

## HOUSE BILL No. 2643

By Joint Committee on Energy and Environmental Policy

2-7

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1 AN ACT concerning water; relating to reservoir improvement districts.

2  
3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. This act shall be known and may be cited as the reservoir  
5 improvement district act.

6 Sec. 2. As used in this act, unless context otherwise requires:

7 (a) "Board" means the board of directors of a reservoir improvement  
8 district;

9 (b) "district" means a reservoir district for which organization is  
10 proposed or has been organized under the provisions of this act, and  
11 amendments thereto;

12 (c) "eligible water right holder" means any person:

13 (1) Holding a water right or permit, pursuant to K.S.A. 82a-701 *et*  
14 *seq.*, and amendments thereto, to appropriate water from a reservoir;

15 (2) with a contract to withdraw and use water pursuant to K.S.A. 82a-  
16 1301 *et seq.*, and amendments thereto; or

17 (3) with a water appropriation right in a water assurance district  
18 pursuant to K.S.A. 82a-1330 *et seq.*, and amendments thereto;

19 (d) "general plan" means a preliminary engineering report describing  
20 the characteristics of the reservoir, the nature and methods of dealing with  
21 the bed and water problems in the reservoir or the reservoir watershed and  
22 the projects proposed to be undertaken by the district. It shall include  
23 maps, descriptions and any other data as may be necessary for the location,  
24 identification and establishment of the character of the work to be  
25 undertaken and any other data and information as the director of the  
26 Kansas water office may require;

27 (e) "person" means any person, firm, partnership, association or  
28 corporation;

29 (f) "specific project" means any project outlined and proposed by the  
30 board of directors and may constitute all or part of the general plan;

31 (g) "steering committee" means the group of eligible water right  
32 holders, not less than the number to be chosen for the board of directors,  
33 who shall serve as the governing body of the proposed reservoir  
34 improvement district until the first board of directors is elected;

35 (h) "water right" shall have the meaning provided in K.S.A. 82a-701,  
36 and amendments thereto; and

1 (i) "watershed" means all the area within the state draining toward a  
2 selected point on a reservoir.

3 Sec. 3. Before any reservoir improvement district is organized, a  
4 petition shall be filed in the office of the secretary of state, signed by the  
5 eligible water right holders who have water rights totaling more than 20%  
6 of the combined quantities of all eligible water rights within the proposed  
7 district as shown by a verified enumeration of the eligible water right  
8 holders and the total combined quantities of all eligible rights taken by the  
9 director of the Kansas water office. A verified copy of the enumeration  
10 shall be attached to and filed with the petition in the office of the secretary  
11 of state.

12 Sec. 4. (a) Every petition filed pursuant to section 3, and amendments  
13 thereto, shall state:

14 (1) The name of the proposed district which shall include the name of  
15 the reservoir and end with the words "reservoir improvement district";

16 (2) a list of the water rights, by file number as recorded in the Kansas  
17 water office, to be included within the proposed district;

18 (3) a statement of the purposes for which the district is to be  
19 organized;

20 (4) a statement of the number of persons that will constitute the board  
21 of directors of the district, which shall be an odd number of not less than  
22 three nor more than five, together with the names and addresses of the  
23 persons who will constitute the original steering committee;

24 (5) any other matter deemed essential; and

25 (6) a request for the organization of the district as a nonprofit  
26 corporation.

27 (b) The petition shall be in substantially the following form:

28 BEFORE THE SECRETARY OF STATE OF THE STATE OF KANSAS

29 In the Matter of \_\_\_\_\_ Reservoir Improvement District

30 PETITION

31 Come now the undersigned persons and state that they own water rights  
32 in the \_\_\_\_\_ reservoir, for which a reservoir  
33 improvement district is proposed, and that each signer states that the  
34 signer's respective post office address is set forth beside the signer's name.  
35 That the purposes for which this district is organized are (state purposes).  
36 That a steering committee for the organization of the district is hereby  
37 fixed and constituted with five members; that the names of persons who  
38 will serve on the original steering committee, of which the first named  
39 shall be acting chairperson, and their respective addresses are as follows:

40  
41 (List names and addresses.)  
42

43 The governing body of the district shall be constituted in a board of

1 directors composed of (number) qualified members.

