

HOUSE BILL REPORT

EHB 2133

As Passed Legislature

Title: An act relating to disclosure of agricultural business and commodity commission records.

Brief Description: Disclosing agriculture business records.

Sponsors: Representatives Chandler, Chappell, Mastin, Schoesler, Grant, Regala, Honeyford, Johnson and Boldt; by request of Department of Agriculture.

Brief History:

Committee Activity:

Agriculture & Ecology: 1/17/96, 1/18/96 [DPA].

Floor Activity:

Passed House: 1/31/96, 96-0.

Passed Legislature.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: Do pass as amended. Signed by 16 members: Representatives Chandler, Chairman; Koster, Vice Chairman; Chappell, Ranking Minority Member; Linville, Assistant Ranking Minority Member; Boldt; Clements; Delvin; R. Fisher; Honeyford; Johnson; Mastin; Ogden; Regala; Robertson; Rust and Schoesler.

Staff: Kenneth Hirst (786-7105).

Background: Public Records. A part of the state's public disclosure laws regulates the indexing, maintenance, and disclosure to the public of records in the custody of state and local governmental entities. The records governed by these laws include certain legislative records and any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency. These "writings" expressly include data compilations from which information can be obtained or translated.

Each agency must make available for public inspection and copying all public records, unless the record falls within specific exemptions codified in the public disclosure laws or in other statutes.

Among the records exempted from disclosure by the disclosure laws are the financial and commercial information and records supplied by private persons pertaining to export services provided under state laws creating the state's Economic Development Finance Authority and authorizing export trading companies created by public ports.

Agricultural Marketing Programs. State law designates the Department of Agriculture as the agency of state government for the administration of state agricultural market development programs, domestic and foreign. A number of agricultural commodity commissions have been created directly by statute or indirectly under the Agricultural Enabling Acts of 1955 and 1961. Marketing promotion is a principal activity of many of the commodity commissions. The activities of many of the commissions are funded by assessments levied on the sale of the products that fall within their jurisdictions. Certain exports of agricultural commodities to other states or nations must be accompanied by phytosanitary certificates attesting to compliance with quarantine or similar requirements of the receiving state or nation.

Summary of Bill: The following records are exempted from the public disclosure requirements of the state's public disclosure law:

- (1) Production or sales records required to determine assessment levels and actual assessment payments to commodity commissions, or required by the Department of Agriculture regarding agricultural and vegetable seeds under the Seed Act, or regarding the wholesale marketing of fruit trees, fruit tree-related ornamental trees, and fruit tree rootstock.
- (2) Consignment information contained on phytosanitary certificates or on applications for phytosanitary certification required by the department.
- (3) Financial and commercial information and records supplied by persons to agricultural commodity commissions with respect to domestic or export marketing activities or individual producer's production information.
- (4) Financial and commercial information and records supplied by persons to the department with respect to export market development projects.

The latter exemption does not apply to the release of statistical information not descriptive of any readily identifiable person or persons, nor if confidentiality is waived by the party supplying the information.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The exemptions protect the financial or trade information specific to a producer or exporter. A Christmas tree grower invested a great deal of money and effort in developing a particular export market. A competitor was able to access the trade information and use the other's private efforts for the competitor's advantage because the records are not protected from disclosure. This information and financial information of producers provided to commodity commissions or the department should be protected.

Testimony Against: The "trade" information protected on phytosanitary certificates or applications should be limited to the "consignment" information on the certificates or applications.

Testified: Jim Jesernig and Mary Beth Lang, Department of Agriculture; Enid Layes, Washington State Horticultural Association; Chris Cheney, Washington Hop Commission and Washington Potato Commission; and Norvil Johanson, Strawberry Commission (in favor). Becky Bogart, Washington Association of Broadcasters; and Rowland Thompson, Allied Daily Newspapers (in favor of amendment).