

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1747

Chapter 305, Laws of 1999

56th Legislature
1999 Regular Session

CONSERVATION DISTRICTS--FORMATION AND DISSOLUTION

EFFECTIVE DATE: 7/25/99

Passed by the House April 24, 1999
Yeas 96 Nays 0

JOHN E. PENNINGTON, JR.
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 23, 1999
Yeas 43 Nays 0

BRAD OWEN
President of the Senate

Approved May 13, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1747** as passed by the House of Representatives and the Senate on the dates hereon set forth.

DEAN R. FOSTER

Chief Clerk

TIMOTHY A. MARTIN

Chief Clerk

FILED

May 13, 1999 - 3:55 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1747

AS AMENDED BY THE SENATE

Passed Legislature - 1999 Regular Session

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Linville and G. Chandler; by request of Washington State Conservation Commission)

Read first time 03/01/1999.

1 AN ACT Relating to conservation district deannexation of
2 municipalities, dissolution, and liability; amending RCW 89.08.020,
3 89.08.080, 89.08.110, 89.08.130, 89.08.150, 89.08.180, 89.08.220,
4 89.08.350, 89.08.360, and 89.08.370; adding a new section to chapter
5 89.08 RCW; and repealing RCW 89.08.380.

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

7 **Sec. 1.** RCW 89.08.020 and 1973 1st ex.s. c 184 s 3 are each
8 amended to read as follows:

9 Unless the context clearly indicates otherwise, as used in this
10 chapter:

11 "Commission" and "state conservation commission" means the agency
12 created hereunder. All former references to "state soil and water
13 conservation committee", "state committee" or "committee" shall be
14 deemed to be references to the "state conservation commission";

15 "District", or "conservation district" means a governmental
16 subdivision of this state and a public body corporate and politic,
17 organized in accordance with the provisions of (~~this 1973 amendatory~~
18 ~~act~~) chapter 184, Laws of 1973 1st ex. sess., for the purposes, with
19 the powers, and subject to the restrictions set forth in this chapter.

1 All districts created under (~~this 1973 amendatory act~~) chapter 184,
2 Laws of 1973 1st ex. sess. shall be known as conservation districts and
3 shall have all the powers and duties set out in (~~this 1973 amendatory~~
4 ~~act~~) chapter 184, Laws of 1973 1st ex. sess. All references in (~~this~~
5 ~~1973 amendatory act~~) chapter 184, Laws of 1973 1st ex. sess. to
6 "districts", or "soil and water conservation districts" shall be deemed
7 to be reference to "conservation districts";

8 "Board" and "supervisors" mean the board of supervisors of a
9 conservation district;

10 "Land occupier" or "occupier of land" includes any person, firm,
11 political subdivision, government agency, municipality, public or
12 private corporation, copartnership, association, or any other entity
13 whatsoever which holds title to, or is in possession of, any lands
14 lying within a district organized under the provisions of (~~this 1973~~
15 ~~amendatory act~~) chapter 184, Laws of 1973 1st ex. sess., whether as
16 owner, lessee, renter, tenant, or otherwise;

17 "District elector" or "voter" means a (~~qualified county elector~~
18 ~~occupying land~~) registered voter in the county where the district is
19 located who resides within the district boundary or in the area
20 affected by a petition;

21 "Due notice" means a notice published at least twice, with at least
22 six days between publications, in a publication of general circulation
23 within the affected area, or if there is no such publication, by
24 posting at a reasonable number of public places within the area, where
25 it is customary to post notices concerning county and municipal
26 affairs. Any hearing held pursuant to due notice may be postponed from
27 time to time without a new notice;

28 "Renewable natural resources", "natural resources" or "resources"
29 includes land, air, water, vegetation, fish, wildlife, wild rivers,
30 wilderness, natural beauty, scenery and open space;

31 "Conservation" includes conservation, development, improvement,
32 maintenance, preservation, protection and use, and alleviation of
33 floodwater and sediment damages, and the disposal of excess surface
34 waters.

