

these standards.

Further, no charter party carrier of passengers initially issued a certificate may be restricted as to point of origin or destination in the state. On the other hand, all holders of certificates issued more than three months after the effective date of the act are limited to a service area no larger than a radius of forty air miles from the home terminal. All holders of existing permits will be given a Class A certificate. All new applicants will receive Class B certificates.

This section unnecessarily discriminates between existing permit holders and persons desiring to establish new passenger charter services. The discrimination extends not only to the issuance of the permit, but to the area that these possible competitors are permitted to serve.

Section 6 authorizes the commission to issue certificates upon finding that the public convenience and necessity require the proposed transportation service. I have vetoed language in this section that is unnecessarily restrictive and adds little to the statute that the requirement of public convenience and necessity does not convey. I have also vetoed the provision authorizing the commission to place such restrictions on new certificates as may reasonably be necessary to protect any existing charter party carrier of passengers. I do not consider this a reasonable criterion for limitations upon certificates.

I have vetoed section 12 in order to make the act consistent with the other items vetoed.

The bill still contains the required measures in order for the Utilities and Transportation Commission constructively to regulate the industry, but with greater flexibility than that allowed by the original bill. I consider this to be more in the public interest.

With the exception of those items which have been vetoed for the reasons stated above, the remainder of House Bill No. 388 is approved."

CHAPTER 133

[Engrossed House Bill No. 346]

WASHINGTON STATE BEEF

COMMISSION ACT

AN ACT Relating to beef and beef products and the sale and promotion thereof; creating a state beef commission; levying assess-

ments; and declaring an emergency.

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

NEW SECTION. Section 1. This act shall be known and may be cited as the Washington State Beef Commission Act.

NEW SECTION. Sec. 2. For the purpose of this act:

- (1) "Commission" means the Washington State Beef Commission.
- (2) "Director" means the director of agriculture of the state of Washington or his duly appointed representative.
- (3) "Ex officio members" means those advisory members of the commission who do not have a vote.
- (4) "Department" means the department of agriculture of the state of Washington.
- (5) "Person" includes any individual, firm, corporation, trust, association, partnership, society, or any other organization of individuals.
- (6) "Beef producer" means any person who raises, breeds, grows, or purchases cattle or calves for beef production.
- (7) "Dairy (beef) producer" means any person who raises, breeds, grows, or purchases cattle for dairy production and who is actively engaged in the production of fluid milk.
- (8) "Feeder" means any person actively engaged in the business of feeding cattle and usually operating a feed lot.
- (9) "Producer" means any person actively engaged in the cattle industry including beef producers and dairy (beef) producers.
- (10) "Washington cattle" shall mean all cattle owned or controlled by affected producers and located in the state of Washington.
- (11) "Meat packer" means any person licensed to operate a slaughtering establishment under the provisions of chapter 16.49 RCW as enacted or hereafter amended.
- (12) "Livestock salesyard operator" means any person licensed to operate a cattle auction market or salesyard under the provisions of chapter 16.65 RCW as enacted or hereafter amended.

NEW SECTION. Sec. 3. There is hereby created a Washington

State beef commission to be thus known and designated. The commission shall be composed of three beef producers, one dairy (beef) producer, three feeders, one livestock salesyard operator, and one meat packer. In addition there will be one ex officio member without the right to vote from the department of agriculture to be designated by the director thereof.

A majority of voting members shall constitute a quorum for the transaction of any business.

All appointed members as stated in section 5 of this act shall be citizens and residents of this state, over the age of twenty-five years, each of whom is and has been actually engaged in that phase of the cattle industry he represents for a period of five years, and has during that period derived a substantial portion of his income therefrom, or have a substantial investment in cattle as an owner, lessee, partner, or a stockholder owning at least ten percent of the voting stock in a corporation engaged in the production of cattle or dressed beef, or a manager or executive officer of such corporation. Producer members of the commission shall not be directly engaged in the business of being a meat packer, or as a feeder, feeding cattle other than their own. Said qualifications must continue throughout each member's term of office.

