

# **Governor's Transition Document**

## **Agency Name**

**The Washington State Liquor Control Board**

3000 Pacific Ave. SE, Olympia, WA 98504-3080

Phone: 360-664-1600 Website: <http://www.liq.wa.gov>

Merritt D. Long, Chairman, Roger Hoen and Vera Ing, Board Members  
Pat Kohler, Administrative Director

## **Mission Statement**

*The mission of the Liquor Control Board is to serve the public by preventing the misuse of alcohol and tobacco through controlled distribution, enforcement, and education; and provide excellent customer service by operating efficient, convenient, and profitable retail stores.*

## **Agency Facts**

- Number of employees: 961 FTE employees in 2003-2005.
- Total annual income from all sources in 2004: \$651.6 million
- Total annual retail and wholesale sales 2004: \$591.2 million
- Income from Beer and Wine Taxes: \$49.6 million
- Income from Licensing fees: \$10.1 million
- Income from lottery sales, tobacco penalties, and other sources: \$740,000
- Cost of product in 2004: \$280 million.
- Other agency annual operating expenses in 2004: \$84 million.
- Revenue to state after product/operating expenses: \$248 million in 2004.
- Number of stores: 161 state-operated stores; 154 contract stores.
- Number of businesses licensed to sell, distribute, manufacture or import alcohol: 13,000.
- Authorizing Statutes: RCW 66.08.012; RCW 66.08.030; RCW 66.08.050.
- Facilities: Headquarters Olympia; Distribution Center, Seattle; Enforcement Offices/Stores statewide.

## **Agency Responsibilities**

- Control the sale and distribution of all spirituous liquor through a system of more than 314 state and contract liquor stores and by licensing and regulating all businesses producing, selling, distributing or importing alcohol in the state.
- Receive, store and ship product to state and contract stores and to military and tribal stores from a Seattle Distribution Center.
- Issue licenses to more than 13,000 businesses selling, distributing, importing or producing liquor, beer or wine in the state.
- Provide oversight for a three-tier system of distribution for beer and wine by enforcing mandatory 10 percent markups between producers, distributors and retailers and other control mechanisms designed to create a stable and orderly market, discourage over-consumption and eliminate predatory pricing practices.
- Enforce all state laws regulating the sale, importation, production and distribution of alcohol. Conduct regular compliance checks for over-service and service to minors.

- Conduct regular public meetings to review and approve changes in rules, recommend changes in statutes, hear stakeholder input, and provide policy oversight for the agency.
- Conduct education and prevention activities to reduce adult alcohol abuse and consumption by minors.

## WSLCB Balanced Mission

Washington's control system helps ensure public safety by reducing the amount of per-capita consumption of alcohol through controlled sales, a three-tier system of beer and wine distribution, and effective regulatory and enforcement programs. Revenue from un-stimulated sales, taxes and fees is a by-product of the system, which encourages responsible use of a controlled substance.

### Revenue Generation

Our mission is to maximize revenue to the state by operating efficient, convenient and profitable retail stores. Gross bottle sales have increased 26.3 percent between 1996 and 2004 and a to 4.8 percent growth rate is forecast. Some interest groups continue to advocate privatization of our \$600 million annual business. Studies have proven this would cost the state hundreds of millions of dollars in revenue. The WSLCB will contribute more than \$3 billion in revenue to the state in the next decade if investments are made now to ensure future growth.

#### Retail Business Development

- Improve Strategic Planning
- Improve Store Profitability
- Improve Inventory Management
- Improve Financial/Accounting Systems
- Increase Number of Stores
- Create New Store Types
- Implement Wine Strategy
- Improve Product Display

#### Distribution Center

- Expand DC Size/Capacity
- Improve Product Handling System
- Create Better Back-up Systems
- Implement New Freight Delivery Contract
- Improve Employee Safety/Training
- Meet Stakeholder Concerns

#### Customer Service

- Better Trained Employees
- Improve Product Information
- Improve Point-of-Sale Systems
- Improve Store Layouts
- Improve Signage
- Create Safer Stores

### Public Safety

Our control system is designed to increase public safety by controlling access to spirits and by promoting effective statewide treatment, education, prevention and enforcement programs. Stakeholders in the food and entertainment communities and the alcohol industry pay careful attention to proposed changes in legislation, rules and policy and will aggressively pursue their own agendas such as Sunday sales and direct shipping. Community and advocacy groups also seek greater support to curb alcohol abuse

#### Enforcement

- Improve Alcohol/Tobacco Compliance
- Improve Employee Training/Retention
- Manage Increased Span of Authority
- Enforce More Complex Laws

#### Licensing

- Improve Customer Service
- Manage Rapid Growth in Licensees
- Increased Regulatory Complexity
- Law, Rule, Policy Revisions
- Increased Legal Actions
- Recovering Costs of New Initiatives
- Increased Community Initiatives

