

**SENATE BILL No. 524**

By Committee on Ways and Means

2-20

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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 a person who is the legal qualified owner of irrigable land or a person, who  
34 is authorized, in writing, to vote for a trust, corporation, association or  
35 partnership ~~which~~ that is the legal qualified owner of irrigable land. Such  
36 person is not required to be a resident of the district. Such trust,  
37 corporation, association or partnership shall be allowed only one vote. The  
38 person authorized by such entity to vote shall be someone who is not  
39 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.