

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1361

Chapter 396, Laws of 2003

58th Legislature
2003 Regular Session

AGRICULTURAL COMMODITY COMMISSIONS

EFFECTIVE DATE: 5/20/03

Passed by the House April 24, 2003
Yeas 91 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 17, 2003
Yeas 49 Nays 0

BRAD OWEN

President of the Senate

Approved May 20, 2003.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1361** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

May 20, 2003 - 3:09 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 1361

AS AMENDED BY THE SENATE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Representatives Linville, Schoesler, Grant and Holmquist

Read first time 01/23/2003. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to the state agricultural commodity commissions;
2 amending RCW 15.66.030, 15.66.140, 15.66.185, 15.66.110, 15.65.220,
3 15.28.020, 15.28.040, 15.28.050, 15.28.060, 15.28.070, 15.28.080,
4 15.44.020, 15.44.033, 15.44.035, 15.44.150, 16.67.040, 15.88.030,
5 15.88.040, 15.88.050, 15.88.100, and 15.88.180; adding new sections to
6 chapter 15.66 RCW; adding new sections to chapter 15.65 RCW; adding new
7 sections to chapter 15.28 RCW; adding new sections to chapter 15.44
8 RCW; adding new sections to chapter 16.67 RCW; adding new sections to
9 chapter 15.88 RCW; creating a new section; repealing RCW 15.66.115 and
10 15.65.245; and declaring an emergency.

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

12 **Sec. 1.** RCW 15.66.030 and 2002 c 313 s 40 are each amended to read
13 as follows:

14 Marketing orders may be made for any one or more of the following
15 purposes:

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

1 (2) To provide for carrying on research studies to find more
2 efficient methods of production, irrigation, processing,
3 transportation, handling, and marketing of any agricultural commodity;

4 (3) To provide for improving standards and grades by defining,
5 establishing, and providing labeling requirements with respect to the
6 same;

7 (4) To investigate and take necessary action to prevent unfair
8 trade practices;

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

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

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

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

19 (9) To provide for commodity-related education and training; and

20 (10) To assist and cooperate with the department or any other
21 local, state, or federal government agency in the investigation and
22 control of exotic pests and diseases that could damage or affect trade
23 of the affected commodity.

24 **Sec. 2.** RCW 15.66.140 and 2002 c 313 s 57 are each amended to read
25 as follows:

26 Every commodity commission shall have such powers and duties in
27 accordance with provisions of this chapter as may be provided in the
28 marketing order and shall have the following powers and duties:

29 (1) To elect a chair and such other officers as determined
30 advisable;

31 (2) To adopt, rescind and amend rules and regulations reasonably
32 necessary for the administration and operation of the commission and
33 the enforcement of its duties under the marketing order;

34 (3) To administer, enforce, direct and control the provisions of
35 the marketing order and of this chapter relating thereto;

36 (4) To employ and discharge at its discretion such administrators

1 and additional personnel, attorneys, advertising and research agencies
2 and other persons and firms that it may deem appropriate and pay
3 compensation to the same;

4 (5) To acquire personal property and purchase or lease office space
5 and other necessary real property and transfer and convey the same;

6 (6) To institute and maintain in its own name any and all legal
7 actions, including actions by injunction, mandatory injunction or civil
8 recovery, or proceedings before administrative tribunals or other
9 governmental authorities necessary to carry out the provisions of this
10 chapter and of the marketing order;

11 (7) To keep accurate records of all its receipts and disbursements,
12 which records shall be open to inspection and audit by the state
13 auditor or private auditor designated by the state auditor at least
14 every five years;

15 (8) Borrow money and incur indebtedness;

16 (9) Make necessary disbursements for routine operating expenses;

17 (10) To expend funds for commodity-related education, training, and
18 leadership programs as each commission deems expedient;

19 (11) To work cooperatively with other local, state, and federal
20 agencies; universities; and national organizations for the purposes
21 provided in the commission's marketing order;

22 (12) To enter into contracts or interagency agreements with any
23 private or public agency, whether federal, state, or local, to carry
24 out the purposes provided in the commission's marketing order.
25 Personal service contracts must comply with chapter 39.29 RCW;

26 (13) To accept and expend or retain any gifts, bequests,
27 contributions, or grants from private persons or private and public
28 agencies to carry out the purposes provided in the commission's
29 marketing order;

30 (14) To enter into contracts or agreements for research in the
31 production, irrigation, processing, transportation, marketing, use, or
32 distribution of an affected commodity;

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

37 (16) To engage in appropriate fund-raising activities for the

1 purpose of supporting activities of the commission authorized by the
2 marketing order;

3 (17) To participate in international, federal, state, and local
4 hearings, meetings, and other proceedings relating to the production,
5 irrigation, manufacture, regulation, transportation, distribution,
6 sale, or use of affected commodities including activities authorized
7 under RCW 42.17.190, including the reporting of those activities to the
8 public disclosure commission;

9 (18) To maintain a list of the names and addresses of affected
10 producers that may be compiled from information used to collect
11 assessments under the provisions of the marketing order and data on the
12 value of each producer's production for a minimum three-year period;

13 (19) To maintain a list of the names and addresses of persons who
14 handle the affected commodity within the affected area and data on the
15 amount and value of the commodity handled for a minimum three-year
16 period by each person; (~~and~~)

17 (20) To request records and audit the records of producers or
18 handlers of the affected commodity during normal business hours to
19 determine whether the appropriate assessment has been paid;

20 (21) To acquire or own intellectual property rights, licenses, or
21 patents and to collect royalties resulting from commission-funded
22 research related to the affected commodity; and

23 (22) Such other powers and duties that are necessary to carry out
24 the purposes of this chapter.

