

HOUSE BILL No. 2685

By Committee on Energy and Utilities

2-8

1 AN ACT concerning water; relating to reservoir improvement districts.

2
3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. This act shall be known and may be cited as the reservoir
5 improvement district act.

6 Sec. 2. As used in this act, unless context otherwise requires:

7 (a) "Board" means the board of directors of a reservoir improvement
8 district;

9 (b) "district" means a reservoir district for which organization is
10 proposed or has been organized under the provisions of this act, and
11 amendments thereto;

12 (c) "eligible water right holder" means any person:

13 (1) Holding a water right or permit, pursuant to K.S.A. 82a-701 *et*
14 *seq.*, and amendments thereto, to appropriate water from a reservoir;

15 (2) with a contract to withdraw and use water pursuant to K.S.A. 82a-
16 1301 *et seq.*, and amendments thereto; or

17 (3) with a water appropriation right in a water assurance district
18 pursuant to K.S.A. 82a-1330 *et seq.*, and amendments thereto;

19 (d) "general plan" means a preliminary engineering report describing
20 the characteristics of the reservoir, the nature and methods of dealing with
21 the bed and water problems in the reservoir or the reservoir watershed and
22 the projects proposed to be undertaken by the district. It shall include
23 maps, descriptions and any other data as may be necessary for the location,
24 identification and establishment of the character of the work to be
25 undertaken and any other data and information as the director of the
26 Kansas water office may require;

27 (e) "person" means any person, firm, partnership, association or
28 corporation;

29 (f) "specific project" means any project outlined and proposed by the
30 board of directors and may constitute all or part of the general plan;

31 (g) "steering committee" means the group of eligible water right
32 holders, not less than the number to be chosen for the board of directors,
33 who shall serve as the governing body of the proposed reservoir
34 improvement district until the first board of directors is elected;

35 (h) "water right" shall have the meaning provided in K.S.A. 82a-701,
36 and amendments thereto; and

1 (i) "watershed" means all the area within the state draining toward a
 2 selected point on a reservoir.

3 Sec. 3. Before any reservoir improvement district is organized, a
 4 petition shall be filed in the office of the secretary of state, signed by the
 5 eligible water right holders who have water rights totaling more than 20%
 6 of the combined quantities of all eligible water rights within the proposed
 7 district as shown by a verified enumeration of the eligible water right
 8 holders and the total combined quantities of all eligible rights taken by the
 9 director of the Kansas water office. A verified copy of the enumeration
 10 shall be attached to and filed with the petition in the office of the secretary
 11 of state.

12 Sec. 4. (a) Every petition filed pursuant to section 3, and amendments
 13 thereto, shall state:

14 (1) The name of the proposed district which shall include the name of
 15 the reservoir and end with the words "reservoir improvement district";

16 (2) a list of the water rights, by file number as recorded in the Kansas
 17 water office, to be included within the proposed district;

18 (3) a statement of the purposes for which the district is to be
 19 organized;

20 (4) a statement of the number of persons that will constitute the board
 21 of directors of the district, which shall be an odd number of not less than
 22 three nor more than five, together with the names and addresses of the
 23 persons who will constitute the original steering committee;

24 (5) any other matter deemed essential; and

25 (6) a request for the organization of the district as a nonprofit
 26 corporation.

27 (b) The petition shall be in substantially the following form:

28 BEFORE THE SECRETARY OF STATE OF THE STATE OF
 29 KANSAS

30 In the Matter of _____ Reservoir Improvement District
 31 PETITION

32 Come now the undersigned persons and state that they own water rights
 33 in the _____ reservoir, for which a reservoir
 34 improvement district is proposed, and that each signer states that the
 35 signer's respective post office address is set forth beside the signer's name.
 36 That the purposes for which this district is organized are (state purposes).
 37 That a steering committee for the organization of the district is hereby
 38 fixed and constituted with five members; that the names of persons who
 39 will serve on the original steering committee, of which the first named
 40 shall be acting chairperson, and their respective addresses are as follows:

41
 42 (List names and addresses.)
 43

1 The governing body of the district shall be constituted in a board of
2 directors composed of (number) qualified members.

