

COMPILATION OF STATUTES
REGARDING THE
DEPARTMENT OF NATURAL RESOURCES

RECLAMATION DISTRICTS

Includes: I. Chapter 46, Article 5: Reclamation Districts

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RECLAMATION DISTRICTS

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CHAPTER 46

ARTICLE 5

RECLAMATION DISTRICTS

46-501. Reclamation districts; declaration of purpose.

It is hereby declared that to provide for the conservation of the water resources of the State of Nebraska and for the greatest beneficial use of water within the state, the organization of reclamation districts and the construction of works as herein defined by such districts are a public use and will: (1) Be essentially for the public benefit and advantage of the people of the State of Nebraska; (2) indirectly benefit all industries of the state; (3) indirectly benefit the State of Nebraska in the increase of its taxable property valuation; (4) directly benefit municipalities by providing adequate supplies of water for domestic use; (5) directly benefit lands to be irrigated from works to be constructed; (6) directly benefit lands now under irrigation by stabilizing the flow of water in streams and by increasing flow and return flow of water to such streams by replenishing and maintaining subsurface supplies; and (7) promote the comfort, safety and welfare of the people of the State of Nebraska.

Source: Laws 1947, c. 173, § 1(1), p. 523.

This and the succeeding section declare the public policy, use, benefits, and purpose of organization of reclamation

districts. Nebraska Mid-State Reclamation District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-502. Reclamation districts; declaration of policy.

It is therefor declared to be the policy of the State of Nebraska to (1) control, make use of and apply to beneficial use all available waters of this state to a direct and supplemental use of such waters for domestic, manufacturing, irrigation, power and other beneficial uses, (2) obtain from water of the state the highest benefit for domestic uses and irrigation of lands in Nebraska, (3) cooperate with the United States under the federal reclamation laws now or hereinafter enacted and other agencies of the United States Government in the construction and financing of works in the State of Nebraska as herein defined and for the operation and maintenance thereof, and (4) promote the greater prosperity and general welfare of the people of the State of Nebraska by encouraging the organization of reclamation districts as provided in sections 46-501 to 46-573.

Source: Laws 1947, c. 173, § 1(2), p. 524.

46-503. Act, how cited.

Sections 46-501 to 46-573 may be known and cited as Reclamation Act, the districts created hereunder may be termed reclamation districts; and the bonds which may be issued hereunder

may be called reclamation district bonds, which designation may be engraved or printed on their face.

Source: Laws 1947, c. 173, § 2(1), p. 524.

This and the eleven succeeding sections contain definition of terms used in Reclamation Act. Nebraska Mid-State

Reclamation District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-504. Publication, defined.

Wherever the term publication is used in sections 46-501 to 46-573 and no manner specified therefor, it shall be taken to mean once a week three consecutive weeks in at least one newspaper of general circulation in each county wherein such publication is to be made. It shall not be necessary that publication be made on the same day of the week in each of the three weeks, but not less than fourteen days (excluding the day of the first publication), shall intervene between the first publication and the last publication, and publication shall be complete on the date of the last publication.

Source: Laws 1947, c. 173, § 2(2), p. 524.

46-505. Person and public corporation, defined.

Wherever the term person is used in sections 46-501 to 46-573 and not otherwise specified, it shall be taken to mean a person, firm, partnership, limited liability company, association, or corporation other than a county, village, city, city and county, or other political subdivision. Similarly, the words public corporation shall be taken to mean counties, cities and counties, villages, cities, school districts, irrigation districts, water districts, park districts, public power districts, public power and irrigation districts, and all governmental agencies clothed with the power of levying or providing for the levy of general or special taxes or special assessments.

Source: Laws 1947, c. 173, § 2(3), p. 525; Laws 1993, LB 121, § 278.

46-506. Board, defined.

Wherever the word board is used in sections 46-501 to 46-573, and not otherwise specified, it shall be taken to mean the board of directors of the district organized under the provisions of sections 46-501 to 46-573.

Source: Laws 1947, c. 173, § 2(4), p. 525.

46-507. Works, defined.

Wherever the term works is used in sections 46-501 to 46-573, it shall, unless otherwise specified, be held to mean dams, storage reservoirs, compensatory and replacement reservoirs, canals, conduits, pipelines, tunnels, power plants, transmission lines, drainage canals, pumping

plants, and all works, facilities, improvements and property necessary or convenient for the supplying, controlling and disposing of water for domestic, irrigation, power, milling, manufacturing, mining, metallurgical and any and all other beneficial uses.

Source: Laws 1947, c. 173, § 2(5), p. 525; Laws 1951, c. 151, § 1, p. 599.

46-508. Court, defined.

Wherever the term court is used in sections 46-501 to 46-573, and not otherwise specified, it shall be taken to mean the district court sitting in any judicial district of the State of Nebraska, containing a portion or portions of lands contained in a reclamation district.

Source: Laws 1947, c. 173, § 2(6), p. 525.

46-509. Property, defined.

Wherever the term property is used in sections 46-501 to 46-573, it shall, unless otherwise specified, be held to mean real estate and personal property.

Source: Laws 1947, c. 173, § 2(7), p. 525.

46-510. Land or real estate, defined.

Wherever the terms land or real estate are used in sections 46-501 to 46-573, they shall, unless otherwise specified, be held to mean real estate, as the words real estate are defined by the laws of the State of Nebraska, and shall embrace all railroads, highways, electrical roads, street and interurban railroads, roads, streets, street improvements, telephone, telegraph, and transmission lines, gas, sewer and water systems, water rights, pipelines and rights-of-way of public service corporations and all other real property whether held for public or private use.

Source: Laws 1947, c. 173, § 2(8), p. 525.

46-511. Land or property, defined.

Wherever the terms land or property are used in sections 46-501 to 46-573 with reference to benefits, appraisals, assessments, or taxes, public corporations shall as political entities, according to benefits received, be considered as included in such reference in the same manner as land or property.

Source: Laws 1947, c. 173, § 2(9), p. 526.

46-512. Irrigable or irrigable lands, defined.

Wherever the terms irrigable or irrigable lands are used in sections 46-501 to 46-573 they shall be taken to mean privately owned agricultural lands outside the corporate limits of cities or villages, which can be benefited by the use of water for irrigation purposes and which would lie within any district established under the provisions of sections 46-501 to 46-573.

Source: Laws 1947, c. 173, § 2(10), p. 526.

46-513. Nonirrigable land, defined.

Wherever the term nonirrigable land is used in sections 46-501 to 46-573 it shall be taken to mean privately owned agricultural lands outside the corporate limits of cities or villages, which cannot be benefited by the use of water for irrigation purposes, and which would lie within any district established under the provisions of sections 46-501 to 46-573.

Source: Laws 1947, c. 173, § 2(11), p. 526.

46-514. Department, defined.

For purposes of the Reclamation Act, department means the Department of Natural Resources.

Source: Laws 1947, c. 173, § 2(12), p. 526; Laws 2000, LB 900, § 166.

46-515. Department of Natural Resources; jurisdiction; power; authority.

The department is hereby vested with jurisdiction, power and authority, when conditions stated in section 46-516 are found to exist, to establish reclamation districts for conserving, developing and stabilizing supplies of water for domestic, irrigation, power, manufacturing and other beneficial uses as herein provided.

Source: Laws 1947, c. 173, § 3, p. 526.

This and succeeding fourteen sections provide generally for the organization and establishment of reclamation districts as political corporate quasi-municipal subdivisions

of the state. Nebraska Mid-State Reclamation District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-516. Petition; signers; contents.

Before any reclamation district is established under the Reclamation Act, a petition shall be filed in the office of the department signed by the owners of not less than thirty percent of the acreage of lands to be included in the district, exclusive of land in cities and villages, and each tract or tracts of land and the total acreage shall be listed opposite the name of the signer. A signing petitioner shall not be permitted after the filing of the petition to withdraw his or her

name therefrom. No district shall be formed under the act unless the taxable valuation of land, together with improvements thereon, within the proposed district, exclusive of land and improvements thereon in cities and villages, is five million seven hundred twenty thousand dollars or more. The petition shall set forth:

(1) The proposed name of the district;

(2) That property within the proposed district will be benefited by the accomplishment of the purposes enumerated in section 46-515;

(3) A general description of the purpose of the contemplated improvement and of the territory to be included in the proposed district. The description need not be given by metes and bounds or by legal subdivision, but it shall be sufficient to enable a property owner to ascertain whether the property is within the territory proposed to be organized as a district. The territory need not be contiguous if it is so situated that the organization of a single district of the territory described is calculated to promote one or more of the purposes enumerated in section 46-515;

(4) The taxable value of all irrigable land within the boundaries of the proposed district;

(5) A general description of the divisions of the district, the number of directors of the district proposed for each subdivision, and the names and addresses of the proposed members of the board of directors of the district. There shall be not less than five nor more than twenty-one directors named therein who shall serve until their successors are elected and qualified. In the petition the directors named shall be divided as nearly as possible into three equal groups, the members of the first group to hold office until their successors have been elected at the first general state election thereafter and have qualified, the members of the second group to hold office until their successors have been elected at the second general state election thereafter and have qualified, and the members of the third group until the members elected at the third general state election thereafter have qualified. After the name of each director, it shall be stated to which of the three groups he or she belongs; and

(6) A prayer for the organization of the district by the name proposed.

No petition with the requisite signatures shall be declared null and void on account of alleged defects, but the department may at any time permit the petition to be amended to conform to the facts, to correct any errors in the description of the territory, or in any other particular. Similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one petition. All such petitions filed prior to the hearing on the first petition filed shall be considered by the department the same as though filed with the first petition placed on file. In determining whether the requisite number of landowners have

signed the petition, the department shall be governed by the names as they appear upon the tax roll which shall be prima facie evidence of such ownership.

Source: Laws 1947, c. 173, § 4, p. 527; Laws 1979, LB 187, § 171; Laws 1992, LB 719A, § 151; Laws 2000, LB 900, § 167.