25 **Sec. 3.** RCW 15.66.185 and 2002 c 313 s 62 are each amended to read
26 as follows:

27 (1) Any funds of any agricultural commodity commission may be
28 invested in savings or time deposits in banks, trust companies, and
29 mutual savings banks that are doing business in the United States, up
30 to the amount of insurance afforded such accounts by the Federal
31 Deposit Insurance Corporation.

32 (2) This section shall apply to all funds which may be lawfully so
33 invested, which in the judgment of any agricultural commodity
34 commission are not required for immediate expenditure. The authority
35 granted by this section is not exclusive and shall be construed to be
36 cumulative and in addition to other authority provided by law for the

1 investment of such funds, including, but not limited to, authority
2 granted under chapters 39.58, 39.59, and 43.84 RCW.

3 **Sec. 4.** RCW 15.66.110 and 2002 c 313 s 51 are each amended to read
4 as follows:

5 (1) Every marketing order shall establish a commodity commission
6 composed of not less than five nor more than ~~((thirteen))~~ fifteen
7 members. ~~((In addition, the director shall be an ex officio member of~~
8 ~~each commodity commission unless otherwise specified in the marketing~~
9 ~~order.))~~ Commission members shall be citizens and residents of this
10 state if required by the marketing order, and over the age of eighteen.
11 Not more than one commission member may be part of the same "person" as
12 defined by this chapter. The term of office of commission members
13 shall be three years with the terms rotating so that one-third of the
14 terms will commence as nearly as practicable each year. However, the
15 first commission shall be selected, one-third for a term of one year,
16 one-third for a term of two years, and one-third for a term of three
17 years, as nearly as practicable. Except as provided in subsection (2)
18 of this section, no less than ~~((two-thirds))~~ sixty percent of the
19 commission members shall be elected by the affected producers and such
20 elected members shall all be affected producers. Except as provided in
21 subsection (4) of this section, the remaining members shall be
22 appointed by the commission and shall be either affected producers,
23 others active in matters relating to the affected commodity, or persons
24 not so related.

25 (2) A marketing order may provide that a majority of the commission
26 be appointed by the director ~~((, but in any event, no less than one-~~
27 ~~third of the commission members shall be elected by the affected~~
28 ~~producers))~~.

29 (3) In the event that the marketing order provides that a majority
30 of the commission be appointed by the director, the marketing order
31 shall incorporate ~~((either))~~ the provisions of RCW 15.66.113 ~~((or~~
32 ~~15.66.115))~~ for member selection.

33 (4) The director shall appoint to every commission one member who
34 represents the director. The director is a voting member of each
35 commodity commission.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 15.66 RCW
2 to read as follows:

3 (1) Each commodity commission shall develop and submit to the
4 director for approval any plans, programs, and projects concerning the
5 following:

6 (a) The establishment, issuance, effectuation, and administration
7 of appropriate programs or projects for the advertising and promotion
8 of the affected commodity; and

9 (b) The establishment and effectuation of market research projects,
10 market development projects, or both to the end that the marketing and
11 utilization of the affected commodity may be encouraged, expanded,
12 improved, or made more efficient.

13 (2) The director shall review each commodity commission's
14 advertising or promotion program to ensure that no false claims are
15 being made concerning the affected commodity.

16 (3) Each commodity commission, prior to the beginning of its fiscal
17 year, shall prepare and submit to the director for approval its
18 research plan, its commodity-related education and training plan, and
19 its budget on a fiscal period basis.

20 (4) The director shall strive to review and make a determination of
21 all submissions described in this section in a timely manner.

22 NEW SECTION. **Sec. 6.** A new section is added to chapter 15.66 RCW
23 to read as follows:

24 Each commission organized under a marketing order adopted under
25 this chapter exists primarily for the benefit of the people of the
26 state of Washington and its economy. The legislature hereby charges
27 each commission, with oversight by the director, to speak on behalf of
28 Washington state government with regard to its particular commodity.

29 NEW SECTION. **Sec. 7.** RCW 15.66.115 (When director appoints
30 majority of the commission--Nominations--Advisory vote--Notice--
31 Director appoints candidate receiving the most votes--Exception) and
32 2002 c 313 s 53 are each repealed.

33 NEW SECTION. **Sec. 8.** The costs incurred by the department of
34 agriculture that are associated with the implementation of section 5 of
35 this act shall be paid for by the affected commodity commissions.

1 **Sec. 9.** RCW 15.65.220 and 2002 c 313 s 20 are each amended to read
2 as follows:

3 (1) Every marketing agreement and order shall provide for the
4 establishment of a commodity board of not less than five nor more than
5 thirteen members and shall specify the exact number thereof and all
6 details as to (a) qualification, (b) nomination, (c) election or
7 appointment by the director, (d) term of office, and (e) powers,
8 duties, and all other matters pertaining to such board.

9 (2) The members of the board shall be producers or handlers or both
10 in such proportion as the director shall specify in the marketing
11 agreement or order, but in any marketing order or agreement the number
12 of handlers on the board shall not exceed the number of producers
13 thereon. The marketing order or agreement may provide that a majority
14 of the board be appointed by the director, but in any event, no less
15 than one-third of the board members shall be elected by the affected
16 producers.

