

HOUSE BILL REPORT

HB 2675

As Reported by House Committee On: Local Government

Title: An act relating to modifying the irrigation district election process to correspond with general election laws.

Brief Description: Modifying the irrigation district election process to correspond with general election laws.

Sponsors: Representatives Haler and Hudgins.

Brief History:

Committee Activity:

Local Government: 1/24/18, 2/1/18 [DP].

Brief Summary of Bill

- Modifies the statutes relating to elections in irrigation districts to correspond with the general election laws.
- Requires county auditors to administer all elections relating to irrigation districts.
- Requires the board of county commissioners to pass a resolution for the purpose of creating an irrigation district.
- Requires voting in an irrigation district to be completed by a mailed ballot issued by the county auditor rather than at a polling place.
- Requires the county auditor, rather than a board of election, to canvass returns to determine irrigation district results.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 4 members: Representatives Appleton, Chair; McBride, Vice Chair; Gregerson and Peterson.

Minority Report: Do not pass. Signed by 2 members: Representatives Griffey, Ranking Minority Member; Taylor.

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.

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 also may 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 districts do not have the authority to impose property taxes.

Creating an Irrigation District.

The process to create a district is initiated by the filing of a petition proposing the creation of the district with the county legislative authority of the county in which the district or the greatest portion of the lands proposed to be included in the district is located. The petition must be signed by either 50 land owners or a majority of the owners of the land within the proposed district that is susceptible to being irrigated.

The petition must contain: (1) a description of the lands to be included in the district; (2) the signature and address of each petitioner, together with a description of the land they own within the district; (3) a general statement of the probable source of water supply and an outline of the plan of improvement to be contemplated by the district; (4) a statement of the number of directors for the administration of the district; (5) any other matter deemed material; and (6) a prayer requesting the board to take the steps necessary to organize the district. Notice of the ballot measure must be published once a week, for at least two weeks prior to election, in a newspaper of general circulation published in the county where the petition was presented.

After public notice is provided regarding the proposed district, the county legislative authority must: (1) establish a convenient number of election precincts in the proposed district; (2) designate polling places; (3) appoint election officers for each precinct; and (4) conduct an election to determine if the district is to be organized and to elect the initial district directors. The polls for district measures must be open at 1 p.m. on the afternoon of the election, and be kept open until 8 p.m., when the election is closed.

Irrigation District Board.

A district is governed by a board of directors 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.

The election of directors must be held on the second Tuesday of December of each year, and the term of each director must be three years from the first Tuesday of January following his or her election. The directors may, upon qualifying, immediately begin the duties of their office.

Voters' Pamphlet. The Secretary of State is required to publish a voters' pamphlet for a general election in which at least one statewide measure or office will appear on the ballot. County auditors are required to publish the voters' pamphlet for each general election in which local measures appear on the ballot. Since the district elections are held outside of the time period for general elections, information relating to district measures and director candidates are generally not included in a voters' pamphlet.

Qualifications to Vote.

In general, there are no special qualifications for holding office in a special district. A person is qualified to hold or seek office if he or she is a citizen and a registered voter who lives within the district. For districts, there is an additional requirement of land ownership. Only property owners are allowed to vote at district elections. Ballots are issued by the election board according to the number of votes each elector is entitled to cast. The number of votes each elector is entitled to cast is determined by the amount of property he or she owns in the district.

Ballots.

Ballots must be of uniform size and quality, provided by the district, and for the election of directors, must contain only the names of the candidates who have been filed with the secretary of the district declaring their candidacy. Ballots must also contain space for sticker voting or for the writing in of the name of an undeclared candidate.

Absentee Ballots. Any qualified voter who certifies that he or she cannot be present to cast his or her ballot at the election precinct on election day is entitled to vote by absentee ballot. However, since elections for districts take place at a polling place, a mail in ballot is not automatically provided to the elector in the same manner as they are for general elections. The elector must vote at a polling place unless he or she requests an absentee ballot from the district's secretary prior to election day. The district's secretary must furnish a ballot and a certificate of qualifications to the elector, upon the elector's written request, prior to the date of election.

Canvassing Returns.

The irrigation board must appoint for each precinct one inspector and two judges, who constitute the board of election for the precinct. The inspector is the chair of the election board.

As soon as the polls are closed, the judges must open the ballot box and count the votes. The counting of the votes must be public. The ballots must be taken out of the ballot box, one by one, by the inspector or one of the judges and the name of each person contained on the ballot read aloud. The counting of votes must continue without adjournment until all have been counted. The secretary of the board of directors must record the election results and issue a signed certification of election.

General Election Laws in Washington.

Primaries for general elections to be held in November must be held on the first Tuesday of the preceding August, and general elections are held on the first Tuesday after the first Monday of November in the year in which they are called. All counties conduct elections entirely by mail; each registered voter is automatically issued a mail ballot for general, special, and primary elections. The county auditor must mail ballots to each voter at least 18 days before each election. Ballots must be mailed to overseas voters at least 30 days before each special election and at least 45 days before each primary, general, or any special election involving a federal office.

