

HOUSE BILL REPORT

SB 5669

As Reported by House Committee On:
Local Government

Title: An act relating to irrigation district elections.

Brief Description: Concerning irrigation district elections.

Sponsors: Senators Torres, Short, Dozier, Schoesler and Warnick.

Brief History:

Committee Activity:

Local Government: 3/25/25, 4/1/25 [DP].

Brief Summary of Bill

- Authorizes irrigation districts to conduct elections solely by mail, and provides requirements for absentee ballots.
- Provides new requirements for electors and candidates in irrigation district elections.
- Requires that certain irrigation districts annually provide qualified electors with election information and comply with specified election security measures.
- Provides criminal penalties for irrigation district election and election security violations.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 7 members: Representatives Duerr, Chair; Parshley, Vice Chair; Klicker, Ranking Minority Member; Stuebe, Assistant Ranking Minority Member; Griffey, Hunt and Zahn.

Staff: Kellen Wright (786-7134).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Irrigation Districts.

Irrigation districts are special purpose districts that may be formed to, among other things, develop and operate works for the irrigation of lands within the district; to develop and operate hydroelectric facilities in connection with irrigation facilities; to purchase and sell electricity to inhabitants within the irrigation district for domestic or irrigation use, and to develop and maintain related facilities; to develop and operate water and sewer facilities for the domestic use of inhabitants; and to develop and operate street lighting for public streets and highways. Irrigation districts are initially formed with either three or five directors. The number of directors can be increased by two, to a maximum of seven, or decreased by two, to a minimum of three, with voter approval.

An irrigation district may be formed when at least 50 property owners in an area, or a majority of property owners in an area, submit a petition to the board of county commissioners proposing for the formation of the irrigation district. The board of county commissioners must determine the boundaries of the district and then submit the creation of the district to voters within the proposed district. If approved by two-thirds of the voters, then the district is created. After formation, districts may join together and operate under a board of joint control in certain circumstances.

Irrigation districts are funded by assessments on land within the district, based on the benefits or amount of water that the land receives from the district, or by rates or tolls imposed on lands within the district.

Voter Qualifications for Irrigation District Elections.

Other than the initial election to form the district, annual elections are held on the second Tuesday of December each year in order to elect the directors of the board of an irrigation district (board). Directors serve staggered three-year terms, meaning that at least one director position will be elected every year. Notice of an election must be provided 15 days before an election, and must include posting notice at three public places within each precinct and in the board's main office.

The qualifications to vote in an irrigation district election, and the methods of voting, are different than those in a standard election.

The ability to vote as an elector in an irrigation district election is based on property ownership. In districts with fewer than 200,000 acres, a voter must be a United States citizen, a Washington resident, at least 18 years of age, and the owner of assessable land within the district or proposed district in order to vote. A corporation, general or limited partnership, limited liability company, or other legal entity formed under Washington law may also vote. A voter receives two votes for each 5 acres or shares, or fraction thereof, of

assessable land they own within the district, with no property owner able to accumulate more than 49 percent of the total votes. The votes for each property must be cast by common consent between the owners, or, in the absence of such consent, by the first owner to appear. A husband and wife who own land as community property may equally divide the votes between them. An authorized agent may vote on behalf of a corporation or business entity.

In districts of 200,000 or more acres, a voter must be a United States citizen, a Washington resident, at least 18 years of age, and the owner of land within the district or proposed district. Voters get one vote for their land up to 10 acres, and one additional vote for their additional land beyond 10 acres. If more than half of the acreage in the district is owned in individual lots of fewer than 5 acres, then every qualified voter instead gets two votes. In either case, if land is community property, both a husband and wife may vote if otherwise qualified. An authorized agent of a corporation owning land in the district may vote on behalf of the corporation.

Voting in an Irrigation District Election.

Prior to an election on the formation of an irrigation district, the board of county commissioners must divide the proposed district into precincts and designate a polling place and election officers for each precinct. Residents of the district must vote in their precinct, while nonresidents who qualify as electors must vote in the precinct nearest to their residence.

In order to be on the ballot as a candidate for director of the irrigation district in the first election after the district is organized, the candidate must file a declaration of their candidacy or a petition of nomination with the secretary of the board by 5 p.m. on the first Monday in November. In order to stand in any other election, the candidate must file a petition of nomination. A petition of nomination must be signed by at least 10 qualified electors within the district, or within the division if directors are elected by divisions. If there is only one candidate nominated, then that person becomes elected without an election.

An elector that certifies that they cannot conveniently be present to vote in the precinct on election day may vote by absentee ballot. Absentee ballots are furnished by the secretary of the board.

