

LEGISLATIVE BILL 1045

Approved by the Governor March 17, 1988

Introduced by Schmit, 23; Korshoj, 16

AN ACT relating to natural resources districts; to amend sections 2-3207, 2-3208, and 2-3210 to 2-3212, Reissue Revised Statutes of Nebraska, 1943, sections 2-3202 and 2-3215, Revised Statutes Supplement, 1986, and section 2-3213, Revised Statutes Supplement, 1987; to change provisions relating to changing district boundaries; to provide for transition into new districts; to change provisions relating to boards of directors; to provide for the election of the board of directors of merged districts; to eliminate hearing provisions; to harmonize provisions; and to repeal the original sections, and also section 2-3209, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 2-3202, Revised Statutes Supplement, 1986, be amended to read as follows:

2-3202. As used in Chapter 2, article 32, and ~~sections 6 to 8 of this act~~, unless the context otherwise requires:

- (1) Commission shall mean the Nebraska Natural Resources Commission;
- (2) Natural resources district or district shall mean a natural resources district operating pursuant to Chapter 2, article 32;
- (3) Board shall mean the board of directors of a district;
- (4) Director shall mean a member of the board;
- (5) Other special purpose districts shall mean rural water districts, ground water conservation districts, drainage districts, reclamation districts, and irrigation districts; and
- (6) Manager shall mean the chief executive hired by a majority vote of the board to be the supervising officer of the district.

Sec. 2. That section 2-3207, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3207. ~~The Legislature shall, until the~~

first Thursday after the first Tuesday in January 1975, have the power to With the approval of the affected natural resources districts, the commission may change the boundaries of natural resources districts, to adjust territorial limits of two or more districts, to combine merge two or more such districts into a single district, and to divide one district into two or more new districts, or divide and merge one district into two or more other existing districts. The commission shall have the power to may also provide for the merger with such districts of other special purpose districts as enumerated in section 2-3201, and on the first Thursday after the first Tuesday in January 1975, the commission shall assume all other powers enumerated in this section. In exercising such powers, the commission shall be bound by the criteria and procedures provided by sections 2-1502 to 2-1504, 2-1507, 2-3201 to 2-3259, 31-101-01, 31-301-01, 31-401-01, 46-613-01, 46-614-01, and 46-1001-01 for the initial establishment of natural resources districts and shall follow the procedure set forth in sections 2-3208 2-3201 to 2-3212 and sections 6 to 8 of this act.

Sec. 3. That section 2-3208, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3208. A hearing on proposed changes as provided by section 2-3207 may be initiated by any of the following methods:

- (1) By the commission on its own motion;
- (2) By written request of a majority of the directors of any or each natural resources district the boundaries of which are proposed to be changed or which is proposed to be merged or divided;
- (3) By petition, signed by twenty-five percent of the legal voters residing within the an area proposed to be transferred from one district to an adjoining district by the a change in boundaries; or
- (4) By formal written request of a majority of the directors or supervisors of any other special purpose district as enumerated in section 2-3201 wishing to merge with a natural resources district.

Such proposals shall set forth the existing boundaries of such districts and the any proposed new boundaries, or the legal description of lands proposed to be transferred to any adjoining district, or both and such other information as the commission requires.

Sec. 4. That section 2-3210, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3210. Within sixty days after such proposal for a change of boundaries, division, or merger is made and filed with the commission, the commission shall begin publication of the notices for a public hearing on the question. Notice requirements shall be satisfied by publishing such notice at least once a week for three consecutive weeks in a legal newspaper published or of general circulation in the areas affected. A public hearing shall then be held as set forth in the notice and in accord with law and the rules and regulations of the commission.

