

HB 1361 - S COMM AMD
By Committee on Agriculture

ADOPTED AS AMENDED 04/17/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 15.66.030 and 2002 c 313 s 40 are each amended to
4 read as follows:

5 Marketing orders may be made for any one or more of the following
6 purposes:

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

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

14 (3) To provide for improving standards and grades by defining,
15 establishing, and providing labeling requirements with respect to the
16 same;

17 (4) To investigate and take necessary action to prevent unfair
18 trade practices;

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

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

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

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

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

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

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

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

10 (1) To elect a chair and such other officers as determined
11 advisable;

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

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

17 (4) To employ and discharge at its discretion such administrators
18 and additional personnel, attorneys, advertising and research agencies
19 and other persons and firms that it may deem appropriate and pay
20 compensation to the same;

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

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

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

32 (8) Borrow money and incur indebtedness;

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

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

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

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

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

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

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

19 (16) To engage in appropriate fund-raising activities for the
20 purpose of supporting activities of the commission authorized by the
21 marketing order;

22 (17) To participate in international, federal, state, and local
23 hearings, meetings, and other proceedings relating to the production,
24 irrigation, manufacture, regulation, transportation, distribution,
25 sale, or use of affected commodities including activities authorized
26 under RCW 42.17.190, including the reporting of those activities to the
27 public disclosure commission;

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

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

36 (20) To request records and audit the records of producers or

1 handlers of the affected commodity during normal business hours to
2 determine whether the appropriate assessment has been paid;

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

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

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

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

15 (2) This section shall apply to all funds which may be lawfully so
16 invested, which in the judgment of any agricultural commodity
17 commission are not required for immediate expenditure. The authority
18 granted by this section is not exclusive and shall be construed to be
19 cumulative and in addition to other authority provided by law for the
20 investment of such funds, including, but not limited to, authority
21 granted under chapters 39.58, 39.59, and 43.84 RCW.

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

24 (1) Every marketing order shall establish a commodity commission
25 composed of not less than five nor more than ~~((thirteen))~~ fifteen
26 members. ~~((In addition, the director shall be an ex officio member of~~
27 ~~each commodity commission unless otherwise specified in the marketing~~
28 ~~order.))~~ Commission members shall be citizens and residents of this
29 state if required by the marketing order, and over the age of eighteen.
30 Not more than one commission member may be part of the same "person" as
31 defined by this chapter. The term of office of commission members
32 shall be three years with the terms rotating so than one-third of the
33 terms will commence as nearly as practicable each year. However, the
34 first commission shall be selected, one-third for a term of one year,
35 one-third for a term of two years, and one-third for a term of three

1 years, as nearly as practicable. Except as provided in subsection (2)
2 of this section, no less than ~~((two-thirds))~~ sixty percent of the
3 commission members shall be elected by the affected producers and such
4 elected members shall all be affected producers. Except as provided in
5 subsection (4) of this section, the remaining members shall be
6 appointed by the commission and shall be either affected producers,
7 others active in matters relating to the affected commodity, or persons
8 not so related.

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

13 (3) In the event that the marketing order provides that a majority
14 of the commission be appointed by the director, the marketing order
15 shall incorporate ~~((either))~~ the provisions of RCW 15.66.113 ~~((or~~
16 ~~15.66.115))~~ for member selection.

17 (4) The director shall appoint to every commission one member who
18 represents the director. The director is a voting member of each
19 commodity commission.

20 NEW SECTION. Sec. 5. A new section is added to chapter 15.66 RCW
21 to read as follows:

22 (1) Each commodity commission shall develop and submit to the
23 director for approval any plans, programs, and projects concerning the
24 following:

25 (a) The establishment, issuance, effectuation, and administration
26 of appropriate programs or projects for the advertising and promotion
27 of the affected commodity; and

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

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

35 (3) Each commodity commission, prior to the beginning of its fiscal

1 year, shall prepare and submit to the director for approval its
2 research plan, its commodity-related education and training plan, and
3 its budget on a fiscal period basis.

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

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

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

13 NEW SECTION. **Sec. 7.** RCW 15.66.115 (When director appoints
14 majority of the commission--Nominations--Advisory vote--Notice--
15 Director appoints candidate receiving the most votes--Exception) and
16 2002 c 313 s 53 are each repealed.

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

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

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

28 (2) The members of the board shall be producers or handlers or both
29 in such proportion as the director shall specify in the marketing
30 agreement or order, but in any marketing order or agreement the number
31 of handlers on the board shall not exceed the number of producers
32 thereon. The marketing order or agreement may provide that a majority

1 of the board be appointed by the director, but in any event, no less
2 than one-third of the board members shall be elected by the affected
3 producers.

