

Date of Hearing: March 22, 2017

ASSEMBLY COMMITTEE ON ACCOUNTABILITY AND ADMINISTRATIVE REVIEW

Susan Talamantes Eggman, Chair

AB 822 (Caballero) – As Introduced February 15, 2017

**SUBJECT:** Institutional purchasers: sale of California produce

**SUMMARY:** Provides bid preferences for the state's purchases of California-grown or California-packed or processed agricultural products. Specifically, **this bill:**

- 1) Requires California state-owned and state-run institutions that solicit bids for agricultural products to accept the bid for the product grown in California instead of outside of the state if the price of the California product does not exceed the price of the out-of-state product by more than 5 percent, and if the quality of the California product is comparable to the out-of-state one.
- 2) Requires California state-owned and state-run institutions that intend to purchase agricultural products from outside of the state to purchase products that were packed or processed in California instead of those packed or processed out of state as long as the price for the in-state product does not exceed the out-of-state one by more than 5% and the quality is comparable.
- 3) Excludes public universities and colleges, and school districts from the two above requirements.
- 4) Requires school districts that solicit bids for agricultural products to purchase California-grown products over out-of-state products if the cost of the California products does not exceed the price of the out-of-state product, and if the quality is comparable.

**EXISTING LAW** requires that when price, fitness, or quality are equal, the state shall purchase supplies grown, manufactured, or produced in state instead of out of state. However, this section, Government Code 4030-4334, has been inoperative since the 1970s in response to a court ruling.

**FISCAL EFFECT:** Unknown

**COMMENTS:** This bill provides a preference for the state's purchase of California-grown or California-packed or processed agriculture even if the cost of the products are as much as 5% more expensive than those grown or packed or processed out of state. The 5% preference applies to state-owned and state-run institutions, but does not include public universities and colleges, or school districts.

In order to qualify for the preference, the quality of the California agricultural product must be comparable to that of the out-of-state product.

Additionally, the bill requires school districts to select California-grown agricultural products if the price is the same as the out-of-state products, as long as the quality of the in-state product is comparable and the terms do not violate a specified trade agreement.

The California Farm Bureau Foundation, which is the sponsor of the bill, and the author explain that this bill is necessary since the state has passed laws in recent years that increase the cost to operate farms and ranches in the state. Specifically, recent laws require farmers to pay employees overtime and to phase in a minimum wage of \$15 per hour.

According to the author, "California maintains the highest protections for worker health and safety and if we support these standards we should support those businesses and their employees by purchasing their products. . . The high costs of production for California's farmers and ranchers makes it challenging to compete against products produced outside of California. This state should support its important agricultural economy by purchasing agricultural products produced here first."

Agriculture is a major state industry. According to the California Department of Agriculture, the state's farms and ranches received approximately \$47 billion for their outputs in 2015.

State law currently provides preferences for when the State contracts with Certified Small Businesses and Disabled Veteran Business Enterprises, but recent efforts to increase preference programs for in-state products have met challenges based on cost, administrative burden, and concerns about potential legal challenges.

**PRIOR LEGISLATION:** AB 199 (Holden) in 2013 provided a similar 5% preference for state purchases of California-grown agricultural products in the early versions of that bill. However, the final version of the bill removed the 5% preference. It required that state-owned and state-run institutions purchase California-grown products instead of those grown out of state if the price was equal to or less than the out-of-state product, and if the availability and delivery schedule of the agricultural product was acceptable. The Governor vetoed AB 199, stating in the veto message that "this preference would be difficult to comply with and quite onerous."

**DOUBLE REFERRAL:** Should this bill pass this committee, it will be re-referred to the Assembly Agriculture Committee.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Farm Bureau Federation (sponsor)

##### **Opposition**

None on file.

**Analysis Prepared by:** Scott Herbstman / A. & A.R. /