

TITLE 43
IRRIGATION DISTRICTS

CHAPTER 10
ANNEXATION OF LANDS TO DISTRICT

43-1001. PETITION FOR ANNEXATION OF LAND. The holder or holders of any title, or evidence of title, representing any body of lands, may file with the board of directors of an irrigation district a petition in writing praying that said land may be annexed. The petition shall contain a legal description of the lands, the proposed method by which water will be delivered and any other information the district may require, and the petitioners shall state under oath that petitioners hold the title of one-half (1/2) or more of said lands.

[(43-1001) 1903, p. 150, sec. 44; am. 1907, p. 484, sec. 1; am. R.C. & C.L., sec. 2423; C.S., sec. 4411; I.C.A., sec. 42-1001; am. 1990, ch. 340, sec. 1, p. 924.]

43-1002. GUARDIANS AND ADMINISTRATORS MAY SIGN PETITION. A guardian, executor or an administrator of an estate who is appointed as such under the laws of this state, and who, as such guardian, executor or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition mentioned in this chapter for the change of boundaries of the district.

[(43-1002) 1903, p. 150, sec. 54; am. R.C. & C.L., sec. 2424; C.S., sec. 4412; I.C.A., sec. 42-1002.]

43-1003. NOTICE OF PETITION. The secretary must cause a notice of the filing of such petition to be published three (3) weeks in the manner of notices of special elections. The notice shall state the filing of such petition, and the names of the petitioners, a description of the lands mentioned in the said petition, and it shall notify all persons interested in or that may be affected by such change of boundaries of the district, to appear at the office of said board, at a time named in said notice, and show cause in writing, if any they have, why the lands mentioned should not be annexed to said district. The petitioners shall advance to the secretary sufficient money to pay the estimated costs of all proceedings under this chapter.

[(43-1003) 1903, p. 150, sec. 45; am. 1907, p. 484, sec. 1, subd. 45; reen. R.C. & C.L., sec. 2425; C.S., sec. 4413; I.C.A., sec. 42-1003; am. 1990, ch. 340, sec. 2, p. 924.]

43-1004. HEARING OF PETITION. The board of directors, at the time mentioned in said notice or at such other time to which the hearing may be adjourned, shall hear the petition and all the objections thereto. The failure of any person to appear and object shall be taken as an assent on his part to a change of the boundaries of the district as prayed for in said petition, or to such a change thereof as will include a part of said lands.

[(43-1004) 1903, p. 150, sec. 46; am. 1907, p. 484, sec. 1, subd. 46; reen. R.C. & C.L., sec. 2426; C.S., sec. 4414; I.C.A., sec. 42-1004; am. 1990, ch. 340, sec. 3, p. 924.]

43-1005. ASSESSMENTS AGAINST PETITIONERS. The board of directors may require, as a condition to the granting of said petition, that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated, as said petitioners, or their grantors, would have been required to pay such district, had such lands been included in such district, at the time the same was originally formed.

[(43-1005) 1903, p. 150, sec. 47; am. 1907, p. 484, sec. 1, subd. 47; reen. R.C. & C.L., sec. 2427; C.S., sec. 4415; I.C.A., sec. 42-1005.]

43-1006. ORDER ACCEPTING OR REJECTING PETITION. The board of directors, if they deem it not for the best interest of the district to include therein the lands mentioned in the petition, shall order that the petition be rejected. But if they deem it for the best interest of the district, the board may order the lands mentioned in said petition or some part thereof be annexed to said district. The order shall describe the lands to be annexed to said district and the board may cause a survey thereof to be made if deemed necessary, and said order will not become effective until the ninety (90) day period for presentation of an election petition shall have expired without such petition being presented or until approval of the annexation at an election.

[(43-1006) 1903, p. 150, sec. 48; am. 1907, p. 484, sec. 1, subd. 48; reen. R.C. & C.L., sec. 2428; C.S., sec. 4416; I.C.A., sec. 42-1006; am. 1990, ch. 340, sec. 4, p. 924.]

43-1008. ELECTION TO DETERMINE CHANGE. If within ninety (90) days of board approval of an order allowing annexation a petition signed by either ten (10) landowners or by two percent (2%) of the landowners, whichever number is greater, of the district is presented to the board which petition states that those signing request an election to approve or disapprove said annexation, then the board shall order an election be held within said district to determine whether the boundaries of the district shall be changed as mentioned in said order; and shall fix the time at which such election shall be held. Notice thereof shall be given and published, and such election shall be held, and all things pertaining thereto conducted, in the manner prescribed by this title in case of an election to determine whether bonds of the district shall be issued. The ballots cast at said election shall contain the words "For change of boundary," or "Against change of boundary," or words equivalent thereto. The notice of election shall describe the lands to be annexed to said district.

[(43-1008) 1903, p. 150, sec. 50; am. 1907, p. 484, sec. 1, subd. 50; reen. R.C. & C.L., sec. 2430; C.S., sec. 4418; I.C.A., sec. 42-1008; am. 1990, ch. 340, sec. 6, p. 925.]

43-1009. ORDER CHANGING BOUNDARIES. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall rescind its order and it shall be of no force or effect. But if a majority of such votes be in favor of such change,

the order shall have full force and effect. Thereafter such land so annexed shall be subject to such assessments from time to time as the board of directors shall deem right under the circumstances, and such assessments shall be deemed to be assessments for benefits to said lands by reason of their annexation to said district. The directors shall state on their minutes at their next regular meeting which division and election precinct in said district the said lands so annexed shall be attached, and, if necessary, the board shall make an (an) order redividing the district into divisions and election precincts, in the same manner and to like effect, as near as may be, as provided for that purpose on the formation of a district.

[(43-1009) 1903, p. 150, sec. 51; am. 1907, p. 484, sec. 1, subd. 51; reen. R.C. & C.L., sec. 2431; C.S., sec. 4419; I.C.A., sec. 42-1009; am. 1990, ch. 340, sec. 7, p. 925.]

43-1010. ORDER TO BE RECORDED. Upon a change of the boundaries of a district becoming effective, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of the county within which the annexed lands are situated, and thereupon the district shall be and remain an irrigation district, as fully and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries as aforesaid, had been included therein at the original organization of the district.

[(43-1010) 1903, p. 150, sec. 52; reen. R.C. & C.L., sec. 2432; C.S., sec. 4420; I.C.A., sec. 42-1010; am. 1990, ch. 340, sec. 8, p. 926; am. 2001, ch. 192, sec. 1, p. 657.]

43-1011. ORDER RECORDED IN MINUTES -- MINUTES AS EVIDENCE. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary of the board shall record in the minutes of the board, the petition aforesaid, and the said minutes, or a certified copy thereof, shall be admissible in evidence, with the same effect as the petition.

[(43-1011) 1903, p. 150, sec. 53; reen. R.C. & C.L., sec. 2433; C.S., sec. 4421; I.C.A., sec. 42-1011.]