

ANALYSIS OF SB 6158

House Agriculture & Ecology Committee
1998

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BACKGROUND:

The Washington Agricultural Enabling Act of 1955 establishes a means by which the producers of an agricultural commodity may create a commodity commission through a marketing order issued by the director of the Department of Agriculture as an alternative to requesting the legislature to create the commission directly by statute. Under the 1955 Act, the producers may petition the director to create such a commission and may approve by referendum a marketing order creating the commission, establishing its duties, and levying an assessment to fund its activities. (Chapter 15.66 RCW.)

On December 4, 1957, the director approved a marketing order creating the Wheat Commission to be submitted by referendum to wheat producers for ratification. The marketing order was approved by the producers and became effective in April 1958. (Chapter 16-528 WAC.) In August 1960, a superior court declared the 1955 Act to be unconstitutional and vacated the marketing order. During the 1961 Regular Session, legislation was enacted creating a Wheat Commission directly by statute. (Chapter 87, Laws of 1961.) As indicated below, this version of the Wheat Commission was to take effect only if the marketing order creating the commission was found to be invalid by the Supreme Court:

This chapter shall not take effect and become operative unless and until such time as the wheat commission created by the Marketing Order for Washington Wheat issued on December 4, 1957 by the director, acting under the terms of chapter 15.66 RCW, is declared in a final decision of the supreme court of the state of Washington to have been invalidly created either by reason of the unconstitutionality, in whole or in part, of said chapter or for any other reason. This chapter has been passed in order that continuity of wheat commission activities may be assured throughout the biennium and in the future; therefore, in the event the existing wheat commission should be held by the supreme court of the state of Washington to have been constitutionally and validly created, this chapter shall be of no force and effect whatsoever.— (RCW 15.63.910.)

In August 1961, the state's Supreme Court unanimously (8-0) reversed the decision of the superior court and concluded with the following comment:

The philosophy of statutes is peculiarly within the legislative domain and courts must not allow their views of policy to affect judicial decisions on constitutional issues. Unless a statute contravenes the constitution, the courts cannot interfere.— (*Robinson v. Dwyer*, 58 Wn. 2d 576, at page 585.)

SUMMARY:

The 1961 legislation creating a Wheat Commission on a conditional basis is repealed.

*Prepared for the House Agriculture & Ecology Committee
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