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AB-933 Food and agriculture omnibus bill. (2017-2018)

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Assembly Bill No. 933

CHAPTER 144

An act to amend Sections 224, 4401.5, 36004, 79804, and 79851 of the Food and Agricultural Code, relating to food and agriculture, and making an appropriation therefor.

[Approved by Governor July 31, 2017. Filed with Secretary of State July 31, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 933, Committee on Agriculture. Food and agriculture omnibus bill.

(1) Existing law provides for the distribution to counties of funds transferred to the Department of Food and Agriculture Fund from the Motor Vehicle Fuel Account as partial reimbursement for county expenses incurred in carrying out various agricultural programs, as specified. Existing law appropriates to the Department of Food and Agriculture moneys in the Department of Food and Agriculture Fund transferred from the account, as prescribed, for, among other things, disbursement to counties for the uniform application of state agricultural policy and administration of programs supervised by the Secretary of Food and Agriculture.

This bill would make the California Agricultural Commissioners and Sealers Association eligible for this disbursement. Because the bill would make money in a continuously appropriated fund available for a new purpose, it would make an appropriation.

(2) Existing law requires the Secretary of Food and Agriculture to expend up to \$100,000 in any fiscal year for an exhibit or exhibits at a state-supported fair that demonstrates the process of production and use of food and fiber and to annually provide for a conference of fair judges to aid the Department of Food and Agriculture in prescribing regulations for the judging of exhibits and for the premiums paid for all classes, sections, and types of exhibits, and authorizes the secretary to expend up to \$15,000 in any fiscal year for these purposes.

This bill would instead authorize rather than require the secretary to expend up to \$100,000 in any fiscal year for those exhibits.

(3) Existing law, the Milk and Milk Products Act of 1947, regulates milk and milk products and establishes standards for the manufacturing, handling, processing, and marketing of milk and milk products. The act, except as specified, requires there appear upon the package or container of a market milk or market cream product the date established by the processor as the date upon which, to ensure quality, the product is normally removed from the shelf or similar location.

This bill would require that the date established by the processor and that appears on the package or container of the market milk or cream be to ensure consumer quality.

(4) Existing law creates the Olive Oil Commission of California in state government with a prescribed membership, and specifies the powers, duties, and responsibilities of the commission board of directors. Existing law provides that the commission form of administration is uniquely situated to provide those engaged in commission activities the opportunity to avail themselves of the benefits of collective action in the broad fields of olive oil research and grades and labeling standards and authorizes the

commission board of directors to, among other things, carry out programs of research relating to olive oil and to recommend to the Secretary of Food and Agriculture olive oil grades and labeling standards.

This bill would expand the powers and duties of the commission board of directors to include public education and engaging in communications with the public regarding activities authorized by these provisions.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 224 of the Food and Agricultural Code is amended to read:

224. Moneys transferred by the Controller to the Department of Food and Agriculture Fund from the Motor Vehicle Fuel Account pursuant to Section 8352.5 of the Revenue and Taxation Code shall be expended by the Secretary of Food and Agriculture as follows:

(a) Of the amount transferred each fiscal year, nine million dollars (\$9,000,000) is hereby appropriated to the Department of Food and Agriculture for payment to the counties for pesticide use enforcement programs supervised by the Director of Pesticide Regulation. Reimbursement shall be apportioned to the counties in relation to each county's expenditures to the total amount expended by all counties for the preceding fiscal year for pesticide use enforcement programs, as determined by the director, or with the collective agreement of the agricultural commissioners, disbursement to counties for a current fiscal year according to criteria developed in work plans, or any combination of reimbursement and disbursement as agreed upon by the director and the agricultural commissioners. The amount to be transferred to any county for a fiscal year may be increased or decreased by the director to compensate for incorrect previous transfers to that county, or adjusted based on evaluations of annual county Pesticide Enforcement Workplans conducted by the Department of Pesticide Regulation.

(b) Of the amount transferred each fiscal year, two hundred fifty thousand dollars (\$250,000) is hereby appropriated to the Department of Food and Agriculture for state and county liaison activities and for departmental expenses directly related to administration of this section.

(c) Of the amount transferred each fiscal year, one million five hundred thousand dollars (\$1,500,000) is hereby appropriated to the Department of Food and Agriculture for divisional and departmental overhead charges to the Department of Food and Agriculture.

