



WASHINGTON STATE CONSERVATION DISTRICTS

A REPORT BY
THE LEAGUE OF WOMEN VOTERS OF WASHINGTON

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Preface

At the 2009 LWVWA Convention, the League of Women Voters of Washington adopted a study of conservation districts, following the scope of the 2008 study by the League of Women Voters of Tacoma-Pierce County (LWVT-PC), to lead to consensus and action.

Title: Conservation Districts

Scope: Study conservation districts throughout Washington state.

Ask Local League members to gather information on their local conservation districts.

There needs to be more understanding regarding conservation districts

How are conservation districts composed, and what are their election/selection processes?

Outlook for Work: Local Leagues will gather information regarding the conservation district in their area.

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Introduction

Conservation is the protection, management, or restoration of wildlife and of natural resources such as forests, soil, and water.

In Washington state there are 47 conservation districts (CDs) with the mission to promote conservation within their borders. Most of these CDs approximate county boundaries. Each CD has a unique mission statement describing its work to preserve natural resources within the district. Examples of mission statements are the following:

- King CD: “to promote the sustainable uses of natural resources through responsible stewardship.”¹
- Pierce CD: “to work to retain renewable natural resources.”²
- Spokane County CD: “to promote the sustainable use of natural resources within Spokane County.”³

Each CD is an independent, non-regulatory local government entity that works with landowners to help them protect water quality, improve fish and wildlife habitat and resource conservation, while sustaining the vital agricultural community. In other words, CDs exist to help landowners to be good stewards of the land.

The Washington State Conservation Commission (WSCC) is “a small state agency created to assist and guide conservation districts as they work to conserve our natural resources. The mission

of the WSCC is to lead the citizens of the state in the wise stewardship, conservation, and protection of soil, water, and related natural resources on private lands. The WSCC provides grant funds to conservation districts, maintains accounting procedures in cooperation with the State Auditor’s office, oversees conservation district elections, and appoints members to each local conservation district board.”⁴ State statutes governing WSCC are contained in the Revised Code of Washington (RCW) and Washington Administrative Code (WAC). RCW Chapter 89.08 contains Conservation District Law, and WAC Chapter 135 contains Rules for the WSCC.

The following report will give more detailed information on the WSCC and CDs, particularly on the process of electing supervisors to CDs. The report begins with a history of conservation in Washington state. The final section includes information on current actions that may affect the election process of CDs, the structure of the WSCC, and the funding of CDs.

Conservation History in Washington⁵

At the turn of the twentieth century, Americans began to realize that the seemingly infinite natural resources of the country were actually finite and, if misused, could disappear. In response, a movement arose among people who sought to conserve resources by using them more efficiently. Known as conservationists, their numbers

¹ King Conservation District, <http://www.kingcd.org>

² Pierce Conservation District, <http://www.piercecountycd.org>

³ Spokane County Conservation District, <http://www.sccd.org>

⁴ Washington State Conservation Commission, <http://www.scc.wa.gov>

⁵ Information and quotes in this section obtained from Washington State Department of Community, Trade & Economic Development, <http://www.historylink.org> and WSCC, <http://www.scc.wa.gov>.

included politicians, business owners, and concerned citizens.

August 1908 – The Washington Forestry Association (WFA) was formed.

November 1908 – The first Washington State Conservation Congress was held in Seattle.

January 1909 – The WFA reorganized as the Washington Conservation Association and broadened its scope:

"To conserve, preserve and promote the development of the forests, the minerals, the waters for power and irrigation, the soils and other natural resources within the State of Washington, and to co-operate with the Federal and state authorities and with other organizations, public or private, in accomplishing these purposes. To assist in and encourage the bona fide settlement of our public lands and the development of our material resources in order to advance the civil and social wellbeing of the commonwealth."⁶

January 1909 – The National Conservation Commission, appointed by President Theodore Roosevelt (1858-1919), issued its report, calling on the nation to conserve resources. The report called for the government to prevent forest fires and to fight them more effectively, to improve waterways for flood control, and to facilitate trade and industry to use minerals, fuels, and water more efficiently, thereby conserving them for future generations.

August 1909 – The First National Conservation Congress, organized by the

⁶ Washington Conservation Association, Bylaws and Chapter Membership List, Section 3.4 (Seattle: Washington Conservation Association, 1909)

Washington Conservation Association, occurred during the Alaska-Yukon-Pacific Exposition, a world fair held on the University of Washington campus. Delegates came from 45 states, several agencies of the federal government, churches, universities, private organizations, and businesses. Gifford Pinchot (1865-1946), the first chief of the Forest Service, advocated the wise use of natural resources. Dignitaries from the Army, the Department of Agriculture, the Reclamation Service, and representatives of several women's organizations encouraged careful use of resources.

1915 – The last National Conservation Congress was held. Disunity among the disparate groups making up the conservation movement ruled out other national congresses.

March 1939 – The Washington State Conservation Commission (WSCC) was formed. Washington Governor Clarence D. Martin signed legislation creating the Conservation Commission and enabling the creation of conservation districts to serve farmers.

From 1939 to 1953, Commissioners assisted local farmers in forming conservation districts with five-member boards of supervisors who began long-range planning to assess resource needs.⁷

Washington State Conservation Commission

The Washington State Conservation Commission (WSCC) board has ten members with experience in ranching, farming, law, management, public service, and natural resource management: four elected from conservation districts, four

⁷ "Commission Conversation, Special Anniversary Edition," WSCC, March 2009, p. 3

appointed to represent state agencies, two appointed by the Governor. The board employs an executive director to implement the board's policies and plans who, in turn, employs staff to manage agency financial programs, provide direct service to conservation districts, and perform functions to implement the WSCC Strategic Plan. The WSCC headquarters are in Lacey, with satellite offices in Longview, Okanogan, Olympia, Spokane, and Yakima.

The powers and duties of WSCC commissioners are included in RCW 89.08.070. Some of these powers and duties are to review district programs, to assist and guide districts in the carrying out of programs, to coordinate programs used in more than one district, to promote cooperation and sharing between districts, to review agreements proposed to be entered into by districts with other public or private agencies, to inform districts of recent legislation that may affect them, to review district budgets, to require annual reports, and to conduct conferences and seminars.