Sec. 5. That section 2-3211, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3211. After the hearing, as provided in section 2-3210, the commission shall determine, upon the basis of the proposed change, upon the facts and evidence presented at such hearing, upon consideration of the standards provided in section 2-3203 relative to the organization of districts, and upon such other relevant facts and information as may be available, whether such changes in boundaries, division, or merger would promote the public interest and would be administratively and financially practicable and feasible. The commission shall make and record such determination, shall make such other determinations as are required by sections 6 and 7 of this act, and shall notify the boards of the affected districts of such determinations in writing. No change in boundaries, division, or merger as provided for by sections 2-3207 to 2-3212 shall take place unless the boards of the affected districts favor such change, division, or merger.

Sec. 6. (1) Each new natural resources district established by merging two or more natural resources districts in their entirety shall assume all assets, liabilities, and obligations of such merged districts on the effective date of the merger.

(2) Whenever a change of boundaries, division of one district into two or more new districts, or division and merger of one district into two or more existing districts takes place, the commission shall determine the apportionment of any assets, liabilities, and obligations. Such apportionment shall be based on all relevant factors including, but not limited to, the proportionate land areas involved in the change, division, or merger and the extent to which particular assets, liabilities, or obligations are related to specific land areas. Interests in real estate and

improvements to real estate shall be assumed by the district in which they are located on the effective date of the change, division, or merger. The value of such interests in real estate and improvements shall be considered in the apportionment, and any such assets may be encumbered or otherwise liquidated by the assuming district to effect the proper apportionment.

(3) All taxes levied pursuant to section 2-3225, 46-673, or 46-674.19 and all assessments levied pursuant to sections 2-3254 to 2-3254.06 prior to the change of boundaries, division, or merger shall be apportioned by the commission on the basis of the relationship between the intended uses of such taxes or assessments and the land areas involved in the change, division, or merger. Taxes or assessments levied pursuant to sections 2-3254 to 2-3254.06, 46-673, and 46-674.19 which are in the possession of or payable to a district at the time of the change, division, or merger and taxes or assessments in the possession of or payable to any other special purpose district merged into a natural resources district shall be put into a special fund by the district receiving such assets and shall be expended as nearly as practicable for the purposes for which they were levied or assessed.

Sec. 7. If a change of boundaries, division, or merger requires the naming of a newly created natural resources district or the renaming of one or more existing districts, names shall be given by the commission at the time the change, division, or merger is approved. The board of directors of a district may recommend that a specific name be approved.

Sec. 8. In making the determinations required by section 2-3211 and sections 6 and 7 of this act, the commission shall, whenever consistent with applicable law and the state's interests, give effect to the desires of the affected natural resources districts including the terms of any written agreements between or among such districts.

Sec. 9. That section 2-3212, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3212. If the boards of the affected districts favor a change of boundaries, division, or merger as provided by section 2-3211 and sections 6 and 7 of this act, the various affected district boards shall each present to the Secretary of State an application, signed by them, for a certificate evidencing the change, division, of boundaries or merger. The application shall be filed with the

Secretary of State accompanied with a statement by the commission certifying that the boundary between the districts has been changed change, division, or merger is in accordance with the procedures prescribed in sections 2-3207 to 2-3212 and sections 6 to 8 of this act and setting forth the any new boundary line, or the legal descriptions of the lands transferred or both; other information as in the judgment of the commission and Secretary of State ~~shall be~~ is adequate to describe such boundary changes change, division, or merger. of districts- When the application and statement have been filed with the Secretary of State, the change, division, or merger of boundary shall be deemed effective and the Secretary of State shall issue to the directors of each of the districts a certificate evidencing the change, division, or merger. of boundaries-

Sec. 10. That section 2-3213, Revised Statutes Supplement, 1987, be amended to read as follows:

2-3213. (1) Each Except as provided in subsections (2) and (3) of this section, each district shall be governed by a board of directors of five, seven, nine, eleven, thirteen, fifteen, seventeen, nineteen, or twenty-one members. The commission shall determine the number of directors and in making such determination shall consider the complexity of the foreseeable programs and the population and land area of the district. Districts shall be political subdivisions of the state, shall have perpetual succession, and may sue and be sued in the name of the district.