17 (3) In the event that the marketing order or agreement provides
18 that a majority of the commodity board be appointed by the director,
19 the marketing order or agreement shall incorporate (~~either~~) the
20 provisions of RCW 15.65.243 (~~or 15.65.245~~) for board member
21 selection.

22 (4) The director shall appoint to every board one member who
23 represents the director. The director shall be a voting member of each
24 commodity board.

25 NEW SECTION. **Sec. 10.** A new section is added to chapter 15.65 RCW
26 to read as follows:

27 (1) Each commodity commission shall develop and submit to the
28 director for approval any plans, programs, and projects concerning the
29 following:

30 (a) The establishment, issuance, effectuation, and administration
31 of appropriate programs or projects for the advertising and promotion
32 of the affected commodity; and

33 (b) The establishment and effectuation of market research projects,
34 market development projects, or both to the end that the marketing and
35 utilization of the affected commodity may be encouraged, expanded,
36 improved, or made more efficient.

1 (2) The director shall review each commodity commission's
2 advertising or promotion program to ensure that no false claims are
3 being made concerning the affected commodity.

4 (3) Each commodity commission, prior to the beginning of its fiscal
5 year, shall prepare and submit to the director for approval its
6 research plan, its commodity-related education and training plan, and
7 its budget on a fiscal period basis.

8 (4) The director shall strive to review and make a determination of
9 all submissions described in this section in a timely manner.

10 NEW SECTION. Sec. 11. A new section is added to chapter 15.65 RCW
11 to read as follows:

12 Each commission organized under a marketing order adopted under
13 this chapter exists primarily for the benefit of the people of the
14 state of Washington and its economy. The legislature hereby charges
15 each commission, with oversight by the director, to speak on behalf of
16 Washington state government with regard to its particular commodity.

17 NEW SECTION. Sec. 12. A new section is added to chapter 15.65 RCW
18 to read as follows:

19 The costs incurred by the department associated with the
20 implementation of section 10 of this act shall be paid for by the
21 affected commodity commissions.

22 **Sec. 13.** RCW 15.28.020 and 2002 c 313 s 105 are each amended to
23 read as follows:

24 The commission is composed of (~~sixteen~~) seventeen voting members,
25 as follows: Ten producers, four dealers, and two processors, who are
26 (~~elected and qualified~~) appointed as provided in this chapter. The
27 director, or an authorized representative, shall be (~~an ex-officio~~
28 ~~member without a vote~~) a voting member of the commission. Other
29 sections of this chapter that relate to the selection of voting members
30 shall not apply to the director or his or her authorized
31 representative.

32 A majority of the voting members constitute a quorum for the
33 transaction of any business.

1 **Sec. 14.** RCW 15.28.040 and 1967 c 191 s 3 are each amended to read
2 as follows:

3 Of the producer members, four shall be (~~elected~~) appointed from
4 the first district and occupy positions one, two, three and four; four
5 shall be (~~elected~~) appointed from the second district and occupy
6 positions five, six, seven and eight, and two shall be (~~elected~~)
7 appointed from the third district and occupy positions nine and ten.

8 Of the dealer members, two shall be (~~elected~~) appointed from each
9 of the first and second districts and respectively occupy positions
10 eleven and twelve from the first district and positions thirteen and
11 fourteen from the second district.

12 The processor members shall be (~~elected~~) appointed from the state
13 at large and occupy positions fifteen and sixteen. The dealer member
14 position previously referred to as position twelve shall henceforth be
15 position thirteen. The processor member position heretofore referred
16 to as position fourteen shall cease to exist on March 21, 1967. The
17 processor member position heretofore referred to as thirteen shall be
18 known as position sixteen.

19 **Sec. 15.** RCW 15.28.050 and 1967 c 191 s 4 are each amended to read
20 as follows:

21 The regular term of office of the members of the commission shall
22 be three years commencing on May 1, following the date of (~~election~~)
23 appointment and until their successors are (~~elected~~) appointed and
24 qualified, except, however, that the first term of dealer position
25 twelve in the first district shall be for two years and expire May 1,
26 1969.

27 NEW SECTION. **Sec. 16.** A new section is added to chapter 15.28 RCW
28 to read as follows:

29 (1) The director shall appoint the members of the commission.

30 (2) Candidates for positions on the commission shall be nominated
31 under RCW 15.28.060.

32 (3) Not less than sixty days nor more than seventy-five days prior
33 to the commencement of a commission member's term, the director shall
34 cause an advisory vote to be held for the director-appointed positions.
35 Advisory ballots shall be mailed to all affected producers and shall be
36 returned to the director not less than thirty days prior to the

1 commencement of the term. The advisory ballot shall be conducted in a
2 manner so that it is a secret ballot. The names of the two candidates
3 receiving the most votes in the advisory vote shall be forwarded to the
4 director for potential appointment to the commission. In the event
5 there are only two candidates nominated for a position, an advisory
6 vote may not be held and the candidates' names shall be forwarded to
7 the director for potential appointment. If only one candidate is
8 nominated for a position, the commission shall select a second
9 candidate whose name will be forwarded to the director.

10 (4) Any candidate whose name is forwarded to the director for
11 potential appointment shall submit to the director a letter stating why
12 he or she wishes to be appointed to the commission. The director may
13 select either person for the position.

