

HOUSE BILL REPORT

ESB 5453

As Passed House - Amended:
April 12, 2019

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

Brief Description: Concerning the administration of irrigation districts.

Sponsors: Senators Takko and Short.

Brief History:

Committee Activity:

Local Government: 3/27/19, 4/2/19 [DPA].

Floor Activity:

Passed House - Amended: 4/12/19, 95-0.

**Brief Summary of Engrossed Bill
(As Amended by House)**

- Removes all provisions related to the execution of bonds with respect to irrigation district directors.
- Removes requirements that official oaths be approved by a superior court judge and recorded in the office of the county clerk.
- Requires an irrigation district, when calling for a bid proposal for contract work or materials, to advertise on the district's website or the county's website if the district does not have a website.
- Allows a board of an irrigation district to contract using a small works roster process for purchase of public works projects and materials.
- Allows a board that has not received any bids after a first call to either re-advertise and make a second call or solicit quotations from a minimum of three contractors and award the contract to the lowest responsible bidder.
- Requires the Washington Association of County Officials to study and make recommendations to standardize irrigation district election methods by December 1, 2019.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

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.

Majority Report: Do pass as amended. Signed by 7 members: Representatives Pollet, Chair; Peterson, Vice Chair; Kraft, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Appleton, Goehner and Senn.

Staff: Yvonne Walker (786-7841).

Background:

An irrigation district (district) is a type of special purpose district with broad statutory authorization to engage in a wide range of activities and provide a myriad of services. Generally, districts provide for the construction, improvement, maintenance, and operation of irrigation systems. Districts may also provide drainage, domestic water supply, electric power facilities, fire hydrants, and street lighting. Districts may finance their operations and actions through fees, charges, and assessments, but do not have the authority to impose property taxes.

Irrigation District Board.

A district is governed by a board of directors (board) composed of three to seven members who are elected to staggered three-year terms of office. All directors elected to office must hold title or evidence of title to land within the district.

Each director must take and subscribe an official oath for the faithful discharge of the duties of their office, and must execute a \$1,000 bond to the district, conditioned for the faithful discharge of their duties. The oath and bond must be approved by a superior court judge, recorded in the office of the county clerk, and filed with the secretary of the board. The secretary of the board must then also execute a bond of not less than \$1,000. If a district is appointed fiscal agent of the United States to collect money on its behalf, the secretary, directors, and the district treasurer must each execute such additional bonds as the Secretary of the Interior may require. All bonds must be secured at the cost of the district.

Contracts for Construction Work.

When soliciting bids for a public works project or material, a district must advertise in a newspaper in the county in which the district office is located and in any other newspaper that may be designated by the board. If purchases for work or materials are done by contract, it must use a publicly conducted, sealed bidding procedure. Notice calling for sealed proposals must be published in appropriate newspapers at least once a week for two weeks. The sealed bids must be opened publicly at a time and place appointed in the notice. The board must then award the contract to the lowest responsible bidder, or may reject all bids and re-advertise, or may proceed to construct the work under its own superintendence.

Summary of Amended Bill:

Irrigation District Board.

All provisions related to the execution of bonds with respect to district directors are removed. In addition, official oaths need no longer be approved by a superior court judge or recorded in the office of the county clerk.

Contracts for Construction Work.

A board may solicit bids for a public works project or materials by advertising on the district's website or the county's website if the district does not have a website—this is in addition to advertising in the local newspapers.

The board may contract using the small works roster process for public works projects or materials. In instances where no bids are received after a first call, a board may: (1) re-advertise and make a second call; or (2) solicit electronic or written quotes from a minimum of three contractors and award the contract to the lowest responsible bidder. After an award is made, the quotations must to be open to public inspection and available by electronic request. The district must attempt to distribute opportunities for projects equitably among contractors willing to perform in the geographic area of the work. The district must also maintain a list of contractors contacted and the contracts awarded during the previous 24 months.

Study of Election Methods.

The Washington Association of County Officials (WACO) must study and make recommendations to standardize district election methods. In conducting the study, the WACO may collaborate with the Secretary of State, county assessors, county auditors, and other relevant stakeholders as necessary. At a minimum, recommendations must include procedures to:

- identify qualified voters and directors;
- notify qualified voters and directors;
- deliver and return ballots;
- identify and count official returns; and
- declare the winning candidate.

The WACO must report its findings and recommendations to the appropriate committees of the Legislature and the Governor by December 1, 2019.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended 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) Districts operate and maintain the basic infrastructure that supports over 1 million acres of Washington's agriculture. Districts are one of the oldest forms of special purpose districts in the state, as the original enabling legislation was enacted back in 1890. The provisions in this bill are statutes that the board requested to be updated. The goal is to help local jurisdictions become more efficient, and this bill will remove some statutory provisions that are not being used anymore.

Many of these districts have antiquated methods of doing elections, so this bill will clean up those provisions. For example, commissioners no longer get bonds. Also, the statute is silent on what happens when no bids are received for a project. The bidding provisions of this bill

will provide more flexibility to district commissioners for projects and will allow for rebidding. Lastly, the bill will require a study of district elections and procedures in order to provide some uniformity around such laws.

(Opposed) None.

(Other) The ability to call someone to get a project done without any monitoring is not good public policy. There is support for allowing districts to post their bid projects on a website, but it would also be nice to use the limited public works process. Lastly, adding a provision in this bill to allow districts to use the small works process will provide some sort of check-and-balance system for projects needing to be completed on behalf of a district.

Persons Testifying: (In support) Senator Takko, prime sponsor; and Mike Schwisow, Washington State Water Resources Association.

(Other) Michael Transue, Mechanical Contractors Association of Western Washington.

Persons Signed In To Testify But Not Testifying: None.