46-517. Petition; bond; requirements.

At the time of filing the petition or at any time subsequent thereto, and prior to the time of hearing on said petition, a bond shall be filed in the amount of two thousand dollars, with security approved by the department to pay all expenses connected with the proceedings in case the organization of the district be not effected. If at any time during the proceeding the department shall be satisfied that the bond first executed is insufficient in amount, it may require the execution of an additional bond within a time to be fixed at not less than ten days distant. Upon a failure of the petitioner to execute the same, the petition shall be dismissed.

Source: Laws 1947, c. 173, § 5, p. 528.

46-518. Petition; notice of hearing.

Immediately after the filing of such petition, the department shall (1) by order fix a place and time, not less than ninety days nor more than one hundred and twenty days after the petition is filed, for hearing thereon, (2) cause notice by publication to be made of the pendency of the petition and of the time and place of hearing thereon, and (3) forthwith cause a copy of said notice to be mailed by either registered or certified mail to the county boards of each of the several counties having territory within the proposed district.

Source: Laws 1947, c. 173, § 6, p. 529; Laws 1957, c. 242, § 40, p. 853.

46-519. Protest petition; contents.

At any time after the filing of a petition for the organization of a reclamation district and not less than thirty days prior to the time fixed by the order of the department for the hearing upon said petition, and not thereafter, a petition may be filed in the office of the department wherein the proceeding for the creation of said district is pending, signed by not fewer than the owners of thirty percent of the acreage of lands in the district, exclusive of land in cities and villages, who have not signed the petition for creating the district, protesting the creation of the district. The protesting petition shall list each tract or tracts of land and the total acreage of each signer opposite his name.

Source: Laws 1947, c. 173, § 7(1), p. 529.

46-520. Protest petition; disqualification of signer.

Any person who signs a petition for creation of a district as the owner of any land shall be disqualified to sign a protest petition.

Source: Laws 1947, c. 173, § 7(2), p. 529.

46-521. Protest petition; when dismissed.

Upon the day set for the hearing upon the original petition, if it shall appear to the department from such evidence as may be adduced by any party in interest, that said protesting petition is not signed by the requisite number of owners of lands, the department shall thereupon dismiss said protesting petition and shall proceed with the original hearing as provided in section 46-525.

Source: Laws 1947, c. 173, § 7(3), p. 529.

46-522. Protest petition; requisite number of signers; dismissal of original petition.

If the department shall find from the evidence that said protesting petition is signed by the requisite number of owners of lands, the department shall forthwith dismiss the original petition praying for the creation of the district. The finding of the department upon said question of the genuineness of the signatures, and all matters of law and fact incident to such determination shall be final and conclusive on all parties in interest whether appearing or not.

Source: Laws 1947, c. 173, § 7(4), p. 530.

46-523. Organization; objections.

Any owner of real property in said proposed district who did not individually sign a petition for the organization of a reclamation district and who desires to object to the organization and incorporation of said district may, on or before the date set for the cause to be heard, file objection to the organization and incorporation of the district.

Source: Laws 1947, c. 173, § 7(5), p. 530.

46-524. Objections; contents; hearing.

Such objection shall be limited to a denial of the statements in the petition. It shall be heard by the department without unnecessary delay.

Source: Laws 1947, c. 173, § 7(6), p. 530.

46-525. Hearing; decree; district established.

Upon the said hearing, if it shall appear that a petition for the organization of a reclamation district has been signed and presented, as provided in section 46-516, in conformity with sections 46-501 to 46-573, and that the allegations of the petition are true, and that no protesting petition has been filed, or if filed has been dismissed as provided in section 46-521, the department shall, by order duly entered of record, adjudicate all questions of jurisdiction, declare the district organized and give it a corporate name, by which it shall thereafter be known in all proceedings. Thereupon the district shall be a political subdivision of the State of Nebraska and a body corporate with all the powers of a public or municipal corporation.

Source: Laws 1947, c. 173, § 7(7), p. 530.

46-526. Decree; contents; office of the district.

In such decree the department shall designate the place, prayed for in the petition, where the office or principal place of business of the district shall be located, which shall be within the corporate limits of the district. It may be changed by order of the department from time to time, upon the application of the board of directors of said district. The regular meetings of the board shall be held at such office or place of business, but for cause may be adjourned to any convenient place. The official records and files of the district shall be kept at the office so established.

Source: Laws 1947, c. 173, § 7(8), p. 530.

46-527. Petition; dismissal; appeal and writ of error denied.

If the department finds that no petition has been signed and presented in conformity with sections 46-501 to 46-573, or that the material facts are not as set forth in the petition filed, it shall dismiss said proceedings and adjudge the costs against the signers of the petition in such proportion as it shall deem just and equitable. No appeal or writ of error shall lie from an order dismissing said proceeding. Nothing herein shall be construed to prevent the filing of a subsequent petition or petitions for similar improvements or for a similar reclamation district, and the right to so renew such proceeding is hereby expressly granted and authorized.

Source: Laws 1947, c. 173, § 7(9), p. 531.

46-528. Decree; district established; appeal.

If an order is entered establishing the district, such order shall be deemed final. Any person, firm, or corporation owning real property within any reclamation district, created or established by virtue of the Reclamation Act, feeling himself or herself aggrieved by the establishment of such district, the determination of its boundaries, or the enclosure therein of any of his or her property may appeal the final order of the department adjudging such district to be duly

incorporated. The appeal shall be in accordance with the Administrative Procedure Act, except that the appeal shall be to the district court of the county wherein the principal office of the reclamation district is located. If no appeal is taken within the time prescribed in the Administrative Procedure Act, the entry of such final order by the department shall finally and conclusively establish the regular organization of the district against all persons, except the State of Nebraska in an action in the nature of a writ of quo warranto commenced by the Attorney General within three months after the decree declaring such district organized as herein provided and not otherwise. The organization of such districts shall not be directly or collaterally questioned in any suit, action, or proceeding, except as herein expressly authorized.

Source: Laws 1947, c. 173, § 7(10), p. 531; Laws 1988, LB 352, § 77.

Cross Reference

Administrative Procedure Act, see section 84-920.

46-529. Decree; filing; fees.

Within thirty days after the said district has been declared a corporation by the department, such department shall transmit to the Secretary of State and to the county clerk in each of the counties having lands in said district copies of the findings and the decree of the department incorporating said district. The same shall be filed in the office of the Secretary of State, in the same manner as articles of incorporation are now required to be filed under the general laws concerning corporations, and also be filed in the office of the county clerk of each county in which a part of the district is located where they shall become permanent records. The clerk in each county shall receive a fee of one dollar for filing and preserving the same. The Secretary of State shall receive for filing said copies such fees as now are or hereafter may be provided by law for like services in similar cases.

Source: Laws 1947, c. 173, § 8, p. 531.

46-530. Directors; appointment; election; take office, when; qualified electors; candidates.

Within thirty days after entering the final order establishing the district, the department shall enter an order appointing the board of directors named in the petition in accordance with subsection (5) of section 46-516. After the selection of the original board of directors of a district as provided for in subsection (5) of section 46-516, their successors shall be elected as provided in section 32-516. Elections shall be conducted as provided in the Election Act and shall take office on the first Thursday after the first Tuesday in January next succeeding their election. Qualified electors of the municipality or municipalities within the territory which composes the

territory of a district shall be qualified electors of such district. A qualified elector of a subdivision may only cast his or her ballot for a director to be elected from such subdivision.

Source: Laws 1947, c. 173, § 9(1), p. 532; Laws 1975, LB 453, § 55; Laws 1994, LB 76, § 556; Laws 1995, LB 99, § 18.

Cross Reference

Election Act, see section 32-101.

This and succeeding eleven sections provide for election of directors, and define the rights, general powers, and duties of the board of directors. Nebraska Mid-State Reclamation

District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-531. Repealed. Laws 1994, LB 76, § 615.

46-532. Repealed. Laws 1994, LB 76, § 615.

46-533. Repealed. Laws 1994, LB 76, § 615.

46-534. Directors; vacancy; filled by board of directors.

In addition to the events listed in section 32-560, a vacancy on the board of directors shall exist in the event of (1) removal from any district of a director, (2) removal of a director from a subdivision in which he or she was a director, or (3) elimination or detachment from a district of the part thereof where a director or directors reside. In the event of a vacancy, such vacancy shall be filled by the board of directors. Such appointments shall be in writing and continue for the unexpired term and until a successor is elected and qualified. The written appointment shall be filed with the Secretary of State.

Source: Laws 1947, c. 173, § 9(5), p. 533; Laws 1957, c. 124, § 20, p. 431; Laws 1994, LB 76, § 557.

46-535. Directors; bond required.

Each director shall furnish a corporate surety bond at the expense of the district in the sum of ten thousand dollars to be approved by the Secretary of State and filed in his office, conditioned for the faithful performance of his duties as such director.

Source: Laws 1947, c. 173, § 9(6), p. 533.

46-536. Directors; oath.

Each director before entering upon his official duties shall take and subscribe to an oath before an officer authorized to administer oaths, that he will support the Constitutions of the United States and the State of Nebraska, will honestly, faithfully and impartially perform the

duties of his office and will not be interested directly or indirectly in any contract let by said district. The oath shall be filed in the office of the department in the original case.

Source:Laws 1947, c. 173, § 10(1), p. 534.

46-537. Directors; chairman; secretary; seal; records.

Upon taking the oath, the members of the board shall choose one of their number chairman of the board and president of the district and elect some suitable person secretary of the board and of the district, who may or may not be a member of the board. Such board shall adopt a seal and keep in a well-bound book a record of all of its proceedings, minutes of all meetings, certificates, contracts, bonds given by employees and all corporate acts which shall be open to the inspection of all owners of property in the district, as well as to all other interested parties.

Source: Laws 1947, c. 173, § 10(2), p. 534.

