

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1729

Chapter 354, Laws of 1997

(partial veto)

55th Legislature
1997 Regular Session

IRRIGATION DISTRICT ADMINISTRATION

EFFECTIVE DATE: 7/27/97

Passed by the House March 11, 1997
Yeas 97 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate April 24, 1997
Yeas 39 Nays 0

BRAD OWEN
President of the Senate

Approved May 14, 1997, with the
exception of section 4, which is
vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1729** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

May 14, 1997 - 2:05 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1729

Passed Legislature - 1997 Regular Session

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Schoesler, Grant and Linville)

Read first time 02/26/97.

1 AN ACT Relating to the administration of irrigation districts;
2 amending RCW 87.03.051, 87.03.435, and 87.03.560; and adding a new
3 section to chapter 87.03 RCW.

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

5 **Sec. 1.** RCW 87.03.051 and 1985 c 66 s 2 are each amended to read
6 as follows:

7 In districts with less than two hundred thousand acres, a person
8 eighteen years old, being a citizen of the United States and a resident
9 of the state and who holds title or evidence of title to assessable
10 land in the district or proposed district shall be entitled to vote
11 therein, and to be recognized as an elector. A ((domestic))
12 corporation, general partnership, limited partnership, limited
13 liability company, or other legal entity formed pursuant to the laws of
14 the state of Washington or qualified to do business in the state of
15 Washington owning land in the district shall be recognized as an
16 elector. As used in this section, "entity" means a corporation,
17 general partnership, limited partnership, limited liability company, or
18 other legal entity formed pursuant to the laws of the state of
19 Washington or qualified to do business in the state of Washington.

1 "Ownership" shall mean the aggregate of all assessable acres owned by
2 an elector, individually or jointly, within one district. Voting
3 rights shall be allocated as follows: Two votes for each five acres of
4 assessable land or fraction thereof. No one ownership may accumulate
5 more than forty-nine percent of the votes in one district. If
6 assessments are on the basis of shares instead of acres, an elector
7 shall be entitled to two votes for each five shares or fraction
8 thereof. The ballots cast for each ownership of land or shares shall
9 be exercised by common agreement between electors or when land is held
10 as community property, the accumulated votes may be divided equally
11 between husband and wife. Except for community property ownership, in
12 the absence of the submission of the common agreement to the secretary
13 of the district at least twenty-four hours before the opening of the
14 polls, the election board shall recognize the first elector to appear
15 on election day as the elector having the authority to cast the ballots
16 for that parcel of land for which there is more than one ownership
17 interest. A majority of the directors shall be residents of the county
18 or counties in which the district is situated and all shall be electors
19 of the district. If more than one elector residing outside the county
20 or counties is voted for as director, only that one who receives the
21 highest number of votes shall be considered in ascertaining the result
22 of the election. An agent of (~~(a domestic corporation)~~) an entity
23 owning land in the district, duly authorized in writing, may vote on
24 behalf of the (~~(corporation)~~) entity by filing with the election
25 officers his or her instrument of authority. An elector resident in
26 the district shall vote in the precinct in which he or she resides, all
27 others shall vote in the precinct nearest their residence. No director
28 shall be qualified to take or retain office unless (~~(he)~~) the director
29 holds title or evidence of title to land within the district.

30 NEW SECTION. Sec. 2. A new section is added to chapter 87.03 RCW
31 to read as follows:

32 No irrigation district, its directors, officers, employees, or
33 agents operating and maintaining irrigation works for any purpose
34 authorized by law, including the production of food for human
35 consumption and other agricultural and domestic purposes, is liable for
36 damages to persons or property arising from the disposal of sewage and
37 waste discharged by others into the irrigation works pursuant to

1 federal or state statutes, rules, or regulations permitting the
2 discharge.

3 **Sec. 3.** RCW 87.03.435 and 1990 c 39 s 1 are each amended to read
4 as follows:

5 (1) (~~Any person to whom a contract may have been awarded for the~~
6 ~~construction of a canal or any of the works of the district, or any~~
7 ~~portion thereof, or for the furnishing of labor or material, shall~~
8 ~~enter into a bond with good and sufficient sureties, to be approved by~~
9 ~~the board of directors, payable to the district for its use, for at~~
10 ~~least twenty five percent of the amount of the contract price,~~
11 ~~conditioned for the faithful performance of said contract, and with~~
12 ~~such further conditions as may be required by law in the case of~~
13 ~~contracts for public work, and as may be required by resolution of the~~
14 ~~board. All works shall be done under the direction and to the~~
15 ~~satisfaction of the engineer of the district, and be approved by the~~
16 ~~board.)) Except as provided in subsections (2) and (3) of this section~~
17 ~~and RCW 87.03.436, whenever in the construction of the district canal~~
18 ~~or canals, or other works, or the furnishing of materials therefor, the~~
19 ~~board of directors shall determine to let a contract or contracts for~~
20 ~~the doing of the work or the furnishing of the materials, a notice~~
21 ~~calling for sealed proposals shall be published. The notice shall be~~
22 ~~published in a newspaper in the county in which the office of the board~~
23 ~~is situated, and in any other newspaper which may be designated by the~~
24 ~~board, and for such length of time, not less than once each week for~~
25 ~~two weeks, as may be fixed by the board. At the time and place~~
26 ~~appointed in the notice for the opening of bids, the sealed proposals~~
27 ~~shall be opened in public, and as soon as convenient thereafter, the~~
28 ~~board shall let the work or the contract for the purchase of materials,~~
29 ~~either in portions or as a whole, to the lowest responsible bidder, or~~
30 ~~the board may reject any or all bids and readvertise, or may proceed to~~
31 ~~construct the work under its own superintendence. All work shall be~~
32 ~~done under the direction and to the satisfaction of the engineer of the~~
33 ~~district, and be approved by the board. The board of directors may~~
34 ~~require bidders submitting bids for the construction or maintenance for~~
35 ~~any of the works of the district, or for the furnishing of labor or~~
36 ~~material, to accompany their bids by a deposit in cash, certified~~
37 ~~check, cashier's check, or surety bond in an amount equal to five~~
38 ~~percent of the amount of the bid and a bid shall not be considered~~