NEW SECTION. Sec. 4. The appointive positions on the commission shall be designated as follows: the three beef producers shall be designated positions one, two and three; the dairy (beef) producer shall be designated position four; the three feeders shall be designated positions five, six and seven; the livestock salesyard operator shall be designated position eight; the meat packer shall be designated position nine.

The regular term of office shall be three years from the date of appointment and until their successors are appointed: PROVIDED, That the first terms of the members whose terms began on July 1, 1969 shall be as follows: Position one, four and seven shall terminate July 1, 1970; positions two, five and eight shall terminate July 1,

1971; positions three, six and nine shall terminate July 1, 1972.

NEW SECTION. Sec. 5. The governor shall appoint the members of the commission. In making such appointments, the governor shall take into consideration recommendations made to him by organizations who represent or who are engaged in the same type of production or business as the person recommended for appointment as a member of the commission.

The appointment shall be carried out immediately, subsequent to the effective date of this act and members so appointed as set forth in this act shall serve for the periods set forth for the original members of the commission in section 4 of this act.

NEW SECTION. Sec. 6. In the event a position on the commission becomes vacant due to resignation, disqualification, death, or for any other reason, the unexpired term of such position shall be filled by the governor forthwith.

No member of the commission shall receive any salary or other compensation, but each member shall receive the sum of twenty-five dollars per day for each day spent in actual attendance on or traveling to and from meetings of the commission, or on special assignment for the commission, together with subsistence and traveling expenses at the rate allowed by the law to state employees.

NEW SECTION. Sec. 7. Copies of the proceedings, records, and acts of the commission, when certified by the secretary of the commission and authenticated by the commission seal, shall be admissible in any court as prima facie evidence of the truth of the statements contained herein.

NEW SECTION. Sec. 8. The powers and duties of the commission shall include the following:

(1) To administer and enforce the provisions of this act, and do all things reasonably necessary to effectuate the purposes of this act;

(2) To elect a chairman and such other officers as it deems advisable;

(3) To employ and discharge at its discretion a manager, secretary, and such other personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the commission determines are necessary and proper to carry out the purposes of this act, and to prescribe their duties and powers and fix their compensation;

(4) To adopt, rescind, and amend rules, regulations and orders for the exercise of its powers hereunder subject to the provisions of chapter 34.04 RCW (Administrative Procedure Act) as now or hereafter amended;

(5) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the commission. All records, books and minutes of the commission shall be kept at such headquarters;

(6) To require a bond of all commission members and employees of the commission in a position of trust in the amount of the commission shall deem necessary. The premium for such bond or bonds shall be paid by the commission from assessments collected. Such bond shall not be necessary if any such commission member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(7) To establish a beef commission revolving fund, such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the commission, except an amount of petty cash for each day's needs not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable; none of the provisions of RCW 43.01.050 as now or hereafter amended shall apply to money collected under this act;

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

(9) To incur expense and enter into contracts and to create

such liabilities as may be reasonable for the proper administration and enforcement of this act;

(10) To borrow money, not in excess of its estimate of its revenue from the current year's contributions;

(11) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, expenditures, moneys and other financial transactions made and done pursuant to this act. Such records, books and accounts shall be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within thirty days after completion thereof to the director, the state auditor and the commission. On such years and in such event the state auditor is unable to audit the records, books and accounts within six months following the close of the fiscal year it shall be mandatory that the commission employ a private auditor to make such audit;

(12) To sue and be sued as a commission, without individual liability for acts of the commission within the scope of the powers conferred upon it by this act;

V- (13) To adopt a corporate seal, and have all the powers of a corporation;

(14) To cooperate with any other local, state, or national commission, organization or agency, whether voluntary or established by state or federal law, including recognized livestock groups, engaged in work or activities similar to the work and activities of the commission created by this act and make contracts and agreements with such organizations or agencies for carrying on joint programs beneficial to the beef industry;

(15) To accept grants, donations, contributions or gifts from any governmental agency or private source for expenditures for any purpose consistent with the provisions of this act;

(16) To operate jointly with beef commissions or similar

agencies established by state laws in adjoining states.

NEW SECTION. Sec. 9. The commission shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by resolution of the commission.

The commission shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the commission at least ten days prior to the meeting by public notice of such meeting published in newspapers of general circulation in the state of Washington, by radio and press releases and through trade publications.

