

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE MAY 11, 2005

AMENDED IN SENATE APRIL 11, 2005

SENATE BILL

No. 1041

Introduced by ~~Senator Denham~~ *Senators Denham and Kehoe*

February 22, 2005

An act to amend Sections ~~3959, 4003, and 4053~~ of, and to add Section 3807 to, the Food and Agricultural Code, relating to agriculture. ~~3953, 3954, 3959, 3960, 3965, 3965.1, and 4051~~ of, and to repeal Sections 3955, 3962, 4051.2, 4508, and 4509 of, the Food and Agricultural Code, relating to agricultural associations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1041, as amended, Denham. District agricultural associations: ~~farm products~~.

Existing law provides for the organization and administration of the state's district agricultural associations and the duties of officers and directors, as specified. Under existing law, associations are state institutions, directors are state officers, and actions by them requires approval by a state agency, as specified.

This bill would restructure the governance of the district agricultural associations, make them public corporations, and would provide for the transition of the associations and their administration to local control, unless the association chooses to remain a state agency.

~~Existing law provides for the formation of district agricultural associations for specified purposes, as specified. Each association is a state institution. Existing law provides that the members of the board of directors of each district association shall be appointed by the~~

Governor. *This bill would provide directors are to serve until a new governance plan is adopted or until December 31, 2010, whichever is earlier.*

This bill would provide that the Department of Food and Agriculture shall work with the boards of directors of the district agricultural associations in order to ~~identify 2 district agricultural associations willing to be used in a pilot program to evaluate the effectiveness and cost benefits of transitioning a district agricultural association from being an institution of the state to being an institution of, and entirely controlled by, a county or other appropriate local governmental entity. This bill would require the department report its findings to the Governor and the Legislature by April 1, 2006 develop a plan to establish full local control.~~

The bill would also *prescribe the duties and responsibilities of the reorganized association boards and make technical, nonsubstantive, and clarifying changes.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 3807 is added to the Food and~~
 2 ~~Agricultural Code, to read:~~
 3 ~~3807. "Secretary" means the Secretary of Food and~~
 4 ~~Agriculture.~~
 5 *SECTION 1. Section 3953 of the Food and Agricultural Code*
 6 *is amended to read:*
 7 *3953. (a) Each association is a state institution separate*
 8 *public corporation, created for the local administration of a part*
 9 *of the affairs of the state and not a "state" agency within the*
 10 *meaning of Section 11000 of the Government Code. The*
 11 *foregoing codifies the holdings in People ex rel. Post v. San*
 12 *Joaquin Valley Agricultural Ass'n. (1907) 151 Cal. 797 and Sixth*
 13 *Dist. Agric. Ass'n v. Wright (1908) 154 Cal. 119.*
 14 *(b) This act shall be know as the District Agricultural*
 15 *Association Local Control Act of 2005. It is the intent of the*
 16 *Legislature to restructure the governance of district agricultural*
 17 *associations consistent with subdivision (a).*
 18 *(c) Notwithstanding subdivisions (a) and (b), each district*
 19 *agricultural association wishing to continue to operate as a state*

1 *agency shall continue to operate as a state agency unless the*
2 *district agricultural association board completes a transition*
3 *plan in accordance with Section 3959.*

4 *SEC. 2. Section 3954 of the Food and Agricultural Code is*
5 *amended to read:*

6 3954. Each association by its name has perpetual succession.
7 It may have a seal. An association may be sued and, ~~with~~
8 ~~approval of the department,~~ may sue and may do any and all
9 things necessary to carry out the powers and the objects and
10 purposes for which the association is formed.

