

HOUSE BILL REPORT

HB 1671

As Reported By House Committee On:

Agriculture & Ecology
Finance

Title: An act relating to agricultural commodity commissions.

Brief Description: Revising commodity commission assessment authority.

Sponsors: Representatives Clements, Chandler, Grant and Mastin.

Brief History:

Committee Activity:

Agriculture & Ecology: 2/20/95, 2/22/95 [DPS];

Finance: 3/6/95 [DPS(AG)].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Chandler, Chairman; Koster, Vice Chairman; McMorris, Vice Chairman; Chappell, Assistant Ranking Minority Member; Boldt; Clements; Delvin; Honeyford; Johnson; Kremen; Poulsen; Robertson and Schoesler.

Minority Report: Without recommendation. Signed by 4 members: Representatives Mastin, Ranking Minority Member; R. Fisher; Regala and Rust.

Staff: Kenneth Hirst (786-7105).

Background:

Tree Fruit Research Commission. The Tree Fruit Research Commission was created by statute to carry out research regarding the planting, production, harvesting, handling, processing, or shipment of tree fruit and to administer industry specific service programs. The activities of the commission are funded by assessments on tree fruit commercially produced in the state. To take effect, the initial assessment authorized by statute had to be approved by a referendum submitted to the commercial producers of tree fruit. Similarly, any increases in the assessment must be approved by a referendum submitted to the producers. The current assessment rate for cherries is \$2 per ton. State law permits the producers to establish, by

referendum, an additional assessment for programs such as sanitation programs and those assisting the reregistration of pesticides for use on minor crops. Currently, the commission is to establish such assessments, by referendum, for an Industry Services Fund and to maintain a balance of approximately \$100,000 in the fund.

Commodity Boards & Commissions - In General. Some agricultural commodity commissions, such as the Tree Fruit Research Commission, Apple Advertising Commission, Beef Commission, and Dairy Products Commission, have been created by statute. The state's Agricultural Enabling Acts of 1955 and 1961 provide procedures under which the producers of agricultural commodities may prepare marketing agreements and orders to create, by referenda, agricultural commodity boards and commissions for the commodities without further statutory authority.

The Agricultural Enabling Act of 1961 requires a marketing order adopted under the act creating a commodity board to specify the assessment as part of the marketing order. The order may be amended only by a referendum approved by affected producers or producers and handlers or by the written agreement by the affected parties. The Hop Commodity Board and the Mint Commodity Board were created under the authority of the Agricultural Enabling Act of 1961.

Hops & Mint. Through 1995, the annual assessment on all varieties of hops is \$2.50 per unit. Beginning in 1996, the assessment is \$1.25 per unit. The assessed unit for hops is 200 pounds or the lupulin, extract, or oil from 200 pounds. The current annual assessment for mint oil is three and one-half cents per pound of oil as weighed by the first purchaser.

Initiative 601. Initiative 601 was approved by the voters at the November 1993 general election. Section 8 of the initiative states that no fee may increase in any fiscal year by a percentage in excess of the fiscal growth factor for that fiscal year without prior legislative approval. The fiscal growth factor for a fiscal year is the average of the sum of inflation and population change for each of the prior three fiscal years. Until July 1, 1995, state taxes may be raised only if approved by the voters.

Summary of Substitute Bill: The Tree Fruit Research Commission is authorized to increase the assessment on cherries in excess of the fiscal growth factor to \$4 per ton. It may also, with regard to any additional assessment placed on all tree fruits, establish an additional assessment (in excess of the fiscal growth factor) of not more than 8 cents per ton.

The Hop Commission is authorized to raise the rate of annual assessment in excess of the fiscal growth factor from \$2.50 per unit to \$3 per unit. The Mint Commission may adjust the annual assessment in excess of the fiscal growth factor from three and a half cents per unit to five cents per unit. These assessments by the Hop

Commission and the Mint Commission may be raised only by using the procedures established in the Agricultural Enabling Act of 1961.

These assessment limits apply only to a commission's authority to raise assessments in excess of the fiscal growth factor.

Substitute Bill Compared to Original Bill: The substitute bill identifies the affected units of the commodities for the assessments (they are the units specified in the marketing orders for the commodities); and expressly states that the assessment limits provided by the bill apply only to a commission's authority to raise assessments in excess of the fiscal growth factor.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect on July 1, 1995.

Testimony For: (1) It is not clear that commodity commissions are state agencies and therefore subject to Initiative 601. They more closely resemble special purpose districts or quasi-public corporations. (2) Each of these assessments may be raised only if approved by a referendum submitted to the producers of the commodities. If the assessments must be raised only by the fiscal growth factor each year, the cost of conducting the referenda would be prohibitive. (3) The Mint Commission's funds are used strictly for research. Mint and hop assessments must be approved by a super majority vote of the producers. (4) The Mint Commission's budget would have to be cut substantially if these increases are not permitted; the cuts will be difficult since much of its budget is obligated by contracts. (5) The cherry assessment is needed to fund studies of alternatives to the use of methyl bromide, needed for exports to countries such as Japan. This is an emergency that must be addressed by the end of the decade. (6) The cherry assessment is also needed to provide more specific and less toxic pesticides for use by the cherry industry.

Testimony Against: None.

Testified: Representative Clements (prime sponsor); Bernard J. Camache, Washington Hop Commission (pro); Pat Boss, Hop Growers of Washington (pro); Gary Christensen, Washington Mint Growers Association (pro); David Allan, Tree Fruit Research Commission (pro); Jim Halstrom, Washington State Horticultural Association (pro); and Mike Schwisow, Washington State Potato Commission (commented).

Majority Report: The substitute bill by Committee on Agriculture & Ecology be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives B. Thomas, Chairman; Boldt, Vice Chairman; Carrell, Vice Chairman; Dickerson, Assistant Ranking Minority Member; Hymes; Mason; Mulliken; Schoesler; Sheldon and Van Luven.

Minority Report: Without recommendation. Signed by 2 members: Representatives Morris, Ranking Minority Member; and Pennington.

Staff: Rick Peterson (786-7150).

Summary of Recommendation of Committee on Finance Compared to Recommendation of Committee on Agriculture & Ecology: No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect on July 1, 1995.

Testimony For: The Attorney General has determined that our associations and commissions by definition are "state agencies" for the purpose of Initiative 601. We disagree, but as a result of this ruling, we must have legislation to allow us to raise our fees. The money generated by the fees is paid for by our industry. We use this money to promote our industry and to conduct research. This money does not go into the general fund, nor is it part of the budgetary process.

Testimony Against: None.

Testified: Representative Jim Clements, prime sponsor; Chris Cheney, Hop Growers of Washington, Washington Hop Commission, and Mint Growers; and Enid Layes, Washington State Horticulture Association.