



April 13, 2023

The Honorable Chris Holden
Chair, Assembly Appropriations Committee
1021 O St, Suite 8220
Sacramento, CA 95814

RE: AB 853 – OPPOSED

Dear Chair Holden:

The undersigned organizations oppose AB 853, which would prohibit the change of control of a retail grocery firm, unless written notice is given to the Attorney General at least 180 days before the acquisition is to become effective.

Federal and state antitrust laws forbids parties from entering in agreements that substantially lessen competition or unreasonably restrain trade and existing state standards obligate incumbent grocery employers to enable a transition employment period for employees, as specified. AB 853 would obligate the grocery retail industry, including most independent grocers, to provide unnecessary notice with potentially proprietary data that would perpetuate service deficits for food insecure communities.

The Attorney General notice and stay order requirements within AB 853 are overreaching and will inhibit the stability of the grocery retail industry. Due to the overly broad definition of “retail grocery firm,” as proposed, the noticing requirements in the bill would apply where an independent grocer wishes to purchase even a single store from successor, which is not covered under the Federal Trade Commission criteria.

Also, providing notice at such a significant length in advance will delay what should be a straightforward process. This may have the unintended consequences of placing grocers, including independent grocers, through an unnecessary waiting period, costly legal battles, and dramatically impact the price of the grocery asset. These impacts will discourage grocers from siting acquisitions in areas, including food deserts, that should otherwise be an opportunity for greater community investment, in favor of non-grocery retail locations. The business constraints that would be caused by AB 853 are paradoxically some of the very real issues we all want to rectify—job loss, food inaccessibility and community divestment.

Practically, the provisions of AB 853 would have prohibited a real success story that took place in the city of Tulare. An independent Hispanic grocer took over an existing store that was set to close its doors. This grocery location was the only store within one mile of a U.S. Department of Agriculture designated food desert. This grocer took over and continued to service the community, absorbing existing employees, hiring more, and adapting to offer fresh, affordable, and culturally appropriate food to a community that wouldn't otherwise be served. Were AB 853 to be law, this Tulare store transition would not exist, as the extended 180-day process proposed would have effectively denied an otherwise smooth transition due to onerous delays and untenable cost pressures.

For these reasons, we oppose AB 853 and request a no vote.

Sincerely,



Ashley Hoffman, Policy Advocate
California Chamber of Commerce



Leticia Garcia, Director, State Government Relations
California Grocers Association



Ryan Allain, Director, Government Affairs
California Retailers Association

Cc: The Honorable Brian Maienschein, California State Assembly
Members, Assembly Committee on Appropriations