

## **CHAPTER 61-06**

### **GOVERNMENT OF IRRIGATION DISTRICTS**

**61-06-01. Board of directors of irrigation district - Terms - Vacancies.** If an irrigation district contains less than twenty thousand irrigable acres [8093.72 irrigable hectares] of land and is not divided into precincts or divisions, the board of directors consists of five directors who must be residents of the state and electors of the district and must be elected at large. Two directors elected at the election for the organization of the district serve until the first Tuesday in April following the first regular district election, and three serve until the first Tuesday in April following the second regular election.

If an irrigation district contains twenty thousand irrigable acres [8093.72 irrigable hectares] or more, it must be divided into five or seven divisions or precincts, as the case may be, and one director must be elected from and by the electors of each division or precinct.

If an irrigation district contains twenty thousand irrigable acres [8093.72 irrigable hectares] or more and is divided into five divisions or precincts, the board of directors of the irrigation district consists of five directors. Two directors elected at the election for the organization of the district serve until the first Tuesday in April following the first regular district election, and three directors serve until the first Tuesday in April following the second regular district election.

If an irrigation district contains twenty thousand irrigable acres [8093.72 irrigable hectares] or more and is divided into seven divisions or precincts, the board of directors of the irrigation district consists of seven directors. Three directors elected at the election for the organization of the district serve until the first Tuesday in April following the first regular district election, and four directors serve until the first Tuesday in April following the second regular district election.

The terms of office of the directors elected at the first election for the organization of the district must be determined by lot at their first meeting. Directors elected at subsequent elections serve for four years and until their successors are duly elected and qualified. In case the office of any director becomes vacant, the remaining members of the board shall fill the vacancy by appointment. A director appointed to fill a vacancy serves the unexpired term of the director whose office that director has been appointed to fill. If vacancies occur in the offices of a majority of the directors of an irrigation district, the remaining members and the state engineer shall fill the vacancies; and if the offices of all the directors become vacant, the state engineer shall appoint the members of the board and they serve until the next regular election of the district. Their successors in office must then be elected to serve the unexpired term of the directors whose offices became vacant. The unexpired term of office that each director thus elected fills must be determined by lot.

**61-06-02. Directors elected subsequent to organization assume office - Time - Term.** The directors elected subsequent to the organization of the district shall assume the duties of their office the first Tuesday in April after their election and shall hold office until their successors are elected and qualified.

**61-06-03. Oath and bond of boards of directors - Filing.** After receiving a certificate of election each director shall take the oath prescribed for civil officers, and shall be bonded in the sum of one thousand dollars. Such oath of office and bond shall be filed in the office of the state engineer.

**61-06-04. Meeting of directors - Organization - Officers - Quorum - Term of officers.** The directors elected at the first election in an irrigation district shall meet at the time and place designated by the state engineer and shall organize by selecting one of their members as chairman of the board. A temporary secretary shall be designated until a permanent secretary of the board has been appointed. After the organization of the board, a majority of the directors shall constitute a quorum for the transaction of such business as may come before the board. The board shall appoint a secretary, a treasurer, and an assessor of the district and such other officers or employees as the board shall deem necessary for the efficient conduct of the district's

business and shall fix their compensation. Officers and employees appointed by the board shall hold office during the pleasure of the board. The office of secretary, assessor, and treasurer may be held by the same person. Each succeeding board of directors shall choose or appoint its officers as herein provided.

**61-06-05. Official bonds of assessor, district treasurer, and other employees - Approval and filing of bonds.** The assessor shall be bonded in the amount of five hundred dollars and the district treasurer shall be bonded in an amount not less than double the amount of money that may come into the treasurer's hands, the amount to be determined by the board of directors, but such bond shall not be less than one thousand dollars. Other employees and appointive officers shall be bonded in such amounts as the board may prescribe. The official bonds of the assessor, treasurer, and other officers and employees shall be approved by the board. Such bonds shall be filed in the office of the state engineer.

**61-06-06. District organized under provisions of chapter appointed fiscal agent of the United States.** In case any district organized under the provisions of this chapter is appointed fiscal or other agent of the United States or is authorized by the United States to make collections of money for and on behalf of the United States in connection with any federal reclamation or irrigation project, the treasurer and each director shall furnish an additional official bond in such amount as the secretary of the interior may require, conditioned for the faithful discharge of the duties of office and the faithful discharge by the district of its duties as fiscal or other agent of the United States under any such appointment or authorization. Such additional bonds may be sued upon by the United States or by any person damaged by failure of such officer or district fully, promptly, and faithfully to perform the duties imposed by law.

**61-06-07. Form of official bonds provided for in chapter - Obligee in bond.** All official bonds provided for in this chapter shall be in the form prescribed by law for official bonds of county officers except that the obligee named in such bond shall be the irrigation district.

