

SENATE BILL No. 65

By Committee on Federal and State Affairs

1-23

Proposed Amendments to
Senate Bill No. 65
Senate Committee on Federal and State Affairs
Prepared by Office of Revisor of Statutes

1 AN ACT concerning irrigation districts; relating to the election of
2 members of the board of directors thereof; specifying when such
3 elections may be conducted by mail ballot; authorizing the board of
4 directors to set the term for such elected members; amending K.S.A.
5 42-706 and repealing the existing section.

sections

and K.S.A. 2025 Supp. 25-432

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

Insert Attachment A

And by renumbering sections accordingly

7 Section 1. K.S.A. 42-706 is hereby amended to read as follows: 42-
8 706. (a) The officers of ~~such an irrigation district established under~~ K.S.A.
9 42-704, ~~and amendments thereto~~, shall be a board of directors consisting
10 of three members who shall be persons entitled to vote as provided in
11 subsection (g) and residents of a county in which ~~the such irrigation~~
12 district or a portion thereof is located, or a county adjoining a county in
13 which such irrigation district or a portion thereof is located. Such members
14 shall hold office for a period of two, ~~three~~ or four years, such term of
15 office being established by the board of directors by passage of a
16 resolution, and each shall serve until a successor has been elected and
17 qualified. The members of the board of directors first elected after the
18 creation of an irrigation district shall hold their respective offices until the
19 next regular election for the election of directors as provided in subsection
20 (d), (e) or ~~(f) of this section~~, except that the terms of the three directors
21 shall be as provided in subsection (d) ~~or (e) of this section~~.

22 (b) The chief engineer of the division of water resources, after the
23 incorporation of such irrigation district, shall establish and designate the
24 polling place or places therein where the first election will be conducted
25 and fix the time for such election within 60 days after the date of
26 incorporation. In any irrigation district of more than 35,000 acres, the chief
27 engineer of the division of water resources shall, prior to designating
28 polling places, establish three voting areas within such district as equal as
29 possible in acreage and shall designate the same as the first, second or
30 third voting area. Such polling place or places may thereafter be changed
31 by the board of directors, and the board may arrange for polling places
32 outside the corporate boundaries of the district if such places are more
33 convenient than locations within the district. Prior to the holding of the
34 first election in newly created districts, the chief engineer of the division of
35 water resources shall appoint from the qualified electors of the district
36

1 three persons for such election for each voting place who shall constitute
 2 boards of election for such district for such election. If the members
 3 appointed do not attend at the opening of the polls on the day of election,
 4 at the opening hour, the electors present at that hour shall elect from the
 5 electors present members of the election board necessary to fill the place
 6 of any absent member.

7 (c) ~~The board of directors of every district of more than 35,000 acres~~
 8 ~~which that~~ was incorporated prior to the effective date of this act shall
 9 establish three voting areas within the district as equal as possible in
 10 acreage and designate the same as the first, second or third voting area.
 11 The board shall also establish and designate the polling place or places
 12 within each voting area, ~~or adopt a procedure for election by mail ballot~~
 13 ~~pursuant to subsection (d)(5).~~ At the first election held after the effective
 14 date of this act, a director shall be elected for the term length established
 15 by the board.

16 (d) (1) Except as provided in paragraph ~~(2)~~ (5), all elections shall be
 17 conducted in accordance with the general election laws of the state except
 18 as otherwise provided in this act. Advance voting as provided in article 11
 19 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto,
 20 shall be provided for by the county election officers and boards of
 21 directors for those persons entitled to vote under subsection (e). The forms
 22 for the ballot envelope declaration as provided in K.S.A. 25-1120, and
 23 amendments thereto, and the applications for advance ballots as provided
 24 in K.S.A. 25-1122d, and amendments thereto, shall be modified to
 25 establish that such person is a qualified owner of irrigable land within the
 26 district. After polls are closed the election boards shall proceed to canvass
 27 the votes cast thereat, shall certify to the county election officer of the
 28 county in which all or the greater part of the population of the irrigation
 29 district is located and the chief engineer the result of such election. The
 30 clerks shall then securely wrap the ballots cast at such elections and shall
 31 express or mail the same by registered mail to the county election officer
 32 of the county in which all or the greater part of the population of the
 33 irrigation district is located. The county election officer shall canvass the
 34 ballots, verify the results and declare the person receiving the highest
 35 number of votes duly elected as director, except that at the first election
 36 after creation of a district the county election officer of the county in
 37 which all or the greater part of the population of the irrigation district is
 38 located shall declare the three persons receiving the highest number of
 39 votes duly elected as directors ~~except that in districts, or, if such district is~~
 40 ~~divided into three voting areas, the person receiving the highest number of~~
 41 ~~votes in each voting area shall be declared duly elected as director. Such~~
 42 ~~county election officer shall immediately mail, to each person elected to~~
 43 ~~the office of director a certificate of election signed by such officer.~~

Unless the board of directors adopts a resolution providing
 for mail ballot elections under subsection (d)(5),

Strike in lines 12 & 13

(2) 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 treasury 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.

