

§ 15. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after May 1, 1941.

Approved March 17, 1941.

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## WATER CONSERVATION

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### CHAPTER 298

H. B. No. 166—(Committee on Drainage and Irrigation by Request)

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#### IRRIGATION DISTRICTS

An Act to Amend and Re-enact Sections 8247a1, 8247a2, 8247a3, 8247a4, 8247a5, 8247a10, 8247a16, 8247a17, 8247a47, 8247a57 and 8247a60 of the Supplement to the Compiled Laws of 1925 as amended and re-enacted by Sections 1, 2, 3, 5, 6, 11, 21, 22, 30, 35, and 37 of Chapter 253 of the Session Laws of North Dakota for 1939 relating to Irrigation Districts, their Functions, Powers and Duties.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That Section 8247a1 of the Supplement to the Compiled Laws of 1925 as amended and re-enacted by Section 1 of Chapter 253 of the Session Laws of North Dakota for 1939, is hereby amended and re-enacted so as to read as follows:

§ 8247a1. Whenever a majority of the electors within an area containing 80 acres or more of land, susceptible of irrigation, desire to provide for the irrigation of such land, they may propose the organization of an irrigation district under the provisions of this Act, and when so organized the district shall have the powers conferred, or that may be conferred, by law upon irrigation districts; provided, that no district shall, when so organized, contain less than five electors as the term elector is herein defined, and provided further, that where irrigation works, ditches, or canals have been constructed before the passage of this act of sufficient capacity to irrigate the lands thereunder, for which lands the water taken in such canals or ditches is appropriated, such canals or ditches and franchises under which same are maintained and operated, and the lands irrigated by such canals or ditches, shall be exempt from the operation of this act unless such irrigation district is created to acquire and own such irrigation works, canals, ditches, water rights and franchises. The term "elector" as used in this act shall include any entryman of government land or person owning not less than

ten acres of land, subject to assessments for construction or other costs, within the proposed or existing district who is a resident of the State of North Dakota. A purchaser of land under contract shall be deemed to be the owner thereof. Each elector shall have at least one vote, and any elector owning more than forty acres, subject to assessments for construction or other costs, within a proposed or existing district shall have one additional vote for each additional forty acres, but no elector shall be entitled to cast more than five (5) votes in any district election regardless of the number of acres of land owned in the district.

The word "elector" as defined and used in this act shall also include:

1. Guardians, executors, administrators, and trustees, residing in North Dakota, vested with the control and jurisdiction over lands within a proposed or existing district. A certified copy of Letters of Guardianship, Letters of Administration, Letters Testamentary or of the instrument creating the trust shall be presented to and filed with the clerk of the district election board. Any such guardian, executor, administrator or trustee, whether an individual or a corporation, may by an instrument in writing, duly acknowledged, designate an agent to vote in his or its behalf. Such instrument appointing such agent, together with a certified copy of Letters of Guardianship Letters Testamentary, Letters of Administration or instrument creating the trust, as the case may be, shall be presented to and filed with the clerk of the district election board by such agent.

2. Corporations, organized and existing under the laws of the state of North Dakota, owning lands within a proposed or existing district and co-owners of land therein.

3. The United States of America and the State of North Dakota, if government or state owned lands are situated in a proposed or existing district.

Where such land is owned by co-owners, said co-owners may by an instrument in writing designate one of their number to cast the vote for said owners. Such instrument shall be acknowledged by such co-owners and shall be presented to, and filed with the clerk of the district election board.

Where such land is owned by a corporation or by the United States, or by the State of North Dakota, such corporation, and any department or agency of the United States of America or of the State of North Dakota, shall, in order to participate in any district election, by an instrument in writing, executed and acknowledged by the proper officer or officers of such corporation, department or agency, designate an agent to vote in its behalf. Such instrument shall be presented to and filed with the clerk of the district election board by such agent.

§ 2. AMENDMENT.] That Section 8247a2 of the Supplement

of the Compiled Laws of 1925 as amended and re-enacted by Section 2 of Chapter 253 of the Session Laws of 1939 is hereby amended and re-enacted so as to read as follows:

§ 8247a2. A petition shall be filed with the State Engineer signed by a majority of the electors of the proposed district who shall own a majority of the whole number of acres contained within the proposed district, requesting that the territory described in said petition be organized under the provisions of this act. Such petition shall set forth the name and address of each petitioner, and a description of his land. The petition shall also describe the boundaries of the district. The petition shall be accompanied with a map of the proposed district. Such map shall show the location of the proposed canals or works by means of which it is intended to irrigate the lands of the proposed district, but canals that merely pass through said lands, and which do not irrigate any of the same, need not be shown. If the water supply be from natural streams, the flow of such stream or streams shall be stated in cubic feet per second.

