

AMENDED IN SENATE JUNE 22, 2016

AMENDED IN SENATE JUNE 13, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1976

Introduced by Assembly ~~Member~~ Members Irwin and Williams

February 16, 2016

An act to amend Sections 67051, 67052, 67052.3, 67053, 67054, 67059, 67081, and 67132 of, *to add Sections 58853 and 63906 to*, and to repeal Section 67051.1 of, the Food and Agricultural Code, relating to ~~avocados~~: *food and agriculture*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1976, as amended, Irwin. ~~California Avocado Commission. Food and agriculture: marketing advisory and promotional boards, councils, and commissions.~~

Existing law establishes the California Avocado Commission within the state government, and requires the commission to establish no fewer than 3 districts and no more than 5 districts within the state, each representing approximately the same percentage of avocado production in California. Existing law requires the commission to consist of a specified number of producers who are not handlers, based on the number of districts the commission establishes, 4 handlers who are elected on a statewide basis, one public member, and the Secretary of Food and Agriculture, and requires there to be 2 alternate handler members. Existing law requires a vacancy of a member position on the commission to be filled by the alternate member. Existing law authorizes certain handlers who handle a specified percentage of volume of

avocados to appoint one handler member to the commission and the other handlers to nominate and elect the remaining handler members.

This bill would instead require a vacancy of a member position be filled by a majority vote of the commission. The bill would decrease the number of handlers on the commission to 2 members and the number of alternate handler members to one member. The bill would remove the authorization for the specified handlers to appoint a handler member.

Existing law requires producer members and alternate producer members, at the time of the election, to have a financial interest in producing, or causing to be produced, avocados for market within the district in which the producer stands for election. Existing law prohibits a producer who chooses to stand for election in a particular district from standing for election in any other district for a period of 4 years from the date of his or her most recent election to the commission.

This bill would delete this prohibition on the producer.

Existing law provides that a quorum of the commission is 11 voting members if the commission consists of 3 or 5 districts, and is 10 voting members if the commission consists of 4 districts. Existing law authorizes the commission to recommend to the secretary that the operations of the commission be suspended upon a specified finding of 11 voting members if the commission consists of 3 or 5 districts, or 10 voting members if the commission consists of 4 districts.

This bill would instead provide that a quorum of the commission is 9 voting members if the commission consists of 3 or 4 districts, and is 10 voting members if the commission consists of 5 districts. The bill would make a similar change to the authorization of the commission to recommend suspension.

Existing law requires the secretary to establish a list of producers in each district and, in establishing the lists, requires handlers to file, within 90 days following receipt of a written request by the secretary, certain information about each producer from whom the handler purchased or handled avocados.

This bill would require handlers to file the information, including the grove location of each producer instead of district numbers, within 60 days.

Existing law, the California Marketing Act of 1937, authorizes the Secretary of Food and Agriculture to issue marketing orders which regulate producer marketing, the processing, distributing, or handling in any manner of any commodity by any and all persons that are engaged in the producer marketing, processing, distributing, or handling

of the commodity within this state. The act requires that any marketing order issued pursuant to the act provide for the establishment of an advisory board to assist the secretary in the administration of any marketing order, as prescribed. Existing law also establishes various commissions and councils to advance the interests of the state's agricultural and seafood industries to provide benefit to the entire industry and all the people of this state.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body, as defined, be open and public and all persons be permitted to attend any meeting of a state body. Existing law requires a state body subject to the open meeting requirements of the act that conducts a meeting or proceeding by teleconference to post agendas at all teleconference locations and requires each teleconference location to be accessible to the public. The act also requires the state body to provide an opportunity for members of the public to address the state body directly from any teleconference location.

