
HOUSE BILL 1608

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By Representatives Grant, Holmquist, Linville, Buri, Wallace, Newhouse, Hinkle, Walsh, Quall, Kenney, Armstrong, Clements, Kristiansen, P. Sullivan, Blake, Haler, Kessler, Morrell, Chase, Skinner, McDermott and Santos

Read first time 01/31/2005. Referred to Committee on Economic Development, Agriculture & Trade.

1 AN ACT Relating to the potato commission; amending RCW 15.66.270;
2 adding a new chapter to Title 15 RCW; creating new sections; providing
3 an effective date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) The production of potatoes within this
6 state is in the public interest. It is vital to the continued economic
7 well-being of the citizens of this state and their general welfare that
8 its potato industry be encouraged by enabling producers of potatoes to
9 help themselves in establishing orderly, fair, sound, efficient, and
10 unhampered marketing, trade, grading, and standardization of the
11 potatoes they produce.

12 (2) It is in the public interest that support for the potato
13 industry be clearly expressed, that adequate protection be given to the
14 industry, and that the industry's collective activities and operations
15 include:

16 (a) Enhancing the reputation and image of Washington state's
17 potatoes and potato producers;

18 (b) Working to eliminate or limit impediments affecting the sale

1 and use of Washington state's potatoes in local, domestic, and foreign
2 markets;

3 (c) Protecting the public by educating the public in reference to
4 the quality, care, and methods used in the production of Washington
5 state's potatoes;

6 (d) Increasing the public knowledge of nutritional value, health-
7 giving qualities, and dietetic value of Washington state's potatoes and
8 products; and

9 (e) Supporting and engaging in programs or activities that benefit
10 the planting, production, harvesting, handling, processing,
11 transportation, trade, and use of potatoes produced in Washington
12 state.

13 NEW SECTION. **Sec. 2.** The definitions in this section apply
14 throughout this chapter unless the context clearly requires otherwise.

15 (1) "Affected area" or "area of production" are synonymous and mean
16 the state of Washington.

17 (2) "Affected handler" means any handler of potatoes who is subject
18 to this chapter.

19 (3) "Affected producer" means any producer who is subject to this
20 chapter.

21 (4) "Assessment" means the monetary amount established in this
22 chapter that is to be paid by each affected producer to the commission
23 in accordance with the schedule established in this chapter.

24 (5) "Commercial quantities" means and includes five hundredweight
25 or more.

26 (6) "Commission" means the potato commission established in this
27 chapter.

28 (7) "District" means the geographical divisions of the area of
29 potato production established under this chapter.

30 (8) "Fiscal year" means the twelve-month period beginning July 1st
31 of any year.

32 (9) "Handler" means any person who acts, either as principal,
33 agent, or otherwise, in the processing, packing, shipping, selling, or
34 distributing of potatoes that are not produced by the handler.
35 "Handler" does not include a common carrier used to transport an
36 agricultural commodity. "To handle" means to act as a handler.

1 (10) "Hosting" includes providing meals, refreshments, lodging,
2 transportation, gifts of nominal value, reasonable and customary
3 entertainment, and normal incidental expenses at meetings or
4 gatherings.

5 (11) "Hundredweight" or "affected unit" are synonymous and mean
6 each one hundred pound unit or any combination of packages making a one
7 hundred pound unit of potatoes.

8 (12) "Mail" or "send," for purposes of any notice relating to rule
9 making, referenda, or elections, means regular mail or electronic
10 distribution, as provided in RCW 34.05.260 for rule making. For the
11 purposes of this definition, "electronic distribution" or
12 "electronically" means distribution by electronic mail or facsimile
13 mail.

14 (13) "Potatoes" means and includes all kinds and varieties of Irish
15 potatoes grown in the state of Washington and marketed, sold, or
16 intended for use for human consumption.

17 (14) "Person" includes any individual, firm, corporation, limited
18 liability company, trust, association, partnership, society, or any
19 other organization of individuals or any unit or agency of local or
20 state government.

21 (15) "Producer" means any person who is engaged in the production
22 for market of potatoes in commercial quantities and who has a
23 proprietary interest in the potatoes grown in the state of Washington.
24 For purposes of this chapter, "producer" includes a landowner,
25 landlord, tenant, or other person who participates in the growing or
26 producing of potatoes. "To produce" means to act as a producer.

27 (16) "Referendum" means a vote by the affected parties or affected
28 producers that is conducted by secret ballot.

29 (17) "Sale" means a transaction wherein the property in or to
30 potatoes is transferred from the producer to a purchaser for
31 consideration. "Sale" includes an agreement to acquire such property
32 for a consideration.

33 (18) "Trade relations hosting" means the hosting of individuals and
34 groups of individuals at meetings, meals, and gatherings for the
35 purpose of cultivating trade relations for Washington state potatoes
36 and potato products.

37 (19) "Unfair trade practice" means any practice that is unlawful or
38 prohibited under the laws of the state of Washington including but not

1 limited to Titles 15, 16, and 69 RCW and chapters 9.16, 19.77, 19.80,
2 19.84, and 19.83 RCW, or any practice, whether concerning interstate or
3 intrastate commerce that is unlawful under the federal trade commission
4 act of 1914, as amended (38 Stat. 719; 15 U.S.C. Sec. 41 et seq.) or
5 the violation of or failure accurately to label as to grades and
6 standards in accordance with any lawfully established grades or
7 standards or labels.

8 (20) "Vacancy" means that a commission member leaves or is removed
9 from a position on the commission before the end of a term, or a
10 nomination process for the beginning of a term concludes with no
11 candidates for a position.

12 NEW SECTION. **Sec. 3.** (1) The potato commission is hereby
13 established to administer this chapter. Commission members must be
14 citizens and residents of Washington and at least eighteen years of
15 age. The commission shall be composed of fifteen members, nine of whom
16 shall be producers elected from districts as provided in subsections
17 (2) and (3) of this section, five who are appointed by the elected
18 producer members as provided in subsection (4) of this section, and one
19 member appointed by the director from the department to represent the
20 director as a voting member.

21 (2) For the purpose of nomination and selection of producer members
22 of the commission, the affected area of the state of Washington shall
23 be divided into three representative districts as provided in this
24 subsection.

25 (a) District 1 is the counties of Douglas, Chelan, Okanogan, Grant,
26 Adams, Lincoln, Ferry, Stevens, Pend Oreille, Spokane, and Whitman.

27 (b) District 2 is the counties of Kittitas, Yakima, Klickitat,
28 Benton, Franklin, Walla Walla, Columbia, Garfield, and Asotin.

29 (c) District 3 is the counties of Skagit, Whatcom, and all other
30 counties not named in (a) or (b) of this subsection.

