

## **CHAPTER 61-10**

### **CHANGING BOUNDARIES OF IRRIGATION DISTRICTS**

**61-10-01. Change of district boundaries - Effect.** The boundaries of any irrigation district may be changed and tracts of land not included within the district may be added to the district, or tracts of land included within the boundaries of such district may be excluded from the district, in the manner prescribed in this chapter, but neither such change of the boundaries of the district nor such exclusion of lands from the district shall impair or affect its organization, or its rights in or to property, or any of its rights or privileges. It shall not affect nor discharge any contract, obligation, lien, or charge for or upon which it was or might become liable or chargeable had such change of its boundaries not been made, or had no land been excluded from the district.

**61-10-02. Petition for inclusion of land in district - Contents of petition.** The holder or holders of title, or evidence of title, and the secretary of the interior of the United States for unentered or public land, representing one-half or more of any body of lands which can be served by the irrigation system, and which, taken together, constitute one tract of land, may file with the board of directors of such district a petition in writing praying that the boundaries of such district may be so changed as to include their lands. The petition shall describe the boundaries of the parcel or tract of land, and also shall describe the boundaries of the several parcels owned by the petitioners, if they are the owners of district parcels. Such description need not be more particular than may be required when such lands are entered by the township assessor in the assessment book. Such petition must contain the assent of the petitioners to the inclusion in said district of the parcels or tracts of land described in the petition, and of which the petition alleges that they respectively are the owners, and it must be acknowledged in the manner in which a conveyance of lands is required to be acknowledged.

**61-10-03. Notice of petition to include land in district - Contents - Time required by notice - Cost.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-04. Hearing of petition on proposed change in boundaries - Assent of parties.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-05. Payment of share of original cost by petitioners required.** The board to which a petition for the inclusion of lands into a district is presented may require, as a condition precedent to the granting of the same, that the petitioners severally shall pay to such district such respective amounts, as nearly as the same can be estimated, the several amounts to be determined by the board, as said petitioners or their grantors would have been required to pay to such district as assessments, had such lands been included in such district at the time the same originally was formed.

**61-10-06. Power of board to reject or grant petition for inclusion of land - Survey required.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-07. Objections to change - Resolution adopting change - Contents of resolution.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-08. Ordering of election - Notice, contents - Ballots, contents.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-09. Result of election - Duty of board.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-10. Copy of order changing boundaries filed with recorder - Effect.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-11. Petition to be recorded by secretary - Evidence.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-12. Authority of guardians, personal representatives, and conservators on proposal to change boundaries of district.** A guardian, conservator, or personal representative who is appointed as such under the laws of this state, and who is thereby entitled to the possession of the lands belonging to the estate which the person represents, on behalf of the person's ward or the estate which the person represents, or upon being authorized by the proper court, may sign and acknowledge the petition provided in this chapter, or the person may show cause, as mentioned in this chapter, why the boundaries of the district should not be changed.

**61-10-13. When redivision of district into divisions - Directors elected from.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-14. Exclusion of land from district - Petition for - Contents - Description of lands in - Acknowledging.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-15. Notice of petition for exclusion of lands - Contents - Publishing or posting - Time specified in notice.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-16. Hearing petition and objections thereto - Assent of parties.** Repealed by S.L. 1983, ch. 680, § 58.

**61-10-17. Power of board to deny or grant petition for exclusion of lands.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-18. Bonds or improvement warrants outstanding - Resolution excluding from district - Assent to - Acknowledgment.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-19. Election ordered to determine exclusion of lands - Publishing and posting - Form of ballots - Conducting.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-20. Result of election - Survey ordered by board.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-21. Filing copy of orders - Effect.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-22. Effect of change on office of director upon exclusion of lands - Vacancy - How filled.** If the lands excluded from any district shall embrace the greater portion of any division of such district, the office of director for such division shall be vacant at the expiration of ten days from the final order of the board excluding the lands. Such vacancy shall be filled by appointment by the other directors of the district. A director thus appointed shall hold office for the balance of the term in which the vacancy occurs.