This bill would provide that a meeting held by teleconference by a marketing order advisory board or an agricultural or seafood industry council or commission does not require the identification of the location of teleconference participants.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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 58853 is added to the Food and*
- 2 *Agricultural Code, to read:*
- 3 *58853. Notwithstanding Section 11123 of the Government*
- 4 *Code, a meeting held by teleconference under this chapter by an*
- 5 *advisory board does not require the identification of the location*
- 6 *of teleconference participants.*
- 7 *SEC. 2. Section 63906 is added to the Food and Agricultural*
- 8 *Code, to read:*

1 63906. *Notwithstanding Section 11123 of the Government*
2 *Code, a meeting held by teleconference under this division by a*
3 *commission or council does not require the identification of the*
4 *location of teleconference participants.*

5 ~~SECTION 1.~~

6 *SEC. 3.* Section 67051 of the Food and Agricultural Code is
7 amended to read:

8 67051. (a) There is in the state government the California
9 Avocado Commission.

10 (b) The commission shall be composed of the following
11 members:

12 (1) (A) If the commission consists of three districts, nine
13 producers who are not handlers, three elected from each district.

14 (B) If the commission consists of four districts, eight producers
15 who are not handlers, two elected from each district.

16 (C) If the commission consists of five districts, 10 producers
17 who are not handlers, two elected from each district.

18 (2) Two avocado handlers elected on a statewide basis.

19 (3) One public member who shall be appointed to the
20 commission by the secretary from nominees recommended by the
21 commission.

22 (4) The secretary who shall be a nonvoting ex officio member
23 of the commission.

24 ~~SEC. 2.~~

25 *SEC. 4.* Section 67051.1 of the Food and Agricultural Code is
26 repealed.

27 ~~SEC. 3.~~

28 *SEC. 5.* Section 67052 of the Food and Agricultural Code is
29 amended to read:

30 67052. (a) Each district shall have one alternate producer
31 member, to be elected in the same manner as producer members.

32 (b) The alternate producer member shall, in the absence of a
33 producer member from the same district, sit in place of the absent
34 producer member on the commission and shall have, and be able
35 to exercise, all the rights, privileges, and powers of the producer
36 member when sitting on the commission.

37 ~~SEC. 4.~~

38 *SEC. 6.* Section 67052.3 of the Food and Agricultural Code is
39 amended to read:

1 67052.3. (a) There shall be one alternate handler member to
2 be elected in the same manner as the handler members.

3 (b) The alternate handler member shall, in the absence of a
4 handler member, sit in place of the absent handler member on the
5 commission and shall have, and be able to exercise, all the rights,
6 privileges, and powers of the handler member when sitting on the
7 commission.

8 ~~SEC. 5:~~

9 *SEC. 7.* Section 67053 of the Food and Agricultural Code is
10 amended to read:

11 67053. (a) Any vacancy on the commission occurring by the
12 failure of any person elected to the commission as a member or
13 alternate member to continue in his or her position due to a change
14 in status making him or her ineligible to serve, or through death,
15 removal, or resignation, shall be filled, for the unexpired portion
16 of the term, by a majority vote of the commission. (b) Any person
17 filling a vacant member or alternate member position shall meet
18 all the qualifications set forth in this article as required for the
19 member whose office he or she is to fill.

20 ~~SEC. 6:~~

21 *SEC. 8.* Section 67054 of the Food and Agricultural Code is
22 amended to read:

23 67054. (a) Producer members and alternate producer members
24 on the commission shall have a financial interest in producing, or
25 causing to be produced, avocados for market. In order to be elected
26 a member or alternate member, a producer shall, at the time of the
27 election, have a financial interest in the production of avocados
28 within the district in which the producer stands for election.

29 (b) A producer may stand for election in any district in which
30 the producer has a financial interest in the production of avocados.

31 (c) Handler members and the alternate handler members shall
32 have a financial interest in handling avocados for markets.

33 (d) The public member shall not have any financial interest in
34 the avocado industry. Except for the nomination of another public
35 member, the public member and his or her alternate member on
36 the commission shall have all the powers, rights, and privileges
37 of any other member on the commission.

38 ~~SEC. 7:~~

39 *SEC. 9.* Section 67059 of the Food and Agricultural Code is
40 amended to read:

1 67059. Unless otherwise specified, a quorum of the commission
2 shall be any nine voting members if the commission consists of
3 three or four districts and any 10 voting members if the commission
4 consists of five districts. The vote of a majority of members present
5 at a meeting at which there is a quorum shall constitute the act of
6 the commission.

