

2023 Kansas Statutes

24-701. Application to district court for drainage in certain cases; petition; bond. (a)

Whenever any owner or owners of land which would be benefited by drainage, which cannot be accomplished in the best and cheapest manner without affecting the lands of others, shall desire such drainage; or whenever any township board shall desire to provide for the drainage of a public highway; or whenever any school-district board shall desire to provide for the drainage of the grounds of a public school, which drainage shall affect the lands of others; or whenever the mayor and council of any city shall find it necessary for the successful drainage of such city to construct any drain as an inlet or outlet leading into or out of such city, or to construct drains outside such city to prevent the flooding of such city, which drain, inlet or outlet cannot be constructed without affecting the lands of others, such owner or owners, township board, school-district board, or mayor and council of any city, as the case may be, may apply for such drainage by petition to the district court of the county in which any of the lands of the petitioner or petitioners are situated; or, in case of a township board or school-district board or the mayor and council of a city, to the district court of the county in which such township, school district or city is located.

(b) The petition shall:

- (1) Describe the lands which will be affected by such drain in tracts of 40 acres according to the government survey, or in smaller fractions of a section if owned in smaller tracts;
- (2) describe by metes and bounds all lands not susceptible of description as fractions of a section;
- (3) give the name or names of the occupant or occupants and of the owner or owners of each tract, if known, and if not known shall so state;
- (4) name any township and highway and grounds of any public school by the appropriate number of the district and appropriate description of the grounds; and
- (5) list the name of any city which it is believed would be benefited by such drainage or in which the drainage of a public highway, the grounds of a public school or street would be improved. If any of the lands to be so benefited or damaged lie within the corporate limits of any city or town, the same shall be described by lots or blocks, by their appropriate numbers, when such lots or blocks are numbered on the plat books in the office of the register of deeds of the county. If the right of way of any railroad, interurban railway or street-car company is believed to be affected, it shall be sufficient to describe it as the right of way of such railroad or company, naming it, through the sections, townships and ranges on which it is located, giving the number of the same.

(c) Such petition shall be sufficient to give the court jurisdiction over all lands described therein, and power to fix a lien thereon, if they are described as belonging to the persons who appear to be the owners, according to the last assessment roll or record of transfers kept by the county clerk of the county in which such lands are situated. The petition shall also state that in the opinion of the petitioner or petitioners the public health will be improved, or that one or more public highways in the county, or streets in a city or town therein, will be benefited by the proposed drainage, or that the proposed work will be of public utility. The petition shall further state, generally, the method by which it is believed such drainage can be accomplished in the cheapest and best manner, and the belief of the petitioner or petitioners that the cost, damages and expenses of such drainage will be less than the benefits which will result to the owners of the lands and other properties and easements, and to such lands, easements and other properties and to municipalities likely to be benefited thereby. Such petition shall be verified by the affidavit of one or more of the petitioners.

(d) At the time of filing the petition the petitioner or petitioners shall also give bond, payable to the state of Kansas, with one or more sureties to be approved by the judge of the district court, conditioned for the payment of all expenses in the event the court shall not establish such proposed work of drainage.

History: L. 1907, ch. 197, § 1; L. 1909, ch. 129, § 1; R.S. 1923, 24-701; L. 1992, ch. 314, § 4; July 1.