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AB-623 State-designated fairs: district agricultural associations: farmers' markets: California Apple Commission. (2021-2022)

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Assembly Bill No. 623

CHAPTER 374

An act to add Section 19418.5 to the Business and Professions Code, and to amend Sections 3956, 47020, 75504, 75514, 75531, 75536, 75538, 75539, and 75541 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 28, 2021. Filed with Secretary of State September 28, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 623, Committee on Agriculture. State-designated fairs: district agricultural associations: farmers' markets: California Apple Commission.

(1) Existing law defines state-designated fairs as the California Exposition and State Fair and other specified fairs that may receive financial support or are otherwise governed by specified state laws.

This bill would make findings and declarations of the Legislature concerning state-designated fairs, and would require a state-designated fair to develop applicable policies and procedures in order to make opportunity purchases, as defined.

(2) Existing law divides the state into agricultural districts, and provides for the management of these districts by district agricultural associations. Existing law requires the officers of the association to consist of a board of directors of 9 members. A violation of the statutes governing agricultural districts is generally a misdemeanor.

This bill would prohibit directors from officially being seated on the board or participating in a board meeting until they have completed any mandatory forms and training, as required by state law and as determined by the Department of Food and Agriculture. The bill would require a director to complete any form or training that becomes mandatory during their term of office, retake any mandatory training that is required to be repeated periodically, and continue to submit any required forms during their term of office, within 90 days of the form or training requirement or the expiration of the effective period of the form or training, and to be subject to removal from the board if they do not comply, as specified. By creating a new crime, this bill would impose a state-mandated local program.

(3) Existing law requires a certified farmers' market operator to annually register with the department by applying for and obtaining a certificate from a county agricultural commissioner that shall be valid for 12 months.

This bill would change the period of time in which a certified farmers' market certificate is valid from 12 months to up to 12 months and make other conforming and nonsubstantive changes to these provisions.

(4) Existing law provides that there is in state government the California Apple Commission, which consists of 12 apple producers and handler members, and one public member. Existing law specifies the 3 districts of the commission, requires eligible persons from within the districts to elect 3 producers and one handler from each district, and authorizes the commission to modify the number of producers who serve on the commission and are elected from each district. Existing law authorizes the boundaries of

any district to be changed by a $\frac{2}{3}$ vote of the members of the commission, as specified. Existing law requires 3 alternative members, one from each district, to be selected pursuant to procedures adopted by the commission. Existing law declares that the commission is a corporate body and has all the powers of a corporation.

This bill would instead authorize, after the commission provides notice to all eligible producers, the number of districts and their boundaries to be changed by a $\frac{2}{3}$ vote of the members of the commission, as specified. The bill would instead require, when there are 2 or more districts, the commission to consist of a board of directors of 3 producers and one handler from each district, and one public member. The bill would instead require, when there is one statewide district, the board to consist of no less than 6 producers and one handler, as determined by a $\frac{2}{3}$ vote of the commission, and one public member. The bill would instead require alternate members to be selected pursuant to procedures adopted by the commission. The bill would remove the declaration that the commission is a corporate body and has all the powers of a corporation. The bill would also make other conforming and nonsubstantive changes to certain related provisions.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 19418.5 is added to the Business and Professions Code, to read:

19418.5. (a) The Legislature finds and declares that district agricultural associations, county fairs, citrus fruit fairs, and the California Exposition and State Fair, collectively known as state-designated fairs pursuant to Section 19418, are a valuable community resource, and recognizes that local businesses and local communities make valuable contributions to state-designated fairs that include direct and indirect support of fair programs. The Legislature further finds and declares that local businesses often provide opportunity purchases to local state-designated fairs that, for similar things available through the state purchasing program, may be purchased locally at a price equivalent to or less than that available through the state purchasing program.

(b) In order to make opportunity purchases, a state-designated fair shall develop applicable policies and procedures.

(c) As used in this section, "opportunity purchases" means purchases made locally, either individually or cooperatively, at a price equal to or less than the price available through the state purchasing program on or off state contract.

SEC. 2. Section 3956 of the Food and Agricultural Code is amended to read:

3956. (a) The officers of the association shall consist of a board of directors of nine members. The directors shall be citizens and residents of the district.

(b) (1) A director shall not officially be seated on the board or participate in a board meeting until they have completed any mandatory forms and training, as required by state law and as determined by the department.

(2) A director shall, on a timely basis, complete any form or training that becomes mandatory during their term of office, retake any mandatory training that is required to be repeated periodically, and continue to submit any required forms during their term of office. The relevant form or training shall be completed by the director within 90 days of the form or training requirement or the expiration of the effective period of the form or training. A director shall be subject to removal from the board if they do not comply with these requirements.

SEC. 3. Section 47020 of the Food and Agricultural Code is amended to read:

47020. (a) An operator of a certified farmers' market shall register with the department by applying for and obtaining a certificate from the county agricultural commissioner's office in the county in which the certified farmers' market is located. The application shall include the times and location of the farmers' market, the name and contact information for the operator of the farmers' market, and the agent for service of process for the operator. Upon approval of an application, the county agricultural commissioner shall issue to the operator a certified farmers' market certificate.

(b) A certified farmers' market certificate issued by a county agricultural commissioner shall be valid for up to 12 months from the date of issue, and may be renewed annually thereafter. The county agricultural commissioner shall inspect every certified farmers' market within the commissioner's jurisdiction at least once for every six months of operation. At the time of application or

renewal, the county agricultural commissioner shall provide a schedule of fees that reflects an estimate of expenses for inspections and may charge a certification and inspection fee equal to the actual expenses incurred.

