

LEGISLATIVE BILL 1509

Approved by the Governor March 24, 1972

Introduced by Public Works Committee, C. W. Holmquist, 16th District, Chairman; Irving F. Wiltse, 1st District; Richard F. Proud, 12th District; Richard Lewis, 38th District; Leslie A. Stull, 49th District; Roland A. Luedtke, 28th District; LeRoy Pfister, 17th District; Ernest Chambers, 11th District

AN ACT to amend sections 46-109 and 46-144, Reissue Revised Statutes of Nebraska, 1943, relating to irrigation districts; to change the acreage required for an increase in the number of directors; to authorize, clarify and extend the purpose of special elections and assessments; to provide for issuance of warrants to borrow money for projects and to pay for same out of special assessment for a term of years not to exceed twenty years; to provide for the merger of districts as prescribed; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 46-109, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-109. The county board shall also make an order dividing the district into three divisions as nearly equal in size as may be practicable, which shall be numbered first, second, and third, and one director shall be elected for each division; Provided, that in districts comprising over thirty twenty-five thousand acres, the electors thereof may determine by a majority vote to increase the number of directors in any multiple of three up to nine, ~~---Whereupon~~ whereupon the district may be divided into as many divisions as there are directors agreed upon. One third of the number of directors so elected shall retire each year and the order of their retirement may be agreed upon by the directors of the district, and successors shall be elected in the manner provided for the election of directors in other districts. The election for the increased number of directors shall be called upon a petition signed by twenty per cent of the electors of the district presented to the then board of directors.

Sec. 2. That section 46-144, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-144. The board of directors may at any time, when in its judgment it may be advisable, call a special election and submit to the qualified electors of the district the question whether or not a special assessment shall be levied for the purpose of raising money to be applied for any of the purposes provided for in sections 46-101 to 46-1,111, including the purpose of creating a construction fund to be financed by the issuance of warrants, the principal of which warrants shall be payable, in not to exceed twenty years, with interest paid annually thereon not to exceed seven per cent per annum. Such warrants may not be issued in the aggregate to exceed ninety per cent of the fund anticipated to be raised over the years by special assessment authorized in this section. Such election must be called upon the notice prescribed, and the same shall be held and the result thereof determined and declared in all respects in conformity with the provisions of said sections. The notice of such election must specify the aggregate amount of money proposed to be raised, and the purpose for which it is intended to be raised, at such election the number of years in which such special assessment will be made, and whether or not warrants as authorized in this section will be to finance the construction fund so that contracts may be let and the project completed before collection of the tax. The ballots shall contain the words Assessment Yes, or Assessment No. If a majority of the votes are Assessment Yes, the board shall at the time of the annual levy thereunder, levy an assessment sufficient to raise the amount paid. The rate of assessment shall be ascertained by deducting fifteen per cent for anticipated delinquencies from the aggregate assessed value of the property in the district as it appears on the assessment roll for the current year, and then dividing the sum by the remainder of such aggregate assessed value. The assessment so levied and computed shall be entered on the assessment roll and upon the tax list by the county clerk and collected at the same time and in the same manner as other assessments, and all revenue laws of this state for the collection and sale of land for taxes are hereby made applicable to the assessment herein provided for; and when collected such assessment shall be paid over by the county treasurer to the district treasurer for the purpose specified in the notice in such special election.

Sec. 3. Any two or more irrigation districts may merge into one district if a petition for merger

signed by a majority of the board of directors of each district or signed by a majority of the electors of each district is filed with the boards of directors of the districts to be merged. Such petition shall include a plan for the merger, which plan shall contain:

(1) A description of the proposed boundaries of the merged district and a list of lands;

(2) A summary of the reasons for the proposed merger;

(3) A summary of the terms on which the merger is to be made between the merged districts and such terms shall include a provision for three divisions as nearly equal in size as may be practicable, which shall be numbered first, second, and third, and two directors shall be elected from each division;

(4) The amount of outstanding indebtedness of each district and proposed disposition thereof;

(5) The equitable adjustment of all property, debts and liabilities among the districts involved;

(6) The name of the proposed district; and

(7) Such other matters as the petitioners shall determine proper to be included. A certified copy of the petition for merger shall be filed with the Department of Water Resources and the department shall either approve or disapprove such petition within twenty days. The boards of directors of the districts shall not take further action without such approval.

