

# SENATE BILL REPORT

## ESHB 1417

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As Reported by Senate Committee On:  
Agriculture, Water & Rural Economic Development, February 24, 2014

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

**Brief Description:** Regarding irrigation district administration.

**Sponsors:** House Committee on Local Government (originally sponsored by Representatives Manweller, Fagan and Warnick).

**Brief History:** Passed House: 1/27/14, 96-0.

**Committee Activity:** Agriculture, Water & Rural Economic Development: 2/20/14, 2/24/14 [DP].

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### SENATE COMMITTEE ON AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT

**Majority Report:** Do pass.

Signed by Senators Hatfield, Chair; Honeyford, Ranking Member; Brown, Eide, Hobbs and Schoesler.

**Staff:** Diane Smith (786-7410)

**Background:** Irrigation Districts are Special Purpose Governments. Irrigation districts are formed by petition to the county legislative authority of either 50, or a majority of, holders of title to the land proposed to be located within the district. The board of county commissioners holds an election to form the district and elect the district's directors. Directors, as well as all district electors, must hold title to assessable land within the district.

The directors of a district may number three, five, or seven. They must all hold title to land within the district and a majority of them must be residents of the district. A quorum is a majority of the directors. A majority of the directors is required to transact the district's business.

District Powers. In addition to direct provision of irrigation, a district also has powers to exercise eminent domain; purchase and sell electricity to inhabitants of the district; produce electricity by means of hydroelectric generation when not a major function of the district; provide street lighting; provide sewage disposal, sewage treatment plants, and sanitary

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sewers; and conserve, improve, and preserve the water, including water quality, used or discharged in the district.

The districts' power to develop hydroelectric capability in connection with irrigation facilities includes building, owning, and operating hydroelectric facilities located inside or outside the district. The electric power may be provided for domestic use as well as used for irrigation purposes.

District Administrative Authority. Among the authorities of the district include the sale or lease of district personal property. Personal property valued at less than \$500 requires neither public notice of sale or lease nor competitive bidding. A formal sealed bid procedure is the standard procedure for a district's purchases of materials, supplies, and equipment. However, the board may adopt a policy to waive this standard procedure for purchases not exceeding \$40,000.

The ex officio treasurer of the district is the county treasurer. In certain circumstances the district may designate some other qualified person as treasurer. These circumstances include multi-county districts with assessments of at least \$500,000 in two of the last three years; single-county districts with similar assessments of at least \$2 million per year; or districts with the approval of the county treasurer.

District Project Financing. When the board deems it necessary to raise money to exercise its powers to do its work, the board must have plans made for this proposed work. These plans are the basis for estimating the costs of the work. After the board of directors and the district's engineer certify the plans, the plans are filed with the Director of the Department of Ecology (DOE). DOE makes advisory findings and conclusions to the board. The board must finalize the plan, determine the amount of money that must be raised, and call a special election of the district. The question put to the electors is whether the bonds as specified by the directors be issued. The bonds are revenue bonds of 10–40 year terms, paid from special assessments on the real property in the district. The property remains liable until the bonds are fully paid. The bonds are also a lien on the water rights and other property of the district.

The property in the district is assessed in proportion to the benefits accruing to the lands assessed, with equitable credit given to lands having full or partial water rights. The board of directors acts as the board of equalization and levies the assessments sufficient to repay the bonds. Assessments not paid by April 30 of each year are delinquent, though the payment may be one-half by April 30 and the balance by October 31 each year. Delinquent assessments bear simple interest at the rate of 12 percent per year.

The treasurer prepares a certificate of delinquency after an assessment is delinquent for 36 calendar months. The certificate includes the assessment, interest, and costs of foreclosure. The costs of foreclosure can include title search, court filing fees, costs of service, and attorneys' fees. The treasurer must order a title search for property for which a certificate of delinquency has been prepared in order to verify the legal description of the property to be sold and the party's interest. However, districts with 200,000 or more acres may compare the costs of foreclosure with the amount of the delinquency as stated in the certificate of delinquency and forego foreclosure proceedings.

District Elections. In districts of over 200,000 acres, each title holder of assessable land is entitled to one vote for the first ten acres held and one vote for all the rest of the holder's acreage. In districts under 200,000 acres, each title holder is entitled to two votes for each five acres or fraction thereof.

Adding Land to a District. Land is added to a district of 200,000 acres or more by petition to the board of directors by five or a majority of the holders of title to the land proposed to be added. The board's hearing on the petition must be held at least 30 days, and no more than 45 days, from the date of filing. The hearing on the petition may be adjourned, but for no more than 30 days. The board must reject the petition in two circumstances as follows: if it finds that the lands are not susceptible to irrigation and will not benefit from inclusion in the district; or if more than 50 percent of the titleholders of the property proposed for inclusion object. However, absent either of these findings, the property is included in the district without a vote of the electors of the district or of the electors of the land proposed for inclusion.

Federal Reclamation Projects and Irrigation Districts. The United States Bureau of Reclamation (Bureau) is a federal agency engaged in water and electricity-generating projects in 17 western states. The Bureau manages, develops, and protects water and related resources, and is the nation's largest wholesale water supplier. The Bureau is the second-largest producer of hydroelectric power in the west and has constructed more than 600 dams and reservoirs.

**Summary of Bill:** District Powers. Approval and conditioning of the placement of hydroelectric generation facilities by entities other than the district are added to the districts' powers.

District Administrative Authority. The value of personal property below which no notice or competitive bidding is required for its sale or lease, is increased from \$500 to \$10,000.

The directors of a district that designates its own treasurer may determine to forego foreclosure before the certificate of delinquency is prepared by reviewing a list of delinquent properties prepared by district's treasurer. This does not preclude the county treasurer from foreclosing on parcels otherwise delinquent and collecting the district's delinquent assessments at the same time.

The maximum amount of \$40,000 above which formal sealed bidding for purchases may not be waived by board policy, is increased to \$50,000.

Adding Land to a District. The deadline for the directors to hear a petition to include lands in a district is extended from 45 days to 180 days. The adjournment maximum of 30 days for hearings on petitions to add lands to a district is increased to be no more than 180 days.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: These statutes were originated in the first session of the Legislature in 1890. There have been changes since then, but none being systematic and modernizing. This bill does that. These suggestions are brought by the various districts in response to real problems. In one case, a hydropower dam placed by a third party actually caused a canal failure. The intent of all proposed changes is to ensure the districts' prime purpose of non-interrupted irrigation to farmers and ranchers can be maintained.

**Persons Testifying:** PRO: Representative Manweller, prime sponsor; Mike Schwisow, WA State Water Resources Assn.