4 (3) In the event that the marketing order or agreement provides
5 that a majority of the commodity board be appointed by the director,
6 the marketing order or agreement shall incorporate ((either)) the
7 provisions of RCW 15.65.243 ((or 15.65.245)) for board member
8 selection.

9 (4) The director shall appoint to every board one member who
10 represents the director. The director shall be a voting member of each
11 commodity board.

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

14 (1) Each commodity commission shall develop and submit to the
15 director for approval any plans, programs, and projects concerning the
16 following:

17 (a) The establishment, issuance, effectuation, and administration
18 of appropriate programs or projects for the advertising and promotion
19 of the affected commodity; and

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

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

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

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

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

35 Each commission organized under a marketing order adopted under

1 this chapter exists primarily for the benefit of the people of the
2 state of Washington and its economy. The legislature hereby charges
3 each commission, with oversight by the director, to speak on behalf of
4 Washington state government with regard to its particular commodity.

5 NEW SECTION. **Sec. 12.** A new section is added to chapter 15.65 RCW
6 to read as follows:

7 The costs incurred by the department associated with the
8 implementation of section 10 of this act shall be paid for by the
9 affected commodity commissions.

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

12 The commission is composed of (~~sixteen~~) seventeen voting members,
13 as follows: Ten producers, four dealers, and two processors, who are
14 (~~elected and qualified~~) appointed as provided in this chapter. The
15 director, or an authorized representative, shall be (~~an ex-officio~~
16 ~~member without a vote~~) a voting member of the commission. Other
17 sections of this chapter that relate to the selection of voting members
18 shall not apply to the director or his or her authorized
19 representative.

20 A majority of the voting members constitute a quorum for the
21 transaction of any business.

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

24 Of the producer members, four shall be (~~elected~~) appointed from
25 the first district and occupy positions one, two, three and four; four
26 shall be (~~elected~~) appointed from the second district and occupy
27 positions five, six, seven and eight, and two shall be (~~elected~~)
28 appointed from the third district and occupy positions nine and ten.

29 Of the dealer members, two shall be (~~elected~~) appointed from each
30 of the first and second districts and respectively occupy positions
31 eleven and twelve from the first district and positions thirteen and
32 fourteen from the second district.

33 The processor members shall be (~~elected~~) appointed from the state
34 at large and occupy positions fifteen and sixteen. The dealer member

1 position previously referred to as position twelve shall henceforth be
2 position thirteen. The processor member position heretofore referred
3 to as position fourteen shall cease to exist on March 21, 1967. The
4 processor member position heretofore referred to as thirteen shall be
5 known as position sixteen.

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

8 The regular term of office of the members of the commission shall
9 be three years commencing on May 1, following the date of ((election))
10 appointment and until their successors are ((elected)) appointed and
11 qualified, except, however, that the first term of dealer position
12 twelve in the first district shall be for two years and expire May 1,
13 1969.

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

- 16 (1) The director shall appoint the members of the commission.
- 17 (2) Candidates for positions on the commission shall be nominated
18 under RCW 15.28.060.
- 19 (3) Not less than sixty days nor more than seventy-five days prior
20 to the commencement of a commission member's term, the director shall
21 cause an advisory vote to be held for the director-appointed positions.
22 Advisory ballots shall be mailed to all affected producers and shall be
23 returned to the director not less than thirty days prior to the
24 commencement of the term. The advisory ballot shall be conducted in a
25 manner so that it is a secret ballot. The names of the two candidates
26 receiving the most votes in the advisory vote shall be forwarded to the
27 director for potential appointment to the commission. In the event
28 there are only two candidates nominated for a position, an advisory
29 vote may not be held and the candidates' names shall be forwarded to
30 the director for potential appointment. If only one candidate is
31 nominated for a position, the commission shall select a second
32 candidate whose name will be forwarded to the director.
- 33 (4) Any candidate whose name is forwarded to the director for
34 potential appointment shall submit to the director a letter stating why

1 he or she wishes to be appointed to the commission. The director may
2 select either person for the position.

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

5 To accomplish the transition to a commission structure where the
6 director appoints a majority of commission members, the names of the
7 currently elected commission members shall be forwarded to the director
8 for appointment to the commission within thirty days of the effective
9 date of this act. Thereafter, the director shall appoint commission
10 members pursuant to section 16 of this act as the current commission
11 member terms expire.

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

14 The director shall call meetings at times and places concurred upon
15 by the director and the commission for the purpose of nominating
16 producer, dealer or processor members for ~~((election))~~ potential
17 appointment to the commission when such members' terms are about to
18 expire. Notice of such meetings shall be given at least sixty days
19 prior to the time the respective members' term is about to expire. The
20 nominating meetings shall be held at least sixty days prior to the
21 expiration of the respective members' term of office.

