

# IRRIGATION DISTRICT ELECTION LAWS

2025 Legal Update

Presented by:

Aaron Dunham

Partner at WHC Attorneys



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# QUICK DISCLAIMER:

This Presentation Contains General Information

This is not legal advice

If you have specific questions about specific situations, you should  
consult your District's attorney



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# ROAD MAP

- Governing Law
- Qualifications to Serve as a Director or Vote
- 2025 Legal Updates
- Common Questions
- Practical Tips for Handling an Election



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# GOVERNING LAW

- Title 87 is the Sole Authority for Irrigation District Election Laws
- RCW 87.03.030: Elections are governed by irrigation district laws
  - “All elections of irrigation districts, general or special, for any district purpose and in any county of the state shall be called, noticed, and conducted in accordance with the laws of the state, specifically relating to irrigation districts.”
- Not Run by the County Auditor – Statutes Related to the County Auditor Inapplicable



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# Qualifications to Serve as Director or Vote

- Qualifications to be a Voter or Director
  - Qualifications of both voters and directors (RCW 87.03.045 & RCW 87.03.051)
    - 18 Years of Age
    - US Citizen
    - Resident of the State
    - Hold Title or Evidence of Title to Land that is Assessed or Assessable
  - Residence of Director – Majority Must Reside Within County
  - Entity Voting Rights
    - An agent of a legal entity (i.e., corporation, general partnership, limited partnership, LLC, trust, etc.) may vote on behalf of such land-owning entity.
    - Entity needs to either be “formed pursuant to the laws of the state of Washington or qualified to do business in the state of Washington.”



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# Qualifications to Serve as Director or Vote

- Number of Votes Per Elector
  - Districts that Are 200,000 Acres or Larger (RCW 87.03.045)
    - 1 Vote per 10 Acres Owned or fraction thereof
    - Example: Own 21 Acres – entitled to 3 votes
  - Districts that Are Smaller Than 200,000 Acres (RCW 87.03.051)
    - 2 Votes per 5 Acres Owned or Fraction Thereof
    - Example: Own 21 Acres – entitled to 10 votes
    - Note: Individual Ownership Cannot Accumulate more than 49% of the Vote
  - Districts that Are Smaller than 200,000 Acres, that are Urbanized (RCW 87.03.071)
    - Applies When More than 50% of Acreage is Owned in Individual Ownerships of Less than 5 Acres
    - Each Ownership is Entitled to 2 Votes Total
    - Example: Own 21 Acres – entitled to 2 Votes



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# Qualifications to Serve as Director or Vote

- Impact of Married Voters
  - Districts that Are 200,000 Acres or Larger (RCW 87.03.045)
    - “... both the spouses may vote if otherwise qualified.”
  - Districts that Are Smaller Than 200,000 Acres (RCW 87.03.051)
    - “... the accumulated votes may be divided equally between the spouses.”
  - Districts that Are Smaller than 200,000 Acres, that are Urbanized (RCW 87.03.071)
    - Applies When More than 50% of Acreage is Owned in Individual Ownerships of Less than 5 Acres
    - “... each spouse shall be entitled to one vote or they may vote by common agreement.”
- Handling Joint Ownership (e.g., Siblings Own Land as Tenants in Common)
  - Common Agreement Submitted at Least 24 hrs. in advance – otherwise first to appear votes.



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# 2025 Legal Update

- SENATE BILL 5669
  - Passed in April 2025, Effective July 27, 2025
- Main Changes
  - Simplified Absentee Voting
  - Authorized Mail-In Voting (Did Not Mandate Mail-In Voting)
  - Set Form of Ballot for Absentee & Mail-In
  - Changed Qualification for Voters / Electors
  - Changed Dates / Deadlines
  - New Notice And Election Security Laws for District's With their Own Treasurer
  - Imposed Criminal Penalties for Willful Violation of Certain Election Laws



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# 2025 Legal Update (Simplified Absentee Voting)

