

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1892

Chapter 315, Laws of 2001

(partial veto)

57th Legislature
2001 Regular Legislative Session

AGRICULTURAL COMMODITY BOARDS AND COMMISSIONS

EFFECTIVE DATE: 7/22/01

Passed by the House April 13, 2001
Yeas 88 Nays 0

FRANK CHOPP
Speaker of the House of Representatives

CLYDE BALLARD
Speaker of the House of Representatives

Passed by the Senate April 4, 2001
Yeas 49 Nays 0

BRAD OWEN
President of the Senate

Approved May 14, 2001, with the
exception of sections 9 and 10, which
are vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1892** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED

May 14, 2001 - 4:03 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1892

AS AMENDED BY THE SENATE

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Linville and G. Chandler)

Read first time . Referred to Committee on .

1 AN ACT Relating to agricultural commodity boards and commissions;
2 amending RCW 15.66.030, 15.66.110, 15.66.140, 15.65.040, 15.65.230,
3 15.65.280, and 43.03.230; adding new sections to chapter 15.65 RCW; and
4 adding new sections to chapter 15.66 RCW.

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

6 **Sec. 1.** RCW 15.66.030 and 1961 c 11 s 15.66.030 are each amended
7 to read as follows:

8 Marketing orders may be made for any one or more of the following
9 purposes:

10 (1) To establish plans and conduct programs for advertising and
11 sales promotion, to maintain present markets or to create new or larger
12 markets for any agricultural commodity grown in the state of
13 Washington;

14 (2) To provide for carrying on research studies to find more
15 efficient methods of production, processing, handling and marketing of
16 any agricultural commodity;

17 (3) To provide for improving standards and grades by defining,
18 establishing and providing labeling requirements with respect to the
19 same;

1 (4) To investigate and take necessary action to prevent unfair
2 trade practices;

3 (5) To provide information or communicate on matters pertaining to
4 the production, processing, marketing, or uses of an agricultural
5 commodity produced in Washington state to any elected official or
6 officer or employee of any agency;

7 (6) To provide marketing information and services for producers of
8 an agricultural commodity;

9 (7) To provide information and services for meeting resource
10 conservation objectives of producers of an agricultural commodity;

11 (8) To engage in cooperative efforts in the domestic or foreign
12 marketing of food products of an agricultural commodity; and

13 (9) To provide for commodity-related education and training.

14 **Sec. 2.** RCW 15.66.110 and 1961 c 11 s 15.66.110 are each amended
15 to read as follows:

16 Every marketing order shall establish a commodity commission
17 composed of not less than five nor more than thirteen members. In
18 addition, the director shall be an ex officio member of each commodity
19 commission. Commission members shall be citizens and residents of this
20 state if required by the marketing order, and over the age of ((twenty-
21 five years)) eighteen. The term of office of commission members shall
22 be three years with the terms rotating so that one-third of the terms
23 will commence as nearly as practicable each year. However, the first
24 commission shall be selected, one-third for a term of one year, one-
25 third for a term of two years, and one-third for a term of three years,
26 as nearly as practicable. No less than two-thirds of the commission
27 members shall be elected by the affected producers and such elected
28 members shall all be affected producers. The remaining ((one-third))
29 members shall be appointed by the commission and shall be either
30 affected producers, others active in matters relating to the affected
31 commodity or persons not so related.

32 **Sec. 3.** RCW 15.66.140 and 1985 c 261 s 20 are each amended to read
33 as follows:

34 Every marketing commission shall have such powers and duties in
35 accordance with provisions of this chapter as may be provided in the
36 marketing order and shall have the following powers and duties:

- 1 (1) To elect a chairman and such other officers as determined
2 advisable;
- 3 (2) To adopt, rescind and amend rules and regulations reasonably
4 necessary for the administration and operation of the commission and
5 the enforcement of its duties under the marketing order;
- 6 (3) To administer, enforce, direct and control the provisions of
7 the marketing order and of this chapter relating thereto;
- 8 (4) To employ and discharge at its discretion such administrators
9 and additional personnel, attorneys, advertising and research agencies
10 and other persons and firms that it may deem appropriate and pay
11 compensation to the same;
- 12 (5) To acquire personal property and purchase or lease office space
13 and other necessary real property and transfer and convey the same;
- 14 (6) To institute and maintain in its own name any and all legal
15 actions, including actions by injunction, mandatory injunction or civil
16 recovery, or proceedings before administrative tribunals or other
17 governmental authorities necessary to carry out the provisions of this
18 chapter and of the marketing order;
- 19 (7) To keep accurate records of all its receipts and disbursements,
20 which records shall be open to inspection and audit by the state
21 auditor or private auditor designated by the state auditor at least
22 every five years;
- 23 (8) Borrow money and incur indebtedness;
- 24 (9) Make necessary disbursements for routine operating expenses;
- 25 (10) To expend funds for commodity-related education, training, and
26 leadership programs as each commission deems expedient;
- 27 (11) To work cooperatively with other local, state, and federal
28 agencies; universities; and national organizations for the purposes
29 provided in the commission's marketing order;
- 30 (12) To enter into contracts or interagency agreements with any
31 private or public agency, whether federal, state, or local, to carry
32 out the purposes provided in the commission's marketing order.
33 Personal service contracts must comply with chapter 39.29 RCW;
- 34 (13) To accept and expend or retain any gifts, bequests,
35 contributions, or grants from private persons or private and public
36 agencies to carry out the purposes provided in the commission's
37 marketing order;

1 (14) To enter into contracts or agreements for research in the
2 production, processing, marketing, use, or distribution of an affected
3 commodity;

4 (15) To retain in emergent situations the services of private legal
5 counsel to conduct legal actions on behalf of a commission. The
6 retention of a private attorney is subject to review by the office of
7 the attorney general;

8 (16) To engage in appropriate fund-raising activities for the
9 purpose of supporting activities of the commission authorized by the
10 marketing order;

11 (17) To participate in international, federal, state, and local
12 hearings, meetings, and other proceedings relating to the production,
13 manufacture, regulation, distribution, sale, or use of affected
14 commodities including activities authorized under RCW 42.17.190,
15 including the reporting of those activities to the public disclosure
16 commission; and

17 (18) Such other powers and duties that are necessary to carry out
18 the purposes of this chapter.

19 **Sec. 4.** RCW 15.65.040 and 1961 c 256 s 4 are each amended to read
20 as follows:

21 It is hereby declared to be the policy of this chapter:

22 (1) To aid agricultural producers in preventing economic waste in
23 the marketing of their agricultural commodities and in developing more
24 efficient methods of marketing agricultural products.

25 (2) To enable agricultural producers of this state, with the aid of
26 the state:

27 (a) To develop, and engage in research for developing, better and
28 more efficient production, marketing, and utilization of agricultural
29 products;

30 (b) To establish orderly marketing of agricultural commodities;

31 (c) To provide for uniform grading and proper preparation of
32 agricultural commodities for market;

33 (d) To provide methods and means (including, but not limited to,
34 public relations and promotion) for the maintenance of present markets
35 and for the development of new or larger markets, both domestic and
36 foreign, for agricultural commodities produced within this state and
37 for the prevention, modification, or elimination of trade barriers

1 which obstruct the free flow of such agricultural commodities to
2 market;

3 (e) To eliminate or reduce economic waste in the marketing and/or
4 use of agricultural commodities;

5 (f) To restore and maintain adequate purchasing power for the
6 agricultural producers of this state;

7 (g) To provide information or communicate on matters pertaining to
8 the production, processing, marketing, or uses of an agricultural
9 commodity produced in Washington state to any elected official or
10 officer or employee of any agency;

11 (h) To provide marketing information and services for producers of
12 an agricultural commodity;

13 (i) To provide information and services for meeting resource
14 conservation objectives of producers of an agricultural commodity;

15 (j) To engage in cooperative efforts in the domestic or foreign
16 marketing of food products of an agricultural commodity;

17 (k) To provide for commodity-related education and training; and

18 ~~((g))~~ (l) To accomplish all the declared policies of this
19 chapter.

20 (3) To protect the interest of consumers by assuring a sufficient
21 pure and wholesome supply of agricultural commodities of good quality
22 at all seasons and times.

