

## LEGISLATIVE BILL 193

Approved by the Governor March 1, 1971

Introduced by Rudolf C. Kokes, 41st District; Herb Nore, 22nd District

AN ACT to amend section 46-541, Reissue Revised Statutes of Nebraska, 1943, relating to reclamation districts; to extend the time for corporate existence; to repeal the original section; and to declare an emergency.

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

Section 1. That section 46-541, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-541. The board shall have power on behalf of the districts:

(1) To have perpetual succession; Provided, that all districts organized prior to January 1, 1950, and which districts have not entered into a bona fide construction of their works, shall within ten fifteen years following January 1, 1961, cause to be submitted to the qualified electors of the district the following question:

Shall the district be continued for an additional ten fifteen years?

... Yes

... No

The election shall be held in the same manner set out in section 46-564, relating to submission to qualified electors for the approval of bonded indebtedness.

In the event a majority of the qualified voters voting in such election vote yes, then such district shall be continued for an additional ten fifteen years. For all districts organized after January 1, 1950, and not having entered into a bona fide construction of their works before January 1, 1961, the directors shall, within ten fifteen years following January 1, 1961, cause to be submitted the same question to the qualified electors of the district. All districts organized after November 1, 1953, which districts have not entered into a bona fide construction of their works within ten fifteen years after the first day of July of the year of

actual assessment of the tangible property of the district shall submit to the qualified electors of the district the question of whether the district shall be continued for an additional ten fifteen years; Provided, that in the event a district shall have pending before the Congress of the United States a bill for the authorization or reauthorization of its project at the expiration of any one of such ten--year fifteen-year periods, the district shall be continued until such authorization or reauthorization is granted by the Congress of the United States and appropriations made for the actual construction of its work, which additional period shall not exceed six ten years from the expiration of the ten-year fifteen-year period.

If at the end of the ten--year fifteen-year period, plus the additional six--year ten-year period granted while its project is pending before the Congress of the United States for authorization or reauthorization and an appropriation for the actual construction of its works, no physical construction of any of its works has been started, then the same question shall again be submitted to the qualified electors. In the event a majority of the qualified voters voting in such election vote yes, then such district shall be continued for an additional fifteen years.

In the event of a failure to receive a majority affirmative vote of the voters voting in such election, the district shall be dissolved, and the district shall submit to the department a full and complete audit by a public accountant showing the assets possessed by the district. Thereupon the department shall enter an order providing that within sixty days the assets of such district shall be liquidated, all rights granted by the department be canceled, and any assets on hand be divided as follows: (a) All bills payable and all expenses of dissolution shall be deducted from the assets and paid; and (b) the balance remaining shall be divided proportionately among the operating public school districts of the district in the proportion that the number of acres in each school district bears to the total number of acres of all of the school districts within the boundaries of the district. If the district is confined to one county, distribution shall be made by the county treasurer of such county. If the district extends into more than one county, the funds for disbursement to such school districts shall be paid to the county within which the schoolhouses are located for distribution to such school districts;

(2) To take by appropriation, grant, purchase, bequest, devise, or lease, and to hold and enjoy water rights and waterworks, and any and all real and personal property of any kind within or without the district necessary or convenient to the full exercise of its powers; to purchase, sell, lease, encumber, alienate, or otherwise dispose of waterworks, real and personal property; to enter into contracts for furnishing water service for use within the district; to acquire, construct, operate, control, and use any and all works, facilities, and means necessary or convenient to the exercise of its power, both within and without the district, for the purpose of providing for the use of such water within the district; and to do and perform any and all things necessary or convenient to the full exercise of the powers herein granted;

(3) To have and to exercise the power of eminent domain in addition to any other rights and powers herein conferred upon any district organized under the provisions of sections 46-504 to 46-573, for the purposes and after the manner provided for in sections 76-704 to 76-724; Provided, when any reclamation district shall exercise the power of eminent domain as to water being used for power purposes it shall not include any other properties of any irrigation district, public power district, or public power and irrigation district, organized and existing under the laws of the State of Nebraska;