14 NEW SECTION. **Sec. 17.** A new section is added to chapter 15.28 RCW
15 to read as follows:

16 To accomplish the transition to a commission structure where the
17 director appoints a majority of commission members, the names of the
18 currently elected commission members shall be forwarded to the director
19 for appointment to the commission within thirty days of the effective
20 date of this act. Thereafter, the director shall appoint commission
21 members pursuant to section 16 of this act as the current commission
22 member terms expire.

23 **Sec. 18.** RCW 15.28.060 and 1967 c 191 s 6 are each amended to read
24 as follows:

25 The director shall call meetings at times and places concurred upon
26 by the director and the commission for the purpose of nominating
27 producer, dealer or processor members for ~~((election))~~ potential
28 appointment to the commission when such members' terms are about to
29 expire. Notice of such meetings shall be given at least sixty days
30 prior to the time the respective members' term is about to expire. The
31 nominating meetings shall be held at least sixty days prior to the
32 expiration of the respective members' term of office.

33 Notice shall be given by the commission by mail to all known
34 persons having a right to vote for such respective nominee's
35 ~~((election))~~ potential appointment to the commission.

1 Further, the commission shall publish notice at least once in a
2 newspaper of general circulation in the district where the nomination
3 is to be held. Such a newspaper may be published daily or weekly. The
4 failure of any person entitled to receive notice of such nominating
5 meeting shall not invalidate such nominating meeting or the
6 ~~((election))~~ appointment of a member nominated at such meeting.

7 Any person qualified to serve on the commission may be nominated
8 orally at ~~((said))~~ the nomination meetings. Written nominations,
9 signed by five persons qualified to vote for the said nominee, may be
10 made for five days subsequent to ~~((said))~~ the nomination meeting. Such
11 written nominations shall be filed with the commission at its Yakima
12 office.

13 ~~((Members of the commission shall be elected by a))~~ The director
14 shall cause an advisory vote to be held for commission positions. The
15 advisory vote shall be by secret mail ballot~~(, and such election shall~~
16 ~~be conducted under the supervision of the director, and the elected~~
17 ~~candidate shall become a member of the commission upon certification of~~
18 ~~the director that said elected candidate has satisfied the required~~
19 ~~qualifications for membership on the commission.~~

20 ~~When only one nominee is nominated for any position on the~~
21 ~~commission, the director shall, if such nominee satisfies the~~
22 ~~requirements of the position for which he was nominated, certify the~~
23 ~~said nominee as to his qualifications and then it shall be deemed that~~
24 ~~said nominee has been duly elected. Nominees receiving a majority of~~
25 ~~the votes in an election shall be considered to have been elected and~~
26 ~~if more than one position is to be filled in a district or at large,~~
27 ~~the nominees respectively receiving the largest number of votes shall~~
28 ~~be deemed to have been elected to fill the vacancies from said~~
29 ~~districts or areas on the commission)).~~ Persons qualified to vote for
30 members of the commission shall, except as otherwise provided by law or
31 rule or regulation of the commission, vote only in the district in
32 which their activities make them eligible to vote for a potential
33 member of the commission.

34 A producer to be eligible to vote in ~~((an election))~~ the advisory
35 vote for a nominee as a producer member of the commission must be a
36 commercial producer of soft tree fruits paying assessments to the
37 commission.

1 When a legal entity acting as a producer, dealer, or processor is
2 qualified to vote for a candidate in any district or area to serve in
3 a specified position on the commission, such legal entity may cast only
4 one vote for such candidate, regardless of the number of persons
5 comprising such legal entity or stockholders owning stock therein.

6 **Sec. 19.** RCW 15.28.070 and 1967 c 191 s 7 are each amended to read
7 as follows:

8 The commission shall have the authority, subject to the provisions
9 of chapter 34.05 RCW (Administrative Procedure Act), for adopting rules
10 and regulations, after public hearing, establishing one or more
11 subdistricts in any one of the three districts. Such subdistricts
12 shall include a substantial portion of the soft tree fruit producing
13 area in the district in which they are formed.

14 The commission shall, when a subdistrict has been formed within one
15 of the districts as in this section provided for, assign one of the
16 districts' producer positions on the commission to said subdistrict.
17 Such producer position may only be filled by a producer residing in
18 such subdistrict, whether by ~~((election))~~ apportionment~~((7))~~ or
19 appointment.

20 **Sec. 20.** RCW 15.28.080 and 1961 c 11 s 15.28.080 are each amended
21 to read as follows:

22 In the event a position becomes vacant due to resignation,
23 disqualification, death, or for any other reason, such position, until
24 the next annual ~~((election))~~ nominating meeting, shall be filled by
25 vote of the remaining members of the commission. ~~((At such annual~~
26 ~~election a commissioner shall be elected to fill the balance of the~~
27 ~~unexpired term.))~~ Following the next annual nomination meeting, the
28 director shall appoint one of the two nominees selected by advisory
29 ballot to fill the balance of the unexpired term.

30 NEW SECTION. **Sec. 21.** A new section is added to chapter 15.28 RCW
31 to read as follows:

32 (1) The commission shall develop and submit to the director for
33 approval any plans, programs, and projects concerning the following:

34 (a) The establishment, issuance, effectuation, and administration

1 of appropriate programs or projects for the advertising and promotion
2 of the affected commodities; and

3 (b) The establishment and effectuation of market research projects,
4 market development projects, or both to the end that the marketing and
5 utilization of the affected commodities may be encouraged, expanded,
6 improved, or made more efficient.

7 (2) The director shall review the commission's advertising or
8 promotion program to ensure that no false claims are being made
9 concerning the affected commodities.