The WSCC and the 47 conservation districts work with federal and state services and agencies to help people use resources wisely. Examples of this coordination are the following:

- WSCC works with the Federal Soil Conservation Service, or as it is known today, the Natural Resources Conservation Service (NRCS).
- In 1978-79 the Clean Water Act provided funding to hire field technicians and assist landowners to improve water quality. WSCC “partnered with Washington State University Extension and hosted regional community groups to discuss the social, economic, and

scientific feasibility of practices that protect water quality.”⁸

- WSCC works with state agencies. For instance, a 1988 agreement between the Washington State Department of Ecology and WSCC allowed “conservation districts to intervene and help farmers voluntarily solve water pollution problems” before the Department of Ecology took enforcement action.⁹
- In 1989 the Washington State Legislature passed legislation allowing a county to collect an assessment on behalf of a conservation district. Fifteen counties in Washington state collect this assessment in support of their respective conservation districts. (See pp. 8-9) for more information on assessments.)
- In 1993 the Washington Association of Conservation Districts (WACD) Plant Materials Center was created, allowing districts to sell plants for income.
- WSCC and the 47 conservation district programs and services have expanded the number of private citizens who voluntarily engage in stewardship through incentives. For instance, in 2006 through 2008, using state grants, Washington state CD projects “protected 1,296 miles of streams with livestock exclusion fencing and native plantings, saved 568,443 acres of land from erosion and runoff, and saved 5,739 acre feet of water for in-stream habitat use.” This was all done through the installation of 7,171 conservation practices by private citizens.¹⁰

The WSCC works with conservation districts throughout the state to help citizens protect renewable resources through the use of proven, incentive-based practices, which are

⁸ Ibid., p. 4

⁹ Ibid., p. 4

¹⁰ Ibid., p. 1

a conscious use of rewards (or penalties) to encourage good performance. CD programs provide incentives to landowners who plan and implement conservation practices on their land. These incentives are both technical and financial in nature. Technical assistance generally involves District Resource Technicians who consult with landowners on natural resource concerns on their property. Financial assistance, called “Cost Share,” reimburses landowners for expenses incurred to implement those best management practices. “Cost Share” frequently covers from 10% to 50% of the landowner’s cost to implement a practice. A small reward is often the motivation that a landowner needs to change management practices.

Washington State Conservation Districts

Conservation districts (CDs) are ‘special purpose districts’: local units of government established under state law to carry out natural resource management programs at the local level. Districts have worked with many cooperating landowners and operators to help them manage and protect land and water resources on all private lands. Conservation districts work under the philosophy that conservation decisions are best made at the local level with technical and funding assistance from federal, state and local governments for implementation by communities and the private sector.

Conservation districts were generally formed along county lines, with local input determining the boundaries. If communities did not want to be included in the conservation district, they could opt out. A few counties have two conservation districts and some conservation district boundaries contain more than one county. The boundary

of a conservation district may be altered with approval of the WSCC.

The 47 conservation districts in counties throughout Washington state are governed by farmers, landowners, and other local citizens interested in conservation. The mission of these CDs is to work to retain renewable natural resources within their boundaries. Each CD has a district manager, with paid and/or volunteer staff. District staff walk the land and get to know landowners, trust is developed, and projects move forward to reduce soil erosion, conserve water, prevent pollution and runoff, and enhance habitat.¹¹

Funding

Conservation districts are funded through public and private grants, special assessments, and contributions and partnerships.

The WSCC may authorize grants to conservation districts from money appropriated to the Commission. The rules pertaining to eligibility and distribution of these grants may be adopted by the WSCC. Conservation districts must apply for these grants.

There are fifteen counties in Washington state that are authorized to collect special assessments to fund projects directed by conservation districts. The CDs for which special assessments are collected are the following: Benton, Franklin, King, Kittitas County, Lincoln County, Mason, North Yakima, Okanogan, Pierce, San Juan Islands, Snohomish, South Yakima, Spokane, Thurston, and Whidbey Island.¹²

Special assessments are unique charges that government units can assess against real

¹¹ “Commission Conversation, Special Anniversary Edition,” WSCC, March 2009, p.8

¹² WSCC Website, <http://www.scc.wa.gov>

estate parcels for improvements or services the government unit provides that benefit the owner's property. RCW 89.08.400 lists rules governing special assessments for natural resource conservation. Some of these rules include the following:

- “Activities and programs to conserve natural resources, including soil and water, are declared to be of special benefit to lands and may be used as the basis upon which special assessments are imposed.”
- “Special assessments to finance the activities of a conservation district may be imposed by the county legislative authority of the county in which the conservation district is located for a period or periods each not to exceed ten years duration.”
- “A system of assessments shall classify lands in the conservation district into suitable classifications according to benefits conferred or to be conferred by the activities of the conservation district, determine an annual per acre rate of assessment for each classification of land, and indicate the total amount of special assessments proposed to be obtained from each classification of lands...The maximum annual per acre special assessment rate shall not exceed ten cents per acre. The maximum annual per parcel rate shall not exceed five dollars, except that for counties with a population over 1,500,000 persons, the annual per parcel rate shall not exceed ten dollars.”
- “The special assessments for a conservation district shall not be spread on the tax rolls”...if...“a petition has been filed with the county legislative authority objecting to the imposition of such special assessments, which petition has been signed by at least twenty percent of the owners of land that would

be subject to the special assessments to be imposed for the conservation district.”

A few examples of special assessments are the following:

- King County collects approximately \$6 million from a \$10/parcel assessment, which makes up about 80% of the King CD budget.
- Pierce County collects approximately \$1.2 million from a \$5/parcel assessment, which makes up about 60% of the Pierce CD budget.
- Spokane County collects approximately \$965,000 from a \$5/parcel (20 acres or under), \$.05/acre for range land over 20 acres, and \$.10 for agricultural land over 20 acres. The assessment makes up about 36% of the Spokane County CD.

