

# SENATE BILL REPORT

## SB 5824

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As Passed Senate, March 13, 2013

**Title:** An act relating to the financing of irrigation district improvements.

**Brief Description:** Regarding the financing of irrigation district improvements.

**Sponsors:** Senators Honeyford, Hatfield, Schoesler and Shin.

**Brief History:**

**Committee Activity:** Agriculture, Water & Rural Economic Development: 2/21/13 [DP].  
Passed Senate: 3/13/13, 49-0.

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

**Majority Report:** Do pass.

Signed by Senators Hatfield, Chair; Honeyford, Ranking Member; Brown, Eide, Hobbs, Schoesler and Shin.

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

**Background:** Irrigation districts are special purpose districts that provide for the construction, improvement, maintenance, and operation of irrigation systems. Irrigation districts also may provide drainage, domestic water supply, and electric power facilities. Irrigation districts are established through a landowner petition process and subsequent voter approval. A board of three, five, or seven elected directors (Board) is responsible for the management of each district. Irrigation districts may finance their operations and actions through fees, charges, and assessments, but irrigation districts do not have the authority to impose property taxes.

Irrigation districts may form local improvement districts (LIDs) within their jurisdictional boundaries. A LID is a special assessment district that is created by a sponsoring government for the purpose of funding capital improvements in a designated geographic area. The cost of the improvement, including its operation and maintenance, must be assessed through special benefit assessments against the lands within LID in proportion to the accrued benefits, although exemptions to the special benefit assessments exist for farm, agricultural, and timber lands that are classified and taxed according to lower-rate, current use provisions.

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In irrigation districts, LIDs may be formed through a Board-initiated process or through a petition-based process requiring the satisfaction of public hearing and surety bond requirements. LIDs may also be formed to qualify under the Washington State Reclamation Act, an act that provides for the reclamation of suitable lands development as agricultural lands.

In financing improvements for LIDs, irrigation districts may issue bonds or enter into a contract with the federal government, the state, or both to repay the cost of the improvement. If bonds are issued or if a contract is formed, the issued bonds or the contract are a primary obligation of the LID and a general obligation of the irrigation district.

General administrative provisions govern the issuing of the bonds, including the following: a prohibition on issuing the bonds for less than par; a requirement to issue the bonds in a denomination that is a multiple of \$100; a requirement that the bonds be signed by the president and secretary of the irrigation district; and requirements governing the production of the bonds and criminal provisions for bond printers who intend to defraud persons with facsimile signatures of district officials.

Irrigation districts that have issued LID bonds for improvements may issue, in place of these bonds, general bonds of the district. The general bonds may not be issued in excess of the LID bonds, but the district may sell the general bonds or exchange them with the owners of previously issued LID bonds for the purpose of redeeming the LID bonds.

With limited exceptions, irrigation districts that furnish or may furnish certain water, power, or drainage, or sewerage services for which rates or tolls and charges are imposed, or contract payments made, may issue and sell bonds that are payable from revenues derived from the rates, toll and charges, or contract payments for the specified services. The Board may issue revenue bonds with a 40-year maximum term without voter approval, and may issue revenue bonds with longer terms with voter approval. Districts that are in debt to the state must have approval from the Director of the Department of Ecology (Ecology) prior to issuing revenue bonds.

Irrigation districts with LIDs have a local improvement guarantee fund (Fund). The purpose of the Fund is to guarantee that payment funds are available for LID bonds, warrants, and contracts. The balance of the Fund is derived from assessments against properties in the district. Sums annually assessed for the Fund may not exceed the amount that is sufficient to pay the outstanding warrants or contract indebtedness on the Fund. The annually assessed sums are also used to establish a Fund balance, but the assessed sums may not be used to create a balance that exceeds 5 percent of the guaranteed outstanding obligations.

If a delinquency occurs with respect to a debt owed to an irrigation district, the district's treasurer must, 36 months from the month of the date of the delinquency, prepare certificates of delinquency on the property for the unpaid irrigation district assessments and for costs and interest. Properties with unpaid assessments are subject to eventual foreclosure and sale.

Irrigation districts may establish utility local improvement districts (ULID) within their territory and may levy special assessments in the same manner as for LIDs. While largely similar to a LID, the difference between the improvement districts is that under ULID

requirements, assessments and utility revenues are pledged to the repayment of ULID debt on the benefitting properties.

If a ULID is proposed in an irrigation district, a petition calling for its establishment must specify that the sole purpose of the assessments levied against the real property within the ULID must be for the payment of the proceeds of those assessments into a revenue bond fund for the payment of revenue bonds. No warrants or bonds may be issued in any such ULID, and the collection of interest and principal on all assessments in the ULID must be paid into the revenue bond fund.

