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**SUBSTITUTE HOUSE BILL 2367**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

**By** House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Linville, Schoesler, Campbell, McDonald, Delvin, Sullivan, Hunt, Moeller, McDermott, Kenney and Morrell; by request of Department of Agriculture)

READ FIRST TIME 02/06/04.

1       AN ACT Relating to the Washington apple commission; amending RCW  
2 15.24.020, 15.24.030, 15.24.040, 15.24.050, 15.24.070, 15.24.090,  
3 15.24.100, 15.24.110, 15.24.160, and 15.24.190; adding new sections to  
4 chapter 15.24 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6       NEW SECTION. **Sec. 1.** The commission exists primarily for the  
7 benefit of the people of the state of Washington and its economy. The  
8 legislature hereby charges the commission, with oversight by the  
9 director, to speak on behalf of the Washington state government with  
10 regard to apples and apple-related issues.

11       **Sec. 2.** RCW 15.24.020 and 2002 c 313 s 116 are each amended to  
12 read as follows:

13       There is hereby created a Washington apple commission to be thus  
14 known and designated. The commission shall be composed of nine  
15 practical apple producers and four practical apple dealers. ((The  
16 director shall be an ex-officio member of the commission without  
17 vote.)) In addition, the director shall be a full voting member of the  
18 commission and may in his or her place appoint any other employee of

1 the department of agriculture as a designee to attend commission  
2 meetings and otherwise represent the director and exercise the  
3 director's vote.

4 The nine producer members shall be citizens and residents of this  
5 state, over the age of twenty-five years, each of whom, either  
6 individually or as an executive officer of a corporation, firm or  
7 partnership, is and has been actually engaged in growing and producing  
8 apples within the state of Washington for a period of five years,  
9 currently operates a commercial producing orchard in the district  
10 represented, and has during that period derived a substantial portion  
11 of his or her income therefrom(~~(: PROVIDED, That he or she may own and~~  
12 ~~operate an apple warehouse and pack and store apples grown by others,~~  
13 ~~without being disqualified, so long as a substantial quantity of the~~  
14 ~~apples handled in such warehouse are grown by him or her; and he or she~~  
15 ~~may sell apples grown by himself, herself, and others so long as he or~~  
16 ~~she does not sell a larger quantity of apples grown by others than~~  
17 ~~those grown by himself or herself)). The four dealer members shall be~~  
18 persons who, either individually or as executive officers of a  
19 corporation, firm, partnership, association, or cooperative  
20 organization, are and have been actively engaged as dealers in apples  
21 within the state of Washington for a period of five years, and are  
22 citizens and residents of this state, and are engaged as apple dealers  
23 in the district represented. The qualifications of members of the  
24 commission as herein set forth must continue during their term of  
25 office. A person who meets the qualifications of both a producer and  
26 a dealer as set forth in this section may serve as either a producer  
27 member or a dealer member.

28 **Sec. 3.** RCW 15.24.030 and 1989 c 354 s 55 are each amended to read  
29 as follows:

30 Thirteen persons, not including the director or the director's  
31 representative, with the qualifications stated in RCW 15.24.020 shall  
32 be ((elected)) members of ((said)) the commission. ((Four of the  
33 grower members, being positions one, two, three and four, shall be from  
34 grower district No. 1, at least one of whom shall be a resident of and  
35 engaged in growing and producing apples in Okanogan county; four of the  
36 grower members, being positions five, six, seven and eight, from grower  
37 district No. 2; and one grower member, being position nine from grower

1 ~~district No. 3. Two of the dealer members, being positions ten and~~  
2 ~~eleven, shall be from dealer district No. 1; and two of the dealer~~  
3 ~~members, being positions twelve and thirteen, shall be from dealer~~  
4 ~~district No. 2.~~

