

Assembly Bill No. 778

CHAPTER 576

An act to amend Section 58595 of the Food and Agricultural Code, relating to agricultural food products.

[Approved by Governor September 27, 2022. Filed with
Secretary of State September 27, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 778, Eduardo Garcia. Institutional purchasers: purchase of California-grown agricultural food products.

Existing law requires all California state-owned or state-run institutions, except public universities and colleges and school districts, to purchase an agricultural product grown in California when the bid or price of the California-grown agricultural product does not exceed by more than 5% the lowest bid or price for an agricultural product produced outside the state and the quality of the California-grown agricultural product is comparable. Existing law also requires the institutions, when they solicit or intend to accept a bid or price for agricultural products grown outside the state, to accept the bid or price from a vendor that packs or processes these agricultural products in the state before accepting a bid or price from a vendor that packs or processes these agricultural products outside of the state when specified conditions are met, including that the bid or price of the agricultural product grown outside the state and packed or processed in the state does not exceed by more than 5% the lowest bid or price for the agricultural product packed or processed outside the state. Existing law requires a school district that solicits bids for the purchase of an agricultural product to accept a bid or price for that agricultural product when it is grown in California before accepting a bid or price for an agricultural product that is grown outside the state when the bid or price of the California-grown agricultural product does not exceed the lowest bid or price for an agricultural product produced outside the state and the quality of the California-grown agricultural product is comparable. Under existing law, these provisions only apply to a contract to purchase agricultural products for a value that is less than the value of the threshold for supplies and services for which California has obligated itself under the Agreement on Government Procurement of the World Trade Organization.

This bill would revise and recast these provisions. The bill would instead require a California state-owned or state-run institution that purchases agricultural food products, as defined, to implement necessary practices to achieve a goal of ensuring that at least 60% of the agricultural food products that it purchases in a calendar year are grown or produced in the state by December 31, 2025. The bill would provide that this goal does not apply to

local educational agencies and the segments of public postsecondary education.

The bill would change the above-described requirement for school districts to apply to the purchase of a domestic agricultural food product that is grown outside the state, instead of an agricultural product that is grown outside of the state, and would expand the application of this requirement from school districts to local educational agencies. The bill would eliminate the above-described preference for in-state vendors. The bill would provide that the bill's provisions neither limit nor expand California's obligations under the Agreement on Government Procurement of the World Trade Organization. By creating new duties for local educational agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Over one-third of the country's vegetables and two-thirds of the country's fruits and nuts are grown in California. California's agricultural abundance includes more than 400 commodities. California is the leading state in the nation for cash farm receipts, accounting for over 13 percent of the nation's total agricultural value.

(b) California is the sole producer (99 percent or more) in the nation of the following crops: almonds, artichokes, dates, figs, garlic, grapes, raisins, kiwi, melons, olives, clingstone peaches, pistachios, rice, and walnuts, and a lead producer in many more agricultural products.

(c) Farmers in this state produce fruits, vegetables, nuts, and meat from animal livestock in accordance with the state's pesticide, labor, environmental, and minimum wage laws.

(d) Complying with these state laws increases costs but provides real benefits to the health of consumers, to the environment, and to the workers who produce these goods.

(e) On January 25, 2021, President Biden issued an Executive Order on "Ensuring the Future Is Made in All of America by All of America's Workers" that stated that "It is the policy of my Administration that the United States Government should, consistent with applicable law, use terms and conditions of Federal financial assistance awards and Federal procurements to maximize the use of goods, products, and materials produced in, and services offered in, the United States. The United States Government should, whenever possible, procure goods, products, materials,

and services from sources that will help American businesses compete in strategic industries and help America’s workers thrive.”

(f) The Buy American Provision requiring the purchase of domestic commodities by participants in the National School Lunch Program has been in place for 30 years. However, the law allows waivers where the domestic product is priced significantly higher than a nondomestic product. This loophole has resulted in widespread noncompliance with Buy America requirements.

(g) According to figures from the National Council of Farmer Cooperatives, 81 percent of the apple juice served in the school lunch program is imported, and 50 to 60 percent of the fish served in schools is “caught by Russian ships and processed in China.”

(h) Competition from nondomestic producers hurts California agriculture and threatens to eliminate the jobs that workers depend on to feed their own families.

(i) Those who rely on publicly purchased nutrition programs, including school nutrition programs, are often among the most vulnerable children and families. They should have access to high-quality, healthy meals, such as those grown, packed, and produced in California.

(j) Purchasing domestic products reduces the carbon footprint and results in lower greenhouse gas emissions. California companies are subject to more rigorous environmental standards, resulting in enhanced food safety and public safety.

SEC. 2. Section 58595 of the Food and Agricultural Code is amended to read:

58595. (a) A California state-owned or state-run institution that purchases agricultural food products shall implement necessary practices to achieve a goal of ensuring that at least 60 percent of the agricultural food products that it purchases in a calendar year are grown or produced in the state by December 31, 2025.

(b) Subdivision (a) does not apply to segments of public postsecondary education or local educational agencies.

(c) A local educational agency that solicits bids for the purchase of an agricultural food product shall accept a bid or price for that agricultural food product when it is grown in California before accepting a bid or price for a domestic agricultural food product that is grown outside the state, when both of the following are met:

(1) The bid or price of the California-grown agricultural food product does not exceed the lowest bid or price for a domestic agricultural food product produced outside the state.

(2) The quality of the California-grown agricultural food product is comparable to that domestic agricultural food product produced outside the state.

(d) This section shall neither limit nor expand California’s obligations under the Agreement on Government Procurement of the World Trade Organization.

(e) For purposes of this section, the following definitions apply:

(1) “Agricultural food product” means any fresh or processed food product including, but not limited to, fruits, nuts, vegetables, herbs, mushrooms, dairy, shell eggs, honey, pollen, grains, livestock meats, poultry meats, rabbit meats, and fish, including shellfish.

(2) “Local educational agency” has the same meaning as defined in Section 49557.5 of the Education Code.

(3) “Segment of public postsecondary education” means a segment of public higher education described in Section 66010 of the Education Code.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.