Governance

Each conservation district has a board of three elected and two appointed supervisors. In order to be appointed or elected to the board of supervisors, a person must be a landowner or farmer. In 2010, a change was made to the Washington Administrative Code, requiring two of the three elected supervisors to be landowners or farmers, rather than all of the elected supervisors. “Landowner” means a person with legal title of record to real property in the conservation district at the time of filing for election or applying for appointment.”¹³

The roles and responsibilities of conservation district supervisors are set out in RCW 89.08, Sections 210 and 220. Some of those roles and responsibilities include the following:

- Identify local conservation needs and develop, implement, and evaluate programs and services to meet the needs.

¹³ Washington Administrative Code (WAC), Title 135, Sections 110 and 310

- Educate and inform landowners and citizens within the district as well as local, state, and federal legislators on conservation issues and programs.
- Supervise paid staff and volunteers working with the district; coordinate with any cooperating agency personnel.
- Manage and seek revenue to implement conservation needs and report on activities to the community within the conservation district boundaries.
- Coordinate assistance and funding from federal, state, and local government; district association, and private groups.
- Set policy for staff to implement.

Elections

Each CD has an election each year, which is mandated by the state and regulated by the WSCC.¹⁴ A survey of the 2010 election was done by the study committee. The following questions were asked of each conservation district:

1. On what date was the election held?
2. Where was it held?
3. How many people voted?
4. How many candidates participated?
5. How was it publicized?

Twenty-three CDs responded to the survey questions, and additional data for those CDs not responding was obtained from Bill Eller at the WSCC. See Appendix for survey results.

A few examples of the number of registered voters and the population of CDs will give some insight into these results. These numbers are taken from 2010 county figures, which may vary slightly from the conservation district population and number of registered voters. All registered voters

within CD boundaries may vote in the elections for supervisors.

- Asotin County CD, in southeast Washington, has a population of 21,623 with 12,270 registered voters, of whom 17 voted in the 2010 conservation district election.
- Kittitas County CD, in central Washington, has a population of 40,915 with 20,193 registered voters, of whom 22 voted.
- Lewis County CD, in southwest Washington, has a population of 75,455 with 41,972 registered voters, of whom 28 voted.
- Lincoln County CD, in northeast Washington, has a population of 10,570 with 6,983 registered voters, of whom 45 voted.
- Pierce CD, in west central Washington, has a population of 795,225 with 404,213 registered voters, of whom 301 voted. Pierce CD uses mail-in balloting upon request.
- Spokane County CD, in east central Washington, has a population of 471,221 with 261,250 registered voters, of whom 12 voted.
- Whatcom CD, in northwest Washington, has a population of 201,140 with 116,581 registered voters, of whom 11 voted.

There appears to be little correlation among the methods used to publicize the election, the number of registered voters, and the number of people voting in the election. In all cases, the number of voters and the number of candidates participating in the election are low. One reason Pierce CD has slightly greater participation may be the use of mail-in balloting upon request.

¹⁴ Revised Code of Washington (RCW), Chapter 89.08, Sections 110, 120, 130, 190

State Election Procedures¹⁵

As noted in the governance section, each conservation district has a five-person board of supervisors. Two supervisors are appointed by the WSCC board. One supervisor is elected each year for a three-year term. As stated in the introduction, the state statutes that govern the Washington State Conservation Commission (WSCC) are RCW 89.08 and WAC 135. Some of the guidelines for holding conservation district elections for supervisors are as follows:

- RCW 89.08.190 states that conservation districts shall hold elections during the first quarter of each calendar year, at which time one supervisor shall be elected for a three-year term.
- The date for this election must be set by the Board of Supervisors during the last quarter of the previous calendar year. A minimum of four polling hours must be set, and polling places must have sufficient parking and be accessible to those with disabilities.
- District employees may not recruit candidates for supervisor. They may post public notice, provide nomination forms, verify eligibility of candidates and petition signatures, answer requests for information, and provide information to the WSCC, who provides forms for district use.
- Candidates must be listed in alphabetical order on the ballot. There must be a line for write-in candidates.
- There must be two polling officers; they must be independent of the Board of Supervisors.

¹⁵ Information in this section was obtained from the Revised Code of Washington, Washington Administrative Code, and the Pierce Conservation District Study, LWV of Tacoma-Pierce County, April 2008.

- On Election Day, the polling places must be clearly marked. Polling officers must complete the Poll List and verify the signature of each voter.

WSCC Guidelines for Appointment, Elections and Elections by Mail

The WSCC does not mandate, but does allow, that elections be conducted by mail. The District Elections Supervisor must determine if applicants are registered voters, there must be a secrecy envelope for the ballot, and the outside envelope must include the voter's signature and an identifying number. The rules for locking up the ballots, opening, and counting them are also mandated.

Guidelines for WSCC Appointment of Two Supervisors

The WSCC notifies the District of those terms which are expiring, and notifies those supervisors whose terms are expiring. A district with an upcoming vacancy must provide adequate public notice of the vacancy in some form of mass media that reaches the broadest sector of the district's total population. Those who want positions must obtain the Application for Appointment from the WSCC or from the conservation district. The Conservation Commission appoints the supervisors to vacant or unexpired appointed positions. Each district has two appointed supervisors.

Election Process Issues

In 2001, legislation was introduced and passed that had the consequence of changing election law for conservation districts. Former State Senator Marilyn Rasmussen, who was active on the Agriculture Committee and remains involved with conservation districts, reported that the first bill was passed because CDs handle public

money. Only those involved with districts were voting, which meant that some of the same people were voting as were receiving money. According to Rasmussen, the Attorney General said that this was not legal, and so the law was changed to allow CD elections to be on the general election ballot.

John Larson, Executive Director of the Washington Association of Conservation Districts, stated that the legislation was introduced by Senator Bob Morton, who worked closely with conservation district personnel in Legislative District 7. The legislation was intended to firm up the landowner requirement for an elected supervisor. Larson said, “An unintended consequence of this law was enabling CDs to have their elections for supervisors to be included on the general election ballot.”

Being on the general election ballot is very expensive and conservation districts would have had to use most of their money just to hold elections. According to Rasmussen, there was talk of having supervisors appointed by the County Councils. According to the Senate Bill Report discussing testimony on SB 5904¹⁶ (which did not pass in 2001), some CDs wanted to have their election on the general ballot, but some CDs wanted to continue to have their own elections, while some rural CDs were afraid that the requirement for public disclosure in the general election would limit their ability to recruit supervisors for a job that pays only expenses. As well, some county election officials feared that they would have difficulty determining the eligible voters in the conservation district, since not all CDs mirror county boundaries.