46-538. Directors; compensation; expenses.

Each director shall receive from the board a per diem of not to exceed seventy dollars per day for each day that such director attends a board meeting or is engaged in matters concerning the district, but no director shall receive more than two thousand eight hundred dollars in any one year. Each director shall also be entitled to any necessary traveling expenses actually expended while engaged in the performance of his or her duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1947, c. 173, § 10(3), p. 534; Laws 1981, LB 204, § 76; Laws 2001, LB 409, § 1.

Cross Reference

Additional expenses, board may reimburse, Local Government Miscellaneous Expenditure Act, see section 13-2201.

46-539. Directors; quorum.

A majority of the directors shall constitute a quorum and concurrence of a majority of those in attendance, in any matter within their duties, shall be sufficient for its determination except as otherwise herein provided.

Source: Laws 1947, c. 173, § 11, p. 534.

46-540. Officers and employees; compensation; bond; duties.

The secretary shall (1) be custodian of the records of the district and of its corporate seal, (2) assist the board in such particulars as it may direct in the performance of its duties, (3) attest,

under the corporate seal of the district, all certified copies of the official records and files of the district that may be required of him by sections 46-501 to 46-573, or by any person ordering the same and paying the reasonable cost of transcription, and any portion of the record so certified and attested shall prima facie import verity, and (4) also serve as treasurer of the district unless a treasurer is otherwise provided for by the board. The board may also employ a chief engineer, an attorney, and such other agents and assistants as may be necessary and provide for their compensation which, with all other necessary expenditures, shall be taken as a part of the cost or maintenance of the improvement. The chief engineer shall be superintendent of all the works and improvements. He shall make a full report to the board each year, or more often if required by the board, and may make such suggestions and recommendations to the board as he may deem proper. The secretary and treasurer, and such other agents or employees of the district as the board may direct, shall furnish corporate surety bonds, at the expense of the district, in such amount and form as may be fixed and approved by the board conditioned for the faithful performance of their respective duties.

Source: Laws 1947, c. 173, § 12, p. 534.

Cross Reference

Additional expenses, board may reimburse, Local Government Miscellaneous Expenditure Act, see section 13-2201.

46-541. Directors; general powers and duties; continuance of corporate existence; election; dissolution.

The board shall have power on behalf of the district:

(1) To have perpetual succession, except that all districts organized prior to January 1, 1950, which have not entered into a bona fide construction of their works shall, within 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 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 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 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 have not entered into a bona fide construction of their works within fifteen years after the first day of July of the year of assessment of the taxable 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 fifteen years. If a district has 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 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 ten years from the expiration of the fifteen-year period.

If at the end of the fifteen-year period, plus the additional 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 shall be canceled, and any assets on hand shall 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 and 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 granted in this subdivision;

(3) To have and to exercise the power of eminent domain in addition to any other rights and powers conferred in this section upon any district organized under the Reclamation Act, for the purposes and after the manner provided for in sections 76-704 to 76-724, except that when any

reclamation district exercises 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. 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. 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, to acquire rights to the use of water from such works, and to enter into contracts for the use of water from such works by 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. 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 otherwise provided for in this section, may be furnished. 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. The 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. The plans and specifications and any changes 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 use, 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, pipelines, 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. The contracts for furnishing of water service for irrigation and domestic purposes shall only be made for use within the district. The board may transfer water appropriations within the district pursuant to sections 46-2,127 to 46-2,129;

(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, 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. The 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 provided in this subdivision. 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. 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 issue bonds or other evidence of such indebtedness;

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

(14) To 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. The water service shall not exceed the amount of water which may be appropriated

for such purposes by order of the department, and such amounts shall be included in the total appropriate right of the district or districts involved.

Source: Laws 1947, c. 173, § 13, p. 535; Laws 1951, c. 101, § 96, p. 489; Laws 1951, c. 151, § 2, p. 599; Laws 1953, c. 159, § 1, p. 497; Laws 1955, c. 184, § 1, p. 519; Laws 1959, c. 220, § 1, p. 768; Laws 1961, c. 229, § 1, p. 677; Laws 1971, LB 193, § 1; Laws 1992, LB 1063, § 37; Laws 1992, Second Spec. Sess., LB 1, § 37; Laws 1995, LB 99, § 19; Laws 2000, LB 900, § 168.

46-542. District; levy and collection of taxes; classification of methods.

In addition to the other means of providing revenue for such districts, the board shall have power and authority to levy and collect taxes and special assessments for maintaining and operating such works and paying the obligations and indebtedness of the district by any one or more of the methods or combinations thereof, classified as follows:

Class A. To levy and collect taxes upon the taxable value of the taxable property within the district;

Class B. To levy and collect assessments for special benefits accruing to lands within municipalities for which water service is furnished;

Class C. To levy and collect assessments for special benefits accruing to lands within irrigation districts for which water service is furnished; and

Class D. To levy and collect assessments for special benefits accruing to lands for which water service is furnished.

Source: Laws 1947, c. 173, § 14, p. 538; Laws 1992, LB 1063, § 38; Laws 1992, Second Spec. Sess., LB 1, § 38.

This and succeeding seventeen sections provide for fiscal management of a reclamation district, and give the board of directors power to levy and collect taxes and special

assessments. *Nebraska Mid-State Reclamation District v. Hall County*, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-543. Taxes; levy; Class A; submission to qualified voters of district.

To levy and collect taxes under Class A, the board shall, in each year, determine the amount of money necessary to be raised by taxation, taking into consideration other sources of revenue of the district, to supply funds for paying expenses of organization, for surveys and plans, and for paying the cost of constructing, operating, and maintaining the works of the district. The amount shall not exceed three and five-tenths cents on each one hundred dollars prior to the delivery of water from the works and thereafter shall not exceed seven cents on each one hundred dollars of the taxable value of the taxable property within the district, except that in the event of accruing defaults, deficiencies, or defaults and deficiencies, an additional levy may be made as provided in section 46-553.

The board shall, on or before September 20 of each year, certify to the county board of each county within the district or having a portion of its territory within the district the amount so

fixed with direction that, at the time and in the manner required by law for levying of taxes for county purposes, such county board shall levy such tax upon the taxable value of the taxable property within the district in addition to such other taxes as may be levied by such county board at the rate required to produce the amount so fixed and determined.

No tax shall be levied and collected under Class A until the proposition of levying taxes has been submitted by a resolution of the board to the qualified electors of the district at an election held for that purpose in the same manner as provided for submission of incurring bonded indebtedness in sections 46-564 to 46-566, and when the proposition has been approved by a majority of the qualified electors of the district voting on the proposition at such election, thereafter the board shall be entitled to certify to the county board the amount of tax to be levied.

Source: Laws 1947, c. 173, § 15(1), p. 539; Laws 1969, c. 145, § 37, p. 695; Laws 1979, LB 187, § 172; Laws 1992, LB 1063, § 39; Laws 1992, Second Spec. Sess., LB 1, § 39; Laws 1993, LB 734, § 40; Laws 1995, LB 452, § 13.

Cross Reference

Budget Act, Nebraska, section included, see section 13-501.

Class A are general taxes, uniformly levied upon all tangible property within the district. Nebraska Mid-State

Reclamation District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-544. Special assessments; levy; limitation.

If the board of a reclamation district determines in any year that there are certain lands within the district, not included within Classes B, C, and D, which receive special direct benefits from recharging of the ground water reservoirs by water originating from district works, the board shall in such year fix an amount to be levied upon the taxable value of the taxable property which in the opinion of the board will compensate the district for the special direct benefits accruing to such property by reason of recharged ground water reservoirs under such land by water originating from the district works. Such amount shall in no case exceed, together with all other amounts levied made under Class A on such land, the sum of fourteen cents on each one hundred dollars of the taxable value of the land. Such owner of lands specially assessed for special direct benefits shall have notice, hearing, and the right of appeal and shall be governed by section 46-554.

The authority provided in this section may not be used if the district has obtained approval to levy fees or assessments pursuant to section 46-2,101.

Source: Laws 1947, c. 173, § 15(2), p. 540; Laws 1969, c. 145, § 38, p. 696; Laws 1979, LB 187, § 173; Laws 1983, LB 198, § 21; Laws 1992, LB 1063, § 40; Laws 1992, Second Spec. Sess., LB 1, § 40.

Cross Reference

Budget Act, Nebraska, section included, see section 13-501.

Board of directors of reclamation district may fix rate of levy upon tangible property where direct benefits are received from recharging of ground water reservoirs.

Nebraska Mid-State Reclamation District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-545. Special assessments; Class B; water service; petition; contracts.

To levy and collect special assessments under Class B as herein provided, the board shall make contracts for water service with each petitioning municipality in the district in the manner hereinafter provided and shall fix and determine the rate or rates per acre-foot and terms at and upon which water service shall be furnished for use by such municipalities; *Provided*, that such rates shall be equitable although not necessarily equal or uniform for like classes of service throughout the district. In the event any city shall desire to obtain water service from the district for domestic or irrigation purposes, the legislative body of such municipality shall by ordinance authorize and direct its mayor and clerk to petition the board for water service upon terms prescribed by the board, which petition shall contain inter alia, the following: (1) Name of municipality; (2) quantity of water to be supplied; (3) the term of years such service is to be supplied; (4) price per acre-foot to be paid for water service; (5) whether payments are to be in cash or annual installments; and (6) an agreement by the municipality to make payments for such water service together with annual maintenance and operating charges and to be bound by the provisions of sections 46-501 to 46-573 and the rules and regulations of the board.

Source: Laws 1947, c. 173, § 16(1), p. 540; Laws 1951, c. 151, § 3, p. 603.

This and two succeeding sections provide as Class B for assessments for special benefits accruing to property within petitioning municipalities for water service contractually

furnished by the reclamation district. Nebraska Mid-State Reclamation District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-546. Water service; petition; notice.

