
HOUSE BILL 1729

State of Washington 55th Legislature 1997 Regular Session

By Representatives Chandler, Schoesler, Grant and Linville

Read first time 02/06/97. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to the administration of irrigation districts;
2 amending RCW 87.03.051, 87.03.435, and 87.03.560; and adding a new
3 section to chapter 87.03 RCW.

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

5 **Sec. 1.** RCW 87.03.051 and 1985 c 66 s 2 are each amended to read
6 as follows:

7 In districts with less than two hundred thousand acres, a person
8 eighteen years old, being a citizen of the United States and a resident
9 of the state and who holds title or evidence of title to assessable
10 land in the district or proposed district shall be entitled to vote
11 therein, and to be recognized as an elector. A ((domestic))
12 corporation, general partnership, limited partnership, limited
13 liability company, or other legal entity formed pursuant to the laws of
14 the state of Washington or qualified to do business in the state of
15 Washington owning land in the district shall be recognized as an
16 elector. As used in this section, "entity" means a corporation,
17 general partnership, limited partnership, limited liability company, or
18 other legal entity formed pursuant to the laws of the state of
19 Washington or qualified to do business in the state of Washington.

1 "Ownership" shall mean the aggregate of all assessable acres owned by
2 an elector, individually or jointly, within one district. Voting
3 rights shall be allocated as follows: Two votes for each five acres of
4 assessable land or fraction thereof. No one ownership may accumulate
5 more than forty-nine percent of the votes in one district. If
6 assessments are on the basis of shares instead of acres, an elector
7 shall be entitled to two votes for each five shares or fraction
8 thereof. The ballots cast for each ownership of land or shares shall
9 be exercised by common agreement between electors or when land is held
10 as community property, the accumulated votes may be divided equally
11 between husband and wife. Except for community property ownership, in
12 the absence of the submission of the common agreement to the secretary
13 of the district at least twenty-four hours before the opening of the
14 polls, the election board shall recognize the first elector to appear
15 on election day as the elector having the authority to cast the ballots
16 for that parcel of land for which there is more than one ownership
17 interest. A majority of the directors shall be residents of the county
18 or counties in which the district is situated and all shall be electors
19 of the district. If more than one elector residing outside the county
20 or counties is voted for as director, only that one who receives the
21 highest number of votes shall be considered in ascertaining the result
22 of the election. An agent of (~~(a domestic corporation)~~) an entity
23 owning land in the district, duly authorized in writing, may vote on
24 behalf of the (~~(corporation)~~) entity by filing with the election
25 officers his or her instrument of authority. An elector resident in
26 the district shall vote in the precinct in which he or she resides, all
27 others shall vote in the precinct nearest their residence. No director
28 shall be qualified to take or retain office unless (~~(he)~~) the director
29 holds title or evidence of title to land within the district.

30 NEW SECTION. Sec. 2. A new section is added to chapter 87.03 RCW
31 to read as follows:

32 No irrigation district, its directors, officers, employees, or
33 agents operating and maintaining irrigation works for any purpose
34 authorized by law, including the production of food for human
35 consumption and other agricultural and domestic purposes, is liable for
36 damages to persons or property arising from the disposal of sewage and
37 waste discharged by others into the irrigation works pursuant to

1 federal or state statutes, rules, or regulations permitting the
2 discharge.

3 **Sec. 3.** RCW 87.03.435 and 1990 c 39 s 1 are each amended to read
4 as follows:

5 (1) Any person to whom a contract may have been awarded for the
6 construction of a canal or any of the works of the district, or any
7 portion thereof, or for the furnishing of labor or material, shall
8 enter into a bond with good and sufficient sureties, to be approved by
9 the board of directors, payable to the district for its use, for at
10 least twenty-five percent of the amount of the contract price,
11 conditioned for the faithful performance of said contract, and with
12 such further conditions as may be required by law in the case of
13 contracts for public work, and as may be required by resolution of the
14 board. All works shall be done under the direction and to the
15 satisfaction of the engineer of the district, and be approved by the
16 board. Except as provided in subsections (2) and (3) of this section
17 and RCW 87.03.436, whenever in the construction of the district canal
18 or canals, or other works, or the furnishing of materials therefor, the
19 board of directors shall determine to let a contract or contracts for
20 the doing of the work or the furnishing of the materials, a notice
21 calling for sealed proposals shall be published. The notice shall be
22 published in a newspaper in the county in which the office of the board
23 is situated, and in any other newspaper which may be designated by the
24 board, and for such length of time, not less than once each week for
25 two weeks, as may be fixed by the board. At the time and place
26 appointed in the notice for the opening of bids, the sealed proposals
27 shall be opened in public, and as soon as convenient thereafter, the
28 board shall let the work or the contract for the purchase of materials,
29 either in portions or as a whole, to the lowest responsible bidder, or
30 the board may reject any or all bids and readvertise, or may proceed to
31 construct the work under its own superintendence.