3 Wherefore, the undersigned, individually and collectively, request that
4 a reservoir improvement district be organized in the manner provided by
5 law, for the purposes set forth herein, and that the secretary of state and the
6 director of the Kansas water office proceed diligently in the performance
7 of their duties so that the organization of this proposed district may be
8 completed and approved at the earliest possible time.

9 Submitted to the secretary of state this _____ day of _____,
10 _____.

11
12 Sec. 5. A copy of the full petition, as required by section 3, and
13 amendments thereto, shall be circulated among the eligible water right
14 holders of the proposed district. All counterparts shall be filed with the
15 secretary of state at the same time and shall be received and treated by the
16 secretary as a single petition. The secretary of state shall determine the
17 sufficiency or insufficiency of the petition on the basis of the information
18 as to the number and qualification of signers as shown by the verified
19 enumeration filed with the petition. The secretary of state shall endorse the
20 findings and the date thereof on the face of the petition and shall notify in
21 writing the person designated in the petition as the acting chairperson of
22 the steering committee of the findings.

23 Sec. 6. (a) If the secretary of state finds the petition, as required by
24 section 3, and amendments thereto, to be sufficient as to form and the
25 number and qualifications of the petitioners, the secretary of state shall
26 prepare a certified copy of the petition and transmit the same to the
27 director of the Kansas water office within five days from the date of such
28 finding. Upon receipt of such certified copy, the director of the Kansas
29 water office shall institute an investigation of the proposed district, its
30 water usage and purposes. Within 90 days after receipt of the copy, the
31 director of the Kansas water office shall transmit a written report of the
32 findings on the petition and the director's written approval or disapproval
33 of the petition to the secretary of state and the acting chairperson of the
34 steering committee named in the petition.

35 (b) The director of the Kansas water office shall approve such
36 petition if the director finds that construction of works of improvement on
37 the reservoir for which the district is proposed would benefit the
38 sustainability, conservation and maintenance of such reservoir.

39 If the director of the Kansas water office approves such petition, the
40 director shall transmit a certified copy of the report containing all findings
41 to the secretary of state and to the chairperson of the steering committee
42 named in the petition.

43 Sec. 7. (a) Within 10 days after receipt of a certified copy of the

1 report from the director of the Kansas water office approving the petition
2 or the petition as amended, the chairperson of the steering committee of
3 the proposed district shall call a meeting of the committee by mailing a
4 written notice fixing the time and place of such meeting to each eligible
5 water right holder in the proposed district. The committee shall meet at the
6 time and place fixed in the notice for the purpose of adopting a resolution
7 giving notice of an election at which all eligible water right holders shall
8 be entitled to vote on the question of whether the district should be formed
9 in accordance with the petition as approved by the director. A copy of such
10 resolution shall be mailed to all eligible water right holders of the
11 proposed district not less than 21 days prior to such vote. The resolution
12 shall state when and where the election shall be held and the proposition to
13 be voted on. It shall contain a copy of the petition as approved by the
14 director and shall be signed by the chairperson and attested by the
15 secretary of the steering committee. The steering committee shall conduct
16 the election, canvass the vote and certify the results to the secretary of
17 state and to the director of the Kansas water office.

18 (b) If eligible water right holders representing more than 50% of the
19 combined quantities of the eligible water rights of the proposed district
20 vote in favor of the organization and creation of the district, the secretary
21 of state shall issue a certificate of incorporation for the district to the
22 steering committee, such certificate shall be filed in the office of the
23 register of deeds of each county in which all or a portion of the district
24 lies. Upon the recordation of the certificate of incorporation, the district
25 shall be authorized to function in accordance with the provision of this act
26 and its certificate of incorporation.

27 (c) If eligible water right holders representing more than 50% of the
28 combined quantities of the water rights within the proposed district vote
29 against the organization and creation of the district, the secretary of state
30 shall endorse that fact on the face of the petition and the proceedings shall
31 be closed.

