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**SENATE BILL 5331**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Takko and Warnick

AN ACT Relating to irrigation district administration; and amending RCW 87.03.240, 87.03.445, 87.03.565, and 87.03.820.

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

**Sec.**  RCW 87.03.240 and 1933 c 43 s 3 are each amended to read as follows:

(1) Assessments made in order to carry out the purpose of this act shall be made in proportion to the benefits accruing to the lands assessed and equitable credit shall be given to the lands having a partial or full water right: PROVIDED, That nothing herein shall be construed to affect or impair the obligation of any existing contract providing for a water supply to lands so assessed, unless the right under such contract shall first have been acquired by said district, and in acquiring such rights, the district may exercise the right of eminent domain.

(2) The secretary must between the first Monday in March and the first Tuesday in November each year prepare an assessment roll with appropriate headings in which must be listed all the lands within the district. In such book must be specified, in separate columns, under the appropriate headings:

(a) First, the name of the person to whom the property is assessed. If the name is not known to the secretary, the property shall be assessed to "unknown owners."

(b)(i) Second, land by township, range and section or fractional section, and when such land is not a legal subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number of acres, city and town lots, naming the city or town, and the number and block according to the system of numbering in such city or town.

(ii) Assessors' plat tax numbers used by county assessors for general state and county taxes in the county where such land is situate may be used for such identification in such assessment roll.

(c) Third, in further columns with appropriate headings shall be specified the ratio of benefits, or, when deemed by the secretary more practicable, the per acre value, or the amount of benefits, for general and special district and local improvement district purposes, and the total amount assessed against each tract of land.

(3) Any property which may have escaped assessment for any year or years, shall in addition to the assessment for the then current year, be assessed for such year or years with the same effect and with the same penalties as are provided for such current year and any property delinquent in any year may be directly assessed during the current year for any expenses caused the district on account of such delinquency.

(4) Where the district embraces lands lying in more than one county the assessment roll shall be so arranged that the lands lying in each county shall be segregated and grouped according to the county in which the same are situated.

**Sec.**  RCW 87.03.445 and 2001 c 149 s 4 are each amended to read as follows:

(1) The cost and expense of purchasing and acquiring property, and construction, reconstruction, extension, and betterment of the works and improvements herein provided for, and the expenses incidental thereto, and indebtedness to the United States for district lands assumed by the district, and for the carrying out of the purposes of this chapter, may be paid for by the board of directors out of the funds received from bond sales as well as other district funds.

(2) For the purpose of defraying the costs and expenses of the organization of the district, and of the care, operation, management, maintenance, repair, and improvement of the district and its irrigation water, domestic water, electric power, drainage, or sewer facilities or of any portion thereof, or for the payment of any indebtedness due the United States or the state of Washington, or for the payment of district bonds, the board may either fix reasonable rates or tolls and charges, and collect the same from all persons for whom district service is made available for irrigation water, domestic water, electric power, drainage or sewerage, and other purposes, or it may provide for the payment of said costs and expenses by a levy of assessment therefor, or by both said rates or tolls and charges and assessment.

(3) If the assessment method is utilized, the levy of assessments shall be made on the completion and equalization of the assessment roll each year, and the board shall have the same powers and functions for the purpose of said levy as possessed by it in case of levy to pay bonds of the district. The procedure for the collection of assessments by such levy shall in all respects conform with the provisions of this chapter, relating to the collection of assessments for the payment of principal and interest of bonds herein provided for, and shall be made at the same time.

(4) If the rates or tolls and charges method is adopted in whole or in part, the secretary shall deliver to the board of directors, within the time for filing the assessment roll, a schedule containing the names of the owners or reputed owners, as shown on the rolls of the county treasurer as of the first Tuesday in November of each year such a schedule is filed of the various parcels of land against which rates or tolls and charges are to be levied, the description of each such parcel of land and the amount to be charged against each parcel for irrigation water, domestic water, electric power, drainage, sewerage, and other district costs and expenses. Said schedule of rates or tolls and charges shall be equalized pursuant to the same notice, in the same manner, at the same time and with the same legal effect as in the case of assessments. Such schedule of rates or tolls and charges for a given year shall be filed with the proper county treasurer within the same time as that provided by law for the filing of the annual assessment roll, and the county treasurer shall collect and receipt for the payment of said rates or tolls and charges and credit them to the proper funds of the district. The board may designate the time and manner of making such collections and shall require the same to be paid in advance of delivery of water and other service. For the purposes of collection and enforcement, all tolls and charges levied shall also at once become and constitute an assessment upon and against the lands for which they are levied, with the same force and effect, and the same manner of enforcement, and with the same rate of interest from date of delinquency, in case of nonpayment, as other district assessments. Any tolls and charges constituting an assessment for collection and enforcement purposes under this section are not subject to the provisions of RCW 87.03.240(1).