The secretary of the board shall cause notice of the filing of such petition to be given and published once each week two successive weeks in a newspaper published in the county in which said municipality is situated, which notice shall state the filing of such petition and give notice to all persons interested to appear at the office of the board, at a time named in said notice and show cause in writing, if any they have, why the petition should not be granted.

Source: Laws 1947, c. 173, § 16(2), p. 541.

46-547. Water service; petition; hearing; order.

The board at the time and place mentioned in the notice, or at such time or times to which the hearing of the petition may adjourn, shall proceed to hear the petition and objections thereto presented in writing by any person showing cause as aforesaid why the petition should not be granted. The failure of any person interested to show cause in writing, as aforesaid, shall be deemed and taken as an assent on his part to the granting of the petition. The board may at its discretion accept or reject the petition. If it deems it is for the best interest of the district that the petition be granted, it shall enter an order granting the petition and from and after such order the municipality shall be deemed to have acquired the water service as set forth in the order. If the petition is granted, the board shall determine the amount of money necessary to be raised by taxation from property within such municipality to pay the annual installments and a fair proportionate amount of estimated operating and maintenance charges for each succeeding year, as provided in the order granting the petition, and prepare a statement showing the tax rate to be applied to all property in such municipality, which rate shall be the rate fixed by resolution of the board modified to the extent necessary to produce from each such municipality only the amount of money apportioned thereto in the resolution, less any amount paid or undertaken to be paid by such municipality in cash or as credited thereto by payments from the general funds of such municipality. Upon receipt by the county board of each county, wherein such municipality is located, of a certified copy of such resolution showing the tax rate to be applied to all property in each municipality and showing the municipalities and the property which is exempt therefrom, if any, it shall be the duty of the county officers to levy and collect such tax in addition to such other tax as may be levied by such county board at the rate so fixed and determined.

Source: Laws 1947, c. 173, § 16(3), p. 541; Laws 1951, c. 151, § 4, p. 604.

46-548. Special assessments; Class C; water service; petition; contract.

To levy and collect special assessments upon lands under Class C as herein provided, the board shall make contracts for water service with each of the petitioning irrigation districts within the district in the manner as hereinafter provided and shall fix and determine the rate or rates per acre-foot and terms at and upon which water service shall be supplied to such irrigation district; *Provided*, that such rates shall be equitable although not necessarily equal or uniform for like classes of services throughout the district. In the event any irrigation district shall desire to obtain the beneficial water service from the district, the board of such irrigation district shall by resolution authorize and direct its president and secretary to petition the board for water service, upon terms prescribed by the board, which petition shall contain inter alia, the following: (1) Name of irrigation district; (2) quantity of water to be furnished; (3) the terms of years such service is to be supplied; (4) price per acre-foot to be paid; (5) whether payments are to be made in cash or annual installments; and (6) an agreement by such irrigation district to make payments

for such water service, together with annual maintenance and operating charges, and to be bound by the provisions of sections 46-501 to 46-573 and the rules and regulations of the board.

Source: Laws 1947, c. 173, § 17(1), p. 542; Laws 1951, c. 151, § 5, p. 605.

This and succeeding section provide as Class C for assessments for special benefits to land within petitioning irrigation districts for water services contractually furnished

by the reclamation district. Nebraska Mid-State Reclamation District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-549. Water service; petition; notice; hearing; order; assessment; collection.

The secretary of the board shall cause notice of the filing of such petition to be given and published, which notice shall state the filing of such petition and give notice to all persons interested to appear at the office of the board at a time named in the notice and show cause in writing, if any they have, why the petition should not be granted. The board at the time and place mentioned in the notice, or at such time or times to which the hearing of the petition may be adjourned, shall proceed to hear the petition and objections thereto presented in writing by any person showing cause as aforesaid why the petition should not be granted. The failure of any person interested to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on his part to the granting of the petition. The board may, at its discretion, accept or reject the petition. If it deems it is for the best interest of the district that the petition shall be granted, it shall enter an order to that effect granting the petition and from and after such order the irrigation district or persons therein shall be deemed to have acquired the water service as set forth in the order. If the petition is granted, the board shall determine the amount of money necessary to be raised by special assessment on lands within such irrigation district and shall certify to the county assessor, or county clerk where he is ex officio county assessor, of the county in which the lands of such irrigation district are located the amount of the assessment, plus a fair proportionate amount of the estimated operating and maintenance charges for each succeeding year on each tract of land and such county assessor shall extend the amount of such special assessment, plus the operating and maintenance charges, on the tax roll as a special assessment against the lands upon which the special assessment is made. Such assessment shall be paid and collected in equal annual installments over the period of years such water service is petitioned for as set forth in this section. If subdistrict or subdistricts are organized as herein provided, assessments of special benefits shall be made, spread on the tax rolls and collected in the same manner as herein provided in the case of irrigation districts.

Source: Laws 1947, c. 173, § 17(2), p. 543; Laws 1951, c. 151, § 6, p. 605.

46-550. Special assessments; Class D; water service; petition; contract.

To levy and collect special assessments upon lands under Class D as herein provided, the board shall make contracts for water service with petitioning owners of lands in the district, upon which water can be beneficially used in the manner as hereinafter provided, and shall fix and determine the rate or rates per acre-foot and the terms at and upon which water service shall be furnished for use on the lands. In the event that any person or private corporation shall elect to

purchase, lease, or otherwise obtain water service from the district for irrigation of lands, such person or corporation shall petition for water service upon terms prescribed by the board, which petition shall contain inter alia, the following: (1) Name of applicant; (2) quantity of water to be furnished; (3) the term of years such service is to be supplied; (4) description of lands upon which the water will be used and attached; (5) price per acre-foot to be paid; (6) whether payment will be made in cash or annual installments; and (7) an agreement that the annual installments and the charges for maintenance and operating shall become a tax lien upon the lands for which such water is furnished and to be bound by the provisions of sections 46-501 to 46-573 and the rules and regulations of the board.

Source: Laws 1947, c. 173, § 18(1), p. 544; Laws 1951, c. 151, § 7, p. 606.

This and two succeeding sections provide as Class D for assessments for special benefits accruing to lands for which water service may be contractually furnished by the reclamation district to petitioning individual owners of lands

for irrigation purposes. *Nebraska Mid-State Reclamation District v. Hall County*, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-551. Water service; petition; order; contents.

The board may, in its discretion, accept or reject the said petition. If it deems it for the best interest of the district that said petition be granted, it shall enter an order granting the said petition and from and after such order, the said petitioner shall be deemed to have agreed to the acquiring of water service under the terms set forth in said petition and order. Such order shall provide for payment on the basis of rate per acre-foot of water service contracted for said lands within the district; *Provided*, that the board may divide the district into units and fix a different rate per acre-foot of water in the respective units; *and provided further*, that such rates shall be equitable although not necessarily equal or uniform for like classes of services throughout the district.

Source: Laws 1947, c. 173, § 18(2), p. 544.

46-552. Water service; petition; notice; hearing; order.

The secretary of the board shall cause notice of the filing of such petition to be given and published, which notice shall state the filing of such petition and give notice to all persons interested to appear at the office of the board at a time named in the notice and show cause in writing, if any they have, why the petition should not be granted. The board at the time and place mentioned in said notice, or at such time or times to which the hearing on the petition may be adjourned, shall proceed to hear the petition and objections thereto presented in writing by any person showing cause as aforesaid, why the petition should not be granted. The failure of any person interested to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on his part to the granting of the petition. The board may, at its discretion, accept or reject the petition. If it deems it is for the best interest of the district that the petition shall be granted, it shall enter an order to that effect granting the petition, and from and after such order the petitioner or persons interested therein shall be deemed to have acquired the water service as set forth in the order. If such petition is granted, the board shall cause a certified copy of the order

granting the petition to be recorded in the county in which the lands are located and thereafter, the annual installments and annual operating and maintenance charges shall be a perpetual tax lien upon such lands. The board shall certify to the county assessor, or county clerk acting as ex officio county assessor, of the county within the district in which such lands are located the amount of the annual installments, plus a fair proportionate amount of the estimated operating and maintenance charges apportioned to the lands for the term of years such service is to be supplied, and such county assessor shall extend the amount so certified on the tax roll as a flat special assessment against the lands for which such water is petitioned and allotted.

Source: Laws 1947, c. 173, § 18(3), p. 545; Laws 1951, c. 151, § 8, p. 607.

46-553. Annual assessments; levy; limitations; additional levy.

The board in making the annual assessments and levies as provided in the Reclamation Act shall take into account the maturing indebtedness for the ensuing year as provided in its contracts, the maturing of bonds and interest on all bonds, and deficiencies and defaults of prior years and shall make ample provision for the payment thereof. In case the proceeds of such levies and assessments made under the act, together with all revenue of the district, are not sufficient to maintain and operate the works of the district and to punctually pay the annual installments on its contracts, bonds, or contracts and bonds and interest thereon and to pay defaults and deficiencies, then the board shall make such additional levies of taxes, assessments, or taxes and assessments as may be necessary for such purposes and notwithstanding any limitations by contract, order, tax lien, or otherwise. Such taxes and assessments shall be made and continue until the indebtedness of the district is fully paid. The amount of such additional levies of taxes under Class A as provided in section 46-542 shall not in any one year exceed an amount that would be raised by a levy of three and five-tenths cents on each one hundred dollars against the taxable value of such property as fixed for general tax purposes. The levies for defaults and deficiencies shall not at any time be so made as to impose upon Class A as provided in section 46-542 payments in excess of twenty-five percent of the anticipated revenue from all sources to be raised for the specific purpose of payment of existing defaults and deficiencies. In making such additional levies, assessments, or levies and assessments, the board shall take into account all sources of revenue and equitably distribute the burden of such defaults and deficiencies according to the uses and benefits as provided in the act.