5 ~~The commission shall have authority in its discretion to establish~~  
6 ~~by regulation one or more subdivisions of grower district No. 1 and one~~  
7 ~~or more subdivisions of grower district No. 2; provided that each of~~  
8 ~~the same includes a substantial apple producing district or districts,~~  
9 ~~and provided the same does not result in an unfair or inequitable~~  
10 ~~voting situation or an unfair or inequitable representation of apple~~  
11 ~~growers on said commission. In such event each of said subdivisions~~  
12 ~~shall be entitled to be represented by one of the said grower members~~  
13 ~~of the commission, who shall be elected by vote of the qualified apple~~  
14 ~~growers in said subdivision of said district, and who shall be a~~  
15 ~~resident of and engaged in growing and producing apples in said~~  
16 ~~subdivision.)) Nine of the members shall be producer members, and four~~  
17 ~~shall be dealer members. The number of producer members to be~~  
18 ~~appointed from each grower district shall be determined in accordance~~  
19 ~~with the relative acreages of planted commercial apple orchards within~~  
20 ~~the various districts as of July 1, 2003, according to the most recent~~  
21 ~~census of acreages published by the United States department of~~  
22 ~~agriculture, agricultural statistics service. The number of producer~~  
23 ~~members to be appointed from each of the grower districts shall be~~  
24 ~~subject to readjustment every ten years thereafter in accordance with~~  
25 ~~the then most recent census of acreages of planted commercial apple~~  
26 ~~orchards published by the United States department of agriculture,~~  
27 ~~agricultural statistics service. In the event the information from the~~  
28 ~~United States department of agriculture's agricultural statistics~~  
29 ~~service is not published with respect to the specifically defined~~  
30 ~~districts, the commission shall adopt rules to establish equitable~~  
31 ~~apportionment based on the available information. However, at all~~  
32 ~~times at least two producer members shall be from district 1, one of~~  
33 ~~which shall be from Okanogan county; district 2 shall never have fewer~~  
34 ~~than two producer members; and district 3 shall never have fewer than~~  
35 ~~one producer member. The commission shall adopt rules to effect the~~  
36 ~~efficient transition of reapportioned positions.~~

37 The regular term of office of the members of the commission shall  
38 be three years from March 1 following their ((election)) appointment by

1 the director and until their successors are (~~elected and qualified~~)  
2 appointed. The commission shall hold its annual meeting during the  
3 month of March each year (~~for the purpose of electing officers and the~~  
4 ~~transaction of other business~~) and shall hold such other meetings  
5 during the year as it shall determine. The first commission meeting  
6 that takes place after the effective date of this act shall be held in  
7 Wenatchee, and subsequent commission meetings shall alternate between  
8 Yakima and Wenatchee.

9 NEW SECTION. Sec. 4. To accomplish the transition to a commission  
10 structure as set forth in RCW 15.24.030, the names of the currently  
11 elected commission members shall be forwarded to the director for  
12 appointment within thirty days of the effective date of this act for  
13 appointment for the remainder of their current terms. Thereafter, the  
14 director shall appoint commission members pursuant to the commission  
15 structure set forth in RCW 15.24.030 as the current commission member  
16 terms expire. As part of the transition, in order to achieve proper  
17 representation of producer members relative to planted acreages, as  
18 each current producer position expires the director shall appoint a  
19 replacement producer member from the district then most  
20 underrepresented until the initial balance of representation is  
21 achieved. Notwithstanding other provisions of this chapter,  
22 nominations for transitioning positions required for underrepresented  
23 districts shall be made from the district to be represented by the new  
24 commission member. Thereafter, reallocations shall be accomplished as  
25 provided in RCW 15.24.030.

26 NEW SECTION. Sec. 5. (1) The director shall appoint the members  
27 of the commission.

28 (2) Candidates for positions on the commission shall be nominated  
29 to the director in accordance with subsection (3) of this section.