31 (3) Producer members shall be elected from the districts as
32 follows:

33 (a) Positions 1, 2, 3, and 4 shall be elected from district 1;

34 (b) Positions 5, 6, 7, and 8 shall be elected from district 2; and

35 (c) Position 9 shall be elected from district 3.

36 (4)(a) Positions 10, 11, 12, 13, and 14 shall be appointed by the

1 elected producers as provided in subsections (1) and (5)(b) of this
2 section.

3 (b) Position 15 shall be appointed by the director as provided in
4 subsection (1) of this section.

5 (5)(a) Producer members of the commission shall be producers of
6 potatoes in the district in and for which they are nominated and
7 elected. The producer members shall be and have been actively engaged
8 in producing the potatoes in this state for a period of at least three
9 years, and shall derive a substantial proportion of their incomes from
10 the sale of potatoes. A producer member of a commission must have paid
11 an assessment on potatoes adopted by the commission or its predecessor
12 commission in each of the preceding three calendar years. The
13 qualifications of producer members of the commission must continue
14 during their term of office.

15 (b) Members appointed to positions 10, 11, 12, 13, and 14 by the
16 elected producers shall be either Washington potato producers,
17 handlers, or others active in matters directly relating to Washington
18 state potatoes and have a demonstrated record of service in the potato
19 industry in Washington state. The appointed members of the commission
20 shall be elected by a majority of the elected commissioners.

21 (6) The term of office of the commission members is three years
22 from the date of their election or appointment and until their
23 successors are elected and qualified.

24 (7) Nomination and election of commission members is as provided
25 for in this subsection (7).

26 (a) Not earlier than March 18th and not later than April 2nd of
27 each year, the commission shall give notice by mail to all producers in
28 a district where a vacancy will occur, of such vacancy or such
29 vacancies and call for nominations. Nominating petitions shall be
30 signed by five persons qualified to vote for candidates. The notice
31 shall state the final date for filing petitions, which shall be not
32 earlier than April 7th and not later than April 12th of each year.

33 (b) The commission shall mail ballots to all affected producers in
34 the district in which the vacancy will occur not earlier than April
35 17th and not later than May 2nd of each year. Ballots shall be
36 postmarked not later than June 1st of that year. The mailed ballot
37 shall be conducted in a manner so that it shall be a secret ballot in

1 accordance with rules adopted by the commission. An affected producer
2 is entitled to one vote.

3 (8) The members of the commission not elected by the producers
4 shall be elected by a majority of the commission within ninety days
5 before the expiration of the member's term.

6 (9)(a) To fill a vacancy caused by the failure to qualify of a
7 person elected by the producers as a member of the commission, or in
8 the event of the death, removal, resignation, or disqualification of
9 any elected member, the commission shall call for nominations and give
10 notice by mail to all producers in the district where the vacancy
11 occurred. A valid nominating petition must be signed by at least five
12 persons qualified to vote for the nominated candidate and must be
13 returned to the commission. The notice shall state the final date for
14 filing a nomination petition. If more than one valid nomination is
15 submitted, the commission shall conduct an election and mail ballots to
16 all producers in the district where the vacancy occurred.

17 (b) To fill vacancies caused by reasons other than the expiration
18 of an appointed term, the new commission members shall be elected by
19 the commission at its first or second meeting after the occurrence of
20 the vacancy.

21 (c) In the event that a nomination process for the beginning of a
22 term of an elected member concludes with no candidate, a new member
23 shall be appointed by the commission. The appointment shall be made at
24 the commission's first or second meeting after the expiration of the
25 previous term.

26 NEW SECTION. **Sec. 4.** The commission may:

- 27 (1) Administer, enforce, and implement this chapter;
- 28 (2) Elect a chair and such other officers as the commission may
29 deem advisable and select subcommittees of commission members;
- 30 (3) Employ and discharge at its discretion an executive director,
31 additional personnel, attorneys, consultants, research agencies, and
32 other persons and firms that it may deem appropriate, and compensate
33 its employees;
- 34 (4) Acquire personal property and lease office space and other
35 necessary real property and transfer and convey the same;
- 36 (5) Institute and maintain in its own name any and all legal

1 actions, including actions by injunction, mandatory injunction, or
2 civil recovery, or proceedings before administrative tribunals or other
3 governmental authorities necessary to implement this chapter;

4 (6) Keep accurate records of all its receipts and disbursements,
5 which records shall be open to inspection, and make annual reports
6 therefrom to the state auditor;

7 (7) Borrow money and incur indebtedness;

8 (8) Make necessary disbursements for routine operating expenses;

9 (9) Collect the assessments of producers as provided in this
10 chapter and expend the same in accordance with and to effectuate the
11 purposes of this chapter;

12 (10) To prepare a budget or budgets covering anticipated income and
13 expenses to be incurred in carrying out the provisions of this chapter
14 during each fiscal year;

15 (11) Accept and receive gifts and grants from private persons or
16 private and public agencies and expend the same to effectuate the
17 purposes of this chapter;

18 (12) Work cooperatively with other local, state, and federal
19 agencies; universities; and national organizations for the purposes of
20 this chapter;

21 (13) Enter into contracts or interagency agreements with any
22 private or public agency, whether federal, state, or local, to carry
23 out the purposes of this chapter; however, personal service contracts
24 must comply with chapter 39.29 RCW;

25 (14) Enter into contracts or agreements for research and education
26 in the production, irrigation, processing, transportation, use,
27 distribution, and trade barriers impacting potatoes and potato
28 products;

29 (15) Retain in emergent situations the services of private legal
30 counsel to conduct legal actions on behalf of the commission;

31 (16) Participate in international, federal, state, and local
32 hearings, meetings, and other proceedings relating to the production,
33 irrigation, manufacture, regulation, transportation, trade,
34 distribution, sale, or use of potatoes as requested by any elected
35 official or officer or employee of any agency and as authorized under
36 RCW 42.17.190, including the reporting of those activities to the
37 public disclosure commission;

1 (17) Assist and cooperate with the department or any other local,
2 state, or federal government agency in the investigation and control of
3 exotic pests and diseases that could damage or affect trade and export
4 of potatoes;

5 (18) Acquire or own intellectual property rights, licenses, or
6 patents and collect royalties resulting from commission-funded research
7 related to potatoes;

8 (19) Engage in appropriate fund-raising activities for the purpose
9 of supporting activities of the commission authorized by this chapter;

10 (20) Establish a foundation using commission funds as grant money
11 for the purposes established in this chapter;

12 (21) Maintain a list of the names and addresses of affected
13 producers that may be compiled from information used to collect
14 assessments under this chapter and data on the value of each producer's
15 production under this chapter. This list may be compiled from
16 information used to collect producer assessments for a three-year
17 period;

18 (22) Maintain a list of the names and addresses of persons who
19 handle potatoes within the affected area and data on the amount and
20 value of the potatoes handled by each person under this chapter for a
21 minimum three-year period;

22 (23) Check records of producers or handlers of potatoes during
23 normal business hours to determine whether the appropriate assessment
24 has been paid; and

25 (24) Exercise such other powers and perform such other duties as
26 are necessary and proper to effectuate the purposes of this chapter.

