

HOUSE BILL No. 2246

AN ACT concerning certain drainage districts; relating to the powers and duties of the governing bodies thereof; amending K.S.A. 24-611 and 24-639 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 24-611 is hereby amended to read as follows: 24-611. ~~If, upon the filing of any report of said engineer, together with his or her estimates as heretofore provided, it shall appear that lands, other than those incorporated by the court in said district will be benefited (a) Subject to the provisions of K.S.A. 19-270, and amendments thereto, and if the board of supervisors determines that land located outside the district benefits by the drainage improvements of said the district it shall be the duty of the chairman of said board of supervisors to file a petition in the district court of the county where said district is originally organized, containing a description of said lands, the name or names of the owners as they appear on the tax rolls of the county in which the lands are situated and their place or places of residence, alleging that said lands will be benefited by the improvements and ought in justice bear its proportion of the expense and cost of such improvement, and that said land was not incorporated within the limits of said drainage district as originally established by said court, and if the names of the owners of any such tract or tracts of land are unknown this fact should be stated, and praying that such tract or tracts of land may be incorporated, and made a part of said district.~~

~~Upon the filing of any such petition duly verified as herein provided the clerk of the district court of said county shall issue summons or notice to the parties interested as provided by K.S.A. 24-602 with reference to the original petition for the establishment of said district, and the same proceedings shall be had upon said petition and in said court as upon the original petition for the establishment of said district and the same provisions of law shall apply thereto insofar as the same are applicable. Upon the return day of said notice or summons or any other time to which said court shall adjourn said cause the court shall have jurisdiction to try and determine said matter at chambers and to make all necessary orders, judgments and decrees. The owners of said land may by writing duly verified, waive the issuance and service of all notice or process and consent that the court may at once upon the filing of said petition and waiver enter the necessary decree.~~

~~Upon filing said petition in said court it shall be the duty of the clerk to docket said cause, as a proceeding in and as a part of the original cause for the establishment of said district. After the entering of the decree of the court as aforesaid the land of all the parties so brought into said district shall be subject to the same provisions of law as would have applied to them had they been incorporated in the original petition and decree entered thereon. No land shall be included in said drainage district or subject to taxation for said drainage except wet, submerged and swamp land or lands within a district subject to overflow., the board shall present a petition to the board of county commissioners of the county in which the greater portion of the territory of the original drainage district is located asking for the extension of the territorial limits of the district to include such land. The board of county commissioners shall investigate such petition and determine whether such land should be included within the district.~~

~~(b) The petition submitted pursuant to subsection (a) shall:~~

~~(1) Describe the land proposed to be included within the drainage district by sections or subdivisions of sections, according to the government survey or by metes and bounds;~~

~~(2) state that the land and property thereon are subject to injury and damage from the overflow of some natural or manmade watercourse, naming or describing it;~~

~~(3) state that improvement of the channel of such watercourse, the construction and maintenance of levees, drains, ditches, dikes, jetties, rip-rap or other works are necessary to prevent such overflow;~~

~~(4) state that such improvement or works will be conducive to the public health, convenience or welfare; and~~

~~(5) contain a prayer that the land described in the petition be included within such drainage district. If any land requested to be included in the original drainage district is located within the corporate limits of any city,~~

it shall be sufficient to describe such land by appropriate number as lots or blocks or parts of lots or blocks.

Whenever a petition is presented to the board of county commissioners pursuant to this section, the board of county commissioners shall fix a time for the hearing of such petition. Notice of such hearing shall be published at least once in a newspaper of general circulation in the county in which the land described in the petition is located at least 10 days before the date fixed for the hearing.

(c) Following such hearing, if the board finds the petition is in conformity to the requirements of this section and that the allegations thereof are true, the board shall make a finding and decision to that effect, and shall declare the land described in the petition to be annexed to and included within the original drainage district. No territory within any city located in a county having an assessed tangible valuation of more than \$150,000,000 shall be included within any drainage district without the approval of the governing body of such city.

