

SENATE BILL No. 65

By Committee on Federal and State Affairs

1-23

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.
6

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

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

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

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 (g). 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.

1 (2) The directors shall thereupon qualify and enter upon the duties of
2 their office. Directors shall qualify by taking and subscribing to an oath of
3 office of substantially the same tenor as oath of office prescribed for
4 county officials. Each member of the board of directors shall execute an
5 official bond in the sum of \$1,000 which oath and bond shall be filed with
6 the county election officer of the county in which all or the greater part of
7 the population of the irrigation district is located. The treasurer of each
8 irrigation district shall execute to the district a corporate surety bond in an
9 amount at least equal to 125% of the amount, as near as can be
10 ascertained, that shall be in such person's hands as treasurer at any one
11 time. The amount and sufficiency of the bond of the treasurer shall be
12 determined by the county election officer. Upon approval of the bond, the
13 county election officer shall endorse such approval thereon and file the
14 same in the office of the county election officer and shall immediately
15 notify the county treasurer of the county in which the registered office of
16 the irrigation district is located of such approval and filing.

17 (3) In the event of the breach of any condition of the treasurer's bond,
18 the president and secretary of the board shall cause a suit to be commenced
19 thereon in the name of the irrigation district. It shall not be necessary to
20 include the treasurer as a party to the action and the money collected shall
21 be applied to the use of the district, as the same should have been applied
22 by the treasurer. Should the president and secretary neglect or refuse to
23 prosecute such a suit, then any person entitled to vote as provided in
24 subsection (g) may cause such suit to be instituted. Premiums on surety
25 bonds for such directors and treasurers of irrigation districts shall be paid
26 by the district out of its general funds.

27 (4) In case the office of any director shall become vacant the
28 remaining members of the board shall fill the vacancy by appointment. A
29 director appointed to fill a vacancy shall serve the unexpired term of the
30 director whose term such person was appointed to fill.

31 ~~(2)~~(5) For any election except the election required in subsection (b),
32 the board of directors may adopt a procedure providing for the election of
33 members by mail ballot *in an even-numbered or odd-numbered year*. Such
34 procedure shall require the board to mail ballots to all persons entitled to
35 vote, to receive and tabulate the ballots, to canvass the election and to
36 certify the results to the county election officer. The irrigation district shall
37 be responsible for the direct expenses of conducting the election. The
38 ballot envelope used for mailing ballots shall contain a declaration
39 establishing that the person who signs the declaration is a qualified owner
40 of irrigable land within the district. *In the resolution providing for the*
41 *election of members by mail ballot, the board of directors shall establish*
42 *the term of such members to be a period of two, three or four years.*

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

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.