Source: Laws 1947, c. 173, § 19, p. 546; Laws 1951, c. 151, § 9, p. 608; Laws 1979, LB 187, § 174; Laws 1992, LB 719A, § 152.

An additional levy of taxes is authorized by this section.
Nebraska Mid-State Reclamation District v. Hall County,
152 Neb. 410, 41 N.W.2d 397 (1950).

46-554. Annual assessments; levy; objections; hearing; order; appeal.

Prior to the first day of July of any year in which assessments are made under the authority of sections 46-544 to 46-553, the board shall appoint a time and place or places where it will meet

within the district for the purpose of hearing objections to assessments. Prior notice of such hearing shall be given by publication in two issues, a week apart, in some newspaper of general circulation published in each county in which lands within the district are located or, if there is any county in the district in which there is no newspaper published, in an adjoining county. The notice shall notify the owners of property in the district that in the secretary's office and in the office of the county treasurer of the county in which the land to be assessed is located may be found and examined a description of the property so assessed, the amount of the assessment thereon fixed by the board, and the time and place or places fixed by the board for the hearing of objections to such assessments. It shall not be necessary for the notice to contain separate descriptions of the lots or tracts of real estate, but it shall be sufficient if the notice contains such descriptions as will inform the owner whether or not his or her real estate is covered by such description and where the amount of the assessment can be found of record.

If, in the opinion of any person whose property is assessed, his or her property has been assessed too high or has been erroneously or illegally assessed, he or she may at any time before the date of such hearing file written objections to such assessments stating the grounds of such objections, which statement shall be verified by the affidavit of the person or his or her agent. At such hearing the board shall hear such evidence and arguments as may be offered concerning the correctness or legality of such assessment and may modify the same.

Any owner of property desiring to appeal from the findings of the board as to assessments shall, within thirty days from the findings of the board, file with the clerk of the district court of the county within which the property or a part thereof is located a written notice making demand for trial by the court. The appellant at the same time shall file a bond with good and sufficient security to be approved by the clerk of the court in a sum not exceeding two hundred dollars to the effect that if the finding of the court is not more favorable to the appellant than the finding of the board, the appellant will pay the cost of the appeal. The appellant shall state definitely from what part of the order the appeal is taken. In case more than one appeal is taken, the court may, upon a showing that the same may be consolidated without injury to the interests of anyone, consolidate and try the appeals together. The court shall not disturb the findings of the board unless they are manifestly disproportionate to the assessments imposed upon other property in the district created under sections 46-501 to 46-573. The trial shall be to the court, take precedence before the court, and be taken up as promptly as possible after the appeal is taken from the findings of the board within the time prescribed in this section.

If no appeal is taken from the findings of the board, then the assessment shall be final and conclusive evidence that the assessments have been made in proportion to the benefits conferred upon the property in the district by reason of the improvements to be constructed under such sections, and such assessments shall constitute a perpetual lien upon such property so assessed until paid.

Any person, firm, or corporation owning real property within any reclamation district created or established by virtue of such sections and feeling aggrieved by a final order of the district court may appeal to the Court of Appeals. He or she shall give notice of appeal, deposit the

docket fee, and file a transcript as provided in section 25-1912. The appeal being one of public interest shall be advanced by the court to a speedy hearing.

Source: Laws 1947, c. 173, § 20, p. 546; Laws 1949, c. 158, § 1, p. 400; Laws 1951, c. 151, § 10, p. 609; Laws 1991, LB 732, § 108.

This section provides that the district board prior to the first day of July shall sit as a board of equalization and

assessment. *Nebraska Mid-State Reclamation District v. Hall County*, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-555. Taxes; levy; lien; collection.

It shall be the duty of the officer or body having authority to levy taxes within each county, city and county, or village, to levy the taxes and special assessments as provided in sections 46-501 to 46-573 and it shall be the duty of all county, or city and county officials, charged with the duty of collecting taxes, to collect such taxes and special assessments in the time, form and manner and with like interest and penalties as county or city and county taxes are collected and when collected to pay the same to the district ordering its levy or collection. The payment of such collections shall be made through the secretary of the district and paid into the depository thereof to the credit of the district. All taxes and assessments made under sections 46-501 to 46-573 together with all interest thereon and penalties for default in payment thereof, and all costs in collecting the same, shall until paid constitute a perpetual lien on a parity with the tax lien of general, state, county, city, village or school taxes and no sale of such property to enforce any general, state, county, city, village or school tax or other liens, shall extinguish the perpetual lien of such taxes and assessments.

Source: Laws 1947, c. 173, § 21, p. 548.

Cross Reference

Property tax liens, penalties, and interest, see sections 77-203 to 77-209.

46-556. Taxes; levy; delinquent; sale.

If the taxes, assessments, or taxes and assessments, levied are not paid when due as herein provided, then the real property shall be sold at the regular tax sale for the payment of the taxes and assessments, interest, and penalties, in the manner provided by the statutes of the State of Nebraska for selling property for payment of general taxes. If there are no bids at the tax sale for the property so offered under Class A and Class B, the property shall be struck off to the county, and the county shall account to the district in the same manner as provided by law for accounting for school, village, and city taxes. If there are no bids for the property so offered under Class C and Class D, the property shall be struck off to the district and the tax certificate shall be issued in the name of the district and the board shall have the same power with reference to sale of the tax certificate, as now is vested in a county board and a county treasurer when property is struck off to the counties.

Source: Laws 1947, c. 173, § 22, p. 549; Laws 1951, c. 151, § 11, p. 611.

46-557. Taxes; levy; political subdivisions; exemption.

All property of whatever kind and nature owned by the state and by villages, cities, school districts, drainage districts, irrigation districts, park districts, water districts, or any other governmental agency or agencies within the said reclamation district, shall be exempt from assessment and levy by the board as provided by sections 46-501 to 46-573 for the purposes herein contained.

Source: Laws 1947, c. 173, § 23, p. 549.

46-558. Water; contract; security for payment.

The board may enter into contracts for water service with persons, mutual ditch companies, water users' associations and other private corporations for irrigation or commercial use as shall be provided by contracts in writing authorized and entered into by the board; and the board shall require that security be given to secure the payments to be made under such contract or contracts.

Source: Laws 1947, c. 173, § 24, p. 549.

46-559. District; indebtedness; levy of assessments.

Whenever a contract of indebtedness has been created by the district, it shall be lawful for the board to make the levy of taxes and special assessments in such amount as will create a surplus of funds to meet the annual installments of indebtedness or the payment of bonds and interest, and the necessary maintenance and operating charges, and the board shall cause such surplus funds to be placed in a sinking fund which may be used for the payments of contingencies, defaults and delinquencies, and to pay the future annual installments of indebtedness on contract, bonds, or contract and bonds, and interest.

Source: Laws 1947, c. 173, § 25, p. 550; Laws 1951, c. 151, § 12, p. 611.

46-560. Directors; board; powers.

The board shall have the following powers concerning the management, control, delivery, use and distribution of water by the district, to wit:

(1) To make and enforce all reasonable rules and regulations for the management, control, delivery, use and distribution of water;

(2) To withhold the delivery of water upon which there are any defaults or delinquencies of payment;

(3) To provide for and declare forfeitures of contracts for water service upon default or failure to comply with any order, contract or agreement for service;

(4) To provide for and grant the right, upon terms, to transfer water service from lands to which water service has been furnished to other lands within the district and to discharge liens from lands to which same was theretofore attached and to create liens, as provided in sections 46-501 to 46-573, upon lands to which the use of such water service is transferred.

Source: Laws 1947, c. 173, § 26, p. 550.

This section confers upon the board of directors certain defined powers concerning the management, control, delivery, use, and distribution of water by the reclamation

district. Nebraska Mid-State Reclamation District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-561. District; boundaries; change.

The boundaries of any district organized under the provisions of sections 46-501 to 46-573 may be changed in the manner herein prescribed, but the changes of boundaries of the district shall not impair or affect its organization, its right in or to property, or any of its rights or privileges whatsoever and shall not affect, impair, or discharge any contract, obligation, lien, or charge for or upon which it might be liable or chargeable had such change of boundaries not been made. The owners of lands may file with the board a petition, in writing, asking that such lands be included in the district. The petition shall describe the tracts or body of land owned by the petitioners. It shall be deemed to give assent by the petitioners to the inclusion in the district of the lands described in the petition. The petition shall be acknowledged in the same manner that conveyances of land are required to be acknowledged. The secretary of the board shall cause notice of the filing of such petition to be given and published in the county in which the lands are situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands mentioned, and the prayer of the petitioners and give notice to all persons interested to appear at the office of the board at the time named in the notice and show cause in writing, if any, why the petition should not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned proceed to hear the petition and all objections presented in writing by any person showing cause why the petition should not be granted. The failure of any person interested to show cause in writing shall be deemed and held and taken as an assent on his or her part to the inclusion of such lands in the district as prayed for in the petition. If the petition is granted, the board shall make an order to that effect.

Source: Laws 1947, c. 173, § 27, p. 550; Laws 1951, c. 151, § 13, p. 612; Laws 1999, LB 103, § 3.

This section provides a procedure by petition, notice, and hearing, for including lands within the district which were not included at the time of organization. Nebraska Mid-State

Reclamation District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-562. District; petition to exclude land; contents; notice; objections; hearing; order; appeal.