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

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

31 Any person qualified to serve on the commission may be nominated
32 orally at ~~((said))~~ the nomination meetings. Written nominations,
33 signed by five persons qualified to vote for the said nominee, may be
34 made for five days subsequent to ~~((said))~~ the nomination meeting. Such

1 written nominations shall be filed with the commission at its Yakima
2 office.

3 ~~((Members of the commission shall be elected by a))~~ The director
4 shall cause an advisory vote to be held for commission positions. The
5 advisory vote shall be by secret mail ballot~~((, and such election shall~~
6 ~~be conducted under the supervision of the director, and the elected~~
7 ~~candidate shall become a member of the commission upon certification of~~
8 ~~the director that said elected candidate has satisfied the required~~
9 ~~qualifications for membership on the commission.~~

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

24 A producer to be eligible to vote in ~~((an election))~~ the advisory
25 vote for a nominee as a producer member of the commission must be a
26 commercial producer of soft tree fruits paying assessments to the
27 commission.

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

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

35 The commission shall have the authority, subject to the provisions
36 of chapter 34.05 RCW (Administrative Procedure Act), for adopting rules

1 and regulations, after public hearing, establishing one or more
2 subdistricts in any one of the three districts. Such subdistricts
3 shall include a substantial portion of the soft tree fruit producing
4 area in the district in which they are formed.

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

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

13 In the event a position becomes vacant due to resignation,
14 disqualification, death, or for any other reason, such position, until
15 the next annual ~~((election))~~ nominating meeting, shall be filled by
16 vote of the remaining members of the commission. ~~((At such annual
17 election a commissioner shall be elected to fill the balance of the
18 unexpired term.))~~ Following the next annual nomination meeting, the
19 director shall appoint one of the two nominees selected by advisory
20 ballot to fill the balance of the unexpired term.

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

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

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

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

32 (2) The director shall review the commission's advertising or
33 promotion program to ensure that no false claims are being made
34 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 and training plan, and its budget
4 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. 22. A new section is added to chapter 15.28 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. 23. A new section is added to chapter 15.28 RCW
15 to read as follows:

16 The costs incurred by the department of agriculture associated with
17 the implementation of section 21 of this act shall be paid for by the
18 commission.

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

21 The dairy products commission shall be composed of not more than
22 ten members. There shall be one member from each district who shall be
23 a practical producer of dairy products (~~(to be elected by such~~
24 ~~producers)), one member shall be a dealer, and one member shall be a~~
25 ~~producer who also acts as a dealer(, and such dealer and producer who~~
26 ~~acts as a dealer shall be appointed by the director of agriculture,~~
27 ~~and)). The director of agriculture shall be ((~~an ex officio member~~~~
28 ~~without vote)) a voting member of the commission.~~

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

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

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

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

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

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

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

22 Producer members of the commission shall be nominated ((and
23 elected)) by producers within the district that such producer members
24 represent in the year in which a commission member's term shall expire.
25 (~~Such producer members receiving the largest number of the votes cast~~
26 ~~in the respective districts which they represent shall be elected. The~~
27 ~~election shall be by secret mail ballot and under the supervision of~~
28 ~~the director.~~)

29 Nomination for candidates to be ((elected)) appointed to the
30 commission shall be conducted by mail by the director. Such nomination
31 forms shall be mailed by the director to each producer in a district
32 where a vacancy is about to occur. Such mailing shall be made on or
33 after April 1st, but not later than April 10th of the year the
34 commission vacancy will occur. The nomination form shall provide for
35 the name of the producer being nominated and the names of five
36 producers nominating such nominee. The producers nominating such

1 nominee shall affix their signatures to such form and shall further
2 attest that the said nominee meets the qualifications for a producer
3 member to serve on the commission and that he or she will be willing to
4 serve on the commission if (~~elected~~) appointed.

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

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

14 (~~If only one person is nominated for a position on the~~
15 ~~commission,~~) The director shall determine whether the (~~person~~
16 ~~possesses~~) persons nominated possess the qualifications required by
17 statute for the position (~~and, if the director determines that the~~
18 ~~person possesses such qualifications, the director shall declare that~~
19 ~~the person has been duly elected~~)).

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

22 (1) The commission shall prior to each advisory election, in
23 sufficient time to satisfy the requirements of RCW 15.44.033, furnish
24 the director with a list of all producers within the district for which
25 the advisory election is being held. The commission shall require each
26 dealer and shipper in addition to the information required under RCW
27 15.44.110 to furnish the commission with a list of names of producers
28 whose milk they handle.

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

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

34 (4) For all purposes of giving notice, holding referenda, and
35 (~~electing members of~~) conducting advisory votes for nominees to the
36 commission, the applicable list of producers corrected up to the day

1 preceding the date the list is certified and mailed to the director is
2 deemed to be the list of all producers or handlers, as applicable,
3 entitled to notice or to vote. The list shall be corrected and brought
4 up-to-date in accordance with evidence and information provided to the
5 commission.