¹⁶ “Revising procedures for conservation district elections.” Senate Bill 5904, S-1731.4, 57th Congress, State of Washington (2001-02)

In 2002, the Legislature passed SB 6572¹⁷, which changed the law so that conservation district elections were scheduled in the first three months of the year. Ray Ledgerwood, WSCC Program Facilitator, added that attempts at a legislative fix to remove or reduce the election costs were unsuccessful.

SB 6572 changed the law so as not to apply to “public utility districts, conservation districts, or district elections at which the ownership of property within those districts is a prerequisite to voting, all of which elections shall be held at the times prescribed in the laws specifically applicable thereto.”¹⁸ This legislation also called for the creation of “a work group on conservation district elections.” Selena Corwin, Interim Director of the Pierce CD, said: “The taskforce was set up to examine the possibility of enabling CD election of supervisors to be included in the general election. This taskforce failed to reach any decisions on CD election.”

The discussions and disagreements about how conservation district supervisors should be elected, or whether they should be elected at all, continue to this day. An editorial in *The Olympian* stated: “Voters Robbed in Conservation District Elections: State lawmakers and Gov. Gary Locke took a giant step – backward – in the management and administration of county conservation districts. Legislators passed, and the governor signed, a dreadful bill that basically nullifies the rights of voters to elect the men and women who govern conservation districts.”¹⁹

¹⁷ “Clarifying that conservation district supervisors' elections and public disclosure requirements are governed by conservation district laws.” Senate Bill 6572, S-1731.4, 57th Congress, State of Washington (2001-02)

¹⁸ RCW 29A.04.330

¹⁹ Editorial, *The Olympian*, April 15, 2002

In 2005, *The News Tribune* in Tacoma included the following in an editorial: “Nearly everything in the law governing these elections makes participation difficult and unlikely. The elections must be held in the first three months of the year, preventing the district from combining with other elections. Going alone for a single board election each year costs up to \$600,000...A move to place these races on the fall ballot, when they would cost the district about \$100,000 and be more obvious to voters, was turned back by the Legislature. So the districts are allowed to run their own elections, traditionally small affairs with a handful of voters.”²⁰

Currently, Oregon Soil and Water Conservation Districts are able to include their elections on the general election ballot. The costs of these elections are paid by the County in which the CD is located. The configuration of the CDs in Oregon is similar to that of Washington.²¹

Conservation districts in Washington state struggle to get the word out about their elections, and many have expressed the wish that there were a better way to conduct an election for this organization that covers a wide area and deals with conservation issues in that area. Some ask whether an election is the best way to select supervisors. Some ask whether appointing people to the supervisor position is more feasible. Would that be taking the selection away from the people of the district? Are people in the district interested and informed in order to make a selection? A small number of organized people can determine the election of a

²⁰ Callaghan, Peter, “324 Voters A Lot for This Week’s Scrawny Election,” *The News Tribune*, February 9, 2005

²¹ Oregon Soil and Water Conservation Commission, <http://www.oregon.gov/ODA/SWCD>

candidate in these elections with few people voting.

Following are some of the issues relating to the election process:

- The Washington State Conservation Commission (WSCC) mandates a voter number and the voter’s signature on the outside of the return-mail envelope. In most cases, the conservation district ballot envelopes do not have a number or space for a signature. Even if this space were available, sample signatures of voters are available at county election offices, but are not accessible to the conservation districts.
- Election by mail has increased voter turnout considerably.
 - In Pierce Conservation District, voting by mail began in 2004. Before 2004, fewer than 20 people voted, but in the 2009 election about 1700 people mailed in their ballots. In 2010, however, only 300 people voted.
 - In King Conservation District, voter turnout has tripled in the past five years, with about 4400 ballots cast in 2010. Even though the King County general election uses all mail-in ballots, mail-in voting is not used by the King CD due to the expense. Seven polling places were available for the 2010 CD election. (See more on King CD 2011 election on pp. 21-22.)
- The King CD does not use the special election ballot that is run by the county in the first quarter of the year because of expense. Any special district must pay approximately \$2.50 to \$3.00 per voter within the particular district to have its issue on the ballot. The King CD, would have to pay at least \$2.50 for all registered voters in the King CD. With

approximately 1 million registered voters in the district the cost would be \$2.5 million, over one-third of the King CD budget.

- Running a conservation district election is time-consuming and takes significant staff time away from the district's mission. The Pierce CD staff does its best to run elections well, but at times people who have requested a ballot by mail do not receive one. Running elections is not the expertise of conservation experts.
- The Thurston CD publishes quarter-page "Conversations on Conservation" articles in the local newspaper three or four times per year. These include information about public meetings on re-authorizing assessments, information about what they are doing and what workshops are being held, calls for people to run for the Board of Supervisors, and information on voting in their elections. This publicity has not increased voter turnout. *The Olympian* on March 2, 2003 questions, "Which is better for democracy: an election with 302 voters casting ballots or an election with more than 31,000 participants? The answer is obvious. Voter participation is a cornerstone of our democracy. The power of the ballot box is the public's method of holding their decision-makers accountable for their actions."²²
- Candidates for the Board of Supervisors often do much to bring new people to vote in the CD Elections by word of mouth. It is desirable to have choices when selecting candidates, but many CD elections have only one candidate participating. (See Appendix)
- The comments on the election process received when League of Women Voters of Tacoma-Pierce County interviewed supervisors, activists, elected officials,

and CD staff for its 2008 Pierce Conservation District report include:²³

- One of the commissioners said, "Many people think that changes should be made, and there are as many suggestions as there are people."
- Tom Salzer, Technical Service Manager, WSCC, said, "Conservation district elections are among the purest forms of local governance known in Washington state." He indicated that all qualified electors are eligible to participate in these local elections. The communities served by conservation districts participate as they see fit. He has not seen a correlation between the amount or intensity of notice to the public and the number of citizens who vote. Salzer said, "Citizens who wish to be involved become involved; those who do not wish to be involved do not participate."
- Having the County Elections Office run the elections would be worth the cost if they didn't have to have them every year.
- If all three elected supervisors were elected the same year, instead of the current system of electing one each year, there would still be continuity from the appointed supervisors,
- The terms of supervisors could be changed from three years to longer.
- The number of supervisors could be increased; with a seven member Board and four-year terms, for example, three could be elected one year and four two years later.
- If the county were divided into districts, with each supervisor representing part of the county,

²² Editorial, *The Olympian*, March 2, 2003

²³ LWV of Tacoma-Pierce County, Pierce Conservation District Study, April 2008

candidates wouldn't have to run a county-wide campaign.

