

Multiple Agency Fiscal Note Summary

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|-----------------------------|------------------------------------------|
| Bill Number: 5709 SB | Title: Irrigation dist. elections |
|-----------------------------|------------------------------------------|

Estimated Cash Receipts

NONE

Estimated Operating Expenditures

| Agency Name | 2023-25 | | | | 2025-27 | | | | 2027-29 | | | |
|----------------------------------|---------|----------|-------------|-------|---------|----------|-------------|-------|---------|----------|-------------|-------|
| | FTEs | GF-State | NGF-Outlook | Total | FTEs | GF-State | NGF-Outlook | Total | FTEs | GF-State | NGF-Outlook | Total |
| Office of the Secretary of State | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 |
| Total \$ | 0.0 | 0 | 0 | 0 | 0.0 | 0 | 0 | 0 | 0.0 | 0 | 0 | 0 |

| Agency Name | 2023-25 | | | 2025-27 | | | 2027-29 | | |
|---------------------|------------------------------------------------------------------------|----------|-------|---------|----------|-------|---------|----------|-------|
| | FTEs | GF-State | Total | FTEs | GF-State | Total | FTEs | GF-State | Total |
| Local Gov. Courts | | | | | | | | | |
| Loc School dist-SPI | | | | | | | | | |
| Local Gov. Other | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | |
| Local Gov. Total | | | | | | | | | |

Estimated Capital Budget Expenditures

| Agency Name | 2023-25 | | | 2025-27 | | | 2027-29 | | |
|----------------------------------|---------|-------|-------|---------|-------|-------|---------|-------|-------|
| | FTEs | Bonds | Total | FTEs | Bonds | Total | FTEs | Bonds | Total |
| Office of the Secretary of State | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Total \$ | 0.0 | 0 | 0 | 0.0 | 0 | 0 | 0.0 | 0 | 0 |

| Agency Name | 2023-25 | | | 2025-27 | | | 2027-29 | | |
|---------------------|------------------------------------------------------------------------|----------|-------|---------|----------|-------|---------|----------|-------|
| | FTEs | GF-State | Total | FTEs | GF-State | Total | FTEs | GF-State | Total |
| Local Gov. Courts | | | | | | | | | |
| Loc School dist-SPI | | | | | | | | | |
| Local Gov. Other | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | |
| Local Gov. Total | | | | | | | | | |

Estimated Capital Budget Breakout

NONE

Prepared by: Gwen Stamey, OFM

Phone:
(360) 790-1166

Date Published:
Final 2/16/2023

Individual State Agency Fiscal Note

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|-----------------------------|------------------------------------------|-----------------------------------------------------|
| Bill Number: 5709 SB | Title: Irrigation dist. elections | Agency: 085-Office of the Secretary of State |
|-----------------------------|------------------------------------------|-----------------------------------------------------|

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

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|-------------------------------------|-----------------------|------------------|
| Legislative Contact: Maggie Douglas | Phone: 3607867279 | Date: 02/15/2023 |
| Agency Preparation: Mike Woods | Phone: (360) 704-5215 | Date: 02/16/2023 |
| Agency Approval: Mike Woods | Phone: (360) 704-5215 | Date: 02/16/2023 |
| OFM Review: Gwen Stamey | Phone: (360) 790-1166 | Date: 02/16/2023 |

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

The bill makes changes to processes that govern irrigation district elections and does not change anything the Office of the Secretary of State (OSOS) does. All local election costs are the responsibility of local governments. No fiscal impact to OSOS.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5709 SB

Title: Irrigation dist. elections

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities:
- Counties:
- Special Districts: Irrigation district elections; costs related to mail in ballots, conducting elections, and notice requirements
- Specific jurisdictions only:
- Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time: ability for irrigation districts to verify eligible voters, number of uncontested elections, irrigation staff and technology capacity, new gross demeanors

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Part III: Preparation and Approval

| | | |
|----------------------------------------|-----------------------|------------------|
| Fiscal Note Analyst: Kate Fernald | Phone: 564-200-3519 | Date: 02/15/2023 |
| Leg. Committee Contact: Maggie Douglas | Phone: 3607867279 | Date: 02/15/2023 |
| Agency Approval: Allan Johnson | Phone: 360-725-5033 | Date: 02/15/2023 |
| OFM Review: Gwen Stamey | Phone: (360) 790-1166 | Date: 02/16/2023 |

Part IV: Analysis

A. SUMMARY OF BILL

Description of the bill with an emphasis on how it impacts local government.