Any person who is at least 18 years old and who is a United States citizen that has lived in the state, county, and precinct for 30 days immediately preceding an election is entitled to vote. In addition, the general qualifications to hold office are the person is: (1) a citizen; and (2) qualified to vote in same district as the office being sought.

All elections must be conducted by the county auditor as ex officio county supervisor of elections and the returns canvassed by the county canvassing board. Members of the county canvassing board are the county auditor, the county prosecuting attorney, and the chair of the county legislative body.

Summary of Bill:

The county auditor must administer all elections relating to irrigation districts (district). In addition, the statutes relating to elections for districts are modified to correspond with the general election laws.

Creating an Irrigation District.

For purposes of organizing a district, the board of county commissioners, must by resolution, require that the county auditor call an election for the purpose of creating a district and electing the initial board of directors for the district. Three weeks prior to the election, the county auditor must publish notice of the measure proposing to create a district. The publication must describe the district boundaries, the district name, and the purpose of the district. The ballot proposition must be submitted to the qualified voters at the next general election.

Irrigation District Board.

The election for district directors must be held in conformity with primary and general election laws. A successor for an elected director position must take office immediately after December 31 following the election (rather than on the first Tuesday in January).

Voters' Pamphlet. Since district elections will be held at the same time as other general elections, information regarding an district and candidates for district director positions may be published in the voters' pamphlet.

Qualifications to Vote.

Each special district must maintain a list of presumed eligible voters. A copy of the list of voters and any revised list must be provided to the county auditor at least 65 days before each general election.

Ballots.

All voting in a district must be completed by a mailed ballot. Ballots must be issued by the county auditor and must conform to requirements under general election laws. However, the statutory provision that requires ballots to contain a space for sticker voting is eliminated.

Canvassing Returns.

The county auditor, rather than a board of election, must canvass returns to determine election results. The county may charge the district for any election costs incurred on behalf of the county auditors.

Other.

The county auditor, rather than the board of directors, must administer the elections and submit questions to the voters (pursuant to general election laws) relating to: the merging of districts, amending district boundary lines, proposed works, bonds, the deannexing of lands from the district, special elections for levying assessments, and proposed mergers with drainage, joint drainage, or consolidated drainage improvement districts.

In addition, the act repeals the statutes:

- pertaining to district absentee voting;
- requiring that the board of county commissioners establish precincts in the proposed district, designate a polling place, and appoint election officers;
- requiring the board of directors to appoint a board of elections or designate polling places;
- requiring of the secretary of the board of directors to post notices of elections in each election precinct;
- specifying the time that polls must be open;
- establishing procedures for counting votes, canvassing ballots, certifying returns, and preserving ballots for recount, by the board of election; and
- requiring that the secretary of the board of directors record the election results and issue a signed certificate of election.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) For over 200 years, the voting system in irrigation districts (district) has been based upon how much land a person owns, and ballots are counted on a trust system. Even today, districts have their elections around November and December. Modern citizens require openness, which should be in every aspect in the voting system.

It is assumed that county auditors are against the bill because they are afraid they will not be able to handle the weighting of the system since the number of ballots a person is issued is based upon the amount of land that the person owns. However, it is now the 21st century and ballots can now be distributed and counted by computer. This bill is an important issue for openness and fairness in our electoral system.

(Opposed) Districts are the oldest form of special purpose districts in Washington. Their statutes went into effect in 1890, and there are about 100 districts in the state. Collectively, districts are the infrastructure that drive the agriculture economy in Central Washington. As such, the elections are conducted in the off-season when farmers are not farming.

Elections are not held very often as most board members maintain their seats for long periods. Elections are also subject to the Open Public Meeting Act and the Public Records Act. District results are canvassed in open meetings, and all ballots are available for examination. A massive overhaul of the current system is not needed and could increase the cost for landowners, as irrigation water delivery is a major part of a farmer's operating expenses.

County auditors are concerned about the accuracy and integrity in how they run elections and are opposed to this bill. County auditors conduct elections based upon residency, and districts conduct elections based on land ownership. The Supreme Court has ruled that district elections are not subject to the one person one vote rule. This means that county auditors will be unable to use their current software for preparation and control of irrigation elections since district elections are based on land ownership. The cost would be significant for county auditors to reprogram their systems to manage district elections.

Also, changing the district calendar to coincide with the auditor election calendar creates two separate incompatible elections at the same time. Adding this complexity and confusion is likely to lead to errors.

Changing the election system could increase the cost of elections by approximately \$3 to \$5 per ballot. This would unduly put a burden on both the small and large districts. The current system is a well-run system.

Persons Testifying: (In support) Representative Haler, prime sponsor.

(Opposed) Jerry Pettit, Washington State Association of County Auditors; Mike Schwisow, Washington State Water Resources Association; and Justin Harter, Naches-Selah Irrigation District.

Persons Signed In To Testify But Not Testifying: None.