

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 515

Introduced by Carlson, 38.

Read first time January 23, 2013

Committee:

A BILL

1 FOR AN ACT relating to irrigation districts; to amend sections
 2 46-101, 46-102, 46-110, 46-111, 46-115, 46-116, 46-117,
 3 46-151, 46-179, 46-185, 46-1,145, and 46-1,160, Reissue
 4 Revised Statutes of Nebraska; to name the Irrigation
 5 District Act; to redefine elector; to provide procedures
 6 for determining eligibility to vote and for conducting
 7 elections by mail; to change provisions relating to
 8 elections; to harmonize provisions; and to repeal the
 9 original sections.

10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 46-101, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 46-101 Sections 46-101 to 46-1,163 shall be known and may
4 be cited as the Irrigation District Act.

5 Whenever a majority of the electors owning land or
6 holding leasehold estates, or who are entrymen of government lands,
7 in the manner and to the extent ~~hereinafter~~ provided in the
8 Irrigation District Act in any district susceptible to one mode of
9 irrigation from a common source and by the same system of works,
10 desire to provide for the irrigation of the same, they may propose
11 the organization of an irrigation district under ~~the provisions of~~
12 sections 46-101 to 46-128, and when so organized, each district shall
13 have the power conferred by law upon such irrigation district.

14 Sec. 2. Section 46-102, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 46-102 ~~The term elector as used in sections 46-101 to~~
17 ~~46-1,111 shall include~~ (1) For purposes of the Irrigation District
18 Act, elector means any resident of the State of Nebraska, owning not
19 less than fifteen acres of land, or who is an entryman of government
20 land, within any irrigation district or proposed irrigation district,
21 or any resident of the State of Nebraska holding a leasehold estate
22 in not less than forty acres of state land within such district for a
23 period of not less than five years from the date at which such
24 elector seeks to exercise the elective franchise. ~~;~~ ~~Provided,~~
25 ~~however,~~ ~~when~~

1 (2) If an elector resides outside of the irrigation
2 district, the elector shall be considered an elector in the division
3 of the irrigation district in which his or her land is situated or,
4 if the elector is the owner of land in more than one division of the
5 irrigation district, the elector ~~and resides without the district, he~~
6 shall be considered an elector in ~~that~~ the division of the district
7 in which the majority of his or her land is situated.

8 Sec. 3. Section 46-110, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 46-110 ~~The~~ (1) After dividing the proposed irrigation
11 district into divisions, the county board shall ~~then~~ give notice of
12 an election to be held in such proposed district, for the purpose of
13 determining whether or not the same shall be organized under ~~the~~
14 ~~provisions of~~ sections 46-101 to 46-128. Such notice shall describe
15 the boundaries as established and shall designate a name for such
16 proposed district. The notice shall be published for at least three
17 weeks prior to such election in a newspaper in the county; and if any
18 portion of such proposed district lies within another county or
19 counties, then the notice shall be published in a newspaper published
20 within each of such counties. The notice shall ~~require~~ include
21 directions to the electors to cast ballots which shall contain the
22 words Irrigation district Yes, or Irrigation district
23 No, or words equivalent thereto, ~~;~~ and also the names of persons to
24 be voted for to fill various elective offices ~~hereinafter~~ prescribed
25 in the Irrigation District Act.

1 (2)(a) No person shall be entitled to vote at any
2 election held under the provisions of sections 46-101 to 46-1,111
3 Irrigation District Act unless he shall be a qualified such person is
4 an elector. For any irrigation district election under the Irrigation
5 District Act, a person whose ownership or right to vote becomes of
6 record or is received as of a date designated by the county clerk for
7 elections for initial organization of the district or by the
8 secretary of the board of directors for all other elections, which
9 date shall be not more than seventy-five days prior to the election,
10 may vote at such election and a person whose ownership or right to
11 vote becomes of record or is received after such date may vote when
12 such person establishes the right to vote to the satisfaction of the
13 election board, if any, or if not, the county clerk for elections for
14 initial organization of the district or by the secretary of the board
15 of directors for all other elections.

16 (b) In the case of electors who are joint tenants, each
17 joint tenant is an elector and entitled to vote if the total acreage
18 owned or leased per joint tenant is equal to or exceeds the minimum
19 acreage requirements of section 46-102, up to a maximum of four joint
20 tenants, otherwise, the acreage owned or leased by the joint tenants
21 shall be entitled to only one vote.

22 (c) In the case of electors who are tenants in common,
23 each tenant is an elector and entitled to vote if the total acreage
24 owned or leased per tenant is equal to or exceeds the minimum acreage
25 requirements of section 46-102, up to a maximum of four tenants in

1 common, otherwise, the acreage owned or leased by the tenants in
2 common shall be entitled to only one vote.