2 Wherefore, the undersigned, individually and collectively, request that  
3 a reservoir improvement district be organized in the manner provided by  
4 law, for the purposes set forth herein, and that the secretary of state and the  
5 director of the Kansas water office proceed diligently in the performance  
6 of their duties so that the organization of this proposed district may be  
7 completed and approved at the earliest possible time.

8 Submitted to the secretary of state this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.  
9

10 Sec. 5. A copy of the full petition, as required by section 3, and  
11 amendments thereto, shall be circulated among the eligible water right  
12 holders of the proposed district. All counterparts shall be filed with the  
13 secretary of state at the same time and shall be received and treated by the  
14 secretary as a single petition. The secretary of state shall determine the  
15 sufficiency or insufficiency of the petition on the basis of the information  
16 as to the number and qualification of signers as shown by the verified  
17 enumeration filed with the petition. The secretary of state shall endorse the  
18 findings and the date thereof on the face of the petition and shall notify in  
19 writing the person designated in the petition as the acting chairperson of  
20 the steering committee of the findings.

21 Sec. 6. (a) If the secretary of state finds the petition, as required by  
22 section 3, and amendments thereto, to be sufficient as to form and the  
23 number and qualifications of the petitioners, the secretary of state shall  
24 prepare a certified copy of the petition and transmit the same to the  
25 director of the Kansas water office within five days from the date of such  
26 finding. Upon receipt of such certified copy, the director of the Kansas  
27 water office shall institute an investigation of the proposed district, its  
28 water usage and purposes. Within 90 days after receipt of the copy, the  
29 director of the Kansas water office shall transmit a written report of the  
30 findings on the petition and the director's written approval or disapproval  
31 of the petition to the secretary of state and the acting chairperson of the  
32 steering committee named in the petition.

33 (b) The director of the Kansas water office shall approve such  
34 petition if the director finds that construction of works of improvement on  
35 the reservoir for which the district is proposed would benefit the  
36 sustainability, conservation and maintenance of such reservoir.

37 If the director of the Kansas water office approves such petition, the  
38 director shall transmit a certified copy of the report containing all findings  
39 to the secretary of state and to the chairperson of the steering committee  
40 named in the petition.

41 Sec. 7. (a) Within 10 days after receipt of a certified copy of the  
42 report from the director of the Kansas water office approving the petition  
43 or the petition as amended, the chairperson of the steering committee of

1 the proposed district shall call a meeting of the committee by mailing a  
2 written notice fixing the time and place of such meeting to each eligible  
3 water right holder in the proposed district. The committee shall meet at the  
4 time and place fixed in the notice for the purpose of adopting a resolution  
5 giving notice of an election at which all eligible water right holders shall  
6 be entitled to vote on the question of whether the district should be formed  
7 in accordance with the petition as approved by the director. A copy of such  
8 resolution shall be mailed to all eligible water right holders of the  
9 proposed district not less than 21 days prior to such vote. The resolution  
10 shall state when and where the election shall be held and the proposition to  
11 be voted on. It shall contain a copy of the petition as approved by the  
12 director and shall be signed by the chairperson and attested by the  
13 secretary of the steering committee. The steering committee shall conduct  
14 the election, canvass the vote and certify the results to the secretary of  
15 state and to the director of the Kansas water office.

16 (b) If eligible water right holders representing more than 50% of the  
17 combined quantities of the eligible water rights of the proposed district  
18 vote in favor of the organization and creation of the district, the secretary  
19 of state shall issue a certificate of incorporation for the district to the  
20 steering committee, such certificate shall be filed in the office of the  
21 register of deeds of each county in which all or a portion of the district  
22 lies. Upon the recordation of the certificate of incorporation, the district  
23 shall be authorized to function in accordance with the provision of this act  
24 and its certificate of incorporation.

25 (c) If eligible water right holders representing more than 50% of the  
26 combined quantities of the water rights within the proposed district vote  
27 against the organization and creation of the district, the secretary of state  
28 shall endorse that fact on the face of the petition and the proceedings shall  
29 be closed.