- The board could be appointed by the County Council, with nominees submitted by Council Members from their districts and chosen by the County Executive, and one directly appointed by the Executive.
- Monty Mahan, Pierce CD Manager, expressed his frustration with this system when he said: "In my opinion the system is fatally flawed at the level of the Revised Code of Washington, and efforts to dress it up at the local level are destined for failure, unless the [Pierce CD] is prepared to make its elections more important than its on the ground activities." Mahan went on to say, "I believe that conservation district elections belong on the general ballot. The issues surrounding funding and running them could be addressed either at the local or state level if there was a commitment to bringing conservation district elections into step with all other elections of Washington state officials."

Significant Changes to the Election Rules²⁴

Washington Conservation Rules Update – November 19, 2010

The Washington State Conservation Commission (WSCC) is required by RCW 89.08 to adopt procedures for conservation district elections: "The commission shall establish procedures for elections, canvass

²⁴ Information in this section was supplied by Bill Eller, Washington State Conservation Commission and Regional Manager, Central Washington.

the returns and announce the official results thereof."²⁵

In late 2007, the Commission expressed interest in establishing rules for the election and replacement of conservation district supervisors in order to address issues with the administration of elections and to clarify procedures. In 2008 and 2009, the Commission continued to reevaluate elections procedures and began soliciting input from various stakeholder groups. The revisions and consultation with different stakeholders resulted in the creation, in late 2009, of an elections manual. After the 2010 elections, the Commission decided to move forward with the formal elections rulemaking process.

The Commission took public comments on the proposed rule from September 1, 2010 through September 28, 2010. They held two public hearings to gather comments; the first public hearing was held in Lacey on September 21 and the second was held in Spokane on September 23. Written comments were accepted through September 28. No oral or written comments were received.

The new rule reflects the recommendations of a number of different stakeholders, including:

- Conservation district staff and supervisors
- The Washington Association of Conservation Districts (WACD) District Operations Committee
- The Commission and WACD Joint Elections Committee
- County auditors and elections officials
- The Commission-assigned assistant attorney general

²⁵ RCW 89.08.190

- Informal input from the public and interested parties

The Commission adopted WAC 135-110, “Election and Replacement of Conservation District Supervisors,” on November 19, 2010.²⁶ The Commission is required by statute to adopt procedures for conservation district elections. The adopted rule:

- Establishes procedures governing the election and replacement of conservation district supervisors;
- Provides guidance on the conduct of conservation district elections;
- Sets forth criteria and procedures for the removal of conservation district supervisors from office;
- Establishes procedures for how individuals are elected or appointed to the office and how their terms of office terminate;
- Clarifies statutory language; and
- Provides statewide consistency in the election and replacement of conservation district supervisors.

What follows are some of the more significant changes to conservation district election procedures for 2011 based on the new WAC 135-110:

Adoption and Publication of the Election Resolution Timeline

The timeline for adoption and publication of the resolution establishing an election has

²⁶ WAC Chapter 135-110, Election and Replacement of Conservation District Supervisors, was recently published in the Washington State Register (WSR), Issue 10-21-084. This rule became effective on November 19, 2010. To view the chapter, go to the WSCC website: <http://www.scc.wa.gov>. This location will enable you to find the Election Manual: Election and Appointment Procedures for Conservation District Supervisors, in which these rules have been incorporated.

changed.²⁷ The date set for the election will determine the candidate filing deadline, which in turn will determine when publication of the election resolution and notice to voters of the election must take place.²⁸ Conservation district supervisors must provide the WSCC with the election resolution by the candidate filing deadline.²⁹

Absentee Ballots

Absentee ballots may be requested even if a mail-in election is not being held. WAC 135-110-240 states that elections can be by physical poll sites (in-person), or by remote methods (mail-in, electronic), or both. Any choice or combination is fine, except that it must still assure “fair treatment of candidates and voters,” provide “privacy in voting,” and comply with “all other parts of this rule.” WAC 135-110-410 requires a district to set a deadline to request a mail-in ballot.

Absentee Ballots and Notice

A public notice should be placed in a local paper letting the public know that absentee ballots are available upon request by registered voters residing within conservation district boundaries even though the election does not include a mail-in election. The district must still comply with the due notice requirements of WAC 135-110-210, “due notice containing all election information in the resolution must be published.” WAC 135-110-110 states the definition of “due notice” as, “notice published at least twice with at least six days between publications, in a publication of general circulation within the affected area. If there is no such publication, a notice may be posted at a reasonable number of public places within the area where it is customary

²⁷ WAC 135-110-210, WAC 135-110-220, and WAC 135-110-330

²⁸ WAC 135-110-330

²⁹ WAC 135-110-210

to post notices concerning county and municipal affairs.”

Candidate Types

There are now three types of candidates.³⁰

1. Declared: a qualified district elector who has submitted candidate information to the district by the filing deadline.
2. Declared Nominated: a qualified district elector who has submitted candidate information to the district by the filing deadline and who has also submitted a qualified nominating petition by the filing deadline.
3. Undeclared Write-In: a person who has neither submitted candidate information to the district by the filing deadline nor has submitted a qualified nominating petition by the filing deadline.

