

**ASSEMBLY BILL**

**No. 315**

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**Introduced by Assembly Member Bigelow**

February 12, 2015

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An act to amend Section 4051 of the Food and Agricultural Code, relating to district agricultural associations: powers and duties.

LEGISLATIVE COUNSEL'S DIGEST

AB 315, as introduced, Bigelow. District agricultural associations.

Existing law divides the state into agricultural districts, and provides for the management of each district by a district agricultural association. Existing law sets forth the powers and duties of a district agricultural association, including, among others, the power to contract in accordance with specified requirements.

This bill would make nonsubstantive changes to the latter provisions.

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

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

- 1 SECTION 1. Section 4051 of the Food and Agricultural Code
- 2 is amended to read:
- 3 4051. (a) An association may do any of the following:
- 4 (1) Contract, in accordance with all of the following:
- 5 (A) The written policies and procedures for contracting that are
- 6 developed and maintained by the board of directors of the
- 7 association in accordance with this section.
- 8 (B) All applicable state laws governing contracts, except as
- 9 follows:

1 (i) ~~Any~~A grant or contract entered into by an association for  
2 goods is not subject to Chapter 2 (commencing with Section 10290)  
3 of Part 2 of Division 2 of the Public Contract Code.

4 (ii) ~~Any~~A grant or contract entered into by an association is not  
5 subject to Chapter 3 (commencing with Section 12100) of Part 2  
6 of Division 2 of the Public Contract Code.

7 (C) If the estimated total cost of any construction project or  
8 similar work carried out under this section exceeds twenty-five  
9 thousand dollars (\$25,000), the association shall solicit bids in  
10 writing and shall award the work to the lowest responsible bidder  
11 or reject all bids. The association is subject to all applicable  
12 provisions of the Public Contract Code.

13 (D) An association may elect to become subject to the provisions  
14 of the Uniform Public Construction Cost Accounting Act (Chapter  
15 2 (commencing with Section 22000) of Part 3 of Division 2 of the  
16 Public Contract Code) and the Small Business Procurement and  
17 Contract Act (Chapter 6.5 (commencing with Section 14835) of  
18 Part 5.5 of Division 3 of Title 2 of the Government Code), but  
19 exempt from the reporting requirements noted in subdivision (f)  
20 of Section 14838.1 of the Government Code.

21 (2) Accept funds or gifts of value from the United States or any  
22 person to aid in carrying out the purposes of this part.

23 (3) Conduct or contract for programs, and contract for the  
24 purchase or lease of goods that are necessary to effectuate the  
25 purposes of this chapter, either independently or in cooperation  
26 with any individual, public or private organization, or federal,  
27 state, or local governmental agency.

28 (4) Establish and maintain a bank checking account or other  
29 financial institution account, approved by the Director of Finance  
30 in accordance with Sections 16506 and 16605 of the Government  
31 Code, for depositing funds received by the district agricultural  
32 association. All funds maintained in an account authorized by this  
33 paragraph shall be used in accordance with Section 4001.

34 (5) Approve the annual budget of the association and establish  
35 a program for paying vendors who contract with the ~~district~~  
36 ~~agricultural~~ association.

37 (6) Contract with any county or county fair association for  
38 holding a fair jointly with the county or county fair association.  
39 The joint fair is a district fair of the association.

1 (7) Make or adopt all necessary orders, rules, or regulations for  
2 governing the activities of the association. Notwithstanding  
3 paragraph (14), any orders, rules, or regulations adopted by the  
4 board are exempt from Chapter 3.5 (commencing with Section  
5 11340) of Part 1 of Division 3 of Title 2 of the Government Code.  
6 For informational purposes only, however, any order, rule, or  
7 regulation adopted by the board may be transmitted to the Office  
8 of Administrative Law for filing with the Secretary of State  
9 pursuant to Section 11343 of the Government Code.

10 (8) Operate a payroll system for paying employees, and a system  
11 for accounting for vacation and sick leave credits of employees.

12 (9) Delegate to the officers and employees of the association  
13 the exercise of powers vested in the board, as the board may deem  
14 desirable, for the orderly management and operation of the  
15 association.

16 (10) With the approval of the Department of General Services,  
17 purchase, acquire, hold, sell, or exchange, or convey any interest  
18 in real property. Any acquisition of land or other real property  
19 shall be subject to the Property Acquisition Law (Part 11  
20 (commencing with Section 15850) of Division 3 of Title 2 of the  
21 Government Code).

22 (11) With the approval of the Department of General Services,  
23 make permanent improvements upon publicly owned real property  
24 adjacent to, or near the vicinity of, the real property of the ~~district~~  
25 ~~agricultural~~ association when the improvements materially benefit  
26 the property of the association pursuant to Section 11011 of the  
27 Government Code.

