

# HOUSE BILL REPORT

## HB 2415

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**As Reported by House Committee On:**  
State Government & Tribal Relations

**Title:** An act relating to conforming elections for certain special districts with Title 29A RCW.

**Brief Description:** Conforming elections for certain special districts with Title 29A RCW.

**Sponsors:** Representatives Hudgins, Gregerson, Pollet and Wylie.

**Brief History:**

**Committee Activity:**

State Government & Tribal Relations: 1/24/20, 1/31/20 [DPS].

**Brief Summary of Substitute Bill**

- Provides that irrigation, diking/drainage, flood control, conservation, and related special district elections are held under the procedures in Title 29A at the November general election in even-numbered years.
- Removes land-ownership requirements for voting eligibility in those districts.
- Reduces diking/drainage or flood control supervisor terms from six to four years, and increases conservation district supervisor and irrigation district director terms from three to four years.
- Provides that all five conservation district supervisors are elected, removes landowning or farming requirements, and subjects their elections to Public Disclosure Commission oversight.

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### HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Appleton, Dolan and Hudgins.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Mosbrucker and Smith.

**Staff:** Jason Zolle (786-7124).

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*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.*

## **Background:**

Special purpose districts are local governments formed for a limited purpose that are separate from a county, city, or town government. There are more than 80 types of special purpose districts in Washington, providing services such as fire protection, libraries, water and sewer treatment, and mosquito control.

### Irrigation Districts.

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.

### *Board of Directors.*

Boards may consist of three, five, or seven directors. Elections for directors are held on the second Tuesday of November. Directors serve staggered three-year terms.

### *Voting Rights.*

Voters must be United States citizens and state residents who hold title or evidence of title to land in the district.

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 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. 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.

### *Election Mechanics.*

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. 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.

### Diking, Drainage, and Flood Control Districts.

Several special purpose districts provide diking, drainage, and flood control facilities and services. These include:

- diking districts;
- drainage districts;
- diking, drainage, or sewerage improvement districts;
- intercounty diking and drainage districts;
- consolidated diking, drainage, diking improvement, or drainage improvement districts; and
- flood control districts.

These districts are authorized to engage in flood control activities; drainage, stormwater, and surface water control; lake or river restoration; aquatic plant control; and water quality enhancement activities. These districts may also operate and maintain improvements and facilities necessary to prevent flooding from rivers, streams, and tidal waters or to control and treat stormwater, surface water, and flood water.

To form one of these districts, the county engineer determines whether the project is feasible and if so, the county legislative authority schedules a public hearing. After the hearing, the county legislative authority will call an election if it finds that creation of the special district would meet specified criteria related to public welfare and economic feasibility. The election must be held on one of the special election dates under the general election laws, Title 29A.

*Board of Supervisors.*

Each of these districts is governed by a three-member board, elected to staggered six-year terms. Primary elections are not held. General elections are held on the first Tuesday after the first Monday in February in each even-numbered year. Elections are not required if no one or only one person files for the position.

*Voting Rights.*

To be qualified to vote, a person must be registered to vote for at least 30 days before an election and own land in the district for at least 30 days before an election. Each owner receives two votes.

A corporation or partnership is eligible to vote if it has owned land in the district for at least 60 days before an election. The corporation or partnership must designate either one person to cast both of its two votes, or two people to cast one vote each.

The state, state agencies, or political subdivisions that own land in the district may vote in district elections except for board member elections.

For diking improvement, drainage improvement, and flood control districts, owners of more than 10 acres of land receive two additional votes for each 10 acres or major fraction thereof that they own up to a maximum of 40 votes.

*Election Mechanics.*

A district with at least 500 qualified voters may conduct the election itself or contract with the county auditor. Districts with fewer than 500 qualified voters must contract with the auditor. If the election is not conducted by mail, the district board must appoint three people to act as election officials. Ballots are distributed to people that show up the day of the election. A person need not register in advance but may show up at the election with

documents or evidence sufficient to establish eligibility to vote. Elections must be held for at least six consecutive hours between 7 a.m. and 8 p.m. Absentee voting is also permitted. The county auditor receives the ballots, counts them, and certifies the vote count.