Ceasing to be a Farmer or Landowner

The question has arisen as to the possibility that a supervisor, who has been one of the two required landowners/farmers, retires and is therefore no longer a landowner. The new rules indicate that if a sitting supervisor retires from farming or is no longer a landowner such that it causes two of the three supervisors to no longer be landowners/farmers, then that supervisor is no longer eligible to serve,³¹ and the office is deemed vacant and must be filled according to mandated procedures.³²

Due Notice of Election

After a conservation district adopts the election resolution, the information in the resolution needs to be published at least twice, a week apart, the first time being at least one week before the candidate filing

deadline. The candidate filing deadline is 4 weeks before election day.³³

Election Resolution

The information required to be provided in the resolution establishing an election has changed. The requirements include:³⁴

- The name of the conservation district;
- The date(s), the physical location(s), and the times polls will open and close for each polling place;
- The election methods selected;
- A list showing the name of each elected and appointed conservation district supervisor with a term expiring in the election and appointment cycle covered by the resolution;
- The filing deadline for candidates;
- Identification of an individual appointed by the conservation district to fulfill the duties of election supervisor; and
- The dated signature of at least one conservation district supervisor attesting to this information.

Election Supervisor

The title of “Election Officer” has been changed to “Election Supervisor.”³⁵

Incumbent is only Filing Candidate

Sometimes the incumbent is the only person filing as a candidate for an open supervisor position by filing deadline. In a case like this, the requirements and procedures to follow are:³⁶

- The incumbent is automatically reelected to another three-year term if:

³⁰ WAC 135-110-350

³¹ WAC 135-110-310

³² WAC 135-110-900, WAC 135-110-910, and RCW 89.08.200

³³ WAC 135-110-220, WAC 135-110-330

³⁴ WAC 135-110-210

³⁵ WAC 135-110-620

³⁶ WAC 135-110-370

- Due notice of the election resolution and the election have been duly published by the conservation district;
 - The only person filing by the filing deadline is the incumbent;
 - The conservation district verifies the continued eligibility of the incumbent to serve another term of office; and
 - The incumbent has not resigned on or before the last date of election.
- When an incumbent is automatically reelected, no other election activities at physical poll sites or through remote election processes may be performed.
 - Before election day, the conservation district must inform the voting public that the incumbent has been reelected by reason of being the only person filing for the position, and that no poll site, mail, or absentee balloting will be performed. On election day signs containing this information must be posted at poll sites.
 - Within four weeks of the first date of election as scheduled in the election resolution, the conservation district must inform the Washington State Conservation Commission (WSCC) of the automatic reelection of the incumbent.

Note: One of the most important things to remember is that notice that all the conditions of WAC 135-110-370 have been met (therefore, an election will not be held) must be provided before election day, and on election day, signs containing this information must be posted at poll sites.

Poll Lists

Conservation districts are prohibited from using "lists obtained from an individual conservation district supervisor or employee, nor from any candidate, nor from any trade, company, church, union, fraternal or other organization."³⁷ An employee can assist in the development of a list, or providing a list.³⁸ The intent of the WAC provision precluding obtaining lists from district employees is to avoid the use of some other list, such list being inconsistent with the list noted in the WAC referenced.

Polling Officers

There must be at least two polling officers at each physical poll site.³⁹ The Election Supervisor may serve as one polling officer.⁴⁰

Record Retention

All ballots, computer voting records, and election documents must be retained for six months after the election has been certified.⁴¹

³⁷ WAC 135-110-420

³⁸ WAC 135-110-515

³⁹ WAC 135-110-620, WAC 135-110-370

⁴⁰ WAC 135-110-620

⁴¹ WAC 135-110-140

Current Election, Political, and Legal Information

King CD Election

As a result of changes to the Washington Administrative Code, the definition for a remote election, an election in which ballots are returned by some means other than for a poll-site election, King CD used electronic voting in its 2011 election.⁴²

WAC 135-110-240 states that “the conservation district supervisors must choose the method of the election using physical poll sites, or by remote methods, or by any combination of these methods that assures fair treatment of candidates and voters, provides privacy in voting, and complies with all other parts of this rule.” WAC 135-110-540 states that “for electronic voting, the functional equivalent of a paper ballot must be utilized.”

For the 2011 election, the King CD used a new and secure online voting option. King CD, working with Election Trust LLC⁴³ (Bellevue) and Scytl Secure Electronic Voting USA⁴⁴ (Washington, DC and Spain), introduced an online balloting program to provide residents within the King CD an alternative to in-person balloting. This is the first time this option was available for domestic voting in the United States. Online voting is used by U.S. citizens who live in other countries or who are overseas and are voting in the U.S. elections. The results of

this process will be of interest to other conservation districts in Washington state.⁴⁵

On February 22, 2011, an article entitled “King Conservation District goes ‘paper free’ in online election” was written in the *Seattle Times* concerning the new online King CD 2011 election.⁴⁶ Statements from this article include:

- “Eager to reverse a history of low voter turnout, the little-known King Conservation District is holding the largest online election ever conducted by a public agency in the United States.”
- “‘For a small district that’s trying to conduct an election without having the existing election facilities like ballot-tabulation equipment, I think this is a smart way to go,’ said Katie Blinn, who supervises local elections – but not conservation-district balloting – as co-director of elections for the Secretary of State.”
- “But without a paper record to back up every vote, Douglas W. Jones, associate professor of computer science at the University of Iowa, claims Internet voting is vulnerable to manipulation – and, he said, ‘Outsourcing a democracy is not a good idea.’” Jones goes on to say, “I believe the Internet is extraordinarily insecure regardless whose system you are using. The way to make a secure computer in today’s world is to have it not connected to the Internet.”
- “Wider use of Internet voting may be years off, state elections co-director Blinn said, but she believes it will come and will be done without compromising election integrity.”

⁴² WAC 135-110-240, WAC 135-110-540

⁴³ Election Trust,
<http://www.electiontrust.com/>

⁴⁴ Scytl Secure Electronic Voting USA,
<http://www.scytl.com/>

⁴⁵ See King CD 2011 Board of Supervisors Election Results,
http://www.kingcd.org/new_ele.htm.

⁴⁶ Ervin, Keith, “King Conservation District goes ‘paper free’ in online election” *Seattle Times*, February 22, 2011

- Election Trust, the firm hired to conduct King CD elections, “came up with a two-step process that requires voters to submit their signatures by mail, e-mail, or fax before voting. After the company verifies a signature matches the one on file with King County Elections, the voter is given a personal identification number for online voting.”

