
HOUSE BILL 2773

State of Washington

54th Legislature

1996 Regular Session

By Representatives Chandler, Mastin, Jacobsen, Grant, Koster, Robertson, Chappell, Schoesler, Linville, Mulliken and Honeyford

Read first time 01/18/96. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to cooperative associations; amending RCW 23.86.080
2 and 23.86.090; and adding a new section to chapter 23.86 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 23.86 RCW
5 to read as follows:

6 (1) The association and its members may make and execute marketing
7 contracts. The marketing contract may require the members to sell, for
8 any period of time, all or any specified part of their agricultural
9 products or specified commodities exclusively to, or through the
10 association, or any facilities to be created by the association. The
11 contract may provide that the association may sell or resell the
12 products of its members, with or without taking title thereto, and pay
13 over on a proportional basis or otherwise to its members the resale
14 price, after deducting all necessary selling, overhead, and other costs
15 and expenses, including interest, if any, on capital stock, book
16 credits, or allocated reserves, not exceeding eight percent per annum,
17 and reserves for retiring such capital stock or book credits, if any,
18 and other proper reserves.

1 (2) The marketing contract may fix and require liquidated damages
2 to be paid by the member to the association in the event of breach of
3 the contract by the member and may further provide that the member will
4 pay all costs, premiums for bonds, expenses and fees in case any action
5 is legally maintained under the contract by the association.
6 Liquidated damages may be a percentage of the value, or a specific
7 amount per unit of the products, goods or services involved by the
8 breach, or a specific sum. All such provisions shall be enforced as
9 written, whether at law or in equity, and shall be deemed proper
10 measurement of actual damages, and not penalties or forfeitures. The
11 association may obtain specific performance of any such contract, or
12 enjoin its threatened or continued breach, despite the adequacy of any
13 legal or other remedy. If the association files a verified petition,
14 showing an actual or threatened breach of any such contract and seeking
15 any remedy therefor, the court shall without notice or delay but on
16 such bond as it deems proper, issue a temporary injunction against such
17 breach or its continuance.

18 (3) The provisions of subsections (1) and (2) of this section shall
19 be applicable and the rights and remedies shall be available to any
20 corporation organized under any cooperative law of any other state of
21 the United States now or in the future admitted to do business in this
22 state.

23 **Sec. 2.** RCW 23.86.080 and 1989 c 307 s 10 are each amended to read
24 as follows:

25 (1) Associations shall be managed by a board of not less than three
26 directors (which may be referred to as "trustees"). The directors
27 shall be elected by and from the members of the association at such
28 time, in such manner, and for such term of office as the bylaws may
29 prescribe, and shall hold office during the term for which they were
30 elected and until their successors are elected and qualified. However,
31 at least two-thirds of the board of directors shall be members of the
32 association.

33 (2) Except as provided in RCW 23.86.087, any vacancy occurring in
34 the board of directors, and any directorship to be filled by reason of
35 an increase in the number of directors, may be filled by the board of
36 directors unless the articles of incorporation or the bylaws provide
37 that a vacancy or directorship so created shall be filled in some other
38 manner. A director elected or appointed to fill a vacancy shall be

1 elected or appointed for the unexpired term of the predecessor in
2 office.

3 **Sec. 3.** RCW 23.86.090 and 1989 c 307 s 23 are each amended to read
4 as follows:

5 The articles of incorporation may be amended by a majority vote of
6 the members voting thereon, at any regular meeting or at any special
7 meeting called for that purpose, after notice of the proposed amendment
8 has been given to all members entitled to vote thereon, in the manner
9 provided by the bylaws: PROVIDED, That if the total vote upon the
10 proposed amendment shall be less than twenty-five percent of the total
11 membership of the association, the amendment shall not be approved. At
12 the meeting, members may vote upon the proposed amendment in person, or
13 by written proxy, or by mailed ballot. The power to amend shall
14 include the power to extend the period of its duration for a further
15 definite time or perpetually, and also include the power to increase or
16 diminish the amount of capital stock and the number of shares:
17 PROVIDED, The amount of the capital stock shall not be diminished below
18 the amount of the paid-up capital stock at the time such amendment is
19 adopted. After the adoption of an amendment to its articles of
20 incorporation, the association shall cause a copy of such amendment
21 adopted to be (~~recorded in the office of the secretary of state~~)
22 executed as provided in RCW 24.06.195, except the quorum and voting
23 requirements set forth in this section shall control over those set
24 forth in RCW 24.06.195, and delivered to the secretary of state as
25 provided in RCW 24.06.200.

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