This bill allows mail-in ballot elections for irrigation districts; identifies qualified district electors for irrigation districts; and proposes increased election security including creating a gross misdemeanor violation when election security requirements for irrigation district elections are violated.

Section 1 amends RCW 87.03.031 striking qualifier language around qualified district electors' entitlement to voting by absentee ballot.

Section 2 amends RCW 87.03.032.

Section 2(1) would strike the clause requiring qualified district electors to certify that they cannot be present at the election relating to voting by absentee ballot.

Section 2(2) would allow the board of directors to adopt a resolution that would allow elections to be conducted by using only mail-in ballots, in lieu of polling places. Districts would be required to provide ballots for qualified electors and provide them in the same format as in RCW 17 87.03.033. The County assessor's office would be able to be used to assist determining qualified electors.

Section 3 amends RCW 87.03.033 adds "ballots in a mail-in election" to be required to conform with requirements within the section. Amendments are proposed to the process for securing a ballot, including requiring providing two envelopes for ballot return. The legislation would strike the required attestation of being unable to be physically present and would eliminate the required presence of a witness. The section would also allow for the statement of qualifications to be printed on the outer envelope.

Section 4 amends RCW 87.03.045 and clarifies title of land to include land that is assessed or is assessable by the district as pursuant to deferral or state law. The section also expands when an agency may vote on behalf of a land owning authority from corporation to a corporation, general partnership, limited partnership, limited liability company, or other legal entity formed pursuant to the laws of the state of Washington or qualified to do business in the state of Washington as being considered an elector of the district.

Section 5 amends RCW 87.03.051 and states that an agent of an entity owning land in the district may vote on behalf of the authority, and adds that the agency of such an entity is considered an elector of the district.

Section 7 would amend RCW 87.03.075 to make minor changes related to what is included in the ballot inclusive of how candidates are put on the ballot. The date for filing candidacy would be changed from the first Monday in November to the first Monday in October. The legislation also amends elections for directors where the number of votes which may be received will have no bearing on the length of the term to be served, adding a prescribed form to be provided by the district and filed by the first Monday in October. If there is only one candidate for a position, an election would be required to be held, a change from current provisions that would allow a candidate to be elected in such instances during a meeting

Section 8 would amend RCW 87.03.085 and add additional notice requirements that would apply to districts that qualify and have designated their own treasurer as provided in RCW 87.03.440. Qualified electors must be notified annually either through mail or electronically the names of the board of directors and the date their terms expire; the method of declaring candidacy, a description of the voting procedure. Each district would be responsible for establishing and maintaining information on a website or through the Washington State Water Resources Association.

Section 10 would be added to chapter 87.03 and related to election security requirements for districts that qualify and have designated their own treasurer. Provisions include ballot control, ballot boxes, process for ballot envelopes, and established written challenge process in order to allow individuals to challenge the vote of an individual voter. Each district must

establish a written cure procedure for curing errors that occurred during ballot canvassing or are discovered through valid voter challenges, and provide to the public for six months after the election lists and reports of ballots, election outcomes, voter challenges and challenge outcomes, and curing of errors.

Section 11 would be added to chapter 87.03 and prescribes penalties: willfully violating any provisions in section 10 (1) through 10 (3) is guilty of a gross misdemeanor, as is any person who removes a ballot from a polling place or ballot drop. Other instances of being guilty of a gross misdemeanor include deceiving any voter in recording their vote or recording the vote of a voter in a manner not designated by the voter.

