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**SUBSTITUTE HOUSE BILL 2710**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler and Honeyford)

Read first time 02/02/98. Referred to Committee on .

1 AN ACT Relating to the administration of irrigation districts; and  
2 amending RCW 87.03.845 and 87.80.130.

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

4 **Sec. 1.** RCW 87.03.845 and 1993 c 235 s 2 are each amended to read  
5 as follows:

6 This section and RCW 87.03.847 through 87.03.855 provide the  
7 procedures by which a minor irrigation district may be merged into a  
8 major irrigation district as authorized by RCW 87.03.530(2).

9 To institute proceedings for such a merger, the board of directors  
10 of the minor district shall adopt a resolution requesting the board of  
11 directors of the major district to consider the merger, or proceedings  
12 for such a merger may be instituted by a petition requesting the board  
13 of directors of the major district to consider the merger, signed by  
14 ten owners of land within the minor district or five percent of the  
15 total number of landowners within the minor district, whichever is  
16 greater. However, if there are fewer than twenty owners of land within  
17 the minor irrigation district, the petition shall be signed by a  
18 majority of the landowners and filed with the board of directors of the  
19 major irrigation district.

1 The board of directors of the major irrigation district shall  
2 consider the request at the next regularly scheduled meeting of the  
3 board of directors of the major district following its receipt of the  
4 minor district's request or at a special meeting called for the purpose  
5 of considering the request. If the board of the major district denies  
6 the request of the minor district, no further action on the request  
7 shall be taken.

8 If the board of the major district does not deny the request, it  
9 shall conduct a public hearing on the request and shall give notice  
10 regarding the hearing. The notice shall describe the proposed merger  
11 and shall be published once a week for two consecutive weeks preceding  
12 the date of the hearing and the last publication shall be not more than  
13 seven days before the date of the hearing. The notice shall contain a  
14 statement that unless the holders of title or evidence of title to at  
15 least twenty percent of the assessed lands within the major district  
16 file a protest opposing the merger with the board of the major district  
17 at or before the hearing, the board is free to approve the request for  
18 the merger without an election being conducted in the major district on  
19 the request. If the board of the major district is considering  
20 requests from more than one minor district, the hearing shall be  
21 conducted on all such requests.

22 **Sec. 2.** RCW 87.80.130 and 1996 c 320 s 11 are each amended to read  
23 as follows:

24 (1) A board of joint control created under the provisions of this  
25 chapter shall have full authority within its area of jurisdiction to  
26 enter into and perform any and all necessary contracts; to accept  
27 grants and loans, including, but not limited to, those provided under  
28 chapters 43.83B and 43.99E RCW, to appoint and employ and discharge the  
29 necessary officers, agents, and employees; to sue and be sued as a  
30 board but without personal liability of the members thereof in any and  
31 all matters in which all the irrigation entities represented on the  
32 board as a whole have a common interest without making the irrigation  
33 entities parties to the suit; to represent the entities in all matters  
34 of common interest as a whole within the scope of this chapter; and to  
35 do any and all lawful acts required and expedient to carry out the  
36 purposes of this chapter. A board of joint control may, subject to the  
37 same limitations as an irrigation district operating under chapter  
38 87.03 RCW, acquire any property or property rights for use within the

1 board's area of jurisdiction by power of eminent domain pursuant to  
2 chapters 8.08 and 8.25 RCW; acquire, purchase, or lease in its own name  
3 all necessary real or personal property or property rights; and sell,  
4 lease, or exchange any surplus real or personal property or property  
5 rights. Any transfers of water, however, are limited to transfers  
6 authorized under subsection (2) of this section.

7 (2) A board of joint control is authorized and encouraged to pursue  
8 conservation and system efficiency improvements to optimize the use of  
9 appropriated waters and to either redistribute the saved water within  
10 its area of jurisdiction, or, transfer the water to others, or both.  
11 A redistribution of saved water as an operational practice internal to  
12 the board of joint control's area of jurisdiction, may be authorized if  
13 it can be made without detriment or injury to rights existing outside  
14 of the board of control's area of jurisdiction, including instream flow  
15 water rights established under state or federal law. Prior to  
16 undertaking a water conservation or system efficiency improvement  
17 project which will result in a redistribution of saved water, the board  
18 of joint control must consult with the department of ecology and if the  
19 board's jurisdiction is within a United States reclamation project the  
20 board must obtain the approval of the bureau of reclamation. The  
21 purpose of such consultation is to assure that the proposal will not  
22 impair the rights of other water holders or bureau of reclamation  
23 contract water users. A board of control does not have the power to  
24 authorize a change of any water right that would change the point or  
25 points of diversion, purpose of use, or place of use outside the  
26 board's area of jurisdiction, without the approval of the department of  
27 ecology pursuant to RCW 90.03.380 and if the board's jurisdiction is  
28 within a United States reclamation project, the approval of the bureau  
29 of reclamation.

30 (3) A board of joint control is authorized to design, construct,  
31 and operate either drainage projects, or water quality enhancement  
32 projects, or both.

33 (4) Where the board of joint control area of jurisdiction is  
34 totally within a federal reclamation project, the board is authorized  
35 to accept operational responsibility for federal reserved works.

36 (5) Nothing contained in this chapter gives a board of joint  
37 control the authority to abridge the existing rights, responsibilities,  
38 and authorities of an individual irrigation entity or others within the  
39 area of jurisdiction; nor in a case where the board of joint control

1 consists of representatives of two or more divisions of a federal  
2 reclamation project shall the board of joint control abridge any powers  
3 of an existing board of control created through federal contract; nor  
4 shall a board of joint control have any authority to abridge or modify  
5 a water right benefiting lands within its area of jurisdiction without  
6 consent of the party holding the ownership interest in the water right.

7 (6) A board of joint control created under this chapter may not use  
8 any authority granted to it by this chapter or by RCW 90.03.380 to  
9 authorize a transfer of or change in a water right or to authorize a  
10 redistribution of saved water before July 1, 1997.

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