the Cow Palace does not result in a loss of revenue to the state, and to allow this transfer to include a process for the Authority to raise funds locally to reimburse the state for the transfer of the property.
- 3) Specifies that it is the intent of the Legislature that this transfer occurs in order to address longstanding community concerns with the Cow Palace, but not to create a precedent for other local agencies to take control of property owned by a DAA.
- 4) Establishes the Authority as a regional entity with jurisdiction extending throughout the Cow Palace property area. The Authority shall have the purpose of managing, developing, or disposing of the Cow Palace.
- 5) Requires the Authority to be the successor to any contracts relating to the Cow Palace.
- 6) Requires the Authority to receive the property and is authorized to take any of the following actions:
 - a) Enter into contracts or agreements for the demolition of existing structures on the property.
 - b) Enter into contracts or agreements for the development of the property for affordable and market-rate mixed-use housing.
- 7) Authorizes the Authority to establish minimum local zoning standards that are different from those adopted by any other affected local jurisdiction, as specified. In adopting these standards, the authority is required to follow standards set forth by the Legislature to promote robust transit-oriented, mixed-use development on the property.
- 8) Requires the Authority to be governed by a board, as specified, composed of seven voting members as follows:
 - a) Two members from the Board of Supervisors of the City and County of San Francisco appointed by the Mayor of the City and County of San Francisco.
 - b) Three members from the City Council of the City of Daly City appointed by the Mayor of the City of Daly City.
 - c) Two members from the Board of Supervisors of the County of San Mateo appointed by the Board of Supervisors of the County of San Mateo.

- 9) Specifies that the Authority has all the powers necessary to carry out the intent and purpose of this bill, as specified.
- 10) Authorizes the Authority to raise funds and award grants to public and private entities, as specified.
- 11) Requires the first meeting of the board to occur no later than June 1, 2020.
- 12) Requires the board, six months after the first meeting, to convene a Cow Palace Advisory Committee (Committee) to assist and advise the board in carrying out the functions of the board. The Committee shall meet on a regular basis.
- 13) Requires the membership of the Committee to be determined by the Authority bases upon criteria that provide a broad representation of the community, as specified.
- 14) Specifies that this bill shall not be interpreted to interfere with any contract entered into on or before December 31, 2019.
- 15) Prohibits the 1-A DAA or the Authority, or other state agency that owns, occupies, operates, or control the Cow Palace to conduct, contract, authorize, or allow the sale of any firearm or ammunition on any property of the Cow Palace. This section does not apply to a gun buy-back event held by a law enforcement agency.
- 16) Requires the board to provide for regular audits of the Authority's accounts and records and to maintain accounting records and to report to the State Controller, as specified.
- 17) Requires the board to provide for annual financial reports and make those reports available to the public.
- 18) Requires the board to be funded through gifts, donations, grants, state or local bonds, assessments, other appropriate funding sources, and other types of financial assistance from public and private sources.
- 19) Includes a sunset date of January 1, 2120.

Background

Purpose of the bill. According to the author's office, "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 have ignored the local community's requests."

To address this concern, SB 281 bans gun shows at the Cow Palace and transfers the Cow Place to a locally controlled authority consisting of representatives from Daly City, San Mateo County, and the city and county of San Francisco.

Cow Palace. The Cow Palace is the 1-A DAA, a state agency of CDFA, located in the City of Daly City at the border of San Mateo and San Francisco counties. The Cow Palace operates as a DAA within this agricultural district and consists of approximately 68 acres. 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.

California Fair System. Fairs in California began in 1854 and have since grown to encompass 80 fairs statewide. The network of California fairs includes 54 DAAs, 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. Directors have four-year terms and can be removed from office by the Governor. 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 CDFA provides fiscal and policy oversight for the network of California fairs, and 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, Chapter 798, Statutes of 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.

Gun shows in California. 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. Additionally, state law states that a dealer operating at a gun show must comply with all applicable laws, including California's waiting period law, laws governing the transfers of firearms by dealers. In order for a person to organize or operate a gun show in California, the individual must first possess a valid certificate of eligibility from DOJ.