The commission shall establish by resolution, the time, place and manner of calling special meetings of the commission with reasonable notice to the members: PROVIDED, That, the notice of any special meeting may be waived by a waiver thereof by each member of the commission.

NEW SECTION. Sec. 10. The commission shall provide for programs designed to increase the consumption of beef; develop more efficient methods for the production, processing, handling and marketing of beef; eliminate transportation rate inequalities on feed grains and supplements and other production supplies adversely affecting Washington producers; properly identify beef and beef products for consumers as to quality and origin. For these purposes the commission may:

- (1) Provide for programs for advertising, sales promotion and education, locally, nationally or internationally, for maintaining present markets and/or creating new or larger markets for beef. Such programs shall be directed toward increasing the sale of beef without reference to any particular brand or trademark and shall neither make use of false or unwarranted claims in behalf of beef nor disparage the quality, value, sale or use of any other agricultural commodity;
- (2) Provide for research to develop and discover the health, food, therapeutic and dietetic value of beef and beef products thereof;

(3) Make grants to research agencies for financing studies, including funds for the purchase or acquisition of equipments and facilities, in problems of beef production, processing, handling and marketing;

(4) Disseminate reliable information founded upon the research undertaken under this act or otherwise available;

(5) Provide for rate studies and participate in rate hearings connected with problems of beef production, processing, handling or marketing; and

(6) Provide for proper labeling of beef and beef products so that the purchaser and the consuming public of the state will be readily apprised of the quality of the product and how and where it was processed.

NEW SECTION. Sec. 11. There is hereby levied an assessment of ten cents per head on all Washington cattle sold in this state or elsewhere to be paid by the seller at the time of sale: PROVIDED, That, if such sale is accompanied by a brand inspection by the department such assessment shall be collected at the same time, place and in the same manner as brand inspection fees. Such fees shall be collected by the regulatory division of the department and transmitted to the commission: PROVIDED FURTHER, That, if such sale is made without a brand inspection by the department the assessment shall be paid by the seller and transmitted directly to the commission not later than thirty days following the sale.

NEW SECTION. Sec. 12. Any due and payable assessment levied under the provisions of this act shall constitute a personal debt of every person so assessed or who otherwise owes the same and shall be due and payable within thirty days from the date it becomes first due the commission. In the event any such person fails to pay the full amount within such thirty days, the commission shall add to such unpaid assessment an amount of ten percent of the unpaid assessment to defray the cost of collecting the same. In the event of failure of such person to pay such due and payable assessment, the commission

may bring civil action against such person in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon and any other additional necessary reasonable costs including attorneys' fees. Such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

NEW SECTION. Sec. 13. The commission may adopt regulations requiring the purchasers of livestock subject to the assessments under this act, to furnish the commission with the names of persons from whom such livestock was purchased. Refusal or failure to furnish the commission with such a list shall constitute a misdemeanor.

NEW SECTION. Sec. 14. The assessment provided for in section 12 of this act shall not be applicable to any animal sold for milk production.

NEW SECTION. Sec. 15. Obligations incurred by the commission and liabilities or claims against the commission shall be enforced only against the assets of the commission in the same manner as if it were a corporation and no liability for the debts or actions of the commission shall exist against either the state of Washington or any subdivision or instrumentality thereof or against any member officer, employee or agent of the commission in his individual capacity. The members of the commission including employees of the commission shall not be held responsible individually or any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person or employees, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of the commission. The liability of the members of the commission shall be several and not joint and no member shall be liable for the default of any other member.

NEW SECTION. Sec. 16. The restrictive provisions of chapter 43.78 RCW, as now or hereafter amended, shall not apply to promotional printing and literature for the commission.

NEW SECTION. Sec. 17. If any provisions hereof are declared invalid, the validity of the remainder hereof of the applicability thereof to any other person, circumstances or thing shall not be affected thereby.

NEW SECTION. Sec. 18. Any person who has paid an assessment as provided for in section 11 of this act and within the time specified in section 12 of this act on Washington cattle may, thirty days after payment of such assessment but not later than sixty days of making such payment apply to the commission for a refund of such paid assessment and such refund shall be promptly made by the commission.