27 NEW SECTION. **Sec. 5.** (1) The commission shall by resolution
28 establish a headquarters, which shall continue as the headquarters
29 until changed by the commission, where the books, records, and minutes
30 of the commission meetings shall be kept.

31 (2) Any action taken by the commission requires the majority vote
32 of the members present, and a quorum must be present.

33 (3) A quorum of the commission consists of at least nine members.

34 (4)(a) Members of the commission shall be compensated in accordance
35 with RCW 43.03.230. Members and employees of the commission shall
36 receive travel expenses in accordance with RCW 43.03.050 and 43.03.060

1 for each day spent in actual attendance at or traveling to and from
2 meetings of the commission or on special assignments for the
3 commission.

4 (b) Members and employees may be reimbursed for actual travel
5 expenses incurred in carrying out this chapter as provided by rules
6 adopted by the commission. In developing these rules, the commission
7 shall review the special allowances for foreign travel and other travel
8 involving higher than usual costs for subsistence and lodging adopted
9 by the office of financial management as provided in RCW 43.03.050(1).

10 (5) In addition to notice of meetings of the commission as required
11 by the open public meetings act, chapter 42.30 RCW, notice of the
12 meetings shall also be published in the commission newsletter and sent
13 to appropriate general and agricultural media outlets.

14 NEW SECTION. **Sec. 6.** Obligations incurred by the commission and
15 any other liabilities or claims against the commission may be enforced
16 only against the assets of the commission in the same manner as if it
17 were a corporation. No liability for the debts or actions of the
18 commission exist against either the state of Washington or any
19 subdivision or instrumentality thereof or the assets thereof or against
20 any member officer, employee, or agent of the commission in his or her
21 individual capacity. The members of the commission, including
22 employees thereof, may not be held responsible individually in any way
23 whatsoever to any person for errors in judgment, mistakes, or other
24 acts, either of commission or omission, as principal agent, person, or
25 employee, except for their own individual acts of dishonesty or crime.
26 No such person or employee may be held responsible individually for any
27 act or omission of any other member of the commission. Liability of
28 the members of the commission is several and not joint and no member is
29 liable for the default of any other member.

30 NEW SECTION. **Sec. 7.** The purpose of this chapter is to promote
31 the general welfare of the state and maintain and protect existing
32 markets, increase production efficiency, ensure a fair regulatory
33 environment, and increase use and consumption of potatoes produced in
34 Washington. The commission shall conduct the programs in this section
35 in accordance with this chapter.

1 (1) The commission may investigate and take necessary action to
2 prevent or eliminate unfair trade and regulatory barriers and practices
3 and correct, where possible, trade and regulatory barriers and
4 practices that hinder the sale, production, transport, and export of
5 Washington-produced potatoes or potato products. If the commission
6 finds as a result of the investigation that trade, regulatory, or
7 transportation barriers are restricting the free flow of potatoes
8 produced in this state, the commission may institute appropriate action
9 before any agency or body deemed necessary to correct the situation.
10 Information acquired in an investigation is confidential and may be
11 released only to the extent necessary to effectuate the purposes of
12 this chapter, including but not limited to information regarding:

13 (a) The prevention, modification, or elimination of trade and
14 regulatory barriers that restrict or inhibit the production, transport,
15 consumption, export, or sale of potatoes produced in this state;

16 (b) Presentation of technical information or facts to and
17 negotiations with state, federal, or foreign governmental agencies on
18 matters that affect the production, irrigation, transport, use,
19 consumption, export, or sale of potatoes grown in this state, including
20 cooperation with any agency or group in efforts to increase consumption
21 or use of potatoes, and such other activities and programs that are
22 consistent with the objectives of this chapter; and

23 (c) Investigating transportation rates and service costs.

24 (2)(a) The commission, subject to the provisions of this chapter,
25 may carry on or cause to be carried on any necessary and proper
26 production, irrigation, processing, transportation, export, handling,
27 or use of research or survey studies relating to potatoes and may
28 expend moneys for those purposes.

29 (b) The commission may engage in research and survey studies
30 including, but not limited to:

31 (i) Production problems, such as those associated with soil, seed,
32 and crop protection tools;

33 (ii) Developing and testing new potato cultivars with improved
34 disease-resistance, processing, nutritional, or horticultural
35 characteristics;

36 (iii) Improving techniques and methods of harvesting potatoes;

37 (iv) Developing and improving methods of processing potatoes and

1 potato by-products for the purpose of increasing and expanding their
2 use for food and industrial purposes;

3 (v) Improving packing and handling techniques that promote more
4 efficient operation in the transport, trade, and distribution of
5 potatoes;

6 (vi) Determining any special nutritive, nutraceutical, or
7 pharmaceutical qualities of potatoes produced in Washington; and

8 (vii) Conducting surveys and other research regarding production
9 practices, resource requirements and availability, and any other issues
10 or matters that may impact the continued production of potatoes in
11 Washington.

12 (c) The commission may, in addition to the activities in (b) of
13 this subsection, engage in any other proper and necessary research and
14 survey programs and activities consistent with and subject to the
15 limitations of this chapter. The research and survey studies may
16 include the collection of data and information relating to potatoes;
17 the analysis of the data and information; the dissemination of the
18 data, information, and analysis; and other investigation that falls
19 within the scope of the production, irrigation, use, processing,
20 transportation, or handling of potatoes.

21 (d) The commission, subject to this chapter, may coordinate the
22 state's potato crop protection chemical registrations and integrated
23 pest management implementation.

24 (3)(a) The commission may adopt rules, in accordance with chapter
25 34.05 RCW, to define, establish, and provide labeling requirements for
26 improving standards and grades for potatoes and may expend moneys for
27 such purposes.

28 (b) The commission shall give reasonable written notice to all
29 producers, handlers, and persons directly affected by the labeling
30 requirements issued under this section, in accordance with rule-making
31 proceedings conducted under chapter 34.05 RCW.

32 (c) The commission may cooperate with state and federal agencies or
33 departments responsible for revising and modernizing grades and
34 standards and labeling of potatoes.

35 (d) This section does not authorize the commission to set minimum
36 grades, sizes, or maturity of potatoes that a producer may sell, offer
37 for sale, or ship.

