

AMENDED IN SENATE JUNE 13, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1976**

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**Introduced by Assembly Member Irwin**

February 16, 2016

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An act to amend Sections 67051, 67052, 67052.3, 67053, 67054, 67059, 67081, and ~~67132~~ of 67132 of, and to repeal Section 67051.1 of, the Food and Agriculture Agricultural Code, relating to avocados.

LEGISLATIVE COUNSEL'S DIGEST

AB 1976, as amended, Irwin. California Avocado Commission.

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.

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 67051 of the Food and Agricultural Code
- 2 is amended to read:
- 3 67051. (a) There is in the state government the California
- 4 Avocado Commission.

1 (b) The commission shall be composed of the following  
2 members:

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

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

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

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

10 (3) One public member who shall be appointed to the  
11 commission by the secretary from nominees recommended by the  
12 commission.

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

15 *SEC. 2. Section 67051.1 of the Food and Agricultural Code is*  
16 *repealed.*

17 ~~67051.1. Notwithstanding Section 67051, any handler that~~  
18 ~~handles 30 percent or more of the volume of avocados in the~~  
19 ~~preceding marketing season, as annually determined by the~~  
20 ~~secretary, may appoint one handler member to the commission.~~  
21 ~~All other handlers shall nominate and elect the remaining handler~~  
22 ~~members pursuant to this chapter. Any handler appointed to the~~  
23 ~~commission pursuant to this section shall maintain his or her~~  
24 ~~eligibility under this section during the entire term of office. Any~~  
25 ~~vacancy caused by the ineligibility of the handler shall be filled~~  
26 ~~in accordance with Section 67053.~~

27 ~~SEC. 2.~~

28 *SEC. 3. 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. 3.~~

38 *SEC. 4. 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. Section 67053 of the Food and Agricultural Code is*  
 9 *amended to read:*

10 67053. (a) Any vacancy ~~of a member position~~ on the  
 11 commission occurring ~~for any reason including~~ by the failure of  
 12 any person elected to the commission as a member or alternate  
 13 member to continue in his or her position due to a change in status  
 14 making him or her ineligible to serve, or through death, removal,  
 15 or resignation, shall be filled, for the unexpired portion of the term,  
 16 by the alternate member for that position.

17 ~~(b) Any vacancy of an alternate member position on the~~  
 18 ~~commission occurring for any reason, including the alternate's~~  
 19 ~~move to the member position or the failure of any alternate member~~  
 20 ~~to continue in his or her position due to a change in status making~~  
 21 ~~him or her ineligible to serve, or through death, removal, or~~  
 22 ~~resignation, shall be filled for the unexpired portion of the term~~  
 23 ~~by a a majority vote of the commission.~~

24 (e)  
 25 (b) Any person filling a vacant member or alternate member  
 26 position shall ~~fulfill~~ *meet* all the qualifications set forth in this  
 27 article as required for the member ~~or alternate member~~. *whose*  
 28 *office he or she is to fill.*

29 *SEC. 6. Section 67054 of the Food and Agricultural Code is*  
 30 *amended to read:*

31 67054. (a) Producer members and alternate producer members  
 32 on the commission shall have a financial interest in producing, or  
 33 causing to be produced, avocados for market. In order to be elected  
 34 a member or alternate member, a producer shall, at the time of the  
 35 election, have a financial interest in the production of avocados  
 36 within the district in which the producer stands for election.

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

39 ~~(c) A producer who chooses to stand for election in a particular~~  
 40 ~~district shall not stand for election in any other district for a period~~

1 of four years from the date of his or her most recent election to the  
2 commission. However, this subdivision does not apply in an  
3 election to fill vacancies created by the reapportionment of districts  
4 pursuant to Section 67042.

5 (d)

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

8 (e)

9 (d) The public member shall not have any financial interest in  
10 the avocado industry. Except for the nomination of another public  
11 member, the public member and his or her alternate member on  
12 the commission shall have all the powers, rights, and privileges  
13 of any other member on the commission.

14 ~~SEC. 4.~~

15 *SEC. 7.* Section 67059 of the Food and Agricultural Code is  
16 amended to read:

17 67059. Unless otherwise specified, a quorum of the commission  
18 shall be any nine voting members if the commission consists of  
19 three or four districts and any 10 voting members if the commission  
20 consists of five districts. The vote of a majority of members present  
21 at a meeting at which there is a quorum shall constitute the act of  
22 the commission.

23 ~~SEC. 5.~~

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

26 67081. (a) The secretary shall establish a list of producers in  
27 each district. In establishing the lists, the secretary shall require  
28 that handlers in the state submit the names, mailing addresses,  
29 grove location, and handled volume of each producer from whom  
30 they purchased or handled avocados in the preceding marketing  
31 season. The request for information from handlers shall be in  
32 writing and shall be filed by the handlers within 60 days following  
33 receipt of the written request.

34 (b) Any producer of avocados whose name does not appear  
35 upon the secretary's list of producers may have his or her name  
36 established on the list by filing with the commission a signed  
37 statement, identifying himself or herself as a producer. Failure to  
38 be on the list does not exempt the producer from paying  
39 assessments under this chapter.

1     ~~SEC. 6.~~

2     *SEC. 9.* Section 67132 of the Food and Agricultural Code is  
3 amended to read:

4     67132. Upon the finding of nine voting members of the  
5 commission if the commission consists of three or four districts,  
6 or of 10 voting members of the commission if the commission  
7 consists of five districts, that this chapter has not tended to  
8 effectuate its declared purposes, the commission may recommend  
9 to the secretary that the operations of the commission shall be  
10 suspended, provided that the suspension shall not become effective  
11 until the expiration of the current marketing season. The secretary  
12 shall, upon receipt of the recommendation, or upon a petition filed  
13 with him or her requesting the suspension, signed by 15 percent  
14 of the producers by number who produced not less than 15 percent  
15 of the volume in the immediately preceding year, cause a  
16 referendum to be conducted among the listed producers to  
17 determine if the operation of this chapter and the operations of the  
18 commission shall be suspended, and shall establish a referendum  
19 period, which shall not be less than 10 days nor more than 60 days  
20 in duration. The secretary is authorized to prescribe any additional  
21 procedure necessary to conduct the referendum. At the close of  
22 the established referendum period, the secretary shall tabulate the  
23 ballots filed during the period. If at least 40 percent of the total  
24 number of producers, on a list established by the secretary  
25 marketing 40 percent of the total volume marketed by all producers  
26 during the last completed marketing season, participate in the  
27 referendum, the secretary shall suspend this chapter upon the  
28 expiration of the current marketing season, if he or she finds either  
29 one of the following:

30     (a) Sixty-five percent or more of the producers who voted in  
31 the referendum voted in favor of the suspension, and the producers  
32 so voting marketed 51 percent or more of the total quantity of  
33 avocados marketed in the preceding marketing season by all of  
34 the producers who voted in the referendum.

35     (b) Fifty-one percent or more of the producers who voted in the  
36 referendum voted in favor of suspension, and the producers so  
37 voting marketed 65 percent or more of the total quantity of

- 1 avocados marketed in the preceding season by all of the producers
- 2 who voted in the referendum.

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