10 (3) The commission, prior to the beginning of its fiscal year,
11 shall prepare and submit to the director for approval its research
12 plan, its commodity-related education and training plan, and its budget
13 on a fiscal period basis.

14 (4) The director shall strive to review and make a determination of
15 all submissions described in this section in a timely manner.

16 NEW SECTION. **Sec. 22.** A new section is added to chapter 15.28 RCW
17 to read as follows:

18 The commission exists primarily for the benefit of the people of
19 the state of Washington and its economy. The legislature hereby
20 charges the commission, with oversight by the director, to speak on
21 behalf of Washington state government with regard to its particular
22 commodities.

23 NEW SECTION. **Sec. 23.** A new section is added to chapter 15.28 RCW
24 to read as follows:

25 The costs incurred by the department of agriculture associated with
26 the implementation of section 21 of this act shall be paid for by the
27 commission.

28 **Sec. 24.** RCW 15.44.020 and 2002 c 313 s 89 are each amended to
29 read as follows:

30 The dairy products commission shall be composed of not more than
31 ten members. There shall be one member from each district who shall be
32 a practical producer of dairy products (~~(to be elected by such~~
33 ~~producers)), one member shall be a dealer, and one member shall be a~~
34 ~~producer who also acts as a dealer(, and such dealer and producer who~~

1 ~~acts as a dealer shall be appointed by the director of agriculture,~~
2 ~~and)).~~ The director of agriculture shall be ~~((an ex officio member~~
3 ~~without vote))~~ a voting member of the commission.

4 As used in this chapter, "director" means the director of
5 agriculture or his or her authorized representative.

6 NEW SECTION. Sec. 25. A new section is added to chapter 15.44 RCW
7 to read as follows:

8 (1) The director shall appoint the members of the commission.

9 (2) Candidates for producer member positions on the commission
10 shall be nominated under RCW 15.44.033.

11 (3) The director shall cause an advisory vote to be held for the
12 producer member positions. Advisory ballots shall be mailed to all
13 affected producers in the district where a vacancy is about to occur
14 and shall be returned to the director not less than thirty days prior
15 to the commencement of the term. The advisory ballot shall be
16 conducted in a manner so that it is a secret ballot. The names of the
17 two candidates receiving the most votes in the advisory vote shall be
18 forwarded to the director for potential appointment to the commission.
19 In the event there are only two candidates nominated for a position, an
20 advisory vote may not be held and the candidates' names shall be
21 forwarded to the director for potential appointment. If only one
22 candidate is nominated for a position, the commission shall select a
23 second candidate whose name will be forwarded to the director.

24 (4) Any candidate whose name is forwarded to the director for
25 potential appointment shall submit to the director a letter stating why
26 he or she wishes to be appointed to the commission. The director may
27 select either person for the position.

28 **Sec. 26.** RCW 15.44.033 and 1995 c 374 s 59 are each amended to
29 read as follows:

30 Producer members of the commission shall be nominated ~~((and~~
31 ~~elected))~~ by producers within the district that such producer members
32 represent in the year in which a commission member's term shall expire.
33 ~~((Such producer members receiving the largest number of the votes cast~~
34 ~~in the respective districts which they represent shall be elected. The~~
35 ~~election shall be by secret mail ballot and under the supervision of~~
36 ~~the director.))~~

1 Nomination for candidates to be ~~((elected))~~ appointed to the
2 commission shall be conducted by mail by the director. Such nomination
3 forms shall be mailed by the director to each producer in a district
4 where a vacancy is about to occur. Such mailing shall be made on or
5 after April 1st, but not later than April 10th of the year the
6 commission vacancy will occur. The nomination form shall provide for
7 the name of the producer being nominated and the names of five
8 producers nominating such nominee. The producers nominating such
9 nominee shall affix their signatures to such form and shall further
10 attest that the said nominee meets the qualifications for a producer
11 member to serve on the commission and that he or she will be willing to
12 serve on the commission if ~~((elected))~~ appointed.

13 All nominations as provided for herein shall be returned to the
14 director by April 30th, and the director shall not accept any
15 nomination postmarked later than midnight April 30th, nor place the
16 candidate thereon on the advisory election ballot.

17 Advisory vote ballots for electing ~~((members))~~ nominees to the
18 commission will be mailed by the director to all eligible producers no
19 later than May 15th, in districts where advisory elections are to be
20 held and such ballots to be valid shall be returned postmarked no later
21 than May 31st of the year mailed, to the director in Olympia.

22 ~~((If only one person is nominated for a position on the
23 commission,))~~ The director shall determine whether the ~~((person
24 possesses))~~ persons nominated possess the qualifications required by
25 statute for the position ~~((and, if the director determines that the
26 person possesses such qualifications, the director shall declare that
27 the person has been duly elected))~~.

28 **Sec. 27.** RCW 15.44.035 and 2002 c 313 s 90 are each amended to
29 read as follows:

30 (1) The commission shall prior to each advisory election, in
31 sufficient time to satisfy the requirements of RCW 15.44.033, furnish
32 the director with a list of all producers within the district for which
33 the advisory election is being held. The commission shall require each
34 dealer and shipper in addition to the information required under RCW
35 15.44.110 to furnish the commission with a list of names of producers
36 whose milk they handle.

1 (2) Any producer may on his or her own motion file his or her name
2 with the commission for the purpose of receiving notice of the advisory
3 election.

4 (3) It is the responsibility of each producer to ensure that his or
5 her correct address is filed with the commission.