In order to be counted, an absentee ballot must be sealed in an unmarked envelope and delivered to the district's office before the close of the polls on election day, or mailed to the district's secretary by election day and received not more than five days after the election. It must also be accompanied by a certificate of qualifications providing the voter's name, age, citizenship, residence, that the voter holds title to lands within the district, and a statement that the voter cannot conveniently be present on election day to vote in person. The statement must be signed by the voter, and the ballot must be sealed in an unmarked

envelope by the voter, in the presence of a witness who is familiar with the voter. The witness must then sign and certify that the witness is familiar with the voter and that the voter signed and sealed the ballot in the witness' presence. The board may also require that the voter describe some or all of the voter's land within the district, though the voter may not be disqualified because of an absent or inaccurate description.

Absentee ballots must be kept unopened until the sixth day from the election. At that time, they must be delivered to the board. The board must determine if the voters submitting absentee ballots were qualified and then count the votes of those that were qualified.

A ballot may not be rejected if it can be satisfactorily understood. Canvassing of the votes must be done publicly by the board of the district, beginning the first Monday after the election.

The secretary of the board must then enter the results of the election in the records of the board and deliver a certificate of election to each of the winners.

District Board of Director Qualifications.

A majority of an irrigation district's board of electors must be residents in the county or counties in which the district is located, and must be qualified electors in the district. If more than one candidate who resides outside the district receives votes for director, only the candidate that receives the most votes will be considered in determining the election results.

Irrigation districts with more than 200,000 acres must be divided into divisions of equal area, or as near as is practical, consistent with being fair and equitable to the electors of the district. The number of divisions is the same as the number of directors. Directors must be elected from the electors within the division. An elector is a member of the division in which they hold title to land or, if they hold title in more than one division, in the division nearest to their residence. Districts with fewer than 200,000 acres may optionally divide its board into divisions.

Irrigation District Treasurer.

Generally, the treasurer of the county in which the irrigation district's office is located is the ex officio treasurer for the district. However, districts operating under a board of joint control, and districts that include portions of more than one county that have assessments in each of two of the preceding three years equal to \$500,000 or more may designate another person as the treasurer. A district within a single county that has assessments in two of the prior three years of at least \$2 million or that receives the approval of the county treasurer may likewise designate a different treasurer.

Gross Misdemeanors.

A gross misdemeanor is punishable by up to 364 days in county jail, and/or by a fine of up to \$5,000.

Summary of Bill:

Irrigation District Election—Absentee and Mail-In Ballots.

Any qualified elector may vote by absentee ballot in an irrigation district election, and requirements for certifying that the elector cannot conveniently be present in order to qualify for an absentee ballot, and that a witness observe and certify an absentee elector's vote, are repealed.

The board of directors of an irrigation district (board) may adopt a resolution to conduct elections using only mail-in ballots in lieu of polling places and absentee ballots. If the board does so, then the district must provide ballots to qualified electors based on its assessment roll, toll and charge roll, or other district records. The district may also use records from the county assessor or other public records to determine qualified electors. Electors who have not received a ballot, but believe they are qualified, may provide documents demonstrating their qualifications to the district's main office up to the business day prior to the election in order to receive a ballot to vote in the election.

Absentee and mail-in ballots must be sealed in a security envelope and then placed within an additional outer envelope. The security envelope may have instructions for voting and the positions being voted on written on the envelope, but no other marks that could identify the voter. Because the security envelope must be secured within another envelope in order to ensure secrecy, the district must provide two envelopes with the ballot. The sealed envelope containing the ballot must be accompanied by a certificate of qualifications providing the voter's name, age, citizenship, residence, and that the voter holds title to lands within the district. The voter must certify the statements in the certificate are correct by signing the certificate and certifying, under penalty of perjury, that the voter is qualified to vote. The ballot must be delivered to the district's main office by the end of the day of the election, or mailed to the district's secretary, with a postmark from no later than election day, and received by the secretary within seven days of the election.

Election Notification.

In irrigation districts that have designated their own treasurer, the district must annually notify qualified electors of the names of the directors and their terms of office, the methods and deadlines to stand as a candidate for election, and a description of the procedure for voting and for requesting an absentee ballot. This notification must be made by mail, electronically, or by posting on the district's website. The irrigation district must use its assessment roll, toll and charge roll, other district records, or other public records in making these notifications. If the irrigation district provides water to an entity that is responsible for

an assessment, toll, or charge, and that entity subsequently distributes the water, notice need only be provided to the entity paying the assessment, toll, or charge. An elector may vote in an election even if they have not received notice from the district, or if they have qualified since the district sent the notice.

