

Date of Hearing: April 10, 2024

ASSEMBLY COMMITTEE ON AGRICULTURE
Esmeralda Soria, Chair
AB 2745 (Mathis) – As Introduced February 15, 2024

SUBJECT: Agricultural pests: public nuisance: civil penalty

SUMMARY: This bill allows a county agricultural commissioner (CAC), in lieu of civil and administrative actions, to levy a civil penalty against a person who maintains a public nuisance in violation of pest abatement laws. Specifically, *this bill*:

- 1) Allows a county agricultural commissioner (CAC), in lieu of civil and administrative actions, to levy a civil penalty against a person who maintains a public nuisance in violation of pest abeyance laws, as specified.
- 2) Requires that civil penalty to be in the amount of \$500 for each acre of property found to be in violation of being a public nuisance and allows that amount to be increased to \$1,000 per acre if the public nuisance is not rectified within 30 days of issuance of the original civil penalty.

EXISTING LAW:

- 1) Provides that any premises, plants, conveyances, or things that are infected or infested with a pest are a public nuisance and may be abated pursuant to a specified procedure. *Food and Agriculture Code (FAC) 5401*
- 2) Makes it unlawful for any person to maintain that public nuisance. *FAC 5402*
- 3) Makes each CAC an enforcing officer of all laws and regulations that relate to the prevention of the introduction into, or the spread within, the state of pests. *FAC 2276.5*.
- 4) Defines pest to mean specified things that are, or are liable to be, dangerous or detrimental to the agricultural industry of the state. *FAC 5006*
- 5) Allows the secretary of the Department of Food and Agriculture (CDFA) or a CAC, in lieu of specified civil actions to levy a civil penalty against a person violating specified provisions relating to plant quarantine and pest control, not to exceed \$2,500 for each violation. *FAC 5341.5*

FISCAL EFFECT: Unknown.

COMMENTS: California's agriculture and ecosystem is under constant attack from invasive pests and diseases, and it is the duty of CACs, alongside CDFA, to protect against pest and disease. Invasive pests and diseases can disrupt delicate ecosystems by endangering native plants, altering soil chemistry, and affecting water systems. In addition, they pose a grave threat to agricultural crops. If left unchecked, invasive pests and diseases can devastate entire agricultural industries, eliminating jobs, threatening the supply of food and costing both the State and California farmers billions of dollars. To highlight the severity of the problem, the Center for Invasive Species Research at U.C. Riverside found that California agricultural losses to exotic pests exceed \$3 billion annually.

CACs must be able to respond quickly when a pest or disease is found on a property. Time is absolutely of the essence when dealing with this challenge. However according to the author, the lengthy process prescribed within existing law is itself a threat to California's agricultural industry and ecosystem if it remains the only tool that agricultural commissioners can use to fend off invasive pests and diseases. Properties that harbor these pests and diseases have little to no incentive to resolve this public nuisance if they know that the county will come and do it for them at cost. This creates a reality in which properties could harbor pests, knowingly or unknowingly, and simply wait for the county to take care of it. This is often far too late, and counties are not in the financial position to cover these costs up front and then wait for the lengthy lien process to transpire for reimbursement.

Supporters state this bill will give CACs a much needed enforcement tool to combat negligent properties that harbor invasive pests and species. The notice of an impending civil penalty is the best option to compel properties to correct a public nuisance before it threatens adjacent agricultural land and wildlife. The civil penalty authorized by this bill will be in the amount of \$500 per acre of property found to constitute a public nuisance. As legislation before has combatted abandoned or neglected crops with a fixed penalty, this per acre penalty will much more effectively match the scale of problem and spur action. Furthermore, if a property fails to correct the problem, the fine may be increased to \$1,000 per acre of property after 30 more days of noncompliance. This increase will ensure that noncompliant properties take urgent action to rectify the issue. Additionally, this bill ensures that a property owner will receive a notice of the nature of the violation resulting in a civil penalty, and will reserve the right to be given an opportunity to be heard and present evidence on their own behalf.

Opponents state, who are opposed unless amended, while they agree with the intentions of this bill and the importance of curbing harmful pests, this legislation is too broad and needs much more definition and clarity on what a "nuisance" and "pest" is. If enacted this legislation would broadly authorize Agricultural Commissioners to assess civil penalties in ways that could be inappropriate. Many of our farmers grow diversified vegetable and orchard crops, most of which have important habitat for beneficial insects such as hedgerows, plant cover crops for soil health, and have a wide array of crop diversity and planting systems.

Opponents would like to work with the author to amend the bill in the following ways:

- 1) Terms and definitions: would like more specific language around invasive pests in the bill text specifically pointing out the insects, diseases, weeds, and species.
- 2) Making the presence of pests or diseases on a farm "unlawful" or "liable to be, dangerous or detrimental" leaves too much for interpretation and needs more refinement and definition.
- 3) Timeline and due process: Pest management is a process. Terminating the pest or diseased crop, object, etc. can be time consuming. Farmers should be given a realistic opportunity to correct any pest issue and be heard.
- 4) Fees and violations: The fees for these violations are significant enough that they could potentially jeopardize many small farms if enforced as written. It is recommended fees be a last resort for farmers who are engaged in truly negligent practices on their lands otherwise

this will increase distrust of government agencies that are needed to support small family farms.

REGISTERED SUPPORT / OPPOSITION:

Support

Almond Alliance

California Apple Commission

California Blueberry Association

California Blueberry Commission

California Wool Growers Association

County of Fresno

Olive Growers Council of California

The Consolidated Central Valley Table Grape Pest and Disease Control District

Oppose Unless Amended

Community Alliance with Family Farmers

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