

# SENATE BILL REPORT

## SB 6310

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As Reported By Senate Committee On:  
Agriculture, February 5, 2004

**Title:** An act relating to commodity commissions.

**Brief Description:** Concerning commodity commissions.

**Sponsors:** Senators Swecker, Rasmussen and Sheahan.

**Brief History:**

**Committee Activity:** Agriculture: 1/27/04, 2/5/04 [DPS].

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### SENATE COMMITTEE ON AGRICULTURE

**Majority Report:** That Substitute Senate Bill No. 6310 be substituted therefor, and the substitute bill do pass.

Signed by Senators Swecker, Chair; Brandland, Vice Chair; Jacobsen, Rasmussen and Sheahan.

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

**Background:** Agricultural commodity commissions are created either by a specific law that pertains to that commodity or under one of the two general commodity commission enabling acts. There are 12 commissions created under Chapter 15.65 RCW, which is referred to as the 1961 Enabling Act.

Six individual commodity commissions are created under Chapter 15.66 RCW, which is referred to as the 1955 Enabling Act. These are the Potato Commission, Seed Potato Commission, Bulb Commission, Wheat Commission, Fryer Commission and Barley Commission.

The commodity commission statutes provide a process whereby marketing orders may be changed that includes a referendum to the producers of that commodity. Also, a referendum of producers is required to change the level of assessment by a commodity commission.

To modify or terminate an existing marketing order, either a majority of the commission or at least 5 percent or 100 affected producers must sign a petition to the Washington State Department of Agriculture (WSDA). When a commission requests the modification, the commission must reimburse the department for expenses incurred by the department in modifying a marketing order. An estimate of the expenses is to be provided before any services be performed. If the modification is requested by producers, the producers must deposit funds with the department to pay for expenses incurred by the department.

The Administrative Procedure Act applies to changes in marketing orders except for specific exemptions.

The statute specifically provides that a marketing order which provides that a majority of commission members be appointed by the director must not be amended without a referendum.

Once a petition is submitted, the following are steps in the process:

1. A list of affected parties is established and confirmation of average quantity of affected commodity produced. A public notice and mailing to producers is required;
2. A notice of the public hearing is published once a week for four consecutive weeks in newspapers of general circulation;
3. A notice of the public hearing is mailed to affected parties;
4. A public hearing is held by the department;
5. The director publishes a finding on every material point covered at the hearing;
6. The director issues a recommended decision which is to be mailed to parties of record that appears at the hearing;
7. Persons may file objections with the director for at least ten days of the issuance of the recommended decision;
8. The director shall consider the objections and issue a final decision;
9. If final decision is not a denial, a referendum is conducted by mail; and
10. Affected parties are notified by mail as to the outcome of the referendum.

**Summary of Substitute Bill:** The procedure for changing marketing orders and the level of assessment is modified for commodity commissions formed under the 1955 Enabling Act.

The substance of a petition must set out in detail and be mailed to all affected parties or producers and is to be posted on the Department of Agriculture's web site. Legal notice of the public hearing is to be published in a newspaper for a period of two days and is also to be posted on the department's web site. Notice of the public hearing is to be included in the mailing that includes the substance of the petition. Additionally, the department is to include a description of the process for changing a marketing order.

Subsequent notices are to be provided either by post card if no changes are made, or by letter if changes have been made. The full text of documents are to be posted on the department's website. Affected parties who do not have access to materials posted on the department's web site may request notification by fax or mail.

Once a referendum has been conducted, the results are to be mailed to the affected parties by post card.

**Substitute Bill Compared to Original Bill:** Reference was changed to the department's web site instead of the commission's web site, as the department conducts the referendum. Direct notice by mail was retained but the use of post card or letter is allowed.

**Appropriation:** None.

**Fiscal Note:** Requested on January 26, 2004.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The process for conducting a referendum is overly complex and expensive. Any savings can be used to fund projects to serve producers. Producers do not want to receive thick packets of information for each step of the process.

**Testimony Against:** There are technical concerns with the original bill.

**Testified:** Dannie McQueen, Dept. of Agriculture; Jim Jesernig, WA Potato Onion Assoc. (pro); Chris Cheney, WA Fryer Comm. (pro); Heather Hansen, WA Assn. of Wheat Growers, WA Wheat Commission (pro).