
SUBSTITUTE SENATE BILL 5342

State of Washington

67th Legislature

2021 Regular Session

By Senate Housing & Local Government (originally sponsored by Senators Schoesler, Dozier, Hunt, and Mullet)

READ FIRST TIME 02/15/21.

1 AN ACT Relating to irrigation district elections; amending RCW
2 87.03.031, 87.03.032, 87.03.033, 87.03.045, 87.03.051, 87.03.071,
3 87.03.075, 87.03.085, and 87.03.105; adding new sections to chapter
4 87.03 RCW; and prescribing penalties.

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

6 **Sec. 1.** RCW 87.03.031 and 2013 c 23 s 481 are each amended to
7 read as follows:

8 Any qualified district elector (~~who certifies as provided in RCW~~
9 ~~87.03.032 through 87.03.034 that he or she cannot conveniently be~~
10 ~~present to cast his or her ballot at his or her proper election~~
11 ~~precinct on the day of any irrigation district election~~) shall be
12 entitled to vote by absentee ballot (~~in such election~~) in the
13 manner herein provided.

14 **Sec. 2.** RCW 87.03.032 and 2013 c 23 s 482 are each amended to
15 read as follows:

16 (1) The notice of election shall conform to the requirements for
17 election notices provided by (~~Title 87 RCW~~) this chapter for the
18 election being held, and shall specify (~~in addition~~) that any
19 qualified district elector (~~who certifies that he or she cannot~~
20 ~~conveniently be present at his or her proper election precinct on the~~

1 ~~day of election~~) may vote by absentee ballot, and that a ballot and
2 form of certificate of qualifications will be furnished to him or her
3 on written request being made of the district's secretary. The
4 requisite ballot and a form of certificate of qualifications shall be
5 furnished by the district's secretary to any person who prior to the
6 date of election makes written request therefor, stating that he or
7 she is a qualified district elector. Such ballot and form may be
8 furnished also to qualified district electors in any way deemed to be
9 convenient without regard to requests having been made therefor.

10 (2) The board of directors may by adoption of a resolution choose
11 to conduct an election using only mail-in ballots in lieu of polling
12 places and absentee ballots. The district shall provide ballots to
13 qualified electors derived from its assessment roll, toll and charge
14 roll, or other district records and may also use the county
15 assessor's or other public records to assist in determining qualified
16 electors. Ballots will be in the same format as provided in RCW
17 87.03.033. Persons or entities who have not received a ballot and
18 believe they are qualified electors may provide documents
19 demonstrating they are qualified electors at the district main office
20 by the close of business on the day before the election and receive a
21 ballot if qualified to vote in the election.

22 **Sec. 3.** RCW 87.03.033 and 2013 c 23 s 483 are each amended to
23 read as follows:

24 (1) To be counted in a given election, an absentee ballot or
25 ballots in a mail-in election must conform to these requirements:

26 (a) It must be sealed in (~~an unmarked~~) a security envelope,
27 which may provide instructions for completing the ballot and which
28 position is being contested, but have no other marks that would
29 identify the elector, and then be placed in an additional outer
30 envelope and delivered to the district's principal office prior to
31 the close of the polls on the day of that election; or be (~~sealed in~~
32 ~~an unmarked envelope and~~) mailed to the district's secretary,
33 postmarked not later than midnight of that election day and received
34 by the secretary within (~~five~~) seven days of that date.

35 (b) To ensure secrecy of the vote, the security envelope must be
36 sealed within an additional outer envelope, requiring the ballot to
37 be provided with two envelopes for ballot return.

38 (c) The sealed envelope containing the ballot shall be
39 accompanied by a certificate of qualifications stating, with respect

1 to the voter, his or her name, age, citizenship, residence, that he
2 or she holds title or evidence of title to lands within the district
3 which, under ((RCW 87.03.045)) this chapter entitles him or her to
4 vote in the election(~~(, and that he or she cannot conveniently be~~
5 ~~present to cast his or her ballot at his or her proper election~~
6 ~~precinct on election day))~~).

7 ((~~(e)~~)) (d) The statements in the certificate of qualifications
8 shall be certified as correct by the voter by the affixing of his or
9 her signature thereto ((~~in the presence of a witness who is~~
10 ~~acquainted with the voter, and the voter shall enclose and seal his~~
11 ~~or her ballot in the unmarked envelope in the presence of this~~
12 ~~witness but without disclosing his or her vote. The witness, by~~
13 ~~affixing his or her signature to the certificate of qualifications,~~
14 ~~shall certify that he or she is acquainted with the voter, that in~~
15 ~~his or her presence the voter's signature was affixed and the ballot~~
16 ~~enclosed as required in this paragraph)), certifying under penalty of
17 perjury that he or she meets the qualifications to vote.~~

18 (2) The form of statement of qualifications and its certification
19 shall be substantially as prescribed by the district's board of
20 directors. The district may print the statement of qualifications on
21 the outer envelope in lieu of including a separate statement of
22 qualifications form. This form may also provide that the voter shall
23 describe all or some part of his or her lands within the district
24 which, under ((RCW 87.03.045)) this chapter entitles him or her to
25 vote in the election, but a voter otherwise qualified shall not be
26 disqualified because of the absence or inaccuracy of the description
27 so given. The regular form of irrigation district ballot shall be
28 used by absentee voters.

