
**Agriculture & Natural Resources
Committee**

HB 2301

Brief Description: Including severability clauses in commodity commission statutes.

Sponsors: Representatives Linville and Schoesler; by request of Department of Agriculture.

<p>Brief Summary of Bill</p> <ul style="list-style-type: none">• Adds severability clauses to several commodity commission chapters.

Hearing Date: 1/13/04

Staff: Caroleen Dineen (786-7156).

Background:

A commodity commission may be established for a particular agricultural commodity. A commodity commission may be created to perform a variety of functions, including advertising, sales promotion, research, standards and grades improvement, and to direct cooperative marketing efforts. Some commodity commissions are created directly by statute. Examples of commodities for which commissions have been created directly in statute are apple advertising, dairy products, and beef. A commodity commission also may be established according to the requirements of the Washington Agricultural Enabling Act (the 1955 enabling statutes). Commodity commissions have been created in this manner for wheat, potato, fryers, barley, and other commodities.

Another entity created for a particular commodity is a commodity board. A commodity board is created according to the Washington State Agricultural Enabling Act (the 1961 enabling statutes). Hops, cranberries, asparagus, and turfgrass seed are some examples of commodities for which commodity boards have been created.

Washington courts will not consider an act of the Legislature unconstitutional in its entirety because a provision(s) is unconstitutional unless the invalid provision(s) is not severable from the remaining provisions. The courts will determine whether the remaining portions of the legislation are constitutional by considering whether:

- reasonable belief exists that the Legislature would have passed the remaining provisions without the unconstitutional provision(s); and
- the remaining provisions are capable of accomplishing the legislative purpose.

A severability clause in legislation generally specifies that the judicial invalidation of one or more legislative provisions does not affect the validity of the remaining provisions. Washington courts consider a severability clause as the "necessary assurance" from the Legislature to the courts that the remaining provisions would have been enacted without the provisions deemed unconstitutional. State v. Anderson, 81 Wn.2d 234, 501 P.2d 184 (1972).

Summary of Bill:

Severability clauses are added to the 1955 enabling statutes for commodity commissions and to the statutes authorizing the state Fruit Commission and the Dairy Products Commission.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.