(2) At least six months prior to the primary election, the board of directors of any natural resources district may request that the number of directors for the district be changed. Such request shall be directed to the commission and shall be accompanied by proposed new subdistrict boundaries to accommodate the increase or decrease in the number of directors and a plan to accomplish such change. In determining whether to approve such requested changes, the commission shall utilize the criteria found in subsection (1) of this section and in subsection (1) of section 2-3214, but the commission shall have the authority only to approve or deny the request and not to specify any other number of directors. No Except as provided in subsection (5) of this section, no director's term of office shall be shortened as a result of any change in numbers. Any reduction in the number of directors shall be made as directors take office during the two succeeding elections or more quickly if

the reduction can be made by not filling vacancies on the board and if desired by the board and approved by the commission. If necessary to preserve staggered terms for directors when the reduction in number is made in whole or in part through unfilled vacancies, the board shall request and the commission may approve a one-time election of one or more directors for a two-year term. The Director of Natural Resources shall inform the Secretary of State whenever any such one-time elections have been approved. Notwithstanding subsection (1) of this section, the district may be governed by an even number of directors during the two-year transition to a board of reduced number.

(3) Whenever any change of boundaries, division, or merger results in a natural resources district director residing in a district other than the one to which such director was elected to serve, such director shall automatically become a director of the board of the district in which he or she then resides. Except as provided in subsection (5) of this section, all such directors shall continue to serve in office until the expiration of the term of office for which they were elected. Directors or supervisors of other special purpose districts merged into a natural resources district shall not become members of the natural resources district board but may be appointed as advisors in accordance with section 2-3228. No later than six months after any change, division, or merger, each affected board, in accordance with the procedures and criteria found in this section and section 2-3214, shall submit to the commission for approval a recommended number of directors for the district as it then exists, the option chosen for nomination and election of directors, and, if appropriate, new subdistrict boundaries.

(4) To facilitate the task of administration of any board increased in size by a change of boundaries or merger, such board may appoint an executive committee to conduct the business of the board in the interim until board size reductions can be made in accordance with this section. An executive committee shall be empowered to act for the full board in all matters within its purview unless specifically limited by the board in the establishment and appointment of the executive committee.

(5) Notwithstanding the provisions of section 2-3214 and subsections (3) and (4) of this section, the board of directors of any natural resources district established by merging two or more districts in their

entirety may request that all directors be nominated and elected at the first primary and general elections following the year in which such merger becomes effective. In districts which have one director elected from each subdistrict, each director elected from an even-numbered subdistrict shall be elected for a two-year term and each director from an odd-numbered district and any member to be elected at large shall be elected for a four-year term. In districts which have two directors elected from each subdistrict, the four candidates receiving the highest number of votes at the primary election shall be carried over to the general election, and at such general election the candidate receiving the highest number of votes shall be elected for a four-year term and the candidate receiving the second highest number of votes shall be elected for a two-year term. Thereafter each director shall be elected for a four-year term.

Sec. 11. That section 2-3215, Revised Statutes Supplement, 1986, be amended to read as follows:

2-3215. A vacancy on the board shall exist in the event of the death, disability, resignation, or removal from the district or subdistrict of any director, ~~or the elimination or detachment from the district of the territory in which a director resides.~~ After notice and hearing, a vacancy shall also exist in the event of the absence of any director from more than two consecutive regular meetings of the board, unless such absences are excused by a majority of the remaining board members. In the event of a vacancy from any of such causes, or otherwise, such vacancy shall be filled by the board of directors. The person so appointed shall have the same qualifications as the person whom he or she succeeds. Such appointments shall be in writing, for the remainder of the unexpired term, and until a successor is elected and qualified. The written appointment shall be filed with the Secretary of State.

Sec. 12. That original sections 2-3207, 2-3208, and 2-3210 to 2-3212, Reissue Revised Statutes of Nebraska, 1943, sections 2-3202 and 2-3215, Revised Statutes Supplement, 1986, and section 2-3213, Revised Statutes Supplement, 1987, and also section 2-3209, Reissue Revised Statutes of Nebraska, 1943, are repealed.