#### Conservation Districts.

The State Conservation Commission (SCC) consists of 10 members, two of whom are appointed by the Governor and three of whom are elected by conservation district supervisors. The directors of the departments of Ecology and Agriculture, the Commissioner of Public Lands, the President of the Washington Association of Conservation Districts, and the Dean of the College of Agriculture at Washington State University are ex officio members of the SCC.

Conservation districts are special purpose districts that are organized to promote the conservation of renewable natural resources. A conservation district may be formed when 20 percent of the voters within the proposed district area file a petition with the SCC. A public hearing is then held, and the SCC may call an election if it finds that the public health, safety, and welfare warrant the creation of the district. If a majority of voters support a district, the SCC then determines whether the project is practicable. If so, the district is created.

#### *Board of Supervisors.*

The board of supervisors of a conservation district is comprised of five members, three of whom are elected to staggered three-year terms. Two of the three elected supervisors must be landowners or operators of a farm. The other two supervisors are appointed by the SCC; one must be a landowner or the operator of a farm.

#### *Voting Rights.*

The SCC may determine the qualifications necessary to vote. By SCC rule, an individual registered to vote in the county where the district is located and who resides within the conservation district boundaries may vote.

#### *Election Mechanics.*

For the creation of a district, the SCC sets the date of the election and designates the polling places. For elections to the board of supervisors, the board of supervisors sets the date of the election during the first quarter of the calendar year. To appear on the ballot, a person must file a petition signed by 25 electors.

#### Title 29A Elections.

Other than these types of special districts and a few other exceptions, local government and special district elections are conducted under Title 29A. Candidates file for office during a filing period in May; a primary is held to narrow the field to two candidates in August; and a general election is held on the first Tuesday after the first Monday in November. General elections for local government candidates are conducted in odd-numbered years, except for counties in which the charter specifies even-year elections. Special elections may be called by a county auditor on one of four days (one in February, one in April, and the date of the August primary or November general election) when the legislative authority so requests.

Ballots are mailed to voters by the county auditor, who largely conducts the elections at the county level, and returned ballots are canvassed by a county canvassing board. Each

registered voter is entitled to one vote in the local government races for the jurisdictions in which the voter resides. Elections are overseen by the Office of the Secretary of State. The Public Disclosure Commission (PDC) oversees campaign finance laws and rules for these elections.

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### **Summary of Substitute Bill:**

#### General Changes in Election Procedures.

Elections for these special districts are conducted under Title 29A using the same procedures as other local government elections, except that elections are held on the general election date in November of even-numbered years.

Special elections may no longer be ordered by a board of directors or supervisors, but instead must be requested to the county auditor using the same procedure and dates that are applicable to other local government special elections.

Candidates file for office during the filing period under Title 29A for all other state and local offices. Elections must be held even if only one candidate files for office.

Primaries are not held for the initial elections of boards of directors or supervisors, elections in which more than one person is elected. Primaries are held for subsequent elections.

#### Land-Ownership Requirements are Removed.

Qualified voters for purposes of these special districts are people who are registered voters in Washington that reside within the special district or proposed special district. Each qualified voter is entitled to one vote. Any qualified voter may be a candidate for the board of directors or supervisors.

Petitions to form or merge a district may be filed by qualified voters rather than landowners.

Corporations may not vote.

#### Governing Body Term Lengths are Modified.

Term lengths for diking, drainage, flood control, and related district supervisors are reduced from six to four years.

Term lengths for irrigation district directors are increased from three to four years.

Term lengths for conservation district supervisors are increased from three to four years.

The changes made to the term lengths in this bill do not apply to the elected officials who serve in these positions on the effective date of this act. Those officials shall continue to serve the term length for which they were elected, in addition to the time necessary to accommodate the change to general elections in November of even-numbered years. (For example, and subject to adjustment according to the application dates discussed below, a

diking district supervisor elected in 2019 whose term is scheduled to expire in 2025 shall continue to serve until she is reelected or replaced in the 2026 general election.)

All Conservation District Supervisors are Elected.