**61-06-08. Officers or employees bonded in state bonding fund - Premium paid by whom.** Every elective or appointive officer or employee of whom a bond is required under the provisions of this chapter shall be deemed to be bonded in the state bonding fund upon the giving of notice of such election or appointment by the secretary of the district to the insurance commissioner. Upon notification by the insurance commissioner of the amount of the premium of such bond or bonds, the secretary of the district forthwith shall remit the same.

**61-06-09. Regular election of irrigation districts - Mail ballot elections.** The regular election of irrigation districts must be held on the second Tuesday in February in each even-numbered year. The board of directors of an irrigation district may hold a regular or special election by mail ballot. If the board determines to hold an election by mail ballot, the board shall notify the electors of the district that the election will be held by mail ballot and that no polling places will be open for the election.

**61-06-10. Notice of election after district is organized - Contents - Form.** Within thirty-five days of, but at least twenty-five days before, any regular or special election held in an irrigation district, the secretary of the board of directors shall publish a notice of the election in the newspaper or newspapers of general circulation where the district is located and in the official newspaper of each county in which the district is located. The notice must specify the matters to be voted upon and if the election is to be held by mail ballot. If the election is not held by mail ballot, the notice must specify the location of the polling place or places and the time of opening and closing of the polling places. The notice must be in substantially the following form:

Notice is given that on \_\_\_\_\_, \_\_\_\_\_, an election will be held for the purpose of electing \_\_\_\_\_ members of the board of directors and for the purpose of voting upon the questions submitted by the directors of the district. (The election will be held by mail ballot.) or (The election will be held at \_\_\_\_\_. Polls will be opened at one p.m. and will be closed at five p.m. of that day.) Notice is further given that any elector desiring to have the elector's name appear on the ballot must file a request in writing with the secretary of the district not less than twenty days before the election.

**61-06-11. Board of election of irrigation district - Failure of member of election board to be present.** Before the date of the regular election, the board shall appoint from the electors of the district one clerk and two judges who shall constitute the board of election. If the board fails to appoint a board of election, or if the members appointed do not attend at the opening of the mail ballots or the opening of the polls on the day of election, the electors of the district present at that hour may appoint the members of the election board or fill the place of an absent member. The board of directors, in its order or resolution appointing the members of the board of election, shall designate the time and place where the mail ballots will be opened or where the election will be held.

**61-06-12. Candidates at election - Filing names.** Any person desiring to be a candidate at an irrigation district election shall file that person's name with the secretary of the board not less than twenty days before the election. The secretary shall contact each candidate for the purpose of verifying the candidate's willingness to be a candidate at the election.

**61-06-13. Ballot at irrigation district elections - Contents - Mail ballots.**

1. At least fifteen days before an election in an irrigation district, the secretary shall prepare and have typewritten, mimeographed, or printed an official ballot containing the names of all candidates which have been filed with the secretary. The ballot must:
  - a. Be headed "Official Ballot";
  - b. Contain all names thus filed;
  - c. Show the name of the district;
  - d. State the number of individuals to be voted for;
  - e. Have blank spaces below for writing in other names; and
  - f. State any question or resolution submitted to the electors by the board of directors.
2. The provisions of this chapter do not prevent an individual desiring to be a candidate at the election and who has failed to file as provided in this chapter, from furnishing stickers to be attached to the ballot by the electors. The stickers may not be over one-half inch [1.27 centimeters] in width and must have printed thereon one name only.
3. If the election is not held by mail ballot any elector who will be absent from the irrigation district on the day of the election may vote an absent voter's ballot at that election. The secretary shall provide the official ballot to any elector who applies for an absent voter's ballot, and the absent voter shall submit the absent voter's ballot to the secretary of the district, along with an affidavit that the ballot submitted represents the elector's vote at the election, on or before the day of the election. An absent voter's ballot must be the official ballot, and the ballot and affidavit must be actually delivered to the secretary or the election board before the polls close on election day. The secretary shall submit any absent voters' ballots to the election board on the day of the district election.
4. If the board of directors of the irrigation district determines to hold the election by mail ballot, the secretary of the board of directors shall mail an official mail ballot with a return identification envelope and instructions sufficient to describe the voting process to each elector on the fifteenth day before the election. The voting instructions must contain a statement informing the elector that the elector is entitled to complete the mail ballot in secrecy. The secretary shall mail the ballot by first-class mail, addressed to the address of the elector and placed in an envelope

that is prominently marked "Do Not Forward". The return identification envelope must include an affidavit for the elector to certify that the ballot submitted represents the elector's vote. An elector entitled to cast more than one vote must be provided separate ballots for each vote to which the elector is entitled, and a return envelope with instructions sufficient to keep the ballots secret. An elector may obtain a replacement ballot if a mail ballot is destroyed, spoiled, lost, or not received by the elector by signing a sworn statement that the ballot was destroyed, spoiled, lost, or not received and delivering the statement to the secretary of the district no later than four p.m. on the day before the election. An elector voting by mail ballot shall either deliver the mail ballot to the secretary of the district before five p.m. on the day of the election or mail the ballot, which must be postmarked no later than the day before the election.