Sec. 2. K.S.A. 24-639 is hereby amended to read as follows: 24-639. ~~Every~~ (a) A district organized under the provisions of ~~this act~~ K.S.A. 24-601 *et seq.*, and amendments thereto, shall be a body politic and corporate, and shall be known by the corporate name of “drainage district number _____ of _____ county,” ~~and shall have power and authority to take and hold real and personal property necessary for its use, to make contracts, to sue and to be sued, have and use a corporate seal, and exercise any and all other powers, as a corporation necessary to carry out the purposes of this act.~~

(b) The board of supervisors of the drainage district shall have the power to:

- (1) Adopt a seal;
- (2) enter into contracts;
- (3) hold real and personal property;
- (4) sue and be sued;
- (5) determine and fix the district boundaries;
- (6) remove all obstructions from the channel of the watercourse;
- (7) commence and maintain suits against any and all persons or corporations unlawfully maintaining dams or other obstructions in the channel of the watercourse to compel the removal of the same;
- (8) exercise the power of eminent domain as to all lands necessary to the construction of cutoffs, spillways and auxiliary channels in accordance with K.S.A. 26-501 through 26-516, and amendments thereto;
- (9) require that all bridges across the watercourses shall be of sufficient length or that they shall be provided with sufficient trestle work to permit the unobstructed flow of the waters at flood time;
- (10) construct cutoffs, spillways and auxiliary channels across railroads and highways, to compel the adequate bridging of the same and to compel the raising of the grades of the railroads and highways;
- (11) levy an annual tax not to exceed five mills on the assessed value of all tangible taxable property located within the district to constitute a general fund to meet the incidental expenses of the district. The board shall not levy a tax pursuant to this subsection for more than four years unless the board adopts a resolution declaring it necessary to continue such levy. Such resolution shall be published at least once each week for three consecutive weeks in a newspaper of general circulation within the district. If within 30 days after the last publication of such resolution, a petition protesting such levy, signed by qualified electors of the district equal in number to not less than 10% of the electors voting at the last election for the board of supervisors, is filed with the county clerk of the county in which the greatest portion of such district is located, no levy shall be made unless the question of continuing such levy is submitted to and approved by a majority of the electors of the district voting at an election called and held thereon. If no petition protesting the levy is filed within the prescribed time, the drainage district may continue to levy such tax for four more years;

(12) issue bonds and provide for the payment of the same; and

(13) perform any other acts not inconsistent with the provisions of K.S.A. 24-601 *et seq.*, and amendments thereto.

(c) Nothing in this section shall be construed as exempting the drain-

age district from the requirements of K.S.A. 24-126 and 82a-301 et seq., and amendments thereto.

New Sec. 3. (a) The board of supervisors and the owners of land which is located outside a drainage district organized pursuant to K.S.A. 24-601 *et seq.*, and amendments thereto, may enter agreements allowing water from such land to drain into the drainage system of the district. All moneys received under such agreements shall be used for drainage district purposes.

(b) If the owner of any land which is located outside of any drainage district constructs any ditch or drain so that the water on such land will be drained into the drainage system of any drainage district or into any natural depression, draw or watercourse, or any artificial ditch, tile, or drain that drains into such drainage system, without first having entered into written agreement with the board of supervisors of such drainage district, the owner shall be deemed to have made voluntary application to be included in such drainage district and receive the benefits thereof. If by the natural grade and formation of such land, the surface or flood water, or both, therefrom are drained into any ditch, tile, drain, natural depression, draw or watercourse in such drainage system of such drainage district, the owner of such land shall be deemed to receive the benefits of such drainage system. The board of supervisors of such drainage district may bring an action in the county where such land or drainage district is located, stating the name of such owner, description of the land and of the ditch, drain or natural grade or formation leading into the system of such drainage district to recover payment for the benefit received and to include such land within the drainage district.

Any judgment so rendered may be filed in the office of the clerk of the district court of the county and become a lien on such land in like manner as other judgments. If any such land which drains or is drained into the drainage system of any other drainage district is located within a drainage district organized under any law of the state of Kansas, the drainage district in which such land so drained is located may be named the defendant instead of the owner of the land. In such case, the drainage district prosecuting such proceedings shall have the option of prosecuting the same in the district court in which such drainage district or the major portion thereof is located. If such proceedings are so prosecuted in the district court the proceedings shall be governed by the code of civil procedure. The district court may assess against the drainage district receiving the benefits of the drainage of its land into the system of another district an annual payment commensurate with such benefits. All money collected under this subsection shall be used for drainage district purposes.

Sec. 4. K.S.A. 24-611 and 24-639 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.