

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2490

Introduced by Assembly Member Eggman

February 21, 2014

~~An act to amend Section 1569.406 of the Health and Safety Code, relating to care facilities.~~ *An act to amend Sections 3954, 3960, 3965, 3965.1, and 4051.2 of, and to repeal Section 4053 of, the Food and Agricultural Code, to amend Section 13332.09 of the Government Code, and to repeal Section 10320 of the Public Contract Code, relating to district agricultural associations.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2490, as amended, Eggman. ~~Residential care facilities for the elderly.~~ *District agricultural associations.*

Existing law divides the state into agricultural districts, and provides for the management of these districts by district agricultural associations. Existing law provides for a board of directors for each district agricultural association, and provides for the appointment of each director by the Governor. Existing law sets forth the duties and responsibilities of the board of directors and the district agricultural associations, including that a district agricultural association requires the approval of the Department of Food and Agriculture prior to entering into a settlement agreement for an amount greater than \$10,000.

This bill would authorize the Governor to remove any director of a district agricultural association for cause prior to the expiration of the director's term. The bill would revise the oversight responsibilities of the Department of Food and Agriculture and the Department of General

Services by allowing a district agricultural association to enter into settlement agreements for less than \$100,000 without the prior approval of the Department of Food and Agriculture and by deleting the requirements that a district agricultural association obtain approval of the Department of Food and Agriculture or the Department of General Services prior to exercising the power to sue, or contracting or exercising powers over its own real or personal property.

Existing law requires the Department of General Services to exercise oversight of the acquisition and replacement of motor vehicles and other mobile property by a state agency. Existing law defines “state agency” for purposes of those provisions.

This bill would exclude district agricultural associations from the definition of “state agency” for purposes of those provisions.

Existing law requires the Department of General Services to annually prepare a delegation program for district agricultural associations, to be administered by the Department of Food and Agriculture and the Department of General Services.

This bill would repeal those provisions.

This bill would make other related changes and nonsubstantive changes.

~~Existing law provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services. Existing law specifies that a person who informs an owner or resident of a residential care facility for the elderly of an impending and unannounced site visit to the facility by the department without authorization from the department is guilty of a misdemeanor, as specified.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

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

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

- 1 *SECTION 1. Section 3954 of the Food and Agricultural Code*
- 2 *is amended to read:*
- 3 3954. Each association by its name has perpetual succession.
- 4 It may have a seal. An association may be sued and, with approval
- 5 of the department, may sue and sue and be sued, and may do any

1 and all things necessary to carry out the powers and the objects
2 and purposes for which the association is formed.

3 *SEC. 2. Section 3960 of the Food and Agricultural Code is*
4 *amended to read:*

5 3960. The term of office of each director, except that of a
6 member of the first board, is four years from the beginning of the
7 term for which he *or she* is appointed. Any vacancy shall be filled
8 for the unexpired term. *However, any director may be removed*
9 *for cause by the Governor prior to the expiration of the director's*
10 *term.*

11 *SEC. 3. Section 3965 of the Food and Agricultural Code is*
12 *amended to read:*

13 3965. The board may, with the approval of the department:

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

16 (b) Manage the affairs of the association.

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

19 ~~(d) With the approval of the Department of General Services,~~
20 ~~arrange for and conduct, or cause to be conducted, or by contract~~
21 ~~permit to be conducted, by any other individual, institution,~~
22 ~~corporation, or association, upon its property at such time as it~~
23 ~~may deem advisable, any activity, notwithstanding any other~~
24 ~~provisions of the code.~~

25 (e)

26 (d) Delegate, as it may deem advisable, to its officers or
27 employees any of the powers ~~which~~ *that* are vested in the board
28 under subdivisions (b) and (d) of this section. *subdivision (b).* Any
29 such delegation of powers ~~power~~ may be revoked at any time.

30 *SEC. 4. Section 3965.1 of the Food and Agricultural Code is*
31 *amended to read:*

32 3965.1. Notwithstanding ~~subdivision (d) of Section 3965 or~~
33 ~~Section 4051, the board may, with the board, without prior~~
34 ~~approval of from the department, enter into the following types of~~
35 ~~contracts: may arrange for and conduct, or cause to be conducted,~~
36 ~~or by contract permit to be conducted, any activity by any~~
37 ~~individual, institution, corporation, or association upon its property~~
38 ~~at a time as it may be deemed advisable, except for the following:~~

39 (a) ~~Revenue generating contracts.~~

40 (b)

1 (a) Revenue generating contracts involving hazardous activities,
 2 as determined by the department, ~~as long as~~ *unless* adequate
 3 insurance coverage is provided, as determined by the department
 4 in consultation with the Department of General Services.

5 (b) *The activities specified in Sections 4051.1 and 4051.2.*

6 *SEC. 5. Section 4051.2 of the Food and Agricultural Code is*
 7 *amended to read:*

8 4051.2. An association shall not enter into a settlement
 9 agreement for an amount greater than ~~ten~~ *one hundred* thousand
 10 dollars ~~(\$10,000)~~ *(\$100,000)* without the prior approval of the
 11 department.

12 *SEC. 6. Section 4053 of the Food and Agricultural Code is*
 13 *repealed.*

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

19 *SEC. 7. Section 13332.09 of the Government Code is amended*
 20 *to read:*

21 13332.09. (a) A purchase order or other form of documentation
 22 for acquisition or replacement of motor vehicles shall not be issued
 23 against any appropriation until the Department of General Services
 24 has investigated and established the necessity therefor.