If the water supply for the district is to be gathered by a storage reservoir, or reservoirs, the map shall show the location thereof and shall state their capacity in acre feet.

Such map shall be drawn to a scale of not less than two inches to the mile. Typical cross sections of the proposed canal or canals, and all canals existing within the boundaries of the proposed district and shown on the map, and of all proposed dams and embankments, shall be given in sufficient detail to show the contemplated method of construction, and the capacity of the typical canals required for the irrigation of the lands within the proposed district shall be stated. Such cross sections shall be drawn to a scale required by the State Engineer, and such map and cross sections shall be certified to by an irrigation engineer. The petition must be accompanied by a good and sufficient bond, to be approved by the State Engineer, in double the amount of the probable cost of organizing such district, including the cost of the first election therein, conditioned that the sureties will pay all costs in case said organization shall not be approved by the electors.

Within ten days after the filing of such petition, and the approval of such bond, the State Engineer shall file a certified copy of such petition with the board of county commissioner (s) of each county wherein the proposed irrigation district is situated.

The State Engineer shall examine the petition, maps, papers and data pertaining to the proposed irrigation district and shall fix a time and place for hearing such petition. A notice stating that such petition will be heard, and stating the time and place of hearing, must be filed with the county auditor of each county wherein such district is located. Such notice shall be published once each week for two weeks prior to the date of such hearing in the official newspaper of the county wherein the proposed irrigation district is locat-

ed, and if such district is located in more than one county, then such notices shall be published in the official newspaper of each such county. Prior to such hearing the State Engineer shall prepare, or shall cause to be prepared, a report showing the probable cost of the proposed irrigation works and the practicability and feasibility of the plan of irrigation suggested or proposed by petitioners for the irrigation of the lands within such district. A copy of such report shall be filed with the county auditor of each county wherein the proposed irrigation district is situated and such report shall be open to public inspection. The State Engineer shall also submit such report to the electors of the proposed district at the meeting set for hearing the petition for the organization thereof.

At the time set for hearing, the State Engineer may, with the consent of petitioners amend the plan of irrigation proposed in said petition and may, with the written consent of the owners of the additional land affected, enlarge the boundaries of the proposed irrigation district. The State Engineer may adjourn such hearing from time to time and on the final hearing may make such changes in the proposed boundaries as he shall find to be proper and shall establish and define the boundaries; provided however, that the boundaries of the irrigation district proposed in the petition shall not be changed until each owner of land affected thereby has in writing consented to the inclusion of his land in such district.

§ 3. AMENDMENT.] That Section 8247a3 of the Supplement of the Compiled Laws of 1925 as amended and re-enacted by Section 3 of Chapter 253 of the Session Laws of 1939 is hereby amended and re-enacted so as to read as follows:

§ 8247a3. (1). When the State Engineer shall have found and determined that the establishment of such irrigation district is advisable, and that the plan proposed for irrigating the lands therein is practicable and economically sound, he shall make an order establishing such irrigation district subject to the approval of the electors of the district at an election called by the State Engineer for that purpose as hereinafter provided. If the district embraces 10,000 acres of land, or more, the State Engineer shall divide the district into three sub-divisions which shall be as nearly equal in size as may be practicable, and which shall be numbered, and one director shall be elected from each division. Such order shall set forth: (a) the time and place of holding such election, (b) the boundaries of the district, (c) the name and address of each elector who has petitioned for, or consented in writing to the organization of such irrigation district and a description of the land owned by each such elector, and (d) the plan or method proposed for the irrigation of such lands. A copy of such order shall be filed with the County Auditor of each county in which the irrigation district is situated. Such order shall be prima facie evidence of the matter and facts therein stated.

(2). If, however, the State Engineer shall determine that the plan of irrigation proposed is not practicable or that such plan is not economically sound, he shall make an order denying the petition for the organization of such irrigation district and shall state his reasons for his action. A copy of such order shall also be filed with the county auditor of each county in which the proposed irrigation district is situated.