1 (4) The commission may conduct programs for the purpose of
2 providing factual and accurate information and education to the public
3 including:

4 (a) The economic, environmental, and nutritional value and benefits
5 of potatoes and the Washington potato industry;

6 (b) The quality, care, and methods used in the production of
7 Washington potatoes;

8 (c) The handling, preparation, and use of Washington potatoes and
9 potato products; and

10 (d) The effects of trade, transportation, and regulatory barriers
11 on the Washington potato industry.

12 (5) The commission may conduct programs for the purpose of
13 providing information and education to the Washington potato industry
14 including:

15 (a) Public opinion or awareness research information for producers
16 of potatoes;

17 (b) Industry-related education and training; and

18 (c) Information and services enabling producers to meet resource
19 conservation objectives and keep current with issues impacting their
20 business.

21 (6) The commission may, subject to this chapter, provide
22 information and communicate on matters pertaining to the production,
23 irrigation, processing, transportation, trade, or uses of potatoes
24 produced in Washington state, as requested by any elected official or
25 officer or employee of any agency.

26 NEW SECTION. **Sec. 8.** (1) An assessment shall be levied and
27 collected by the commission of four cents per hundredweight upon all
28 potatoes sold, processed, delivered for sale or processing by a
29 producer, or stored or delivered for storage when storage or delivery
30 for storage is outside the state. The assessment may be decreased or
31 increased at any time subject to a referendum approved by affected
32 potato producers in accordance with this chapter. The assessment shall
33 be paid by the producer. No assessment may be collected on:

34 (a) Potatoes grown and sold for seed under an established seed
35 certification program;

36 (b) Potatoes sold for livestock feed, regardless of grade;

37 (c) Potatoes sold for nonfood products, such as industrial starch;

1 (d) Potatoes of a producer's own production used by the producer on
2 the producer's own premises for seed, feed, or personal consumption;

3 (e) Potatoes donated or shipped for relief or charitable purposes;
4 or

5 (f) Potatoes sold by a producer whose production is less than five
6 hundred pounds per year.

7 (2)(a) All assessments made and levied under this chapter apply to
8 the respective producer who is primarily liable therefor.

9 (i) Handlers receiving potatoes from the producer, including, but
10 not limited to, warehousemen, shippers, and processors that collect
11 assessments from producers whose production they handle, shall pay
12 assessments collected to the commission on or before the twentieth day
13 of the succeeding month for the previous month's collections. On a
14 monthly basis, each handler shall file with the commission a return
15 under oath on forms to be furnished by the commission, stating the
16 quantity of potatoes handled, processed, delivered, or shipped during
17 the period prescribed by the commission.

18 (ii) Any person, producer, or handler subject to the payment of
19 assessments shall give adequate assurance or security concerning the
20 payments to the commission.

21 (b) On or before the beginning of each fiscal year, the commission
22 shall give reasonable notice to all producers, handlers, and other
23 affected persons of the method or methods of collection to be used for
24 that fiscal year on field run or ungraded potatoes.

25 (c) No affected units of potatoes may be transported, carried,
26 shipped, sold, stored, or otherwise handled or disposed of until every
27 due and payable assessment under this chapter has been paid and the
28 receipt issued or stamp canceled. No liability under this chapter
29 attaches to common carriers in the regular course of their business.
30 When any potatoes for which an exemption as provided in subsection (1)
31 of this section is claimed are shipped either by railroad or truck, the
32 reasons for the exemption shall be plainly noted on the bill of lading,
33 shipping document, container, or invoice.

34 (d) Any producer or handler who fails to comply with this
35 subsection is guilty of violating this chapter and is subject to the
36 penalty, collection, and liability provisions of this chapter.

37 (3)(a) Moneys collected by the commission under this chapter as

1 assessments shall be used by the commission only for the purposes of
2 paying for the costs or expenses arising in connection with carrying
3 out the purposes and provisions of this chapter.

4 (b) At the end of each fiscal year the commission shall credit each
5 producer with any amount paid by the producer in excess of three
6 percent of the total market value of all potatoes sold, processed, or
7 delivered for sale or processing during that period. Refunds may be
8 made only upon satisfactory proof given by the producer, which may
9 include bills of lading, bills of sale, or receipts.

10 NEW SECTION. **Sec. 9.** Assessments shall be levied upon potatoes
11 sold on a field run or ungraded basis as provided in this section.

12 (1) If payment to the grower for the potatoes is based upon the
13 gross weight of potatoes sold and not upon the yield of any particular
14 grade of potatoes as determined by any type of sorting or inspection,
15 then the assessment is made on ninety percent of the gross
16 hundredweight of potatoes so sold.

17 (2) If payment to the grower for the potatoes is based upon the net
18 weight of potatoes intended for human consumption derived from the
19 potatoes so sold as determined by any type of sorting or inspection,
20 then the assessment is made on the total net weight of potatoes
21 intended for human consumption.

22 NEW SECTION. **Sec. 10.** This section establishes the procedure for
23 reporting and paying assessments levied under this chapter.
24 Assessments shall be paid in accordance with one or more of the
25 following methods as prescribed by the commission, in its discretion,
26 for each affected producer or handler:

27 (1) By means of collection from producers by handlers, including
28 warehousemen, packers, and processors receiving potatoes from
29 producers, at the time the potatoes are first handled, and payment of
30 assessments by those handlers to the commission:

31 (a) The commission shall bill each handler at such intervals, at
32 least monthly, as the commission may from time to time determine, for
33 the assessments due upon potatoes handled in the preceding period for
34 which billing has not previously been made, and upon which assessments
35 have not been paid, computed on the basis of the quantity of potatoes
36 so handled as recorded on potato shipping pertaining to each handler

1 prepared by the department on behalf of the commission, and filed with
2 the commission, or with respect to handlers who are packers or
3 processors, on the basis of the quantity of potatoes so handled as
4 recorded on potato shipping records pertaining to such packer or
5 processor prepared by such processor and filed with the commission;

6 (b) As used in (a) of this subsection, "handler" is the person,
7 firm, or corporation designated as shipper on the potato shipping
8 record form;

9 (c) In the event potatoes subject to assessment are handled by
10 processors or other handlers under circumstances in which no potato
11 shipping record is filed with the commission, with respect to the
12 potatoes so handled the handler shall, at the time of submitting the
13 report required by (d) of this subsection, pay in full the assessment
14 on the potatoes so reported;

15 (d) Each handler shall file a monthly report, under oath, on forms
16 provided by the commission, showing the name and address of the handler
17 making the report, the quantity of potatoes handled during the
18 preceding calendar month, the name, address, handler's lot number, and
19 quantity of potatoes handled, for each respective producer, and the
20 representative district in which the potatoes were grown. The report
21 shall be filed with the commission not later than the twentieth day of
22 the month following that in which the potatoes were handled; or

23 (2) By means of payment in cash by the producer or handler, as
24 determined by the commission in each respective instance, before the
25 time the potatoes are shipped in either interstate or intrastate
26 commerce.

