

CHAPTER 87
SENATE BILL No. 558

AN ACT concerning irrigation districts; pertaining to the conduct of elections; amending K.S.A. 42-706 and repealing the existing section.

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

Section 1. K.S.A. 42-706 is hereby amended to read as follows: 42-706. (a) The officers of such district shall be a board of directors consisting of three members who shall be persons entitled to vote as provided in subsection (h) and residents of a county in which the district or a portion thereof is located, or county adjoining a county in which such irrigation district or a portion thereof is located. Such members shall hold office for a period of three years, and each shall serve until a successor has been elected and qualified. The members of the board of directors first elected after the creation of an irrigation district shall hold their respective offices until the next regular election for the election of directors as provided in subsection (e) or (f) of this section except that the terms of the three directors shall be as provided in subsection (e) of this section.

(b) The chief engineer of the division of water resources, after the incorporation of such irrigation district, shall establish and designate the polling place or places therein where the first election will be conducted and fix the time for such election within 60 days after the date of incorporation. In any irrigation district of more than 35,000 acres, the chief engineer of the division of water resources shall, prior to designating polling places, establish three voting areas within such district as equal as possible in acreage and shall designate the same as the first, second or third voting area. Such polling place or places may thereafter be changed by the board of directors, and the board may arrange for polling places outside the corporate boundaries of the district if such places are more convenient than locations within the district. Prior to the holding of the first election in newly created districts, the chief engineer of the division of water resources shall appoint from the qualified electors of the district three persons for such election for each voting place who shall constitute boards of election for such district for such election. If the members appointed do not attend at the opening of the polls on the day of election, at the opening hour, the electors present at that hour shall elect from the electors present members of the election board necessary to fill the place of any absent member.

(c) The board of directors of every district of more than 35,000 acres which was incorporated prior to the effective date of this act shall establish three voting areas within the district as equal as possible in acreage and designate the same as the first, second or third voting area. The board shall also establish and designate the polling place or places within each voting area. At the first election held after the effective date of this act, a director shall be elected from each voting area and the person receiving the highest number of votes shall serve for a term of three years, the person receiving the second highest number of votes shall serve for a term of two years, and the person receiving the third highest number of votes shall serve for a term of one year. At each subsequent election, only one director shall be elected each year for a term of three years. Any director elected under this provision must be a person entitled to vote as provided in subsection (h).

(d) (1) *Except as provided in paragraph (2)*, all elections shall be conducted in accordance with the general election laws of the state except as otherwise provided in this act. ~~Absentee Advance~~ voting as provided in article 11 of chapter 25 of the Kansas Statutes Annotated and amendments thereto shall be provided for by the county election officers and boards of directors for those persons entitled to vote under subsection (h). The forms for the ballot envelope declaration as provided in K.S.A. 25-1120 and amendments thereto and the applications for ~~absentee advance~~ *absentee advance* ballots as provided in K.S.A. 25-1122d and amendments thereto shall be modified to establish that such person is a qualified owner of irrigable land within the district. After polls are closed the election boards shall proceed to canvass the votes cast thereat, shall certify to the county election officer of the county in which all or the greater part of the population of the irrigation district is located and the chief engineer the result of such election. The clerks shall then securely wrap the ballots cast at

such elections and shall express or mail the same by registered mail to the county election officer of the county in which all or the greater part of the population of the irrigation district is located. The county election officer shall canvass the ballots, verify the results and declare the person receiving the highest number of votes duly elected as director except that at the first election after creation of a district the county election officer of the county in which all or the greater part of the population of the irrigation district is located shall declare the three persons receiving the highest number of votes duly elected as directors except that in districts divided into three voting areas, the person receiving the highest number of votes in each voting area shall be duly elected as director. Such county election officer shall immediately mail, to each person elected to the office of director a certificate of election signed by such officer. The directors shall thereupon qualify and enter upon the duties of their office. Directors shall qualify by taking and subscribing to an oath of office of substantially the same tenor as oath of office prescribed for county officials. Each member of the board of directors shall execute an official bond in the sum of \$1,000 which oath and bond shall be filed with the county election officer of the county in which all or the greater part of the population of the irrigation district is located. The treasurer of each irrigation district shall execute to the district a corporate surety bond in an amount at least equal to 125% of the amount, as near as can be ascertained, that shall be in such person's hands as treasurer at any one time. The amount and sufficiency of the bond of the treasurer shall be determined by the county election officer. Upon approval of the bond, the county election officer shall endorse such approval thereon and file the same in the office of the county election officer and shall immediately notify the county treasurer of the county in which the registered office of the irrigation district is located of such approval and filing. In the event of the breach of any condition of the treasurer's bond, the president and secretary of the board shall cause a suit to be commenced thereon in the name of the irrigation district. It shall not be necessary to include the treasurer as a party to the action and the money collected shall be applied to the use of the district, as the same should have been applied by the treasurer. Should the president and secretary neglect or refuse to prosecute such a suit, then any person entitled to vote as provided in subsection (h) may cause such suit to be instituted. Premiums on surety bonds for such directors and treasurers of irrigation districts shall be paid by the district out of its general funds. In case the office of any director shall become vacant the remaining members of the board shall fill the vacancy by appointment. A director appointed to fill a vacancy shall serve the unexpired term of the director whose term such person was appointed to fill.