30 (3) Not less than sixty days nor more than seventy-five days prior  
31 to the commencement of a commission member's term, the commission shall  
32 cause an advisory vote to be held for the director-appointed positions.  
33 Advisory ballots shall be mailed to all affected producers for producer  
34 positions and to affected dealers for dealer positions and shall be  
35 returned to the commission not less than thirty days prior to the  
36 commencement of the term. The advisory ballot shall be conducted in a

1 manner so that it is a secret ballot. The names of the two candidates  
2 receiving the most votes in the advisory vote shall be forwarded to the  
3 director for potential appointment to the commission. In the event  
4 only two candidates are nominated for a position, an advisory vote need  
5 not be held and the candidates' names shall be forwarded to the  
6 director for potential appointment. If only one candidate is nominated  
7 for a position, the commission shall select a second candidate whose  
8 name will be forwarded to the director.

9 (4) Any candidate whose name is forwarded to the director for  
10 potential appointment shall submit to the director a letter stating why  
11 he or she wishes to be appointed to the commission. The director may  
12 select either person for the position or may reject both nominees and  
13 request a new advisory vote with nominees selected by the commission  
14 and, if desired, by the director.

15 **Sec. 6.** RCW 15.24.040 and 2002 c 313 s 117 are each amended to  
16 read as follows:

17 The commission shall call a meeting of apple growers, and meetings  
18 of apple dealers in dealer district No. 1 and dealer district No. 2 for  
19 the purpose of nominating to the advisory ballot for nomination to the  
20 director their respective members of the commission, when a term is  
21 about to expire, or when a vacancy exists, except as provided in RCW  
22 15.24.050, as amended, at times and places to be fixed by the  
23 commission. The meetings shall be held not later than February 15th of  
24 each year and insofar as practicable, the meetings of the growers shall  
25 be held at the same time and place as the annual meeting of the  
26 Washington state horticultural association, or the annual meeting of  
27 any other producer organization which represents a majority of the  
28 state's apple producers, as determined by the commission, but not while  
29 the same is in actual session. Public notice of such meetings shall be  
30 given by the commission in such manner as it may determine: PROVIDED,  
31 That nonreceipt of the notice by any interested person shall not  
32 invalidate the proceedings. Any qualified person may be nominated  
33 orally for such positions at the respective meetings. Nominations may  
34 also be made within five days after any such meeting by written  
35 petition filed in the ((Wenatchee)) office of the commission, signed by  
36 not less than five apple growers or dealers, as the case may be,

1 residing within the district or within the subdivision if the  
2 nomination is made from a subdivision.

3 ~~((The members of the commission shall be elected by secret mail  
4 ballot under the supervision of the director: PROVIDED, That in any  
5 case where there is but one nomination for a position, a secret mail  
6 ballot shall not be conducted or required and the director shall  
7 certify the candidate to be elected. Grower members of))~~ Nominees to  
8 be forwarded to the director for appointment to producer positions on  
9 the commission shall be ~~((elected))~~ selected by a majority of the votes  
10 cast by the apple growers in the respective districts ~~((or subdivisions  
11 thereof, as the case may be,))~~. Each grower who operates a commercial  
12 producing apple orchard within the district ~~((or subdivision))~~ being  
13 represented, whether an individual proprietor, partnership, joint  
14 venture, or corporation, ~~((being))~~ is entitled to one vote. As to bona  
15 fide leased or rented orchards, only the lessee-operator, if otherwise  
16 qualified, shall be entitled to vote. An individual commercial orchard  
17 operator, if otherwise qualified, shall be entitled to vote as such,  
18 even though he or she is also a member of a partnership or corporation  
19 which votes for other apple acreage. ~~((Dealer members of))~~ Nominees to  
20 be forwarded to the director for appointment to dealer positions on the  
21 commission shall be ~~((elected))~~ selected by a majority of the votes  
22 cast by the apple dealers in the respective districts, each dealer  
23 being entitled to one vote. ~~((If a nominee does not receive a majority  
24 of the votes on the first ballot, a run-off election shall be held by  
25 mail in a similar manner between the two candidates for such position  
26 receiving the largest number of votes.))~~

27 **Sec. 7.** RCW 15.24.050 and 2002 c 313 s 118 are each amended to  
28 read as follows:

29 In the event a position becomes vacant due to resignation,  
30 disqualification, death, or for any other reason, such position ~~((until  
31 the next annual meeting))~~ shall be filled ~~((by vote of))~~ for the  
32 balance of the unexpired term by appointment by the director from at  
33 least two nominees submitted by the remaining members of the  
34 commission. ~~((At such annual meeting a commissioner shall be elected  
35 to fill the balance of the unexpired term.))~~

36 A majority of the voting members shall constitute a quorum for the

1 transaction of all business and the carrying out of the duties of the  
2 commission.