The owner or owners in fee of any lands constituting a portion of the district, which lands are not within the corporate limits of any city or village, may file with the board a petition praying that such lands be excluded and taken from the district. It shall describe the lands which the petitioners desire to have excluded and set out that the lands have not and cannot acquire any benefit from the water resources or other operations of the district. Such petition must be acknowledged in the same manner and form as required in case of a conveyance of land and be accompanied by a deposit of money sufficient to pay all costs of the exclusion proceedings. The secretary of the board shall cause a notice of filing of such petition to be published in the county in which the lands, or the major portion thereof, are located. The notice shall state the filing of such petition, the names of petitioners, descriptions of lands mentioned in the petition, and the prayer of the petitioners and notify all persons interested to appear at the office of the board at the time named in the notice, showing cause in writing, if any, why the petition should not be granted. The board at the time and place mentioned in the notice, or at the time or times to which the hearing of the petition may be adjourned, shall proceed to hear the petition and all objections thereto presented in writing by any person showing cause why the prayer of the petition should not be granted. The filing of such petition shall be deemed and taken as an assent by each and all such petitioners to the exclusion from the district of the lands mentioned in the petition or any part thereof. The board, if the allegations of the petition are found to be true, shall order that the lands mentioned in the petition or some portion thereof be excluded from a district and, if the board finds that the allegations are not true, shall order that the petition be denied. In case a contract has been made between the district and the United States or any agency thereof, no change shall be made in the boundaries of the district unless the Secretary of the Interior assents to the change in writing and such assent is filed with the board. Upon such assent, any lands excluded from the district shall upon order of the board be discharged from all liens in favor of the United States under the contract with the United States or under bonds deposited with its agents. Appeal may be taken to the district court of the district in which the lands, or the major portion thereof, are located by filing a transcript of the proceedings thereon in the manner and form as provided by sections 25-1901 to 25-1937.

Source: Laws 1947, c. 173, § 28, p. 551; Laws 1991, LB 1, § 5.

This section provides a procedure by petition, notice, and hearing, for exclusion of lands from the district which have

been included. Nebraska Mid-State Reclamation District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-563. Construction, operation, and maintenance; contract with federal government for payment; bonds; term; execution; interest; exempt from taxes.

To pay for construction, operation and maintenance of said works and expenses preliminary and incidental thereto, the board is hereby authorized to enter into contract with the United States or any agency thereof, providing for payment in installments or to issue negotiable bonds of the district. If bonds are authorized, the same shall bear interest payable semiannually, and shall be due and payable not less than ten nor more than fifty years from their dates. The form, terms and

provisions of said bonds, provisions for their payment and conditions for their retirement and calling, not inconsistent with law, shall be determined by the board and they shall be issued as hereinafter provided in payment of the works, equipment, expenses and interest during the period of construction. Said bonds shall be executed in the name of and on behalf of the district and signed by the president of the board with the seal of the district affixed thereto and attested by the secretary of the board. They shall be in such denominations as the board shall determine and be payable to bearer and may be registered in the office of the county treasurer of the county wherein the organization of the district has been effected, with the interest coupons payable to bearer, which shall bear the facsimile signature of the president of the board. Such bonds shall be exempt from all state, county, municipal, school and other taxes imposed by any taxing authority of the State of Nebraska and shall not be sold at less than par and accrued interest.

Source: Laws 1947, c. 173, § 29, p. 552; Laws 1969, c. 51, § 115, p. 344.

This and succeeding four sections authorize the district to acquire, construct, or maintain sources of water supply or other improvements and to issue bonds. Nebraska Mid-State

Reclamation District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-564. Bonded indebtedness; submission to qualified electors; election.

Whenever the board incorporated under sections 46-501 to 46-573 shall, by resolution adopted by a majority of the said board, determine that the interests of said district and the public interest or necessity demand the acquisition, construction or completion of any source of water supply, waterworks, or other improvements or facilities, or the making of any contract with the United States or other persons or corporations, to carry out the objects or purposes of said district, wherein the indebtedness or obligation shall be created, to satisfy which shall require a greater expenditure than the ordinary annual income and revenue of the district shall permit, the board shall order the submission of the proposition of incurring such obligation or bonded or other indebtedness for the purposes set forth in said resolution, to the qualified electors of the district at an election held for that purpose. Any election held for the purpose of submitting any proposition or propositions of incurring such obligation or indebtedness may be held separately, or may be consolidated or held concurrently with any other election authorized by law at which such qualified electors of the district shall be entitled to vote. The declaration of public interest or necessity herein required and the provision for the holding of such election may be included within one and the same resolution, which resolution, in addition to such declaration of public interest or necessity shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the works or improvements, as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness. Such resolution shall also fix the date upon which such election shall be held and the manner of holding the same and the method of voting for or against the incurring of the proposed indebtedness. Such resolution shall also fix the compensation to be paid the officers of the election and shall designate the precincts and polling places and shall appoint for each polling place, from each precinct from the electors thereof, the officers of such election, which officers shall consist of three judges, one of whom shall act as clerk, who shall constitute a board of election for each polling place. The description of precincts may be made by reference

to any order or orders of the county board of the county or counties in which the district or any part thereof is situated, or by reference to any previous order, or resolution of the board or by detailed description of such precincts. Precincts established by the boards of the various counties may be consolidated for special elections held hereunder. In the event any such election shall be called to be held concurrently with any other election or shall be consolidated therewith, the resolution calling the election hereunder need not designate precincts or polling places or the names of officers of election, but shall contain reference to the act or order calling such other election and fixing the precincts and polling places and appointing election officers therefrom.

Source: Laws 1947, c. 173, § 30, p. 553.

A contract for the purchase of a water supply which created a forty-year obligation on the part of the reclamation district is required, under this section, to be submitted to the voters of the district for approval.

Twin Loups Reclamation & Irr. District v. Blessing, 202 Neb. 513, 276 N.W.2d 185 (1979).

46-565. Bonded indebtedness; election; notice.

The resolution provided in section 46-564 shall be published once a week two consecutive weeks, the last publication of which shall be at least ten days prior to the date set for said election, in a newspaper of general circulation printed and published within the district, and no other or further notice of such election or publication of the names of election officers or of the precincts or polling places need be given or made.

Source: Laws 1947, c. 173, § 31, p. 555.

46-566. Bonded indebtedness; election; conduct; proclamation.

The respective election boards shall conduct the election in their respective precincts in the manner prescribed by law for the holding of general elections, and shall make their returns to the secretary of the district. At any regular or special meeting of the board held not earlier than five days following the date of such election, the returns thereof shall be canvassed and the results thereof declared. In the event that any election held hereunder shall be consolidated with any primary or general election, the returns thereof shall be made and canvassed at the time and in the manner provided by law for the canvass of the returns of such primary or general election. It shall be the duty of such canvassing body or bodies to promptly certify and transmit to the board a statement of the result of the vote upon the proposition submitted hereunder. Upon receipt of such certificate, it shall be the duty of the board to tabulate and declare the results of the election held hereunder.

Source: Laws 1947, c. 173, § 32, p. 555.

46-567. Bonded indebtedness; bonds; issuance; sale.

In the event that it shall appear from said returns that a majority of said qualified electors of the district who shall have voted on any proposition submitted hereunder at such election voted in favor of such proposition, the district shall thereupon be authorized to incur such indebtedness or obligations, enter into such contract, and issue and sell such bonds of the district, all for the purpose or purposes and object or objects provided for in the proposition submitted hereunder and in the resolution therefor, and in the amount so provided and at a rate of interest not exceeding the rate of interest recited in such resolution. Submission of the proposition of incurring such obligation or bonded or other indebtedness at such an election shall not prevent or prohibit submission of the same or other propositions at subsequent election or elections called for such purpose.

Source: Laws 1947, c. 173, § 33, p. 555.

46-567.01. Revenue bonds; interest; issuance; sale.

In addition to the authority to issue bonds provided by sections 46-563 to 46-567, the board is hereby authorized to issue revenue bonds for any corporate purpose for the payment of which the board is authorized to pledge only the revenue, income, receipts, and profits derived by the district from the sale of power and energy, water for domestic and irrigation uses, and assessments for special benefits authorized under Classes B, C, and D, and money received for all other services, furnished, sold, or supplied by the district. The district shall not pledge to the payment of bonds authorized under this section any taxes levied as Class A under the authority of section 46-543 or under any sections therein referred to, and no bonds shall be issued under the provisions of this section unless authorized by an election as provided in section 46-564. Such bonds shall bear such rate or rates of interest as shall be determined by the board, and such bonds shall be due and payable in not more than fifty years from the date thereof. The form, terms, and provisions of the bonds for the redemption of the bonds prior to maturity, with or without premiums, not inconsistent with the law, shall be determined by the board. The bonds shall be executed in the name of and on behalf of the district and signed by the president of the board with the seal of the district affixed thereto, attested by the secretary of the board, and they shall be in such denominations as the board shall determine, and payable to bearer, or registered as to principal only, or as to principal and interest, as the board shall determine, and the bonds shall be registered in the office of the county treasurer in the county wherein the main office of the district is located. The coupons attached to the bonds shall be executed with the facsimile signature of the president of the board. The bonds and the interest thereon shall be exempt from all state, county, municipal, school, and other taxes imposed by any taxing authority of the State of Nebraska.

Source: Laws 1951, c. 151, § 14, p. 613; Laws 1969, c. 385, § 2, p. 1354; Laws 1969, c. 51, § 116, p. 344.

46-567.02. Revenue bonds; rates; charges; purpose.

Whenever revenue bonds have been authorized and issued under the provisions of section 46-567.01, the board is hereby authorized and directed to fix rates and charges for the sale of power and energy, water for domestic and irrigation uses and all other services furnished, sold, or supplied by the district, and Class B, C, and D assessments, which shall be fair and equitable and which shall be sufficient, together with other revenue, taxes, and assessments of the district, to pay the proper operation and maintenance cost of the works of the district, and to provide proper renewals and replacements thereof and extensions thereto, and to pay the principal of and interest on such bonds, as the same become due, including reasonable reserves for all of the purposes, and the board is further authorized to pledge all or any part of the revenue and assessments, except taxes levied as Class A to the payment of such bonds, notes, or other evidences of indebtedness under such terms and conditions as may seem desirable to the board. All provisions contained in any resolution authorizing the issuance of such bonds providing for the establishment of such rates and charges and the levying of such assessments, and for the collection, deposit, and disbursement of the money of the district from whatever source derived, which are designed for the protection, safeguard, and security of such bonds, and the rights of the holders thereof shall constitute a contract between the district and bondholders, and the provisions thereof and the provisions of sections 46-567.01 to 46-567.06 shall be enforceable by any bondholder by mandamus or any other appropriate suit or action in any court of competent jurisdiction against the board and the officers of the district. The district may also covenant with the holders of the bonds from time to time with respect to limitations upon the right to dispose of any of the works of the district without providing for the payment of bonds, and limitations upon the issuance of additional bonds, and concerning the appointment of trustees, depositories, and paying agents to receive, hold, deposit, invest, and reinvest all or any part of the income, revenue, receipts, profits, and assessments derived by the district, pursuant to sections 46-567.01 to 46-567.06.

