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**SENATE BILL 6514**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Senators Schoesler and Hunt

AN ACT Relating to irrigation district elections; amending RCW 84.56.020, 87.03.031, 87.03.032, 87.03.033, 87.03.075, and 87.03.085; adding new sections to chapter 87.03 RCW; and prescribing penalties.

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

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

(1) As provided in this chapter, "qualified land owner" means a person who meets all age, citizenship, residence, and property ownership requirements to vote in district elections as established in this chapter.

(2) By January 1, 2021, 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 that reside within the county of the assessor.

(3) Thereafter, the county assessor or assessors of each irrigation district must annually maintain, update, and provide to the district the list of all qualified land owners in the district that reside within the county of the assessor.

(4) The counties in which each irrigation district is located are authorized to impose a one-time assessment at the rate of one dollar per acre for the purposes of this section.

**Sec.**  RCW 84.56.020 and 2019 c 332 s 1 are each amended to read as follows:

**Treasurers' tax collection duties.**

(1) The county treasurer must be the receiver and collector of all taxes extended upon the tax rolls of the county, whether levied for state, county, school, bridge, road, municipal or other purposes, and also of all fines, forfeitures or penalties received by any person or officer for the use of his or her county. No treasurer may accept tax payments or issue receipts for the same until the treasurer has completed the tax roll for the current year's collection and provided notification of the completion of the roll. Notification may be accomplished electronically, by posting a notice in the office, or through other written communication as determined by the treasurer. All real and personal property taxes and assessments made payable by the provisions of this title are due and payable to the county treasurer on or before the thirtieth day of April and, except as provided in this section, are delinquent after that date.

**Tax statements.**

(2)(a) Tax statements for the current year's collection must be distributed to each taxpayer on or before March 15th provided that:

(i) All city and other taxing district budgets have been submitted to county legislative authorities by November 30th per RCW 84.52.020;

(ii) The county legislative authority in turn has certified taxes levied to the county assessor by November 30th per RCW 84.52.070; and

(iii) The county assessor has delivered the tax roll to the county treasurer by January 15th per RCW 84.52.080.

(b) Each tax statement must include a notice that checks for payment of taxes may be made payable to "Treasurer of . . . . . . County" or other appropriate office, but tax statements may not include any suggestion that checks may be made payable to the name of the individual holding the office of treasurer nor any other individual.

(c) Each tax statement distributed to an address must include a notice with information describing the:

(i) Property tax exemption program pursuant to RCW 84.36.379 through 84.36.389; and

(ii) Property tax deferral program pursuant to chapter 84.38 RCW.

(d) Each tax statement distributed to an address must notify the taxpayer if he or she resides in an irrigation district under this chapter and if he or she is eligible to vote or declare for candidacy as provided in this chapter.

**Tax payment due dates.**

**On-time tax payments: First-half taxes paid by April 30th and second-half taxes paid by October 31st.**

(3) When the total amount of tax or special assessments on personal property or on any lot, block or tract of real property payable by one person is fifty dollars or more, and if one-half of such tax is paid on or before the thirtieth day of April, the remainder of such tax is due and payable on or before the following thirty-first day of October and is delinquent after that date.

**Delinquent tax payments for current year: First-half taxes paid after April 30th.**

(4) When the total amount of tax or special assessments on any lot, block or tract of real property or on any mobile home payable by one person is fifty dollars or more, and if one-half of such tax is paid after the thirtieth day of April but before the thirty-first day of October, together with the applicable interest and penalty on the full amount of tax payable for that year, the remainder of such tax is due and payable on or before the following thirty-first day of October and is delinquent after that date.

**Delinquent tax payments: Interest, penalties, and treasurer duties.**

(5) Except as provided in (c) of this subsection, delinquent taxes under this section are subject to interest at the rate of twelve percent per annum computed on a monthly basis on the amount of tax delinquent from the date of delinquency until paid. Interest must be calculated at the rate in effect at the time of the tax payment, regardless of when the taxes were first delinquent. In addition, delinquent taxes under this section are subject to penalties as follows:

(a) A penalty of three percent of the amount of tax delinquent is assessed on the tax delinquent on June 1st of the year in which the tax is due.

(b) An additional penalty of eight percent is assessed on the delinquent tax amount on December 1st of the year in which the tax is due.