6 (4) For all purposes of giving notice, holding referenda, and
7 (~~electing members of~~) conducting advisory votes for nominees to the
8 commission, the applicable list of producers corrected up to the day
9 preceding the date the list is certified and mailed to the director is
10 deemed to be the list of all producers or handlers, as applicable,
11 entitled to notice or to vote. The list shall be corrected and brought
12 up-to-date in accordance with evidence and information provided to the
13 commission.

14 NEW SECTION. Sec. 28. A new section is added to chapter 15.44 RCW
15 to read as follows:

16 To accomplish the transition to a commission structure where the
17 director appoints the commission members, the names of the currently
18 elected commission members shall be forwarded to the director for
19 appointment to the commission within thirty days of the effective date
20 of this act. Thereafter, the director shall appoint commission members
21 pursuant to section 25 of this act as the current commission member
22 terms expire.

23 NEW SECTION. Sec. 29. A new section is added to chapter 15.44 RCW
24 to read as follows:

25 (1) The commission shall develop and submit to the director for
26 approval any plans, programs, and projects concerning the following:

27 (a) The establishment, issuance, effectuation, and administration
28 of appropriate programs or projects for the advertising, promotion, and
29 education of the affected commodities; and

30 (b) The establishment and effectuation of market research projects,
31 market development projects, or both to the end that the marketing and
32 utilization of the affected commodities may be encouraged, expanded,
33 improved, or made more efficient.

34 (2) The director shall review the commission's advertising or
35 promotion program to ensure that no false claims are being made
36 concerning the affected commodities.

1 (3) The commission, prior to the beginning of its fiscal year,
2 shall prepare and submit to the director for approval its research
3 plan, its commodity-related education, training and leadership plan,
4 and its budget on a fiscal period basis.

5 (4) The director shall strive to review and make a determination of
6 all submissions described in this section in a timely manner.

7 NEW SECTION. **Sec. 30.** A new section is added to chapter 15.44 RCW
8 to read as follows:

9 The commission exists primarily for the benefit of the people of
10 the state of Washington and its economy. The legislature hereby
11 charges the commission, with oversight by the director, to speak on
12 behalf of Washington state government with regard to its particular
13 commodities.

14 NEW SECTION. **Sec. 31.** A new section is added to chapter 15.44 RCW
15 to read as follows:

16 The costs incurred by the department of agriculture associated with
17 the implementation of section 29 of this act shall be paid for by the
18 commission.

19 **Sec. 32.** RCW 15.44.150 and 2002 c 313 s 102 are each amended to
20 read as follows:

21 Any action by the commission administrator, member, employee, or
22 agent thereof pertaining to the performance or nonperformance or
23 misperformance of any matters or things authorized, required, or
24 permitted by this chapter, and any other liabilities, debts, or claims
25 against the commission shall be enforced in the same manner as if the
26 commission were a corporation. No liability for the debts or actions
27 of the commission shall exist against the state of Washington or any
28 subdivision or instrumentality thereof. Liability for the debts or
29 actions of the commission's administrator, member, employee, or agent
30 incurred in their official capacity under this chapter does not exist
31 either against the administrator, members, employees, and agents in
32 their individual capacity or the state of Washington. The
33 administrator, its members, and its agents and employees are not
34 responsible individually in any way whatsoever to any person for errors

1 in judgment, mistakes, or other acts, either of commission or omission,
2 as principal, agent, person, or employee, except for their own
3 individual acts of dishonesty or crime.

4 All persons employed or contracting under this chapter shall be
5 limited to, and all salaries, expenses, and liabilities incurred by the
6 commission shall be payable only from the funds collected under this
7 chapter.

8 **Sec. 33.** RCW 16.67.040 and 2000 c 146 s 1 are each amended to read
9 as follows:

10 There is hereby created a Washington state beef commission to be
11 thus known and designated. The commission shall be composed of two
12 beef producers, two dairy (beef) producers, two feeders, one livestock
13 salesyard operator, ~~((and)) one meat packer, and the director, who~~
14 shall be a voting member. If an otherwise voting member is elected as
15 the chair of the commission, the member may, during the member's term
16 as chair of the commission, cast a vote as a member of the commission
17 only to break a tie vote. ~~((In addition there may be one ex officio~~
18 ~~member without the right to vote from the department of agriculture to~~
19 ~~be designated by the director thereof and,))~~ If the commission so
20 chooses, there may be one additional nonvoting member in an advisory
21 capacity appointed by the ~~((voting))~~ members of the commission for such
22 a term as the ~~((voting))~~ members may set.

23 A majority of voting members shall constitute a quorum for the
24 transaction of any business.

25 All appointed members as stated in RCW 16.67.060 shall be citizens
26 and residents of this state, over the age of twenty-five years, each of
27 whom is and has been actually engaged in that phase of the cattle
28 industry he or she represents for a period of five years, and has
29 during that period derived a substantial portion of his or her income
30 therefrom, or have a substantial investment in cattle as an owner,
31 lessee, partner, or a stockholder owning at least ten percent of the
32 voting stock in a corporation engaged in the production of cattle or
33 dressed beef, or a manager or executive officer of such corporation.
34 Producer members of the commission shall not be directly engaged in the
35 business of being a meat packer, or as a feeder, feeding cattle other
36 than their own. Said qualifications must continue throughout each
37 member's term of office.