32 (d) No action attacking the legal incorporation of any reservoir
33 improvement district organized under this section shall be maintained
34 unless filed within 90 days after the issuance of the certificate of
35 incorporation for such district by the secretary of state, nor shall the
36 alleged illegality of the incorporation of any such district be interposed as
37 a defense to any action brought after such time.

38 Sec. 8. If the organization of the proposed reservoir improvement
39 district is defeated at the election or if the petition is disapproved by the
40 director of the Kansas water office, the steering committee named in the
41 petition shall determine the amount of money necessary to pay all of the
42 costs and expenses incurred in the preparation and filing of the petition,
43 and in the conduct of the election and the steering committee shall assume

1 the obligation for the payment of such costs and expenses by assessing the
2 eligible water right holders a fee in proportion to each such holder's water
3 right to the total of such water right. No cost shall be assessed by any state
4 agency.

5 Sec. 9. All powers granted to reservoir improvement districts
6 incorporated under the provisions of this act shall be exercised by a board
7 of directors which shall be composed of an odd number of directors not
8 less than three nor more than five as specified in the petition for creation
9 of the district. Each director shall serve for a term of three years, and until
10 a successor is elected and qualified, except that as nearly as possible $\frac{1}{3}$ of
11 the original board members designated in the petition for organization of
12 the district shall serve for a term of one year, $\frac{1}{3}$ for a term of two years and
13 $\frac{1}{3}$ for a term of three years. Such directors shall serve without
14 compensation, but shall be allowed actual and necessary expenses incurred
15 in the performance of their official duties.

16 Sec. 10. (a) Within not more than 90 days after the recording of the
17 certificate of incorporation, a meeting open to all eligible water right
18 holders of the district shall be held by the steering committee for the
19 election of the initial board of directors of the district. A notice of the
20 meeting shall be mailed to all eligible water right holders by the steering
21 committee at least 10 days prior to the date thereof.

22 (b) Each eligible water right holder shall have one vote and one
23 additional vote for every 10% of the combined quantities of all water
24 rights within the district. Each eligible water right holder in the district
25 shall be entitled to vote for as many candidates as the number of directors
26 that are to be elected.

27 (c) The candidates receiving the greatest number of votes cast shall
28 respectively be declared elected. The board of directors, after being duly
29 elected, shall elect from its number a president, vice-president, secretary
30 and a treasurer. In districts having only three directors, the board shall
31 elect one director to hold the offices of secretary and treasurer.

32 (d) A majority of the directors shall constitute a quorum for the
33 transaction of business and a majority of those voting shall determine all
34 actions taken by the board. In the absence of any of the duly elected
35 officers, those directors present at any meeting may select a director to act
36 as an officer *pro tem*.

37 (e) The elected board shall fill any vacancy occurring on the board
38 prior to the expiration of the term of any director by selecting a
39 replacement from among the eligible water right holders of the district to
40 serve for the unexpired term.

41 Sec. 11. (a) In not less than 12 months, nor more than 13 months after
42 the recording of the certificates of incorporation, and annually thereafter, a
43 meeting shall be held for the election of directors whose terms expire and

1 also to render a report on the financial condition and activities of the
2 district, including the estimated construction date of all proposed projects
3 to be initiated within the next five years and the board's determination as
4 to whether each of these projects is still cost effective and in the current
5 public interest. Notice of the annual meeting shall be given at least 10 days
6 prior to the date thereof to all members in the district.

7 (b) The number of directors of a district or the date of the annual
8 meeting, or both, may be changed at an annual meeting if notice of the
9 proposed changes is included in the notice for the annual meeting at which
10 such changes are to be considered.

11 (c) Copies of the minutes of the annual meeting and report on the
12 financial condition and activities of the district shall be furnished to the
13 eligible water right holders of the district and the Kansas water office.