Sec. 4. If there are outstanding bonds of an irrigation district proposing to merge, or if such a district shall have entered into a contract with the United States, as provided in section 46-126 or 46-156, then the board shall notify the holders of such outstanding bonds that a petition for merger has been filed and the holders of such outstanding bonds may give their assent in writing to the effect that they severally consent to any merger that may be approved by the district and in case of such contract with the United States, the Secretary of Interior shall be notified that a merger of such district is proposed and the Secretary of Interior may assent to such merger. The assents shall be filed with the boards of directors of the districts proposed to be merged and shall be recorded in the minutes of each board and such minutes, or a certified copy thereof, shall be admissible in evidence with the same effect as an assent, but if such assent of the

bondholders and, in the case of contract with the United States, such assent of the Secretary of Interior is not filed, the board shall deny and dismiss the petition for merger.

Sec. 5. When such plan has been approved by the Department of Water Resources it shall be designated as the final approved plan and shall be submitted to a vote as provided in section 6 of this act.

Sec. 6. Not less than thirty days nor more than sixty days after the designation of the plan as the final approved plan, the proposition of the adoption or rejection of such proposed plan of merger shall be submitted by the boards of directors at a special election to all the electors of the irrigation districts which will be affected by the merger plan. Notice of such election shall be given by posting a notice in three public places in each election precinct in each district affected by the merger for at least twenty days, and also by publication of such notice in a newspaper of general circulation in the county where the office of the board of directors of each district affected by the merger is required to be kept once a week for three successive weeks.

Sec. 7. The election notice shall:

(1) State that the election has been called for the purpose of affording the electors an opportunity to approve or reject the plan of merger;

(2) Contain a description of the boundary of the proposed district;

(3) Contain a statement giving a summary of the reason for the proposed merger including a summary of the terms on which the merger is to be made, and the amount of outstanding indebtedness of each district;

(4) State the equitable adjustments of all property, debts and liabilities among the districts involved;

(5) State the name of the proposed district;

(6) Contain such other matters as are set out in the merger plan;

(7) Specify the time of holding the election; and

(8) Name the directors of the districts to be merged who shall constitute the first board of directors

of the new district.

Sec. 8. It shall be the duty of the directors of the districts to be merged to provide ballots to be used at such election. The ballots shall be placed in the hands of the public election officers in the several voting precincts of each district prior to the opening of the polls on the day of such election, and the election shall be conducted in all respects in the same manner as provided by law for the election of directors of the districts. The return of the election, together with the ballot cast thereat, shall be certified by the election boards of such districts to the persons who will serve as the board of directors of the merged district if the merger is approved, within three days after the election, which board shall, on or before the third day after the election, canvass such returns and declare the result of such election, which result shall be at once recorded in the records of the district boards and certified to the county clerk.

Sec. 9. The directors serving on the boards of directors of such merging districts shall constitute the first board of directors of the new district if the merger is approved. Such board of directors shall determine a method of setting the terms of office, so that two directors' terms on the new board shall be for one year, two for two years and three for three years. Each year thereafter two directors shall be elected for a term of three years.

Sec. 10. If at such election a majority of all votes cast at the election in each district are not in favor of such merger, the merger plan shall be defeated and shall not be placed in effect. If at such election a majority of all votes cast at the election in each district shall be in favor of such merger, the merger shall be effective immediately and the merged district shall assume all rights, assets and liabilities of the merged districts.

Sec. 11. Whenever two or more districts are involved in a merger plan, such districts shall continue to be responsible for any indebtedness incurred before the merger takes place unless a different arrangement is included in the plan voted upon by the electors; Provided, that when the voters approve such merger, the merged district shall succeed to all the property, contracts and obligations of all the districts so merged into it and shall assume all of their valid contracts and obligations.

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Sec. 12. That original sections 46-109 and 46-144, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 13. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.