(3). Upon making his order establishing such irrigation district the State Engineer shall give notice of an election to be held in such district for the purpose of determining whether or not the electors of the district approve the establishment and organization thereof as an irrigation district. Such notice shall describe the boundaries as established by the State Engineer and shall designate a name for such district, and said notice shall be published once each week for two weeks prior to such election in a newspaper in the county in which the district is situated, and if no newspaper is published in such county, then in a newspaper published in an adjoining county, and if situated in more than in one county such notice shall be published in a newspaper published within each of such counties. Such notice shall be substantially in the following form:

#### NOTICE OF ELECTION

Notice is hereby given that on the-----day of-----, 19---, a special election will be held within the territory hereinafter described for the purpose of submitting to the electors of said territory the question as to whether or not the order of the State Engineer establishing an irrigation district known as----- Irrigation District shall be approved, such district comprising and including the following described lands, to wit:

(Here describe lands embraced in the district.) The ballot will be in the following form:

For Irrigation District.

YES-----  
NO -----

Notice is further given that a board consisting of three directors will be elected who will serve as hereinafter provided if the creation of the district is approved. Polls will be open from 9:00 A. M. to 7:00 P. M.

Dated this-----day of-----, 19-----

Signed-----

STATE ENGINEER.

(4). The board of directors of an irrigation district shall consist of three directors who shall be residents and electors of the district. One director elected at the election for the organization of the district shall serve until the first Tuesday in March following the first regular district election, one director shall serve until the first Tuesday in March following the second regular election and

one director shall serve until the first Tuesday in March following the third regular election. The term of office of the directors elected at such first election shall be determined by lot at their first meeting. Directors elected at subsequent elections shall serve for three years and until their successors are duly elected and qualified. In case the office of any director shall for any reason become vacant, the remaining members of the board shall fill the vacancy by appointment. A director appointed to fill a vacancy shall serve the unexpired term of the director whose place he has been appointed to fill. In the event that a vacancy shall occur in the office of two directors, the State Engineer and remaining district director shall fill the vacancy; and in the event that the office of all of the directors shall become vacant, the State Engineer shall appoint the members of the board and they shall serve until the next general election of the district.

(5). Prior to the holding of such election, the State Engineer shall appoint from the electors of the district one clerk and two judges who shall constitute a board of election for such district. If the members appointed do not attend at the opening of the polls on the day of election, the electors present at that hour may elect the election board or fill the place of an absent member thereof.

(6) Such election shall be conducted in accordance with the general election laws of the State. After the polls are closed, the election board shall proceed to canvass the votes cast thereat, and the clerk of the election board shall certify to the State Engineer the result of such election. The clerk of the board shall then securely wrap the ballots cast at such election and shall express or mail same by registered mail to the State Engineer who shall also canvass the ballots and verify the result. The State Engineer shall file and retain in his office the ballots cast at such election.

(7). If upon a canvass of the votes cast and after such canvass has been verified by the State Engineer it appears that a majority of all votes cast are "Irrigation District-----YES", the State Engineer shall by an order declare such territory duly organized as an irrigation district under the name and style therefor designated and shall declare the persons receiving the highest number of votes duly elected as directors. The State Engineer shall cause a copy of such order, duly certified, to be immediately filed for record in the office of the register of deeds of each county in which any portion of the irrigation district is situated and shall also file a copy of such order with the county auditor of each county in which any portion of the district is situated, and from and after the date of such filing, the organization of such district shall be complete. The State Engineer shall immediately make out and mail, by registered mail, to each person elected to the office of director a certificate of election signed by him. The directors shall thereupon enter upon the duties of their office.

(8). The State Engineer shall also file in the office of the

Secretary of State a copy, duly certified by him, of such order, declaring such territory to be duly organized as an irrigation district, and the Secretary of State shall make and issue to the State Engineer a certificate under the Seal of the State, of the due organization of such district and shall record such certificate and the said order of the State Engineer. Such certificate of the Secretary of State or a copy thereof, authenticated by him, shall be prima facie evidence of the organization and existence of such irrigation district.