14 Sec. 12. Regular meetings of the board of directors shall be held no
15 less than once each quarter on a day and place as is selected by the board
16 of directors. Notice of such meeting shall be mailed to each director at
17 least five days before the date of the meeting. Special meetings may be
18 held at any time upon waiver of notice of such meeting by all directors or
19 may be called by any two directors at any time. Notice in writing, signed
20 by the persons calling any special meeting, shall be mailed to each director
21 at least two days prior to the time fixed for such special meeting. A
22 majority of directors shall constitute a quorum for the transaction of
23 business and in the absence of any of the duly elected officers of the
24 district a quorum at any meeting may select a director to act as such officer
25 *pro tem*. Each meeting of the board, whether regular or special, shall be
26 open to the public. Copies of the minutes of regular and special meetings
27 shall be furnished to the eligible water right holders of the district and the
28 Kansas water office.

29 Sec. 13. Each reservoir improvement district incorporated under the
30 provisions of this act shall be a body politic and corporate and shall have
31 the power to:

32 (a) Adopt a seal;

33 (b) sue and be sued by its corporate name;

34 (c) purchase, hold, sell and convey real and personal property and to
35 execute such contracts as the board of directors deems necessary or
36 convenient to enable it to carry out the purpose for which organized;

37 (d) construct, improve, maintain or operate works of improvement
38 including such works necessary for the sustainability of reservoirs,
39 including the conservation and maintenance of water for domestic,
40 municipal, agricultural or industrial use;

41 (e) employ such professional, technical and clerical services and other
42 assistance as deemed necessary by the board of directors;

43 (f) acquire real or personal property by gift;

- 1 (g) impose charges and incur indebtedness within the limitations
2 prescribed by this act;
- 3 (h) cooperate and contract with:
- 4 (1) Persons, firms, associations, partnerships and private
5 corporations;
- 6 (2) other reservoir improvement districts, watershed districts,
7 drainage districts, cities of classes of this state;
- 8 (3) other local, state and federal governmental agencies; or
- 9 (4) drainage districts, watershed districts or other public corporations
10 organized for similar purposes in any adjoining state;
- 11 (i) dissolve the district as provided for in this act;
- 12 (j) select a residence or home office for the reservoir improvement
13 district, which shall be at a place in a county where the reservoir or any
14 part of the reservoir is located; and
- 15 (k) take any other action necessary to achieve the purposes of the
16 reservoir improvement district.

17 Sec. 14. (a) Upon the incorporation of the reservoir improvement
18 district, the board shall cause work to be commenced on the preparation of
19 a general plan of the district. In addition, there shall be prepared an
20 estimate of costs as to installation, maintenance and operation of the
21 proposed improvements. Upon completion of the general plan and
22 estimates of costs, the board shall carefully examine and consider such
23 plan. If they approve the general plan and estimate of cost, they shall
24 transmit a complete copy of the general plan to the director of the Kansas
25 water office and additional copies shall be made available upon request by
26 the director of the Kansas water office. Copies of such plans, estimates and
27 information in the Kansas water office shall be open to inspection by the
28 public at all reasonable times.

29 (b) The director of the Kansas water office shall examine and study
30 such general plans as to:

- 31 (1) Feasibility;
- 32 (2) coordination of the plan with any other plan for the reservoir for
33 which the district is formed;
- 34 (3) the safety of the works and improvements proposed; and
- 35 (4) conformity with the intents and purposes of this act.

36 (c) The director of the Kansas water office shall transmit a written
37 report of the results of such study and investigation to the board of
38 directors, which shall include any changes or modifications which have
39 been deemed necessary and which shall include a specific approval or
40 disapproval of the general plan.

41 Sec. 15. (a) When the general plan is approved by the director of the
42 Kansas water office, the board shall propose by resolution, that the cost to
43 the district of all improvements contemplated in the plan be paid by

1 imposing a charge against each eligible water right holder of the district in
2 proportion to each such holder's water right. The total of such charges shall
3 be sufficient to enable the district to pay the cost of administering the
4 general plan. The reservoir improvement district also may impose a charge
5 against each eligible water right holder of the district in an amount
6 sufficient to cover district operating costs. Charges paid by eligible water
7 right holders of a reservoir improvement district may vary and shall be
8 based on the principle of having each eligible water right holder pay for
9 the *pro rata* quantity of water used from the reservoir. In determining the
10 charge, the governing body of the district shall adopt rules which establish
11 guidelines for prospective eligible water right holders.

