

AMENDED IN SENATE MARCH 31, 1997

**SENATE BILL**

**No. 494**

**Introduced by Senator Maddy**

February 20, 1997

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An act to amend ~~Section 19622.5~~ of Sections 19621.1, 19622.1, 19622.3, and 19622.4 of, and to repeal Section 19622.5 of, the Business and Professions Code, relating to district agricultural associations.

LEGISLATIVE COUNSEL'S DIGEST

SB 494, as amended, Maddy. District agricultural associations: ~~insolvency.~~

When a district agricultural association becomes insolvent, existing law requires the Department of Food and Agriculture to assume control of the association in order to ensure restoration of fiscal solvency. In those circumstances, existing law requires the Secretary of Food and Agriculture, among other things, to implement substantial changes in the district's fiscal policies and practices, *including filing a petition under the federal Bankruptcy Act, if necessary.*

~~This bill would also require the secretary to implement substantial changes in the district's management practices~~ *permit the department to assume control of the district agricultural association, and would also permit the department to petition a court for an order appointing a receiver, or for an order authorizing the department to take control of the association when an association is insolvent or is in imminent danger of insolvency, as defined.*

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 19622.5 of the Business and~~  
2 ~~Professions Code is amended to read:~~  
3 *SECTION 1. Section 19621.1 of the Business and*  
4 *Professions Code is amended to read:*  
5 19621.1. Notwithstanding any other provision of law,  
6 neither the state nor the Department of Food and  
7 Agriculture ~~are~~ *is* liable for any contract or tort of, or any  
8 action taken *or any failure to act* by, any fair in the  
9 network of California fairs that ~~do~~ *does* not comply with  
10 the requirements of Section 19622.3.  
11 No member of the fair board, or any employee or agent  
12 thereof, is personally liable for the contracts or actions of  
13 the fair board, and no member of the fair board or  
14 employee or agent thereof is responsible individually in  
15 any way to any other person for error in judgment,  
16 mistakes, or other acts, either of commission or omission,  
17 as principal, agent, or employee, except for his or her own  
18 individual acts of dishonesty or crime. No member of the  
19 fair board shall be held responsible individually for any  
20 act or omission of any other member of the fair board. The  
21 liability of the members of the fair board is several and not  
22 joint, and no member is liable for the default of any other  
23 member.  
24 *SEC. 2. Section 19622.1 of the Business and*  
25 *Professions Code is amended to read:*  
26 19622.1. (a) Any fair that receives appropriations of  
27 state funds or that occupies or utilizes land or facilities  
28 owned or leased by the state is included in the network  
29 of California fairs. The California Exposition and State  
30 Fair and every fair defined as a district agricultural  
31 association, county fair, or citrus fruit fair in Sections  
32 19418 to 19418.3, inclusive, is a California fair in the  
33 network of California fairs.



1 (b) To maintain its eligibility to receive funds or to  
2 utilize state assets, a California fair shall do all of the  
3 following:

4 ~~(1) File an annual statement of operations with the~~  
5 ~~Department of Food and Agriculture.~~

6 ~~(2) Conduct an annual fair that includes agricultural~~  
7 ~~and other community-relevant exhibits and~~  
8 ~~competitions.~~

9 (2) *Comply with Section 19622.3 for district*  
10 *agricultural associations, and with Section 19622.4 for all*  
11 *other fairs in the network of California fairs.*

12 (c) The ~~Secretary~~ *Department* of Food and  
13 Agriculture shall develop an appeal process for fairs to  
14 appeal any decision concerning the allocation of funds  
15 appropriated to fairs.

16 *SEC. 3. Section 19622.3 of the Business and*  
17 *Professions Code is amended to read:*

18 19622.3. (a) The administrative oversight authority  
19 of the Department of Food and Agriculture shall include,  
20 but is not limited to, requiring district agricultural  
21 associations to do all of the following:

22 (1) Meet all standards prescribed by the Department  
23 of Food and Agriculture ~~pursuant to Section 19622.4~~ ,  
24 *including, but not limited to, filing an annual statement*  
25 *of operations with the department.*

26 (2) Comply with fiscal and policy directives of the  
27 department.

