

Proposed Election and Appointment WAC Changes – 2018

Updated September 11, 2018

WAC 135-110-140

Records retention.

(1) Unissued or undeliverable ballots must be retained for ten days after the election is certified and the official results announced, and then may be destroyed.

(2) All ballots submitted by voters, and all candidate filing records (including candidate information, nominating petitions, verification of eligibility, and withdrawals of candidacy), must be retained for ~~six~~ 12 months after the election is certified and the official results announced, and then may be destroyed.

(3) The Commission shall abide by the records retention schedule as set out for conservation district elections in the Local Government Common Records Retention Schedule (CORE), as established by the Office of the Secretary of State, Washington State Archives, and its own records retention policy.

Comment: Conservation districts and the Commission must abide by the Local Government Common Records Retention Schedule (CORE).

WAC 135-110-200

Conservation district must hold election.

A conservation district must hold an election during the first full calendar week of February, excluding Sunday, January, February, or March in the year a three-year term of an elected supervisor will expire.

Comment: Districts must hold an election during the first quarter of the year, as per RCW 89.08.190, but this amendment would require that all districts hold elections during one week of that first quarter of the year. Sunday is excluded as a day that is not convenient for the public and/or voters.

WAC 135-110-210

Conservation district must adopt election resolution.

(1) Each year the conservation district supervisors must adopt a resolution establishing the election.

(2) The election resolution adopted by the conservation district supervisors must include the following information:

- (a) The name of the conservation district;
 - (b) For a poll-site election, The date(s), the physical location(s), and the times polls will open and close for each polling place;
 - (c) The election methods selected for the election;
 - (d) 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;
 - (e) The filing deadline for candidates;
 - (f) Identification of an individual appointed by the conservation district to fulfill the duties of election supervisor; and
 - (g) The dated signature of at least one conservation district supervisor attesting to this information.
 - (h) A reasonable deadline for voters to request an absentee or mail-in ballot.
- (3) This information must be provided to the conservation commission by the candidate filing deadline.

Comment: Districts forget to set a deadline for absentee or mail-in ballots because it is not specifically set out in this WAC to do so (though is required in WAC 135-110-410).

WAC 135-110-220

Due notice required before and after election resolution.

~~(1) Due notice of the intent to adopt a resolution establishing the election must be provided by the conservation district to potential qualified district electors of the conservation district prior to adopting the resolution.~~

(1) Not later than 7 days fFollowing the conservation district's adoption of the election resolution, due notice containing all election information in the resolution must be published, using the filing deadline as the date for determining compliance with due notice requirements.

(2) If a conservation district adopts a standing resolution establishing a repeating annual election schedule, due notice of expiring terms and the filing deadline must be provided to constituents, using the filing deadline as the date for determining compliance with due notice requirements.

Comment: Eliminates the requirement to publish the intent to adopt an election resolution and sets a firm date by which the only remaining notice of the election must be published.

WAC 135-110-230

Conservation district appoints election supervisor.

(1) The conservation district supervisors must appoint a person or firm as the election supervisor.

(2) The election supervisor:

(a) Serves as the primary point of contact between the conservation district and the conservation commission for the conservation district election;

(b) Organizes, coordinates, and facilitates election-related activities of the conservation district;

(c) Assures that required election procedures are properly conducted; and

(d) Assures that required information is properly transmitted to the conservation commission.

(3) Conservation district supervisors remain responsible for conducting an election in compliance with this section.

(4) If the election supervisor cannot fulfill his or her duties under WAC Chapter 135-110, the election supervisor may delegate their responsibilities to another provided that such a delegation is in accordance with WAC Chapter 135-110.

Comment: Provides for situations where the election supervisor might be incapacitated or otherwise unavailable (caring for sick relative) immediately before the election and therefore unable to run election.

WAC 135-110-240

Election may be on-site, remote, or both.

(1) 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.

(2) Every physical poll site must be open for at least four consecutive hours at a time convenient for voters, and every physical poll site must have at least two polling officers present during the hours the polls are open.

(3) Ballots submitted by mail must be postmarked no later than the day of the election, or the last day if multiple election days. Ballots submitted by physical delivery must be received at the district office by the announced final polling time of the day of election, or the last day if multiple election days. Remote ballots transmitted by any other means must be transmitted by the last day of election.

Comment: There is confusion over if the poll sites must be open a minimum number of hours, consecutively. This would require a minimum number of hours the poll site would be open (4), and require that those hours be consecutive – meaning that a poll site couldn't be open 1 hour in the morning, then 3 hours in the afternoon. 4 consecutive hours helps voters know when the polls are

open. Districts are free to keep the polls open longer (for example, 8 am – 4 pm) or open them at other times (for example, 6 am – 10 am and 3 pm – 7 pm).

WAC 135-110-320

Submission of candidate information required to be elected.

