

1 **As Amended by House Committee**

2 *Session of 2001*

3
4 **HOUSE BILL No. 2234**

5
6 By Committee on Environment

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8 1-31

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10 AN ACT concerning rural water districts; relating to the procedure for
11 release of lands from a district; repealing K.S.A. 82a-630.

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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) Terms used in this section shall have the meanings
15 provided by K.S.A. 82a-612, and amendments thereto.

16 (b) If certain lands included within a district cannot be economically
17 or adequately served by the facilities of the district, the owners of such
18 lands may petition the board of directors of the district to release those
19 lands from the district. The petition shall describe the lands requested to
20 be released and shall be signed by at least 75% of the total number of
21 the owners of the lands requested to be released. The board of directors
22 may prescribe a fee to be collected from the petitioners for the purpose
23 of offsetting costs reasonably expected to be incurred by the district in
24 hearing the request for release. The petition for release, together with a
25 verified list of the names and addresses of all owners of the land requested
26 to be released, and the prescribed fee, shall be filed with the secretary
27 of the district.

28 (c) If the board of directors of the district finds the petition to be in
29 proper form, the board shall conduct a hearing on the petition for release.
30 Notice of the time and place of the hearing shall be mailed to all owners
31 of land requested to be released not later than 10 days before the hearing.
32 The hearing may be continued from time to time without further notice
33 to landowners. In considering the petition for release, the board shall
34 consider whether the lands requested to be released cannot be econom-
35 ically or adequately served by the facilities of the district and whether the
36 release would be in the best interests of the landowners and the district,
37 based on the following factors:

38 (1) Whether the petitioners for release of lands have applied for one
39 or more ~~benefits~~ **benefit** units to serve the lands requested to be released,
40 which applications have been denied;

41 (2) the length of time before the board of directors reasonably expect
42 to make water service available to the lands requested to be released;

43 (3) whether water service is available from another source if the lands

1 are released from the district;

2 (4) if water service is available from the district to the lands requested
3 to be released, the relative cost of obtaining such water service, as deter-
4 mined by the district, compared to the additional value of the lands after
5 water service is made available;

6 (5) if water service is available from the district, the cost of obtaining
7 such water service, as determined by the district, compared to the cost
8 of obtaining water from another source;

9 (6) whether any applicable law will prevent any other water suppliers
10 from serving the lands requested to be released; and

11 (7) whether the district's interest in maintaining the integrity of its
12 territory is outweighed by the landowners' need to obtain a source of
13 supply of water to the lands requested to be released.

14 (d) The board may approve the release of all or part of the lands
15 requested to be released or may deny the request. The burden of proof
16 shall be on the petitioners for release. The board of directors shall make
17 a determination on the petition for release within 120 days after its re-
18 ceipt, shall record its findings in the minutes of the district and shall mail
19 a copy of such findings to each petitioner within seven days.

20 (e) Any owner of land requested to be released from the district who
21 is dissatisfied with the determination of the board of directors on the
22 petition for release may bring an action in the district court of the county
23 in which the district is located to determine if the board of directors of
24 the district abused its discretion in making such determination. Such ap-
25 peal shall be filed within 30 days after the final decision of the board.

26 (f) If the board of directors of the district approves the petition, or if
27 the district court on appeal determines that the board abused its discre-
28 tion in denying release, a copy of the board's action approving the release
29 or of the district court's order on appeal, as the case may be, shall be
30 transmitted to the chief engineer and to the county clerk, who shall note
31 the change of such district's boundaries.

32 Sec. 2. K.S.A. 82a-630 is hereby repealed.

33 Sec. 3. This act shall take effect and be in force from and after its
34 publication in the Kansas register.

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