28 (12) With the approval of the Department of General Services,  
29 lease for the use of its real property, or any portion of that property,  
30 to any person or public body for whatever purpose as may be  
31 approved by the board.

32 (13) Use or manage any of its property jointly or in connection  
33 with any lessee or sublessee, for any purpose approved by the  
34 board.

35 (14) With the approval of the Department of General Services,  
36 pledge any revenues, moneys, accounts, accounts receivable,  
37 contract rights, and other rights to payment of whatever kind,  
38 pursuant to terms and conditions approved by the board. The  
39 revenues, moneys, accounts, accounts receivable, contract rights,  
40 and other rights to payment of whatever kind pledged by the

1 association or its assignees constitute a lien or security interest  
2 that immediately attaches to the property pledged, and is effective,  
3 binding, and enforceable against the association, its successors,  
4 purchasers of the property pledged, creditors, and all others  
5 asserting rights therein, to the extent set forth, and in accordance  
6 with, the terms and conditions of the pledge, irrespective of whether  
7 those persons have notice of the pledge and without the need for  
8 physical delivery, recordation, filing, or further action.

9 (15) With the approval of the Secretary of Food and Agriculture,  
10 enter into a joint powers agreement pursuant to the Joint Exercise  
11 of Powers Act (Chapter 5 (commencing with Section 6500) of  
12 Division 7 of Title 1 of the Government Code).

13 (b) In developing the written policies and procedures for  
14 contracting, the board shall incorporate the following to apply to  
15 contracts or procurement by the association:

16 (1) To ensure the fullest competition, the board shall adopt and  
17 publish competitive bidding procedures for the award of a  
18 procurement or contract involving an expenditure of more than  
19 one hundred thousand dollars (\$100,000). The competitive bidding  
20 procedures shall include, but not be limited to, requirements for  
21 submission of bids and accompanying documentation, guidelines  
22 for the use of requests for proposals, invitations to bid, or other  
23 methods of bidding, and a bid protest procedure. The general  
24 manager shall determine whether the goods or services subject to  
25 this paragraph are available through existing contracts or price  
26 schedules of the Department of General Services. The Legislature  
27 finds and declares that fairs are a valuable community resource  
28 and recognizes that local businesses and local communities make  
29 valuable contributions to fairs that include direct and indirect  
30 support of fair programs. The Legislature further finds and declares  
31 that local businesses often provide opportunity purchases to local  
32 fairs that, for similar things available through the state purchasing  
33 program, may be purchased locally at a price equivalent to or less  
34 than that available through the state purchasing program. As used  
35 in this subdivision, opportunity purchases means purchases made  
36 locally, either individually or cooperatively, at a price equal to or  
37 less than the price available through the state purchasing program  
38 on or off state contract.

39 (2) The contracting standards, procedures, and rules contained  
40 in this subdivision shall also apply with respect to any subcontract

1 involving an expenditure of more than one hundred thousand  
2 dollars (\$100,000). The board shall establish, as part of the bidding  
3 procedures for general contracts, subcontracting guidelines that  
4 implement this requirement.

5 (3) With the approval of the Department of General Services,  
6 pledge any and all revenues, moneys, accounts, accounts  
7 receivable, contract rights, and other rights to payment of whatever  
8 kind, pursuant to terms and conditions approved by the board. Any  
9 issuance of bonds, contracts entered into, debts incurred,  
10 settlements, judgments, or liens under this section or pursuant to  
11 ~~Chapter~~ *the Joint Exercise of Powers Act (Chapter 5* (commencing  
12 with Section 6500) of Division 7 of Title 1 of the Government  
13 ~~Code, Code~~), shall not directly, indirectly, or contingently obligate  
14 the state or any political subdivision of the state to levy or to pledge  
15 any form of taxation therefor or to make any appropriation for  
16 their payment. The bond shall contain on its face a statement to  
17 the following effect: “Neither the full faith and credit nor the taxing  
18 power of the State of California is pledged to the payment of the  
19 principal of, or interest on, this bond.”

20 (4) This section shall not apply to Article 1 (commencing with  
21 Section 4101) of Chapter 6 of Part 3.

22 (c) (1) Notwithstanding any other law, an association shall  
23 adopt a fiscal review policy as follows:

24 (A) An association with an annual budget exceeding five million  
25 dollars (\$5,000,000) shall conduct an annual audit by an  
26 independent certified public accountant or certified public  
27 accountancy firm selected by the board.

28 (B) An association with an annual budget of less than five  
29 million dollars (\$5,000,000) shall have its books and accounts  
30 examined and reviewed annually and audited once every three  
31 years by an independent certified public accountant or certified  
32 public accountancy firm selected by the board.

33 (2) Notwithstanding paragraph (1), the department may require  
34 an audit to be conducted before the times specified in  
35 subparagraphs (A) and (B) of paragraph (1) if the department or  
36 the state deems the audit is necessary.