30 (d) No action attacking the legal incorporation of any reservoir  
31 improvement district organized under this section shall be maintained  
32 unless filed within 90 days after the issuance of the certificate of  
33 incorporation for such district by the secretary of state, nor shall the  
34 alleged illegality of the incorporation of any such district be interposed as  
35 a defense to any action brought after such time.

36 Sec. 8. If the organization of the proposed reservoir improvement  
37 district is defeated at the election or if the petition is disapproved by the  
38 director of the Kansas water office, the steering committee named in the  
39 petition shall determine the amount of money necessary to pay all of the  
40 costs and expenses incurred in the preparation and filing of the petition,  
41 and in the conduct of the election and the steering committee shall assume  
42 the obligation for the payment of such costs and expenses by assessing the  
43 eligible water right holders a fee in proportion to each such holder's water

1 right to the total of such water right. No cost shall be assessed by any state  
2 agency.

3 Sec. 9. All powers granted to reservoir improvement districts  
4 incorporated under the provisions of this act shall be exercised by a board  
5 of directors which shall be composed of an odd number of directors not  
6 less than three nor more than five as specified in the petition for creation  
7 of the district. Each director shall serve for a term of three years, and until  
8 a successor is elected and qualified, except that as nearly as possible  $\frac{1}{3}$  of  
9 the original board members designated in the petition for organization of  
10 the district shall serve for a term of one year,  $\frac{1}{3}$  for a term of two years and  
11  $\frac{1}{3}$  for a term of three years. Such directors shall serve without  
12 compensation, but shall be allowed actual and necessary expenses incurred  
13 in the performance of their official duties.

14 Sec. 10. (a) Within not more than 90 days after the recording of the  
15 certificate of incorporation, a meeting open to all eligible water right  
16 holders of the district shall be held by the steering committee for the  
17 election of the initial board of directors of the district. A notice of the  
18 meeting shall be mailed to all eligible water right holders by the steering  
19 committee at least 10 days prior to the date thereof.

20 (b) Each eligible water right holder shall have one vote and one  
21 additional vote for every 10% of the combined quantities of all water  
22 rights within the district. Each eligible water right holder in the district  
23 shall be entitled to vote for as many candidates as the number of directors  
24 that are to be elected.

25 (c) The candidates receiving the greatest number of votes cast shall  
26 respectively be declared elected. The board of directors, after being duly  
27 elected, shall elect from its number a president, vice-president, secretary  
28 and a treasurer. In districts having only three directors, the board shall  
29 elect one director to hold the offices of secretary and treasurer.

30 (d) A majority of the directors shall constitute a quorum for the  
31 transaction of business and a majority of those voting shall determine all  
32 actions taken by the board. In the absence of any of the duly elected  
33 officers, those directors present at any meeting may select a director to act  
34 as an officer *pro tem*.

35 (e) The elected board shall fill any vacancy occurring on the board  
36 prior to the expiration of the term of any director by selecting a  
37 replacement from among the eligible water right holders of the district to  
38 serve for the unexpired term.

39 Sec. 11. (a) In not less than 12 months, nor more than 13 months after  
40 the recording of the certificates of incorporation, and annually thereafter, a  
41 meeting shall be held for the election of directors whose terms expire and  
42 also to render a report on the financial condition and activities of the  
43 district, including the estimated construction date of all proposed projects

1 to be initiated within the next five years and the board's determination as  
2 to whether each of these projects is still cost effective and in the current  
3 public interest. Notice of the annual meeting shall be given at least 10 days  
4 prior to the date thereof to all members in the district.

5 (b) The number of directors of a district or the date of the annual  
6 meeting, or both, may be changed at an annual meeting if notice of the  
7 proposed changes is included in the notice for the annual meeting at which  
8 such changes are to be considered.

9 (c) Copies of the minutes of the annual meeting and report on the  
10 financial condition and activities of the district shall be furnished to the  
11 eligible water right holders of the district and the Kansas water office.

