

SENATE BILL REPORT

HB 3030

As of February 19, 2010

Title: An act relating to the administration of irrigation districts.

Brief Description: Regarding the administration of irrigation districts.

Sponsors: Representatives Fagan and Hinkle.

Brief History: Passed House: 2/13/10, 94-0.

Committee Activity: Agriculture & Rural Economic Development: 2/22/10.

SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

Staff: Sam Thompson (786-7413)

Background: Irrigation districts (districts) have broad authority to provide: irrigation facilities and services; drainage systems; domestic water; electric energy generation, purchasing and distribution; fire hydrants; sewerage systems; residential energy conservation program assistance; heating systems; and street lighting. Districts are governed by an elected board of directors.

Boundary Review Boards. Formation of a district and alteration of district boundaries may be subject to review by a Boundary Review Board (BRB), which may approve, disapprove, or modify proposals. BRBs are mandatory in counties with at least 210,000 residents and may be established in other counties. Members are appointed by the Governor and local officials.

Eminent Domain. Districts may acquire property, water, or water rights by eminent domain for constructing and using canals, irrigation facilities, drainage works, and reservoirs. Districts must follow private corporation eminent domain procedures. These include submitting a petition to a superior court describing the property, identifying owners, stating the purpose, and requesting a jury to determine compensation. At a hearing, a court must determine that owners have been properly notified and that the appropriation is either for a necessary public use or for a necessary private right-of-way. A jury then determines compensation.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Federal Reclamation Projects. The U.S. Bureau of Reclamation (Bureau) manages federal reclamation projects involving water supply and electricity generation. Districts may enter into contracts with the Bureau. Districts in the Columbia Basin have done so.

Small Works Roster Contracting. State agencies and certain local governments may use a small works roster process to award relatively small public works contracts. An agency or local government may solicit at least five bids from contractors on the roster and award a contract to the lowest responsible bidder. The process generally applies to contracts estimated to cost up to \$300,000. However, districts may use the process only for projects estimated to cost up to \$100,000.

Jointly Created Entity. Two or more districts may, by contract, jointly create a separate legal entity to exercise authority generally granted to districts. Districts in the Columbia Basin created a Grand Coulee Projects Hydroelectric Authority to operate hydroelectric facilities associated with a federal reclamation project. The Authority's facilities are licensed by the Federal Energy Regulatory Commission (FERC). FERC must eventually relicense the facilities.

Summary of Bill: BRB. BRBs do not have jurisdiction to review additions to, or exclusions of, land to a district if the land is within a federal reclamation project.

Eminent Domain. A district may use an expedited eminent domain process when it requires immediate possession of property. This process initially involves:

- a district offer to purchase the property from the owner;
- advance payment to a court of the sum offered by the district, which will then be held by the court; and
- issuance of an order of necessity by the court supporting the need for the expedited process.

Upon completion of these requirements, the court will enter a preliminary order granting the district immediate possession, but requiring it to pay the final judgment of compensation and damages, as determined in subsequent proceedings. While the sum initially paid by the district is presumed to be just compensation, the owner may challenge its sufficiency and request a trial to determine the amount. If the court awards the owner a sum:

- greater than the district's advance payment, the district must pay the difference and interest to the owner and pay costs of the proceeding;
- equal to the district's advance payment, the district must pay costs of the proceeding; and
- less than the district's advance payment, each party must pay its own costs.

Small Works Roster Contracting. The upper limit of the estimated cost of district projects eligible for small works roster contracting is increased from \$100,000 to \$300,000.

Jointly Created Entity. A legal entity created by a contract between two or more districts may create an upgrading and improvement fund, which may be used for licensing hydroelectric facilities and for payment of capital improvements.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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