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State of California

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OPINION  
  
of  
  
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Deputy Attorney General

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No. 81-313  
  
MAY 22, 1981

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THE HONORABLE RICHARD E. ROMINGER, DIRECTOR,  
DEPARTMENT OF FOOD AND AGRICULTURE, has requested an opinion on the  
following question:

Does the Director of Food and Agriculture have a statutory duty to approve  
the actions taken by the Sixth District Agricultural Association in the construction,  
maintenance, and operations of its facilities?

CONCLUSION

The Director of Food and Agriculture does not have a statutory duty to  
approve the actions taken by the Sixth District Agricultural Association in the construction,  
maintenance, and operations of its facilities.

## ANALYSIS

The State of California is divided into numerous agricultural districts. (Food and Agri. Code §§ 3851–3904.)<sup>1</sup> While most districts encompass an entire county, Los Angeles County is divided into four districts. (§§ 3857, 3899, 3901, 3901.5.) One of these districts, district 6, owns property in downtown Los Angeles and is known as the California Museum of Science and Industry (“Museum”). (§§ 3857, 4101; 63 Ops. Cal. Atty. Gen. 299, 300–301 (1980).)

The question presented for analysis is whether the Museum’s operations, including the construction and maintenance of its facilities, are subject to the approval of the Director of Food and Agriculture (“Director”). We conclude that they are not.

The association that operates the Museum, like those operating the other agricultural districts, is a “state institution” (§ 3953) governed by state officers (§ 3962) appointed by the Governor (§ 3959) and is considered to be a “public agency of the state” (*Sixth District etc. Assoc. v. Wright* (1908) 154 Cal. 119, 128; 3 Ops. Cal. Atty. Gen. 263, 264 (1944).)

The statutes dealing with the Museum, however, are quite distinct from those governing the other agricultural districts. The Museum is the only district which is not known as an agricultural district. Although the main function of an agricultural association is to hold an annual fair (§§ 3951, 4003, 4051, 4052, 4055, 4056), the Museum leases out a sports stadium and arena complex (§ 4102), operates a space age museum (4103), and has established a museum of Afro-American history and culture (§ 4104), besides maintaining exhibits in various scientific and industrial fields and conducting workshops and seminars with respect thereto throughout the year. (See 63 Ops. Cal. Atty. Gen. 299, 301 (1980).) It does not hold a fair.

In keeping with its unique functions, the Museum receives its money from the state General Fund rather than from the Fair and Exposition Fund. (Bus. & Prof. Code § 19627; 56 Ops. Cal. Atty. Gen. 210, 214 (1973).)

While the operations of the other districts are subject to the approval of the Director and are supervised by the Department of Food and Agriculture (§§ 32, 3965, 3966, 4051, 4054), the Legislature has specifically provided with respect to the Museum as follows.

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<sup>1</sup> All section references hereinafter are to the Food and Agricultural Code unless otherwise specified.

“The Sixth District Agricultural Association shall be known as the California Museum of Science and Industry. It is *within the Department of Commerce*, which is a unit of the Agriculture and Services Agency.” (§ 4101; italics added.)

“The California Museum of Science and Industry, *with the approval of the Department of Commerce*, may build, construct, and maintain and operate a stadium or any arena, pavilion, or other building which is to be used for the holding of sports events, athletic contests, contests of skill, exhibitions, spectacles, and other public meetings. It may lease, let, or grant licenses for the use of such stadium, arena, pavilion, or other building.” (§ 4102; italics added.)

From 1970 to 1978, the Department of Commerce consisted of the California World Trade Authority, the Division of Economic Development, the Office of Tourism and Visitor Services, as well as the Museum. (Stats. 1969, ch. 1161, § 13.) The following provisions were added to the Government Code under the statutory scheme:

“14985. The Director of Commerce shall direct the activities of the several divisions within the Department of Commerce, and provide direction of the programs of those divisions with the objective of promoting and stimulating the economic growth of the State of California.