32 (2) The provisions of this section in regard to public bidding
33 shall not apply in cases where the board is authorized to exchange
34 bonds of the district in payment for labor and material.

35 (3) The provisions of this section do not apply:

36 (a) In the case of any contract between the district and the United
37 States;

1 (b) In the case of an emergency when the public interest or
2 property of the district would suffer material injury or damage by
3 delay, upon resolution of the board of directors or proclamation of an
4 official designated by the board to act for the board during such
5 emergencies. The resolution or proclamation shall declare the
6 existence of the emergency and recite the facts constituting the
7 emergency; or

8 (c) To purchases which are clearly and legitimately limited to a
9 single source of supply or to purchases involving special facilities,
10 services, or market conditions, in which instances the purchase price
11 may be best established by direct negotiation.

12 (4) The board of directors may require bidders submitting bids for
13 the construction or maintenance for any of the works of the district,
14 or for the furnishing of labor or material, to accompany their bids by
15 a deposit in cash, certified check, cashier's check, or surety bond in
16 an amount equal to five percent of the amount of the bid and a bid
17 shall not be considered unless the deposit is enclosed with it. If the
18 successful bidder fails to enter into the contract and furnish
19 satisfactory bonds as provided by law within twenty days from the award
20 exclusive of the day of the award, the deposit shall be forfeited to
21 the district and the district may award the contract to the second
22 lowest responsible bidder. After awarding the contract, the deposits
23 of unsuccessful bidders shall be returned.

24 (5) The board of directors may, before furnishing a contract
25 proposal form to any person, firm, or corporation desiring to bid upon
26 any work or the furnishing of labor or material for which a call for
27 bid proposals has been published, require from the person, firm, or
28 corporation, answers to questions pertaining to the financial ability
29 and experience of the person, firm, or corporation in performing the
30 required work or the furnishing of the required labor or materials. In
31 the event the district is not satisfied with the sufficiency of the
32 answers of a bidder as to its financial ability and experience in
33 performing the work or the furnishing of labor or material it may
34 refuse to furnish the person, firm, or corporation with a contract
35 proposal form and any bid proposal received from a person, firm, or
36 corporation may be refused. Any refusal is conclusive unless appeal
37 therefrom is taken within five days to the superior court of the county
38 in which the principal office of the district is located, which appeal

1 shall be heard summarily within ten days after it is taken and on five
2 days' notice to the district.

3 **Sec. 4.** RCW 87.03.560 and 1889-90 p 694 s 48 are each amended to
4 read as follows:

5 The holder or holders of title, or evidence of title, representing
6 one-half or more of any body of lands (~~((adjacent to the boundary of an~~
7 ~~irrigation district, which are contiguous and which, taken together,~~
8 ~~constitute one tract of land,))~~) may file with the board of directors of
9 ((said)) an irrigation district a petition in writing, praying that the
10 boundaries of ((said)) the district may be so changed as to include
11 (~~therein—said~~) such lands. The petition shall describe the
12 boundaries of ((said)) the parcel or tract of land, and shall also
13 describe the boundaries of the several parcels owned by the
14 petitioners, if the petitioners be the owners respectively of distinct
15 parcels, but such descriptions need not be more particular than they
16 are required to be when such lands are entered by the county assessor
17 in the assessment book. Such petition must contain the assent of the
18 petitioners to the inclusion within ((said)) the district of the
19 parcels or tracts of land described in the petition, and of which
20 ((said)) the petition alleges they are respectively the owners; and it
21 must be acknowledged in the same manner that conveyances of land are
22 required to be acknowledged.

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