(3) 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 (E) 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.

(4) 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)(5) For any election except the election required in subsection (b), the board of directors may adopt a proceedure providing for the election of members by mail ballot in an even-numbered or odd-numbered year. Such proceedure 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. In the resolution providing for the election of members by mail ballot, the board of directors shall establish the term of such members to be a period of two, three or four years.

(e) (1) All regular elections of directors of irrigation districts shall be

resolution

Strike in lines 37-40

Any such resolution shall be submitted to the county election officer of each county containing territory of the district. The election shall be held on the first Tuesday in March in each even-numbered or odd-numbered year as specified in such resolution. Not less than 90 days prior to the date of each such election, the county election officers of each county containing territory of the district shall jointly file a mail ballot election plan with the secretary of state. No person shall file as a candidate for a position on the board of directors of such district after 12:00 p.m. 10 weeks prior to the date of the election. Except as otherwise provided in this section, all elections held pursuant to this paragraph shall be conducted in accordance with the general election laws of this state and the mail ballot election act, K.S.A. 25-431 et seq., and amendments thereto.

1 held the Tuesday following the first Monday in November in odd-
2 numbered years.

3 (2) Any districts organized after the regular election shall hold its
4 election at the next regular election following incorporation of the district
5 and, at this election three directors shall be elected and the person
6 receiving the highest number of votes shall serve for a term of four years,
7 the persons receiving the second and third highest number of votes shall
8 serve for a term of two years. In case the first election after creation of a
9 district is held between June 1 of any year and the day preceding the
10 Tuesday following the first Monday in November of the next succeeding
11 odd-numbered year, the next regular election shall be held in the second
12 succeeding odd-numbered year. At each subsequent regular election, ~~only~~
13 ~~one director~~ directors shall be elected ~~each year~~ for a term of four years.

14 (3) Any person desiring to be a candidate for election to the board of
15 directors shall file a candidate's declaration of intention with the county
16 election officer of the county in which all or the greater part of the
17 population of the district is located. Such candidate's filing shall utilize the
18 procedures provided in K.S.A. 25-21a03, and amendments thereto, and
19 K.S.A. 25-205, and amendments thereto. The county election officer shall
20 prepare the ballot, and place the names thereon in alphabetical order and
21 shall supply election officials with necessary ballots and polling books at
22 the irrigation district's expense. At least five days before any election, the
23 county clerks of the various counties within which a portion of the district
24 is located, shall cause to be ascertained the names of all persons entitled to
25 vote as provided in subsection (g) and shall furnish lists thereof to each
26 election board within such county and to the secretary of the board of
27 directors of the district. Notice of the time and places of holding of the
28 general election, shall be published by the county election officer in a
29 newspaper of general circulation in the district in accordance with K.S.A.
30 25-105, and amendments thereto. The results of all special or bond
31 elections shall be made available to the secretary of the district. All
32 expenses of election, not otherwise provided for herein, shall be paid for
33 out of the general funds of the irrigation district. Election officials shall
34 receive the same compensation as provided under general election laws.

35 (4) *The provisions of this subsection shall not apply to any election*
36 *conducted pursuant to subsection (d)(5) or (f).*

37 (f) In lieu of the election procedures provided in this section
38 pertaining to regular elections of directors in accordance with the general
39 election laws of the state, the board of directors of any irrigation district of
40 less than 35,000 acres in size may call an annual meeting of all persons
41 entitled to vote as provided in subsection (g) for the purpose of electing
42 directors. Such annual meeting shall be held on the first Tuesday in March.
43 Notice of the time and place of holding said annual meeting shall be given

1 in some newspaper or newspapers of general circulation in the district for
 2 one issue at least 30 days prior to date of such meeting. Elections at the
 3 annual meeting shall be by ballot, with absentee voting as provided under
 4 subsection (d) ~~of this section~~. All persons desiring to be voted upon as
 5 director shall at least 30 days before the day of holding the annual meeting
 6 file such person's name with the secretary of the board of directors of the
 7 district, affixed to a statement that such person desires such person's name
 8 to be placed on the ballot as a candidate for member of board of directors
 9 of the district. The board of directors shall appoint three owners of
 10 irrigable land in the district to serve as an election board at the annual
 11 meeting. After the votes are cast at the annual meeting the election board
 12 shall proceed to canvass the votes and shall certify to the county election
 13 officer of the county in which all or the greater part of the population of
 14 the irrigation district is located and the chief engineer the result of such
 15 election. All provisions of this section not inconsistent with the provisions
 16 of subsection (f) shall apply to the election of directors at the annual
 17 meeting.