6 NEW SECTION. **Sec. 28.** A new section is added to chapter 15.44 RCW
7 to read as follows:

8 To accomplish the transition to a commission structure where the
9 director appoints the commission members, the names of the currently
10 elected commission members shall be forwarded to the director for
11 appointment to the commission within thirty days of the effective date
12 of this act. Thereafter, the director shall appoint commission members
13 pursuant to section 25 of this act as the current commission member
14 terms expire.

15 NEW SECTION. **Sec. 29.** A new section is added to chapter 15.44 RCW
16 to read as follows:

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

19 (a) The establishment, issuance, effectuation, and administration
20 of appropriate programs or projects for the advertising, promotion, and
21 education of the affected commodities; and

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

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

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

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

1 NEW SECTION. **Sec. 30.** A new section is added to chapter 15.44 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 Washington state government with regard to its particular
7 commodities.

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

10 The costs incurred by the department of agriculture associated with
11 the implementation of section 29 of this act shall be paid for by the
12 commission.

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

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

32 All persons employed or contracting under this chapter shall be
33 limited to, and all salaries, expenses, and liabilities incurred by the
34 commission shall be payable only from the funds collected under this
35 chapter.

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

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

16 A majority of voting members shall constitute a quorum for the
17 transaction of any business.

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

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

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

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

1 of appropriate programs or projects for the advertising and promotion
2 of its 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 its 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 its 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. 35.** A new section is added to chapter 16.67 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. 36.** A new section is added to chapter 16.67 RCW
24 to read as follows:

25 The costs incurred by the department associated with the
26 implementation of section 34 of this act shall be paid for by the
27 commission.

28 NEW SECTION. **Sec. 37.** RCW 15.65.245 (When director appoints
29 majority of the board--Nominations--Advisory vote--Notice--Director
30 appoints candidate receiving the most votes--Exception) and 2002 c 313
31 s 25 are each repealed.

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

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

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

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

28 (4) Each voting member of the commission shall be a citizen and
29 resident of this state and over the age of twenty-one years. Each
30 voting member, except the member holding position eleven, must be or
31 must have been engaged in that phase of the grower or wine producer
32 industry that he or she is appointed to represent, and must during his
33 or her term of office derive a substantial portion of income therefrom,
34 or have a substantial investment in the growing of vinifera grapes or
35 the production of wine from vinifera grapes as an owner, lessee,
36 partner, or a stockholder owning at least ten percent of the voting
37 stock in a corporation engaged in the growing of vinifera grapes or

1 wine production from vinifera grapes; or the manager or executive
2 officer of such a corporation. These qualifications apply throughout
3 each member's term of office. This subsection does not apply to the
4 director.

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

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

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

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

30 (1) The director shall appoint the members of the commission. In
31 making such appointments (~~of the voting members~~), the director shall
32 take into consideration recommendations made by the growers'
33 association and the wine institute as the persons recommended for
34 appointment as members of the commission. In appointing persons to the
35 commission, the director shall seek to ensure as nearly as possible a

1 balanced representation on the commission which would reflect the
2 composition of the growers and wine producers throughout the state as
3 to number of acres cultivated and amount of wine produced.

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

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

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

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

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

32 (~~(2) (In the event the assessment described in RCW 66.24.215(1)(b)~~
33 ~~is not effective on July 1, 1989, the positions designated for growers~~
34 ~~cease to exist. In such an event, the commission shall be composed of~~
35 ~~six voting members and two nonvoting members. The nonvoting industry~~
36 ~~member shall be position seven. Four voting members of the commission~~

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

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

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

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

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

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

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

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

34 (4) The director shall strive to review and make a determination of
35 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."

HB 1361 - S COMM AMD
By Committee on Agriculture

ADOPTED AS AMENDED 04/17/2003

23 On page 1, line 1 of the title, after "commissions;" strike the
24 remainder of the title and insert "amending RCW 15.66.030, 15.66.140,
25 15.66.185, 15.66.110, 15.65.220, 15.28.020, 15.28.040, 15.28.050,
26 15.28.060, 15.28.070, 15.28.080, 15.44.020, 15.44.033, 15.44.035,
27 15.44.150, 16.67.040, 15.88.030, 15.88.040, 15.88.050, 15.88.100, and
28 15.88.180; adding new sections to chapter 15.66 RCW; adding new

1 sections to chapter 15.65 RCW; adding new sections to chapter 15.28
2 RCW; adding new sections to chapter 15.44 RCW; adding new sections to
3 chapter 16.67 RCW; adding new sections to chapter 15.88 RCW; creating
4 a new section; repealing RCW 15.66.115 and 15.65.245; and declaring an
5 emergency."

--- END ---