7 ~~SEC. 8.~~

8 *SEC. 10.* Section 67081 of the Food and Agricultural Code is
9 amended to read:

10 67081. (a) The secretary shall establish a list of producers in
11 each district. In establishing the lists, the secretary shall require
12 that handlers in the state submit the names, mailing addresses,
13 grove location, and handled volume of each producer from whom
14 they purchased or handled avocados in the preceding marketing
15 season. The request for information from handlers shall be in
16 writing and shall be filed by the handlers within 60 days following
17 receipt of the written request.

18 (b) Any producer of avocados whose name does not appear
19 upon the secretary’s list of producers may have his or her name
20 established on the list by filing with the commission a signed
21 statement, identifying himself or herself as a producer. Failure to
22 be on the list does not exempt the producer from paying
23 assessments under this chapter.

24 ~~SEC. 9.~~

25 *SEC. 11.* Section 67132 of the Food and Agricultural Code is
26 amended to read:

27 67132. Upon the finding of nine voting members of the
28 commission if the commission consists of three or four districts,
29 or of 10 voting members of the commission if the commission
30 consists of five districts, that this chapter has not tended to
31 effectuate its declared purposes, the commission may recommend
32 to the secretary that the operations of the commission shall be
33 suspended, provided that the suspension shall not become effective
34 until the expiration of the current marketing season. The secretary
35 shall, upon receipt of the recommendation, or upon a petition filed
36 with him or her requesting the suspension, signed by 15 percent
37 of the producers by number who produced not less than 15 percent
38 of the volume in the immediately preceding year, cause a
39 referendum to be conducted among the listed producers to
40 determine if the operation of this chapter and the operations of the

1 commission shall be suspended, and shall establish a referendum
2 period, which shall not be less than 10 days nor more than 60 days
3 in duration. The secretary is authorized to prescribe any additional
4 procedure necessary to conduct the referendum. At the close of
5 the established referendum period, the secretary shall tabulate the
6 ballots filed during the period. If at least 40 percent of the total
7 number of producers, on a list established by the secretary
8 marketing 40 percent of the total volume marketed by all producers
9 during the last completed marketing season, participate in the
10 referendum, the secretary shall suspend this chapter upon the
11 expiration of the current marketing season, if he or she finds either
12 one of the following:

13 (a) Sixty-five percent or more of the producers who voted in
14 the referendum voted in favor of the suspension, and the producers
15 so voting marketed 51 percent or more of the total quantity of
16 avocados marketed in the preceding marketing season by all of
17 the producers who voted in the referendum.

18 (b) Fifty-one percent or more of the producers who voted in the
19 referendum voted in favor of suspension, and the producers so
20 voting marketed 65 percent or more of the total quantity of
21 avocados marketed in the preceding season by all of the producers
22 who voted in the referendum.

23 *SEC. 12. The Legislature finds and declares that Sections 1*
24 *and 2 of this act, which add Sections 58853 and 63906 to the Food*
25 *and Agricultural Code, impose a limitation on the public's right*
26 *of access to the meetings of public bodies or the writings of public*
27 *officials and agencies within the meaning of Section 3 of Article*
28 *I of the California Constitution. Pursuant to that constitutional*
29 *provision, the Legislature makes the following findings to*
30 *demonstrate the interest protected by these limitations and the*
31 *need for protecting that interest:*

32 *In order for food and agriculture marketing order advisory*
33 *boards and agricultural and seafood industry councils and*
34 *commissions to hold meetings and make timely decisions, it is in*
35 *the state's interest to revise the requirements for teleconferences*
36 *for these boards, councils, and commissions in order to encourage*
37 *participation by directors. Many of these directors are located in*
38 *remote locations in the state that are difficult for the public to*

- 1 *access and the directors may need to participate from a*
- 2 *nonstationary location.*

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