3 Each member of the commission shall be compensated in accordance  
4 with RCW 43.03.230 and shall be reimbursed for actual travel expenses  
5 incurred in carrying out the provisions of this chapter. Employees of  
6 the commission may also be reimbursed for actual travel expenses when  
7 on official commission business.

8 NEW SECTION. **Sec. 8.** (1) The commission shall develop and submit  
9 to the director for approval any plans, programs, and projects  
10 concerning the following:

11 (a) The establishment, issuance, effectuation, and administration  
12 of appropriate programs or projects within the commission's powers and  
13 duties;

14 (b) The establishment and effectuation of market research projects,  
15 market development projects, or both to the end that the marketing and  
16 utilization of apples may be encouraged, expanded, improved, or made  
17 more efficient; and

18 (c) The establishment and effectuation of, and/or support of  
19 industry organizations work regarding, market access project and  
20 programs, trade banner work and industry organization support.

21 (2) The director shall review the commission's programs to ensure  
22 that they properly benefit the people of the state of Washington and  
23 its economy and properly speak the message of the state.

24 (3) The commission, prior to the beginning of its fiscal year,  
25 shall prepare and submit to the director for approval its project and  
26 program plans and its budget on a fiscal period basis.

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

29 **Sec. 9.** RCW 15.24.070 and 2002 c 313 s 119 are each amended to  
30 read as follows:

31 The Washington apple commission is hereby declared and created ((a  
32 ~~corporate body~~)) an agency of the Washington state government. The  
33 powers and duties of the commission shall include the following:

34 (1) To elect a chair and such other officers as it deems advisable;  
35 and to adopt, rescind, and amend rules and orders for the exercise of

1 its powers under this chapter, which shall have the force and effect of  
2 the law when not inconsistent with existing laws;

3 (2) To administer and enforce the provisions of this chapter, and  
4 do all things reasonably necessary to effectuate the purposes of this  
5 chapter;

6 (3) To employ and at its pleasure discharge a manager, secretary,  
7 agents, attorneys, and employees as it deems necessary, and to  
8 prescribe their duties and powers and fix their compensation;

9 (4) To establish offices and incur expense and enter into contracts  
10 and to create such liabilities as may be reasonable for the proper  
11 administration and enforcement of this chapter. Expenses may include  
12 reasonable, prudent use of promotional hosting to benefit the purposes  
13 of this chapter;

14 (5) To investigate and prosecute violations of this chapter;

15 (6) To conduct scientific research to develop and discover the  
16 health, food, therapeutic, and dietetic value of apples and apple  
17 products;

18 (7) To keep accurate record of all of its dealings, which shall be  
19 open to inspection and audit by the state auditor;

20 (8) To sue and be sued (~~(, adopt a corporate seal,)~~) and have all of  
21 the powers of (~~(a corporation)~~) an agency;

22 (9) To expend funds for commodity-related education, training, and  
23 leadership programs as the commission deems expedient;

24 (10) To borrow money and incur indebtedness;

25 (11) To accept gifts, grants, conveyances, bequests, and devises,  
26 of real or personal property, or both, in trust or otherwise, and sell,  
27 lease, exchange, invest, or expend these donations or the proceeds,  
28 rents, profits, and income from the donations on any appropriate  
29 activity of the commission except as limited by the donor's terms. The  
30 commission shall adopt rules to govern and protect the receipt and  
31 expenditure of the proceeds, rents, profits, and income of all such  
32 gifts, grants, conveyances, bequests, and devises. The authority to  
33 make expenditures granted by this subsection includes the authority to  
34 make expenditures to provide scholarships or financial assistance to  
35 persons as defined in RCW 1.16.080 or entities associated with the  
36 apple industry, but is not limited to the authority to make  
37 expenditures for such a purpose;