29 **Sec. 4.** RCW 87.03.045 and 2013 c 23 s 484 are each amended to
30 read as follows:

31 In districts with two hundred thousand acres or more, a person
32 eighteen years old, being a citizen of the United States and a
33 resident of the state and who holds title or evidence of title to
34 land that is assessed or is assessable by the district pursuant to
35 federal and state law, in the district or proposed district shall be
36 entitled to vote therein. He or she shall be entitled to one vote for
37 the first ten acres of said land or fraction thereof and one
38 additional vote for all of said land over ten acres. A majority of
39 the directors shall be residents of the county or counties in which

1 the district is situated and all shall be electors of the district.
2 If more than one elector residing outside the county or counties is
3 voted for as director, only that one who receives the highest number
4 of votes shall be considered in ascertaining the result of the
5 election. Where land is community property both the husband and wife
6 may vote if otherwise qualified. An agent of a corporation, general
7 partnership, limited partnership, limited liability company, or other
8 legal entity formed pursuant to the laws of the state of Washington
9 or qualified to do business in the state of Washington owning land in
10 the district, duly authorized in writing, may vote on behalf of the
11 (~~corporation~~) land owning entity by filing with the election
12 officers his or her instrument of authority. The agent of such entity
13 is considered an elector of the district, and shall vote in the
14 precinct where the entity's principal office is located or in the
15 precinct nearest the location of the principal office. An elector
16 resident in the district shall vote in the precinct in which he or
17 she resides, all others shall vote in the precinct nearest their
18 residence.

19 **Sec. 5.** RCW 87.03.051 and 1997 c 354 s 1 are each amended to
20 read as follows:

21 In districts with less than two hundred thousand acres, a person
22 eighteen years old, being a citizen of the United States and a
23 resident of the state and who holds title or evidence of title to
24 (~~assessable~~) land in the district or proposed district that is
25 assessed or is assessable by the district pursuant to federal and
26 state law, shall be entitled to vote therein, and to be recognized as
27 an elector. A corporation, general partnership, limited partnership,
28 limited liability company, or other legal entity formed pursuant to
29 the laws of the state of Washington or qualified to do business in
30 the state of Washington owning land in the district shall be
31 recognized as an elector. As used in this section, "entity" means a
32 corporation, general partnership, limited partnership, limited
33 liability company, or other legal entity formed pursuant to the laws
34 of the state of Washington or qualified to do business in the state
35 of Washington. "Ownership" shall mean the aggregate of all assessable
36 acres owned by an elector, individually or jointly, within one
37 district. Voting rights shall be allocated as follows: Two votes for
38 each five acres of assessable land or fraction thereof. No one
39 ownership may accumulate more than forty-nine percent of the votes in

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

29 **Sec. 6.** RCW 87.03.071 and 1985 c 66 s 3 are each amended to read
30 as follows:

31 In any irrigation district where more than fifty percent of the
32 total acreage of the district is owned in individual ownerships of
33 less than five acres, each elector who is otherwise qualified to vote
34 pursuant to RCW ((87.03.045)) 87.03.051 shall be entitled to two
35 votes regardless of the size of ownership. Each ownership shall be
36 represented by two votes. If there are multiple owners or joint
37 owners of a single ownership, the owners shall decide among
38 themselves what their two votes shall be. If the ownership is held as
39 community property, the husband shall be entitled to one vote and the

1 wife shall be entitled to one vote or they may vote by common
2 agreement.

3 **Sec. 7.** RCW 87.03.075 and 2013 c 23 s 485 are each amended to
4 read as follows:

5 Voting in an irrigation district shall be by ballot. Ballots
6 shall be of uniform size and quality, provided by the district, and
7 for the election of directors shall contain only the names of the
8 candidates who have filed with the secretary of the district a
9 declaration (~~(in writing)~~) of their candidacy (~~(, or)~~) by submitting a
10 petition of nomination as hereinafter provided, not later than five
11 o'clock p.m. on the first Monday in (~~November~~) October. Ballots
12 shall contain space (~~(for sticker voting or)~~) for the writing in of
13 the name of an undeclared candidate. Ballots shall be issued by the
14 election board according to the number of votes an elector is
15 entitled to cast. A person filing a declaration of candidacy (~~(, or)~~)
16 by submitting a petition of nomination as hereinafter provided, shall
17 designate therein the position for which he or she is a candidate. No
18 ballots on any form other than the official form shall be received or
19 counted.