18 (g) (1) Until such time as assessments are made in the district
 19 pursuant to K.S.A. 42-715, and amendments thereto, those persons entitled
 20 to vote shall be "qualified owners of land" within the irrigation district, as
 21 such term is defined in K.S.A. 42-701, and amendments thereto, and who
 22 are otherwise qualified electors.

23 (2) After lands have been assessed in the district pursuant to K.S.A.
 24 42-715, and amendments thereto, those persons entitled to vote shall be
 25 "qualified owners of land" within the irrigation district as such term is
 26 defined in K.S.A. 42-701, and amendments thereto, which has been
 27 assessed pursuant to K.S.A. 42-715, and amendments thereto, and who are
 28 otherwise qualified electors. For voting purposes, any person entitled to
 29 vote under this subsection who owns land in more than one voting area
 30 shall vote in the voting area ~~which~~ that includes the greatest portion of
 31 such person's land.

32 (h) As used in this section, the term "qualified electors" ~~shall include~~
 33 includes a person who is the legal qualified owner of irrigable land or a
 34 person, who is authorized, in writing, to vote for a trust, corporation,
 35 association or partnership ~~which that~~ is the legal qualified owner of
 36 irrigable land. Such person is not required to be a resident of the district.
 37 Such trust, corporation, association or partnership shall be allowed only
 38 one vote. The person authorized by such entity to vote shall be someone
 39 who is not otherwise entitled to a vote under this section.

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

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

25-432 and

are

Attachment A

Section 1. K.S.A. 25-432 is hereby amended to read as follows: 25-432. (a) Except as otherwise provided, an election shall not be conducted under this act unless:

- ~~(a)~~ (1) The secretary of state approves a written plan for conduct of the election, including, but not limited to, a written timetable for the conduct of the election, submitted by the county election officer;
- ~~(b)~~ (2) the election is nonpartisan;
- ~~(c)~~ (3) the election is not one at which any candidate is elected, retained or recalled;
- ~~(d)~~ (4) the election is not held on the same date as another election in which the qualified electors of that subdivision of government are eligible to cast ballots, except this restriction shall not apply to mail ballot elections held under K.S.A. 79-2925c, and amendments thereto, or elections held on the first Tuesday after the first Monday in March; and
- ~~(e)~~ (5) the election is a question submitted election and all of the qualified electors of one of the following subdivisions of government are the only electors eligible to vote on such question:
 - ~~(1)~~ (A) Counties;
 - ~~(2)~~ (B) cities;
 - ~~(3)~~ (C) school districts, except in an election held pursuant to K.S.A. 72-635 et seq., and amendments thereto;
 - ~~(4)~~ (D) townships;
 - ~~(5)~~ (E) benefit districts organized under K.S.A. 31-301, and amendments thereto;
 - ~~(6)~~ (F) cemetery districts organized under K.S.A. 15-1013 or 17-1330, and amendments thereto;
 - ~~(7)~~ (G) community college districts organized under K.S.A. 71-1101 et seq., and amendments thereto;
 - ~~(8)~~ (H) fire districts organized under K.S.A. 19-3601 or 80-1512, and amendments thereto;
 - ~~(9)~~ (I) hospital districts;
 - ~~(10)~~ (J) improvement districts organized under K.S.A. 19-2753, and amendments thereto;
 - ~~(11)~~ (K) Johnson county park and recreation district organized under K.S.A. 19-2859, and amendments thereto;
 - ~~(12)~~ (L) water districts organized under K.S.A. 19-3501 et seq., and amendments thereto;
 - ~~(13)~~ (M) transportation development districts created pursuant to K.S.A. 12-17,140 et seq., and amendments thereto; or
 - ~~(14)~~ (N) any tract of land annexed pursuant to K.S.A. 12-521, and amendments thereto.
- (b) The election of irrigation district directors pursuant to K.S.A. 42-706, and amendments thereto, may be conducted by mail ballot in accordance with this act.