(c) If a taxpayer is successfully participating in a payment agreement under subsection (15)(b) of this section or a partial payment program pursuant to subsection (15)(c) of this section, the county treasurer may not assess additional penalties on delinquent taxes that are included within the payment agreement. Interest and penalties that have been assessed prior to the payment agreement remain due and payable as provided in the payment agreement.

(6) A county treasurer must provide notification to each taxpayer whose taxes have become delinquent under subsections (4) and (5) of this section. The delinquency notice must specify where the taxpayer can obtain information regarding:

(a) Any current tax or special assessments due as of the date of the notice;

(b) Any delinquent tax or special assessments due, including any penalties and interest, as of the date of the notice; and

(c) Where the taxpayer can pay his or her property taxes directly and contact information, including but not limited to the phone number, for the statewide foreclosure hotline recommended by the Washington state housing finance commission.

(7) Within ninety days after the expiration of two years from the date of delinquency (when a taxpayer's taxes have become delinquent), the county treasurer must provide the name and property address of the delinquent taxpayer to a homeownership resource center or any other designated local or state entity recommended by the Washington state housing finance commission.

**Collection of foreclosure costs.**

(8)(a) When real property taxes become delinquent and prior to the filing of the certificate of delinquency, the treasurer is authorized to assess and collect tax foreclosure avoidance costs.

(b) When tax foreclosure avoidance costs are collected, such costs must be credited to the county treasurer service fund account, except as otherwise directed.

(c) For purposes of chapter 84.64 RCW, any taxes, interest, or penalties deemed delinquent under this section remain delinquent until such time as all taxes, interest, and penalties for the tax year in which the taxes were first due and payable have been paid in full.

**Periods of armed conflict.**

(9) Subsection (5) of this section notwithstanding, no interest or penalties may be assessed during any period of armed conflict regarding delinquent taxes imposed on the personal residences owned by active duty military personnel who are participating as part of one of the branches of the military involved in the conflict and assigned to a duty station outside the territorial boundaries of the United States.

**State of emergency.**

(10) During a state of emergency declared under RCW 43.06.010(12), the county treasurer, on his or her own motion or at the request of any taxpayer affected by the emergency, may grant extensions of the due date of any taxes payable under this section as the treasurer deems proper.

**Retention of funds from interest.**

(11) All collections of interest on delinquent taxes must be credited to the county current expense fund.

(12) For purposes of this chapter, "interest" means both interest and penalties.

**Retention of funds from property foreclosures and sales.**

(13) The direct cost of foreclosure and sale of real property, and the direct fees and costs of distraint and sale of personal property, for delinquent taxes, must, when collected, be credited to the operation and maintenance fund of the county treasurer prosecuting the foreclosure or distraint or sale; and must be used by the county treasurer as a revolving fund to defray the cost of further foreclosure, distraint, and sale because of delinquent taxes without regard to budget limitations and not subject to indirect costs of other charges.

**Tax due dates and options for tax payment collections.**

**Electronic billings and payments.**

(14) For purposes of this chapter, and in accordance with this section and RCW 36.29.190, the treasurer may collect taxes, assessments, fees, rates, interest, and charges by electronic billing and payment. Electronic billing and payment may be used as an option by the taxpayer, but the treasurer may not require the use of electronic billing and payment. Electronic bill presentment and payment may be on a monthly or other periodic basis as the treasurer deems proper for:

(a) Delinquent tax year payments; and

(b) Prepayments of current tax.

**Tax payments.**

**Prepayment for current taxes.**

(15)(a) The treasurer may accept prepayments for current year taxes by any means authorized. All prepayments must be paid in full by the due date specified in subsection (16) of this section.

**Payment agreements for current year taxes.**

(b)(i) The treasurer may provide, by electronic means or otherwise, a payment agreement that provides for payment of current year taxes, inclusive of prepayment collection charges. The payment agreement must be signed by the taxpayer and treasurer or the treasurer's deputy prior to the sending of an electronic or alternative bill, which includes a payment plan for current year taxes.

**Payment agreements for delinquent year taxes.**

(ii)(A) The treasurer may provide, by electronic means or otherwise, a payment agreement for payment of past due delinquencies. The payment agreement must be signed by the taxpayer and treasurer or the treasurer's deputy prior to the sending of an electronic or alternative bill, which includes a payment plan for past due delinquent taxes and charges.