(4) To construct and maintain works and establish and maintain facilities across or along any public street or highway and in, upon, or over any vacant public lands which public lands are now, or may hereafter become, the property of the State of Nebraska, and to construct works and establish and maintain facilities across any stream of water or watercourse; Provided, that the district shall promptly restore any such street or highway to its former state of usefulness as nearly as may be, and shall not use the same in such manner as to completely or unnecessarily impair the usefulness thereof. In the use of streets, the district shall be subject to the reasonable rules and regulations of the county, city, or village where such streets lie concerning excavation and the refilling of excavation, the relaying of pavements, and the protection of the public during periods of construction; Provided, that the district shall not be required to pay any license or permit fees, or file any bonds; the district may be required to pay reasonable inspection fees;

(5) To contract with the government of the

United States or any agency thereof for the construction, preservation, operation, and maintenance of tunnels, reservoirs, regulating or reregulating basins, diversion works and canals, dams, power plants, drains, and all necessary works incident thereto, and to acquire rights to the use of water from such works; and enter into contracts for the use of water from such works to persons and corporations, public and private;

(6) To list in separate ownership the lands within the district which are susceptible of irrigation from the district sources; to enter into contracts to furnish water service to all such lands; and to levy assessments as hereinafter provided, against the lands within the district to which water service is furnished on the basis of the value per acre-foot of water service furnished to the lands within the district; Provided, that the board may divide the district into units and fix a different value per acre-foot of water in the respective units, and in such case shall assess the lands within each unit upon the same basis of value per acre-foot of water service furnished to lands within such unit;

(7) To fix rates at which water service, not hereinbefore provided for, may be furnished; Provided, that rates shall be equitable although not necessarily equal or uniform for like classes of service throughout the district;

(8) To adopt plans and specifications for the works for which the district was organized, which plans and specifications may at any time be changed or modified by the board; such plans shall include maps, profiles, and such other data and descriptions as may be necessary to set forth the location and character of the works, and a copy thereof shall be kept in the office of the district and open to public inspection; and such plans and specifications and changes in same shall be approved by the department in accordance with the statutes;

(9) To appropriate and otherwise acquire water rights within or without the state; to develop, store, and transport water; to provide, contract for, and furnish water service for municipal and domestic purposes, irrigation, power, milling, manufacturing, mining, metallurgical, and any and all other beneficial uses and to derive revenue and benefits therefrom; to fix the terms and rates therefor; to make and adopt plans for and to acquire, construct, operate, and maintain dams, reservoirs, canals, conduits, pipe lines,

tunnels, power plants, transmission lines, and any and all works, facilities, improvements, and property necessary or convenient therefor; and in the doing of all of such things to obligate itself and execute and perform such obligations according to the tenor thereof; Provided, the contracts for furnishing of water service for irrigation and domestic purposes as hereinbefore provided shall only be made for use within the district;

(10) To invest any surplus money in the district treasury, including such money as may be in any sinking fund established for the purpose of providing for the payment of the principal or interest of any contract, or bond, or other indebtedness or for any other purpose, not required for the immediate necessities of the district, in its own bonds, or in treasury notes or bonds of the United States; such investment may be made by direct purchase of any issue of such bonds or treasury notes, or part thereof, at the original sale of the same, or by the subsequent purchase of such bonds or treasury notes; any bonds or treasury notes thus purchased and held may, from time to time, be sold and the proceeds reinvested in bonds or treasury notes as above provided; sales of any bonds or treasury notes thus purchased and held shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the money with which the bonds or treasury notes were originally purchased was placed in the treasury of the district; and the functions and duties authorized by this subdivision shall be performed under such rules and regulations as shall be prescribed by the board;

(11) To refund bonded indebtedness incurred by the district under and pursuant to such rules and regulations as shall be prescribed by the board;

(12) To borrow money, incur indebtedness, and to issue bonds or other evidence of such indebtedness;

(13) To adopt by-laws not in conflict with the Constitution and laws of the state for carrying on the business, objects, and affairs of the board and of the district; and

(14) Enter into agreements for water service with agencies of the federal government or the Game and Parks Commission through which water will be made available, at rates determined as provided in subdivision (7) of this section, for hunting, fishing, and recreational development; Provided, that such water service shall not exceed the amount of water which may

LB193

be appropriated for such purposes by order of the Department of Water Resources and such amounts shall be included in the total appropriative right of the district or districts involved.

Sec. 2. That original section 46-541, Reissue Revised Statutes of Nebraska, 1943, is repealed.

Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.