(d) Of the amount transferred each fiscal year in excess of the amount transferred in the 2006–07 fiscal year, 7 percent is hereby appropriated to the Department of Food and Agriculture for full disbursement to the California Agricultural Commissioners and Sealers Association, as specified in Section 2003, and individual counties. The funds dispersed to individual counties, pursuant to subdivision (g), shall be in a proportion to offset expenses associated with programs, personnel, and materials that ensure the uniform application of state agricultural policy or administer programs supervised by the secretary.

(e) Notwithstanding any other law, of the amount transferred each fiscal year, three million dollars (\$3,000,000) is hereby appropriated for distribution to counties in a manner prescribed by the secretary for pest detection or trapping programs. These funds are intended to supplement funds available for pest detection or trapping in the annual Budget Act. As a condition of receiving these funds, counties shall not reduce their level of support from any other funds for pest detection or trapping programs. If a county declines to participate in a pest detection or trapping program, or fails to conduct the program to the state's satisfaction, the secretary shall reduce, by the amount that would otherwise be allocated to the county, funds available pursuant to this subdivision and any state allocations from the annual Budget Act. Those forfeited funds are hereby appropriated to the Department of Food and Agriculture for purposes of operating the pest detection or trapping programs in those counties.

(f) (1) Of the amount transferred each fiscal year, three million dollars (\$3,000,000) is hereby appropriated to the Department of Food and Agriculture to be used for emergency detection, investigation, or eradication of agricultural plant or animal pests or diseases during the fiscal year, upon approval of the Director of Finance. At the end of each fiscal year, any unencumbered balance of these funds shall be carried over to the next fiscal year, or at the discretion of the secretary, may be used for planning and research involving detection, investigation, eradication, and methods of quarantine compliance for agricultural plant or animal pests or diseases.

(2) The department shall develop policies, in consultation with the agricultural commissioners and in compliance with any requirements of the annual Budget Act, to guide the ongoing use of these funds.

(g) The total amount transferred during each fiscal year less the amounts provided in subdivisions (a) to (f), inclusive, is hereby appropriated to be paid to the counties for agricultural programs authorized by this code that are supervised by the Department of Food and Agriculture and administered by agricultural commissioners. Reimbursement shall be apportioned to the counties in relation to each county's expenditures to the total amount expended by all counties for the preceding fiscal year for agricultural

programs, as determined by the secretary, or with the collective agreement of the agricultural commissioners, disbursement to counties according to criteria developed in work plans for a current fiscal year, or any combination of reimbursement and disbursement as agreed upon by the secretary and the agricultural commissioners. The amount to be transferred to any county for a fiscal year may be increased or decreased by the secretary to provide that, insofar as those transferred unclaimed refundable gas tax funds for apportionment to the counties are available, no county shall receive smaller combined apportionments of gas taxes and unclaimed refundable gas taxes than that county would have received had the gas taxes been apportioned without the transfer required by Section 8352.5, as determined by the secretary, except that the amount of unclaimed refundable gas tax funds to be transferred to any county for a fiscal year may be increased or decreased by the secretary to compensate for incorrect previous transfers to that county, and to account for any failure to meet the criteria listed in Section 224.5.

SEC. 2. Section 4401.5 of the Food and Agricultural Code is amended to read:

4401.5. (a) The secretary may expend an amount not to exceed a total of one hundred thousand dollars (\$100,000) in any fiscal year for any exhibit or exhibits located on any state-supported fair demonstrating, in a creative and innovative manner, the process of production and use of food and fiber from the producer to the consumer in this state.

(b) The secretary may annually provide for a conference of fair judges to aid the department in prescribing regulations adopted pursuant to Section 4501. The secretary may expend up to fifteen thousand dollars (\$15,000) in any fiscal year for these purposes.

SEC. 3. Section 36004 of the Food and Agricultural Code is amended to read:

36004. (a) At the time of sale to the consumer by a retail store of any product designated in this section, there shall appear upon the package or container of the product the date established by the processor as the date upon which, in order to ensure consumer quality, the product is normally removed from the shelf or similar location from which the product is offered for sale to the consumer.

(b) This section applies to the following products:

(1) Market milk.

(2) Market cream.

(3) Any milk product that is required by any provision of this code, or by any regulation adopted by the secretary pursuant to this code, to be made from market milk or any component or derivative of market milk.

(c) This section does not apply to any milk or milk products processed, packaged, and sold by distributors directly to consumers.