#### Education

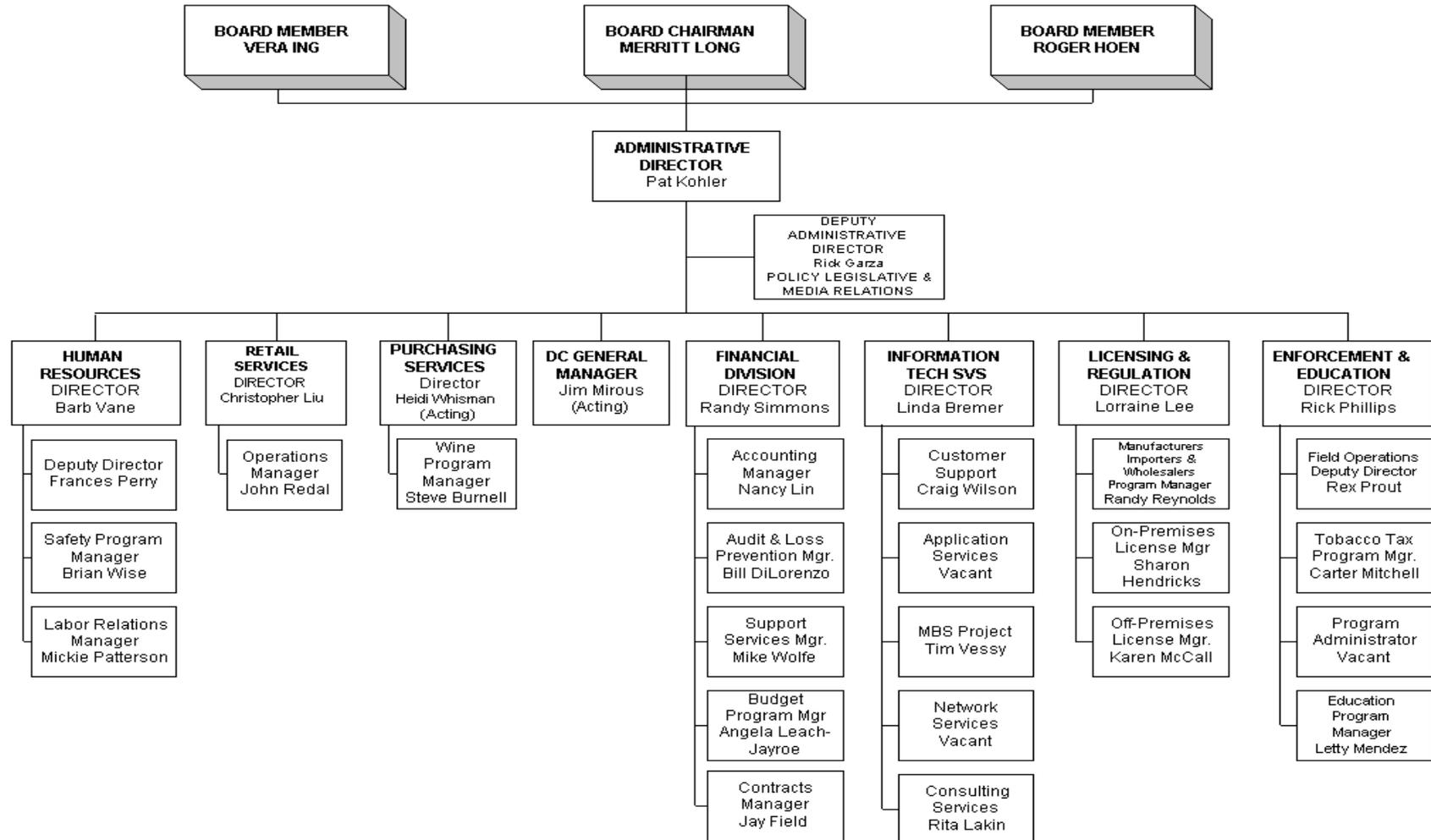
- Increase Licensing Workshops
- Continue/Expand Diversity Programs
- Conduct Statewide Awareness Campaign
- Alcohol Education Advisory Committee

#### Employee Development

- Provide Mandatory Training
- Provide Career Skills Training
- Continue Policy Development
- Provide CSR Assistance
- Improve Labor Relations