1 (12) To engage in appropriate fund-raising activities for the  
2 purpose of supporting the activities of the commission authorized by  
3 this chapter; (~~and~~)

4 (13) To retain, discharge, or contract with, at its pleasure,  
5 accountants, marketing agencies, and other professional consultants as  
6 necessary, under procedures for hiring, discharging, and review as  
7 adopted by the commission;

8 (14) To maintain, protect, acquire, or own intellectual property  
9 rights, including without limitation, licenses, trademarks, copyrights,  
10 artwork, or patents and to sell or license any or all of such rights  
11 and collect royalties therefrom and from commission-funded research  
12 related to apples;

13 (15) To apply for and administer federal market access programs  
14 and/or similar programs or projects and provide matching funds as may  
15 be necessary;

16 (16) With oversight by the director, provide funding and support to  
17 organizations providing general support and leadership to and  
18 representation of the apple industry;

19 (17) With oversight by the director, to speak on behalf of the  
20 Washington state government on a nonexclusive basis with regard to  
21 apples and apple-related issues, including but not limited to trade  
22 negotiations, market access negotiations, and the like, and to fund  
23 industry organizations engaging in such activities;

24 (18) To fund, conduct, or otherwise participate in scientific  
25 research relating to apples, including without limitation research  
26 regarding pests, pesticides, food safety, irrigation, transportation,  
27 and environmental stewardship;

28 (19) To provide services relating to the production, promotion,  
29 sale and/or distribution of Washington apples on a fee-for-services  
30 basis. However, (a) the product of such services shall belong to the  
31 funding party, and (b) the fees for such services shall include a  
32 reasonable charge for the commission's overhead expenses as determined  
33 by the commission; and

34 (20) To gather, maintain, and distribute data relating to the  
35 production, processing, shipment, and sales of apples, in connection  
36 with its ordinary operations and collection of assessments and  
37 particularly in connection with services provided on a fee for service  
38 basis.

1           **Sec. 10.** RCW 15.24.090 and 2002 c 313 s 122 are each amended to  
2 read as follows:

3           If it appears from investigation by the director and the commission  
4 that the revenue from the assessment levied on fresh apples under this  
5 chapter is too high or is inadequate to accomplish the purposes of this  
6 chapter, then with the oversight of the director the commission shall  
7 adopt a resolution setting forth the necessities of the industry, the  
8 extent and probable cost of the required research(~~(, market promotion,~~  
9 ~~and advertising)) or other expenditures, the extent of public  
10 convenience, interest, and necessity, and probable revenue from the  
11 assessment levied. ~~((It))~~ With the oversight of the director, and  
12 subject to the approval by vote of at least two-thirds for increases,  
13 or a majority for decreases, of the producers voting; and approval of  
14 voting producers who operate at least two-thirds for increases, or a  
15 majority for decreases, of the acreage voted in the same election, the  
16 commission shall thereupon decrease or increase the assessment to a sum  
17 determined by the commission to be necessary for those purposes (~~based~~  
18 ~~upon a rate per one hundred pounds of apples, gross billing weight,~~  
19 ~~shipped in bulk, container, or any style of package or reasonable~~  
20 ~~equivalent net product assessment as determined by the commission)).~~  
21 However, if a different rate is determined for any specific variety or  
22 for fresh apples sliced or cut for raw consumption, that different rate  
23 must be applied to that variety or those sliced or cut apples. A  
24 decrease or an increase becomes effective sixty days after the  
25 resolution is adopted or on any other date provided for in the  
26 resolution, but shall be first referred by the commission to a  
27 referendum mail ballot by the apple growers of this state conducted  
28 under the supervision of the director and be approved by ~~((a majority))~~  
29 at least two-thirds for increases, or a majority for decreases, of the  
30 growers voting on it and also be approved by voting growers who operate  
31 ~~((more than fifty percent))~~ at least two-thirds for increases, or a  
32 majority for decreases, of the acreage voted in the same election.  
33 After the mail ballot, if favorable to the increase or decrease, the  
34 commission shall nevertheless exercise its independent judgment and  
35 discretion as to whether or not to approve the increase or decrease.~~