Source: Laws 1951, c. 151, § 15, p. 614.

46-567.03. Revenue bonds; registration; effect.

All bonds issued pursuant to the provisions of sections 46-567.01 to 46-567.06 and registered by the county treasurer, provided in section 46-567.01, shall bear a certificate evidencing such registration endorsed thereon. It shall be signed by the county treasurer or a deputy and sealed with the seal of his office. All bonds, after having been registered and bearing such certificate, shall be held in every action, suit, or proceeding in which their validity is or may be brought into question prima facie valid and binding obligations of the district in accordance with their terms, notwithstanding any defects or irregularities in the proceedings for the organization of the district and the election of the directors thereof or for the authorization and issuance of such bonds or in the sale, execution, or delivery thereof.

Source: Laws 1951, c. 151, § 16, p. 615.

46-567.04. Revenue bonds; negotiable instruments; authorized investments.

All bonds issued under the authority of sections 46-567.01 to 46-567.06 are hereby declared to be negotiable instruments under the law merchant and are hereby made securities in which all state and municipal officers and bodies, all banks, bankers, trust companies, savings banks, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and societies, and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest any funds, including capital, belonging to them or within their control; and the bonds are hereby made securities which may properly and legally be deposited with and shall be received by any municipal officer or agency for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

Source: Laws 1951, c. 151, § 17, p. 615.

46-567.05. Districts organized; elections held; proceedings of directors; taxes levied; validated.

All districts heretofore organized under the authority of Chapter 46, article 5, Revised Statutes Supplement, 1949, and all elections and proceedings heretofore held and taken by the boards of directors of the districts, including the levy of taxes pursuant to the provisions hereof, be and the same are hereby ratified, validated and confirmed.

Source: Laws 1951, c. 151, § 18, p. 615.

46-567.06. District; levy of taxes; Class A; issuance of warrants; interest; limitation.

Whenever a district has been authorized to levy Class A taxes, the board may borrow money in anticipation of the collection of such taxes for which a levy has been made to the extent of ninety percent thereof, and may issue negotiable warrants to evidence such loans payable in not more than twelve months from the date thereof, and bearing interest at a rate not to exceed six percent per annum. Such warrants may be issued and sold in such manner as the board may determine.

Source: Laws 1951, c. 151, § 19, p. 616.

46-568. Directors; petition for determination of power; notice; hearing; order; appeal.

The board may at any time file a petition in the court, praying a judicial examination and determination of (1) any power conferred hereby by any amendment hereto, (2) any tax or assessment levied, or (3) any act, proceeding, or contract of the district, whether or not the

contract shall have been executed, including proposed contracts for the acquisition, construction, maintenance, or operation of works for the district. Such petition shall set forth the facts on which the validity of such power, assessment, act, proceeding, or contract is founded and shall be verified by the president of the board. Notice of the filing of the petition shall be given by the clerk of the district court, under the seal thereof, stating in brief outline the contents of the petition and showing where a full copy of any contract or contracts mentioned in the petition may be examined. The notice shall be served by publication in at least three consecutive issues of a weekly newspaper of general circulation published in the county in which the principal office of the district is located and by posting the same in the office of the district at least thirty days prior to the date fixed in the notice for the hearing on the petition. Any owner of property in the district or person interested in the contract or proposed contract may appear and demur to or answer the petition at any time prior to the date fixed for the hearing or within such further time as may be allowed by the court, and the petition shall be taken as confessed by all persons who fail to appear. The petition and notice shall be sufficient to give the court jurisdiction. Upon hearing, the court shall examine into and determine all matters and things affecting the question submitted, make such findings with reference thereto, and render such judgment and decree thereon as the case warrants. Costs may be divided or apportioned among the contesting parties in the discretion of the trial court. Review of the judgment and decree of the court may be had as in other similar cases but shall be commenced within thirty days after the entry of the judgment, decree, or final order complained of. The code of civil procedure shall govern in matters of pleading and practice where not otherwise specified in this section. The court shall disregard any error, irregularity, or omission which does not affect the substantial rights of the parties.

Source: Laws 1947, c. 173, § 34, p. 556; Laws 1961, c. 227, § 3, p. 672; Laws 1987, LB 33, § 10; Laws 1996, LB 299, § 24; Laws 1999, LB 43, § 23.

A determination of the feasibility of a water reclamation project and the determination of the adequacy of a supply of water for the project are legislative functions and not within the scope of judicial review authorized by this section. *Twin Loups Reclamation & Irr. District v. Blessing*, 202 Neb. 513, 276 N.W.2d 185 (1979).

This and two succeeding sections do not amend or repeal any provision of the Uniform Declaratory Judgments Act, but are simply part of a general act complete within itself which authorize a special confirmatory proceeding. *Nebraska Mid-State Reclamation District v. Hall County*, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-569. Notice; defective; effect.

In any and every case where a notice is provided for in sections 46-501 to 46-573, if the court finds for any reason that due notice was not given, the court shall not thereby lose jurisdiction, and the proceeding in question shall not thereby be void or be abated, but the court shall in that case order due notice to be given, and shall continue the hearing until such time as notice shall be properly given, and thereupon shall proceed as though notice had been properly given in the first instance.

Source: Laws 1947, c. 173, § 35, p. 557.

46-570. Organization; validity; hearing.

All cases in which there may arise a question of the validity of the organization of a reclamation district, or a question of the validity of any proceeding under sections 46-501 to 46-573 shall be advanced as a matter of immediate public interest and concern, and heard at the earliest practicable moment. The courts shall be open at all times for the purposes of sections 46-501 to 46-573.

Source: Laws 1947, c. 173, § 36, p. 557.

46-571. Sections, how construed.

Sections 46-501 to 46-573, being necessary to secure and preserve the public health, safety, convenience and welfare, and for the security of public and private property, shall be liberally construed to effect the purposes of sections 46-501 to 46-573.

Source: Laws 1947, c. 173, § 37, p. 557.

This section provides a construction clause. Nebraska Mid-State Reclamation District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-572. Sections; severability; validity.

Should the courts of the state or of the United States declare any section, provision, paragraph, clause, sentence, phrase, or part thereof, of sections 46-501 to 46-573 invalid or unconstitutional, or in conflict with any other section, provision, paragraph, clause, sentence, phrase, or part thereof, declared to be unconstitutional or unauthorized, the same shall not affect any other part whatsoever of sections 46-501 to 46-573. The Legislature hereby declares that it would have passed sections 46-501 to 46-573 and each section, provision, paragraph, clause, sentence, or phrase hereof irrespective of the fact that any one or more of the other sections, provisions, paragraphs, clauses, sentences, or phrases, or parts thereof, be declared invalid or unconstitutional.

Source: Laws 1947, c. 173, § 38, p. 557.

This section provides an all-inclusive saving clause. Nebraska Mid-State Reclamation District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-573. District; laws applicable.

All power plants and systems and all irrigation works constructed or otherwise acquired or used or operated by any reclamation district under the provisions of section 46-501 to 46-573 or proposed by such districts to be so constructed, acquired, owned, used or operated, are hereby declared to be works of internal improvement. All laws applicable to works of internal

improvement and all provisions of law now applicable to electric light and power corporations or to irrigation districts or to privately owned irrigation corporations as regards the power of eminent domain, the use and occupation of state and other public lands and highways, the appropriation or other acquisition or use of water, water power, water rights, or storage rights for any of the purposes contemplated in said sections, the manner or method of construction, physical operation of power plants, systems, transmission lines, and irrigation works, as herein contemplated, shall be applicable as nearly as may be to districts organized under sections 46-501 to 46-573 and in performance of the duties conferred or imposed upon them under the provisions of sections 46-501 to 46-573.

Source: Laws 1947, c. 173, § 39, p. 558.

This section provides that all works constructed or acquired shall be works of internal improvement, and authorizes the exercise of the power of eminent domain.

Nebraska Mid-State Reclamation District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

46-574. Boundaries; change; no impairment of rights; petition; contents.

The boundaries of any reclamation district now or hereafter organized under Chapter 46, article 5, may be changed and tracts of land included within the boundaries of such district in the manner prescribed by sections 46-574 to 46-584, but the changes of boundaries of the district shall not impair its organization or its rights in or to property or any of its rights or privileges of whatever kind or nature nor shall it impair or discharge any contract, obligation, lien, or charge for or upon which it was or might become liable or chargeable had such annexation and change of boundaries not been made. Before any tracts of land can be annexed and included in such district, a petition shall be filed with the board of directors of the district to which annexation is desired signed by the owners of not less than fifty-one percent of the acreage of lands in the tract or tracts of land to be annexed and included in such district, exclusive of land in cities and villages, and each tract or tracts of land and the total acreage shall be listed opposite the name of the signer. A signing petitioner shall not be permitted after the filing of the petition to withdraw his or her name therefrom. The petition shall set forth:

- (1) The name of the district to which the annexation and inclusion shall be made;
- (2) That property within the boundaries of the area proposed to be annexed to the district will be benefited by the accomplishment of the purposes enumerated in section 46-515;
- (3) A general description of the purpose of the contemplated improvement and of the territory to be included in the tract or tracts of land, which description need not be given by metes and bounds or by legal subdivision, but it shall be sufficient to enable a property owner to ascertain whether the property is within the territory proposed to be annexed and included in such district;
- (4) The taxable value of all irrigable land within the boundaries of the tract or tracts of land to be annexed and included in such district;

(5) A general description of the proposed tract or tracts of land and the division or divisions of such district to which the tract or tracts of land will be included; and

(6) A prayer for the annexation and inclusion of the tract or tracts by the signing petitioner or petitioners.