3 (d) In the case of a corporation, limited liability
4 company, limited liability partnership, joint venture, or other legal
5 entity which meets the minimum acreage requirements of section
6 46-102, the entity is an elector and entitled to one vote. The entity
7 shall submit to the secretary of the board of directors a resolution
8 of its board of directors or similar governing body stating the
9 officer or other individual who has authority to vote on behalf of
10 the entity.

11 (e) In the case of a life estate which involves ownership
12 of acreage which meets the minimum requirements of section 46-102,
13 the remaindermen shall be electors, not the life tenant. Each
14 remainderman is an elector and entitled to vote if the total acreage
15 owned or leased per remainderman is equal to or exceeds the minimum
16 acreage requirements of section 46-102, up to a maximum of four
17 remaindermen, otherwise, the acreage owned or leased by the
18 remaindermen shall be entitled to only one vote.

19 (f) In the case of a land-purchase contract which
20 involves ownership of acreage which meets the minimum requirements of
21 section 46-102, the buyer in possession of the land under the
22 contract who is responsible for paying the real property taxes and
23 the irrigation fees and assessments is the elector.

24 (g) In the case of a trust or other estate, not described
25 in subdivision (e) of this subsection, which involves ownership of

1 acreage which meets the minimum requirements of section 46-102, the
2 trustee or personal representative shall have the authority to vote
3 on behalf of the trust or estate. In the case of multiple trustees or
4 multiple personal representatives, the trust or estate is the elector
5 and entitled to one vote. The trust or estate shall submit to the
6 secretary of the board of directors notice stating the trustee or
7 personal representative who has authority to vote on behalf of the
8 trust or estate.

9 (h) If two or more persons or officials claim conflicting
10 rights to vote on the same acreage, the election board, if any, or if
11 not, the secretary of the board of directors, shall determine the
12 party entitled to vote.

13 Sec. 4. Section 46-111, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 46-111 ~~Such~~—(1) The election shall be conducted in
16 accordance with the general election laws of the state, including all
17 provisions of law authorizing voting by mail. Election Act and the
18 Irrigation District Act. If a conflict arises between the Election
19 Act and the Irrigation District Act, the Irrigation District Act
20 shall control.

21 (2) The county board shall meet on the second Monday next
22 succeeding such election and canvass the votes cast thereat; and if
23 upon such canvass it appears that at least a majority of all votes
24 cast are Irrigation district Yes, the board shall by an
25 order entered on its minutes, declare such territory duly organized

1 as an irrigation district, under the name and style therefor
2 designated, and shall declare the persons receiving, respectively,
3 the highest number of votes for such several offices to be duly
4 elected to such offices. The board shall cause a copy of such order,
5 duly certified, to be immediately filed for record in the office of
6 the county register of deeds of each county in which any portion of
7 such lands are situated, and must also immediately forward a copy
8 thereof to the clerk of the county board of each of the counties in
9 which any portion of the district may lie; and no county board of any
10 county, including any portion of such district, shall, after the date
11 of the organization of such district, allow another district to be
12 formed including any of the lands of such district, without the
13 consent of the board of directors thereof. From and after the date of
14 such filing, the organization of such district shall be complete, and
15 the officers thereof shall be entitled to immediately enter upon the
16 duties of their respective offices, upon qualifying in accordance
17 with law, and shall hold such offices respectively until their
18 successors are elected and qualified. For the purpose of the election
19 above provided for, the county board shall establish one or more
20 election precincts in the proposed district, and define the boundary
21 or boundaries thereof, which may thereafter be changed by the board
22 of directors of such district.

23 Sec. 5. Section 46-115, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 46-115 (1) Fifteen days before any election held under

1 the ~~provisions of sections 46-101 to 46-1,111, Irrigation District~~
2 Act subsequent to the organization of the irrigation district, the
3 secretary of the board of directors shall cause notice to be posted,
4 in three public places in each election precinct, of the ~~time and~~
5 ~~place~~ manner of holding the election, and shall also post a general
6 notice of the same in the office of the board, which shall be
7 established and kept at some fixed place to be determined by the
8 board, specifying the polling places, if any, of each precinct.

9 (2) By December 7, the board of directors shall determine
10 whether to hold the regular election of the district by mail. The
11 board of directors may determine to hold any other election by mail
12 under the Irrigation District Act at least sixty days prior to the
13 date set for such election. The secretary of the board of directors
14 shall, at least thirty days prior to the date set for the election,
15 mail to the last-known post office address of each elector or person
16 entitled to vote as provided in section 46-110, a ballot which lists
17 the names of the candidates, allows room for write-in votes, and
18 gives instructions on how to vote and return the ballot.