12 (b) The board shall fix a time and place conveniently near the
13 reservoir for a public hearing upon the general plan and the resolution
14 proposing a method of financing costs of the works contemplated in the
15 plan. A notice of such hearing shall be given in one publication at least 20
16 days prior to the date fixed for the hearing, setting forth the time and place
17 of hearing upon the plan and resolution, that a copy of the plan and
18 resolution is available for public inspection in the office of the secretary of
19 the district. Any eligible water right holder of the district desiring to be
20 heard in the matter must file, in duplicate, with the secretary of the board
21 at the secretary's office, at least five days before the date of the hearing, a
22 written statement of such holder's intent to appear at the hearing and the
23 substance of the views they wish to express. Upon receipt of any such
24 statements, the secretary of the board shall immediately transmit one copy
25 of the statements to the director of the Kansas water office. The director of
26 the Kansas water office or the director of the Kansas water office's duly
27 appointed representative may attend the hearing. At the hearing any
28 eligible water right holder of the district who has filed a written statement
29 shall be heard and may present information in support of the eligible water
30 right holder's position in the matter. After hearing all such statements, the
31 board, by resolution, shall adopt as official or reject the general plan. The
32 board shall also adopt as official or reject the proposed method of
33 financing the costs of the works contemplated in the general plan or
34 determine that the general plan or the proposed method of financing or
35 both should be modified. The board shall notify the director of the Kansas
36 water office of the board's action to accept or reject the general plan and
37 proposed method of financing. If it is determined that the general plan
38 should be modified, any proposed changes approved by the board shall be
39 incorporated in a modified general plan which shall be submitted to the
40 director of the Kansas water office for further consideration.

41 (c) The director of the Kansas water office shall review the modified
42 plan and shall transmit a supplemental written report of the results of the
43 director's study and investigation to the board, including the director of the

1 Kansas water office's written approval or disapproval of the modified
2 general plan. If the modified general plan is approved by the director of
3 the Kansas water office, the board, by resolution, shall adopt the modified
4 plan as the official general plan of the district and notify the director of the
5 Kansas water office of the board's action. If it is determined that the
6 proposed method of financing should be modified, the board shall give
7 consideration to the modified method of financing and, following adoption
8 of the general plan or an approved modification thereof, the board, by
9 further resolution setting forth such modified method of financing, shall
10 adopt it as the official method of the district for financing costs of the
11 works contemplated in the official general plan. If a board is unable to
12 carry out a general plan because insufficient funds have been provided,
13 they may reconsider the general plan or the method of financing, or both,
14 and by following the procedure set forth in subsections (a) and (b),
15 resubmit a general plan or method of financing, or both.

16 Sec. 16. (a) Following the adoption of the general plan and adoption
17 of the method of financing, the board of directors may determine the order
18 in which specific projects contemplated by the general plan shall be
19 undertaken. The board shall then cause accurate surveys of all work
20 deemed necessary to be done and accurate estimates and calculations to be
21 made by a competent engineer who shall prepare detailed construction
22 plans and specifications showing the location, amount, and character of
23 work to be done and the estimated cost of right of way, construction,
24 maintenance and operation, which plans, specifications and estimates of
25 costs shall be filed in the office of the secretary of the board and shall at all
26 reasonable times be open to public inspection. The board shall carefully
27 examine and consider the same and if they approve such plans,
28 specifications and estimates of costs, they shall transmit a complete copy
29 thereof to the director of the Kansas water office, who shall examine and
30 study the plans and specifications as to conformance to the general plan
31 and other applicable state laws on water use and control and transmit a
32 written report of the results of the director's study and investigation to the
33 board which report shall include any changes or modifications, which the
34 director deems necessary, and which shall include a specific approval or
35 disapproval of the plans and specifications.