Source: Laws 1951, c. 147, § 1, p. 589; Laws 1979, LB 187, § 175; Laws 1992, LB 719A, § 153.

46-575. Boundaries; change; petition; bond.

At the time of filing the petition or at any time subsequent thereto, and prior to the time of hearing on the petition, a bond shall be filed in the amount of two thousand dollars, with security approved by the board of directors of such district to pay all expenses connected with the proceedings in case the annexation of said area to such district be not effected. If at any time during the proceeding the board of directors shall be satisfied that the bond first executed is insufficient in amount, it may require the execution of an additional bond within a time to be fixed at not less than ten days distant. Upon a failure of the petitioner to execute the same, the petition shall be dismissed.

Source: Laws 1951, c. 147, § 2, p. 590.

46-576. Boundaries; change; petition; board of directors; fix time and place of hearing.

Immediately after the filing of the petition as provided in section 46-575, the board of directors of such district shall (1) by order fix a place and time, not less than ninety days nor more than one hundred twenty days after the petition is filed, for hearing thereon, (2) cause notice by publication to be made of the pendency of the petition and of the time and place of hearing thereon, and (3) forthwith cause a copy of the notice to be mailed by certified or registered mail to the county boards of each of the several counties having territory within the tract or tracts of land proposed to be annexed.

Source: Laws 1951, c. 147, § 3, p. 591; Laws 1987, LB 93, § 13.

46-577. Boundaries; change; protesting petition; requirements.

At any time after the filing of a petition for the annexation of any tract or tracts of land to an existing reclamation district and not less than thirty days prior to the time fixed by the order of the board of directors of such district for the hearing upon said petition, and not thereafter, a petition may be filed with the board of directors of such district wherein the proceedings for the annexation of any tract or tracts of land to such district is pending, signed by not less than the owners of fifty-one percent of the acreage of lands in the tract or tracts of land to be annexed to such district, exclusive of land in cities and villages, who have not signed the petition for the

annexation of a tract or tracts of land to such district, protesting the annexation of such tract or tracts of land to such district. The protesting petition shall list each tract or tracts of land and the total acreage of each signer opposite his name.

Source: Laws 1951, c. 147, § 4, p. 591.

46-578. Boundaries; change; protest petition; disqualification of signer.

Any person who signs a petition for the annexation of any tract or tracts of land to such district as the owner of any land shall be disqualified to sign a protest petition.

Source: Laws 1951, c. 147, § 5, p. 591.

46-579. Boundaries; change; protest petition; when dismissed.

Upon the day set for the hearing upon the original petition for the annexation of any tract or tracts of land to such district, if it shall appear to the board of directors of such district from such evidence as may be adduced by any party in interest, that the protesting petition is not signed by the requisite number of owners of lands, the board of directors of such district shall thereupon dismiss said protesting petition and shall proceed with the original hearing as provided in section 46-525.

Source: Laws 1951, c. 147, § 6, p. 591.

46-580. Boundaries; change; protest petition; requisite number of signers; dismissal of original petition.

If the board of directors of such district shall find from the evidence that the protesting petition is signed by the requisite number of owners of lands, the board of directors of such district shall forthwith dismiss the original petition praying for the annexation of the tract or tracts of land to be annexed and included in such district. The finding of the board of directors of such district upon said question of the genuineness of the signatures, and all matters of law and fact incident to such determination shall be final and conclusive on all parties in interest whether appearing or not.

Source: Laws 1951, c. 147, § 7, p. 592.

46-581. Boundaries; change; objections.

Any owner of real property in the tract or tracts of land to be annexed to such district who did not individually sign a petition for the annexation of the tract or tracts of land to such district and who desires to object to the annexation of the tract or tracts of land to such district may, on or

before the date set for the cause to be heard, file objection to the annexation to and incorporation of the tract or tracts of land to such district.

Source: Laws 1951, c. 147, § 8, p. 592.

46-582. Boundaries; change; objections; hearing.

Such objection shall be heard by the board of directors without unnecessary delay.

Source: Laws 1951, c. 147, § 9, p. 592.

46-583. Boundaries; change; hearing; election; final order; filed with Department of Natural Resources.

At the hearing, if the board of directors of such district deems it not for the best interest of such district that a change of its boundaries be so made as to include therein the lands mentioned in the petition, the board of directors of such district shall order that the petition be rejected. But if the board of directors of such district deems it for the best interest of such district that the boundaries of such district be changed and if it appears that the petition for the annexation and incorporation of the tract or tracts of land has been signed and presented as provided in section 46-574, that the allegations of the petition are true, and that no protesting petition has been filed, or if filed has been dismissed as provided by sections 46-574 to 46-584, the board of directors of such district may enter a tentative order annexing and including all lands described in the petition, or some part thereof. The order shall not become final until the proposition of levying taxes as provided for in section 46-543 has been complied with and until the proposition of levying taxes has been submitted by a resolution of the board of directors of such district to the qualified electors residing within the tract or tracts of land described in the tentative order at an election held for that purpose in the same manner as provided for submission of incurring bonded indebtedness in sections 46-564 to 46-566, and when the proposition has been approved by a majority of the qualified electors residing within the tract or tracts of land voting on the proposition at such election, then the board of directors shall enter a final order annexing and including all lands described in the tentative order. If at such election a majority of the qualified electors vote against the proposition, then the board of directors of such district shall set aside the tentative order, shall order that the petition be denied, and shall proceed no further in that matter. If the proposition is approved by a majority of the qualified electors of the tract or tracts voting on the proposition at such election in the manner provided for in section 46-543, the board of directors of such district shall certify to the county board of the county in which the tract or tracts of land are situated the rate of tax to be levied. The final order entered by the board of directors of such district shall describe the entire boundaries of the district, and for that purpose the board of directors may cause a survey of such portions thereof to be made as the board of directors deems necessary. A copy of the final order of the board of directors ordering such annexation, certified by the president and secretary of the board of directors of such district, shall be filed with the Department of Natural Resources, and thereupon the district shall be and remain a reclamation district as fully and to every intent and purpose as if the lands which are included in the district by the annexation thereof and the change of boundaries had been included therein at

the original organization of the district. Such tract or tracts of land so annexed to such district shall enjoy all the rights and privileges, of whatever kind and nature, and be subject to all the contract, obligation, lien, or charge for or upon which the original district was or might become liable or chargeable.

Source: Laws 1951, c. 147, § 10, p. 592; Laws 2000, LB 900, § 169.

46-584. Boundaries; change; decree; determination; directors; terms of office.

Upon the entry of the final order as mentioned in section 46-583, and as soon thereafter as is practical, the board of directors of such district may determine the boundaries of each or of all the subdivisions, and make such adjustments and changes in the boundaries of such subdivisions as are necessary; *Provided*, if adjustments and changes of boundaries in each or all of the subdivisions are made, the directors shall be divided as nearly as possible into three equal groups, the members of the first group to hold office for the remainder of the term for which they were elected and until their successors have been elected at the first general election thereafter and shall have qualified, the members of the second group to hold office for the remainder of the term for which they were elected and until their successors have been elected at the second general state election thereafter and shall have qualified, and the members of the third group to hold office for the remainder of the term for which they were elected and until their successors have been elected at the third general state election thereafter and have been qualified. When the terms of the members of the three respective groups expire, their respective successors shall each be elected for a term of six years, and the terms of all elected successors thereafter shall be six years.

Source: Laws 1951, c. 147, § 11, p. 594.

46-585. Fiscal year, defined; audit; Auditor of Public Accounts; form; prescribe; filing; time.

The fiscal year of a reclamation district shall coincide with the calendar year. The board of directors, at the close of each year's business, shall cause an audit of the books, records and financial affairs of the district to be made by a certified public accountant or firm of such accountants, who shall be selected by the district, subject to the approval of the Auditor of Public Accounts. The audit shall be in a form prescribed by the auditor, and shall contain and show the items set forth in section 46-586. When the audit has been examined and approved by the auditor, written copies thereof shall be placed and kept on file at the principal place of business of the district, and shall be filed with the Auditor of Public Accounts within one hundred and twenty days after December 31 of each year.

Source: Laws 1965, c. 269, § 1, p. 769.

46-586. Audit; contents.

In each reclamation district in Nebraska, the Auditor of Public Accounts shall cause the books of account kept by the board of directors of such districts to be examined and audited. Such audits shall show (1) the gross income from all sources of the district for the year previous; (2) the gross amount of electrical energy supplied by said district; (3) the amount expended during the previous year for maintenance; (4) the amount expended during the previous year for plant investments; (5) the amount of depreciation of the plant during the previous year; (6) the cost of supplying electrical energy, including production cost, transmission cost and distribution cost; (7) the number of employees as of December 31 of each year; (8) the salaries and expenses paid employees and directors; and (9) all other facts necessary to give an accurate and comprehensive view of the cost of maintaining and operating the plant as well as the district.

Source: Laws 1965, c. 269, § 2, p. 769.

46-587. Audit; information made available.

The audit and report shall be made at the close of the fiscal year. The person making the examination and audit shall have access to all books, records, vouchers, papers, contracts or other data containing information on said subject (1) in the office of the reclamation district, (2) in the office of the general manager of the district, or (3) in the possession or under the control of any of the officers, agents or servants of the district. It is hereby made the duty of all officers, agents and servants of the reclamation district to furnish to the Auditor of Public Accounts, his agents, servants and employees, such information regarding the auditing of such reclamation districts as may be demanded.

Source: Laws 1965, c. 269, § 3, p. 770.