Gun show operators must comply with a number of certain conditions including: entering into a written contract with each gun show vendor selling firearms at the show, ensuring that liability insurance is in effect for the duration of a gun show, posting visible signs pertaining to gun show laws at the entrances of the event, and submitting a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers to DOJ.

Current process for surplus property. The DGS is currently responsible for the disposition of state-owned property that has been declared surplus to future state needs. The Legislature must declare the property to be surplus and must authorize the Director of DGS to sell, exchange, lease, or transfer the surplus property according to specified procedures set forth in law.

Generally, current law requires surplus property to be transferred or sold at market value, or upon such other terms and conditions that DGS determines are in the best interest of the state. Current law gives right of first refusal on any surplus property to a local agency and then to a nonprofit affordable housing sponsor, prior to being offered for sale to private entities or individuals in the open market. In addition, DGS is authorized to sell surplus property to a local agency or to a nonprofit affordable housing sponsor at a sales price less than fair market value if DGS determines that such a discount will enable housing for individuals or families of low or moderate income.

SB 281 is unique in a couple of ways. First, the Cow Palace is not surplus property. Secondly, the bill requires the property to simply be transferred to the newly created Authority. Unlike the process described above, the transfer would seemingly occur at no cost to the newly created Authority and at a tremendous cost to the state.

Setting of precedent. The bill currently requires the Cow palace to be transferred to the newly created Authority even though the property has not been declared surplus by DGS. While the bill does include legislative intent language that

provides that this bill does not create a precedent for other local agencies to take control of property owned by a DAA, the mere inclusion of that language suggests that this could in fact create such a precedent. The housing crisis in California is not unique to a particular region in the state, if this bill becomes law, it is realistic to believe that other local agencies could look at property owned by a DAA as way to obtain property that can be used for housing or other local needs.

Suggested amendment. The bill currently provides that it is the intent of the Legislature that the transfer of the Cow Palace does not result in a loss of revenue to the state, however the bill does not provide for a mechanism that would not result in drastic loss to the state. Therefore, the committee may wish to consider the following amendments:

Amendment 1. Delete Section 67490.5.5 (a) of the bill and instead require the Director of DGS, on or before January 1, 2021 in consultation with CDFA, to enter into negotiations to sell, at fair market value, upon those terms and conditions and subject to those reservations and exceptions that the Director of DGS determines are in the best interest of the state, to sell the Cow Palace to the Authority. Nothing in this section should be interpreted to require the Director of DGS to sell the Cow Palace, if the Director, after good faith negotiations, determines that it is not in the best interest of the state to sell the Cow Palace to the Authority. Nothing in this section precludes the Director of DGS from entering into terms that allow the transfer of the property prior to receiving full payment if the Director determines that such terms are in the best interest of the state.

Amendment 2. Require the Authority to reimburse DGS for any cost or expense incurred in the disposition of the Cow Palace.

Amendment 3. Require the net proceeds of any moneys received from the disposition of the Cow Palace be paid into the Fair and Exposition Fund for the benefit of the District 1-A Agricultural Association.

Amendment 4. Require retailers at the Cow Place to continue segregating the amount of gross receipts from sales at fairs and require that three-fourths of one percent of these gross receipts go to CDFA to fund state-designated fairs. This would mirror the process set forth by AB 1499 (Gray, Chapter 798, Statutes of 2017). This amount shall come from state tax.

Amendment 5. If the Director determines that the transfer of the property is not in the best interest of the state, the Director of DGS shall submit a report to the Legislature as to the reason why the Director determined that such a transfer is not in the best interest of the state.

Some of these amendments are similar to language that was included in SB 1527 (Yee, 2008) which would have required DGS to enter into negotiations to sell a 13 acre specified property within the Cow Palace. That bill was vetoed by Governor Schwarzenegger however. In his veto message, the Governor stated that the bill, “circumvents the state’s current competitive bid process and would potentially limit the state’s financial return for the sale of the state-owned land without creating any added value for the surrounding community.”