25 (b) A state agency shall not acquire surplus mobile equipment
 26 from any source for program support until the Department of
 27 General Services has investigated and established the necessity
 28 therefor.

29 (c) Notwithstanding any other law, any contract for the
 30 acquisition of a motor vehicle or general use mobile equipment
 31 for a state agency shall be made by or under the supervision of the
 32 Department of General Services. Pursuant to Section 10298 of the
 33 Public Contract Code, the Department of General Services may
 34 collect a fee to offset the cost of the services provided.

35 (d) Any passenger-type motor vehicle purchased for a state
 36 ~~officers, officer,~~ except a constitutional officer, or a state employee
 37 shall be an American-made vehicle of the light class, as defined
 38 by the California Victim Compensation and Government Claims
 39 Board, unless excepted by the Director of General Services on the
 40 basis of unusual requirements, including, but not limited to, use

1 by the California Highway Patrol, that would justify the need for
2 a motor vehicle of a heavier class.

3 (e) General use mobile equipment having an original purchase
4 price of twenty-five thousand dollars (\$25,000) or more shall not
5 be rented or leased from a nonstate source and payment therefor
6 shall not be made from any appropriation for the use of the
7 Department of Transportation, without the prior approval of the
8 Department of General Services after a determination that
9 comparable state-owned equipment is not available, unless
10 obtaining approval would endanger life or property, in which case
11 the transaction and the justification for not having sought prior
12 approval shall be reported immediately thereafter to the Department
13 of General Services.

14 (f) (1) The Trustees of the California State University shall, to
15 the greatest extent feasible, purchase vehicles using statewide
16 commodity contracts.

17 (2) The trustees shall make an interim report to the Governor
18 and the Legislature on January 1, 2014, and a final report on
19 January 1, 2015, on their motor vehicle procurement, including
20 all of the following:

21 (A) An inventory, by campus, of motor vehicles that includes
22 the type of vehicle, vehicle usage and fuel data consistent with the
23 Department of General Services fleet asset management system
24 and reported to the Department of General Services.

25 (B) The number of motor vehicles purchased during the prior
26 fiscal year, disaggregated by campus and type of vehicle if the
27 passenger vehicle or truck was purchased through statewide
28 commodity contracts, and the purchase price.

29 (C) Any change to a policy or procedure made during the prior
30 fiscal year related to motor vehicle procurement and contracts for
31 procurement and identifying any vehicle procured pursuant to the
32 new policy or procedure.

33 (D) The average time to complete procurements, average
34 administrative costs, reduced charges paid to the Department of
35 General Services, and competitive or reduced market prices
36 obtained for the vehicles.

37 (3) A report submitted pursuant to this subdivision shall be
38 submitted in compliance with Section 9795.

39 (g) As used in this section:

1 (1) “General use mobile equipment” means equipment that is
2 listed in the Mobile Equipment Inventory of the State Equipment
3 Council and capable of being used by more than one state agency,
4 and shall not be deemed to refer to equipment having a practical
5 use limited only to the controlling state agency. Section 575 of the
6 Vehicle Code shall not have application to this section.

7 (2) “State agency” means a state agency, as defined pursuant
8 to Section 11000. The University of California is requested and
9 encouraged to have the Department of General Services perform
10 the tasks identified in this section with respect to the acquisition
11 or replacement of motor vehicles by the University of California.
12 “State agency” does not include a district agricultural association,
13 as defined in Section 3951 of the Food and Agricultural Code.

14 (h) This section shall remain in effect only until July 1, 2015,
15 and as of that date is repealed.

16 *SEC. 8. Section 10320 of the Public Contract Code is repealed.*

17 ~~10320. (a) The department shall annually prepare a delegation
18 program for district agricultural associations to be administered
19 by the Department of Food and Agriculture and the department
20 pursuant to the following criteria:~~

21 ~~(1) The department shall annually review acquisitions to be
22 included in the program and the amount of delegation for each
23 type of acquisition.~~

24 ~~(2) The department shall annually review with the Department
25 of Food and Agriculture the aggregate limit for the delegation
26 program.~~

27 ~~(3) The department shall annually communicate with each fair
28 eligible for the delegation program, information relating to the
29 procedure to be followed for using the delegation, including, but
30 not limited to, the things included in the delegation program.~~

31 ~~(b) The Division of Fairs and Expositions in the Department of
32 Food and Agriculture shall include, as part of its annual expenditure
33 review and approval process presented to the Joint Committee on
34 Fairs Allocation and Classification, a section describing the
35 purchasing delegation authority granted to all district agricultural
36 associations pursuant to subdivision (a). This information shall
37 include, but need not be limited to, the annual amount of
38 purchasing delegation authority requested by, and delegated to,
39 each district agricultural association.~~

1 SECTION 1. ~~Section 1569.406 of the Health and Safety Code is~~
2 ~~amended to read:~~

3 ~~1569.406. A person who, without lawful authorization from a~~
4 ~~duly authorized officer, employee, or agent of the department,~~
5 ~~informs an owner, operator, employee, agent, or resident of a~~
6 ~~residential care facility for the elderly of an impending and~~
7 ~~unannounced site visit to that facility by personnel of the~~
8 ~~department, except for a site visit prior to licensing the facility, is~~
9 ~~guilty of a misdemeanor and upon conviction thereof shall be~~
10 ~~punished by a fine not to exceed one thousand dollars (\$1,000),~~
11 ~~by imprisonment in the county jail for a period not to exceed 180~~
12 ~~days, or by both a fine and imprisonment.~~