- Pre-2025 Requirements:
  - Required the Elector to certify “that he or she cannot conveniently be present to cast his or her ballot” in person on election day.
- New Requirements:
  - No longer required to make such certification to receive an absentee ballot.
  - All qualified district electors “shall be entitled to vote by absentee ballot”
  - *See* RCW 87.03.031



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# 2025 Legal Update (Mail in Voting)

- Pre-2025 Requirements:
  - In person voting
  - Only mail-in allowed, was absentee ballots with certification
- New Requirements:
  - “The board of directors may by adoption of a resolution choose to conduct an election using only mail-in ballots in lieu of polling places and absentee ballots.” *See* RCW 87.03.032(2).
  - Districts may still require in-person voting, with absentee ballots upon request.



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# 2025 Legal Update (Form of Ballot for Mail In)

- Pre-2025 Requirements:
  - Required Certifications to Vote Absentee
  - Required Witnesses to Vote Absentee
  - Unmarked Envelope Required – No Specific Security Envelope Requirement
- New Requirements (RCW 87.03.033):
  - Still Requires Certification as to qualifications (i.e., name, age, citizenship, residence, title to land)
  - Removed Certification as to Reason for Absence
  - Removed Requirement for Witnesses – now just certify under penalty of perjury to qualifications
  - Requires a Security Envelope
  - Sets Standards that Allow Certifications to be on the Envelope or a Separate Piece of Paper



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# 2025 Legal Update (Changes for Qualifications)

- Pre-2025 Language:
  - Only Addressed “Corporations” for Entity Voting
  - Only Referenced ownership of “land in the district”
- New Language:
  - Clarified that land owning entities that can vote include “general partnership, limited partnership, limited liability company, or other legal entity...”
  - Ownership of lands for purposes of voting requires that the land “is assessed or is assessable by the district pursuant to federal and state law...”
  - New language added to require that write-in candidates are vetted by the Board of Directors for qualifications; if unqualified next highest vote receiver wins
  - Clarified that candidates need to be resident of the division that Director is elected from or an agent of an entity that owns land in that division. See RCW 87.03.105.



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# 2025 Legal Update (Change of Dates / Deadlines)

- Pre-2025 Language:
  - Declaration of Candidacy / Petition for Nomination to run for the Board of Directors due by the First Monday in November
  - Ballots Counted the Monday after the election
- New Language:
  - Candidates now must file their Declaration of Candidacy / Petition for Nomination by the First Monday in October (RCW 87.03.075)
  - Ballots are now counted the second Wednesday after the election. (RCW 87.03.105).



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# 2025 Legal Update (New Notice & Security Laws)

- Pre-2025 Requirements:
  - General Election Needs to be posted 15 days prior to the date of the election in three public places per precinct; plus at the District Office
  - Additional requirements to publish notice in an official newspaper for special elections on: (i) changing boundaries; or (ii) bonds; (iii) consolidations/dissolutions (*See e.g.* RCW 87.03.590; RCW 87.03.675; and RCW 87.03.200; RCW 87.03.540).
- New Requirements:
  - Same posting requirements
  - Same publication requirements for special elections
  - Additional Requirements for District's that have their own Treasurer



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# 2025 Legal Update (New Notice & Security Laws)

- New Notice Requirements for Districts with own Treasurer (RCW 87.03.085(2)):
  - Annual Notice to Electors (via mail, e-mail, or posting to District website)
  - Annual Notice must include:
    - Names of Directors and Dates Their Terms Expire
    - How to Declare Candidacy
    - Description of District Voting Procedure; including whether mail-in ballots used
    - A statement that: “The district will use its assessment roll, toll and charge roll, or other district records to provide notice to known qualified electors and may also use the county assessor's or other public records to assist in determining qualified electors.”
  - If Direct Notice is Given, Only Need to Deliver to Entity that Pays the Assessments
    - For example, if delivery is to an HOA that then delivers to individual homes – notice only goes to HOA
  - Must Post Election Results



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# 2025 Legal Update (New Notice & Security Laws)