Prior/Related Legislation

SB 6 (Beall, 2019) would require the Department of Housing and Community Development to provide DGS with a list of local lands suitable and available for residential development, and would require DGS to create a public and searchable database of that information as well as information regarding state surplus properties, as specified. (Pending in the Senate Governmental Organization Committee)

SB 221 (Wiener, 2018) would have prohibited the sale of firearms and ammunitions at the Cow Palace. (Vetoed by Governor Brown)

AB 1499 (Gray, Chapter 798, Statutes of 2017) directed retailers to segregate the amount of gross receipts from sales at fairs; required the California Department of Tax and Fee Administration to calculate three-fourths of one percent of these gross receipts and report this amount to the Department of Finance; and required the Governor's Budget to include these amounts in the Budget for allocation to the Department of Food and Agriculture for allocation to state-designated fairs.

SB 475 (Leno, 2014) would have required the approval of the board of supervisors of both the County of San Mateo and the City and County of San Francisco before an event at which a firearm or ammunition is sold at the Cow Palace. (Vetoed by Governor Brown)

SB 585 (Leno, 2010) would have prohibited events at which firearms and ammunition are sold at the Cow Palace as specified. (Vetoed by Governor Brown)

SB 1527 (Yee, 2008) would have directed DGS prior to January 1, 2009, to enter into negotiations to sell a 13 acre specified property within the Cow Palace at fair market value, with certain restrictions, upon terms and conditions deemed to be in the state’s best interest. (Vetoed by Governor Schwarzenegger)

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT:

Bay Area Students Activists
California State Treasurer, Fiona Ma
City and County of San Francisco, Board of Supervisors
Office of the Mayor, San Francisco

OPPOSITION:

California Rifle and Pistol Association, Incorporated
California Sportsman's Lobby
Coalition to Save the Cow Palace
Crossroads of the West
Daly City History Guild Museum & Archive
Firearms Policy Coalition
Gun Owners of California
National Rifle Association
National Shooting Sports Foundation, Inc.
Outdoor Sportsmen's Coalition of California
Safari Club International
Safari Club International Foundation
Western Fairs Association
One individual

ARGUMENTS IN SUPPORT: According to the Bay Area Student Activists, “we support this bill because, as students, and as citizens of this country, we are unilaterally opposed to the celebration of America’s deeply disturbing gun culture as exemplified by these gun shows. Allowing gun shows to be held at the Cow Palace runs against the policies pursued by the surrounding communities that aim to minimize access to weapons that can easily be used to inflict death and destruction on those very communities.”

According to the California State Treasurer, Fiona Ma, “the cow palace has been an issue I have been following very closely since 2007. For years, the community surrounding the Cow Palace in both Daly City and San Francisco have called on the Cow Palace Board and Management to work with the community on mutually beneficial projects. Through my experience, I believe that the Cow Palace Board and Management have lost its focus and has allowed the property to decline and become a blight on the working community around it.”

ARGUMENTS IN OPPOSITION: According to the Western Fairs Association, “SB 281 transfers property to the [Authority]. The [Authority] is

authorized to demolish state owned buildings and enter into contracts on state owned property without any oversight by DGS. In this regard, SB 281 sets a dangerous precedent whereby the Legislature can simply take state property managed by a DAA. SB 281 would also prohibit all sales of firearms and ammunition at events held at the Cow Palace beginning in 2020. Such a prohibition will not enhance public safety as current law already requires all firearm transactions at the Cow Palace, or any gun show location in California, meet the same stringent standards as required in a dealer's store. Prohibiting gun shows at the Cow Palace harms the financial situation of the venue."

According to the Coalition to Save the Cow Palace, "the current Board is already engaged in the process of creating a retail and housing development in cooperation with an adjacent private land-owner and Daly City. This development would be compatible with the 1-A DAA's public purpose and proceeds would support long-term improvement plans to revitalize the overall facility. This would achieve all three of the author's key goals: housing, increased utilization of the facility, and community needs for retail expansion in the area. The gun show issue is largely moot, as their contract expires this year and its renewal is highly unlikely give the political realities in Sacramento."

TRIPLE REFERRAL: Senate Governance and Finance Committee (4-2), Senate Governmental Organization Committee, and Senate Public Safety Committee.