

# HOUSE BILL REPORT

## HB 2301

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**As Reported by House Committee On:**  
Agriculture & Natural Resources

**Title:** An act relating to severability clauses in commodity commission statutes.

**Brief Description:** Including severability clauses in commodity commission statutes.

**Sponsors:** Representatives Linville and Schoesler; by request of Department of Agriculture.

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 1/13/04, 1/20/04 [DP].

**Brief Summary of Bill**

- Adds severability clauses to several commodity commission chapters.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

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

**Staff:** Caroleen Dineen (786-7156).

**Background:**

A commodity commission may be established for a particular agricultural commodity. A commodity commission may perform a variety of functions, including advertising, sales promotion, research, standards and grades improvement, and cooperative marketing efforts. Some commodity commissions, such as those for apples, dairy products, and beef, are created directly by statute. A commodity commission also may be established according to the requirements of the Washington Agricultural Enabling Act (the 1955 enabling statutes). Commodity commissions have been created in this manner for wheat, potato, fryers, barley, and other commodities.

Washington courts will not consider an act of the Legislature unconstitutional in its entirety because a provision(s) is unconstitutional unless the invalid provision(s) is not severable from the remaining provisions. The courts will determine whether the remaining portions of the legislation are constitutional by considering whether:

- reasonable belief exists that the Legislature would have passed the remaining provisions without the unconstitutional provision(s); and
- the remaining provisions are capable of accomplishing the legislative purpose.

A severability clause in legislation generally specifies that the judicial invalidation of one or more legislative provisions does not affect the validity of the remaining provisions. Washington courts consider a severability clause as the "necessary assurance" from the Legislature to the courts that the remaining provisions would have been enacted without the provisions deemed unconstitutional. State v. Anderson, 81 Wn.2d 234, 501 P.2d 184 (1972).

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**Summary of Bill:**

Severability clauses are added to the 1955 enabling statutes for commodity commissions and to the statutes authorizing the state Fruit Commission and the Dairy Products Commission.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** The severability clauses added in this bill apply to eight commodity commissions and protect these commodity commission statutes from judicial invalidation. This bill will protect these commodity commissions in the event of court challenges.

**Testimony Against:** None.

**Persons Testifying:** Leslie Emerick, Washington State Department of Agriculture; and Jim Jesernig, Washington Potato and Onion Association.

**Persons Signed In To Testify But Not Testifying:** None.