

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 191

Introduced by Hughes, 44.

Read first time January 08, 2021

Committee: Natural Resources

- 1 A BILL FOR AN ACT relating to the Irrigation District Act; to amend
- 2 section 46-102, Revised Statutes Cumulative Supplement, 2020; to
- 3 redefine an elector as prescribed; to harmonize provisions; and to
- 4 repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 46-102, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 46-102 (1) For purposes of the Irrigation District Act:

4 (a) Elector means:

5 (i) For any irrigation district or proposed irrigation district not
6 described in subdivision (1)(a)(ii) of this section, any resident of the
7 State of Nebraska who:

8 (A) Owns ~~, owning~~ not less than fifteen acres of land within any
9 such district;

10 (B) Is ~~, or who is~~ an entryman of government land, within any such
11 irrigation district or proposed irrigation district; ~~, or~~

12 (C) Holds any resident of the State of Nebraska holding a leasehold
13 estate in not less than forty acres of state land within any such
14 irrigation district for a period of not less than five years from the
15 date at which such elector seeks to exercise the elective franchise; and

16 (ii) For any irrigation district or proposed irrigation district
17 which borders another state and comprises less than two thousand acres
18 and in which one-half or more of the landowners, leaseholders, or
19 entrymen of government lands are not residents of the State of Nebraska,
20 any person who:

21 (A) Owns not less than fifteen acres of land within any such
22 district;

23 (B) Is an entryman of government land within any such district; or

24 (C) Holds a leasehold estate in not less than forty acres of state
25 land within any such district for a period of not less than five years
26 from the date at which such elector seeks to exercise the elective
27 franchise; and

28 (b) Residence means (i) that place in which a person is actually
29 domiciled, which is the residence of an individual or family, with which
30 a person has a settled connection for the determination of his or her
31 civil status or other legal purposes because it is actually or legally

1 his or her permanent and principal home, and to which, whenever he or she
2 is absent, he or she has the intention of returning, or (ii) the place
3 where a person has his or her family domiciled even if he or she does
4 business in another place.

5 (2) Status as an elector, including residency, shall be established
6 as provided by this section and section 46-110.

7 (3) (2) If an elector resides outside of the irrigation district,
8 the elector shall be considered an elector in the division of the
9 irrigation district in which his or her land is situated or, if the
10 elector is the owner of land in more than one division of the irrigation
11 district, the elector shall be considered an elector in the division of
12 the district in which the majority of his or her land is situated.

13 (4) (3) In the case of land owned or leased by joint tenants, each
14 joint tenant ~~who is a resident of the State of Nebraska~~ is an elector and
15 entitled to vote if the total acreage owned or leased per joint tenant is
16 equal to or exceeds the minimum acreage requirements of subsection (1) of
17 this section.

18 (5) (4) In the case of land owned or leased by tenants in common,
19 each tenant ~~who is a resident of the State of Nebraska~~ is an elector and
20 entitled to vote if the total acreage owned or leased per tenant is equal
21 to or exceeds the minimum acreage requirements of subsection (1) of this
22 section.

23 (6) (5) In the case of land owned or leased by a corporation,
24 limited liability company, limited liability partnership, joint venture,
25 or other legal entity which meets the minimum acreage requirements of
26 subsection (1) of this section, the entity shall designate a shareholder,
27 member, or partner of the entity ~~who is a resident of the State of~~
28 ~~Nebraska~~ to act as the elector on behalf of the entity. The entity shall
29 identify its elector-designee in writing to the secretary of the board of
30 directors of the irrigation district not less than thirty days prior to
31 an irrigation district election.

1 (7) ~~(6)~~ In the case of land owned or leased under a life tenancy,
2 each remainderman ~~who is a resident of the State of Nebraska~~ is an
3 elector and entitled to vote if the total acreage owned or leased per
4 remainderman is equal to or exceeds the minimum acreage requirements of
5 subsection (1) of this section.

6 (8) ~~(7)~~ In the case of land held by a buyer in possession pursuant
7 to a land-purchase contract when the total acreage under the land-
8 purchase contract meets the minimum acreage requirements of subsection
9 (1) of this section and the buyer in possession ~~is a resident of the~~
10 ~~State of Nebraska~~ and is responsible for paying the real property taxes
11 and the irrigation fees and assessments, the buyer in possession is the
12 elector.

13 (9) ~~(8)~~ In the case of land owned or leased by a trust which meets
14 the minimum acreage requirements of subsection (1) of this section, the
15 trustee shall designate a trustor, beneficiary, or trustee of the trust
16 ~~who is a resident of the State of Nebraska~~ to act as the elector on
17 behalf of the trust. The trust shall identify its elector-designee in
18 writing to the secretary of the board of directors not less than thirty
19 days prior to an irrigation district election.

20 (10) ~~(9)~~ In the case of a pending estate of a deceased elector
21 involving land which meets the minimum acreage requirements of subsection
22 (1) of this section, the duly appointed personal representative of the
23 estate ~~who is a resident of the State of Nebraska~~ shall act as the
24 elector on behalf of the estate.

25 (11) ~~(10)~~ Prior to formation of an irrigation district, if two or
26 more persons claim conflicting rights to vote on the same acreage, the
27 election commissioner or county clerk shall determine the party entitled
28 to vote. In such cases, the determination of the election commissioner or
29 county clerk shall be conclusive. After formation of an irrigation
30 district, if two or more persons claim conflicting rights to vote on the
31 same acreage or any other conflict arises regarding the qualification of

1 an elector, the secretary of the board of directors of the irrigation
2 district shall determine the party entitled to vote. The secretary's
3 determination shall be conclusive. If a claim involves the secretary of
4 the board, the board of election for the affected irrigation district
5 precinct shall determine the party entitled to vote. In such cases, the
6 determination of the board of election shall be conclusive.

7 Sec. 2. Original section 46-102, Revised Statutes Cumulative
8 Supplement, 2020, is repealed.