
SENATE COMMITTEE ON AGRICULTURE
Senator Andreas Borgeas, Chair
2021 - 2022 Regular

Bill No: AB 778 **Hearing Date:** 6/21/2022
Author: Eduardo Garcia
Version: 6/16/2022
Urgency: No **Fiscal:** Yes
Consultant: Reichel Everhart

Subject: Institutional purchasers: purchase of California-grown agricultural food products

SUMMARY:

This bill requires all California state-owned or state-run institutions that purchase agricultural food products to implement, by December 31, 2025, practices that result in 60% of purchased agricultural food products being grown or produced in California. The bill provides an exemption for segments of public postsecondary education and local educational agencies. The bill requires those state-owned or state-run institutions that did not reach the 60% goal to submit to the California Department of General Services (DGS) a report that states why the goal was not achieved and methods being employed to achieve the goal the following year. The bill requires DGS to compile the data received from the state-owned or state-run institutions and report to the legislature no later than January 1, 2026.

BACKGROUND AND EXISTING LAW:

Existing law:

- 1) 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.
- 2) Requires that all California state-owned or state-run institutions, except public universities and colleges and school districts, that intend to accept a bid or price for agricultural products grown outside the state shall 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 both of the following are met:

- a. 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 percent the lowest bid or price for the agricultural product packed or processed outside the state.
 - b. The quality of the agricultural product packed or processed in the state is comparable to that packed or processed outside the state.
- 3) 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 both of the following are met:
 - a. 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.
 - b. The quality of the California-grown agricultural product is comparable to that agricultural product produced outside the state.
- 4) Applies this section 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.

PROPOSED LAW:

This bill:

- 1) Requires all state-owned or state-run institutions that purchase agricultural food products to implement necessary practices that would result in those state-owned or state-run institutions purchasing at least 60 percent of agricultural food products grown or produced within the state by December 31, 2025.
- 2) Requires the state-owned or state-run institutions that did not achieve purchasing at least 60 percent of agricultural food products grown or produced in the state by December 31, 2025, to submit a report to the California Department of General Services detailing why the goal was not achieved and what steps the institution is taking to achieve the goal the following year.
- 3) Requires DGS to submit a report to the legislature no later than January 1, 2026, that includes, but is not limited to:
 - a. A list of all state-owned and state-run institutions that purchase agricultural food products.
 - b. The percentage of agricultural food products grown or produced within the state purchased by that state-owned or state-run institution.

- c. A list of the state-owned or state-run institutions that did not achieve the goal of 60% of state-grown or state-processed agricultural food products and what steps they are taking to achieve that goal the following year.
- 4) Exempts segments of public postsecondary education or local educational agencies.
- 5) States a local educational agency that solicits bids for the purchase of an agricultural food product shall accept a bid or price for that 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:
 - a. The bid or price of the California-grown agricultural product does not exceed the lowest bid or price for a domestic agricultural product produced outside the state.
 - b. The quality of the California-grown agricultural product is comparable to that domestic agricultural product produced outside the state.
- 6) Defines the following:
 - a. “Agricultural food product” to mean a fresh or processed product, including fruit, nuts, vegetables, herbs, mushrooms, dairy, shell eggs, honey, grains, livestock meats, poultry meats, and fish, including shellfish.
 - b. “Local educational agency” to have the same meaning as Section 49557.5 of the Education Code, which states:
 - i. “49557.5. (a) local educational agency means a school, school district, county office of education, or charter school.”
 - c. “Segment of public postsecondary education” to mean a segment of public higher education described in Section 66010 of the Education Code, which states:
 - i. “66010. (a) Public higher education consists of (1) the California Community Colleges, (2) the California State University and each campus, branch, and function thereof, and (3) each campus, branch, and function of the University of California.”
- 7) States that this section shall neither limit nor expand California’s obligations under the Agreement on Government Procurement of the World Trade Organization.

ARGUMENTS IN SUPPORT:

According to the author:

California laws require growers to follow some of the strictest environmental regulations in the country. Therefore, we should be giving our farmers the benefit of the doubt that our state's agricultural products are the best in the nation by committing to a Buy California program.

Growing Coachella Valley writes in support of the bill, stating, "California's economy benefits when state institutions direct purchasing power towards California grown products and growers reinvest this money back into the economy and their local communities."

