

# AB 822

CALIFORNIA'S PREFERENCE POLICY FOR AGRICULTURAL PRODUCTS  
GROWN WITHIN THE STATE

April 2023



California's Assembly Bill 822 (AB 822), passed in 2017, is a preference policy that requires state agencies to buy California-grown agricultural products if their price is not greater than 5% more than an out-of-state supplier's price. This fact sheet can be used as a quick reference to help state agencies, policymakers, and policy advocates explain how AB 822 works and how it benefits California; summarize the status of AB 822's implementation; or provide ideas on how implementation can be better supported.

## What is a preference policy?

State preference policies give advantages to suppliers who meet specified criteria when they respond to a state entity's solicitation for products or services. Criteria may relate to a supplier's geographic location, the origin of a supplier's product, the type of product or service offered, or the diversity classification of a supplier (e.g., small business or minority-, veteran-, or woman-owned business). One type of preference policy for agricultural products that is used by California (AB 822) and 13 other states<sup>1</sup> is a price preference that requires state entities to purchase agricultural products from in-state growers if the price is no more than a certain percentage greater than the price of an out-of-state product.

## What preference does AB 822 give to California producers?

For purchases made by California state-run institutions (except public universities, colleges, and school districts), AB 822 gives a 5% price preference for California-grown agricultural products over non-California-grown products and a 5% preference for California-packed or -processed products over non-California-packed or -processed products.<sup>2</sup>

For purchases made by California school districts, AB 822 gives tie-break preference to California-grown agricultural products over non-California-grown products. The tie-break preference requires school districts to purchase a California-grown product if the price is the same as that of a non-California-grown product.<sup>3</sup>

## Why is AB 822 important?

AB 822 supports California's agricultural industry by promoting the purchase of California-grown agricultural products by California state institutions. California's agricultural industry is the largest in the United States and a key contributor to California's economy, accounting for 7.3% of all jobs and 6.5% of all labor, business, and property taxes in the state (when ancillary industries and services that support agriculture are included) in 2002.<sup>4</sup> Procuring California-grown agricultural products also benefits local economies, supports employment of Californians, increases California's tax revenue, and contributes to a more sustainable food system.

Additionally, California has some of the nation's strongest health and protection standards for agricultural workers,<sup>5</sup> which can increase production costs and make California growers' prices less competitive. A price preference for California-grown products can help California's growers remain competitive while supporting the health and safety of agricultural workers.

Procuring in-state agricultural products can also result in fresher, more appealing, and more nutritious food for all people who eat food procured and prepared by California state agencies. This benefit is especially significant in California's carceral institutions, where more than 101,000 residents are unable to access agricultural products from other sources.<sup>6</sup> Poor nutrition can result in poor mental and physical health and increased health care costs. Fresher, more appealing food can also reduce food waste.

## Which products does AB 822 apply to?

AB 822 applies to "agricultural products," which are defined by statute as products produced in California as well as out-of-state products processed in California, such as fruits, nuts, and vegetables.<sup>7</sup>

In order for the price preference or tie-break preference to apply, the quality of the California-grown, -produced, or -processed agricultural product must be comparable in quality to the out-of-state product against which it competes.

## How does AB 822 work?

Consider a hypothetical California institution looking to purchase 10,000 pounds of onions. The institution solicits bids from suppliers. The two lowest bids are supplier A, who offers California-grown onions at \$.50 a pound (\$5,000 total), and supplier B, who offers non-California-grown onions at \$.48 a pound (\$4,800 total). Assuming the onions are of comparable quality, the California-grown product must be purchased because its cost is not greater than 5% more than the cost of the non-California-grown product.

## Who is involved in the implementation of AB 822?

AB 822 was written and passed by the California state legislature (state assembly and state senate). The legislature also has the power to revise AB 822 or to propose and pass new legislation that would then be enforced by California's executive branch.

California's executive branch - including state agencies like the California Department of Corrections and Rehabilitation and the California Department of Education - is entrusted with overseeing the enforcement and implementation of laws such as AB 822. These state agencies oversee individual institutions and facilities.

California institutions and facilities - such as individual correctional facilities, hospitals, and others - are primarily responsible for day-to-day implementation of AB 822. Their food managers and procurement staff solicit bids and execute product and service contracts.

## How has AB 822 been implemented to date?

Although AB 822 has been state law since 2017, the extent to which the price preference requirement has been implemented is unclear. Publicly accessible records from various state institutions show that information on the origin of agricultural products often is not tracked or collected.

## What are some challenges of implementing AB 822?

Several barriers to full implementation of AB 822 have been identified. Interviews with food managers at California state institutions have highlighted difficulties in navigating multiple procurement requirements and preferences; restrictive food budgets; limited awareness of AB 822; insufficient information from suppliers on the origin of their products; and difficulties in tracking the origin of products in bids that include a mix of items.

Procurement in California is governed by legal provisions in several statutes (such as the Public Contract Code and the Government Code) that set mandatory processes that state institutions must follow. Adding to the complexity of state food procurement is the reality that agricultural products are typically ordered in bulk, with multiple types of products per order. Procurement staff are often unclear about whether the preference applies to a single item in an order or to the entire order, and they are also unsure about how AB 822 interacts with other state preference policies, such as preferences for veteran-owned or small businesses. Further, food managers may be reluctant to purchase more expensive local agricultural products, given that they must comply with strict nutritional requirements on tight food budgets.

## How can California's institutions and facilities better implement AB 822?

Institutions and facilities can better implement AB 822 by taking the following actions:

- Update procurement policies and procedures to reflect the requirements of AB 822
- Request agricultural products' origin from suppliers who bid on institutional contracts
- Provide training on AB 822 for food procurement staff
- Use existing resources on implementation of AB 822, such as those created by state agencies or private entities

## How can state government assist in implementing AB 822?

California state legislators can improve implementation of AB 822 by revising AB 822 or passing new legislation to include the following provisions:

- Requiring reporting and creating enforcement mechanisms to ensure compliance
- Requiring suppliers to report origin of agricultural products for state contracts
- Increasing the price preference to ensure that more California suppliers' pricing can be competitive

The Office of the Governor of California can consider larger food budgets for purchasing entities, to offset more expensive purchases.

State agencies can consider the following actions:

- Mandating specific purchasing and reporting procedures related to preference policies
- Creating awareness and training programs to assist individual institutions with compliance
- Providing clarification on how to navigate multiple or competing requirements (California-grown, small business, etc.)
- Creating a state database or repository of information about suppliers of locally grown or state-grown agricultural products

## Acknowledgments



ChangeLab Solutions is a nonpartisan nonprofit organization that uses the tools of law and policy to advance health equity. We partner with communities across the nation to improve health and opportunity by changing harmful laws, policies, and systems. Our interdisciplinary team works with community organizations, governments, and local institutions to design and implement equitable and practical policy solutions to complex health challenges.



The Nutrition Policy Institute (NPI) envisions a world in which healthy food, beverages, and opportunities for physical activity are accessible, affordable, equitable, and sustainable for everyone. NPI's mission is to conduct and translate policy-relevant research to transform environments for healthy children, families, and communities.



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## References

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