11 *SEC. 3 Section 3955 of the Food and Agricultural Code is*
12 *repealed.*

13 ~~3955. Claims against an association shall be presented to the~~
14 ~~State Board of Control in accordance with Part 3 (commencing~~
15 ~~with Section 900) and Part 4 (commencing with Section 940),~~
16 ~~Division 3.6, Title 1 of the Government Code.~~

17 ~~SEC. 2—~~

18 *SEC. 4. Section 3959 of the Food and Agricultural Code is*
19 *amended to read:*

20 3959. (a) The directors shall be appointed by the Governor *to*
21 *serve until the department approval of a governance plan in*
22 *accordance with subdivision (b), or December 31, 2010,*
23 *whichever is earlier.*

24 (b) The department shall work with ~~local~~ *each* district
25 agricultural association boards of directors to identify two local
26 district agricultural associations that are willing to be used in a
27 pilot program to evaluate the operational effects and cost benefits
28 of transitioning district agricultural associations to local control.
29 The department shall conduct the study and report its findings to
30 the Governor and to the Legislature by April 1, 2006. Any costs
31 incurred by the department from this study will be fully
32 reimbursed by the local district agricultural associations.
33 *association board to review and approve a governance plan to*
34 *establish full local control consistent with this chapter. Each*
35 *district agricultural association shall obtain department*
36 *approval before full local control may take effect.*

37 ~~SEC. 3. Section 4003 of the Food and Agricultural Code is~~
38 ~~amended to read:~~

39 ~~4003. Any money which is not expended within three years~~
40 ~~after being paid into the Fair and Exposition Fund pursuant to~~

1 ~~Section 4002 shall be added to and become a part of the amount~~
2 ~~available pursuant to Section 19630 of the Business and~~
3 ~~Professions Code for permanent improvements upon the property~~
4 ~~of the state, citrus, county, or district agricultural associations for~~
5 ~~fair purposes, or the purchase of equipment for fair purposes, or~~
6 ~~the acquisition or purchase of real property, including costs of~~
7 ~~appraisal or other incidental costs, to be used as sites for those~~
8 ~~permanent improvements, in amounts allocated by executive~~
9 ~~order of the Secretary of Food and Agriculture.~~

10 ~~SEC. 4. Section 4053 of the Food and Agricultural Code is~~
11 ~~amended to read:~~

12 ~~4053. The Secretary of Food and Agriculture may make~~
13 ~~available for the use of any association any property of the state~~
14 ~~which is suitable for the purposes of the association and which~~
15 ~~has been obtained by the state by gift from any county or city, or~~
16 ~~otherwise, without cost to the state.~~

17 ~~SEC. 5. Section 3960 of the Food and Agricultural Code is~~
18 ~~amended to read:~~

19 3960. The term of office of each director, except that of a
20 member of the first board, is four years from the beginning of the
21 term for which he *or she* is appointed. Any vacancy shall be
22 filled for the unexpired term *subject to Section 3959*.

23 ~~SEC. 6. Section 3962 of the Food and Agricultural Code is~~
24 ~~repealed.~~

25 ~~3962. The directors are state officers.~~

26 ~~SEC. 7. Section 3965 of the Food and Agricultural Code is~~
27 ~~amended to read:~~

28 3965. The board may, ~~with the approval of the department:~~

29 (a) Fix the term of office, the amount of bond, salary, and
30 prescribe the duties of the secretary and of the treasurer.

31 (b) Manage the affairs of the association.

32 (c) Make all necessary bylaws, rules, and regulations for the
33 government of the association.

34 ~~(d) With the approval of the Department of General Services,~~
35 ~~arrange~~ Arrange for and conduct, or cause to be conducted, or by
36 contract permit to be conducted, by any other individual,
37 institution, corporation, or association, upon its property at such
38 time as it may deem advisable, any activity, notwithstanding any
39 other provisions of the code.

1 (e) Delegate, as it may deem advisable, to its officers or
2 employees any of the powers which are vested in the board under
3 subdivisions (b) and (d) of this section. Any such delegation of
4 powers may be revoked at any time.

5 *SEC. 8. Section 3965.1 of the Food and Agricultural Code is*
6 *amended to read:*

7 ~~3965.1. Notwithstanding subdivision (d) of Section 3965 or~~
8 ~~Section 4051, the~~ *The board may, with the approval of the*
9 ~~department,~~ enter into the following types of contracts:

10 (a) Revenue generating contracts.

11 (b) Revenue generating contracts involving hazardous
12 activities, ~~as determined by the department,~~ as long as adequate
13 insurance coverage is provided, ~~as determined by the department~~
14 ~~in consultation with the Department of General Services.~~

15 *SEC. 9. Section 4051 of the Food and Agricultural Code is*
16 *amended to read:*

17 ~~4051. An association, with the approval of both the~~
18 ~~Department of Food and Agriculture and the Department of~~
19 ~~General Services,~~ may do any of the following:

20 (a) Contract.