(B) Tax payments received by a treasurer for delinquent year taxes from a taxpayer participating on a payment agreement must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

**Partial payments: Acceptance of partial payments for current and delinquent taxes.**

(c)(i) In addition to the payment agreement program in (b) of this subsection, the treasurer may accept partial payment of any current and delinquent taxes including interest and penalties by any means authorized including electronic bill presentment and payments.

(ii) All tax payments received by a treasurer for delinquent year taxes from a taxpayer paying a partial payment must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

**Payment for delinquent taxes.**

(d) Payments on past due taxes must include collection of the oldest delinquent year, which includes interest, penalties, and taxes within an eighteen-month period, prior to filing a certificate of delinquency under chapter 84.64 RCW or distraint pursuant to RCW 84.56.070.

**Due date for tax payments.**

(16) All taxes upon real and personal property made payable by the provisions of this title are due and payable to the treasurer on or before the thirtieth day of April and are delinquent after that date. The remainder of the tax is due and payable on or before the following thirty-first of October and is delinquent after that date. All other assessments, fees, rates, and charges are delinquent after the due date.

**Electronic funds transfers.**

(17) A county treasurer may authorize payment of:

(a) Any current property taxes due under this chapter by electronic funds transfers on a monthly or other periodic basis; and

(b) Any past due property taxes, penalties, and interest under this chapter by electronic funds transfers on a monthly or other periodic basis. Delinquent taxes are subject to interest and penalties, as provided in subsection (5) of this section. All tax payments received by a treasurer from a taxpayer paying delinquent year taxes must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

**Payment for administering prepayment collections.**

(18) The treasurer must pay any collection costs, investment earnings, or both on past due payments or prepayments to the credit of a county treasurer service fund account to be created and used only for the payment of expenses incurred by the treasurer, without limitation, in administering the system for collecting prepayments.

**Waiver of interest and penalties for qualified taxpayers subject to foreclosure.**

(19) No earlier than sixty days prior to the date that is three years after the date of delinquency, the treasurer must waive all outstanding interest and penalties on delinquent taxes due from a taxpayer if the property is subject to an action for foreclosure under chapter 84.64 RCW and the following requirements are met:

(a) The taxpayer is income-qualified under RCW 84.36.381(5)(a), as verified by the county assessor;

(b) The taxpayer occupies the property as their principal place of residence; and

(c) The taxpayer has not previously received a waiver on the property as provided under this subsection.

**Definitions.**

(20) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Electronic billing and payment" means statements, invoices, or bills that are created, delivered, and paid using the internet. The term includes an automatic electronic payment from a person's checking account, debit account, or credit card.

(b) "Internet" has the same meaning as provided in RCW 19.270.010.

(c) "Tax foreclosure avoidance costs" means those direct costs associated with the administration of properties subject to and prior to foreclosure. Tax foreclosure avoidance costs include:

(i) Compensation of employees for the time devoted to administering the avoidance of property foreclosure; and

(ii) The cost of materials, services, or equipment acquired, consumed, or expended in administering tax foreclosure avoidance prior to the filing of a certificate of delinquency.

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

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

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

(1) The notice of election shall conform to the requirements for election notices provided by ((~~Title 87 RCW~~)) this title for the election being held, and shall specify in addition that any qualified district elector ((~~who certifies that he or she cannot conveniently be present at his or her proper election precinct on the day of election~~)) may vote by absentee ballot, and that a ballot and form of certificate of qualifications will be ((~~furnished to him or her on written request being made of the district's secretary. The requisite ballot and a form of certificate of qualifications shall be furnished by the district's secretary to any person who prior to the date of election makes written request therefor, stating that he or she is a qualified district elector. Such ballot and form may be furnished also to qualified district electors in any way deemed to be convenient without regard to requests having been made therefor~~)) sent, without request, to the elector at the address of the property that entitles him or her to vote in district elections.

(2) Voting by absentee ballot shall be 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.

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

(1) To be counted in a given election, an absentee ballot must conform to these requirements:

(a) It must be sealed in an unmarked envelope and in an additional outer envelope as provided in (b) of this subsection and delivered to the district's principal office prior to the close of the polls on the day of that election; or be sealed in an unmarked envelope and in an additional outer envelope as provided in (b) of this subsection and mailed to the district's secretary, postmarked not later than midnight of that election day and received by the secretary within five days of that date.