October 2004

# WASHINGTON STATE LIQUOR CONTROL BOARD



2003-2005 WSLCB Budget by Source and Program

| Program                           | General Fund<br>001 | Liquor Rev Fnd.<br>501 | Liq. Rev. Fnd.<br>501 | Const. & Main.<br>335 | Total              |
|-----------------------------------|---------------------|------------------------|-----------------------|-----------------------|--------------------|
| Board 010                         | 297,344             | 5,706,566              |                       |                       | 6,003,910          |
| Adm Serv.<br>020                  | 11,041,933          |                        |                       |                       | 11,041,933         |
| Liq. Purchase<br>Distribution 040 |                     | 34,617,960             | 19,077,108            | 5,717,000             | 119,412,068        |
| Regulatory<br>Services 050        |                     | 4,379,384              |                       |                       | 4,379,384          |
| Enforcement<br>060                | 2,651,793           | 9,874,789              |                       |                       | 12,586,582         |
| Information<br>Services 070       |                     | 10,949,032             |                       |                       | 10,949,032         |
| <b>Total</b>                      | <b>2,949,137</b>    | <b>136,569,664</b>     | <b>19,077,108</b>     | <b>5,717,000</b>      | <b>164,312,909</b> |

Column 1: \$2.95 million pays for Tobacco Tax Enforcement activities.

Column 2: Agency operations (retail, enforcement, and licensing) are funded from 501:

Column 3: \$19.077 million pays commissions for Contract Liquor Stores (non-appropriated)

Column 4: \$5.717 million pays for Certificates of Participation for Distribution Center which is funded by a \$.20 per liter surcharge

## **Most Pressing Issues or Challenges**

### **Sustain Continued Growth in Liquor Sales**

#### **Retail Sales Growth**

During the last four years, when sales tax revenues were falling statewide, the WSLCB returned record revenues to the state. This contribution in a time of need lent support to the agency's proposal, in the 2003 biennium, to add five new stores, further increasing revenue potential. These stores were approved – the first new stores approved in 23 years. During the coming decade, the WSLCB has the potential to return more than \$3 billion in revenue to the state if it is allowed to continue to add new personnel, stores and equipment to serve a growing statewide customer base.

The agency has increased revenue returned to the state at an annual rate of nearly 5 percent during the last seven years. About \$248 million was returned in 2004. Much of this has resulted from higher gross sales totals. Total agency revenues from all sources reached \$651.6 million in 2004 (see Agency Facts). Statewide growth in the number of drinking-age adults, an increase in the number of licensed establishments and consumers 'buying up' all contribute to increased gross sales, which are the primary revenue driver. Total sales should continue to increase at a rate of 4.8 percent annually for the foreseeable future based on population growth estimates and consumption trends.

Stores are currently under-staffed in the wake of this growth. There are fewer store hours appropriated now than there were seven years ago. As liquor sales have grown rapidly, store personnel have been stretched to the limit. Additional store FTEs and additional stores are needed to increase revenue and serve the state's growing population. Four new stores are being requested for 2005-2007. These four new stores will produce an estimated \$17 million in total sales annually, which equals a return to the state of \$6.5 million.

#### **Distribution Center Capacity**

The agency's Seattle Distribution Center, which serves more than 360 state, contract, military and tribal stores, is operating at maximum capacity. The agency has proposed a \$17.5 million expansion of the center for 2005-2007. Without this plant capacity, the DC will not be able to supply our stores with enough product to meet demand and we will begin to lose sales. This will reduce revenue returned to the state now and hurt our long-range revenue generating potential substantially.

#### **Technology**

Many technology upgrades have been implemented in the stores and Distribution Center during the last two years. More are needed to help us catch up and move ahead after years of under-funding. New technology is one of the agency's top priorities, as the WSLCB strives to improve customer service and manage our business and regulatory operations more strategically.

### **Pressure to Privatize Liquor Sales**

The state's role in the sale of liquor has been the subject of many discussions, studies, and legislative proposals during the last two decades. Two privatization studies have been conducted, one under former Gov. John D. Spellman and one under Gov. Gary Locke. These studies concluded the public's interest is best served by the state's controlled distribution system. A third effort by former Gov. Mike Lowry to privatize the state control system failed to make it out of legislative committee.

A number of national studies referenced in materials published by the National Alcohol Beverage Control Association (NABCA) have linked increased per-capita alcohol consumption with increased social and health costs. One study in the 1990s of a control state with a population similar to Washington's estimated that state's control system saved it more than \$200 million annually in health and social costs.

A NABCA study found that adults in control states consume an average of 1.58 gallons of spirits annually, which those in non-control states consume an average of 1.9 gallons annually. In addition, the NABCA study found that control states return nearly twice as much revenue as non-control states.

In 2004, the \$248 million in revenue returned by the agency supported the following state services:

- 55% to General Fund
- 19% to Cities/Counties
- 17% to Health Services
- 8% to Education/Prevention
- 1% to Research

### **Alcohol Impact Areas**

The WSLCB passed a rule in 2001 allowing communities to form Alcohol Impact Areas (AIAs), zones in which the sale of certain high-alcohol products in 'to-go' containers is prohibited. The new rules require communities to involve a range of stakeholders in the formation of an AIA: police, merchants, social workers, health officials and neighborhood groups. AIAs have been created in Tacoma and the Pioneer Square area of Seattle. A second AIA is being formed in Seattle.