Each irrigation district must maintain election information on a website, including the names of the members of the board, the district's elections rules, information on elections, including results, and contact information for the district.

Irrigation District Voter Qualifications.

Two differences between elector qualifications in districts with fewer than 200,000 acres, and those with more than 200,00 acres, are removed. Like in districts with fewer than 200,000 acres, electors in districts with more than 200,000 acres must own land assessed or assessable in the district in order to vote. Additionally, like in districts with fewer than 200,000 acres, the agent of a general or limited partnership, limited liability company, or other legal entity formed under Washington law, in addition to the agent of a corporation, may vote in an election in an irrigation district of more than 200,000 acres.

Regardless of the size of the irrigation district, the agent of a qualifying legal entity is considered an elector and must vote in the precinct where the entity's main office is located or, if the office is not located within the district, in the precinct nearest the location of the main office.

In districts with fewer than 200,000 acres, if land is held as community property between spouses, both spouses may vote if otherwise qualified. In districts with more than 200,000 acres, spouses may equally divide their accumulated votes.

District Director Candidates.

In order to stand as a candidate for district director, a candidate must submit a petition of nomination signed by at least 10 qualified electors within the district to the secretary of the board. The petition must be submitted by 5 p.m. on the first Monday in October.

Election Results.

The board must begin canvassing the election results on the second Wednesday after an election. If an undeclared write-in candidate receives the most votes, the board must determine if the candidate is a qualified elector for the specific position. A qualified elector is at least 18 years old, a United States citizen, and a resident of the division or the designated agent of an entity that owns land within the division. If the candidate is not qualified, then the qualified elector receiving the next highest number of votes is elected.

Election Security Requirements.

Certain election security requirements apply in irrigation districts that have elected their own treasurers. In these districts, whenever ballots are being controlled, including when the ballots are received, opened, counted, certified, or subject to any other kind of processing, at least two people not on the ballot must be present.

Additionally, each ballot box must have a deposit slot, and must be secured, locked, and clearly marked as an official ballot box. Ballot box keys may only be given to district election officials or designated district staff. The ballot box must be physically secured in such a way that it cannot be stolen or moved except by district election officials or designated staff. The ballot box must be closed with tamper-evident seals and a seal log. Each time the ballot box is opened, a new seal log must be signed, and the previous seal log must be compared to the current log and initialed.

Ballots may only be counted after the polls close, and cannot be opened prior to that. Ballots must be opened in batches rather than individually. The number of ballots tabulated must be reconciled with the number received, and tabulated ballots must be stored separately from uncounted or challenged ballots.

The canvassing of returns must be open to observation by the public.

The irrigation district must have a written process for individuals to be able to challenge individual votes, including for challenges made by the public or by election officials and staff. The process must include the time period during which challenges can be made. After a challenge is resolved, the results of the challenge must be posted in the district office or on the district website for at least two weeks, or in a general circulation newspaper at least once a week for two weeks. The district must also establish a cure procedure for curing errors that occurred during canvassing or voter challenges.

Once canvassing is complete, the date and time that the canvassing was verified must be posted in the district office or on the district website for at least two weeks, or in a general circulation newspaper at least once a week for two weeks.

Any district election official and staff involved in carrying out election duties or ballot processing cannot be a candidate on the ballot.

All seal logs, lists and report of ballots, election outcomes, challenges and challenge outcomes, and curing of errors must be retained by the irrigation district for six months after an election.

Election and Election Security Criminal Violations.

Any person who willfully violates the election security procedures, removes a ballot from a drop location or polling place without lawful authority, deceives a voter in the recording of

the voter's vote by providing incorrect or misleading recording information or by providing faulty equipment or records, or records a vote differently than the voter designated is guilty of a gross misdemeanor.

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) Irrigation district laws are some of the oldest in the state and have not been updated for a long time. They are the oldest special purpose districts, and so the statutory language around them is old and complex. The statutes have not been updated for modern elections. Voter turnout in these elections is low, and this bill would help to modernize the process and enable districts to more effectively manage elections. This is a good government efficiency bill and will help with election security and voting. The bill will provide options for voting by mail. Younger people are needed on district boards, and updating these laws will help to accomplish that. The bill is based on a study from the Washington State Association of Counties that determined best practices. Stakeholders believe this bill will give more opportunities to more voters. Irrigation districts must be created by affected landowners, and the landowners pay all of the costs of the district through annual assessments.

(Opposed) None.

Persons Testifying: Senator Nikki Torres, prime sponsor; John Stuhlmiller, Washington Water Resources Association; and Michele Kiesz, Kagele/Kiesz Family Farms.

Persons Signed In To Testify But Not Testifying: None.