35 "Farm and agricultural land" means either (a) land in any
36 contiguous ownership of twenty or more acres devoted primarily to
37 agricultural uses; (b) any parcel of land five acres or more but less
38 than twenty acres devoted primarily to agricultural uses, which has
39 produced a gross income from agricultural uses equivalent to one

1 hundred dollars or more per acre per year for three of the five
2 calendar years preceding the date of application for classification
3 under this chapter; or (c) any parcel of land of less than five acres
4 devoted primarily to agricultural uses which has produced a gross
5 income of one thousand dollars or more per year for three of the five
6 calendar years preceding the date of application for classification
7 under this chapter. Agricultural lands shall also include farm
8 woodlots of less than twenty and more than five acres and the land on
9 which appurtenances necessary to production, preparation or sale of the
10 agricultural products exist in conjunction with the lands producing
11 such products. Agricultural lands shall also include any parcel of
12 land of one to five acres, which is not contiguous, but which otherwise
13 constitutes an integral part of farming operations being conducted on
14 land qualifying under this section as "farm and agricultural lands".

15 **Sec. 2.** RCW 89.08.080 and 1973 1st ex.s. c 184 s 9 are each
16 amended to read as follows:

17 To form a conservation district, (~~twenty-five or more persons~~
18 ~~occupying land~~) twenty percent of the voters within the area to be
19 affected may file a petition with the commission asking that the area
20 be organized into a district.

21 The petition shall give the name of the proposed district, state
22 that it is needed in the interest of the public health, safety, and
23 welfare, give a general description of the area proposed to be
24 organized and request that the commission determine that it be created,
25 and that it define the boundaries thereof and call an election on the
26 question of creating the district.

27 If more than one petition is filed covering parts of the same area,
28 the commission may consolidate all or any of them.

29 **Sec. 3.** RCW 89.08.110 and 1973 1st ex.s. c 184 s 12 are each
30 amended to read as follows:

31 If the commission finds that the district is needed, it shall then
32 determine whether it is practicable. To assist the commission in
33 determining this question, it shall, within a reasonable time, submit
34 the proposition to a vote of the (~~land occupiers~~) district electors
35 in the proposed district.

36 The commission shall fix the date of the election, designate the
37 polling places, fix the hours for opening and closing the polls, and

1 appoint the election officials. The election shall be conducted, the
2 vote counted and returns canvassed and the results published by the
3 commission.

4 **Sec. 4.** RCW 89.08.130 and 1973 1st ex.s. c 184 s 14 are each
5 amended to read as follows:

6 The commission shall give due notice of the election, which shall
7 state generally the purpose of the election, the date thereof, the
8 place and hours of voting, and set forth the boundaries of the proposed
9 district.

10 Only qualified district electors within the proposed district as
11 determined by the commission may vote at the election. Each voter
12 shall vote in the polling place nearest ~~((his))~~ the voter's residence.
13 ~~((If he resides outside the district, he shall vote at the nearest
14 polling place of the district.))~~

15 **Sec. 5.** RCW 89.08.150 and 1973 1st ex.s. c 184 s 16 are each
16 amended to read as follows:

17 If a majority of the votes cast at the election are against the
18 creation of the district, the commission shall deny the petition. If
19 a majority favor the district, the commission shall determine the
20 practicability of the project.

21 In making such determination, the commission shall consider the
22 attitude of the ~~((land occupiers))~~ voters of the district; the number
23 of eligible voters who voted at the election; the size of the majority
24 vote; the wealth and income of the land occupiers; the probable expense
25 of carrying out the project; and any other economic factors relevant
26 thereto.

27 If the commission finds that the project is impracticable it shall
28 enter an order to that effect and deny the petition. When the petition
29 has been denied, no new petition covering the same or substantially the
30 same area may be filed within six months therefrom.

31 **Sec. 6.** RCW 89.08.180 and 1973 1st ex.s. c 184 s 19 are each
32 amended to read as follows:

33 Territory may be added to an existing district upon filing a
34 petition as in the case of formation with the commission by ~~((occupiers
35 of the lands))~~ twenty percent of the voters of the affected area to be

1 included. The same procedure shall be followed as for the creation of
2 the district.

3 As an alternate procedure, the commission may upon the petition of
4 a majority of the (~~land-occupiers~~) voters in any one or more
5 districts or in unorganized territory adjoining a conservation district
6 change the boundaries of a district, or districts, if such action will
7 promote the practical and feasible administration of such district or
8 districts.

9 Upon petition of the boards of supervisors of two or more
10 districts, the commission may approve the combining of all or parts of
11 such districts and name the district, or districts, with the approval
12 of the name by the secretary of state. A public hearing and/or a
13 referendum may be held if deemed necessary or desirable by the
14 commission in order to determine the wishes of (~~land-occupiers~~) the
15 voters.