(c) (1) (A) Before selling at a certified farmers' market, a producer shall register with the department by applying for and obtaining a certificate from the county agricultural commissioner's office in the county in which the producer's land or facility is located. The application shall include a declaration by the producer that the producer is knowledgeable of and intends to produce in accordance with good agricultural practices, as outlined in the Small Farm Food Safety Guidelines published by the department. Upon approval of an application, the county agricultural commissioner shall issue to the producer a certified producer's certificate.

(B) A declaration made pursuant to subparagraph (A) shall not be used to infer that the producer is not required to comply with other state or federal laws relative to food safety and good agricultural practices.

(2) As part of obtaining or renewing a certified producer's certificate, a producer farming fruit, vegetables, nuts, herbs, and similar crops shall annually submit to the county agricultural commissioner's office in the county in which the producer's land or facility is located information requested by the department about the specific crops that the producer will harvest or intends to harvest for sale directly to the public. The secretary may promulgate regulations specifying the information a producer is required to submit.

(3) A certified producer's certificate issued by a county agricultural commissioner shall be valid for up to 12 months from the date of issue and may be renewed annually thereafter. The county agricultural commissioner in each county shall perform at least one onsite inspection for all new certified producer's certificate applicants, and may perform additional inspections as needed of the property or properties listed on the certified producer's certificate issued in the agricultural commissioner's county as deemed appropriate by the county agricultural commissioner to verify production of the commodities being sold at a certified farmers' market or the existence in storage of the producer's actual harvested production, or both, of any product being sold at a certified farmers' market. Where practical or purposeful, verification inspections shall be made when the actual harvest or sale of the commodity in question is occurring. The county agricultural commissioner shall provide to the producer a schedule of fees that reflects an estimate of expenses for certification or inspection at the time of application or renewal or before any needed additional verification inspection, and may charge a certification and inspection fee equal to the actual expenses incurred.

(d) Renewal of a certified farmers' market certificate or certified producer's certificate may be denied by either the department or a county agricultural commissioner if a certified farmers' market or a producer is delinquent in the payment of the required state fee or a county certification and inspection fee or administrative civil penalty authorized pursuant to this chapter. The certificate may be eligible for renewal when all outstanding balances and associated penalties or administrative fines have been paid to the department or the respective county or counties.

SEC. 4. Section 75504 of the Food and Agricultural Code is amended to read:

75504. No action taken by the commission or by any individual in accordance with this chapter or with the regulations adopted under this chapter, is a violation of the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or any statutory or common law against monopolies or combinations in restraint of trade.

SEC. 5. Section 75514 of the Food and Agricultural Code is amended to read:

75514. (a) "Districts" shall consist of the following:

(1) District 1 shall consist of the Counties of Imperial, Kern, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Los Angeles, Orange, Riverside, and Ventura.

(2) District 2 shall consist of the Counties of Alpine, Fresno, Inyo, Kings, Madera, Mariposa, Merced, Mono, Monterey, San Benito, Tulare, and Tuolumne.

(3) District 3 shall consist of the Counties of Alameda, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Yolo, and Yuba.

(b) Notwithstanding subdivision (a), after the commission provides notice to all eligible producers, the number of districts and their boundaries may be changed by a two-thirds vote of the members of the commission, which is concurred in by the secretary. When there are two or more districts, there shall be similar total production among the districts to ensure proper representation. These boundaries need not coincide with county lines.

SEC. 6. Section 75531 of the Food and Agricultural Code is amended to read:

75531. (a) There is in the state government the California Apple Commission.

(b) Pursuant to Section 75514, when there are two or more districts, the commission shall consist of a board of directors of three producers and one handler from each district, and one public member.

(c) Pursuant to Section 75514, when there is one statewide district, the commission shall consist of a board of directors of no less than six producers and one handler, as determined by a two-thirds vote of the commission's board of directors, which is concurred in by the secretary, and one public member.

(d) The public member shall be appointed to the commission by the secretary from nominees recommended by other members of the commission.

(e) The secretary and other persons, as determined by the commission, shall be ex officio members of the commission.

SEC. 7. Section 75536 of the Food and Agricultural Code is amended to read:

75536. (a) Alternate members shall be selected pursuant to procedures adopted by the commission.

(b) Any alternate member may serve in place of any absent member on the commission and shall have all of the rights, privileges, and powers of the member when serving on the commission.

(c) In the event of the death, removal, resignation, or disqualification of a member, the alternate member shall act as a member of the commission until a qualified successor is elected.

SEC. 8. Section 75538 of the Food and Agricultural Code is amended to read:

75538. (a) Any producer member shall be a producer or an employee representing a producer who has a financial interest in producing, or causing to be produced, apples for market. Qualifications of producer members shall be maintained during their entire term of office.

(b) Any handler member, or employee representing that person, shall have a financial interest in marketing or packing apples for market. Qualifications of handler members shall be maintained during their entire term of office.

(c) The public member and alternate member on the commission, if appointed, shall have all of the powers, rights, and privileges of any other member or alternate member, respectively, on the commission. The public member and alternate member, if appointed, shall not have any financial interest in the apple industry.

(d) Not more than one member and one alternate member shall be persons employed by, or connected in a proprietary capacity with, the same corporation, firm, partnership, association, or business organization. Any alternate member serving on the commission who is employed by, or connected in a proprietary capacity with, a person serving as a member on the commission from the same company, firm, partnership, or business organization shall serve as an alternate to the member.

SEC. 9. Section 75539 of the Food and Agricultural Code is amended to read:

75539. The term of office of each member, except ex officio members, is four years, commencing with the beginning of the marketing year following the member's election and until a qualified successor is elected or appointed.

SEC. 10. Section 75541 of the Food and Agricultural Code is amended to read:

75541. The commission may sue and be sued, enter into contracts, and adopt a seal. Copies of its proceedings, records, and acts, when authenticated, shall be prima facie evidence of the truth of all statements therein.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.