

HOUSE BILL REPORT

HB 1361

As Amended by the Senate

Title: An act relating to the state agricultural commodity commissions.

Brief Description: Increasing the powers of the state agricultural commodity commissions.

Sponsors: By Representatives Linville, Schoesler, Grant and Holmquist.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/7/03, 2/11/03 [DP].

Floor Activity:

Passed House: 2/24/03, 96-0.

Senate Amended.

Passed Senate: 4/17/03, 49-0.

Brief Summary of Bill

- Allows commodity commissions to request and audit producer records to determine whether assessments have been paid.
- Allows commodity commissions to acquire and own intellectual property and to collect royalties from commission-funded research.
- References statutes relating to management and investment of state funds in provisions authorizing investment of commodity commission funds.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 13 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Eickmeyer, Grant, Hunt, McDermott, Orcutt, Quall and Sump.

Staff: Caroleen Dineen (786-7156).

Background:

A commodity commission may be established for a particular agricultural commodity.

Some commodity commissions are created directly by statute. Some 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. 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. Some examples of commodities for which boards have been created are hops, cranberries, asparagus, and turfgrass seed.

A commodity commission established according to the Washington Agricultural Enabling Act is created through the Department of Agriculture's issuance of a marketing order, which is adopted as a rule. Commodity commissions may be created in this manner to:

- plan and conduct advertising, sales promotion, and marketing programs;
- conduct research studies;
- improve standards and grades and provide labeling requirements;
- prevent unfair trade practices;
- provide marketing information and services;
- engage in cooperative efforts in domestic or foreign marketing; and
- provide information, communication, education, and training.

Statutory provisions specify procedural and other requirements for petitioning for a marketing order and for issuing, amending, and terminating a marketing order.

A commodity commission established according to the Washington Agricultural Enabling Act has the powers and duties specified in the marketing order creating it. In addition to those powers and among other powers specified in statute, a commodity commission may elect officers, adopt rules, administer and enforce the provisions of the marketing order, acquire property, borrow money, expend funds, enter into contracts, and engage in fund raising.

The state and its agencies are authorized to invest funds in various investment vehicles, including bonds, mutual funds, and money markets funds. State statutes specify requirements for investment and management of these state funds. The commodity commissions statutes authorize commodity commissions to invest in savings or time deposits in banks, trust companies, and mutual savings banks or according to other authority for investment of these funds.

Summary of Bill:

Additional authority is granted to commodity commissions created under the Washington Agricultural Enabling Act. In addition to other powers specified in statute, a commodity commission created in this manner may:

- request and audit records of producers or handlers of the affected commodity to determine whether the appropriate assessment has been paid;
- acquire or own intellectual property rights, licenses, or patents related to the affected commodity; and
- collect royalties resulting from commission-funded research related to the affected commodity.

Provisions regarding marketing orders for commodity commissions are amended. Among other purposes, marketing orders may be made for commodity commissions to assist and cooperate with the Department of Agriculture or any other federal, state, or local agency in investigating and controlling exotic pests and diseases that could damage or affect trade of the affected commodity.

The provision authorizing commodity commissions to invest funds according to authority other than the commodity commission statutes is amended to reference statutes specifying requirements for management and investment of state funds.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment adds numerous provisions regarding commodity commissions and commodity boards. For commodity commissions and boards established according to the Washington Agricultural Enabling Act (the 1955 enabling statutes) and the Washington State Agricultural Enabling Act (the 1961 enabling statutes), as well as for commissions related to soft tree fruits, the Dairy Products Commission, the Beef Commission, and the Wine Commission, the Senate amendment: (1) provides for the Director of Agriculture (Director) to appoint members; (2) repeals revises, and adds various provisions regarding election or appointment of members; (3) specifies the Director serves as a voting member; (4) requires each commodity commission or board established according to the general enabling acts to develop and submit for the Director's approval any plans, programs, and projects related to commodity advertising and promotion programs and market research and development projects; (5) requires the Director to review advertising or promotion programs to ensure no false claims are made regarding the commodity; (6) requires the Director to approve commission and board research plans, education and training plans, and budgets; (7) requires the commissions or boards to pay for the Department of Agriculture's costs associated with these approvals; and (8) directs each commission or board to, with the Director's oversight, speak on behalf of the state government with respect to its commodity. In addition, the Senate amendment increases the number of members on a commodity commission established according to the 1955 enabling statutes from 13 to 15. Further, the Senate amendment adds provisions to the

Dairy Products Commission statutes specifying that no liability for commission debts or actions exists against the state or any subdivision of the state.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill takes effect ninety days after adjournment of session in which bill is passed.

Testimony For: The Office of the Attorney General (AG) and Washington State Auditor's Office (SAO) suggested the statutory changes in this bill. The Washington State Potato Commission reviewed the bill's language with the AG and the SAO and worked with the Department of Agriculture and the other affected commodity commissions on this bill.

Testimony Against: None.

Testified: Charlie Brown, Washington State Potato Commission.