(2) *For any election except the election required in subsection (b), the board of directors may adopt a procedure providing for the election of members by mail ballot. Such procedure shall require the board to mail ballots to all persons entitled to vote, to receive and tabulate the ballots, to canvass the election and to certify the results to the county election officer. The irrigation district shall be responsible for the direct expenses of conducting the election. The ballot envelope used for mailing ballots shall contain a declaration establishing that the person who signs the declaration is a qualified owner of irrigable land within the district.*

(e) All regular elections of directors of irrigation districts shall be held the first Tuesday in March except as provided by subsection (g). Any districts organized after the regular March election shall hold its election at the next regular March election following incorporation of the district and, at this election three directors shall be elected and the person receiving the highest number of votes shall serve for a term of three years, the person receiving the second highest number of votes shall serve for a term of two years, and the person receiving the third highest number of votes shall serve for a term of one year. In case the first election after creation of a district is held between June 1 of any year and the day preceding the first Tuesday in March of the next succeeding year, the next regular March election shall be held in the second succeeding year. At each subsequent regular election, only one director shall be elected each year for a term of three years. All persons desiring to be voted upon as directors shall at least 30 days before the day of holding of the elections, file such person's name with the county election officer of the county in which all or the greater part of the population of the irrigation district is located, affixed to a statement that such person desires such person's

name to be placed on the ticket as a candidate for member of board of directors of the district in such election. The county election officer shall make up the ticket, at expense of the irrigation district, and place the names thereon in alphabetical order and shall supply election officials with necessary ballots and polling books at the irrigation district's expense. At least five days before any election held subsequent to first election of directors, the boards of directors shall name and appoint three persons for each voting place, who shall be qualified electors in the district. At least five days before any election, the county clerks of the various counties within which a portion of the district is located, shall cause to be ascertained the names of all persons entitled to vote as provided in subsection (h) and shall furnish lists thereof to each election board within such county and to the secretary of the board of directors of the district. Notice of the time and places of holding of the election, signed by the president and attested by the secretary of the district shall be given in some newspaper or newspapers of general circulation in the district for one issue at least five days prior to date of the election. The return of all special or bond elections shall be made to the secretary of the district, and canvassed by the board of directors. All expenses of election, not otherwise provided for herein, shall be paid for out of the general funds of the irrigation district. Election officials shall receive the same compensation as provided under general election laws.

(f) In lieu of the election procedures provided in this section pertaining to regular elections of directors in accordance with the general election laws of the state, the board of directors of any irrigation district of less than 35,000 acres in size may call an annual meeting of all persons entitled to vote as provided in subsection (h) for the purpose of electing directors. Such annual meeting shall be held on the first Tuesday in March, except as provided by subsection (g). Notice of the time and place of holding said annual meeting shall be given in some newspaper or newspapers of general circulation in the district for one issue at least 30 days prior to date of such meeting. Elections at the annual meeting shall be by ballot, with absentee voting as provided under subsection (d) of this section. All persons desiring to be voted upon as director shall at least 30 days before the day of holding the annual meeting file such person's name with the secretary of the board of directors of the district, affixed to a statement that such person desires such person's name to be placed on the ballot as a candidate for member of board of directors of the district. The board of directors shall appoint three owners of irrigable land in the district to serve as an election board at the annual meeting. After the votes are cast at the annual meeting the election board shall proceed to canvass the votes and shall certify to the county election officer of the county in which all or the greater part of the population of the irrigation district is located and the chief engineer the result of such election. All provisions of this section not inconsistent with the provisions of subsection (f) shall apply to the election of directors at the annual meeting.

(g) In any case where the time for any regular election of directors as described in subsection (e), or the election as described in subsection (f), is the same for any two districts having the same district manager, such election shall be held on the first Wednesday following the first Tuesday in March by the district organized latest in time.

(h) Until such time as assessments are made in the district pursuant to K.S.A. 42-715 and amendments thereto, those persons entitled to vote shall be "qualified owners of land" within the irrigation district, as such term is defined in K.S.A. 42-701, and amendments thereto, and who are otherwise qualified electors.

After lands have been assessed in the district pursuant to K.S.A. 42-715 and amendments thereto, those persons entitled to vote shall be "qualified owners of land" within the irrigation district as such term is defined in K.S.A. 42-701, and amendments thereto, which has been assessed pursuant to K.S.A. 42-715, and amendments thereto, and who are otherwise qualified electors. For voting purposes, any person entitled to vote under this subsection who owns land in more than one voting area shall vote in the voting area which includes the greatest portion of such person's land. As used in this section, the term "qualified electors" shall include a person who is the legal qualified owner of irrigable land or a person, who is authorized, in writing, to vote for a trust, corporation, association or partnership which is the legal qualified owner of irrigable land. Such person is not required to be a resident of the district. Such

trust, corporation, association or partnership shall be allowed only one vote. The person authorized by such entity to vote shall be someone who is not otherwise entitled to a vote under this section.

Sec. 2. K.S.A. 42-706 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 14, 2008.