**61-06-14. Oath required of members of election board - Chairman of election board to administer.** Before opening the polls at an irrigation district election or opening mail ballots, each member of the election board shall take and subscribe the following oath or affirmation:

I do solemnly swear (or affirm) that I will perform my duties as judge or clerk (as the case may be) according to law and to the best of my ability.

The oath or affirmation may be administered by any director of the district or any officer authorized to administer oaths. The board of directors shall designate one of the judges as chairman of the election board and the chairman of the election board may administer and certify all oaths or affirmations taken by other members of the election board and shall administer and certify all oaths or affirmations required during the progress of the election.

**61-06-15. Opening and closing hours of polls at irrigation district elections.** If the election is not held by mail ballot, the polls must be open at one p.m. of the election day and must be kept open until five p.m. of the same day.

**61-06-16. Canvass of ballots - Delivery of materials to directors.** Immediately after five p.m. on the day of the election, the election board publicly shall open and canvass the ballots cast and shall declare the result of the canvass. A mail ballot may be counted only if the ballot is returned in the return identification envelope and is signed by the elector. The chairman shall wrap securely all lists, tally sheets, oaths and affirmations, and other documents relating to the progress of the election and shall deliver the same to the secretary of the board of directors of the district.

**61-06-17. Compensation of members of election board.** Each member of the election board for an irrigation district election shall receive compensation as fixed by the board of directors for the member's services.

**61-06-18. Return and canvass of votes by board of directors.** The board of directors of the district shall meet at its usual place of meeting within thirty days after each election and canvass the returns. If all the returns have not been received, the canvass shall be postponed from day to day until all the returns have been received. The canvass shall be made in public and by opening the returns and ascertaining the vote for each person voted for, and declaring the result thereof, and also ascertaining the vote for and against each and every question or proposition voted upon, and declaring the result thereof.

**61-06-19. Secretary of board of directors to declare result of election - Contents.** The secretary of the board of directors, as soon as the result of the election is declared, shall enter upon the records of the board a statement of such result which shall show:

1. The whole number of votes cast in the district.
2. The names of the persons voted for.
3. Each question voted upon.

4. The number of votes cast for each person and the number of votes cast for and against each question voted upon at the election.

A copy of such statement shall be recorded in a permanent record of the board to be kept for that purpose. Such statement shall be signed by the secretary of the board and authenticated by the seal of the district. A copy of such statement thus signed and authenticated shall be filed with the county auditor of each county wherein the irrigation district is situated and a like copy shall be mailed to the state engineer.

**61-06-20. Board of directors to declare results of election - Secretary to issue certificates of election.** The board of directors shall declare elected the person having the highest number of votes cast for each office and shall declare the result of the election as to each question voted upon at the election. The secretary immediately shall make out and deliver to each person elected a certificate of election, signed by the secretary and authenticated with the seal of the district.

**61-06-21. Meetings of board - Regular and special - Quorum - Records of board.** The board shall hold regular meetings in its office or usual place of meeting in January, March, July, and November of each year. The board by rule or bylaw authorized by section 61-07-03 shall fix dates for such regular meetings and may also fix dates for additional regular meetings as it shall deem needed. The board also may hold special meetings as may be required for the transaction of the district's business. Special meetings shall be called by the secretary upon the order of the chairman of the board or upon the request in writing of two members. The order must be entered of record on the minutes of the meeting and notice of such special meeting shall be delivered or mailed to each member of the board at least five days prior to the date of such special meeting. A special meeting of the board may be called at any time by the chairman without notice and the meeting thus called shall be legal and valid if all members of the board of directors are present. A majority of the members of the board shall constitute a quorum for the transaction of business, but upon all questions requiring a vote there shall be a concurrence of at least a majority of the board. All records of the board must be open to the inspection of any elector during business hours.

**61-06-21.1. Transactions of irrigation districts made public records - Grounds for removal of director or officer.** The minutes of all meetings, and all contracts, agreements, leases, and other business transactions of the board of directors of an irrigation district shall be public records and open to inspection by any person interested, or that person's attorney or agent, at all reasonable times. The terms of any proposed agreement or contract with federal or state agencies shall be deemed a business transaction open to public examination. Refusal on the part of any director or officer of an irrigation district to permit examination of the records of the irrigation district or to give any information available concerning business transactions of the district shall be grounds for removal of such director or officer in an action brought in the district court.

**61-06-22. Directors and officers - Salary, mileage, and expenses.** The compensation for each director per day while performing duties as a member of the board must be fixed by the board of directors but may be no more than sixty-two dollars and fifty cents per day. The allowance for meals and lodging expenses must be at the same rate and under the same conditions as provided for state officials and employees. The allowance for travel expenses must be at the same rate as provided by section 11-10-15 and must be evidenced by a subvoucher or receipt in a manner determined by the board of directors. The salary of the secretary, assessor, and treasurer must be determined by the board of directors.

**61-06-23. Officers not to be interested in contract - Penalty.** Repealed by S.L. 1975, ch. 106, § 673.