

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5437

Chapter 369, Laws of 2023

68th Legislature
2023 Regular Session

SPECIAL PURPOSE DISTRICTS—GOVERNING BODY VACANCIES

EFFECTIVE DATE: July 23, 2023

Passed by the Senate April 18, 2023
Yeas 48 Nays 0

DENNY HECK

President of the Senate

Passed by the House April 6, 2023
Yeas 98 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Approved May 9, 2023 11:11 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5437** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 10, 2023

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5437

AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

State of Washington 68th Legislature 2023 Regular Session

By Senate Local Government, Land Use & Tribal Affairs (originally sponsored by Senators MacEwen and Hunt)

READ FIRST TIME 02/08/23.

1 AN ACT Relating to vacancies of the governing body of special
2 purpose districts; amending RCW 42.12.070, 43.06.010, and 70.44.056;
3 and adding a new section to chapter 42.12 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 42.12.070 and 2013 c 11 s 89 are each amended to
6 read as follows:

7 A vacancy on an elected nonpartisan governing body of a
8 qualifying special purpose district (~~where property ownership is not~~
9 ~~a qualification to vote~~), a town, or a city other than a first-class
10 city or a charter code city, shall be filled as follows unless the
11 provisions of law relating to the qualifying special purpose
12 district, town, or city provide otherwise:

13 (1) Where one position is vacant, the remaining members of the
14 governing body shall appoint a qualified person to fill the vacant
15 position.

16 (2) Where two or more positions are vacant and two or more
17 members of the governing body remain in office, the remaining members
18 of the governing body shall appoint a qualified person to fill one of
19 the vacant positions, the remaining members of the governing body and
20 the newly appointed person shall appoint another qualified person to
21 fill another vacant position, and so on until each of the vacant

1 positions is filled with each of the new appointees participating in
2 each appointment that is made after his or her appointment.

3 (3) If less than two members of a governing body remain in
4 office, the county legislative authority of the county in which all
5 or the largest geographic portion of the city, town, or qualifying
6 special purpose district is located shall appoint a qualified person
7 or persons to the governing body until the governing body has two
8 members.

9 (4) If a governing body fails to appoint a qualified person to
10 fill a vacancy within ninety days of the occurrence of the vacancy,
11 the authority of the governing body to fill the vacancy shall cease
12 and the county legislative authority of the county in which all or
13 the largest geographic portion of the city, town, or qualifying
14 special purpose district is located shall appoint a qualified person
15 to fill the vacancy.

16 (5) If the county legislative authority of the county fails to
17 appoint a qualified person within one hundred eighty days of the
18 occurrence of the vacancy, the county legislative authority or the
19 remaining members of the governing body of the city, town, or
20 qualifying special purpose district may petition the governor to
21 appoint a qualified person to fill the vacancy. The governor may
22 appoint a qualified person to fill the vacancy after being petitioned
23 if at the time the governor fills the vacancy the county legislative
24 authority has not appointed a qualified person to fill the vacancy.

25 (6) As provided in chapter 29A.24 RCW, each person who is
26 appointed shall serve until a qualified person is elected at the next
27 election at which a member of the governing body normally would be
28 elected. The person elected shall take office immediately and serve
29 the remainder of the unexpired term.

30 (7) For purposes of this section, "qualifying special purpose
31 district" means a fire protection district created under chapter
32 52.02 RCW with assessed values under \$5,000,000,000 and a regional
33 fire protection service authority created under chapter 52.26 RCW
34 with assessed values under \$5,000,000,000.

35 NEW SECTION. Sec. 2. A new section is added to chapter 42.12
36 RCW to read as follows:

37 A vacancy on an elected nonpartisan governing body of a special
38 purpose district where property ownership is not a qualification to
39 vote or that is not a qualifying special purpose district defined in

1 RCW 42.12.070, shall be filled as follows unless the provisions of
2 law relating to the special purpose district provide otherwise:

3 (1) After a vacancy occurs, the remaining members of the
4 governing body must nominate at least one candidate at a meeting of
5 the governing body. The governing body must then cause notice of the
6 vacancy and the name of the nominated candidate or candidates to be
7 posted in three public places in the special purpose district,
8 including on the district's website if the district has a website,
9 for a minimum of 15 days. During the notice period, registered voters
10 who reside in the special purpose district may submit nominations to
11 the remaining members of the governing body.