27 NEW SECTION. **Sec. 11.** Any due and payable assessment levied under
28 this chapter, and every sum due in a specified amount under this
29 chapter constitutes a personal debt of every person so assessed or who
30 otherwise owes the same, and the amount is due and payable to the
31 commission when payment is called for by the commission. In the event
32 that any assessment is not paid within ninety days after the date of
33 the billing by the commission, or within ninety days after the due date
34 of the report required by this chapter, a sum equal to ten percent of
35 the unpaid assessment or unpaid portion thereof shall be added to the
36 original amount and is due and owing to the commission. In the event
37 of failure of a person or persons to pay any such due and payable

1 assessment or other sum, the commission may bring a civil action
2 against the person or persons in a state court of competent
3 jurisdiction for the collection thereof, together with the additional
4 ten percent as provided in this section, and the action shall be tried
5 and judgment rendered as in any other cause of action for debt due and
6 payable.

7 NEW SECTION. **Sec. 12.** (1)(a) Any handler handling potatoes for
8 fresh market who has not established a record of prompt payment of
9 assessments due on fresh market potatoes in accordance with this
10 chapter must prepay the assessments due the commission.

11 (b) The amount of prepayment shall be determined on the estimated
12 basis of the potatoes the handler will handle during the first thirty
13 days of the potato shipping season, or if the handler has shipped in
14 the immediately prior potato shipping season, the prepayment shall be
15 based on the highest thirty-day assessment due the commission during
16 that shipping season. Prepayment shall not exceed twenty-five percent
17 of the total estimated annual assessment payable by the handler.

18 (2) Any handler who has established a record of prompt payment
19 during the entire previous potato shipping season and continues to
20 maintain a record of prompt payment is not subject to the prepayment
21 requirements in subsection (1) of this section.

22 NEW SECTION. **Sec. 13.** The commission shall notify the department
23 in writing of any handler who has not established a record of prompt
24 payment as set forth in this chapter, and that handler is subject to
25 this section. No affected units of potatoes shall be transported,
26 carried, shipped, sold, stored or otherwise handled or disposed of
27 until every due and payable assessment herein provided for has been
28 paid and the receipt issued, but no liability hereunder shall attach to
29 common carriers in the regular course of their business. When any
30 potatoes for which exemption as provided in this chapter is claimed are
31 shipped either by railroad or truck, there shall be plainly noted on
32 the bill of lading, shipping document, container or invoice, the
33 reasons for such exemptions.

34 NEW SECTION. **Sec. 14.** (1) Commission expenditures for

1 agricultural development or trade promotion and promotional hosting
2 shall be pursuant to specific budget items as approved by the
3 commission at annual public hearings on the commission budget.

4 (2) Individual commissioners and commission staff shall make
5 agricultural development or trade promotion and promotional hosting
6 expenditures, or seek reimbursements for those expenditures, only in
7 those instances where the expenditures have been approved by the
8 commission.

9 (3) All payments and reimbursements shall be as identified and
10 supported by vouchers to which receipts are attached. Voucher forms
11 will be supplied by the commission, and require the following
12 information:

13 (a) Name and position of each person hosted, however in the case of
14 a group of twenty-five or more persons, then only the name of the group
15 hosting shall be required;

16 (b) General purpose of the hosting;

17 (c) Date of hosting;

18 (d) To whom payment was or will be made; and

19 (e) Signature of person seeking payment or reimbursement;

20 (4) The chair of the commission, the executive director of the
21 commission, or assistant executive director of the commission may
22 approve direct payment or reimbursements submitted in accordance with
23 this section.

24 (5) The following persons may be hosted when it is reasonably
25 believed such hosting will promote trade for the Washington state
26 potato industry, as long as the hosting does not violate federal or
27 state conflict of interest laws:

28 (a) Individuals from private business and accompanying interpreter
29 or interpreters;

30 (b) Foreign government officials and accompanying interpreter or
31 interpreters;

32 (c) Federal, state, and local officials, however lodging, meals,
33 and transportation may not be provided when those officials may obtain
34 reimbursement for these expenses from their government employer;

35 (d) The general public, at meetings and gatherings open to the
36 general public;

37 (e) Commissioners and employees of the commission when their

1 attendance at meetings, meals, and gatherings at which the persons
2 described in (a) through (d) of this subsection are being hosted will
3 promote trade for the Washington state potato industry.

4 NEW SECTION. **Sec. 15.** (1) It is a misdemeanor for:

5 (a) Any person willfully to violate any provision of this chapter;

6 (b) Any person willfully to render or furnish a false or fraudulent
7 report, statement of record required by the commission under this
8 chapter, or any rule of the commission or rule of the department
9 adopted under this chapter, or willfully to fail or refuse to furnish
10 or render any such report, statement, or record so required.

11 (2) In the event of violation or threatened violation of any
12 provision of this chapter or any rule of the commission or rule of the
13 department adopted under this chapter, the commission is entitled to an
14 injunction to prevent further violation and to a decree of specific
15 performance of such rules, and to a temporary restraining order and
16 injunction pending litigation upon filing a verified complaint and
17 sufficient bond.

18 (3) All persons subject to this chapter shall severally from time
19 to time, upon the request of the commission, furnish the commission
20 with such information necessary to effectuate the policies of this
21 chapter or to ascertain and determine the extent to which this chapter
22 has been carried out or has effectuated such policies and purposes, or
23 to determine whether or not there has been any abuse of the privilege
24 of exemptions from laws relating to trusts, monopolies, and restraints
25 of trade. Such information shall be furnished in accordance with forms
26 and reports to be prescribed by the commission. For the purpose of
27 ascertaining the correctness of any report made to the commission under
28 this section or for the purpose of obtaining the information required
29 in any such report where it has been requested and has not been
30 furnished, the commission is authorized to examine such books, papers,
31 records, copies of tax reports, accounts, correspondence, contracts,
32 documents, or memoranda as the commission deems relevant and that are
33 within the control of any such person from whom such report was
34 requested, or of any person having, either directly or indirectly,
35 actual or legal control of or over such person or such records, or of
36 any subsidiary of any such person. To carry out the purposes of this
37 section, the commission, upon giving due notice, may hold hearings,

1 take testimony, administer oaths, subpoena witnesses, and issue
2 subpoenas for the production of books, records, documents, or other
3 writings of any kind, and shall apply with respect to any such hearing,
4 together with such other rules consistent therewith as the commission
5 may from time to time prescribe.

