

HOUSE BILL REPORT

SSB 5709

As Reported by House Committee On:
State Government & Tribal Relations

Title: An act relating to irrigation district elections.

Brief Description: Concerning irrigation district elections.

Sponsors: Senate Committee on Local Government, Land Use & Tribal Affairs (originally sponsored by Senators Torres, Hunt, Schoesler and Dozier).

Brief History:

Committee Activity:

State Government & Tribal Relations: 3/15/23, 2/20/24, 2/21/24 [DP].

Brief Summary of Substitute Bill

- Permits irrigation districts to adopt vote-by-mail elections, and provides that any voter in a traditional election can vote absentee without requiring a certification.
- Creates an additional voting qualification by specifying that the land owned by a qualified voter in the irrigation district must be assessed or assessable by the district pursuant to federal or state law.
- Adds notice requirements and election security requirements for irrigation districts that have designated their own treasurer.
- Establishes a gross misdemeanor for certain actions that violate election security provisions or for incorrectly recording, or deceiving voters with respect to recording, their votes.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: Do pass. Signed by 5 members: Representatives Ramos, Chair; Stearns, Vice Chair; Cheney, Ranking Minority Member; Christian, Assistant Ranking

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.

Minority Member; Low.

Minority Report: Do not pass. Signed by 2 members: Representatives Gregerson and Mena.

Staff: Jason Zolle (786-7124).

Background:

Irrigation Districts.

Irrigation districts provide for the construction, improvement, maintenance, and operation of irrigation systems. An irrigation district is formed when 50 or a majority of the landowners in an area propose the creation of a district and the district is approved by two-thirds of voters.

Board of Directors.

Boards may consist of three, five, or seven directors. Elections for directors are held on the second Tuesday of November. Directors serve staggered three-year terms.

Voting Rights.

Voters must be United States citizens and state residents who hold title or evidence of title to land in the district.

In a district with 200,000 acres or more, landowners receive one vote for their first 10 acres of land and an additional vote for all land over 10 acres. If land is community property, both the husband and wife may vote if otherwise qualified. An agent of a corporation owning land in the district may vote on behalf of the corporation if appropriately registered.

In a district with fewer than 200,000 acres, each landowner receives two votes for every five acres of assessable land or a fraction thereof. However, no one ownership may possess more than 49 percent of the votes in the district. If land is community property, votes are divided equally between the husband and wife. A corporation, partnership, limited liability company, or other legal business entity that owns land in the district is entitled to vote. If more than 50 percent of the total acreage of the district consists of individual ownerships of less than five acres, electors are entitled to two votes regardless of the size of ownership. If land is community property, a husband and wife each receive one vote or may vote by common agreement.

Absentee Voting.

Voters may vote absentee if they certify that they cannot conveniently be present at the proper election precinct on election day. Ballots must be sealed in an unmarked envelope and delivered or postmarked by election day and received within five days of the election. The envelope must be accompanied by a certificate of qualifications, certified and signed by the voter in the presence of a witness, who must also sign the certificate.

Notice Requirements.

The secretary of the board of directors must provide notice of the time and place of the election 15 days before the election. Notice must be posted in three public places in each precinct, in addition to at the board of director's office.

Election Mechanics.

The board of directors determines the polling location for an election and appoints an inspector and two judges for each election, who together constitute the board of elections. Ballots are counted in public by the inspector. As soon as votes are counted at a polling place, a certificate is drawn and signed by the board of elections. The board of directors meets the following Monday to canvass the returns.

District Treasurers.

The county treasurer is the ex officio treasurer of the district. However, a district may designate some other person having experience in financial or fiscal matters as the treasurer if:

- the district lies in more than one county and had assessments in each of two of the preceding three years equal to at least \$500,000;
- the district lies entirely within one county and had assessments, tolls, and miscellaneous collections in each of two of the preceding three years equal to at least \$2 million; or
- the district lies entirely within one county but has the approval of the county treasurer to designate some other person.

Summary of Bill:

Voting By Mail.

Absentee voting is expanded to allow any qualified voter to vote absentee, without requiring a certification.

