

## HOUSE BILL No. 2057

By Committee on Government Efficiency and Technology

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9 AN ACT concerning rural water districts; amending K.S.A. 2006 Supp.  
10 82a-646 and repealing the existing section.

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

13 Section 1. K.S.A. 2006 Supp. 82a-646 is hereby amended to read as  
14 follows: 82a-646. (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 benefit units to serve the lands requested to be released, which  
40 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 *provided to the landowners and shall be* transmitted to the chief engineer  
31 and to the county clerk, who shall note the change of such district's  
32 boundaries.

33 (g) *For purposes of this section, the owners of land sought to be re-*  
34 *leased shall be determined by an enumeration of the owners of land, taken*  
35 *from the tax rolls of the county in which the lands are located.*

36 (h)(1) *As an alternative to the procedures provided in paragraphs (b)*  
37 *through (f), if all of the landowners of the land sought to be released sign*  
38 *a verified petition seeking release of their lands from a rural water district,*  
39 *the board of directors of the district shall enter an order granting that*  
40 *petition upon payment by the petitioning landowners of just compensation*  
41 *to the district as provided herein. "Just compensation" shall consist of*  
42 *payment for (1) the reasonable value of facilities and improvements of the*  
43 *district that are located on the land sought to be released and which are*

1 utilized to serve such land; and (2) reasonable value of the district's prop-  
2 erty, facilities and improvements existing wholly or in part for the purpose  
3 of providing water service to the land to be released.

4 Just compensation shall be determined by the board of directors of the  
5 district within 120 days of the date of the receipt of the petition. Notice  
6 of the amount of just compensation as determined by the board and the  
7 manner or its calculation shall be provided to each petitioning landowner.  
8 The landowners shall pay such amount to the district, not later than 120  
9 days after notice has been made or the request for release shall be deemed  
10 abandoned and dismissed.

11 If the petitioning landowners are dissatisfied with the amount of just  
12 compensation determined by the board, the landowners may notify the  
13 board of directors of the district and request a valuation by a panel of  
14 appraisers selected in accordance herewith. Within 60 days of the date  
15 that notice of the request for valuation by appraisers has been made to  
16 the district, the petitioning landowners and the district shall each select  
17 an appraiser. The appraisers shall thereafter select a third appraiser for  
18 the purpose of conducting an appraisal so as to determine the just com-  
19 pensation payable to the district. The agreement or decision of at least  
20 two of the three appraisers shall be the just compensation payable to the  
21 district. The appraisers fees shall be assessed and payable  $\frac{1}{2}$  to the peti-  
22 tioning landowners and  $\frac{1}{2}$  to the district.

23 If either the district or the petitioning landowners are dissatisfied with  
24 the decision of the appraisers, then either the district or the landowners  
25 may institute an action in the district court to challenge the reasonableness  
26 of the value determined by the appraisers.

27 Upon payment of the amount of just compensation to the district as  
28 determined by the appraisers or as determined by the court on appeal  
29 together with the appraisers fees assessed to the petitioning landowners,  
30 the board of directors of the district shall enter an order releasing the  
31 land from the territory of the district. A copy of the order shall be provided  
32 to each petitioning landowner and also transmitted to the chief engineer.  
33 Copies shall also be filed with the county clerk, who shall note the change  
34 of the district's boundaries.

35 (2) The procedure provided by subsection (h) shall not be available  
36 if the effect thereof would be to avoid the compensation that would oth-  
37 erwise be payable to the district under the provisions of K.S.A. 12-527  
38 and amendments thereto.

39 Sec. 2. K.S.A. 2006 Supp. 82a-646 is hereby repealed.

40 Sec. 3. This act shall take effect and be in force from and after its  
41 publication in the statute book.