16 When districts are combined, the joint boards of supervisors will
17 first select a chairman, secretary and other necessary officers and
18 select a regular date for meetings. All elected supervisors will
19 continue to serve as members of the board until the expiration of their
20 current term of office, and/or until the election date nearest their
21 expiration date. All appointed supervisors will continue to serve
22 until the expiration of their current term of office, at which time the
23 commission will make the necessary appointments. In the event that
24 more than two districts are combined, a similar procedure will be set
25 up and administered by the commission.

26 When districts are combined or territory is moved from one district
27 to another, the property, records and accounts of the districts
28 involved shall be distributed to the remaining district or districts as
29 approved by the commission. A new certificate of organization, naming
30 and describing the new district or districts, shall be issued by the
31 secretary of state.

32 NEW SECTION. **Sec. 7.** A new section is added to chapter 89.08 RCW
33 to read as follows:

34 The local governing body of any city or incorporated town within an
35 existing district may approve by majority vote a petition to withdraw
36 from the district. The petition shall be submitted to the district for
37 its approval. If approved by the district, the petition shall be sent
38 to the commission. The commission shall approve the petition and

1 forward it to the secretary of state and the boundary of the district
2 shall be adjusted accordingly. If the petition is not approved by the
3 district, the district shall adopt a resolution specifying the reasons
4 why the petition is not approved. The petition and the district's
5 resolution shall be sent to the commission for its review. The
6 commission shall approve or reject the petition based upon criteria it
7 has adopted for the evaluation of petitions in dispute. If the
8 commission approves the petition, it shall forward the petition to the
9 secretary of state and the boundaries of the district shall be adjusted
10 accordingly. The criteria used by the commission to evaluate petitions
11 which are in dispute shall be adopted as rules by the commission under
12 chapter 34.05 RCW, the administrative procedure act.

13 **Sec. 8.** RCW 89.08.220 and 1973 1st ex.s. c 184 s 23 are each
14 amended to read as follows:

15 A conservation district organized under the provisions of this 1973
16 amendatory act shall constitute a governmental subdivision of this
17 state, and a public body corporate and politic exercising public
18 powers, but shall not levy taxes or issue bonds and such district, and
19 the supervisors thereof, shall have the following powers, in addition
20 to others granted in other sections of this 1973 amendatory act:

21 (1) To conduct surveys, investigations, and research relating to
22 the conservation of renewable natural resources and the preventive and
23 control measures and works of improvement needed, to publish the
24 results of such surveys, investigations, or research, and to
25 disseminate information concerning such preventive and control measures
26 and works of improvement: PROVIDED, That in order to avoid duplication
27 of research activities, no district shall initiate any research program
28 except in cooperation with the government of this state or any of its
29 agencies, or with the United States or any of its agencies;

30 (2) To conduct educational and demonstrational projects on any
31 lands within the district upon obtaining the consent of the occupier of
32 such lands and such necessary rights or interests in such lands as may
33 be required in order to demonstrate by example the means, methods,
34 measures, and works of improvement by which the conservation of
35 renewable natural resources may be carried out;

36 (3) To carry out preventative and control measures and works of
37 improvement for the conservation of renewable natural resources, within
38 the district including, but not limited to, engineering operations,

1 methods of cultivation, the growing of vegetation, changes in use of
2 lands, and the measures listed in RCW 89.08.010, on any lands within
3 the district upon obtaining the consent of the occupier of such lands
4 and such necessary rights or interests in such lands as may be
5 required;

6 (4) To cooperate or enter into agreements with, and within the
7 limits of appropriations duly made available to it by law, to furnish
8 financial or other aid to any agency, governmental or otherwise, or any
9 occupier of lands within the district in the carrying on of preventive
10 and control measures and works of improvement for the conservation of
11 renewable natural resources within the district, subject to such
12 conditions as the supervisors may deem necessary to advance the
13 purposes of this 1973 amendatory act. For purposes of this subsection
14 only, land occupiers who are also district supervisors are not subject
15 to the provisions of RCW 42.23.030;

