

# SENATE BILL REPORT

## SSB 5839

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As Passed Senate, March 7, 2009

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

**Brief Description:** Regarding the administration of irrigation districts.

**Sponsors:** Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Schoesler, Hatfield and Shin).

**Brief History:**

**Committee Activity:** Agriculture & Rural Economic Development: 2/09/09, 2/24/09 [DPS].

Passed Senate: 3/07/09, 44-0.

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### SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

**Majority Report:** That Substitute Senate Bill No. 5839 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hatfield, Chair; Schoesler, Ranking Minority Member; Becker, Jacobsen, Morton and Shin.

**Staff:** Sam Thompson (786-7413)

**Background:** Irrigation districts (districts), authorized by the first state Legislature in 1890, are among the oldest special purpose districts in Washington. Originally authorized to provide irrigation facilities and services, they have since been authorized to provide: drainage systems; domestic water; electric energy generation, purchasing and distribution; fire hydrants; sewerage systems; residential energy conservation program assistance; heating systems; and street lighting. Among special purpose districts only port districts possess a greater range of powers.

Director Compensation. Districts are governed by an elected board of directors. Directors must each receive compensation for attending meetings and performing other district services. The amount, which may not exceed \$90 per day, must be fixed by district resolution. (Beginning in 2008, the \$90 limit is adjusted every five years for inflation.) State constitutional provisions prohibit compensation of public officers from being increased

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during their term of office, unless they do not fix their own compensation. It is suggested that compensation of directors be fixed in statute.

District Liability. Irrigation districts may be sued. A flooding incident in Nevada has raised concerns regarding potential district liability arising from defects in federally-constructed facilities that may be operated by a district.

Subdivision Review. Cities and counties must review and approve most proposed divisions of land into smaller parcels to insure that necessary public facilities are provided and that the proposal is in the public interest. Currently, if a proposed subdivision includes irrigable land, irrigation facilities may be required by an irrigation district as a condition for approval of the subdivision.

Electric Power Authority. It is suggested that districts be granted clearer authority to enter into joint ventures with public and private entities to purchase and sell power or develop or own generation and transmission facilities.

**Summary of Substitute Bill:** Several provisions governing irrigation district operations are revised.

Director Compensation. Language requiring irrigation district directors to fix per diem compensation amounts by resolution is deleted. The amount is set at \$90 per day.

District Liability. A district may enter into a contract with the United States for transfer of operations and maintenance of federal reclamation project works, but the contract does not impute to the district negligence for design or construction defects or deficiencies of the transferred works.

Whenever a city or county receives a subdivision application that includes land in an irrigation district, the district must be given notice. It must then submit a statement with any information or conditions for approval that it deems necessary regarding the proposal's effect upon the structural integrity of irrigation district facilities, other risk exposures, and the safety of the public and the district.

Electric Power Authority. A district may contract or form a separate legal entity with several types of public or private entities to purchase and sell electric power and to develop or own electric power generating or transmitting facilities. The contract may provide for purchasing capability of a project to produce or transmit electric power, in addition to actual output; for making payments whether or not a project is completed; that payments are not subject to reduction; and that performance is not conditioned upon performance or nonperformance of any party or entity. Entities that a district may contract with include: U.S. government agencies; states; municipalities; public utility districts; other irrigation districts; joint operating agencies; rural electric cooperatives; mutual corporations or associations; investor-owned utilities; or associations or legal entities composed of any such entities or utilities.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

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

**Staff Summary of Public Testimony on Original Bill:** PRO: This legislation addresses recently arising liability concerns and grants necessary authority. Provisions regarding review of proposed subdivisions and transfer of federal works relate to concerns that arose following a 2008 incident in which a century-old federally-constructed canal in Nevada burst and flooded a community, exposing an irrigation district to liability. The Kennewick Irrigation District, which serves a rapidly urbanizing area, seeks authority to qualify for impact fee funding. District directors face constitutional barriers regarding increasing their compensation during their term of office. The Vera Water & Power District seeks authority to enter into a joint electric power project with other public and private entities.

**Persons Testifying:** PRO: Mike Schwisow, Washington State Water Resources Association.