6 NEW SECTION. **Sec. 16.** Moneys collected by the commission under
7 this chapter from any assessment or as an advance deposit thereon shall
8 be used by the commission only for the purpose of paying for the costs
9 or expenses arising in connection with carrying out the purposes and
10 provisions of this chapter.

11 If the commission is ever terminated any and all moneys remaining
12 with the commission operating under this chapter and not required to
13 defray expenses or repay obligations incurred by that commission shall
14 be returned to the affected producers in proportion to the assessments
15 paid by each in the two-year period preceding the date of the
16 termination.

17 NEW SECTION. **Sec. 17.** If after complying with the procedures
18 outlined in this chapter and a referendum proposal to terminate the
19 commission is assented to, the commission shall:

20 (1) Document the details of all measures undertaken to terminate
21 the commission and identify and document all closing costs;

22 (2) Contact the office of the state auditor and arrange for a final
23 audit of the commission. Payment for the audit shall be from
24 commission funds and identified in the budget for closing costs;

25 (3) Provide for the reimbursement to affected producers of moneys
26 collected by assessment. Reimbursement shall be made to those
27 considered affected producers over the previous three-year time frame
28 on a pro rata basis and at a percent commensurate with their volume of
29 production over the previous three-year period. If the commission
30 finds that the amounts of moneys are so small as to make impractical
31 the computation and remitting of the pro rata refund, the moneys shall
32 be paid into the state treasury as unclaimed trust moneys; and

33 (4) Transfer all remaining files to the department for storage and
34 archiving, as appropriate.

1 NEW SECTION. **Sec. 18.** Any due and payable assessment levied under
2 this chapter, and every sum due under this chapter in a specified
3 amount constitutes a personal debt of every person so assessed or who
4 otherwise owes the same, and the same shall be due and payable to the
5 commission when payment is called for by the commission. In the event
6 any person fails to pay the full amount of the assessment or such other
7 sum on or before the date due, the commission may add to the unpaid
8 assessment or sum an amount not exceeding ten percent of the same to
9 defray the cost of enforcing collection of it. In the event of failure
10 of such person or persons to pay any such due and payable assessment or
11 other such sum, the commission may bring a civil action against such
12 person or persons in a state court of competent jurisdiction for the
13 collection thereof, together with the above specified ten percent
14 thereon, and such action shall be tried and judgment rendered as in any
15 other cause of action for debt due and payable.

16 NEW SECTION. **Sec. 19.** All moneys that are collected or otherwise
17 received under this chapter shall be used solely by and for the
18 commission and shall not be used for any other commission, nor the
19 department except as otherwise provided in this chapter. Such moneys
20 shall be deposited in a separate account or accounts in the name of the
21 commission in any bank that is a state depository. All expenses and
22 disbursements incurred and made under the provisions of this chapter
23 shall be paid from moneys collected and received under this chapter
24 without the necessity of a specific legislative appropriation and all
25 moneys shall be paid from the account by check or voucher in such form
26 and in such manner and upon the signature of such person as may be
27 prescribed by the commission. The provisions of RCW 43.01.050 do not
28 apply to any such account or any moneys so received, collected, or
29 expended.

30 NEW SECTION. **Sec. 20.** (1) Any funds of the commission may be
31 invested in savings or time deposits in banks, trust companies, and
32 mutual savings banks that are doing business in the United States, up
33 to the amount of insurance afforded such accounts by the federal
34 deposit insurance corporation.

35 (2) This section applies to all funds that may be lawfully so
36 invested, that in the judgment of the commission are not required for

1 immediate expenditure. The authority granted by this section is not
2 exclusive and shall be construed to be cumulative and in addition to
3 other authority provided by law for the investment of such funds,
4 including, but not limited to, authority granted under chapters 39.58,
5 39.59, and 43.84 RCW.

6 NEW SECTION. **Sec. 21.** Every administrator, employee, or other
7 person occupying a position of trust with the commission and every
8 member actually handling or drawing upon funds shall give a bond in
9 such penal amount as may be required by the commission, the premium for
10 which bond or bonds shall be paid by the commission.

11 NEW SECTION. **Sec. 22.** (1) Pursuant to RCW 42.17.31907, certain
12 agricultural business records, commodity commission records, and
13 department of agriculture records relating to commodity commissions and
14 producers of agricultural commodities are exempt from public
15 disclosure.

16 (2) Financial and commercial information and records submitted to
17 either the department or the commission for the purpose of
18 administering this chapter may be shared between the department and the
19 commission. They may also be used, if required, in any suit or
20 administrative hearing involving any provision of this chapter.

21 (3) This chapter does not prohibit:

22 (a) The issuance of general statements based upon the reports of a
23 number of persons subject to this chapter as long as the statements do
24 not identify the information furnished by any person; or

25 (b) The publication by the commission of the name of any person
26 violating this chapter and a statement of the manner of the violation
27 by that person.

28 NEW SECTION. **Sec. 23.** (1) The commission shall prepare a list of
29 all affected producers from any information available from the
30 department, producers, producer associations, organizations, or
31 handlers of potatoes. This list shall contain the names and addresses
32 of all affected persons who produce the potatoes and the amount, by
33 unit, of the potatoes produced during at least the past three years.

34 (2) The commission shall prepare a list of all persons who handle

1 potatoes and the amount of potatoes handled by each person during at
2 least the past three years.

3 (3) It is the responsibility of all affected parties to ensure that
4 their correct address is filed with the commission. It is also the
5 responsibility of affected parties to submit production data and
6 handling data to the commission as prescribed by the commission's rules
7 or policies.

8 (4) Any qualified person may, at any time, have his or her name
9 placed upon any list for which he or she qualifies by delivering or
10 mailing the information to the commission. The lists shall be
11 corrected and brought up-to-date in accordance with evidence and
12 information provided to the commission.

13 (5) The commission shall maintain a certified list of affected
14 producers or affected handlers from its records. The list shall
15 contain all information required to conduct a referendum or commission
16 member elections under this chapter.

17 (6) For all purposes of giving notice and holding referenda on
18 amendment or termination proposals, and for giving notice and electing
19 or selecting members of the commission, the applicable list corrected
20 up to the day preceding the date the list is certified by the
21 commission is deemed to be the list of all affected producers or
22 affected handlers, as applicable, entitled to notice or to vote.
23 Inadvertent failure to notify an affected producer or handler does not
24 invalidate a proceeding conducted under this chapter.

25 NEW SECTION. **Sec. 24.** Any member of a commission may also be a
26 member or officer of an association that has the same objectives for
27 which the commission was formed. The commission may also contract with
28 such association for services necessary to carry out any purposes
29 authorized under this chapter, if an appropriate contract has been
30 entered into.