The board of directors may choose to conduct an election using only mail-in ballots, instead of polling places and absentee ballots. This choice must be made by adopting a resolution. Ballots must be sent to all qualified electors derived from assessment rolls, toll and charge rolls, and other district and public records. If a person or entity who does not receive a ballot believes they are a qualified elector, they may prove their qualifications to vote by providing documents to the district office by the day before the election.

Absentee or mail-in ballots must be sealed in a security envelope and delivered or postmarked by election day and received within seven days of the election. The security envelope must be sealed within an additional outer envelope. The witness requirement is removed; the certification is instead signed by the voter under penalty of perjury.

Voting Rights.

An additional voting qualification is added. To be eligible to vote, the land owned by the voter in the district must be assessed or assessable by the district pursuant to federal or state law.

Voting rights in districts with 200,000 acres or more are extended to land-owning general partnerships, limited partnerships, limited liability companies, or other legal entities formed under state law or qualified to do business in the state, rather than just corporations. The agent of such an entity is considered the qualified elector.

References to "husband and wife" are changed to "spouses."

Candidates.

The deadline for filing a declaration of candidacy is moved from the first Monday in November to the first Monday in October.

If an undeclared write-in candidate for a position of director receives the most votes, the board of directors must determine whether that candidate is qualified for that specific position. If that candidate is not qualified, the qualified candidate receiving the next highest number of votes is elected to the position.

Election Notice.

Each district must establish and maintain election information on a website, either individually or through the Washington State Water Resources Association.

Additional notice requirements are established for districts that have designated their own treasurer. The district must annually notify qualified electors of the names of the board of directors and the dates their terms expire; the method and deadline for declaring candidacy; and a description of the district's voting procedure and how a qualified elector may request an absentee ballot. The district must also provide notice about how qualified electors are ascertained.

Election Security.

Election security requirements are established for districts that have designated their own treasurer. Any election officials or district staff carrying out the official ballot or election duties described below may not be a candidate on the election ballot.

Ballot Security.

Two individuals must be present whenever ballots are being "controlled," such as during ballot receipt, opening, certification, tabulation, or reconciliation. Ballot envelopes may not be opened for tabulation until after the polls are closed, and ballots must be opened in batches, rather than individually. The number of tabulated ballots must be reconciled with the number of ballots received. Tabulated ballots must be stored separately from uncounted or challenged ballots. Canvassing of ballots must be open to observation by the public.

Ballot Box Security.

Each ballot box must be physically secured so that it cannot be stolen or moved, except by district election officials or designated staff. The ballot boxes must also be secured and locked, with a deposit slot, and clearly marked as an "official ballot box." Ballot box keys must be provided only to district election officials or designated staff. Each ballot box must be closed with tamper-evident seals with a paper seal log. Each time the box is opened, a new seal log must be signed, with the seal number noted and dated; the previous seal log must be compared to the cut seal and initialed. Seal logs must be retained for six months after the election.

Challenging and Curing Ballots.

Districts must establish a written challenge process to allow individuals to challenge the vote of an individual voter. Districts must also establish a written cure procedure for curing errors that occurred during ballot canvassing or are discovered through valid voter challenges, including a clear timeline for when the cure must occur. Information about challenges and cured ballots must be available to the public.

New Election Offenses.

It is a gross misdemeanor to:

- willfully violate the election security provisions described above;
- remove a ballot from a polling place or ballot drop location without lawful authority;
- deceive any voter in recording their vote by providing incorrect or misleading recording information or faulty election equipment or records; or
- record a vote in a manner other than as designated by the voter.

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) This bill has been well-worked for several years since the 2019 work group led by county auditors and treasurers made recommendations to reform irrigation district elections. The statute is 130 years old and needs modernizing to make elections more accessible and secure. Conversations amongst landowners about the difficulty learning about elections led to these efforts. The bill balances the interests of very large districts and very small districts.

(Opposed) None.

Persons Testifying: Senator Nikki Torres, prime sponsor; Mike Schwisow, Washington State Water Resources Association; and Michele Kiesz, East Basin Irrigators Association.

Persons Signed In To Testify But Not Testifying: None.