12 Sec. 12. Regular meetings of the board of directors shall be held no  
13 less than once each quarter on a day and place as is selected by the board  
14 of directors. Notice of such meeting shall be mailed to each director at  
15 least five days before the date of the meeting. Special meetings may be  
16 held at any time upon waiver of notice of such meeting by all directors or  
17 may be called by any two directors at any time. Notice in writing, signed  
18 by the persons calling any special meeting, shall be mailed to each director  
19 at least two days prior to the time fixed for such special meeting. A  
20 majority of directors shall constitute a quorum for the transaction of  
21 business and in the absence of any of the duly elected officers of the  
22 district a quorum at any meeting may select a director to act as such officer  
23 *pro tem*. Each meeting of the board, whether regular or special, shall be  
24 open to the public. Copies of the minutes of regular and special meetings  
25 shall be furnished to the eligible water right holders of the district and the  
26 Kansas water office.

27 Sec. 13. Each reservoir improvement district incorporated under the  
28 provisions of this act shall be a body politic and corporate and shall have  
29 the power to:

- 30 (a) Adopt a seal;
- 31 (b) sue and be sued by its corporate name;
- 32 (c) purchase, hold, sell and convey real and personal property and to  
33 execute such contracts as the board of directors deems necessary or  
34 convenient to enable it to carry out the purpose for which organized;
- 35 (d) construct, improve, maintain or operate works of improvement  
36 including such works necessary for the sustainability of reservoirs,  
37 including the conservation and maintenance of water for domestic,  
38 municipal, agricultural or industrial use;
- 39 (e) employ such professional, technical and clerical services and other  
40 assistance as deemed necessary by the board of directors;
- 41 (f) acquire real or personal property by gift;
- 42 (g) impose charges and incur indebtedness within the limitations  
43 prescribed by this act;

1 (h) cooperate and contract with:

2 (1) Persons, firms, associations, partnerships and private  
3 corporations;

4 (2) other reservoir improvement districts, watershed districts,  
5 drainage districts, cities of classes of this state;

6 (3) other local, state and federal governmental agencies; or

7 (4) drainage districts, watershed districts or other public corporations  
8 organized for similar purposes in any adjoining state;

9 (i) dissolve the district as provided for in this act;

10 (j) select a residence or home office for the reservoir improvement  
11 district, which shall be at a place in a county where the reservoir or any  
12 part of the reservoir is located; and

13 (k) take any other action necessary to achieve the purposes of the  
14 reservoir improvement district.

15 Sec. 14. (a) Upon the incorporation of the reservoir improvement  
16 district, the board shall cause work to be commenced on the preparation of  
17 a general plan of the district. In addition, there shall be prepared an  
18 estimate of costs as to installation, maintenance and operation of the  
19 proposed improvements. Upon completion of the general plan and  
20 estimates of costs, the board shall carefully examine and consider such  
21 plan. If they approve the general plan and estimate of cost, they shall  
22 transmit a complete copy of the general plan to the director of the Kansas  
23 water office and additional copies shall be made available upon request by  
24 the director of the Kansas water office. Copies of such plans, estimates and  
25 information in the Kansas water office shall be open to inspection by the  
26 public at all reasonable times.

27 (b) The director of the Kansas water office shall examine and study  
28 such general plans as to:

29 (1) Feasibility;

30 (2) coordination of the plan with any other plan for the reservoir for  
31 which the district is formed;

32 (3) the safety of the works and improvements proposed; and

33 (4) conformity with the intents and purposes of this act.

34 (c) The director of the Kansas water office shall transmit a written  
35 report of the results of such study and investigation to the board of  
36 directors, which shall include any changes or modifications which have  
37 been deemed necessary and which shall include a specific approval or  
38 disapproval of the general plan.

39 Sec. 15. (a) When the general plan is approved by the director of the  
40 Kansas water office, the board shall propose by resolution, that the cost to  
41 the district of all improvements contemplated in the plan be paid by  
42 imposing a charge against each eligible water right holder of the district in  
43 proportion to each such holder's water right. The total of such charges shall

1 be sufficient to enable the district to pay the cost of administering the  
2 general plan. The reservoir improvement district also may impose a charge  
3 against each eligible water right holder of the district in an amount  
4 sufficient to cover district operating costs. Charges paid by eligible water  
5 right holders of a reservoir improvement district may vary and shall be  
6 based on the principle of having each eligible water right holder pay for  
7 the *pro rata* quantity of water used from the reservoir. In determining the  
8 charge, the governing body of the district shall adopt rules which establish  
9 guidelines for prospective eligible water right holders.