(1) Only persons who file candidate information with the conservation district by the filing deadline and who are found by the conservation district to be eligible to be elected may be elected, unless no person has filed for the office by the filing deadline.

(2) The name of a person who files candidate information by the filing deadline but does not file a qualified nominating petition must not be printed on the official ballot, but may be elected as a declared write-in candidate.

(3) Information to be submitted to the conservation district by a person seeking to be a candidate for election must include:

- (a) The name of the conservation district;
- (b) The person's name, residential address, mailing address (if different), and phone number;
- (c) Whether the person is a registered voter in the county where the conservation district is located;
- (d) Whether the person resides inside the conservation district boundary;
- (e) Whether the person is a landowner or an operator of a farm; and
- (f) The dated signature of the person attesting to the accuracy of the information so provided.

(4) For purposes of this section, an electronic signature contained in an electronic submittal of the candidate information is acceptable.

WAC 135-110-340

Only nominated candidates may appear on official ballot.

(1) A qualified nominating petition is required for each candidate who wishes for his or her name to appear on the official ballot.

(2) The qualified nominating petition must contain at least twenty-five signatures of nominators and provide the following information:

- (a) The name of the conservation district;
- (b) The name of the candidate;
- (c) The name and address of each nominator sufficient to allow verification of the nominator as a qualified district elector; and
- (d) The signature of each nominator, who by his or her signature, states his or her wish for the candidate named in the petition to be placed on the official ballot.

(3) For purposes of this section, electronic signatures contained in an electronic submittal of the nominating petition are acceptable.

WAC 135-110-355

Election supervisor must verify candidate eligibility.

(1) The election supervisor must verify the eligibility of each person who submits candidate information required by WAC 135-110-320. The election supervisor may call upon the county auditor or the conservation commission for assistance in verifying eligibility.

(2) For a candidate to be eligible, the election supervisor must make a determination that:

(a) The name of the person who filed candidate information is the correct legal name of the individual;

(b) That the person submitted candidate information by the filing deadline;

(c) That the person submitted a valid nominating petition by the filing deadline;

(d) That the person was a qualified district elector on the day of filing; and

(e) That at least two of the three elected conservation district supervisors on the conservation district board of supervisors will be landowners or operators of farms if the person is elected.

(3) For a nominated candidate, the conservation district must also verify that at least twenty-five eligible nominators signed the nominating petition.

(4) For purposes of this section, electronic signatures contained in an electronic submittal of the nominating petition are acceptable.

WAC 135-110-370

Incumbent automatically reelected if no other person files.

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

(a) Due notice of the adopted election resolution and the information in that resolution ~~has~~election have been duly published by the conservation district;

(b) The only person filing by the filing deadline is the incumbent;

(c) The conservation district verifies the continued eligibility of the incumbent to serve another term of office; and

(d) The incumbent has not resigned on or before the last date of election.

(2) When an incumbent is automatically reelected, no other election activities at physical poll sites or through remote election processes may be performed.

(3) 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, and on election day, signs containing this information must be posted at poll sites.

(4) Not later than 14 days after the candidate filing deadline ~~Within four weeks of the first date of election as scheduled in the election resolution,~~ the conservation district must inform the conservation commission of the automatic reelection of the incumbent.

Comment: Districts are confused as to when they must notify the Commission that they have automatically re-elected their incumbent, and what information must be properly published in order for their election to be cancelled. This change sets a date certain for them to notify the Commission and clarifies the information to publish (rather than the notice saying the election is cancelled, the

notice would need to say something substantially similar to “the election set for Monday, February 1, 20—, at the conservation district office from 10am-2pm is cancelled due to no one filing for the office other than the incumbent.”)

WAC 135-110-380

Candidate may withdraw candidacy in writing.

(1) Before election day, a candidate may withdraw his or her candidacy by submitting a written request to the conservation district.

(2) A person who withdraws his or her candidacy is not eligible to be elected in the current election.

(3) If a person withdraws his or her candidacy, the conservation district is not required to revise official ballots.

(4) In the event that some, but not all candidates withdraw, the unofficial winner of the election will be the remaining eligible candidate receiving the next highest vote county after all the votes are tallied for each candidate, including those candidates who have withdrawn but remain on the ballot as per Section (3) above.

Comment: In at least one recent election, candidates withdrew, but after ballots were printed and provided to voters. This section clarifies for voters, candidates, and the public the effect of withdrawal.

New Section: WAC 135-110-385

Effect of votes cast for withdrawn, deceased or ineligible candidate.

(1) If the name of a deceased, withdrawn, or ineligible candidate appears on the ballot under this chapter, the votes cast for the candidate shall be counted and entered on the official election returns in the same manner as for the other candidates.

(2) If the deceased, withdrawn, or ineligible candidate receives the vote required for election, the resulting vacancy shall be filled in the regular manner.