19 (3) Prior to the time for posting the notices, the board
20 must of directors shall appoint three residents from each precinct,
21 from the electors thereof, to serve as one clerk and two judges, who
22 shall constitute a board of election for such precinct. If the board
23 of directors fails to appoint a board of election, or the ~~members~~
24 persons appointed do not attend at the opening of the polls on the
25 morning of election or at the time and place designated for

1 processing and counting the ballots cast by mail, as appropriate, the
2 electors of the precinct present at that hour may appoint the
3 board. ~~, or supply the place of an absent member thereof.~~ The board
4 of directors must, in its order appointing the board of election,
5 designate the hour and place in the precinct where the election must
6 be held or the time and place for processing and counting the ballots
7 cast by mail.

8 (4) All provisions of law authorizing voting by mail
9 shall apply to all irrigation district elections.

10 Sec. 6. Section 46-116, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 46-116 (1) One of the judges shall be ~~chairman~~
13 chairperson of the election board and may ~~(1)-(a)~~ administer all
14 oaths required in the progress of an election, under the Irrigation
15 District Act and ~~(2)-(b)~~ appoint judges and clerks, if during the
16 progress of the election or processing and counting ballots cast by
17 mail, as appropriate, any judge or clerk ceases to act. Any member of
18 the election board ~~of election, or any clerk thereof,~~ may administer
19 and certify oaths required to be administered during the progress of
20 an election or the processing and counting of ballots cast by mail,
21 as appropriate. Before opening the polls or processing and counting
22 ballots cast by mail, as appropriate, each member of the election
23 board must take and subscribe to an oath to faithfully perform the
24 duties imposed upon him or her by law. Any elector of the precinct
25 may administer and certify such oath.

1 (2) For elections not conducted by mail, the ~~The~~ polls
2 must be opened at 8 a.m., on the morning of the election and be kept
3 open until 6 p.m., of the same day, except that ~~;~~ ~~Provided,~~ in
4 districts embracing twelve thousand acres or less, the polls may, by
5 direction of the board of directors, be opened at 1 p.m., and be kept
6 open until 5:30 p.m., of the same day.

7 Sec. 7. Section 46-117, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 46-117 The return of elections under the Irrigation
10 District Act, together with the ballots cast thereat, shall be
11 certified by the election boards of such precincts to the board of
12 directors of the district within three days after the election. No
13 lists, tally paper, or certificate returned from any election shall
14 be set aside or rejected for want of form if it can be satisfactorily
15 understood. The board of directors must meet at its usual place of
16 meeting on the first Monday after each election and canvass the
17 returns. If at the time of meeting the returns from each precinct in
18 the district in which the polls were opened or ballots were mailed
19 have been received, the board of directors must then and there
20 proceed to canvass the returns; but if all the returns have not been
21 received the canvass must be postponed from day to day until all the
22 returns have been received, or until six postponements have been had.
23 The canvass must be made in public and by opening the returns and
24 estimating the vote of the district for each person voted for and
25 declaring the result thereof.

1 Sec. 8. Section 46-151, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 46-151 The cost and expense of purchasing and acquiring
4 property and constructing the works and improvements ~~herein~~ provided
5 for, in the Irrigation District Act shall be wholly paid out of the
6 construction fund, or in the bonds of such district at their par
7 value, after having first advertised the same for sale as provided in
8 section 46-1,100, and having received no bids therefor of ninety-five
9 percent or upwards of their face value. In case such bonds or the
10 money raised by their sale is insufficient for the purposes for which
11 the bonds were issued, additional bonds may be issued, after
12 submission of the question at a general or special election to the
13 ~~qualified voters~~ electors of the district. In case of the issuance of
14 additional bonds, the lien for taxes for the payment of the interest
15 and principal of such issue shall be a subsequent lien to any prior
16 bond issue. However, the provisions of this section shall not apply
17 where the cost and expense of purchasing and acquiring property and
18 constructing the works and improvements ~~herein~~ provided for in the
19 Irrigation District Act are covered by contract between the district
20 and the United States. In lieu of the issuance of additional bonds,
21 the board of directors may provide for the completion of the
22 irrigation system of the district by the levy of an assessment
23 therefor in the same manner in which levy of an assessment is made
24 for the other purposes provided in ~~sections 46-101 to 46-1,111.~~ the
25 act.