**61-10-23. Redivision of district.** Repealed by S.L. 1959, ch. 410, § 15.

**61-10-24. Refunding assessments to owners of lands excluded.** Repealed by S.L. 1957, ch. 380, § 2.

**61-10-25. Notice of filing of petition and hearing thereof - Cost of proceedings.** The secretary of the board of directors shall cause notice of the filing of a petition for the inclusion of land in an irrigation district to be published in the manner provided for a regular election of the district. The notice shall state the name or names of petitioners, a description of lands mentioned in the petition, and the prayer of the petition. It shall notify all persons affected by the proposed inclusion of lands in the district, to appear at the time and place specified in the notice and to show cause, in writing or in person, if any they have, why the lands described in the petition, or any part thereof, should not be included in the irrigation district. The board may require the petitioners to advance to the secretary of the district sufficient money to pay the estimated cost incurred in the proceedings of the proposed inclusion of land.

**61-10-26. Hearing of petition - Assent of parties.** The board of directors of the district, at the time and place mentioned in the notice of hearing on the petition, or at such time to which the hearing of the petition may be adjourned, shall proceed to hear such petition and shall receive and consider all objections presented by any elector in the district or other affected person to the inclusion therein of lands described in the petition or any part thereof. The secretary of the board shall take note of all objections and include the same in the minutes of the meeting. The failure of any elector in the district to appear and object at the hearing, or to file with the board the elector's objection in writing before or at the hearing, shall be deemed to be an assent on the elector's part to the inclusion of such lands.

**61-10-27. Board may include lands in district.** If the board of directors deems it not for the best interest of the district that a change in its boundaries be made so as to include the lands mentioned in the petition, or any part thereof, it shall reject the petition. If it deems it for the best interest of the district, the board shall grant the petition in whole or in part and by resolution direct the chairman and the secretary of the board to issue its order including all or any part of the lands mentioned in the petition in the district, unless electors who together own at least ten percent of the whole number of acres [hectares] in the district subject to assessment for irrigation costs object in writing at or before the time of hearing to the inclusion of such lands. When lands are included in a district, the order of the board of directors allowing inclusion shall be filed with the state engineer and with the county auditor of each county in which such lands are situated and shall be filed and recorded in the office of the recorder of each such county.

**61-10-28. Electors may object to inclusion of lands - Board may call an election.** If electors who together own or hold ten percent or more of the whole number of acres [hectares] in the district, subject to assessments for irrigation costs, at the hearing on the petition, object in writing to the inclusion of the lands therein mentioned, the board shall, by resolution, order an election to submit to the electors of the district the question whether or not the lands mentioned in the petition or any part thereof shall be included.

**61-10-29. Ordering of election - Notice - Conduct.** The board shall fix the time when such election shall be held. Notice of such election, describing the lands proposed for inclusion in the district, shall be given in the manner provided for a regular election of the district. Such election shall be held and conducted, the ballots counted, and the results of the election determined and declared in the same manner as a regular election of the district. The ballots at such election shall contain substantially the following words: "For inclusion of lands in the district" and the words "against inclusion of lands in the district". In case a contract obligating the district has been entered into between the district and the United States, or with any department or agency thereof, or with the state, or any department or political division thereof, no change shall be made in the area embraced within the district unless a duly authorized agent of the holder of any such contract has consented thereto in writing and until such consent has been filed with the board of directors.

**61-10-30. Result of election - Duty of the board and secretary.** If a majority of the votes cast at the election shall be against the inclusion of the land described in the resolution of the board of directors, the board shall deny the petition and shall proceed no further in the matter. If, however, a majority of the votes cast at the election shall be in favor of including such lands in the district, the board shall issue its order setting forth the filing of the petition, the action of the board thereon, the result of the election, and shall order such lands added to the district. The order shall describe the lands to be included in the district. A certified copy of the order of the board shall be filed with the state engineer and the county auditor of each county in which the included lands lie. A certified copy of such order shall also be filed and recorded in the office of the recorder in each such county.

**61-10-31. Redivision of district into divisions.** When lands are included in an irrigation district by means of the procedure described in this chapter, and if the district will contain after inclusion of the lands twenty thousand irrigable acres [8093.72 irrigable hectares] or more, at least thirty days before the next general election, the board shall make an order dividing or redividing the district into divisions in conformity with section 61-05-13. The divisions must be

as nearly equal in size as may be practicable and they must be numbered, with one director thereafter elected by and from each division.