**Summary of Bill:** Numerous changes to provisions governing LIDs created by irrigation districts are established.

Any LID bonds and associated interest issued against the bond redemption fund of a LID established within an irrigation district are considered a valid claim of the owner only against the improvement guarantee fund, the LID redemption fund, and the assessments or revenues pledged to these funds. The bonds do not constitute a general indebtedness against the issuing irrigation district unless the Board expressly provides by resolution for a pledge of general indebtedness.

Bonds must be issued in a denomination that is a multiple of \$1,000 and a provision specifying that no bond may be sold for less than par is deleted. A provision specifying that any contract entered into for local improvements by an irrigation district with the United States, the state of Washington, or both, must be a general obligation of the irrigation district is deleted.

Other general administrative provisions governing the issuance of bonds are also deleted, including requirements obligating the bonds to be signed by the president and secretary of the irrigation district, and requirements governing the production of the bonds and criminal provisions for bond printers who intend to defraud persons with facsimile signatures of district officials.

Irrigation districts that have issued LID bonds for improvements may issue, in place of these bonds, LID or revenue refunding bonds of the district in accordance with bond refunding requirements.

A requirement that districts that are in debt to the state must have approval from the Director of Ecology prior to issuing revenue bonds is deleted.

Requirements governing the petition process to form a LID in an irrigation district are modified, as such: (1) surety bond requirements for persons petitioning the formation of a LID within an irrigation district are deleted; (2) the petition proposal to form a LID may be dismissed without cost to the petitioners if the Board determines that its formation is not in the best interest of the district; and (3) a public hearing required during the formation process may be conducted by a hearing officer who will report recommendations on the establishment of the LID to the Board for final action.

A LID may include adjoining, vicinal, or neighboring improvements even though the improvements and the properties benefited are not connected or continuous. Additionally, upon approval of the Board of an adjoining irrigation district, an irrigation district may form LIDs or ULIDs that are composed entirely or partially of territory within that adjoining district.

A LID established in an irrigation district is authorized to use the formation, levying, collection, and enforcement by foreclosure methods employed by cities and towns. A provision specifying that LIDs may also be formed to qualify under the Washington State Reclamation Act is deleted.

The costs of the improvement for a LID in an irrigation district must include, but are not limited to, several specified costs, including the following: the cost of all of the construction or improvement authorized for the district; the estimated cost and expense of ascertaining the ownership of the lots or parcels of land included in the assessment district; and the cost for legal, financial, and appraisal services and any other expenses incurred by the district for the LID or in the formation of the LID.

Subject to action by the Board, any of the delineated costs of improvements may be excluded from the cost and expense to be assessed against the property in the LID and may be paid from any other monies available. Additionally, the Board is authorized to give credit for all or any portion of any property or other donation against an assessment, charge, or other required financial contribution for improvements within a LID. Provisions governing district treasurer responsibilities are modified, and the Board is authorized to conduct a hearing on the assessment roll and to report recommendations on the roll to the Board for final action.

The annually assessed sums in an irrigation district's Fund may not exceed 10 percent of the guaranteed outstanding obligations. The balance of the Fund may also be established from the deposit of prepaid local improvement assessments or proceeds of LID bonds.

A provision in current-use property tax provisions that exempts farm, agricultural, and timber lands from special benefit assessments of LIDs is modified. Farm, agricultural, and timber lands that are taxed according current-use provisions are subject to special benefit assessments for a LID created by an irrigation district.

If a delinquency occurs with respect to a LID assessment, the district's treasurer has 24 months from the month of the date of delinquency to prepare certificates of delinquency on the property for the unpaid assessments and for costs and interests.

Provisions governing the petition-based process of forming ULIDs in irrigations districts are modified. The petition calling for the formation must specify that special assessments paid before issuance and sale of bonds may be deposited in a fund for the payment of costs of improvements in the ULID.

**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:** PRO: This is a highly technical bill that updates the 1929 LID laws for irrigation districts, bringing the statutes up to modern standards and matching them with existing bonding authorities. It is prompted by the pending implementation of the Odessa study to bring irrigation to 70,000 acres and drinking water to 200,000 people currently served by deep wells that are thought to be subject to some extent of depletion. This funding mechanism is parallel to the federal model which is not thought to be viable in these times.

**Persons Testifying:** Pro: Senator Honeyford, prime sponsor; Mike Schwisow, WA State Water Resources Assn.