31 NEW SECTION. **Sec. 25.** Nothing in this chapter permits the fixing
32 of prices not otherwise permitted by law or any limitation on
33 production and no agreement or any rule thereunder may contain any such
34 provisions.

1 NEW SECTION. **Sec. 26.** (1) Upon completion of any vote,
2 referendum, or nomination and elections, the commission shall tally the
3 results of the vote and provide the results to affected parties.

4 (2) If an affected party disputes the results of a vote, that
5 affected party, within sixty days from the announced results, shall
6 provide in writing a statement of why the vote is disputed and request
7 a recount.

8 (3) Once the vote is tallied and distributed, all disputes are
9 resolved, and all matters in a vote are finalized, the individual
10 ballots may be destroyed.

11 NEW SECTION. **Sec. 27.** The members of the commission may, subject
12 to approval by two-thirds of the voting members of the commission,
13 suspend for a period not exceeding one crop-year at a time all or part
14 of the assessments on potatoes subject to this chapter.

15 NEW SECTION. **Sec. 28.** The commission may adopt rules necessary to
16 carry out the duties and responsibilities under this chapter including,
17 but not limited to:

18 (1) The issuance, amendment, suspension, or termination of rules
19 associated with this chapter;

20 (2) Procedural, technical, or administrative rules that may address
21 and include, but are not limited to:

22 (a) Nominations conducted under this chapter; and

23 (b) Elections of commission members or referenda conducted under
24 this chapter.

25 NEW SECTION. **Sec. 29.** (1) The substance of a petition received
26 under this chapter to amend or terminate commission programs or
27 assessments shall be set out in detail and designated as the proposal.
28 A copy of the proposal shall be mailed to all affected parties or
29 producers based on the list provided for under this chapter, as
30 applicable, and shall be posted on the commission's web site.

31 (2) Notice of a public hearing to amend or terminate the commission
32 shall be published in the form of a legal notice for a period of two
33 days in a newspaper of general circulation within the affected areas,
34 as the commission may prescribe. The notice must also be posted on the
35 commission's web site. The commission shall mail a copy of the public

1 hearing notice along with a copy of the proposal as provided in
2 subsection (1) of this section to all affected parties or affected
3 producers, as applicable, who may be directly affected by the proposal
4 and whose names and addresses appear on the list compiled under this
5 chapter. The mailing must include the commission's web site address
6 along with a description of the process for the amendment or
7 termination of the commission, as applicable.

8 (3) At a public hearing, the commission shall receive testimony
9 offered in support of, or opposition to, the proposed amendment to or
10 termination of the commission and concerning the terms, conditions,
11 scope, and area thereof. The hearing shall be public and all testimony
12 shall be received under oath. A full and complete record of all
13 proceedings at such hearings shall be made and maintained on file in
14 the office of the commission, which file shall be open to public
15 inspection. The commission shall base any findings upon the testimony
16 received at the hearing, together with any other relevant facts
17 available from official publications of institutions of recognized
18 standing. The commission shall describe in the findings such official
19 publications upon which any finding is based.

20 (4) The commission has the power to subpoena witnesses and to issue
21 subpoenas for the production of any books, records, or documents of any
22 kind.

23 (5) The superior court of the county in which any hearing or
24 proceeding may be had may compel the attendance of witnesses and the
25 production of records, papers, books, accounts, documents, and
26 testimony as required by such subpoena. The commission, in case of the
27 refusal of any witness to attest or testify or produce any papers
28 required by the subpoena, shall report to the superior court of the
29 county in which the proceeding is pending by petition setting forth
30 that due notice has been given of the time and place of attendance of
31 the witness or the production of the papers and that the witness has
32 been summoned in the manner prescribed in this chapter and that he or
33 she has failed to attend or produce the papers required by the subpoena
34 at the hearing, cause, or proceeding specified in the subpoena, or has
35 refused to answer questions propounded to it in the course of such
36 hearing, cause, or proceeding, and shall ask an order of the court to
37 compel a witness to appear and testify before the commission. The
38 court, upon such petition, shall enter an order directing the witness

1 to appear before the court at a time and place to be fixed in such
2 order and then and there to show cause why he or she has not responded
3 to the subpoena. A copy of the order shall be served upon the witness.
4 If it appears to the court that the subpoena was regularly issued, it
5 shall enter an order that the witness appear at the time and place
6 fixed in the order and testify or produce the required papers, and on
7 failing to obey the order, the witness shall be dealt with as for
8 contempt of court.

9 NEW SECTION. **Sec. 30.** (1) The commission shall make findings upon
10 material points controverted at the hearing and required by this
11 chapter and upon such other matters and things as it may deem fitting
12 and proper. Based upon those findings, the commission shall make
13 conclusions and develop and issue a recommended decision. The
14 findings, conclusions, and recommended decision, and the full text of
15 the proposal shall be posted on the commission's web site.

16 (2) The recommended decision may deny or approve the proposal in
17 its entirety, or it may recommend a rule containing other or different
18 terms or conditions from those contained in the proposal, however any
19 such rule shall be of a kind or type substantially within the purview
20 of the notice of hearing and shall be supported by evidence taken at
21 the hearing or by documents of which the commission is authorized to
22 take official notice. The commission shall not approve the amendment
23 or termination if it finds with respect thereto:

24 (a) That the proposed issuance, amendment, or termination thereof
25 is reasonably calculated to attain the objective sought in a rule;

26 (b) That the proposed issuance, amendment, or termination is in
27 conformity with this chapter and, within the applicable limitations and
28 restrictions in this chapter, will tend to effectuate its declared
29 purposes and policies; and

30 (c) That the interests of consumers of potatoes are protected in
31 that the powers of this chapter are being exercised only to the extent
32 necessary to attain such objectives.

33 (3) If the commission's recommended decision does not make any
34 changes to the proposal, notification will be made by mail in the form
35 of a postcard reciting the recommended decision. The postcard must
36 also include the commission's web site address where any person can

1 access the full text of the findings, conclusions, and recommended
2 decision.

3 (4) If the commission's recommended decision makes changes to the
4 proposal or does not support the proposal, notification will be made by
5 mail in the form of a letter describing the changes made or explaining
6 the reason for not supporting the proposal and a referendum. The
7 letter must also include the commission's web site address where any
8 person can access the full text of the findings, conclusions, and
9 recommended decision.

10 (5) After the commission issues its findings, conclusions, and
11 recommended decision, all interested parties shall have a period of not
12 less than fifteen days from the date of the mailing of the postcard or
13 letter to file statements with the commission in support of or in
14 opposition to the recommended decision. The commission shall consider
15 the additional statements and shall issue its final decision. The
16 final decision may be the same as the recommended decision or may be
17 revised in light of the additional information received in response to
18 the recommended decision. The commission shall notify affected parties
19 of its final decision by mail in the form of a postcard. Notification
20 shall include the commission's web site address where any person can
21 access the full text of the findings, conclusions, and final decision
22 and the full text of the final proposal. If the final decision denies
23 the proposal in its entirety, no further action may be taken by the
24 commission.