20 In any election for directors where the number of votes which may
21 be received will have no bearing on the length of the term to be
22 served, the candidates for the position of director (~~(, in lieu of~~
23 ~~filing a declaration of candidacy hereunder, shall file with the~~
24 ~~secretary of the district)~~) shall file with the secretary of the
25 district a declaration of their candidacy by submitting a petition of
26 nomination, on a form prescribed by the district, signed by at least
27 ten qualified electors of the district, or of the division if the
28 district has been divided into director divisions, not later than
29 five o'clock p.m. on the first Monday in (~~November~~) October. If,
30 after the expiration of the date for filing (~~(petitions of~~
31 ~~nomination)~~) a declaration of candidacy, it appears that only one
32 qualified candidate has (~~(been nominated thereby)~~) declared their
33 candidacy for each position to be filled it shall not be necessary to
34 hold an election, and the board of directors shall at their next
35 meeting declare such candidate elected as director. The secretary
36 shall immediately make and deliver to such person a certificate of
37 election signed by him or her and bearing the seal of the district.
38 The procedure set forth in this paragraph shall not apply to any
39 other irrigation district elections.

1 **Sec. 8.** RCW 87.03.085 and 1987 c 123 s 1 are each amended to
2 read as follows:

3 (1) Fifteen days before any election held under this chapter,
4 subsequent to the organization of any district, the secretary of the
5 board of directors shall cause notices to be posted in three public
6 places in each election precinct, of the time and place of holding
7 the election. The secretary shall also post a general notice of the
8 same in the office of the board, which shall be established and kept
9 at some fixed place to be determined by the board, specifying the
10 polling places of each precinct. Prior to the time for posting the
11 notices, the board must appoint for each precinct, from the electors
12 thereof, one inspector and two judges, who shall constitute a board
13 of election for the precinct. If the board fails to appoint a board
14 of election, or the members appointed do not attend at the opening of
15 the polls on the morning of election, the electors of the precinct
16 present at that hour may appoint the board, or supply the place of an
17 absent member thereof. The board of directors must, in its order
18 appointing the board of election, designate the house or place within
19 the precinct where the election must be held. However, in any
20 irrigation district that is less than two hundred thousand acres in
21 size and is divided into director divisions, the board of directors
22 in its discretion may designate one polling place within the district
23 to serve more than one election precinct. The board of directors of
24 any irrigation district may designate the principal business office
25 of the district as a polling place to serve one or more election
26 precincts and may do so regardless of whether the business office is
27 located within or outside of the boundaries of the district. If the
28 board of directors does designate a single polling place for more
29 than one election precinct, then the election officials appointed by
30 the board of directors may serve more than one election precinct and
31 the election officials may be electors of any of the election
32 precincts for which they are the election board.

33 (2)(a) The following additional notice requirements apply to
34 districts that qualify and have designated their own treasurer as
35 provided in RCW 87.03.440:

36 (i) The district must annually notify qualified electors, either
37 by mail, electronic communication, or by posting on the district's
38 website, of the following:

39 (A) The names of the board of directors and dates their terms
40 expire;

1 (B) The method and deadline for declaring candidacy under RCW
2 87.03.075; and

3 (C) A description of the district voting procedure and how the
4 qualified elector may request an absentee ballot, if the district is
5 not using the mail-in ballot procedure.

6 (ii) The district will use its assessment roll, toll and charge
7 roll, or other district records to provide notice to known qualified
8 electors and may also use the county assessor's or other public
9 records to assist in determining qualified electors.

10 (iii) A district that makes water deliveries to an entity which
11 is responsible for paying assessments or tolls and charges and that
12 entity subsequently distributes that water to lands within the
13 entity's jurisdiction is only required to provide the annual notice
14 to the entity paying the assessment or toll and charge.

15 (iv) Any person who becomes a qualified elector after the annual
16 notice required by this section and before a subsequent election is
17 eligible to vote in the election. Receiving or not receiving the
18 annual notice provided in this section does not affect whether the
19 person or entity is a qualified elector.

20 (b) Each district must establish and maintain election
21 information on a website, either individually or through the
22 Washington state water resources association, in order to communicate
23 with qualified electors. The website must include, but is not limited
24 to, the names of the board of directors, district election rules
25 provided in this chapter, information on elections including election
26 results, and contact information for the district.