§ 4. AMENDMENT.] That Section 8247a4 of the Supplement to the Compiled Laws of 1925 as amended and re-enacted by Section 5 of Chapter 253 of the Session Laws of 1939 is hereby amended and re-enacted to read as follows:

§ 8247a4. After receiving their certificates of election the directors shall take and subscribe to an oath of office of substantially the same tenor as the oath of office prescribed for county officials and each member of said board of directors shall execute an official bond in the sum of One Thousand Dollars (\$1,000.00). Such oath of office and bond shall be filed in the office of the State Engineer.

The directors elected at the first election shall meet at the time and place designated by the State Engineer and shall organize by selecting one of their members as chairman of the board. A temporary secretary shall be designated until a permanent secretary of the board has been appointed. After the organization of the board, a majority of the directors shall constitute a quorum for the transaction of such business as may come before the board. The board shall appoint a secretary, a treasurer and an assessor of the district and such other officers or employees as the board shall deem necessary for the efficient conduct of the district's business and shall fix their compensation. Officers and employees appointed by the board shall hold office during the pleasure of the board. The office of secretary, assessor and treasurer may be held by the same person. Each succeeding board of directors shall choose or appoint its officers as herein provided.

The assessor shall execute an official bond in the sum of \$500.00, the district treasurer, an official bond in the sun(sum) of not less than double the amount of money that may come into his hands, the amount to be determined by the board of directors, but such bond shall not be less than \$1,000.00. Other employees and appointive officers shall execute bonds in such sums as the board may prescribe. The official bonds of the assessor, treasurer and other officers and employees shall be approved by the board. Such bonds shall be filed in the office of the State Engineer. In case any district organized hereunder is appointed fiscal or other agent of the United States or is authorized by the United States to make collections of money for and on behalf of the United States in connection with any Federal reclamation or irrigation project, such treasurer and each director shall execute an additional official bond in such sum as the Secretary

of the Interior may require, conditioned for the faithful discharge of the duties of his office and the faithful discharge by the district of its duties as fiscal or other agent of the United States under any such appointment or authorization; and such additional bonds may be sued upon by the United States or by any person damaged by failure of such officer or district to fully, promptly, faithfully perform their duties. All official bonds herein provided shall be in the form prescribed by law for official bonds of county officers except the obligee named in such bond shall be the irrigation district. The directors elected subsequent to the organization of the district shall assume the duties of their office the first Tuesday in April after their election and shall hold office until their successors are elected and qualified.

Every elective or appointive officer or employee of whom a bond is required under this act shall be deemed to be bonded in the State Bonding Fund upon notice of such election or appointment being given by the Secretary of the district to the State Commissioner of Insurance. Upon notification by the Commissioner of Insurance of the amount of premium of such bond or bonds, the secretary of the district shall forthwith remit the same.

§ 5. AMENDMENT.] That Section 8247a5 of the Supplement to the Compiled Laws of 1925 as amended and re-enacted by Section 6 of Chapter 253 of the Session Laws of 1939 is hereby amended and re-enacted so as to read as follows:

§ 8247a5. The regular election of irrigation districts shall be held on the first Tuesday in February of each year.

Fifteen days before any election is held under the provisions of this act, subsequent to the election for the organization of the district, the secretary of the board of directors shall cause to be posted in at least three public places in the district a notice of the election specifying when the polls will be opened and when the polls will be closed and the polling place or places. Such notice shall be in substantially the following form:

“Notice is hereby given that on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, an election will be held at \_\_\_\_\_ (Here designate the polling place) for the purpose of electing \_\_\_\_\_ members of the board of directors and for the purpose of voting upon such questions as shall be submitted by the directors of the district. Polls will be opened at ten o'clock A. M. and will be closed at five o'clock P. M. of that day.”

Failure to give such notice shall, however, not invalidate the election of a director elected at any regular election.

Prior to the date of such election, the board shall appoint from the electors of the district, one clerk and two judges who shall constitute the board of election. If the board shall fail to appoint such board of election, or if the members appointed do not attend at the opening of the polls on the day of election, the electors of the district

present at that hour may appoint the election board or fill the place of an absent member thereof. The board of directors shall, in its order or resolution appointing the board of election, designate the time and place where the election shall be held.

Any person desiring to be a candidate at such election shall file his or her name with the secretary of the board not less than ten days before such election. At least five days before such election the secretary shall prepare and have typewritten, mimeographed or printed an official ballot containing all names thus filed. Such ballot shall be headed "Official Ballot" and shall contain all names thus filed. Such ballot shall also show the name of the district and shall state the number of persons to be voted for. Such ballot shall also have blank spaces below for writing in other names; provided nothing herein shall prevent any person desiring to be a candidate at such election, and who has failed to file as herein provided, from furnishing stickers to be attached to the ballot by the elector. Such stickers shall not be over one-half inch in width and have printed thereon one name only.