10 (b) The board shall fix a time and place conveniently near the  
11 reservoir for a public hearing upon the general plan and the resolution  
12 proposing a method of financing costs of the works contemplated in the  
13 plan. A notice of such hearing shall be given in one publication at least 20  
14 days prior to the date fixed for the hearing, setting forth the time and place  
15 of hearing upon the plan and resolution, that a copy of the plan and  
16 resolution is available for public inspection in the office of the secretary of  
17 the district. Any eligible water right holder of the district desiring to be  
18 heard in the matter must file, in duplicate, with the secretary of the board  
19 at the secretary's office, at least five days before the date of the hearing, a  
20 written statement of such holder's intent to appear at the hearing and the  
21 substance of the views they wish to express. Upon receipt of any such  
22 statements, the secretary of the board shall immediately transmit one copy  
23 of the statements to the director of the Kansas water office. The director of  
24 the Kansas water office or the director of the Kansas water office's duly  
25 appointed representative may attend the hearing. At the hearing any  
26 eligible water right holder of the district who has filed a written statement  
27 shall be heard and may present information in support of the eligible water  
28 right holder's position in the matter. After hearing all such statements, the  
29 board, by resolution, shall adopt as official or reject the general plan. The  
30 board shall also adopt as official or reject the proposed method of  
31 financing the costs of the works contemplated in the general plan or  
32 determine that the general plan or the proposed method of financing or  
33 both should be modified. The board shall notify the director of the Kansas  
34 water office of the board's action to accept or reject the general plan and  
35 proposed method of financing. If it is determined that the general plan  
36 should be modified, any proposed changes approved by the board shall be  
37 incorporated in a modified general plan which shall be submitted to the  
38 director of the Kansas water office for further consideration.

39 (c) The director of the Kansas water office shall review the modified  
40 plan and shall transmit a supplemental written report of the results of the  
41 director's study and investigation to the board, including the director of the  
42 Kansas water office's written approval or disapproval of the modified  
43 general plan. If the modified general plan is approved by the director of



1 the Kansas water office, the board, by resolution, shall adopt the modified  
2 plan as the official general plan of the district and notify the director of the  
3 Kansas water office of the board's action. If it is determined that the  
4 proposed method of financing should be modified, the board shall give  
5 consideration to the modified method of financing and, following adoption  
6 of the general plan or an approved modification thereof, the board, by  
7 further resolution setting forth such modified method of financing, shall  
8 adopt it as the official method of the district for financing costs of the  
9 works contemplated in the official general plan. If a board is unable to  
10 carry out a general plan because insufficient funds have been provided,  
11 they may reconsider the general plan or the method of financing, or both,  
12 and by following the procedure set forth in subsections (a) and (b),  
13 resubmit a general plan or method of financing, or both.

14 Sec. 16. (a) Following the adoption of the general plan and adoption  
15 of the method of financing, the board of directors may determine the order  
16 in which specific projects contemplated by the general plan shall be  
17 undertaken. The board shall then cause accurate surveys of all work  
18 deemed necessary to be done and accurate estimates and calculations to be  
19 made by a competent engineer who shall prepare detailed construction  
20 plans and specifications showing the location, amount, and character of  
21 work to be done and the estimated cost of right of way, construction,  
22 maintenance and operation, which plans, specifications and estimates of  
23 costs shall be filed in the office of the secretary of the board and shall at all  
24 reasonable times be open to public inspection. The board shall carefully  
25 examine and consider the same and if they approve such plans,  
26 specifications and estimates of costs, they shall transmit a complete copy  
27 thereof to the director of the Kansas water office, who shall examine and  
28 study the plans and specifications as to conformance to the general plan  
29 and other applicable state laws on water use and control and transmit a  
30 written report of the results of the director's study and investigation to the  
31 board which report shall include any changes or modifications, which the  
32 director deems necessary, and which shall include a specific approval or  
33 disapproval of the plans and specifications.