1 unless the deposit is enclosed with it. If the contract is let, then
2 all the bid deposits shall be returned to the unsuccessful bidders.
3 The bid deposit of the successful bidder shall be retained until a
4 contract is entered into for the purchase of the materials or doing of
5 such work, and a bond given to the district in accordance with chapter
6 39.08 RCW for the performance of the contract. The performance bond
7 shall be conditioned as may be required by law and as may be required
8 by resolution of the board, with good and sufficient sureties
9 satisfactory to the board, payable to the district for its use, for at
10 least twenty-five percent of the contract price. If the successful
11 bidder fails to enter into a contract and furnish the necessary bond
12 within twenty days from the award, exclusive of the day of the award,
13 the bid deposit shall be forfeited to the district and the contract may
14 then be awarded to the second lowest bidder.

15 (2) The provisions of this section in regard to public bidding
16 shall not apply in cases where the board is authorized to exchange
17 bonds of the district in payment for labor and material.

18 (3) The provisions of this section do not apply:

19 (a) In the case of any contract between the district and the United
20 States;

21 (b) In the case of an emergency when the public interest or
22 property of the district would suffer material injury or damage by
23 delay, upon resolution of the board of directors or proclamation of an
24 official designated by the board to act for the board during such
25 emergencies. The resolution or proclamation shall declare the
26 existence of the emergency and recite the facts constituting the
27 emergency; or

28 (c) To purchases which are clearly and legitimately limited to a
29 single source of supply or to purchases involving special facilities,
30 services, or market conditions, in which instances the purchase price
31 may be best established by direct negotiation.

32 **Sec. 4. RCW 87.03.560 and 1889-90 p 694 s 48 are each amended to*
33 *read as follows:*

34 *The holder or holders of title, or evidence of title, representing*
35 *one-half or more of any body of lands (~~adjacent to the boundary of an~~*
36 *irrigation district, which are contiguous and which, taken together,*
37 *constitute one tract of land,)) may file with the board of directors of*
38 *((said)) an irrigation district a petition in writing, praying that the*

1 boundaries of ((said)) the district may be so changed as to include
2 ((~~therein—said~~)) such lands. The petition shall describe the
3 boundaries of ((said)) the parcel or tract of land, and shall also
4 describe the boundaries of the several parcels owned by the
5 petitioners, if the petitioners be the owners respectively of distinct
6 parcels, but such descriptions need not be more particular than they
7 are required to be when such lands are entered by the county assessor
8 in the assessment book. Such petition must contain the assent of the
9 petitioners to the inclusion within ((said)) the district of the
10 parcels or tracts of land described in the petition, and of which
11 ((said)) the petition alleges they are respectively the owners; and it
12 must be acknowledged in the same manner that conveyances of land are
13 required to be acknowledged.

14 *Sec. 4 was vetoed. See message at end of chapter.

Passed the House March 11, 1997.

Passed the Senate April 24, 1997.

Approved by the Governor May 14, 1997, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 14, 1997.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 4,
3 Substitute House Bill No. 1729 entitled:

4 "AN ACT Relating to the administration of irrigation districts;"

5 Substitute House Bill No. 1729 makes several technical amendments
6 and up-dates to the laws governing irrigation districts. Section 4 of
7 the bill, however would be a substantial change in state water policy.
8 That section would allow irrigation districts to add lands that are not
9 contiguous with the district's boundaries. Such a change could allow
10 irrigation districts to pipe water to isolated parcels of land
11 substantial distances from their primary locations, and could result in
12 "water spreading" and unanticipated expansion of the districts' water
13 rights. Changes such as this should not be dealt with in a piecemeal
14 fashion, but in context with the numerous other factors that must be
15 considered in allocating the state's limited water supply.

16 For these reasons, I have vetoed section 4 of Substitute House Bill
17 No. 1729.

18 With the exception of section 4, I am approving Substitute House
19 Bill No. 1729."