12 (2) After the notice period described in subsection (1) of this
13 section, the remaining members of the governing body shall appoint a
14 qualified person to fill the vacant position from the candidates
15 nominated by either the governing body or the public at a meeting of
16 the governing body.

17 (3) Where two or more positions are vacant and two or more
18 members of the governing body remain in office, the remaining members
19 of the governing body shall appoint a qualified person to fill one of
20 the vacant positions under the nomination process described in
21 subsection (1) of this section, the remaining members of the
22 governing body and the newly appointed person shall appoint another
23 qualified person to fill another vacant position under the nomination
24 process described in subsection (1) of this section, and so on until
25 each of the vacant positions is filled with each of the new
26 appointees participating in each appointment that is made after his
27 or her appointment.

28 (4) If less than two members of a governing body remain in
29 office, the county legislative authority of the county in which all
30 or the largest geographic portion of the special purpose district is
31 located shall appoint a qualified person or persons to the governing
32 body until the governing body has two members.

33 (5) If a governing body fails to appoint a qualified person to
34 fill a vacancy within 90 days of the occurrence of the vacancy, the
35 authority of the governing body to fill the vacancy shall cease and
36 the county legislative authority of the county in which all or the
37 largest geographic portion of the special purpose district is located
38 shall appoint a qualified person to fill the vacancy.

39 (6) If the county legislative authority of the county fails to
40 appoint a qualified person within 180 days of the occurrence of the

1 vacancy, the county legislative authority or the remaining members of
2 the governing body of the special purpose district may petition the
3 governor to appoint a qualified person to fill the vacancy. The
4 governor may appoint a qualified person to fill the vacancy after
5 being petitioned if at the time the governor fills the vacancy the
6 county legislative authority has not appointed a qualified person to
7 fill the vacancy.

8 (7) As provided in chapter 29A.24 RCW, each person who is
9 appointed shall serve until a qualified person is elected at the next
10 election at which a member of the governing body normally would be
11 elected. The person elected shall take office immediately and serve
12 the remainder of the unexpired term.

13 **Sec. 3.** RCW 43.06.010 and 2014 c 202 s 305 are each amended to
14 read as follows:

15 In addition to those prescribed by the Constitution, the governor
16 may exercise the powers and perform the duties prescribed in this and
17 the following sections:

18 (1) The governor shall supervise the conduct of all executive and
19 ministerial offices;

20 (2) The governor shall see that all offices are filled, including
21 as provided in RCW 42.12.070 and section 2 of this act, and the
22 duties thereof performed, or in default thereof, apply such remedy as
23 the law allows; and if the remedy is imperfect, acquaint the
24 legislature therewith at its next session;

25 (3) The governor shall make the appointments and supply the
26 vacancies mentioned in this title;

27 (4) The governor is the sole official organ of communication
28 between the government of this state and the government of any other
29 state or territory, or of the United States;

30 (5) Whenever any suit or legal proceeding is pending against this
31 state, or which may affect the title of this state to any property,
32 or which may result in any claim against the state, the governor may
33 direct the attorney general to appear on behalf of the state, and
34 report the same to the governor, or to any grand jury designated by
35 the governor, or to the legislature when next in session;

36 (6) The governor may require the attorney general or any
37 prosecuting attorney to inquire into the affairs or management of any
38 corporation existing under the laws of this state, or doing business
39 in this state, and report the same to the governor, or to any grand

1 jury designated by the governor, or to the legislature when next in
2 session;

3 (7) The governor may require the attorney general to aid any
4 prosecuting attorney in the discharge of the prosecutor's duties;

5 (8) The governor may offer rewards, not exceeding one thousand
6 dollars in each case, payable out of the state treasury, for
7 information leading to the apprehension of any person convicted of a
8 felony who has escaped from a state correctional institution or for
9 information leading to the arrest of any person who has committed or
10 is charged with the commission of a felony;