### **Legal Challenges**

#### **Costco vs. Hoen, et al.**

Costco filed suit in early 2004 against the Liquor Control Board members, in their official capacities, seeking to overturn the laws establishing the state's three-tier distribution system for beer and wine. The case is currently before a U.S. District Court judge in Seattle and is not expected to go to trial before the fall of 2005. A team of attorneys from the Washington Attorney General's Office is defending the state. The Washington Beer and Wine Wholesalers Association (WBWWA) has intervened in the suit as a defendant.

Three-tier systems are common throughout the United States in control and non-control states. Under Washington's laws, manufacturers may sell to licensed distributors (middlemen), who in turn may sell to licensed retailers. Manufacturers are prohibited from selling directly to

retailers. Both manufacturers and distributors must sell at a minimum of a 10 percent markup and are prohibited from offering quantity discounts or selling on credit. The primary purpose of this system is to prevent manufacturers from exercising control over the retail market, which could destabilize prices and encourage predatory pricing practices and over-consumption.

Costco seeks to overturn laws establishing

- minimum markups
- a ban on credit purchases by retailers
- a ban on direct shipping from out-of-state manufacturers to retailers
- a ban on warehousing by retailers
- a ban on quantity discounts
- price posting requirements on distributors

Costco alleges state laws establishing the three-tier system violate the federal Sherman Anti-Trust Act and the Constitutions of the United States and the State of Washington . The state maintains it has the right to regulate alcohol importation, distribution, sale and manufacture under the 21<sup>st</sup> Amendment to the Constitution, which repealed prohibition. It further disputes Costco's anti-trust claims. U.S. Circuit Courts have handed down differing decisions on issues of law central to the Costco suit. It is expected the final resolution to this suit may come from the U.S. Supreme Court.

#### **Direct Shipping Case before U.S. Supreme Court**

A pending appeal before the U.S. Supreme Court is likely to impact the WSLCB 's regulation of interstate shipment of wine or beer and the outcome of the Costco lawsuit. The issue before the Supreme Court is whether it is a violation of the dormant Commerce Clause for a state to restrict out-of-state wineries from shipping wine directly to consumers, yet allow in-state wineries to do so, in light of the broad powers granted to the states by the 21st Amendment.

Currently, many states restrict the interstate sale and direct shipment of wine to consumers. Washington, for example, has reciprocal shipping agreements with 19 states permitting direct shipments of limited quantities of wine to private consumers. The WSLCB did not file or join in any amicus brief in this case, though the Washington State Attorney General's Office has indicated it intends to.

## Board Member Listing by Board Position

### LIQUOR CONTROL BOARD (GS095)

|                                   |                 |                        |
|-----------------------------------|-----------------|------------------------|
| Agency 195 - Liquor Control Board | Senate Conf. Y  | Positions: Maximum 003 |
| Authority Governor                | Public Disc. Y  | Minimum 000            |
| Authoriztn. RCW 66.08.012         | Term Length 072 | Actual 003             |
| Rem. Auth. SC                     | Meetings/Yr. 52 |                        |

| <u>Pos. #</u> | <u>Name and Address</u>                                     | <u>Status</u> | <u>Race</u>    | <u>Appointed</u> | <u>Expires</u> |
|---------------|---|---------------|----------------|------------------|----------------|
| 001           | Hoen, Roger<br>11421 20th Avenue South<br>Seattle, WA 98168 | A             | C              | 01/16/2003       | 01/15/2009     |
|               |   | Terms Served  | 02             |                  |                |
|               |   | Position      | a member       |                  |                |
|               |   | Comments      | General Public |                  |                |

| <u>Pos. #</u> | <u>Name and Address</u>                                      | <u>Status</u> | <u>Race</u>    | <u>Appointed</u> | <u>Expires</u> |
|---------------|--|---------------|----------------|------------------|----------------|
| 002           | Ing, Vera<br>3124 Lakewood Avenue South<br>Seattle, WA 98144 | A             | AP             | 01/16/2001       | 01/15/2007     |
|               |  | Terms Served  | 02             |                  |                |
|               |  | Position      | a member       |                  |                |
|               |  | Comments      | General Public |                  |                |

| <u>Pos. #</u> | <u>Name and Address</u>   | <u>Status</u> | <u>Race</u>    | <u>Appointed</u> | <u>Expires</u> |
|---------------|---|---------------|----------------|------------------|----------------|
| 003           | Long, Merritt<br>1707 Camden Park Drive SW<br>Olympia, WA 98512 | A             | AA             | 08/06/2001       | 01/15/2005     |
|               |   | Terms Served  | 01             |                  |                |
|               |   | Position      | Chair          |                  |                |
|               |   | Comments      | General Public |                  |                |