1 NEW SECTION. **Sec. 34.** A new section is added to chapter 16.67 RCW
2 to read as follows:

3 (1) The commission shall develop and submit to the director for
4 approval any plans, programs, and projects concerning the following:

5 (a) The establishment, issuance, effectuation, and administration
6 of appropriate programs or projects for the advertising and promotion
7 of its affected commodities; and

8 (b) The establishment and effectuation of market research projects,
9 market development projects, or both to the end that the marketing and
10 utilization of its affected commodities may be encouraged, expanded,
11 improved, or made more efficient.

12 (2) The director shall review the commission's advertising or
13 promotion program to ensure that no false claims are being made
14 concerning its affected commodities.

15 (3) The commission, prior to the beginning of its fiscal year,
16 shall prepare and submit to the director for approval its research
17 plan, its commodity-related education and training plan, and its budget
18 on a fiscal period basis.

19 (4) The director shall strive to review and make a determination of
20 all submissions described in this section in a timely manner.

21 NEW SECTION. **Sec. 35.** A new section is added to chapter 16.67 RCW
22 to read as follows:

23 The commission exists primarily for the benefit of the people of
24 the state of Washington and its economy. The legislature hereby
25 charges the commission, with oversight by the director, to speak on
26 behalf of Washington state government with regard to its particular
27 commodities.

28 NEW SECTION. **Sec. 36.** A new section is added to chapter 16.67 RCW
29 to read as follows:

30 The costs incurred by the department associated with the
31 implementation of section 34 of this act shall be paid for by the
32 commission.

33 NEW SECTION. **Sec. 37.** RCW 15.65.245 (When director appoints
34 majority of the board--Nominations--Advisory vote--Notice--Director

1 appoints candidate receiving the most votes--Exception) and 2002 c 313
2 s 25 are each repealed.

3 **Sec. 38.** RCW 15.88.030 and 1997 c 321 s 40 are each amended to
4 read as follows:

5 (1) There is created an agricultural commodity commission to be
6 known and designated as the Washington wine commission. (~~Except as~~
7 ~~provided in RCW 15.88.100(2),~~) The commission shall be composed of
8 ((eleven)) twelve voting members and one nonvoting member; five voting
9 members shall be growers, five voting members shall be wine producers,
10 one voting member shall be the director, and one voting member shall be
11 a wine distributor licensed under RCW 66.24.200. Of the grower
12 members, at least one shall be a person who does not have over fifty
13 acres of vinifera grapes in production, at least one shall be a person
14 who has over one hundred acres of vinifera grapes in production, and
15 two may be persons who produce and sell their own wine. Of the wine
16 producer members, at least one shall be a person producing not more
17 than twenty-five thousand gallons of wine annually, at least one shall
18 be a person producing over one million gallons of wine annually, and at
19 least two shall be persons who produce wine from their own grapes. In
20 addition, at least one member shall be a wine producer located in
21 western Washington and at least two members shall be wine producers
22 located in eastern Washington.

23 (2) (~~In addition to the voting members identified in subsection~~
24 ~~(1) of this section,~~) The commission shall have one nonvoting member
25 who is a wine producer in this state whose principal wine or wines are
26 produced from fruit other than vinifera grapes. ((The director of
27 agriculture, or the director's designee, shall serve as an ex officio,
28 nonvoting member.))

29 (3) (~~Except as provided in RCW 15.88.100(2),~~) Seven voting
30 members of the commission constitute a quorum for the transaction of
31 any business of the commission.

32 (4) Each voting member of the commission shall be a citizen and
33 resident of this state and over the age of twenty-one years. Each
34 voting member, except the member holding position eleven, must be or
35 must have been engaged in that phase of the grower or wine producer
36 industry that he or she is appointed to represent, and must during his
37 or her term of office derive a substantial portion of income therefrom,

1 or have a substantial investment in the growing of vinifera grapes or
2 the production of wine from vinifera grapes as an owner, lessee,
3 partner, or a stockholder owning at least ten percent of the voting
4 stock in a corporation engaged in the growing of vinifera grapes or
5 wine production from vinifera grapes; or the manager or executive
6 officer of such a corporation. These qualifications apply throughout
7 each member's term of office. This subsection does not apply to the
8 director.

9 **Sec. 39.** RCW 15.88.040 and 1988 c 254 s 13 are each amended to
10 read as follows:

11 The (~~appointive~~) appointed voting positions on the commission
12 shall be designated as follows: The wine producers shall be designated
13 positions one, two, three, four, and five; the growers shall be
14 designated positions six, seven, eight, nine, and ten; (~~and~~) the wine
15 wholesaler shall be position eleven; and the director shall be position
16 number thirteen. The nonvoting industry member shall be designated
17 position number twelve. The member designated as filling position one
18 shall be a person producing over one million gallons of wine annually.
19 The member designated as position one shall be the sole representative,
20 directly or indirectly, of the producer eligible to hold position one
21 and in no event shall that producer directly or indirectly control more
22 than fifty percent of the votes of the commission.

23 Except (~~as provided in RCW 15.88.100(2)~~) for position thirteen,
24 the regular terms of office shall be three years from the date of
25 appointment and until their successors are appointed. However, the
26 first terms of the members appointed upon July 1, 1987, shall be as
27 follows: Positions one, six, and eleven shall terminate July 1, 1990;
28 positions two, four, seven, and nine shall terminate July 1, 1989; and
29 positions three, five, eight, and ten shall terminate July 1, 1988.
30 The term of the initial nonvoting industry member shall terminate July
31 1, 1990.