36 (b) Ten years following approval of the general plan and every five
37 years thereafter, the board shall review the general plan to determine if
38 projects proposed to be undertaken by the district in its original plan are
39 still feasible. A report of the review shall be given at a public meeting
40 called for that purpose. This review is not required of reservoir
41 improvement districts that have completed all the projects in the general
42 plans.

43 Any revisions or amendments to the general plan shall be submitted to

1 the director of the Kansas water office in the manner provided by section
2 14, and amendments thereto.

3 Sec. 17. This act shall be deemed to be supplemental to existing laws
4 relating to watershed districts, drainage districts, flood control, irrigation,
5 soil conservation and related matters.

6 Sec. 18. (a) The board of directors of any reservoir improvement
7 district, by resolution, may dissolve such district if such district has been
8 incorporated under the provisions of this section for more than eight years
9 and has not:

10 (1) Adopted a general plan of work and projects to be undertaken by
11 the district;

12 (2) constructed or contracted to construct any works of improvement;
13 or

14 (3) incurred any continuing obligations for maintenance of any works
15 of improvement.

16 (b) The board of directors of any reservoir improvement district, by
17 resolution, may dissolve such district if such district has been incorporated
18 under the provisions of this section for more than four years and has not
19 made substantial progress toward a general plan or work and projects to be
20 undertaken by the district.

21 (c) A resolution to dissolve a reservoir improvement district shall be
22 adopted by a $\frac{2}{3}$ vote of all members of the board that are present and
23 voting, but in no event less than a majority of all board members at a
24 special meeting called for the purpose of dissolving the district.

25 (d) Notice of the special meeting to dissolve the district shall specify
26 the purpose for which the meeting is to be called, provide for the calling of
27 an election of eligible water right holders for the purpose of determining
28 whether such district shall be dissolved. The board shall provide for the
29 calling of such an election if written petitions signed by 20% of eligible
30 water right holders in the district, as shown by a verified enumeration of
31 such water rights are filed with the secretary of the board.

32 (e) The election to determine whether the district shall be dissolved
33 shall be held and conducted in the same manner as provided by section 7,
34 and amendments thereto, insofar as such provisions can be made
35 applicable. If a majority of those voting on the proposition voted in favor
36 of dissolution of the district, the board shall immediately certify the results
37 of such election to the secretary of state, and the secretary of state
38 thereupon shall issue and deliver to the secretary of such board a
39 certificate of dissolution.

40 Sec. 19. (a) Upon receipt from the secretary of state of the certificate
41 of dissolution of the reservoir improvement district under the provisions of
42 this act, the secretary of the board of directors of the reservoir
43 improvement district shall notify the directors of the reservoir

1 improvement district of such certification.

2 (b) The directors shall immediately pay all obligations of said district,
3 including all costs incurred by the district, the director of the Kansas water
4 office and the secretary of state in regard to the dissolution proceedings.

5 (c) Upon receipt of such notification from the state treasurer, the
6 secretary of the district shall have the certificate of dissolution published
7 once in a newspaper of general circulation, located in a county where the
8 reservoir or a part thereof is located and proof of such publication shall be
9 filed with the secretary of state's office. The effective date of the
10 dissolution, unless otherwise provided, shall be the date on which the
11 proof of publication is filed in the office of the secretary of state, but in no
12 event shall the date of dissolution be a date prior to the date of publication
13 of the certificate of dissolution.

14 Sec. 20. Any funds of a reservoir improvement district which is
15 totally disorganized and dissolved under the provisions of this act shall be
16 apportioned and paid back to the eligible water right holders in the same
17 proportion as used in assessing fees. The reservoir improvement district
18 treasurer, upon notification of receipt of a certificate of dissolution, shall
19 immediately pay the amounts due each eligible water right holder, as such
20 eligible water right holder may be entitled to receive.

21 Sec. 21. This act shall take effect and be in force from and after its
22 publication in the statute book.

23