36           **Sec. 11.** RCW 15.24.100 and 2002 c 313 s 123 are each amended to  
37 read as follows:

1       (1) Subject to subsection (2) of this section, there is hereby  
2 levied upon all fresh apples grown annually in this state, and all  
3 apples packed as Washington apples, including fresh sliced, an  
4 assessment of ((~~twelve cents on each one hundred pounds gross billing~~))  
5 eight and seventy-five one-hundredths cents per one hundred pounds of  
6 apples, based on net shipping weight, or reasonable equivalent net  
7 product assessment measurement((~~7~~)) as determined by the commission,  
8 plus such annual decreases or increases thereof as are imposed pursuant  
9 to the provisions of RCW 15.24.090. All moneys collected hereunder  
10 shall be expended to effectuate the purpose and objects of this  
11 chapter.

12       (2) No sooner than five years from the effective date of this  
13 section, a petition may be filed with the commission to reduce the  
14 assessment authorized in this section to zero. To be valid, the  
15 petition must be signed by at least eight percent of all apple growers  
16 eligible to vote in commission referendum elections. The petition  
17 shall contain the name of a person designated to represent the  
18 petitioners.

19       (a) Upon receipt of a valid petition, the commission shall prepare  
20 a document discussing the substance of the petition. A statement in  
21 favor of the petition shall be written by the proponents of the  
22 petition. A statement opposing the petition may be written by the  
23 commission or an opponent. The document and a notice of public hearing  
24 shall be sent to apple growers eligible to vote in commission  
25 referendum elections at least twenty days prior to the scheduled public  
26 hearings. The commission shall hold public hearings in Yakima and  
27 Wenatchee on the petition.

28       (b) Following the public hearings, the question of whether to  
29 reduce the assessment authorized in this section to zero shall be  
30 referred to a referendum mail ballot. The commission shall certify to  
31 the director a list of apple growers eligible to vote in commission  
32 referendum elections. The referendum shall be conducted and supervised  
33 by the director using the certified list. Inadvertent failure to  
34 notify an affected grower does not invalidate a referendum.

35       (c) The referendum will be approved if a simple majority of apple  
36 growers voting in the referendum election vote in favor of the  
37 elimination of the assessment. The director will certify the results  
38 of the vote.

1       (d) The referendum vote shall be binding and may not be overturned  
2 by action of the commission or director. If the referendum is  
3 approved, the commission shall immediately commence activities to wind  
4 down its operations. However, the elimination of the assessment shall  
5 not be effective until six months from the date the referendum result  
6 is certified by the director. If the referendum fails, neither the  
7 commission nor the director will take further action on the petition.

8       (e) The commission is responsible for all its own costs and all the  
9 director's costs associated with the hearing, notice, and referendum  
10 process. A subsequent petition may not be filed any sooner than five  
11 years following the certification of the results of any previously held  
12 referendum conducted under this subsection.

13       **Sec. 12.** RCW 15.24.110 and 2002 c 313 s 124 are each amended to  
14 read as follows:

15       The assessments on fresh apples shall be paid, or provision made  
16 therefor satisfactory to the commission, prior to shipment, and no  
17 fresh apples shall be carried, transported, or shipped by any person or  
18 by any carrier, railroad, truck, boat, or other conveyance until the  
19 assessment has been paid or provision made therefor satisfactory to the  
20 commission.

21       The commission shall by rule prescribe the method of collection,  
22 and for that purpose may require stamps to be known as "Washington  
23 apple stamps" to be purchased from the commission and attached to the  
24 containers, invoices, shipping documents, inspection certificates,  
25 releases, or receiving receipts or tickets. Rule-making procedures  
26 conducted under this section are exempt from the provisions of RCW  
27 43.135.055 when adoption of the rule or rules is determined by a  
28 referendum vote of the persons taxed under this chapter.