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

(c) The sealed envelopes containing the ballot shall be accompanied by a certificate of qualifications stating, with respect to the voter, his or her name, age, citizenship, residence, and that he or she holds title or evidence of title to lands within the district which, under RCW 87.03.045 entitles him or her to vote in the election((~~, and that he or she cannot conveniently be present to cast his or her ballot at his or her proper election precinct on election day~~)).

((~~(c)~~)) (d) The statements in the certificate of qualifications shall be certified as correct by the voter by the affixing of his or her signature thereto in the presence of a witness who is acquainted with the voter, and the voter shall enclose and seal his or her ballot in the unmarked envelope and outer envelope in the presence of this witness but without disclosing his or her vote. The witness, by affixing his or her signature to the certificate of qualifications, shall certify that he or she is acquainted with the voter, that in his or her presence the voter's signature was affixed and the ballot enclosed as required in this paragraph.

(2) The form of statement of qualifications and its certification shall be substantially as prescribed by the district's board of directors. This form may also provide that the voter shall describe all or some part of his or her lands within the district which, under RCW 87.03.045 entitles him or her to vote in the election, but a voter otherwise qualified shall not be disqualified because of the absence or inaccuracy of the description so given. The regular form of irrigation district ballot shall be used by absentee voters.

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

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

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

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

(1) Thirty days before any election held under this chapter, subsequent to the organization of any district, the district must notify each qualified landowner directly, either by mail or electronic communication, of the time and place of holding the election. Fifteen days before any election held under this chapter, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election. The secretary shall also post a general notice of the same in the office of the board, which shall be established and kept at some fixed place to be determined by the board, specifying the polling places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector and two judges, who shall constitute a board of election for the precinct. If the board fails to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The board of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election must be held. However, in any irrigation district that is less than two hundred thousand acres in size and is divided into director divisions, the board of directors in its discretion may designate one polling place within the district to serve more than one election precinct. The board of directors of any irrigation district may designate the principal business office of the district as a polling place to serve one or more election precincts and may do so regardless of whether the business office is located within or outside of the boundaries of the district. If the board of directors does designate a single polling place for more than one election precinct, then the election officials appointed by the board of directors may serve more than one election precinct and the election officials may be electors of any of the election precincts for which they are the election board.

(2) Sixty days before the petition of nomination filing deadline under RCW 87.03.075, the district must notify each qualified landowner of the expiration of the term of any serving director that will occur that year. This notice must also include the method and deadline for declaring candidacy under RCW 87.03.075.

(3) Each district must establish and maintain a web site, either individually or through the Washington state water resources association, in order to communicate with qualified landowners. The web site must include, but is not limited to, the names of the board of directors, district rules and procedures, state law on irrigation districts, current assessments, district services and projects, information on elections, including election results, and contact information for the district.

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

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

(2)(a) Each ballot box must be secured and locked, with a deposit slot, and clearly marked as an "official ballot box." Ballot box keys must be provided to designated district staff only.

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

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

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

(iii) All seal logs must be retained.

(c) Each ballot box must be physically secured so that it cannot be stolen or moved, except by designated district staff.

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

(3)(a) Ballot envelopes may not be opened immediately after voter deposit, and ballots must be opened in batches, rather than individually.

(b) The number of tabulated ballots must be reconciled with the number of ballots received.

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

(d) Processing of ballots must be open to observation by the public.

(e) Any district staff participating in the processing of ballots may not be a candidate on the ballot.

(f) Once processing of ballots is completed, date and time of the verification of processing must be posted in either (i) the district office, for at least two weeks; (ii) on the district web site, for at least two weeks; or (iii) at least once a week for two weeks in one or more newspapers of general circulation within the irrigation district.

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

(b) Written challenge procedures must be established for challenges made by both the public and district staff.

(c) The outcome of the challenge must be posted in either (i) the district office, for at least two weeks; (ii) on the district web site, for at least two weeks; or (iii) at least once a week for two weeks in one or more newspapers of general circulation within the irrigation district.

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

(6) Lists and reports of ballots, election outcomes, voter challenges and challenge outcomes, and curing of errors must be maintained by each district and made available to the public.

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

(1) Any person who willfully violates any of the provisions of section 8 (1) through (3) of this act is guilty of a gross misdemeanor punishable under RCW 9A.20.021.

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

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

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

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

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

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

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