B. SUMMARY OF EXPENDITURE IMPACTS

Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.

This legislation will incur indeterminate costs for irrigation districts. The Municipal Research and Services Center indicates there are currently 95 active irrigation districts.

Irrigation Districts may see expenditure impacts through the following:

MAIL IN BALLOTS

The cost to meet the proposed legislation provisions is unknown. This legislation would allow an irrigation district board of directors the through adoption of resolution, to conduct an election using mail-in ballots in lieu of polling places and absentee ballots. The district must provide ballots to qualified electors derived from its assessment roll, toll and charge roll, or other district records and may also use the county assessor's or other public records to assist in determining qualified electors.

According to Washington Association of County Officials (WACO), the ability for an irrigation district to identify qualified voters relies on resources and capacity of the irrigation district, as well as the relationship with the respective county assessor and treasurer offices. Larger and/or better resourced irrigation districts may be less reliant on the county assessor or treasurer than smaller irrigation districts. Rapid development represents a challenge for accuracy in identifying voters. The cost to determine voters and provide the option for mail-in ballots is unknown at this time, as the capacity and current processes to determine voters, and therefore providing ballots via mail between irrigation districts vary.

IDENTIFICATION OF QUALIFIED DISTRICT ELECTORS

This section of the proposed legislation provides specific directives related to how voters are to be identified. In order to maintain qualified district electors, costs, as they are now, would be indeterminate, but likely minimal due to the proposed legislation primarily serving as a clarification.

CANDIDATE FILING

Candidates must have filed with the secretary of the district a petition of nomination not later than 5p.m. on the first Monday in October. Candidates for the position of director must file their declaration candidacy with the secretary of the district by submitting a petition of nomination on a form prescribed by the district no later than 5p.m. on the first Monday in October. Associated indeterminate cost impacts are unknown, but anticipated to be minimal.

UNCONTESTED ELECTIONS

This legislation would require an election to be held if it appears only one qualified candidate has been nominated. This is a change from current statute, through which electors can confirm that candidate during a regular meeting. The requirement to hold an uncontested election will result in indeterminate increased expenses.

The WACO report found that less than 10 directors will face a contested election at the end of their three-year term. In current law, if there is no challenger to an incumbent at the time for re-election, the board may declare that the director is re-elected.

ELECTION NOTICE REQUIREMENTS

Proposed legislation would require each district to establish and maintain election information on a website, either

individually or through the Washington State Water Resources Association, in order to communicate with qualified electors. Staff capacity and website capacity for individual local irrigation districts is currently unknown, therefore, costs to fulfill legislation are indeterminate.

ELECTION SECURITY

These sections would establish procedures related to ballot security, currently not in statute. The legislation adds election security requirements and adds penalties for any person who violates/tampers with a ballot, creating a new gross misdemeanor. Costs are unknown related to meeting the provisions related to ballot control, ballot boxes, processing ballot envelopes, and establishing written voter challenge processes.

The number of occurrences of the newly established gross misdemeanor that may occur is unknown and cannot be predicted, however for reference the Local Government Fiscal Note Program's 2023 Crimes Cost Matrix states that law enforcement, prosecution, and defense costs per gross misdemeanor case is \$5,660. Jail costs are \$145 per day.

BACKGROUND

Washington Association of County Officials (WACO) was required by the legislature to study and make recommendations to standardize irrigation district election methods per ESB 5453 (2019). The report minimally needed to recommend procedure to identify qualified voters and directors; notify qualified voters and directors; deliver and return ballots; identify and count official returns; and declare the winning candidate.

C. SUMMARY OF REVENUE IMPACTS

Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.

This bill would not impact local irrigation district revenues.

SOURCES

Local Government Fiscal Note Program 2023 Crimes Cost Matrix
Local Government Fiscal Note SB 5342 (2021)