28 (b) For district agricultural associations that  
29 consistently meet or exceed the department's standards  
30 for sound operational or financial management, the  
31 department may delegate approval authority to the  
32 board of directors for ~~budgets, contracts, or maintenance~~  
33 ~~projects~~ *designated operational, financial, and*  
34 *administrative responsibilities.*

35 (c) In the case of impending insolvency, or on the basis  
36 of evidence of insufficient fiscal *or administrative* controls  
37 at a district agricultural association, the department, in  
38 order to protect the integrity of the Fair and Exposition  
39 Fund, may ~~make~~ *assume control of the district*  
40 *agricultural association in order to ensure the restoration*



1 of fiscal solvency or compliance with state fiscal and  
 2 administrative controls, including making allocations  
 3 from the Fair and Exposition Fund for restricted  
 4 purposes only, rather than for general support and  
 5 operations. The department may implement substantial  
 6 changes in the association's fiscal policies and practices,  
 7 including assuming all legal rights, duties, and powers of  
 8 the governing board of the association.

9 (d) If the department, on the basis of financial  
 10 statements filed pursuant to this section, or for any other  
 11 reason, has reason to believe that an association is  
 12 insolvent, or is in imminent danger of insolvency, the  
 13 department may petition a court of competent  
 14 jurisdiction for an order appointing a receiver, or for an  
 15 order of the court authorizing the department to take  
 16 control of the association. The court may authorize the  
 17 department to take control of the association or appoint  
 18 a receiver on that petition upon a showing that the  
 19 association is insolvent, or is in imminent danger of  
 20 insolvency.

21 (e) For the purposes of this section, "insolvency"  
 22 means that an association has either ceased to pay its  
 23 debts in the ordinary course of business, or cannot pay its  
 24 debts as they become due.

25 SEC. 4. Section 19622.4 of the Business and  
 26 Professions Code is amended to read:

27 19622.4. The administrative oversight authority of the  
 28 Department of Food and Agriculture shall include, but is  
 29 not limited to, requiring ~~county all fairs and citrus fruit~~  
 30 ~~fairs~~ eligible for state funding and not addressed in  
 31 Section 19622.3 to do both of the following:

32 (a) Meet ~~at~~ standards prescribed by the Department  
 33 of Food and Agriculture ~~pursuant to Section 19622.1~~  
 34 including, but not limited to, filing a statement of  
 35 operations with the department.

36 (b) Submit to the department for review and approval  
 37 every five years, or as requested by the department, the  
 38 written agreement between the entity producing the  
 39 county fair and the host county ~~to ensure~~, or the host  
 40 agency, with certification from the host county or agency



1 *ensuring* that operation protocols for every ~~county~~  
2 *California* fair are parallel to state fiscal and policy  
3 directives that apply to district agricultural associations.

4 *SEC. 5. Section 19622.5 of the Business and*  
5 *Professions Code is repealed.*

6 ~~19622.5. (a) When a district agricultural association~~  
7 ~~becomes insolvent, the Department of Food and~~  
8 ~~Agriculture shall assume control in order to ensure~~  
9 ~~restoration of fiscal solvency.~~

10 ~~(b) The Secretary of Food and Agriculture shall do,~~  
11 ~~but not be limited to doing, all of the following:~~

12 ~~(1) Implement substantial changes in the district's~~  
13 ~~fiscal policies and practices, including, but not limited to,~~  
14 ~~filing a petition under Chapter 9 of the federal~~  
15 ~~Bankruptcy Act for the adjustment of indebtedness, if~~  
16 ~~necessary.~~

17 ~~(2) Assume all legal rights, duties, and powers of the~~  
18 ~~governing board of the district fair.~~

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20 ~~becomes insolvent, the Department of Food and~~  
21 ~~Agriculture shall assume control in order to ensure~~  
22 ~~restoration of fiscal solvency.~~

23 ~~(b) The Secretary of Food and Agriculture shall do,~~  
24 ~~but not be limited to doing, all of the following:~~

25 ~~(1) Implement substantial changes in the district's~~  
26 ~~fiscal policies and management practices, including, but~~  
27 ~~not limited to, filing a petition under Chapter 9 of the~~  
28 ~~federal Bankruptcy Act for the adjustment of~~  
29 ~~indebtedness, if necessary.~~

30 ~~(2) Assume all legal rights, duties, and powers of the~~  
31 ~~governing board of the district fair.~~