“14986. Except to the extent expressly provided by this part, the Department of Commerce and the Director of Commerce succeed to the duties, powers, purposes, responsibilities, and jurisdiction previously vested in the several agencies comprising the department.

“14987. The Department of Commerce shall have the possession and control of all records, papers, offices, equipment, supplies, land, and other property, real or personal, held for the benefit or use of any division in the performance of its duties, powers, purposes, responsibilities, and jurisdiction.

“14988. *The Director of Commerce succeeds to the powers, with respect to the Museum of Science and Industry, vested in the Department of Agriculture by Part 3 (commencing with Section 3801) of Division 3 of the Agricultural Code.*” (Stats. 1969, ch. 1161, § 13; italics added.)

The Legislature also provided in the department reorganization as follows:

“On the effective date of this act the Department of Commerce shall succeed to the duties, powers, purposes, responsibilities and jurisdiction previously vested in the California World Trade Authority, the Office of Tourism and Visitor Services, the Division of Economic Development, and the Department of Agriculture with respect to the Museum of Science and Industry. Pursuant to Sections 16304.9 and 19370 of the Government Code, the apportioned unexpended appropriations and members of the state civil service of any agency, the functions of which the Department of Commerce succeeds to, shall be transferred to the Department of Commerce.” (Stats. 1969, ch. 1161, § 15; italics added.)

Certain of these statutes, particularly Government Code section 14988, were repealed when the Department of Commerce was succeeded by the Department of Economic and Business Development. (Stats. 1977, ch. 345, § 2.) The new department took over the functions of the Department of Commerce, *except* for the Museum’s operations. (See Gov. Code § 15325.)

We thus have a classic case for statutory construction. Sections 4101 and 4102, as well as section 13 of chapter 1161 of the statutes of 1979, make no sense in their present form. (See also § 3806.) The Legislature has abolished a department of state government without changing all of the statutes dealing with the department’s functions and responsibilities. Until the Legislature expressly clarifies, the situation, we must come to some resolution as to what the Legislature now intends.

Although virtually any construction of a statutory scheme may be supported by some well established rule of statutory construction (see *Consumers Union of U.S., Inc. v. California Milk Producers Advisory Bd.* (1978) 82 Cal. App. 3d 433, 445, fn. 7), the cardinal rule is to “ascertain the intent of the Legislature so as to effectuate the purpose of the law.” (*Select Base Materials v. Board of Equal.* (1959) 51 Cal. 2d 640, 645.)

It is clear that when the Legislature last considered the issue directly, it removed the Museum’s operations from the control of the Director and the Department of Food and Agriculture. The legislative change was reasonable and consistent with the functions of the Director in supervising the agricultural districts’ annual fairs (see Gov. Code § 19620), an activity the Museum does not perform.

Regarding the current administrative practice, we are informed that the Director has not been supervising the operations of the Museum for the past several years;

rather, other state agencies have assumed such responsibility with the abolishment of the Department of Commerce.<sup>2</sup> The contemporaneous administrative construction of legislation is entitled to great weight when determining the proper meaning of uncertain statutory language. (See *Judson Steel Corp. v. Workers' Comp. Appeals Bd.* (1978) 22 Cal. 3d 658, 668–669; *Merrill v. Department of Motor Vehicles* (1969) 71 Cal. 2d 907, 917; *Bodinson Mfg. Co. v. California E. Com.* (1941) 17 Cal. 2d 321, 365–366.)

We do not believe that the Legislature intended for the Director to resume responsibility over the Museum's operations merely because the Department of Commerce was succeeded in most of its functions by the Department of Economic and Business Development. It would appear that the current administrative practice with respect to the activities of the Museum is a reasonable solution pending the necessary clarification by the Legislature.

We conclude that the Director does not have a statutory duty to approve the actions taken by the Museum in the construction, maintenance, and operations of its facilities.

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<sup>2</sup> We are not concerned in this opinion with the functions of these other state agencies but are only concerned herein with the statutory duties of the Director.