23 **Sec. 5.** RCW 15.65.230 and 1961 c 256 s 23 are each amended to read
24 as follows:

25 ~~((The))~~ A producer member~~((s))~~ of each ~~((such))~~ commodity board
26 ~~((shall))~~ must be a practical producer~~((s))~~ of the affected commodity
27 and ~~((shall))~~ must be a citizen~~((s and))~~, resident~~((s))~~ of this state,
28 and over the age of ~~((twenty-five))~~ eighteen years~~((, each of whom is~~
29 ~~and has))~~. Each producer board member must be and have been actually
30 engaged in producing such a commodity within the state of Washington
31 for a period of five years and ~~((has))~~ have, during that period,
32 derived a substantial portion of his or her income therefrom and ~~((who~~
33 ~~is))~~ not be engaged in business, directly or indirectly, as a handler
34 or other dealer. ~~((The))~~ A handler member~~((s))~~ of ~~((such))~~ each board
35 ~~((shall))~~ must be a practical handler~~((s))~~ of the affected commodity
36 and ~~((shall))~~ must be a citizen~~((s and))~~, resident~~((s))~~ of this state,
37 and over the age of twenty-five years~~((, each of whom is and has))~~.
38 Each handler board member must be and have been, either individually or

1 as an officer or employee of a corporation, firm, partnership,
2 association, or cooperative, actually engaged in handling such a
3 commodity within the state of Washington for a period of five years and
4 (~~has~~) have, during that period, derived a substantial portion of his
5 or her income therefrom. The qualification of a member(~~s~~) of the
6 board as (~~herein~~) set forth in this section must continue during
7 (~~their~~) the term(~~s~~) of office.

8 **Sec. 6.** RCW 15.65.280 and 1985 c 261 s 11 are each amended to read
9 as follows:

10 The powers and duties of the board shall be:

11 (1) To elect a chairman and such other officers as it deems
12 advisable;

13 (2) To advise and counsel the director with respect to the
14 administration and conduct of such marketing agreement or order;

15 (3) To recommend to the director administrative rules, regulations
16 and orders and amendments thereto for the exercise of his powers in
17 connection with such agreement or order;

18 (4) To advise the director upon any and all assessments provided
19 pursuant to the terms of such agreement or order and upon the
20 collection, deposit, withdrawal, disbursement and paying out of all
21 moneys;

22 (5) To assist the director in the collection of such necessary
23 information and data as the director may deem necessary in the proper
24 administration of this chapter;

25 (6) To administer the order or agreement as its administrative
26 board if the director designates it so to do in such order or
27 agreement;

28 (7) To work cooperatively with other local, state, and federal
29 agencies; universities; and national organizations for the purposes
30 provided in the board's marketing order;

31 (8) To enter into contracts or interagency agreements with any
32 private or public agency, whether federal, state, or local, to carry
33 out the purposes provided in the board's marketing order. Personal
34 service contracts must comply with chapter 39.29 RCW;

35 (9) To accept and expend or retain any gifts, bequests,
36 contributions, or grants from private persons or private and public
37 agencies to carry out the purposes provided in the board's marketing
38 order;

1 (10) To retain in emergent situations the services of private legal
2 counsel to conduct legal actions on behalf of a board. The retention
3 of a private attorney is subject to review by the office of the
4 attorney general;

5 (11) To engage in appropriate fund-raising activities for the
6 purpose of supporting activities of the board authorized by the
7 marketing order;

8 (12) To enter into contracts or agreements for research in the
9 production, processing, marketing, use, or distribution of an affected
10 commodity;

11 (13) To participate in international, federal, state, and local
12 hearings, meetings, and other proceedings relating to the production,
13 manufacture, regulation, distribution, sale, or use of affected
14 commodities including activities authorized under RCW 42.17.190,
15 including the reporting of those activities to the public disclosure
16 commission; and

17 (14) To perform such other duties as the director may prescribe in
18 the marketing agreement or order.

19 Any agreement or order under which the commodity board administers
20 the order or agreement shall (if so requested by the affected producers
21 within the affected area in the proposal or promulgation hearing)
22 contain provisions whereby the director reserves the power to approve
23 or disapprove every order, rule or directive issued by the board, in
24 which event such approval or disapproval shall be based on whether or
25 not the director believes the board's action has been carried out in
26 conformance with the purposes of this chapter.

27 NEW SECTION. Sec. 7. A new section is added to chapter 15.65 RCW
28 to read as follows:

29 A commodity board may establish a foundation using commission funds
30 as grant money when the foundation benefits the commodity for which the
31 board was established. Commission funds may be used for the purposes
32 authorized in the marketing order.

33 NEW SECTION. Sec. 8. A new section is added to chapter 15.66 RCW
34 to read as follows:

35 A commodity commission may establish a foundation using commission
36 funds as grant money when the foundation benefits the commodity for

1 which the commission was established. Commission funds may be used for
2 the purposes authorized in the marketing order.