29       The commission may also collect assessments imposed under RCW  
30 15.26.120, and in that event, the commission shall establish and be  
31 reimbursed by the Washington tree fruit research commission an amount  
32 representing a reasonable approximation of the actual costs to the  
33 commission of such collection.

34       **Sec. 13.** RCW 15.24.160 and 2002 c 313 s 126 are each amended to  
35 read as follows:

36       To maintain and complement the existing comprehensive regulatory

1 scheme, the commission may employ, designate as agent, act in concert  
2 with, and enter into contracts with any person, council, or commission,  
3 including but not limited to the director, state agencies such as the  
4 Washington state fruit commission and its successors, statewide  
5 horticultural associations, organizations or associations engaged in  
6 tracking the movement and marketing of horticultural products, and  
7 organizations or associations of horticultural growers, for the purpose  
8 of promoting the general welfare of the apple industry and particularly  
9 for the purpose of assisting in the sale and distribution of apples in  
10 domestic or foreign commerce, and expend its funds or such portion  
11 thereof as it may deem necessary or advisable for such purpose and for  
12 the purpose of paying its proportionate share of the cost of any  
13 program providing direct or indirect assistance to the sale and  
14 distribution of apples in domestic or foreign commerce. For such  
15 purposes it may employ and pay for legal counsel and contract and pay  
16 for other professional services. (~~Neither the state, nor any member,  
17 agent, or employee of the commission, is liable for the acts of the  
18 commission, or upon its contracts.~~) The liability of the state for the  
19 acts of the commission, or upon its contracts, shall be limited solely  
20 to the assets of the commission. In any civil or criminal action or  
21 proceeding for violation of any (~~rule of [or] statutory~~) statute,  
22 including a rule adopted under that statute, or common law against  
23 monopolies or combinations in restraint of trade, including any action  
24 under chapter 19.86 RCW, proof that the act complained of was done in  
25 compliance with the provisions of this chapter, and in furtherance of  
26 the purposes and provisions of this chapter, is a complete defense to  
27 such an action or proceeding.

28 **Sec. 14.** RCW 15.24.190 and 1987 c 393 s 4 are each amended to read  
29 as follows:

30 Obligations incurred by the commission and any other liabilities or  
31 claims against the commission shall be enforced only against the assets  
32 of the commission, and, except to the extent of such assets, no  
33 liability for the debts or actions of the commission exists against  
34 either the state of Washington or any subdivision or instrumentality  
35 thereof, or against any member, employee, or agent of the commission in  
36 his or her individual capacity. Except as otherwise provided in this  
37 chapter, neither the members of the commission nor its employees may be

1 held individually responsible for errors in judgment, mistakes, or  
2 other acts, either of commission or omission, as principal, agent,  
3 person, or employee, save for their own individual acts of dishonesty  
4 or crime. No such person or employee may be held responsible  
5 individually for any act or omission of any other member of the  
6 commission. The liability of the members of the commission shall be  
7 several and not joint, and no member is liable for the default of any  
8 other member. This provision confirms that commissioners have been,  
9 and continue to be, state officers or volunteers for purposes of RCW  
10 4.92.075 and are entitled to the defenses, indemnifications,  
11 limitations of liability, and other protections and benefits of chapter  
12 4.92 RCW, as provided in that chapter.

13 NEW SECTION. Sec. 15. Sections 1, 4, 5, and 8 of this act are  
14 each added to chapter 15.24 RCW.

15 NEW SECTION. Sec. 16. If any section, subsection, sentence,  
16 clause, or part of this act is for any reason held to be invalid or  
17 unconstitutional, the judicial decision does not affect the remainder  
18 of this act and its application to other persons or circumstances. The  
19 legislature declares that each section, subsection, sentence, clause,  
20 and part of this act was enacted with the intent that if any portion of  
21 this act is severed, the remainder of this act is capable of  
22 accomplishing its legislative purpose.

--- END ---