§ 6. AMENDMENT.] That Section 8247a10 of the Supplement to the Compiled Laws of 1925, as amended and re-enacted by Section 11 of Chapter 253 of the Session Laws for the year 1939, is hereby amended and re-enacted so as to read as follows:

§ 8247a10. The Board of directors shall hold regular meetings in their office or usual place of meeting on the first Tuesday of January, March, July, and November in each year at two o'clock in the afternoon of that day, and the board may also hold such special meetings as may be required for the transaction of the district's business. All special meetings shall be called by the secretary upon the order of the chairman of the board or upon the request in writing of the other two members. Such order must be entered of record on the minutes of the meeting and notice of such special meeting shall be delivered or mailed to each member of the board at least five days prior to the date of such special meeting; provided, however, that a special meeting of the board may be called at any time by the chairman without notice and the meeting thus called shall be legal and valid if all members of the board of directors are present.

A majority of the members shall constitute a quorum for the transaction of business, but upon all questions requiring a vote there shall be a concurrence of at least a majority of the board. All records of the board must be open to the inspection of any elector during business hours. The board may cause to be published in one newspaper of general circulation in the district a brief statement of the proceedings of each regular or special meeting if such publication can be done at an expense not exceeding one-third of the legal rate for advertising notices.

§ 7. AMENDMENT.] That Section 8247a16 of the Supple-

ment to the Compiled Laws of 1913 as amended and re-enacted by Section 21 of Chapter 253 of the Session Laws of 1939, is hereby amended and re-enacted so as to read as follows:

§ 8247a16. The district assessor shall, between the first Monday in March and the first Monday in June of each year, examine each tract of land or legal subdivision of land in the district, including entered and unentered public lands of the United States, subject thereto under any act of Congress, and all other lands publicly or privately owned, and shall determine the benefits which will accrue to each of such tracts or subdivisions on account of the construction, acquisition, or operation of irrigation works, and the amount so apportioned or distributed to each tract of land as finally equalized shall be and remain the basis for fixing the annual assessments levied against such tracts or subdivisions in carrying out the provisions of this act. The assessor shall make, or cause to be made, a list showing the apportionment or distribution of assessments, which list shall contain a description of each unit or tract of land assessed in the district, and the name of the record owner thereof; or he may prepare a map on a convenient scale showing each unit or tract of land with the amount per acre apportioned thereto; provided that where all lands on such statement or map are assessed at the same amount or rate per acre, a general statement to that effect shall be sufficient. A copy of such list or map shall be filed in the office of the county auditor of each county in which the district is situated, one copy shall be filed in the office of the State Water Conservation Commission and one copy shall remain in the office of the board of directors for public inspection.

Whenever any assessment is made it shall be apportioned and spread upon the lands in proportion to the benefits received; provided, however, that the payment of bonds, district improvement warrants and other obligations incurred by the district, shall be held to be the obligation of the district and all real property within the district shall be subject to assessment for any deficiency in any fund created for the payment of bonds, district improvement warrants or other obligations.

The assessment of any property in the name of a person not the owner thereof shall in no way invalidate the assessment of any unit or tract of land.

The assessor shall also determine and list the amount payable for each tract obligated by contract, if any, to the United States or any department or agency of the United States, or to the State Water Conservation Commission, or to any person, firm or corporation or to another irrigation district for the payment of water charges.

§ 8. AMENDMENT.] That Section 8247a17 of the Supplement to the Compiled Laws of 1925, as amended and re-enacted by Sec-

tion 22 of Chapter 253 of the Session Laws of North Dakota for 1939, is hereby amended and re-enacted so as to read as follows:

§ 8247a17. On or before the fifteenth day of June in each year the assessor must complete his assessment roll and deliver it to the secretary of the district. The board of directors shall thereupon at its regular meeting in July proceed to equalize such assessments. At least ten days before the board of directors meets the Secretary shall give notice of such meeting by posting notice thereof in at least three conspicuous places within the district designated by the board of directors but failure to post such notices shall not invalidate assessments as equalized by the board of directors. Until such meeting is held the assessment roll shall remain in the office of the secretary for the inspection of all persons interested.