25 (6) Affected parties who do not have access to materials posted on
26 the commission's web site may request notification by fax or mail.

27 NEW SECTION. **Sec. 31.** After the commission issues its final
28 decision approving the amendment or termination, the commission shall
29 determine by a referendum whether the affected parties or producers
30 assent to the proposed action or not. The commission shall conduct the
31 referendum among the affected parties or producers based on the list as
32 provided for in this chapter, as applicable. The affected parties or
33 producers shall be deemed to have assented to the proposed issuance or
34 termination order if fifty-one percent or more by number reply to the
35 referendum within the time specified by the commission, and if, of
36 those replying (a) sixty-five percent or more by number and fifty-one
37 percent or more by volume assent to the proposed order; or (b) sixty

1 percent or more by number and sixty percent or more by volume of those
2 replying assent to the proposed order. The determination by volume
3 shall be made on the basis of volume as determined in the list of
4 affected producers created under this chapter, subject to rules of the
5 commission for such determination. Results of the referendum shall be
6 mailed to all affected parties in the form of a postcard. If the
7 requisite assent is given, the commission shall adopt the order.

8 NEW SECTION. **Sec. 32.** (1) All rule-making proceedings conducted
9 under this chapter shall be in accordance with chapter 34.05 RCW.

10 (2) Rule-making proceedings conducted under this chapter are exempt
11 from compliance with RCW 34.05.310, chapter 19.85 RCW, the regulatory
12 fairness act, and RCW 43.135.055 when adoption of the rule is
13 determined by a referendum vote of the affected parties.

14 (3) The commission may adopt amendments to rules associated with
15 this chapter without conducting a referendum if the amendments are
16 adopted under the following criteria:

17 (a) The proposed amendments relate only to internal administration
18 of this chapter and are not subject to violation by a person;

19 (b) The proposed amendments adopt or incorporate by reference
20 without material change federal statutes or regulations, Washington
21 state statutes, or rules of other Washington state agencies, if the
22 material adopted or incorporated regulates the same activities as are
23 authorized under this chapter;

24 (c) The proposed amendments only correct typographical errors, make
25 address or name changes, or clarify language of a rule in accordance
26 with this chapter;

27 (d) The content of the proposed amendments is explicitly and
28 specifically dictated by statute.

29 **Sec. 33.** RCW 15.66.270 and 1961 c 11 s 15.66.270 are each amended
30 to read as follows:

31 Nothing in this chapter contained shall apply to:

32 (1) Any order, rule, or regulation issued or issuable by the
33 Washington utilities and transportation commission or the interstate
34 commerce commission with respect to the operation of common carriers;

35 (2) Any provision of the statutes of the state of Washington
36 relating to the Washington apple (~~(advertising)~~) commission (chapter

1 15.24 RCW), to the soft tree fruits commission (chapter 15.28 RCW)
2 ((~~or~~)), to the dairy products commission (chapter 15.44 RCW), or to the
3 potato commission established in chapter 15.-- RCW (sections 1 through
4 32 of this act). No marketing agreement or order shall be issued with
5 respect to apples, soft tree fruits ((~~or~~)), dairy products, or potatoes
6 for human consumption, for the purposes specified in RCW 15.66.030(1)
7 or 15.66.030(2).

8 NEW SECTION. Sec. 34. (1) The potato commission established in
9 chapter 16-516 WAC is hereby abolished and its powers, duties, and
10 functions are hereby transferred to the potato commission created in
11 this act.

12 (2)(a) All reports, documents, surveys, books, records, files,
13 papers, or written material in the possession of the potato commission
14 established in chapter 16-516 WAC shall be transferred to the custody
15 of the potato commission created by this act. All cabinets, furniture,
16 office equipment, motor vehicles, and other tangible property employed
17 by the potato commission established in chapter 16-516 WAC shall be
18 made available to the potato commission created by this act. All
19 funds, credits, or other assets held by the potato commission
20 established in chapter 16-516 WAC shall be assigned to the potato
21 commission created by this act.

22 (b) Any appropriations made to the potato commission established in
23 chapter 16-516 WAC shall, on the effective date of this section, be
24 transferred and credited to the potato commission created by this act.

25 (c) If any question arises as to the transfer of any personnel,
26 funds, books, documents, records, papers, files, equipment, or other
27 tangible property used or held in the exercise of the powers and the
28 performance of the duties and functions transferred, the director of
29 financial management shall make a determination as to the proper
30 allocation and certify the same to the state agencies concerned.

31 (3) All employees of the potato commission established in chapter
32 16-516 WAC are transferred to the jurisdiction of the potato commission
33 created by this act. All members of the potato commission established
34 in chapter 16-516 WAC shall continue as members of the potato
35 commission established in chapter 16-516 WAC until their terms expire.

36 (4) All rules and all pending business before the potato commission
37 established in chapter 16-516 WAC shall be continued and acted upon by

1 the potato commission created by this act. All existing contracts and
2 obligations shall remain in full force and shall be performed by the
3 potato commission created by this act.

4 (5) The transfer of the powers, duties, functions, and personnel of
5 the potato commission established in chapter 16-516 WAC shall not
6 affect the validity of any act performed before the effective date of
7 this section.

8 (6) If apportionments of budgeted funds are required because of the
9 transfers directed by this section, the director of financial
10 management shall certify the apportionments to the agencies affected,
11 the state auditor, and the state treasurer. Each of these shall make
12 the appropriate transfer and adjustments in funds and appropriation
13 accounts and equipment records in accordance with the certification.

14 (7) Nothing contained in this section may be construed to alter any
15 existing collective bargaining unit or the provisions of any existing
16 collective bargaining agreement until the agreement has expired or
17 until the bargaining unit has been modified by action of the personnel
18 resources board as provided by law.

19 NEW SECTION. **Sec. 35.** Sections 1 through 32 of this act
20 constitute a new chapter in Title 15 RCW.

21 NEW SECTION. **Sec. 36.** This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of the
23 state government and its existing public institutions, and takes effect
24 July 1, 2005.

25 NEW SECTION. **Sec. 37.** If any section, subsection, sentence,
26 clause, or part of this chapter is for any reason held to be invalid or
27 unconstitutional, the judicial decision does not affect the remainder
28 of the chapter and its application to other persons or circumstances.
29 The legislature declares that each section, subsection, sentence,
30 clause, and part of this chapter was enacted with the intent that if
31 any portion of this chapter is severed, the remainder of the chapter is
32 capable of accomplishing its legislative purpose.

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