The results of the 2011 King CD online election showed a reduction in the total number of people voting in this election. The total number of people voting was 2295, 172 of whom voted at the King CD offices on March 15, 2011, which is about half as many as voted in the 2010 election when there were seven polling places. The lower turnout may have had something to do with some glitches in the system and voters dealing with an unfamiliar system.⁴⁷

Proposed Consolidation of Commissions

In 2011, because of insufficient revenue in the State of Washington, Governor Christine Gregoire proposed reducing the number of commissions in Washington state by combining them with other agencies. The Governor’s original proposed 2011-13 biennial budget called for the Washington State Conservation Commission (WSCC) to be absorbed into the Washington State Department of Agriculture. This arrangement was projected to save \$200,000 in the 2011-13 biennium. This would have included staff cuts, which, in turn, may have led to a less influential position and to less communication among the governor, legislators, and the conservation districts. No legislation to change the status of commissions passed the legislature in 2011, but this concept may be brought up in the future.

⁴⁷ Ervin, Keith, “King Conservation District’s online election drew fewer voters,” *Seattle Times* March 20, 2011.

This may appear to be a logical arrangement, given the state’s revenue shortfall. The WSCC is a non-regulatory body, while the Department of Agriculture is a regulatory agency. The WSCC and conservation districts in Washington state have been successful in serving as a buffer between landowners and regulatory agencies to prevent and solve problems. The Department of Natural Resources and the Washington State Department of Agriculture contain divisions whose primary function is to educate. No research was found that compared the effectiveness of these agencies to conservation districts in promoting changes in conservation behavior.

Consolidation arrangements have been set up in other states, such as Idaho, Oregon, and California, with the result of a decrease in effectiveness and number of projects. In 1997, the Idaho Soil Conservation Commission (ISCC) was moved from the Idaho Department of Lands to the Idaho Department of Agriculture. While with the Department of Lands, the ISCC acted as an independent agency that had great influence in natural resource conservation services for land managers. With a staff of 37, the ISCC provided state cost-share assistance to land managers of 40 projects with \$6 million annual funding. Since the move to be a part of the Department of Agriculture, the staff of the ISCC has decreased to 18 and funding has steadily decreased. In 2010, the legislature recognized the importance of the independent, non-regulatory role and services of the Idaho Soil Conservation Commission, and legislation was passed to rename it as the Soil and Water Conservation Commission and grant it autonomy within the Department of Agriculture. Essentially, the Commission now functions as a self-governing agency. This arrangement might be a model for other states.

Mason Conservation District Assessment Fee Litigation

For eight years Mason Conservation District has been involved in litigation in regard to its special assessment. In September 2002 Mason County adopted Ordinance 121-02, establishing a conservation special assessment under RCW 89.08.400. The ordinance states: “There shall be an assessment for natural resource conservation as authorized by RCW 89.08.400 in the amount of \$5.00 per non forested land parcel with [a zero dollar] fee per acre assessed for ten years starting 2003 and continuing through 2012.”

In March 2003 a group of landowners in Mason County sued the county and the Mason CD, saying that Ordinance 121-02 was an invalid and unconstitutional property tax in the guise of a special assessment. In January 2005, this litigation was dismissed in the Superior Court of Mason County because the action was filed more than six months after the County adopted the Resolution establishing a special assessment. The landowners appealed this ruling. The Appellate Court determined that the Superior Court erred in its ruling to dismiss, and the case was remanded to Superior Court. This litigation has gone through several iterations before finally ending up in the Washington State Supreme Court, where a hearing was held January 13, 2011. A ruling is expected in the fall of 2011.

One argument against the fee is that it is contrary to statute in that the assessment is solely a flat amount, rather than a flat fee plus a prorated fee based on acreage (which is allowed per RCW 89.08.400, which specifies a flat fee plus \$0.00-\$0.10 per acre). The fee was primarily to be used to improve the water quality in the area within the Mason CD. Mason CD suggests that all properties benefit because everyone benefits

from clean water. Owners of forest land and of property within the City of Shelton, not to mention nonresidents of Mason County, benefit from efforts to clean up part of Puget Sound and Hood Canal, but those people are not subject to the special assessment.

On the other hand, owners of underdeveloped land, without any impermeable surfaces or any source of pollution, are assessed as these parcels are available for future development that is expected to impact water quality. Further, it is claimed by the petitioners that even though conservation districts are allowed to collect some fees, Mason County reserved two-thirds of the funds in a revenue-sharing scheme (agreed upon between Mason CD and the Mason County Public Health Departments) which included a plan to hire two new Health Services staff members to assist in addressing water quality problems.

Mason County began collecting the special assessment fee in 2003, using the money for water quality projects. As a result of the litigation, beginning in 2008 Mason CD discontinued using the money collected from the assessment fee. Mason County has continued to collect the assessment fee, but the money is now held by the Mason County Treasurer, pending the Supreme Court’s ruling. As of April 2011, more than \$685,000 in assessment fees is being held by the Mason County Treasurer. Prior to 2008 several hundred thousand dollars had already been spent by Mason County and the Mason CD. If the Washington State Supreme Court rules for the landowners, this money may have to be returned to those who were assessed. Broader ramifications of such a ruling could affect all assessments for conservation districts in Washington state.

Conclusion

The Washington State Conservation Commission (WSCC) has been in existence for over 70 years, but knowledge of its work and the work of local conservation districts does not appear to be widespread. The WSCC and the state's 47 conservation districts work with federal and state agencies to help people use resources wisely.

Each conservation district elects three of its five supervisors. One supervisor is elected each year to a three-year term. The elections are not held with any other election and are not well publicized. Voter participation is very low. In the League of Women Voters Tacoma-Pierce County study of the Pierce Conservation District in 2007-08, particular attention was paid to the method of selecting members of the Board of Supervisors. Many managers, supervisors, and staff involved in the Pierce, King, Thurston, and Kitsap CDs were interviewed for that study. They had many suggestions for possible ways of changing parts of the mandated election system. These suggestions ranged from having the Conservation District Election on the general election ballot, to having more supervisors and electing more than one at a time, to having supervisors represent parts of the conservation district rather than the whole thing, to having the Supervisors appointed.

Fifteen of the state's conservation districts collect assessments from property owners to help support the districts. It is a concern to some that we contribute to the conservation district, yet know little about how they are run, and that few people elect their supervisors. There is an ongoing lawsuit about the assessment in Mason County, where it has been called an unconstitutional property tax.

