
HOUSE BILL 3030

State of Washington

61st Legislature

2010 Regular Session

By Representatives Fagan and Hinkle

Read first time 01/20/10. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to the administration of irrigation districts;
2 amending RCW 87.03.001, 87.03.140, 87.03.436, and 87.03.443; and adding
3 new sections to chapter 87.03 RCW.

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

5 **Sec. 1.** RCW 87.03.001 and 1989 c 84 s 66 are each amended to read
6 as follows:

7 The formation of an irrigation district may be subject to potential
8 review by a boundary review board under chapter 36.93 RCW. The
9 alteration of the boundaries of an irrigation district, including but
10 not limited to a consolidation, addition of lands, exclusion of lands,
11 or merger, may be subject to potential review by a boundary review
12 board under chapter 36.93 RCW, except that additions or exclusions of
13 land to an irrigation district, when those lands are within the
14 boundary of a federal reclamation project, are not subject to review by
15 a boundary review board under chapter 36.93 RCW.

16 **Sec. 2.** RCW 87.03.140 and 1921 c 129 s 6 are each amended to read
17 as follows:

18 The board, and its agents and employees, shall have the right to

1 enter upon any land to make surveys, and may locate the necessary
2 irrigation or drainage works, power plants, power sites or power lines
3 and the line for any canal or canals, and the necessary branches of
4 laterals for the same, on any lands which may be deemed best for such
5 location. Said board shall also have the power to acquire, either by
6 purchase or condemnation, or other legal means, all lands, waters,
7 water rights, and other property necessary for the construction, use,
8 supply, maintenance, repair and improvements of said canal or canals
9 and irrigation and drainage works, including canals and works
10 constructed or being constructed by private owners, or any other
11 person, lands for reservoirs for the storage of needful waters and all
12 necessary appurtenances. The board may also construct the necessary
13 dams, reservoirs and works for the collection of water for the said
14 district, and may enter into contracts for a water supply to be
15 delivered to the canals and works of the district, and do any and every
16 lawful act necessary to be done in order to carry out the purposes of
17 this act; and in carrying out the aforesaid purposes the bonds of the
18 district may be used by the board, at not less than ninety percent of
19 their par value in payment. The board may enter into any obligation or
20 contract with the United States or with the state of Washington for the
21 supervision of the construction, for the construction, reconstruction,
22 betterment, extension, sale or purchase, or operation and maintenance
23 of the necessary works for the delivery and distribution of water
24 therefrom under the provisions of the state reclamation act, or under
25 the provisions of the federal reclamation act, and all amendments or
26 extensions thereof, and the rules and regulations established
27 thereunder, or it may contract with the United States for a water
28 supply or for reclamation purposes in general under any act of congress
29 which, for the purposes of this act, shall be deemed to include any act
30 of congress for reclamation purposes heretofore or hereafter enacted
31 providing for and permitting such contract, or for the collection of
32 money due or to become due to the United States, or for the assumption
33 of the control and management of the works; and in case contract has
34 been or may hereafter be made with the United States, as herein
35 provided, bonds of the district may be deposited with the United States
36 as payment or as security for future payment at not less than ninety
37 percent of their par value, the interest on said bonds to be provided
38 for by assessment and levy as in the case of other bonds of the

1 district, and regularly paid to the United States to be applied as
2 provided in such contract, and if bonds of the district are not so
3 deposited, it shall be the duty of the board of directors to include as
4 part of any levy or assessment provided in RCW 87.03.260 an amount
5 sufficient to meet each year all payments accruing under the terms of
6 any such contract. The board may accept on behalf of the district
7 appointment of the district as fiscal agent of the United States or the
8 state of Washington or other authorization of the district by the
9 United States or the state of Washington to make collections of money
10 for or on behalf of the United States or the state of Washington in
11 connection with any federal or other reclamation project, whereupon the
12 district, and the county treasurer for the district, shall be
13 authorized to so act and to assume the duties and liability incident to
14 such action, and the said board shall have full power to do any and all
15 things required by the federal statutes now or hereafter enacted in
16 connection therewith, and all things required by the rules and
17 regulations now or that may hereafter be established by any department
18 of the federal government in regard thereto.