11 (9) The governor shall perform such duties respecting fugitives
12 from justice as are prescribed by law;

13 (10) The governor shall issue and transmit election proclamations
14 as prescribed by law;

15 (11) The governor may require any officer or board to make, upon
16 demand, special reports to the governor, in writing;

17 (12) The governor may, after finding that a public disorder,
18 disaster, energy emergency, or riot exists within this state or any
19 part thereof which affects life, health, property, or the public
20 peace, proclaim a state of emergency in the area affected, and the
21 powers granted the governor during a state of emergency shall be
22 effective only within the area described in the proclamation;

23 (13) The governor may, after finding that there exists within
24 this state an imminent danger of infestation of plant pests as
25 defined in RCW 17.24.007 or plant diseases which seriously endangers
26 the agricultural or horticultural industries of the state of
27 Washington, or which seriously threatens life, health, or economic
28 well-being, order emergency measures to prevent or abate the
29 infestation or disease situation, which measures, after thorough
30 evaluation of all other alternatives, may include the aerial
31 application of pesticides;

32 (14) The governor, after finding that a prohibited level 1 or
33 level 2 species as defined in chapter 77.135 RCW has been detected
34 and after finding that the detected species seriously endangers or
35 threatens the environment, economy, human health, or well-being of
36 the state of Washington, may order emergency measures to prevent or
37 abate the prohibited species, which measures, after thorough
38 evaluation of all other alternatives, may include the surface or
39 aerial application of pesticides;

1 (15) On all compacts forwarded to the governor pursuant to RCW
2 9.46.360(6), the governor is authorized and empowered to execute on
3 behalf of the state compacts with federally recognized Indian tribes
4 in the state of Washington pursuant to the federal Indian Gaming
5 Regulatory Act, 25 U.S.C. Sec. 2701 et seq., for conducting class III
6 gaming, as defined in the Act, on Indian lands.

7 **Sec. 4.** RCW 70.44.056 and 2015 c 53 s 94 are each amended to
8 read as follows:

9 In all existing public hospital districts in which an increase in
10 the number of district commissioners is proposed, the additional
11 commissioner positions shall be deemed to be vacant and the board of
12 commissioners of the public hospital district shall appoint qualified
13 persons to fill those vacancies in accordance with (~~RCW 42.12.070~~)
14 section 2 of this act.

15 Each person who is appointed shall serve until a qualified person
16 is elected at the next general election of the district occurring one
17 hundred twenty days or more after the date of the election at which
18 the voters of the district approved the ballot proposition
19 authorizing the increase in the number of commissioners. If needed,
20 special filing periods shall be authorized as provided in RCW
21 29A.24.171 and 29A.24.181 for qualified persons to file for the
22 vacant office. A primary shall be held to nominate candidates if
23 sufficient time exists to hold a primary and more than two candidates
24 file for the vacant office. Otherwise, no primary shall be held and
25 the candidate receiving the greatest number of votes for each
26 position shall be elected. Except for the initial terms of office,
27 persons elected to each of these additional commissioner positions
28 shall be elected to a six-year term. The newly elected commissioners
29 shall assume office as provided in RCW 29A.60.280.

30 The initial terms of the new commissioners shall be staggered as
31 follows: (1) When the number of commissioners is increased from three
32 to five, the person elected receiving the greatest number of votes
33 shall be elected to a six-year term of office, and the other person
34 shall be elected to a four-year term; (2) when the number of
35 commissioners is increased from three or five to seven, the terms of
36 the new commissioners shall be staggered over the next three district
37 general elections so that two commissioners will be elected at the
38 first district general election following the election where the
39 additional commissioners are elected, two commissioners will be at

1 the second district general election after the election of the
2 additional commissioners, and three commissioners will be elected at
3 the third district general election following the election of the
4 additional commissioners, with the persons elected receiving the
5 greatest number of votes elected to serve the longest terms.

Passed by the Senate April 18, 2023.

Passed by the House April 6, 2023.

Approved by the Governor May 9, 2023.

Filed in Office of Secretary of State May 10, 2023.

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