All five conservation district supervisors are elected, rather than having two appointed by the SCC. Landownership or farming requirements are removed for all supervisors. After the effective date of this act, an appointed supervisor may continue to serve until a successor is elected in the November general election prior to the scheduled end of his or her term— unless such a general election would be in an odd-numbered year, in which case the supervisor may continue to serve until a successor is elected in the November general election following the scheduled end of his or her term. The exception to PDC oversight for conservation district elections is repealed.

Staggered Application.

The changes made in this bill apply at different times depending on the size of the district's annual budget at the time of the effective date of this act.

- For districts that have an annual budget equal to or greater than \$5 million, the changes made in this bill apply beginning with the effective date of this act.
- For districts that have an annual budget equal to or greater than \$1.5 million but less than \$5 million, the changes made in this bill apply beginning with the 2024 general election cycle.
- For districts that have an annual budget less than \$1.5 million, the changes made in this bill apply beginning with the 2028 general election cycle.

**Substitute Bill Compared to Original Bill:**

The substitute bill provides for a staggered application of the changes made in the bill based on the size of the district's annual budget at the time of the effective date of this act. The substitute bill also increases the irrigation directors' term length from three to four years, and it specifies that the changes to term length in this bill do not apply to the officials serving at the time that the bill goes into effect.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Voters expect elections like those under Title 29A: campaign financing is disclosed, voting is not based on land ownership and it is not weighted or permitted for corporations, and elections occur on set dates. Many special purpose districts are running well, but there is concern about districts that have not had elections in many years and are

appearing to have secret elections that are not administered by election professionals. When there are 173 votes in a district of 1.2 million voters, it causes concerns about turnout. And having district officials in charge of election administration distracts them from the issues they should be facing; they are not elections professionals and they should not have to be. Ballot boxes can be as rudimentary as a cardboard shoe box, and websites to request ballots have been broken and full of error codes.

Without visibility and professionalism, the accountability of the districts comes into question. Non-landowning residents have no say over how public dollars are being distributed. The current rules were written back at statehood through the 1930s. These models no longer work based on our expectations for modernized elections. Title 29A elections work well for the smallest school districts and the largest statewide elections, and it should be used here.

(Opposed) Special purpose districts are a unique form of nonregulatory government matching local needs to help landowners solve on-the-ground issues. They are successful because they are not perceived as governments. This would increase the amount of money a district has to spend on an election, and property taxes will have to increase. Landowners that do not reside in the district would lose their right to vote on drainage and irrigation for their land. They are the most impacted and knowledgeable. Property is assessed based on acreage, and voting rights must match the assessment system that makes these districts so popular. The current statutes are old and archaic, but they work extremely well. Although there are some issues with transparency, this is not the solution. Even though the district supervisors are not elections professionals, they understand civics. Landowners are familiar with each other and there is trust.

(Other) For conservation districts, the oversight by the SCC is unique and gives a layer of financial accountability that is not present with other districts. Having two appointed supervisors is necessary to ensure the board has the required technical expertise in agriculture and natural resources. The SCC considered other options for elections but decided against Title 29A elections because of the cost. For other districts, there are concerns about voter awareness under the current system and elections should be more transparent. Funding Title 29A elections is a challenge, however, and increased costs could compromise the usefulness of special districts. Title 29A elections are only possible if the landownership requirement is removed.

**Persons Testifying:** (In support) Representative Hudgins, prime sponsor; Julie Wise, King County Elections; Jim Goche; and Kirstin Haugen, King Conservation District.

(Opposed) Jeanette Dorner, Washington Association of Conservation Districts; Jenna Friebel, Skagit Drainage and Irrigation Districts Consortium; Ron Wesen, Drainage and Irrigation Improvement District 16; Bill Clarke, Whatcom Ag Water Board and Kittitas Reclamation District; Peter Ojala; Mike Schwisow, Washington State Water Resources Association; Justin Harter, Naches-Selah Irrigation District; and Craig Simpson, East Columbia Basin Irrigation District.

(Other) Alison Halpern, Washington State Conservation Commission; Jay Jennings, Office of the Secretary of State; Jerry Pettit, Washington Association of County Auditors; Bea

Covington, King Conservation District; and Phyllis Farrell, League of Women Voters of Washington.

**Persons Signed In To Testify But Not Testifying:** None.