The mission of promoting conservation of natural resources through good stewardship would seem to be as important today as it was when conservation districts were formed in Washington state. Governor Christine Gregoire recently proposed absorbing the WSCC into the Department of Agriculture. Some of the possible changes to the effectiveness of the WSCC are discussed in the section "Current Political and Legal Issues."

It is hoped that this information promotes interest in and understanding of the purpose, structure, and election process of conservation districts in Washington state, that it might lead some people to further explore and get involved with their conservation districts, and that it leads to educated discussion.

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Appendix

Conservation District	2010 Election	Location	Voters	Candidates	Publicized
Adams CD	2/9/2010	Legion Hall, Ritzville	42	2	Newspapers, posted in CD office & Federal Farm Services Administration office
Asotin County CD	3/4/2010	Anatone Community Hall	17	1	Newspapers, newsletter, website, mailed to landowners
Benton CD	3/2/2010	Kennewick & Prosser	8	1	Newspaper, website
Cascadia CD	1/20/2010	Wenatchee Convention Ctr	18	1	Newspapers, website, posted in office
Central Klickitat CD	2/18/2010	Centerville Grange	24	1	Newspapers, website, announced at meetings
Clallam CD	3/2/2010	Port Angeles & Sequim	30	1	Newspapers, CD newsletter
Clark CD	2/26/2010	CD Office in Brush Prairie	20	1	Newspapers
Columbia CD	1/19/2010	Seneca Activities Center, Dayton	29	1	Newspapers
Cowlitz CD	3/18/2010	Expo and Conference Center, Longview	38	1	Newspapers and on-line conference center calendar
Eastern Klickitat CD	2/11/2010	Alder Creek Grange, Bickleton	17	1	Newspapers, website, announced at meetings
Ferry CD	3/24/2010	CD Office in Republic	13	1	Newspaper, CD website, fair booth, posted in CD office, CD newsletter, flyers, press release to local paper
Foster Creek CD	1/27/2010	Mansfield Grange Hall	14	1	Newspaper, CD website, CD newsletter, posted in CD office
Franklin CD	1/5/10 & 1/6/10	Pasco Trade Center	27	1	Newspaper, website
Grant CD	2/9/2010	USDA Service Center, Ephrata, CD Office in Othello	5	1	Newspapers
Grays Harbor CD	3/12/2010	USDA Agriculture Service Center/Grays Harbor Conservation District Office	18	2	Newspapers, posted at CD office
Jefferson County CD	3/3/2010	CD office in Port Hadlock	10	1	Newspapers, website
King CD	3/16/2010	Public libraries in Seattle, Bellevue, Shoreline, Auburn, Des Moines and Vashon	4389	5	Newspapers, posted on library doors
Kitsap CD	3/26/2010	Kitsap Conservation District office	25	1	Newspapers, CD newsletter
Kittitas County CD	2/9/2010	Kittitas CD office, Ellensburg & Cle Elum City Hall	22	1	Newspapers, website, CD newsletter
Lewis County CD	2/1/2010	Chehalis Field Office	28	2	Newspapers
Lincoln County CD	2/9/2010	CD office in Chehalis	45	1	Newspapers

Appendix, Continued

Conservation District	2010 Election	Location	Voters	Candidates	Publicized
Mason CD	2/20/2010	Cd office in Shelton	18	1	Newspapers, CD newsletter
Moses Lake CD	2/8/2010	Pillar Rock Grill, Moses Lake	6	1	Newspapers, radio
North Yakima CD	3/2/2010	USDA Ag Service Center, Yakima	13	1	Newspapers, website, CD newsletter, posted on office door
Okanogan CD	3/2/2010	USDA Service Center, Okanogan	4	0	Newspapers, press releases to Newspapers and radio stations
Pacific CD	3/24/2010	CD office in South Bend	12	1	Newspapers
Palouse CD	3/2/2010	CD office in Pullman	90	2	Newspapers, CD website
Palouse-Rock Lake CD	3/2/2010	Palouse-Rock Lake CD office board room	35	1	Newspapers, TV station broadcast, posted at US Post Office in St John, posted at CD office
Pend Oreille CD	3/2/2010	Cusick Community Center	4	1	Newspapers, posted at the post office
Pierce CD	2/23/2010	CD office in Puyallup	301	1	Newspapers, CD website
Pine Creek CD	3/2/2010	CD office in Oakesdale and 118 N. Front St. in Oakesdale	20	1	Newspapers, posted at CD office
Pomeroy CD	2/1/2010	Dick Brown Community Building, Pomeroy	31	1	Newspapers, posted at CD office
San Juan Islands CD	3/16/2010	CD office in Friday Harbor	491	2	Newspapers, CD website
Skagit CD	3/16/2010	CD office at Mount Vernon	28	1	Newspapers, newsletters, website, radio announcement
Snohomish CD	2/9/2010	CD office at Lake Stevens	31	1	Newspapers
South Douglas CD	1/27/2010	Mansfield at annual meeting with Foster Creek CD	20	1	Newspapers, CD newsletter
South Yakima CD	3/12/2010	Sunnyside	7	1	Newspapers, posted at CD office, website
Spokane County CD	3/9/2010	CD office in Spokane	12	1	Newspapers, posted at CD office, website
Stevens County CD	2/18/2010	Stevens County AG Trade Center, Colville	44	1	Newspapers
Thurston CD	2/20/2010	CD office in Tumwater	39	1	Newspapers, website, Craigslist, CD newsletter, flyers, plant sale packets
Underwood CD	3/16/2010	CD office in White Salmon	20	2	Newspapers
Wahkiakum CD	3/16/2010	25 River Street, Cathlamet	12	1	Newspapers
Walla Walla County CD	1/28/2010	Walla Walla Regional Airport	25	1	Newspapers, CD website, CD newsletter
Warden CD	2/8/2010	Pillar Rock Grill, Moses Lake	9	1	Newspapers, radio
Whatcom CD	3/9/2010	CD office in Lynden	11	1	Newspapers, CD newsletter, website
Whidbey Island CD	3/16/2010	Whidbey Island CD office, Coupeville	46	1	Newspapers, website
Whitman CD	3/16/2010	CD Office in Colfax	6	1	Newspapers, flyers, announcements at meetings

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