19 The use of all water required for the irrigation of the lands
20 within any district, together with rights-of-way for canals, laterals,
21 ditches, sites for reservoirs, power plants, sites, and lines, and all
22 other property required in fully carrying out the purposes of the
23 organization of the district is hereby declared to be a public use; and
24 in condemnation proceedings to acquire any property or property rights
25 for the use of the district, the board of directors shall proceed in
26 the name of the district, in the same manner provided in this state for
27 private corporations in cases of appropriation of lands, real estate
28 and other property (~~(by private corporations)~~), subject to the
29 provisions of this chapter: PROVIDED, That the irrigation district, at
30 its option, pursuant to resolution to that end duly passed by its board
31 of directors may unite in a single action proceedings for the
32 acquisition and condemnation of different tracts of land needed by it
33 for rights-of-way for canals, laterals, power plants, sites, and lines
34 and other irrigation works which are held by separate owners. And the
35 court may, on the motion of any party, consolidate into a single action
36 separate suits for the condemnation of rights-of-way for such
37 irrigation works whenever from motives of economy or the expediting of

1 business it appears desirable so to do: PROVIDED FURTHER, That there
2 shall be a separate finding of the court or jury as to each tract held
3 in separate ownership.

4 In any condemnation proceeding brought under the provisions of this
5 act to acquire canals, laterals and ditches and rights-of-way therefor,
6 sites, reservoirs, power plants and pumping plants and sites therefor,
7 power canals, transmission lines, electrical equipment and any other
8 property, and if the owner or owners thereof or their predecessors
9 shall have issued contracts or deeds agreeing to deliver to the holders
10 of said contracts or deeds water for irrigation purposes, or
11 authorizing the holders thereof to take or receive water for irrigation
12 purposes from any portion of said property or works, and if the
13 delivery of said water or the right to take or receive the same shall
14 in any manner constitute a charge upon, or a right in the property and
15 works sought to be acquired, or any portion thereof, the district shall
16 be authorized to institute and maintain said condemnation proceedings
17 for the purpose of acquiring said property and works, and the interest
18 of the owners therein subject to the rights of the holders of such
19 contracts or deeds, and the court or jury making the award shall
20 determine and award to such owner or owners the value of the interest
21 to be so appropriated in said condemnation proceedings.

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 87.03 RCW
23 to read as follows:

24 In case an irrigation district requires immediate possession and
25 use of the property sought to be condemned, and an order of necessity
26 has been granted, and no review has been taken therefrom, the
27 irrigation district may stipulate with respondents in accordance with
28 the provisions of this chapter for an order of immediate possession and
29 use, and file with the court clerk where the action is pending, a
30 certificate of the irrigation district's requirement of immediate
31 possession and use of the land, which shall state the amount of money
32 offered to the respondents and shall further state that such offer
33 constitutes a continuing tender of the amount.

34 The irrigation district shall then issue and deliver a warrant
35 payable to the order of the court clerk where the action is pending in
36 a sum sufficient to pay the amount offered, which shall then be paid
37 into the court's registry.

1 The court, without further notice to respondents, shall thereafter
2 enter an order granting the irrigation district immediate possession
3 and use of the property described in the order of necessity, which
4 order shall bind the irrigation district to pay the full amount of any
5 final judgment of compensation and damages that may be awarded for the
6 taking and appropriation of the lands, real estate, premises, or other
7 property described in the petition required by RCW 8.20.010, and for
8 the injury, if any, by reason of the taking to the remainder of the
9 lands, real estate, premises, or other property from which the property
10 described in the petition is to be taken. This amount must be offset
11 against any and all such compensation or benefits, if any, accruing to
12 the remainder by reason of the appropriation and use by the irrigation
13 district of the lands, real estate, premises, or other property
14 described in the petition. The moneys paid into court may at any time
15 after entry of the order of immediate possession and use, be withdrawn
16 by respondents, by order of the court, as their interests shall appear.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 87.03 RCW
18 to read as follows:

19 The amount paid into court under the provisions of section 3 of
20 this act constitute just compensation paid for the taking of the
21 property. Respondents may, in the same action, request a trial for the
22 purpose of assessing the amount of compensation to be made and the
23 amount of damages arising from the taking. At the trial, the date of
24 valuation of the property shall be the date of entry of the order
25 granting the irrigation district immediate possession and use of the
26 property.

27 If, pursuant to such trial, an amount in excess of the tender is
28 awarded, the court shall order the excess paid to respondents with
29 interest thereon from the time of the entry of the order of immediate
30 possession and use, and shall charge the costs of the action to the
31 irrigation district. If, pursuant to the trial, respondents are
32 awarded an amount equal to the tender, the costs of the action shall be
33 charged to the irrigation district. If the verdict or decision awards
34 an amount less than the tender, each party shall bear its own costs,
35 and if respondents have accepted the tender and withdrawn the amount
36 paid into court, the irrigation district is entitled to a judgment for

1 the difference; otherwise, the excess on deposit shall be returned to
2 the irrigation district.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 87.03 RCW
4 to read as follows:

5 If any respondent elects to demand a trial for the purpose of
6 assessing just compensation and damages arising from a taking under the
7 provisions of section 3 of this act, the respondent shall so move
8 within sixty days from the date of entry of the order of immediate
9 possession and use, and the issues shall be brought to trial within one
10 year from the date of the order unless good and sufficient proof is
11 offered and it appears therefrom to the court that the hearing could
12 not have been held within the year. In the event that a demand is not
13 timely made or having been timely made, is not brought to trial within
14 the limiting period, the court, upon application of the irrigation
15 district, shall enter a decree of appropriation for the amount paid
16 into court under the provisions of section 3 of this act, as the total
17 sum to which respondents are entitled, and such decree shall be final
18 and nonappealable.

19 **Sec. 6.** RCW 87.03.436 and 1990 c 39 s 2 are each amended to read
20 as follows:

21 All contract projects, the estimated cost of which is less than
22 (~~one~~) three hundred thousand dollars, may be awarded to a contractor
23 on the small works roster. The small works roster shall be comprised
24 of all responsible contractors who have requested to be on the list.
25 The board of directors shall authorize by resolution a procedure for
26 securing telephone and/or written quotations from the contractors on
27 the small works roster to assure establishment of a competitive price
28 and for awarding contracts to the lowest responsible bidder. Such
29 procedure shall require that a good-faith effort be made to request
30 quotations from all responsible contractors on the small works roster.
31 Immediately after an award is made, the bid quotations obtained shall
32 be recorded, open to public inspection, and available by telephone
33 inquiry. The small works roster shall be revised once a year.

34 **Sec. 7.** RCW 87.03.443 and 2004 c 215 s 3 are each amended to read
35 as follows:

1 There may be created ~~((for))~~ by each irrigation district or
2 separate legal authority created pursuant to RCW 87.03.018 a fund to be
3 known as the upgrading and improvement fund. The board of directors
4 shall determine what portion of the annual revenue of the irrigation
5 district or separate legal authority will be placed into its upgrading
6 and improvement fund, including all or any part of the funds received
7 by a district or separate legal authority from the sale, delivery, and
8 distribution of electrical energy. Moneys from the upgrading and
9 improvement fund may ~~((only))~~ be used to modernize, improve, or upgrade
10 ~~((the))~~ irrigation and hydroelectric power facilities ~~((of—the~~
11 ~~irrigation—district))~~ or to respond to an emergency affecting such
12 facilities. The funds may also be used for licensing hydroelectric
13 power facilities and for payment of capital improvements.

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