32 **Sec. 40.** RCW 15.88.050 and 2002 c 313 s 111 are each amended to
33 read as follows:

34 (1) The director shall appoint the members of the commission. In
35 making such appointments (~~of the voting members~~), the director shall
36 take into consideration recommendations made by the growers'

1 association and the wine institute as the persons recommended for
2 appointment as members of the commission. In appointing persons to the
3 commission, the director shall seek to ensure as nearly as possible a
4 balanced representation on the commission which would reflect the
5 composition of the growers and wine producers throughout the state as
6 to number of acres cultivated and amount of wine produced.

7 (2) The appointment shall be carried out immediately subsequent to
8 July 1, 1987, and members so appointed as set forth in this chapter
9 shall serve for the periods set forth for the original members of the
10 commission under RCW 15.88.040.

11 (3) In the event a position on the commission becomes vacant due to
12 resignation, disqualification, death, or for any other reason, the
13 unexpired term of the position shall immediately be filled by
14 appointment by the director.

15 (4) Each member or employee of the commission shall be reimbursed
16 for actual travel expenses incurred in carrying out the provisions of
17 this chapter as defined by the commission in rule. Otherwise if not
18 defined in rule, reimbursement for travel expenses shall be at the
19 rates allowed by RCW 43.03.050 and 43.03.060.

20 **Sec. 41.** RCW 15.88.100 and 1988 c 254 s 14 are each amended to
21 read as follows:

22 (1) Except as provided in subsection((s)) (2) (~~and (3)~~) of this
23 section, the vote of each of the voting members of the commission shall
24 be weighted as provided by this subsection for the transaction of any
25 of the business of the commission. The total voting strength of the
26 entire voting membership of the commission shall be (~~eleven~~) twelve
27 votes. The vote of position one shall be equal to the lesser of the
28 following: (~~Five~~) Six and one-half votes; or eleven votes times the
29 percentage of the wine produced in the state that is produced by the
30 person filling position one. The percentage shall be based upon the
31 amount of wine produced in the previous calendar year and shall be
32 rounded to the nearest ten percent. The remaining votes of the
33 membership of the commission shall be divided equally among the
34 remaining members of the commission.

35 (2) (~~In the event the assessment described in RCW 66.24.215(1)(b)~~
36 ~~is not effective on July 1, 1989, the positions designated for growers~~
37 ~~cease to exist. In such an event, the commission shall be composed of~~

1 ~~six voting members and two nonvoting members. The nonvoting industry~~
2 ~~member shall be position seven. Four voting members of the commission~~
3 ~~constitute a quorum for the modified commission. Of the six votes of~~
4 ~~the entire voting membership of the modified commission, the vote of~~
5 ~~position one shall be the lesser of the following: Three votes; or six~~
6 ~~votes times the percentage of the wine produced in the state that is~~
7 ~~produced by the person filling position one. The percentage shall be~~
8 ~~based upon the amount of wine produced in the previous calendar year~~
9 ~~and shall be rounded to the nearest ten percent. The remaining votes~~
10 ~~of the membership of the commission shall be divided equally among the~~
11 ~~remaining members of the commission.~~

12 (3)) In the event that the percentage of wine produced by the
13 producer represented by position one falls below twenty-five percent of
14 the wine produced in this state, the weighted voting mechanism provided
15 for in subsection((s)) (1) ((and (2))) of this section shall cease to
16 be effective. In that case, the voting shall be based on one vote per
17 position.

18 NEW SECTION. Sec. 42. A new section is added to chapter 15.88 RCW
19 to read as follows:

20 (1) The commission shall develop and submit to the director for
21 approval any plans, programs, and projects concerning the following:

22 (a) The establishment, issuance, effectuation, and administration
23 of appropriate programs or projects for the advertising, promotion, and
24 education of the affected commodities; and

25 (b) The establishment and effectuation of market research projects,
26 market development projects, or both to the end that the marketing and
27 utilization of the affected commodities may be encouraged, expanded,
28 improved, or made more efficient.

29 (2) The director shall review the commission's advertising or
30 promotion program to ensure that no false claims are being made
31 concerning the affected commodities.

32 (3) The commission, prior to the beginning of its fiscal year,
33 shall prepare and submit to the director for approval its research
34 plan, its commodity-related education and training plan, and its budget
35 on a fiscal period basis.

36 (4) The director shall strive to review and make a determination of
37 all submissions described in this section in a timely manner.

1 NEW SECTION. **Sec. 43.** A new section is added to chapter 15.88 RCW
2 to read as follows:

3 The commission exists primarily for the benefit of the people of
4 the state of Washington and its economy. The legislature hereby
5 charges the commission, with oversight by the director, to speak on
6 behalf of the Washington state government with regard to wine grapes
7 and wine.

8 **Sec. 44.** RCW 15.88.180 and 2002 c 313 s 76 are each amended to
9 read as follows:

10 (1) The director may provide by rule for a method to fund staff
11 support for all commodity boards or commissions in accordance with RCW
12 43.23.033 if a position is not directly funded by the legislature and
13 costs related to the specific activity undertaken on behalf of an
14 individual commodity board or commission. The commission shall provide
15 funds to the department according to the rules adopted by the director.

16 (2) The costs incurred by the department associated with the
17 implementation of section 42 of this act shall be paid for by the
18 commission.

19 NEW SECTION. **Sec. 45.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and takes effect
22 immediately.

 Passed by the House April 24, 2003.

 Passed by the Senate April 17, 2003.

 Approved by the Governor May 20, 2003.

 Filed in Office of Secretary of State May 20, 2003.