3 ***NEW SECTION.** *Sec. 9. A new section is added to chapter 15.65 RCW
4 to read as follows:*

5 *(1) Each board member of a commodity board established under this
6 chapter may be compensated pursuant to RCW 43.03.230.*

7 *(2) Board members and employees of a commodity board established
8 under this chapter may be reimbursed for actual travel expenses
9 incurred in carrying out the provisions of this chapter, as defined
10 under the commodity board's marketing order. Otherwise, if not defined
11 or referenced in the marketing order, reimbursement for travel expenses
12 shall be in accordance with RCW 43.03.050 and 43.03.060.*

13 *(3) Approval for compensation and travel expenses shall be as
14 defined in the commodity board's marketing order.*

15 **Sec. 9 was vetoed. See message at end of chapter.*

16 ***NEW SECTION.** *Sec. 10. A new section is added to chapter 15.66
17 RCW to read as follows:*

18 *(1) Each board member of a commodity commission established under
19 this chapter may be compensated pursuant to RCW 43.03.230.*

20 *(2) Board members and employees of a commodity commission
21 established under this chapter may be reimbursed for actual travel
22 expenses incurred in carrying out the provisions of this chapter, as
23 defined under the commodity commission's marketing order. Otherwise,
24 if not defined or referenced in the marketing order, reimbursement for
25 travel expenses shall be in accordance with RCW 43.03.050 and
26 43.03.060.*

27 *(3) Approval for compensation and travel expenses shall be as
28 defined in the commodity commission's marketing order.*

29 **Sec. 10 was vetoed. See message at end of chapter.*

30 **Sec. 11.** RCW 43.03.230 and 1984 c 287 s 3 are each amended to read
31 as follows:

32 *(1) Any agricultural commodity board or commission established
33 pursuant to Title 15 or 16 RCW shall be identified as a class two group
34 for purposes of compensation.*

35 *(2) Except as otherwise provided in this section, each member of a
36 class two group is eligible to receive compensation in an amount not to
37 exceed (~~(thirty-five)~~) one hundred dollars for each day during which*

1 the member attends an official meeting of the group or performs
2 statutorily prescribed duties approved by the chairperson of the group.
3 A person shall not receive compensation for a day of service under this
4 section if the person (a) occupies a position, normally regarded as
5 full-time in nature, in any agency of the federal government,
6 Washington state government, or Washington state local government; and
7 (b) receives any compensation from such government for working that
8 day.

9 (3) Compensation may be paid a member under this section only if it
10 is authorized under the law dealing in particular with the specific
11 group to which the member belongs or dealing in particular with the
12 members of that specific group.

Passed the House April 13, 2001.

Passed the Senate April 4, 2001.

Approved by the Governor May 14, 2001, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 14, 2001.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 9 and
3 10, Substitute House Bill No. 1892 entitled:

4 "AN ACT Relating to agricultural commodity board and commissions;"

5 Substitute House Bill No. 1892 expands the powers of certain
6 commodity boards and commissions so that they may be more effective in
7 promoting Washington's products.

8 Sections 9 and 10 of the bill would have allowed members and staff
9 of commodity boards and commissions to be reimbursed for the full
10 amount of their actual travel expenses, rather than being limited by
11 the Office of Financial Management regulations on reimbursement rates.
12 Because international travel can be quite expensive and these boards
13 and commissions are self-supporting, I support this goal.
14 Unfortunately, sections 9 and 10 were mechanically flawed. They would
15 have exempted individuals from compliance with RCW 43.03.050 and
16 43.03.060, which create the statewide system for travel reimbursement.
17 However, this bill does not also amend RCW 15.65.270 or 15.66.130, both
18 of which deal with travel reimbursement for commodity board or
19 commission members. By changing only part of the applicable statutes,
20 sections 9 and 10 would have created an internal inconsistency in the
21 law.

22 Several bills were passed this year dealing with travel
23 reimbursement for commodity boards and commissions. I encourage the
24 interested parties to combine their efforts next year to put forward a
25 single effort that consistently amends the expense reimbursement
26 statutes for all of our state's self-supporting commodity boards and
27 commissions.

1 For these reasons, I have vetoed sections 9 and 10 of Substitute
2 House Bill No. 1892.

3 With the exception of sections 9 and 10, Substitute House Bill No.
4 1892 is approved."