

# SENATE BILL REPORT

## SB 6639

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As Reported By Senate Committee On:  
Agriculture & International Trade, February 6, 2002

**Title:** An act relating to regulating commodity boards and commissions.

**Brief Description:** Regulating commodity boards and commissions.

**Sponsors:** Senator Rasmussen; by request of Department of Agriculture.

**Brief History:**

**Committee Activity:** Agriculture & International Trade: 2/1/02, 2/6/02 [DPS].

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### SENATE COMMITTEE ON AGRICULTURE & INTERNATIONAL TRADE

**Majority Report:** That Substitute Senate Bill No. 6639 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rasmussen, Chair; Shin, Vice Chair; Parlette, Sheahan, Snyder, Spanel and Swecker.

**Staff:** Bob Lee (786-7404)

**Background:** There are 24 commodity commissions in Washington State that are formed under state law. Six operate under their own separate statutory authority, and 18 are established pursuant to two different state enabling statutes. These two enabling statutes were enacted in 1955 and in 1961. There has been an ongoing effort to update and harmonize these various statutes.

Generally, commodity commissions are formed to address specific needs of a particular commodity group. The statutes provide for the allowable scope of activities that can be conducted by the commission and generally include commodity marketing programs and production research programs. The method of formation, appointment of the board of directors, and procedures for levying an assessment are provided in the statutes. Commissions receive the bulk of their funding from assessments on their respective commodities.

In recent years, there have been court rulings affecting similar kinds of generic advertising programs in other regions of the country. Due to these rulings, there is concern about the adequacy of some commodity commission statutes to withstand legal challenges.

**Summary of Substitute Bill:** Several different chapters of law that create or enable the creation of commodity commissions are modified.

The legislation creates a new purpose statement for commodity commissions and includes the list of state and federal laws that provide for comprehensive regulation of a specific commodity. Alternative means is provided for the Director of Agriculture to appoint

directors to the boards of various commissions and that process includes an advisory vote by the commodity producer.

Clarification is provided on the establishment of lists of affected producers who may vote in elections. The process for terminating a commission is provided and generally requires a referendum of affected producers. Timelines are provided for challenging the results of an election and for the retention of ballots.

Referendums are not required to be held more than once within a 12-month period on the same matter. A marketing order may be suspended for up to one year upon the request of a commission.

Rulemaking is to be conducted in accordance with the Administrative Procedure Act. Commissions may increase fees in excess of the fiscal growth factor without legislative approval if the increase is subject to a referendum by the affected parties.

In addition to existing authorities of some commissions is the authority to address transportation and irrigation related issues. The use of commission funds for promotional hosting is authorized.

Agricultural business records provided to the department for purposes of conducting elections are to remain confidential.

Assessments by the Beef Commission remain \$1 per head if the federal beef promotion program is eliminated. Several commissions have the option to adopt by rule reimbursement for actual travel expenses. Otherwise, reimbursement for travel expenses is at rates set of state agencies.

The Department of Agriculture may recover costs incurred when issuing, amending and terminating marketing orders for specific commissions. Authority is provided for commissions to contribute funding of one-half full time equivalent to provide staff support by the department to commodity commissions.

**Substitute Bill Compared to Original Bill:** In addition to authority of commodity commissions to enhance the reputation of a particular commodity is the ability to work to enhance its image. Changes are included to the Wine Commission statute that indicate the structure of regulation of the wine industry and how the Wine Commission fits with that structure.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The act takes effect on July 1, 2002.

**Testimony For:** Commodity commissions and the Department of Agriculture started reviewing and updating the commodity commission statutes three years ago. In the meantime, there was a decision by the U.S. Supreme Court that called into question operations of similar types of entities that conduct a generic commodity promotion program. Changes are included to address these questions.

**Testimony Against:** None.

**Testified:** PRO: Mary Beth Lang, Dept. of Agriculture; Chris Cheney, Dairy Products Comm.; WA Hop Comm., WA Fryer Comm.; Casey Lankhaar, WA State Beef Comm.; Jim Zimmerman, Washington Cattlemen Assn.; Charlie Brown, WA State Potato Comm.