- New Security Requirements for Districts with own Treasurer (RCW 87.03.056):
  - Ballot Box must be secured, locked, and clearly marked “official ballot box”
    - Need keys for the ballot box that only designated district staff or the Board of Election have
    - Tamper-Evident Seals
    - Maintain a Paper Seal Log for Each Time Ballot Box is Opened
    - Physically Secure ballot boxes to prevent theft or unauthorized moving
    - Clarified that Candidates cannot be the election officials or district staff handling the ballots
  - Timing of Canvassing Updated
    - Must not begin counting until polls close
    - Must open in batches and not individually
    - Standards on storing and counting in public



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# 2025 Legal Update (New Notice & Security Laws)

- New Security Requirements for Districts with own Treasurer (RCW 87.03.056):
  - Challenge Process
    - Must Adopt Written Challenge Provisions (Challenges to Individual Voters)
    - Requirements to Post Outcome of Challenges on Website or Publish in Paper
  - Cure Process
    - Must Adopt Written Cure Procedure to Correct Errors that Occur in Counting Ballots



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# 2025 Legal Update (Criminal Penalties)

- New Criminal Penalties
  - Gross Misdemeanor
    - To willfully violate the election security laws
    - Removing a Ballot “without lawful authority”
    - Deceiving a voter in recording the vote, or misleading a voter, or providing faulty election equipment
    - Recording a vote in a manner other than as designated.
  - Civil Liability & Good Faith Errors
    - District Staff and Directors are still immune for good faith mistakes and errors in judgment (RCW 87.03.138)
    - Form not favored over substance: “No list, tally paper or certificate returned from any election shall be set aside or rejected for want of form, if it can be satisfactorily understood.” RCW 87.03.105



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# Common Questions

- If a District Adopts Mail-in Voting, when do ballots need to be mailed out?
  - RCW 87.03.032 does not specify when to mail
  - RCW 87.03.085 requires posting notice 15 days in advance, so best practice is...?
- If a District Adopts Mail-in Voting, who do you mail ballots to?
  - RCW 87.03.032(2) says to use the assessment roll, toll, and charge roll, or other District Records
  - Good news... if you miss someone that is “assessable” they can request a ballot, and the burden is on the person claiming the right to vote. See RCW 87.03.032(2).



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# Common Questions

- If a District Adopts Mail-In Voting, is a Board of Election still Required?
  - Still required for in-person elections. *See* RCW 87.03.085
  - Absentee ballots and mail-in ballots are canvassed by the Board of Directors. *See* RCW 87.03.032, RCW 87.03.033, RCW 87.03.034.
    - Remember: Board Member running for office should recuse themselves.
  - Board of Election not explicitly required.
  - Might still be a good idea to have them either check qualifications or count ballots to remove the Board of Directors from their own election.
- What is the effect of “assessed or assessable” for qualifications?
  - Assessed is clear: Is the District Assessing the Lands?
  - Assessable is less clear: A district can assess any lands that have water available for use. *See Otis Orchards Co. v. Otis Orchards Irr. Dist. No. 1*, 124 Wash. 510, 516, 215 P. 23, 25 (1923) (“the owner of irrigable land within a district must ... [pay] the annual assessment for the operation and maintenance of the system, where the water is made available for his use, even though he does not use it.”).



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# Practical Tips for Handling an Election

- Set Board of Election Pay to Satisfy Minimum Wage Laws
  - If picking a per diem amount, don't set too low.
  - Election day is 1-8 PM, plus counting of ballots.
- Train Your Board of Election, in Advance
- Adopt a Tiebreaker Procedure
- Adopt a Process for Handling Questionable Ballots
- If not your own Treasurer
  - New Annual Notice Requirements Don't Apply
  - New Security Requirements Don't Apply (other than security envelope for mail-in)
- Good Faith – Exercise Good Faith and Substantial Compliance will Prevail



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# Questions?

Aaron Dunham

WHC Attorneys

12209 E Mission Ave, Ste 5

Spokane Valley, WA 99206

(509) 927-9700

[adunham@whc-attorneys.com](mailto:adunham@whc-attorneys.com)



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