**61-10-32. Petition for exclusion of land from irrigation district - Bond - Contents.**

The owner or owners of a tract or tracts of land in an irrigation district may file with the board of directors of the district a petition requesting that such tract or tracts of land be excluded from the district. The petition shall be accompanied by a sufficient bond conditioned that the petitioner or petitioners will pay all costs incurred by the board in connection with the proceeding resulting from the filing of such petition. The petition must describe each tract of land sought to be excluded from the district. The petition shall be recorded in the minutes of the board. The filing of a petition with the board requesting the exclusion of lands from the district is deemed an assent by each petitioner to the exclusion from the district of the lands described in the petition, or any part thereof. Any unit or tract of land mentioned in the petition which does not include within its boundaries acreage [hectarage] susceptible of irrigation by the irrigation works of the district may not be assessed or taxed by the district and may be excluded therefrom.

**61-10-33. Notice of hearing of petition.** The secretary of the board of directors shall cause notice of the filing and hearing of a petition for exclusion of lands from an irrigation district to be published in the manner provided for a regular election of the district. The notice shall state (1) the names of petitioners, (2) the description of each tract of land mentioned in the petition, and (3) the prayer of the petition. The notice shall notify all persons affected by the proposed exclusion of lands from the district, to appear at the time and place specified therein and show cause in writing or in person, if any they have, why the lands described in the petition should not be excluded. If a petition requesting the exclusion of lands does not describe any lands which are susceptible of irrigation by the irrigation works of the district, the board may exclude the lands from the district without notice or hearing.

**61-10-34. Board may grant or deny petition for exclusion of lands.** If after the hearing and after considering objections, if any, to exclusion of the lands or parts thereof mentioned in the petition, the board deems it not for the best interest of the district to exclude the lands mentioned in the petition or any part thereof, it shall deny the petition. If, however, the board shall deem it for the best interests of the district to exclude such lands, or any part thereof, from the district, it shall grant the petition and by resolution direct the chairman and secretary of the board to issue an order excluding such lands from the district, unless the district has outstanding bonds or improvement warrants or unless a contract obligating the district has been entered into with the United States or any department or agency thereof or with the state or any department or political subdivision thereof.

**61-10-35. Outstanding bonds or improvement warrants or contractual obligations - Order excluding lands - Assent.** If the holders of outstanding bonds or improvement warrants, or of contracts obligating the district, consent in writing to exclusion of lands mentioned in the petition, the board of directors may by resolution direct the chairman and the secretary of the board to execute its order excluding such lands from the district. The assent in writing of holders of district bonds or improvement warrants, or of anyone interested in a contract obligating the district, shall be filed with the secretary of the district and shall be copied in the minutes of the board, and such minutes or a certified copy thereof, shall be admissible in evidence with the same effect as the written assent. If such assent is not given, the board shall deny and dismiss the petition. When lands are excluded from the district, a certified copy of the order of the board shall be filed in the offices of the state engineer and the county auditor of each county in which the excluded lands are situated and filed and recorded in the office of the recorder of each such county.

**61-10-36. Election to determine exclusion of land - Notice of election - Form of ballot - Conduct of election.** If electors who together own at least ten percent of the whole number of irrigable acres [hectares] in the district object in writing to the exclusion of such land, the board shall by resolution order an election to submit to the electors of the district the question whether or not the lands mentioned in the petition, or any part thereof, shall be excluded. Notice of such election, describing the lands proposed for exclusion from the district, shall be given in

the manner provided for a regular election of the district. The ballot at such election shall be substantially in the following form:

Shall the tracts of land described in the notice of this election be excluded from the irrigation district?

- Yes (for exclusion of lands)   
No (against exclusion of lands)

The election shall be conducted substantially as a general election of an irrigation district is conducted.

**61-10-37. Result of election - Order excluding lands.** If at an election for exclusion of lands from an irrigation district, a majority of the votes cast shall be against exclusion, the board shall dismiss the petition and proceed no further in the matter, but if a majority of such votes shall be in favor of excluding such lands from the district, the board shall issue its order setting forth the filing of the petition, the action of the board thereon, the result of the election, and shall order such lands excluded from the district. A certified copy of such order shall be filed in the offices of the state engineer and the county auditor of each county in which the excluded lands lie and shall be filed and recorded in the office of the recorder of each such county.

**61-10-38. Elimination of divisions of district.** When lands are excluded from an irrigation district by means of the procedure described in this chapter, and if the district will contain less than twenty thousand irrigable acres [8093.72 irrigable hectares] after the exclusion of the lands, the board of directors shall issue an order eliminating district divisions in conformity with section 61-05-13.