

# SENATE BILL REPORT

## SSB 6290

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As Passed Senate, February 10, 2016

**Title:** An act relating to the apple commission.

**Brief Description:** Concerning the apple commission.

**Sponsors:** Senate Committee on Agriculture, Water & Rural Economic Development (originally sponsored by Senators Honeyford, Hobbs and Parlette; by request of Washington Apple Commission).

**Brief History:**

**Committee Activity:** Agriculture, Water & Rural Economic Development: 1/28/16, 2/02/16 [DPS].

Passed Senate: 2/10/16, 49-0.

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### SENATE COMMITTEE ON AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT

**Majority Report:** That Substitute Senate Bill No. 6290 be substituted therefor, and the substitute bill do pass.

Signed by Senators Warnick, Chair; Danel, Vice Chair; Takko, Ranking Member; Hobbs and Honeyford.

**Staff:** Diane Smith (786-7410)

**Background:** The Apple Commission (Commission) has been in existence since before the statutes were codified. Over the years the Commission's statutes have been amended but not updated comprehensively so as to clarify ambiguities or address vestigial provisions.

The Commission is an agency of state government with rule making authority. It consists of 13 members appointed by the director of the Department of Agriculture (Director) for three-year terms. Nine of the 13 are producer-members and four are dealer-members.

If there are more than two candidates for any position of Commissioner, they are nominated by secret advisory ballot mailed to all affected producers for producer-positions and to affected dealers for dealer-positions. The names of the two candidates receiving the most votes are forwarded to the Director. If there are only one or two nominations for a

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Commissioner position, they need not be submitted to a vote before being forwarded to the Director.

The Director may select any candidate forwarded to the Director by ballot or otherwise, or may reject all candidates. In the case of the Director's rejection of all candidates, the Commission, and the Director if desired, then select the nominees for a new advisory vote.

There are three grower-districts and two dealer-districts, defined geographically. At least two producer-members must at all times be from grower-districts one and two, respectively. At least one producer-member must at all times be from grower-district three.

The number of producer members of the Commission to be appointed from each grower district is determined by the relative acreages of planted commercial apple orchards within the various districts as of July 1, 2003. This number must be readjusted every 10 years thereafter according to the most recent census of acreages published by the United States Department of Agriculture.

Nominations of candidates for positions as Commissioners from the two dealer districts are made orally at a meeting of the apple growers and dealers in districts one and two. Nominations for the producer positions are selected by a majority of the votes cast by the apples growers in their respective districts.

Commissioners receive up to \$100 per day in compensation for each day of attendance at meetings or for statutorily prescribed duties approved by the Director plus actual travel expense.

Funding is through an 8.75 cent assessment per 100 weight of apples based on net shipping weight plus annual increases or decreases. Any increases or decreases are determined by a vote of the producers voting. To increase assessments requires a two-thirds vote while to decrease assessments requires a majority vote of the acreage voted in the same election. Before the change in assessment becomes effective, the change must be submitted to the apple growers of the state by referendum mail ballot. This referendum is conducted by the same majority requirements as the producers voting in the first instance. After the mail ballot, the Commission may decide not to approve the increase or decrease. There is also a provision made for eliminating assessments altogether.

Provisions are made for transitioning to an appointed commission from an elected commission; for the use of commission records as evidence; for requiring printing contracts to conform to minimum wage and hour laws; for publication of commission rules in a legal newspaper in Wenatchee and Yakima; and to become effective pursuant to the Administrative Procedure Act.

**Summary of Substitute Bill:** Statutes relating to the Apple Commission are reorganized, updated, and clarified.

The term "grower" is defined and used throughout in place of the term "producer."

The term "crop year" is defined.

It is clarified that nominations to the dealer-positions on the commission are selected by advisory mail ballot. Each dealer is entitled to one vote. A majority vote of of the votes cast by the dealers in the respective districts approves the nominations. The nominees for appointment to the grower-positions are selected the same way. The advisory vote by the growers and dealers is required if more than two candidates are nominated for a position.

It is clarified that rule making is conducted under the Administrative Procedure Act with the same exemptions for the same reason as in the underlying statute. Rule making for increasing or decreasing the annual assessment is commenced by the Commission when a need to do so is identified.

When the director approves this rule making a referendum is conducted by mail ballot. A vote to increase the assessment is approved if two-thirds of the growers vote in favor and those voting in favor represent two-thirds of the apples grown in the prior two crop years based on net shipping weight. The majority vote required to approve a decrease must also represent two-thirds of the apples grown in the prior two crop years based on net shipping weight. If approved by referendum the new rate must be adopted by rule.

The Commission's authority to disregard the results of the election is deleted.

The purchase of Washington apple stamps as a means of collecting the assessments is deleted.

The provisions made for transitioning to an appointed commission from an elected commission; for the use of commission records as evidence; for requiring printing contracts to conform to minimum wage and hour laws; for publication of commission rules in a legal newspaper in Wenatchee and Yakima; and for the rules to become effective pursuant to the administrative procedure act, are all repealed.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on First Substitute:** PRO: This is a simple, straightforward cleanup bill to reflect the dramatic transition of the apple industry. Voting for or against changing the assessment is tied to the weight of apples in the bill. This change from acreage to pounds of apples is a more accurate reflection of investment and production than acreage.

**Persons Testifying on First Substitute:** PRO: Jim Halstrom, WA State Tree Fruit Association.

**Persons Signed In To Testify But Not Testifying:** No one.