

SENATE BILL REPORT

SB 6514

As of January 28, 2020

Title: An act relating to irrigation district elections.

Brief Description: Addressing irrigation district elections.

Sponsors: Senators Schoesler and Hunt.

Brief History:

Committee Activity: Local Government: 1/28/20.

Brief Summary of Bill

- Requires the county assessor or assessors of each irrigation district to establish and provide to the district a list of all qualified land owners in the district by, January 1, 2021.
- Establishes irrigation district election requirements relating to notice, absentee voting, ballot handling, penalties, and other processes.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Staff: Greg Vogel (786-7413)

Background: Irrigation Districts—Generally. Irrigation districts provide for the construction, improvement, maintenance, and operation of irrigation systems. An irrigation district is formed when 50 or a majority of the landowners in an area propose the creation of a district and the district is approved by two-thirds of voters.

An irrigation district board of directors may consist of three, five, or seven directors. Elections for directors are held on the second Tuesday of December of each year. Directors serve staggered three-year terms.

Irrigation Districts—Voting Rights. Voters must hold title or evidence of title to land in the district to be eligible to vote.

In a district with 200,000 acres or more, landowners receive one vote for their first 10 acres of land and an additional vote for all land over 10 acres. If land is community property, both

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the husband and wife may vote if otherwise qualified. An agent of a corporation owning land in the district may vote on behalf of the corporation if appropriately registered.

In a district with fewer than 200,000 acres, each landowner receives two votes for each five acres of assessable land or fraction thereof. However, no one ownership may possess more than 49 percent of the votes in the district. "Ownership" means the aggregate of all assessable acres owned by an elector, individually or jointly, within one district. If land is community property, votes are divided equally between husband and wife. A corporation, partnership, limited liability company, or other legal business entity that owns land in the district is entitled to vote.

If more than 50 percent of the total acreage of the district consists of individual ownerships of less than 5 acres, electors are entitled to two votes regardless of the size of ownership. If land is community property, a husband and wife each receive one vote or may vote by common agreement.

Irrigation Districts—Elections. The board of directors determines the polling location for an election and appoints an inspector and two judges for each election, who together constitute the board of elections.

Absentee voting is permitted upon request and certification that the qualified district elector cannot conveniently be present to cast their ballot at their proper election precinct on the day of the irrigation district election. Absentee ballots may also be furnished to qualified district electors in any way deemed convenient without regard to requests having been made.

Ballots are counted in public by the inspector. As soon as votes are counted at a polling place, a certificate is drawn and signed by the board of elections. The board of directors meets the following Monday to canvass the returns.

Summary of Bill: The county assessor or assessors of each irrigation district must establish and provide to the district a list of all qualified land owners in the district by January 1, 2021. "Qualified land owner" is defined as a person who meets all age, citizenship, residence, and property ownership requirements to vote in district elections. Thereafter, the county assessor or assessors of each district must annually maintain, update, and provide to the district the list of all qualified land owners residing within the district. Counties are authorized to impose a one-time assessment at the rate of \$1 per acre for the purposes of establishing this list.

Property tax statements must notify the taxpayer if the taxpayer resides in an irrigation district and if the taxpayer is eligible to vote or declare for candidacy within a district.

Any qualified district elector is entitled to vote by absentee ballot in any irrigation district election. Voting by absentee ballot is established as the regular method for the return of votes cast in an irrigation district election, but districts may choose to conduct elections at designated polling places.

The following irrigation district election security requirements are established:

- two envelopes must be provided for each ballot to ensure ballot secrecy;

- two individuals, not on the ballot, must be present at all times when ballots are controlled;
- each ballot box must be secured and locked, and closed with tamper-evident seals;
- any district staff carrying out official ballot or election duties must not be a candidate on the election ballot;
- ballot envelopes must not be opened immediately, and only opened in batches;
- tabulated votes must be reconciled with the number of ballots received; and
- processing of ballots must be open to the public.

An irrigation district election must still be held even if only one qualified candidate has been nominated. In such case, the ballot for such position must provide the name of the nominated candidate and a space for writing in any other qualified candidate who was eligible to be nominated prior to the expiration of the date for filing petitions of nomination.

Thirty-day notice for each district election and 60-day notice for the deadline for filing petitions of nomination must be provided to each qualified land owner either by mail or electronic communication.

Each district must establish and maintain a website, either individually or through the Washington State Water Resources Association, in order to communicate with qualified landowners.

Each district must establish a voter challenge process and a written cure procedure for curing errors in ballot processing.

Districts must maintain and make available to the public lists and reports of ballots, election outcomes, voter challenges and challenge outcomes, and curing of errors.

The following criminal penalties are established for district election security violations:

- any person who willfully violates irrigation district ballot handling provisions related to individuals present, ballot box security, or ballot processing is guilty of a gross misdemeanor;
- any person who, without lawful authority, removes a ballot from a polling place or ballot drop location is guilty of a gross misdemeanor; and
- any person who deceives any voter in recording their vote by providing incorrect or misleading recording information or by providing faulty election equipment or records, or records the vote of any voter in a manner other than as designated by the voter is guilty of a gross misdemeanor.

The secretary of state must adopt model rules and standard practices in order to assist districts in implementing the election requirements.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: County officials have looked at these district elections and recognized this as unique. As we had meetings, questions came up about basic ballot security, requesting an absentee ballot, and writing in candidates. The bill is pretty much from all of this work. When you here there is an election and every ballot for one candidate is folded in the same manner, people get suspicious. We need to modernize the process and yet at the same understand the unique character of irrigation districts.

CON: Many of our recommendations are reflected in the bill, but the report also spoke to significant differences between district statutes and the election practices of county auditors. These are apples and oranges systems in many different ways. County auditors found that no tweaks to the current system would bring them closer together. The bill includes solutions beyond our report that are costly and not recommendable. County treasurers are not experts in elections and would advocate that a tax statement is not a good vehicle for voter advocacy or notifying voters.

OTHER: The larger districts have the capabilities to accomplish what is in the bill but the smaller districts would be challenged. One of the good things that happened out of the report was the creation of a best practices manual and this was recently utilized in the Wenatchee reclamation district. There are some concerns with the first two sections of the bill. Section one creates a qualified owner list, and we are not sure if this is intended to be a poll list or not.

There has been an evolution over time with districts. Many have significant turnover in their list of customers and would not be able to keep up with the turnover. Districts know the farmer and the farmers know the districts. The problems identified come from one particular area. Potential costs from this bill would be significant and put a burden on ratepayers and other parts of the operating budget. Districts have some serious concerns with this bill.

Persons Testifying: PRO: Senator Mark Schoesler, Prime Sponsor.

CON: Jennifer Wallace, Washington Association of County Officials, Washington State Association of County Auditors; Jeff Gadman, Washington Association of County Treasurers, Thurston County Treasurer; Deanna Walter, Washington Association of County Assessors, Chelan County Assessor.

OTHER: Mike Schwisow, Washington State Water Resources Association; Scott Revell, Roza Irrigation District; Jim Willard, Roza Irrigation District; Kip Drummond, Kennewick Irrigation District; Dave McKenzie, Kennewick Irrigation District.

Persons Signed In To Testify But Not Testifying: No one.