(5) As an alternative method of imposing, collecting, and enforcing such rates or tolls and charges, the board may also base such rates or tolls and charges upon the quantity of irrigation water, domestic water, or electric power delivered, or drainage or sewage disposed of, and may fix a minimum rate or toll and charge to be paid by each parcel of land or use within the district for the delivery or disposal of a stated quantity of each such service with a graduated charge for additional quantities of such services delivered or disposed of. If the board elects to utilize this alternative method of imposing, collecting, and enforcing such rates or tolls and charges, there shall be no requirement that the schedule referred to in the preceding paragraph be prepared, be filed with the board of directors by the secretary, be equalized, or be filed with a county treasurer. The board shall enforce collection of such rates or tolls and charges against property to which and its owners to whom the service is available, such rates or tolls and charges being deemed charges and a lien against the property to which the service is available, until paid in full. Prior to furnishing services, a board may require a deposit to guarantee payment for services. However, failure to require a deposit does not affect the validity of any lien authorized by this section.

(6) The board may provide by resolution that where such rates or tolls and charges are delinquent for any specified period of time, the district shall certify the delinquencies to the treasurer of the county in which the real property is located, and the charges and any penalties added thereto and interest thereon at the rate not to exceed twelve percent per annum fixed by resolution shall be a lien against the property to which the service was available, subject only to the lien for general taxes. The district may, at any time after such rates or tolls and charges and penalties provided for herein are delinquent for a period of one year, bring suit in foreclosure by civil action in the superior court of the county in which the real property is situated.

(7) A board may determine how to apply partial payments on past due accounts.

(8) A board may provide a real property owner or the owner's designee with duplicate bills for service to tenants, or may notify an owner or the owner's designee that a tenant's service account is delinquent. However, if an owner or the owner's designee notifies the board in writing that a property served by the board is a rental property, asks to be notified of a tenant's delinquency, and has provided, in writing, a complete and accurate mailing address, the board shall notify the owner or the owner's designee of a tenant's delinquency at the same time and in the same manner the board notifies the tenant of the tenant's delinquency or by mail. When a district provides a real property owner or the owner's designee with duplicates of tenant utility service bills or notice that a tenant's utility account is delinquent, the district shall notify the tenant that it is providing the duplicate bills or delinquency notice to the owner or the owner's designee. After January 1, 1999, if a board fails to notify the owner of a tenant's delinquency after receiving a written request to do so and after receiving the other information required by this subsection (8), the board shall have no lien against the premises for the tenant's delinquent and unpaid charges.

(9) The court may allow, in addition to the costs and disbursements provided by statute, such attorneys' fees as it may adjudge reasonable. The action shall be in rem against the property, and in addition may be brought in the name of the district against an individual, or against all of those who are delinquent, in one action, and the rules of the court shall control as in other civil actions. The board may in the same year use the assessment method for part of the lands in the district and the rates or tolls and charges method for the remaining lands in the district in such proportion as it may deem advisable for the best interest of the district.

(10) The procedures herein provided for the collection and enforcement of rates, tolls, and charges also shall be applicable and available to the districts board of directors for the collection and enforcement of charges for water imposed by contract entered into or administered by the district's board of directors.

**Sec.**  RCW 87.03.565 and 1963 c 68 s 3 are each amended to read as follows:

The secretary of the board of directors shall cause a notice of the filing of such petition to be published in the same manner and for the same time that notice of special elections for the issue of bonds are required by this chapter to be given. The notice shall state the filing of such petition and the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition, and it shall notify all persons interested in or that may be affected by such change of the boundaries of the district to appear at the office of said board at a time named in said notice, and show cause in writing, if any they have, why the change in the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice. The petitioners shall advance to the secretary sufficient money to pay the estimated costs of all proceedings under this chapter, however should the board of directors determine that the annexation would be of benefit to the irrigation district as a whole, the board of directors may waive payment and deposits in whole or in part for the cost of the annexation proceedings.

**Sec.**  RCW 87.03.820 and 2013 c 23 s 510 are each amended to read as follows:

Whenever as the result of abandonment of an irrigation district right-of-way real property held by an irrigation district is to be sold or otherwise disposed of, notice shall be given to the owners of lands adjoining that real property and such owners shall have a right of first refusal to purchase at the appraised price all or any part of the real property to be sold or otherwise disposed of which adjoins or is adjacent to their land.

Real property to be sold or otherwise disposed of under this section shall have been first appraised by the county assessor or by a person designated by him or her.

Notice under this section shall be sufficient if sent by registered mail to the owner, and at the address, as shown in the tax records of the county in which the land is situated. Notice under this section shall be in addition to any other notice required by law.

After sixty days from the date of sending of notice, if no applications for purchase have been received by the irrigation district or other person or entity sending notice, the rights of first refusal of owners of adjoining lands shall be deemed to have been waived, and the real property may be sold or otherwise disposed of. When no applications for purchase have been received, if the irrigation district board of directors determines that due to the configuration of the abandoned right-of-way, or other facts, it appears unlikely that the property, or a portion of the property, can be sold for the appraised price, and the property is considered a burden to the irrigation district, the real property may be sold at a negotiated price, including a transfer for no payment, without further publication or notice to all adjoining owners.

If two or more owners of adjoining lands apply to purchase the same real property, or apply to purchase overlapping parts of the real property, the respective rights of the applicants may be determined in the superior court of the county in which the real property is situated; and the court may divide the real property in question between some or all of the applicants or award the whole to one applicant, as justice may require.

Any sale or other disposal of real property pursuant to chapters 87.52, 87.53, and 87.56 RCW shall be made in accordance with the requirements of this section.

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