16 (5) To obtain options upon and to acquire in any manner, except by
17 condemnation, by purchase, exchange, lease, gift, bequest, devise, or
18 otherwise, any property, real or personal, or rights or interests
19 therein; to maintain, administer, and improve any properties acquired,
20 to receive income from such properties and to expend such income in
21 carrying out the purposes and provisions of this 1973 amendatory act;
22 and to sell, lease, or otherwise dispose of any of its property or
23 interests therein in furtherance of the purposes and the provisions of
24 this act;

25 (6) To make available, on such terms, as it shall prescribe, to
26 land occupiers within the district, agricultural and engineering
27 machinery and equipment, fertilizer, seeds, seedlings, and such other
28 equipment and material as will assist them to carry on operations upon
29 their lands for the conservation of renewable natural resources;

30 (7) To prepare and keep current a comprehensive long-range program
31 recommending the conservation of all the renewable natural resources of
32 the district. Such programs shall be directed toward the best use of
33 renewable natural resources and in a manner that will best meet the
34 needs of the district and the state, taking into consideration, where
35 appropriate, such uses as farming, grazing, timber supply, forest,
36 parks, outdoor recreation, potable water supplies for urban and rural
37 areas, water for agriculture, minimal flow, and industrial uses,
38 watershed stabilization, control of soil erosion, retardation of water
39 run-off, flood prevention and control, reservoirs and other water

1 storage, restriction of developments of flood plains, protection of
2 open space and scenery, preservation of natural beauty, protection of
3 fish and wildlife, preservation of wilderness areas and wild rivers,
4 the prevention or reduction of sedimentation and other pollution in
5 rivers and other waters, and such location of highways, schools,
6 housing developments, industries, airports and other facilities and
7 structures as will fit the needs of the state and be consistent with
8 the best uses of the renewable natural resources of the state. The
9 program shall include an inventory of all renewable natural resources
10 in the district, a compilation of current resource needs, projections
11 of future resource requirements, priorities for various resource
12 activities, projected timetables, descriptions of available
13 alternatives, and provisions for coordination with other resource
14 programs.

15 The district shall also prepare an annual work plan, which shall
16 describe the action programs, services, facilities, materials, working
17 arrangements and estimated funds needed to carry out the parts of the
18 long-range programs that are of the highest priorities.

19 The districts shall hold public hearings at appropriate times in
20 connection with the preparation of programs and plans, shall give
21 careful consideration to the views expressed and problems revealed in
22 hearings, and shall keep the public informed concerning their programs,
23 plans, and activities. Occupiers of land shall be invited to submit
24 proposals for consideration to such hearings. The districts may
25 supplement such hearings with meetings, referenda and other suitable
26 means to determine the wishes of interested parties and the general
27 public in regard to current and proposed plans and programs of a
28 district. They shall confer with public and private agencies,
29 individually and in groups, to give and obtain information and
30 understanding of the impact of district operations upon agriculture,
31 forestry, water supply and quality, flood control, particular
32 industries, commercial concerns and other public and private interests,
33 both rural and urban.

34 Each district shall submit to the commission its proposed long-
35 range program and annual work plans for review and comment.

36 The long-range renewable natural resource program, together with
37 the supplemental annual work plans, developed by each district under
38 the foregoing procedures shall have official status as the authorized
39 program of the district, and it shall be published by the districts as

1 its "renewable resources program". Copies shall be made available by
2 the districts to the appropriate counties, municipalities, special
3 purpose districts and state agencies, and shall be made available in
4 convenient places for examination by public land occupier or private
5 interest concerned. Summaries of the program and selected material
6 therefrom shall be distributed as widely as feasible for public
7 information;

8 (8) To administer any project or program concerned with the
9 conservation of renewable natural resources located within its
10 boundaries undertaken by any federal, state, or other public agency by
11 entering into a contract or other appropriate administrative
12 arrangement with any agency administering such project or program;

13 (9) Cooperate with other districts organized under this 1973
14 amendatory act in the exercise of any of its powers;

15 (10) To accept donations, gifts, and contributions in money,
16 services, materials, or otherwise, from the United States or any of its
17 agencies, from this state or any of its agencies, or from any other
18 source, and to use or expend such moneys, services, materials, or any
19 contributions in carrying out the purposes of this act;