(3) If the deceased, withdrawn, or ineligible candidate and another candidate tie for the most votes in an election in which a plurality vote is sufficient for election, the other candidate is considered to be elected. If more than one other candidate is tied with the deceased, withdrawn, or ineligible candidate, the winner of the election shall be determined by resolving the tie between the other candidates in the regular manner for resolving a tie vote in the election.

Comment: This section is meant to further clarify what happens when candidates withdraw from the election after ballots have been printed but before Election Day.

WAC 135-110-440

Employees and municipal officers of district must not be polling officers.

A conservation district supervisor, employee, intern or municipal officer may not serve as a polling officer in the conservation district election, unless the person is the election supervisor appointed by the conservation district supervisors. Commission employees cannot serve as polling officers.

Comment: This section clarifies who is eligible to serve as polling officer. Sometimes, Commission staff (regional managers) are asked to serve as polling officers, or interns associated with the District. The change clarifies that neither are appropriate to serve as polling officers.

WAC 135-110-610

Every voter must be verified as eligible.

(1) Every individual requesting a ballot for any conservation district election must be verified as a qualified district elector before his or her ~~ballot is counted~~ request can be fulfilled.

(2) At a poll-site election, a provisional ballot must be issued if the voter's eligibility to vote cannot be determined during polling and the individual wishes to vote.

Comment: If this change is adopted, various changes to the Election Manual will also need to be made to eliminate the option for someone other than the voter to request a mail in or absentee ballot.

This change eliminates the possibility that that anyone other than the voter can request an absentee or mail in ballot. Each voter must request a ballot themselves, and before the ballot will be provided, the conservation district will verify the voter is eligible to vote. If the voter is not eligible to vote, the voter's request cannot be fulfilled by the district.

This change would increase the amount of work the district staff would need to do before fulfilling a request for a mail in or absentee ballot (i.e. staff would have to verify the eligibility of the voter to vote), thus delaying the processing of requests.

If the exemption to RCW 42.56.210 is not adopted (see below), this change would eliminate the need to keep absentee ballot or mail in ballot lists by the conservation district. This section clarifies that an individual requesting a ballot must be verified before the conservation district can fulfill that individual's request to receive a mail in or absentee ballot. If this change is adopted, the Election Manual will have to be updated to clarify who may request mail in or absentee ballots (see Section 2 (D) (2) (k) (vii), page 21 and Appendix A, page 46.

Under the current election procedures, voters are not required to be verified before they are sent a ballot. The Election Manual says that an eligible voter should declare their eligibility to the district before a request for an absentee ballot can be fulfilled by the district. The declaration by the voter can be done in writing, electronically, or orally. Currently, a request for an absentee ballot can be made in person, in writing, by telephone, or electronically, by the voter, a family member, or a registered domestic partner. Only one absentee ballot request per voter can be made. Changes to the Election Manual could be made to eliminate the option of anyone other than the voter requesting an absentee or mail in ballot.

New Section

WAC 135-110-780

Procedure for contesting elections.

(1) Complaints regarding conservation district elections shall be received by the Commission using an on-line form.

(2) Complaints will be forwarded to the Executive Director.

(3) The Executive Director will notify the Chair and Vice-Chair of the Commission, the Chair of the affected district, and Commission staff assigned to that district and the Commission's elections officer that a complaint has been filed with the Commission.

(4) The Commission's elections officer will investigate the complaint.

(a) The investigation may include personal interviews with the person filing the complaint, the district board, appropriate district staff, polling officers, and members of the public.

(b) The Executive Director will inform the Chair and Vice-Chair of the Commission of the estimated length of the investigation, and will provide updates on the status of the investigation as needed.

(c) When the investigation is completed, the Commission's elections officer shall make a report to the Executive Director of the results of the investigation.

(5) The Executive Director shall review the report of the investigation and make a determination that:

(a) The complaint does not rise to the level of significant non-compliance with election procedure sufficient to warrant the non-certification of the election, as per WAC 135-110-120, or

(b) The complaint does rise to the level of significant non-compliance with election procedure sufficient to warrant the non-certification of the election, as per WAC 135-110-120.

(6) If the Executive Director determines that:

(a) the complaint does not rise to the level of significant non-compliance with election procedure sufficient to warrant the non-certification of the election, the Executive Director will

(i) Inform the Commission of that result, and

(ii) Recommend that the election be certified and announced by the Commission.

(b) The complaint does rise to the level of significant non-compliance with election procedure sufficient to warrant the non-certification of the election, the Executive Director will

(i) Inform the Commission of that result, and

(ii) Recommend that the election not be certified and announced, and request that the district hold another election as per the procedure in WAC 135-110-950.
(7) The Commission may overrule the Executive Director's findings at any time.

Comment: The addition of this WAC solidifies the procedure for investigating complaints related to elections.