21 (b) Purchase, acquire, hold, sell, exchange, *lease*, or convey
22 any interest in real or personal property and beautify or improve
23 that property, *subject to the approval of the Department of Food*
24 *and Agriculture, or its successor in office or function, as to any*
25 *property owned by the State of California. Any acquisition of*
26 ~~land or other real property shall be subject to the Property~~
27 ~~Acquisition Law (Part 11 (commencing with Section 15850) of~~
28 ~~Division 3 of Title 2 of the Government Code).~~

29 (c) ~~Lease,~~ *Subject to subdivision (b), lease*, let, or grant
30 licenses for the use of its real estate or personal property, or any
31 portion of that property, to any person or public body for
32 whatever purpose may be approved by the board.

33 (d) ~~Use~~ *Subject to subdivision (b), use* or manage its real estate
34 or personal property, or any portion of that property, for any or
35 all of the purposes of this section jointly with any lessee,
36 sublessee, or licensee, or otherwise use or manage the property in
37 connection with the lease, sublease, or license which is made or
38 granted.

39 (e) ~~Lease~~ *Subject to subdivision (b), lease* or let its real
40 property for public park, recreational, or playground purposes.

1 (f) Rent or permit the use of its premises for any purpose
2 which is beneficial to the agricultural industry, including, but not
3 limited to, the holding of sales or auctions of cattle or other
4 livestock.

5 (g) Contract with any county or county fair association for
6 holding a fair jointly with the county or county fair association.
7 The joint fair is a district fair of the association.

8 ~~(h) Make permanent improvements upon publicly owned real
9 property adjacent to real property of the district when the
10 improvements materially benefit the property of the district.~~

11 ~~(i) Pledge~~

12 ~~(h) Subject to subdivision (b), pledge any and all revenues,
13 moneys, accounts, accounts receivable, contract rights, and other
14 rights to payment of whatever kind, pursuant to such terms and
15 conditions as are approved by the board. The revenues, moneys,
16 accounts, accounts receivable, contract rights, and other rights to
17 payment of whatever kind pledged by the association or its
18 assignees constitute a lien and security interest which
19 immediately attaches to the property so pledged and is effective,
20 binding, and enforceable against the association, its successors,
21 purchasers of the property so pledged, creditors, and all others
22 asserting rights therein, to the extent set forth, and in accordance
23 with, the terms and conditions of the pledge, irrespective of
24 whether those persons have notice of the pledge and without the
25 need for any physical delivery, recordation, filing, or further act.~~

26 *SEC. 10. Section 4051.2 of the Food and Agricultural Code is*
27 *repealed.*

28 ~~4051.2. An association shall not enter into a settlement
29 agreement for an amount greater than ten thousand dollars
30 (\$10,000) without the prior approval of the department.~~

31 *SEC. 11. Section 4508 of the Food and Agricultural Code is*
32 *repealed.*

33 ~~4508. The classifications of fairs established pursuant to
34 Section 4507 may be considered in determining the basis of
35 compensation to fair managers of fairs that are classified under
36 those provisions.~~

37 ~~The department shall annually perform all of the following:~~

38 ~~(a) Review and maintain a separate and accurate job
39 description for each fair manager.~~

1 ~~(b) Solicit information from fair board of directors that will~~
2 ~~accurately describe the fair managers performance and~~
3 ~~responsibilities in regard to merit salary increases for its fair~~
4 ~~manager.~~

5 ~~(c) Annually report its findings to fair directors and fair~~
6 ~~managers.~~

7 *SEC. 12. Section 4509 of the Food and Agricultural Code is*
8 *repealed.*

9 ~~4509. The director shall submit the findings made under~~
10 ~~Section 4507 and the information he receives pursuant to Section~~
11 ~~4508 to the Fair Budget Review Board, established pursuant to~~
12 ~~Section 19627.7 of the Business and Professions Code, for its~~
13 ~~review and recommendations.~~

14 ~~The Fair Budget Review Board shall report its~~
15 ~~recommendations to the director not later than 45 days after it~~
16 ~~receives such findings and information.~~