

# FINAL BILL REPORT

## HB 2301

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C 99 L 04

Synopsis as Enacted

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

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

**House Committee on Agriculture & Natural Resources**

**Senate Committee on Agriculture**

### **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. As stated in *State v. Anderson*, 81 Wn.2d 234, 501 P.2d 184 (1972), 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.

### **Summary:**

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.

### **Votes on Final Passage:**

House 96 0

Senate 49 0

**Effective:** March 24, 2004