27 **Sec. 9.** RCW 87.03.105 and 1889-90 p 676 s 9 are each amended to
28 read as follows:

29 No list, tally paper or certificate returned from any election
30 shall be set aside or rejected for want of form, if it can be
31 satisfactorily understood. The board of directors must meet at its
32 usual place of meeting on the (~~first Monday~~) second Wednesday after
33 each election, to canvass the returns. If, at the time of meeting,
34 the returns from each precinct in the district in which the polls
35 were opened have been received, the board of directors must then and
36 there proceed to canvass the returns, but if all the returns have not
37 been received, the canvass must be postponed from day to day until
38 all the returns have been received, or until six postponements have
39 been had. The canvass must be made in public, and by opening the

1 returns and estimating the vote of the district for each person voted
2 for, and declaring the result thereof. If an undeclared write-in
3 candidate for a position of director receives the most votes, the
4 board of directors must determine whether that candidate is a
5 qualified elector for that specific position. A qualified elector for
6 the position of director must be 18 years of age, a citizen of the
7 United States, a resident of the division of the district for which
8 the director is being elected, or the designated agent of an entity
9 that owns land within that division. If that candidate is not a
10 qualified elector, the qualified elector receiving the next highest
11 number of votes will be deemed elected to the position.

12 NEW SECTION. **Sec. 10.** A new section is added to chapter 87.03
13 RCW to read as follows:

14 The following election security requirements apply to districts
15 that qualify and have designated their own treasurer as provided in
16 RCW 87.03.440:

17 (1) At all times when ballots are being controlled including, but
18 not limited to, receipt, opening of ballots, certification,
19 tabulation, reconciliation, or any other type of processing, two
20 individuals not on the ballot must be present.

21 (2) (a) Each ballot box must be secured and locked, with a deposit
22 slot, and clearly marked as an "official ballot box." Ballot box keys
23 must be provided to district election officials only, or designated
24 district staff if available;

25 (b) Each ballot box must be closed with tamper-evident seals with
26 a paper seal log:

27 (i) Each time the box is opened, a new seal log must be signed,
28 with the seal number noted and dated;

29 (ii) When the box is opened, the previous seal log must be
30 compared to the cut seal and initialed; and

31 (iii) All seal logs must be retained for six months after the day
32 of the election;

33 (c) Each ballot box must be physically secured so that it cannot
34 be stolen or moved, and may only be moved by district election
35 officials, or designated district staff if available;

36 (d) Any election officials or district staff carrying out
37 official ballot or election duties may not be a candidate on the
38 election ballot.

1 (3) (a) Ballot envelopes may not be opened immediately after voter
2 deposit. Ballot tabulation may only begin after the polls are closed
3 and ballots must be opened in batches, rather than individually;

4 (b) The number of tabulated ballots must be reconciled with the
5 number of ballots received;

6 (c) Tabulated ballots must be stored separately from uncounted or
7 challenged ballots as referenced in subsection (4) of this section;

8 (d) Canvassing of ballots must be open to observation by the
9 public;

10 (e) Any election officials or district staff participating in the
11 processing of ballots may not be a candidate on the ballot;

12 (f) Once canvassing of ballots is completed, date and time of the
13 verification of canvassing must be posted in either: (i) The district
14 office, for at least two weeks; (ii) on the district website, for at
15 least two weeks; or (iii) at least once a week for two weeks in one
16 or more newspapers of general circulation within the irrigation
17 district.

18 (4) (a) Each district must establish a written challenge process
19 in order to allow individuals to challenge the vote of an individual
20 voter;

21 (b) Written challenge procedures must be established for
22 challenges made by both the public and district election officials or
23 staff, including the time period during which challenges must be
24 made;

25 (c) Within seven days of the resolution of the challenge, the
26 outcome of the challenge must be posted in either: (i) The district
27 office, for at least two weeks; (ii) on the district website, for at
28 least two weeks; or (iii) at least once a week for two weeks in one
29 or more newspapers of general circulation within the irrigation
30 district.

31 (5) Each district must establish a written cure procedure for
32 curing errors that occurred during ballot canvassing or are
33 discovered through valid voter challenges, including a clear timeline
34 for when the cure will occur.

35 (6) Lists and reports of ballots, election outcomes, voter
36 challenges and challenge outcomes, and curing of errors must be
37 maintained by each district for six months after the date of the
38 election and made available to the public.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 87.03
2 RCW to read as follows:

3 (1) Any person who willfully violates any of the provisions of
4 section 10 (1) through (3) of this act is guilty of a gross
5 misdemeanor punishable under RCW 9A.20.021.

6 (2) Any person who, without lawful authority, removes a ballot
7 from a polling place or ballot drop location is guilty of a gross
8 misdemeanor punishable under RCW 9A.20.021.

9 (3) A person is guilty of a gross misdemeanor punishable under
10 RCW 9A.20.021 who knowingly:

11 (a) Deceives any voter in recording his or her vote by providing
12 incorrect or misleading recording information or by providing faulty
13 election equipment or records; or

14 (b) Records the vote of any voter in a manner other than as
15 designated by the voter.

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