1 Sec. 9. Section 46-179, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 46-179 If the assent ~~aforsaid~~ of the holders of the
4 bonds is filed and entered of record as ~~aforsaid~~, provided in
5 section 46-178 and if there are objections presented by any person
6 showing cause ~~as aforsaid~~ which have not been withdrawn, then the
7 board of directors may order an election to be held in the irrigation
8 district to determine whether an order shall be made excluding such
9 lands from the district as mentioned in the resolution. The notice of
10 such election shall describe the boundaries of all the lands which it
11 is proposed to exclude, and such notice shall be published for at
12 least two weeks prior to such election in a newspaper published
13 within the county where the office of the board of directors is
14 situated; and if any portion of such territory to be excluded lies
15 within another county or counties, then such notice shall be so
16 published in a newspaper published in each of such counties. Such
17 notice shall require the electors to cast ballots which shall contain
18 the words For exclusion, or Against exclusion, or words equivalent
19 thereto. Such election shall be conducted in ~~accordance with the~~
20 ~~general election laws of the state; Provided, no particular form of~~
21 ~~ballot shall be required.~~ conformity with the provisions of the
22 Irrigation District Act governing election of members of the board of
23 directors.

24 Sec. 10. Section 46-185, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 46-185 Whenever a majority of the assessment payers,
2 representing a majority of the number of acres of irrigable land
3 within any irrigation district, ~~shall~~ petition the board of directors
4 to call a special election, for the purpose of submitting to the
5 ~~qualified~~ electors of such irrigation district a proposition to vote
6 on the discontinuance of such irrigation district and a settlement of
7 its bonded and other indebtedness, it shall be the duty of the board
8 of directors to call an election, setting forth the object of the
9 same, and to cause a notice of such election to be published in some
10 newspaper in each of the counties in which the district is located,
11 and in which a newspaper is published, for a period of thirty days
12 prior to such election, setting forth the time and place for holding
13 such election in each of the voting precincts in the district; and
14 shall also cause a written or printed notice of such election to be
15 posted in some conspicuous place in each of the voting precincts. It
16 shall also be the duty of the directors to provide ballots to be used
17 at such election, on which shall be written or printed the words For
18 discontinuance Yes, and For discontinuance No. The
19 ballots shall be placed in the hands of the proper election officers
20 in the several voting precincts of such district prior to the opening
21 of the polls on the day of such election unless the election is
22 conducted by mail; and the election shall be conducted in all
23 respects in the same manner as provided by law for the election of
24 ~~officers~~ members of the board of directors of the district. The
25 return of the election, together with the ballots cast thereat, shall

1 be certified by the several election boards of such district to the
2 board of directors within three days from and after the election,
3 which board shall, on or before the third day after the election,
4 canvass such returns and declare the result of such election, which
5 result shall be at once recorded in the records of the ~~district~~ board
6 of directors.

7 Sec. 11. Section 46-1,145, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 46-1,145 If such contract provides for payments to be
10 made extending for a period of more than one year from the date of
11 making the contract, the board of directors of such irrigation
12 district shall submit the contract to the ~~legal voters~~ electors of
13 the district at any general election, or at a special election called
14 therefor for the approval or disapproval of the contract. If a
15 special election is called for such purpose the notice of election,
16 conduct of the election and canvass of votes shall so far as
17 practicable be the same as elections held for the purpose of voting
18 upon the issuance of bonds. The ballots at the election shall have
19 printed thereon For approval of contract for water supply, and
20 Against approval of contract for water supply. The notice of the
21 election need not give the entire contract but shall be sufficient if
22 it shall state in a general way the substance of the proposed
23 contract. If a majority of the ~~voters~~ electors that vote on the
24 proposition vote for approval of the contract, the board of directors
25 shall enter into the contract and shall thereafter, at the time the

1 other taxes of the district are levied, levy a tax on the taxable
2 property of the district sufficient to pay the amount due and to
3 become due on the contract before the next annual levy in the
4 district.

5 Sec. 12. Section 46-1,160, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 46-1,160 It shall be the duty of the board of directors
8 of the irrigation districts to be merged to provide ballots to be
9 used at such election. The ballots shall be placed in the hands of
10 the public election officers in the several voting precincts of each
11 district prior to the opening of the polls on the day of such
12 election unless the election is conducted by mail, and the election
13 shall be conducted in all respects in the same manner as provided by
14 law for the election of members of the board of directors of the
15 districts. The return of the election, together with the ballots cast
16 thereat, shall be certified by the election boards of such districts
17 to the persons who will serve as the board of directors of the merged
18 district if the merger is approved, within three days after the
19 election, which board shall, on or before the third day after the
20 election, canvass such returns and declare the result of such
21 election, which result shall be at once recorded by the secretary of
22 the board of directors in the records of the district boards and
23 certified to the county clerk.

24 Sec. 13. Original sections 46-101, 46-102, 46-110,
25 46-111, 46-115, 46-116, 46-117, 46-151, 46-179, 46-185, 46-1,145, and

1 46-1,160, Reissue Revised Statutes of Nebraska, are repealed.