

LEGISLATIVE BILL 26

Approved by the Acting Governor January 27, 1989

Introduced by Labeledz, 5, Chairperson, Executive Board

AN ACT relating to appeals; to amend sections 23-320 and 31-438, Reissue Revised Statutes of Nebraska, 1943; to correct internal references to an appeal procedure; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 23-320, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-320. Any person who appeared and filed a remonstrance as to the benefits received by him or her through such improvement or as to the amount of his or her assessment before the supervisors or board of commissioners at the hearing ~~heretofore provided for as provided in section 23-313~~ shall be allowed an appeal to the district court of the county by the same procedure as is provided in section ~~31-413~~ 31-412. On such appeal the only questions that shall be tried shall be the questions raised before the board by the remonstrance. On such trial the report of the engineer shall be admissible in evidence and nothing in this section ~~contained~~ shall be construed as authorizing or permitting the stoppage, prevention, or delay of the proposed work. If more than one party appeals, the same appeals shall be consolidated and tried together and the rights of each appellant separately determined. If the court finds for any appellant upon his or her remonstrance, it shall amend the report and the schedule of the assessment in accordance with its finding. ~~Said~~ The amended report and schedule shall be filed with the county clerk and a copy ~~of same~~ forwarded to the Director-State Engineer. If on appeal the court ~~shall find~~ finds against the remonstrants, it shall dismiss ~~said the~~ the appeal at the cost of appellant.

Sec. 2. That section 31-438, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-438. When it ~~shall be~~ is deemed advisable by the board of directors of ~~said a~~ district to enlarge the boundaries thereof, and the conditions mentioned in section 31-401 apply to such enlarged territory, a

petition for the enlargement of the district, signed by a majority of the board of directors of the district, and by ten owners of land within the territory proposed to be added to the district, or, if there shall be ~~are~~ less than twenty such owners, then by at least one-fourth ~~thereof,~~ of such owners, may be filed with the county clerk of the county where the original petition was filed. Upon the filing of a petition for the enlargement of a district, and thereupon the county board, county surveyor, and county clerk of the county shall proceed in all respects as provided in sections 31-402 to 31-408, so far as applicable. The board of directors of the district, at the time of filing such petition for enlargement with the county clerk, may prescribe the conditions on which the additional territory is to be added, which conditions shall be based upon the work previously done by the district, and with a view to equalizing assessments, according to benefits, and such conditions shall be binding on the enlarged district if formed. Any, PROVIDED, HOWEVER, any person may appeal to the district court from the imposing of such conditions in the manner provided for appeals by section ~~31-413, which~~ 31-412. The appeal shall be taken within thirty days from the time of completing the canvass of the votes of such election. The additional territory shall be deemed added to the district only ~~in case that if~~ a majority of the votes voted thereon in the original district and a majority of the votes voted thereon in the proposed new territory shall each be in favor of such enlarged district. The board of directors of the original district shall constitute the board of directors of the enlarged district.

Sec. 3. That original sections 23-320 and 31-438, Reissue Revised Statutes of Nebraska, 1943, are repealed.