20 (11) To sue and be sued in the name of the district; to have a seal
21 which shall be judicially noticed; have perpetual succession unless
22 terminated as hereinafter provided; to make and execute contracts and
23 other instruments, necessary or convenient to the exercise of its
24 powers; to borrow money and to pledge, mortgage and assign the income
25 of the district and its real or personal property therefor; and to
26 make, amend rules and regulations not inconsistent with this 1973
27 amendatory act and to carry into effect its purposes;

28 (12) Any two or more districts may engage in joint activities by
29 agreement between or among them in planning, financing, constructing,
30 operating, maintaining, and administering any program or project
31 concerned with the conservation of renewable natural resources. The
32 districts concerned may make available for purposes of the agreement
33 any funds, property, personnel, equipment, or services available to
34 them under this 1973 amendatory act;

35 Any district may enter into such agreements with a district or
36 districts in adjoining states to carry out such purposes if the law in
37 such other states permits the districts in such states to enter into
38 such agreements.

1 The commission shall have authority to propose, guide, and
2 facilitate the establishment and carrying out of any such agreement;

3 (13) Every district shall, through public hearings, annual
4 meetings, publications, or other means, keep the general public,
5 agencies and occupiers of land within the district, informed of the
6 works and activities planned and administered by the district, of the
7 purposes these will serve, of the income and expenditures of the
8 district, of the funds borrowed by the district and the purposes for
9 which such funds are expended, and of the results achieved annually by
10 the district; and

11 (14) The supervisors of conservation districts may designate an
12 area, state, and national association of conservation districts as a
13 coordinating agency in the execution of the duties imposed by this
14 chapter, and to make gifts in the form of dues, quotas, or otherwise to
15 such associations for costs of services rendered, and may support and
16 attend such meetings as may be required to promote and perfect the
17 organization and to effect its purposes.

18 **Sec. 9.** RCW 89.08.350 and 1973 1st ex.s. c 184 s 25 are each
19 amended to read as follows:

20 At any time after five years from the organization of a district,
21 ~~((one hundred land occupiers))~~ twenty percent of the voters in the
22 district may file with the commission a petition, praying that the
23 district be dissolved. The commission may hold public hearings
24 thereon, and within sixty days from receipt of the petition, shall give
25 due notice of an election on the question of dissolution. It shall
26 provide appropriate ballots, conduct the election, canvass the returns,
27 and declare the results in the same manner as for elections to create
28 a district.

29 All district electors may vote at the election. No informality
30 relating to the election shall invalidate it if notice is substantially
31 given and the election is fairly conducted.

32 **Sec. 10.** RCW 89.08.360 and 1973 1st ex.s. c 184 s 26 are each
33 amended to read as follows:

34 If a majority of the votes cast at the election are for
35 dissolution, the district shall be dissolved. ~~((If two-thirds of the
36 votes are against dissolution, the commission shall determine whether
37 the continuance of the district is practicable. In making the~~

1 ~~determination it shall consider all the factors considered by it in~~
2 ~~determining that the district was practicable originally. If it finds~~
3 ~~that further operation of the district is impracticable it shall order~~
4 ~~it dissolved and certify its determination to the supervisors.))~~

5 **Sec. 11.** RCW 89.08.370 and 1973 1st ex.s. c 184 s 27 are each
6 amended to read as follows:

7 If the district is ordered dissolved, the supervisors shall
8 forthwith terminate the affairs of the district and dispose of all
9 district property at public auction, and pay the proceeds therefrom to
10 pay any debts of the district and any remaining balance to the state
11 treasurer.

12 They shall then file a verified application with the secretary of
13 state for the dissolution of the district, accompanied by a certificate
14 of the commission reciting the determination that further operation of
15 the district is impracticable. The application shall recite that the
16 property of the district has been disposed of, that the proceeds
17 therefrom have been used to pay any debts of the district and any
18 remaining balance paid to the treasurer, and contain a full accounting
19 of the property and proceeds. Thereupon the secretary shall issue to
20 the supervisors a certificate of dissolution and file a copy thereof in
21 his or her records.

22 NEW SECTION. **Sec. 12.** RCW 89.08.380 (Effect of dissolution--
23 Commission substituted) and 1973 1st ex.s. c 184 s 28 & 1955 c 304 s 28
24 are each repealed.

Passed the House April 24, 1999.

Passed the Senate April 23, 1999.

Approved by the Governor May 13, 1999.

Filed in Office of Secretary of State May 13, 1999.