34 (b) Ten years following approval of the general plan and every five  
35 years thereafter, the board shall review the general plan to determine if  
36 projects proposed to be undertaken by the district in its original plan are  
37 still feasible. A report of the review shall be given at a public meeting  
38 called for that purpose. This review is not required of reservoir  
39 improvement districts that have completed all the projects in the general  
40 plans.

41 Any revisions or amendments to the general plan shall be submitted to  
42 the director of the Kansas water office in the manner provided by section  
43 14, and amendments thereto.

1       Sec. 17. This act shall be deemed to be supplemental to existing laws  
2 relating to watershed districts, drainage districts, flood control, irrigation,  
3 soil conservation and related matters.

4       Sec. 18. (a) The board of directors of any reservoir improvement  
5 district, by resolution, may dissolve such district if such district has been  
6 incorporated under the provisions of this section for more than eight years  
7 and has not:

8       (1) Adopted a general plan of work and projects to be undertaken by  
9 the district;

10       (2) constructed or contracted to construct any works of improvement;  
11 or

12       (3) incurred any continuing obligations for maintenance of any works  
13 of improvement.

14       (b) The board of directors of any reservoir improvement district, by  
15 resolution, may dissolve such district if such district has been incorporated  
16 under the provisions of this section for more than four years and has not  
17 made substantial progress toward a general plan or work and projects to be  
18 undertaken by the district.

19       (c) A resolution to dissolve a reservoir improvement district shall be  
20 adopted by a  $\frac{2}{3}$  vote of all members of the board that are present and  
21 voting, but in no event less than a majority of all board members at a  
22 special meeting called for the purpose of dissolving the district.

23       (d) Notice of the special meeting to dissolve the district shall specify  
24 the purpose for which the meeting is to be called, provide for the calling of  
25 an election of eligible water right holders for the purpose of determining  
26 whether such district shall be dissolved. The board shall provide for the  
27 calling of such an election if written petitions signed by 20% of eligible  
28 water right holders in the district, as shown by a verified enumeration of  
29 such water rights are filed with the secretary of the board.

30       (e) The election to determine whether the district shall be dissolved  
31 shall be held and conducted in the same manner as provided by section 7,  
32 and amendments thereto, insofar as such provisions can be made  
33 applicable. If a majority of those voting on the proposition voted in favor  
34 of dissolution of the district, the board shall immediately certify the results  
35 of such election to the secretary of state, and the secretary of state  
36 thereupon shall issue and deliver to the secretary of such board a  
37 certificate of dissolution.

38       Sec. 19. (a) Upon receipt from the secretary of state of the certificate  
39 of dissolution of the reservoir improvement district under the provisions of  
40 this act, the secretary of the board of directors of the reservoir  
41 improvement district shall notify the directors of the reservoir  
42 improvement district of such certification.

43       (b) The directors shall immediately pay all obligations of said district,

1 including all costs incurred by the district, the director of the Kansas water  
2 office and the secretary of state in regard to the dissolution proceedings.

3 (c) Upon receipt of such notification from the state treasurer, the  
4 secretary of the district shall have the certificate of dissolution published  
5 once in a newspaper of general circulation, located in a county where the  
6 reservoir or a part thereof is located and proof of such publication shall be  
7 filed with the secretary of state's office. The effective date of the  
8 dissolution, unless otherwise provided, shall be the date on which the  
9 proof of publication is filed in the office of the secretary of state, but in no  
10 event shall the date of dissolution be a date prior to the date of publication  
11 of the certificate of dissolution.

12 Sec. 20. Any funds of a reservoir improvement district which is  
13 totally disorganized and dissolved under the provisions of this act shall be  
14 apportioned and paid back to the eligible water right holders in the same  
15 proportion as used in assessing fees. The reservoir improvement district  
16 treasurer, upon notification of receipt of a certificate of dissolution, shall  
17 immediately pay the amounts due each eligible water right holder, as such  
18 eligible water right holder may be entitled to receive.

19 Sec. 21. This act shall take effect and be in force from and after its  
20 publication in the statute book.  
21