(d) This section does not apply to any bulk shipments of milk or milk products between distributors.

(e) The secretary shall, in compliance with applicable provisions of this code and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and after public hearing or hearings, adopt regulations pertaining to (1) responsibility for affixing to packages or other containers the quality assurance date provided for in this section, (2) the manner, style, form, and place of affixation of the date to packages and other containers in a conspicuous place in a form that is readily seen and easily understood by the buyer, and (3) the administration and enforcement of the requirements of this section.

SEC. 4. Section 79804 of the Food and Agricultural Code is amended to read:

79804. The commission form of administration created by this chapter is uniquely situated to provide those engaged in the activities specified in this chapter the opportunity to avail themselves of the benefits of collective action in the broad fields of olive oil research, grades and labeling standards, and public education.

SEC. 5. Section 79851 of the Food and Agricultural Code is amended to read:

79851. The powers and duties of the commission board of directors shall include, but are not limited to, all of the following:

(a) Adopt and from time to time alter, rescind, modify, and amend bylaws, rules, and orders, and recommend regulations in accordance with Article 9 for carrying out this chapter, including rules for appeals from any bylaw, rule, regulation, order, or recommended regulation. These actions shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Administer and enforce this chapter and perform all acts and exercise all powers incidental to, or in connection with, or determined reasonably necessary for, proper or advisable effectuation of the purposes of this chapter.

(c) Appoint its own officers from the members of the commission board of directors, including a chairperson, one or more vice chairpersons, and any other officers as it determines necessary. The officers shall have the powers and duties delegated to them by the commission board of directors.

(d) Employ a person to serve at the pleasure of the commission as president and chief executive officer, and other personnel, including legal counsel, necessary to carry out this chapter. The commission may retain a management firm or staff from any board, commission, or committee of the state to perform the functions prescribed by this subdivision under control of the commission board of directors. If a person subject to this subdivision engages in conduct that the secretary determines to be in violation of this chapter, or is not in the public interest, the secretary shall notify the commission of the conduct and request that corrective, and if appropriate, disciplinary action, be taken by the commission board of directors. If the commission board of directors fails or refuses to correct the situation or to take disciplinary action satisfactory to the secretary, the secretary may suspend or discharge the person subject to this subdivision.

(e) Fix the compensation for all employees.

(f) Appoint committees composed of both members and nonmembers of the commission board of directors to advise in carrying out this chapter.

(g) Establish offices and incur expenses, invest funds, enter into contracts and agreements, and create liabilities and borrow funds in advance of receipt of assessments as determined necessary for the proper administration and enforcement of this chapter and the performance of its duties.

(h) Keep accurate books, records, and accounts of all of its dealings, which shall be subject to an annual audit by an auditing firm selected by the commission board of directors with the concurrence of the secretary. The audit shall be made a part of an annual report to all producers of olives and handlers subject to this chapter, and, notwithstanding Sections 9795 and 10231.5 of the Government Code, copies of the audit shall be submitted to the Legislature and the department. In addition, the secretary may, as he or she determines necessary, conduct, or cause to be conducted, a fiscal and compliance audit of the commission.

(i) Present facts to, and negotiate with, state, federal, and foreign agencies on matters that affect the purposes of this chapter.

(j) Make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and any other contracts or agreements determined to be necessary for the purposes specified in this chapter.

(k) Conduct, and contract with others to conduct, research, including the study, analysis, dissemination, and accumulation of information obtained from research or elsewhere for purposes described in this chapter. In connection with the research, accept contributions of, or to match, private, state, or federal funds that may be available for these purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting the research.

(l) Collect information and publish and distribute to producers a bulletin or other communication for dissemination of information relating to this chapter.

(m) Establish an assessment rate to defray operating costs.

(n) Establish an annual budget according to accepted accounting practices. The budget shall be concurred in by the secretary prior to disbursement of funds, except for disbursements made pursuant to subdivision (e).

(o) Submit to the secretary for his or her concurrence, an annual statement of contemplated activities authorized under this chapter.

(p) Investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

(q) Engage in activities and administer any program authorized in Article 9 (commencing with Section 79901) of this chapter.

(r) Prescribe the form and manner by which proponents and opponents of the commission may contact producers so long as all expenses associated with the contacts are paid in advance.

(s) Engage in communications with the public regarding activities authorized in this section.