V— Application for such refund shall be made directly to the commission's office on forms furnished only by the commission for such refund application. All claims for refund shall be verified as set forth on the application for refund as furnished by the commission.

All of the provisions of this act applicable to delinquent assessment due shall be applicable if an application for a refund is not made within the time and manner specified in this section.

NEW SECTION. Sec. 19. This act is passed:

(1) In the exercise of the power of the state to provide for economic development of the state, to promote the welfare of the state, and stabilize and protect the beef industry of the state;

(2) Because the beef and beef products produced in Washington comprise one of the major agricultural crops of Washington, and therefore the business of selling and distributing such crop and the expanding and protection of its market is of public interest;

(3) Because it is desirable and expedient to enhance the reputation of Washington beef and beef products in domestic, national and international markets;

(4) Because it is desirable to promote knowledge of the health-giving qualities, food and dietetic value of beef and beef products of the nation and Washington beef and beef products in particular for the expanded development of the beef industry;

(5) Because the stabilizing of the beef industry, the enlarge-

ment of its markets, and the increased consumption of beef and beef products are desirable to assure payment of taxes to the state and its subdivisions, to alleviate unemployment and to provide for higher wage scales for agricultural labor and maintenance of our high standard of living;

(6) To disseminate information giving the public full knowledge of the manner of production, the cost and expense thereof, the care taken to produce and sell only beef and beef products of the highest standard of quality, the methods and care used in their preparation for market, and the methods of sale and distribution, to increase the amount secured by the producer therefor, so they may pay higher wages and pay their taxes, and by such information reduce the cost of marketing and distribution to the extent that the spread between the cost to consumer and the amount received by the producer will be reduced to the minimum absolutely necessary; and

(7) To protect the public by educating it in reference to the various cuts and grades of Washington beef and the uses to which each should be put.

NEW SECTION. Sec. 20. This act shall be liberally construed.

NEW SECTION. Sec. 21. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect June 1, 1969.

Passed the House March 6, 1969.

Passed the Senate March 11, 1969.

Approved by the Governor March 25, 1969, with the exception of a certain item in section 8 and all of section 18, which are vetoed.

Filed in the office of Secretary of State March 25, 1969.

NOTE: Governor's explanation of partial veto is as follows:
"...This is a bill creating a state agency for the purpose of promoting the sale of beef and research for beef producing livestock in this state.

The beef commission would be subject to the same constitutional limitations as any other state agency created by the legislature.

New Section 8, subsection 13, grants the beef commission all the powers and authority granted

a corporation under the provisions of RCW 23A-.08.020 of the general corporation statutes. In addition to the power to issue stock and pay dividends, the use of the words 'all powers' of a corporation include certain powers of a corporation to loan money to its employees. This would be in conflict with Article 8, section 5 of the state constitution which states that the credit of the state shall not be given or loaned, or in aid of any individual, association, company, or corporation. While I appreciate the intent of the sponsors of the bill in giving the new commission broad powers to accomplish its purposes, I am concerned that the grant of all of the powers of a corporation is too broad to afford adequate protection for the contributors to the fund supporting the commission.

Section 18, page 9, of the bill provides for a refund of any assessment upon application within 60 days.

I do not consider this section to be adequate legislation for the following reasons:

The sponsors of this measure applied the assessment at each point of sale, for the express purpose of insuring that all segments of the industry from producer to packer would share in the support of the program.

In my judgment the refund clause in operation will be unfair to the small producer or handler. The small amount of money involved for the small producer at 10 cents a head would make it impractical to go through the procedure of claiming the refund. It would, however, be worthwhile for the large producer or handler.

Furthermore, the uncertainty of income because of the refund clause would make it difficult to budget and maintain commission programs.

With the new Tree Fruit Research Commission, approved by this Legislature, there are now 12 agricultural commodity commissions in this state. None of the 12 has a recovery clause. Neither the 1955 nor the 1961 Agricultural Enabling Act permits a recovery clause on the assessment.

With the exception of a certain item in Section 8 and all of Section 18 which I have vetoed, the remainder of House Bill No. 346 is approved."