ARGUMENTS IN OPPOSITION:

None received.

COMMENTS:

California is the largest agricultural state in the U.S., producing over 350 commodities. It is the sole U.S. producer of many fruits and vegetables. Ironically, Californians take less advantage of this agricultural bounty than other U.S. citizens, eating 24% less fresh fruits and vegetables than the level recommended by leading health experts. At the same time, California farmers are losing their markets to foreign competitors, rural unemployment is at an all-time high, and family farms are struggling.

Several bills similar to this one have been introduced over the last 20 years but they have not been signed into law. Governors Davis, Schwarzenegger, and Brown Jr. have vetoed similar bills. Governor Brown Jr., in his veto statement for Assembly Bill 199 in 2013 (see "Related Legislation" below), said, "This bill would require the state to implement a preference for agricultural products grown in California and offered by a California company. This preference would be difficult to comply with and quite onerous. Every purchase, even a single bag of apples, would be affected. I strongly support California's agricultural industry and encourage all state-run institutions to support local farmers and businesses. In fact, state growers and processors have no trouble competing for – and winning – the state's business. Today, approximately half of all food the Department of General Services purchases for state institutions comes from California, without a preference or a mandate."

RELATED LEGISLATION:

- 1) SB 1308 (*Caballero, 2022*): This bill requires school districts that solicit 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 a domestic (within the United States) agricultural product that is grown outside of California unless the bid or price of the California-grown agricultural product exceeds the lowest bid or price of the domestic agricultural product produced outside the state. This bill also prohibits California Community Colleges, California State University, and all local educational agencies, and encourages the University of California to refrain, from purchasing agricultural food products grown, packed, or processed nondomestically (outside of the United States) unless the price of the nondomestic agricultural food product is more than 25% lower than the bid or price of the domestic agricultural food product and the quality of the product is comparable to the product grown in California. This bill defines “domestic” to mean within the United States and defines “nondomestic” to mean outside of the United States. It defines “agricultural food product” to mean a fresh or processed product. This bill makes these provisions operative on January 1, 2024. Finally, this bill incorporates findings and declarations to reference the President’s Executive Order “Ensuring the Future is Made in All of America by All of America’s Workers.” (*In Assembly Agriculture Committee*).
- 2) AB 710 (*Eduardo Garcia, 2022*): This bill prohibits a vendor from selling a listed agricultural product (LAP) produced in the state or outside of the state unless the product was produced in compliance with specified California health and environmental protection laws. Furthermore, this bill prohibits a retailer from selling a LAP produced in the state or outside of the country unless the product was produced in compliance with specified California labor laws (*Failed in Senate Business and Professions Committee*).
- 3) AB 1248 (*Eduardo Garcia, 2020*): Requires all California state-owned or state-run institutions, including public universities and colleges and school districts, that purchase agricultural products to only purchase an agricultural product grown in California unless the product is not available from an in-state source or is not grown in the state (*Held in Senate Governmental Organization Committee*).
- 4) AB 822 (*Chapter 785, Statutes of 2017*): Requires all California state-owned or state-run institutions, except public universities and colleges and school districts, to purchase agricultural products 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 produce is comparable.

- 5) AB 199 (*Holden, 2013*): The bill creates the Choose California Act, which would have given preference for California-grown agricultural products (*Vetoed by Governor Brown*).
- 6) AB 1960 (*Ma, 2010*): The bill encourages state agencies to purchase California fruit, nuts, and vegetables produced or processed in California if the price is equal to or less than imported fruits, nuts, and vegetables (*Held in Senate Rules Committee*).
- 7) AB 801 (*Salinas, 2001*): This bill creates the Choose California Act, which would have required state-owned or state-run institutions to purchase agricultural products grown in California before those grown out-of-state, provided the prices for California-grown products did not exceed the lowest price of products grown outside California by more than 5%. The bill includes public schools when the price and quality are equal to products grown outside of California (*Vetoed by Governor Davis*).

PRIOR ACTIONS:

Assembly Floor:	75 - 0
Assembly Appropriations Committee:	16 - 0
Assembly Accountability and Administrative Review Committee:	7 - 0

SUPPORT:

- California Apple Commission
- California Blueberry Commission
- California Farm Bureau Federation
- Olive Growers Council of California

OPPOSITION:

None received

-- END --