§ 9. AMENDMENT.] That Section 8247a47 of the Supplement to the Compiled Laws of 1925 as amended and re-enacted by Section 30 of Chapter 253 of the Session Laws of 1939 is hereby amended and re-enacted so as to read as follows:

§ 8247a47. RE-DIVISION OF DISTRICT: DIRECTORS.] In case of the inclusion of any land in any district by proceedings under this act, the board of directors shall, if the district contains, or will contain after the inclusion of such land, ten thousand acres or more, at least thirty days prior to the next general election, make an order re-dividing the district into three divisions as nearly equal in size as may be practicable, which shall be numbered, and one director shall thereafter be elected from each division.

§ 10. AMENDMENT.] That Section 8247a57 of the Supplement to the Compiled Laws of 1913 as amended and re-enacted by Section 35 of Chapter 253 of the Session Laws of 1939 is hereby amended and re-enacted so as to read as follows:

§ 8247a57. RE-DIVISION OF DISTRICT.] At least thirty days before the next general election of such district the board of directors thereof shall, if the district embraces or contains ten thousand acres, or more, make an order dividing the district into three divisions as nearly equal in size as practicable, which shall be numbered, and one director shall be elected from each division.

§ 11. AMENDMENT.] That Section 8247a60 of the Supplement to the Compiled Laws of 1913 as amended and re-enacted by Section 37 of Chapter 253 of the Session Laws of 1939 is hereby amended and re-enacted so as to read as follows:

§ 8247a60. The board of directors of an irrigation district may, if deemed advisable, file, or cause to be filed, in the district court of any county, in which lands of the districts are situated, a petition praying that the proceedings had for the issuance of bonds or improvements warrants or, if the board deems it advisable, the proceedings had preliminary to the making of any contract, or for

levying assessments or taking any special action, be examined, approved and confirmed by the court. Such petition shall state the facts concerning the proceedings had for the issuance of bonds, improvement warrants, the making of any contract, levying any assessment or any special action of the board, as the case may be, and shall state generally that the irrigation district was organized and that the directors were elected and qualified, but the petition need not set forth the proceedings resulting in the organization of the district or the election of the directors.

Approved March 7, 1941.

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## CHAPTER 299

S. B. No. 174—(Gronvold)

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### PROVIDING FOR DISSOLUTION OF IRRIGATION DISTRICTS

**An Act Providing for the Dissolution of Irrigation Districts; Providing for the Sale of the Assets of such Districts; Providing for the Disposition of Cash Assets of the District after all District Obligations have been Fully Paid; Repealing all Acts and Parts of Acts in Conflict herewith; and Declaring an Emergency.**

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. DISSOLUTION OF IRRIGATION DISTRICT: PETITION; DUTY OF BOARD OF DIRECTORS; NOTICE OF ELECTION.] Whenever the electors of an irrigation district owning a majority of the number of acres of irrigable land therein shall petition the board of directors to submit to the electors of the district at a special election, or at the next regular election of the district, the question of the dissolution or discontinuance of such irrigation district, and the sale of its property, the board of directors, if the district has no outstanding or unpaid bonds or district improvement warrants or if the holders of district bonds or district improvement warrants consent thereto in writing, shall adopt a resolution calling a special election or providing for the submission of such question to the electors at the next regular district election. Notice that the question of the dissolution of the district and the sale of the district property will be submitted to the vote of the electors at a special election or at the next general district election, as the case may be, shall be published once each week for at least two consecutive weeks in a newspaper in each of the counties in which the district is located, if a newspaper is published therein, and such notice shall be posted in the district in three conspicuous places designated by the board of directors. If the district is divided into subdivisions or precincts, such notice shall be posted in a conspicuous place in each such subdivision or precinct.

Such election shall be held not less than twenty days nor more than thirty days after the last publication of such notice and the posting thereof.

§ 2. BALLOTS.] The board of directors shall provide printed, typewritten, or mimeographed ballots for such election, which ballots shall be substantially in the following form:

“Shall -----Irrigation District of-----  
County, North Dakota, be dissolved and its property sold: .

YES (For Dissolution and Sale of District Property) --

NO (Against Dissolution and Sale of District  
Property) -----

The board of directors shall cause such ballots to be prepared and placed in the hands of the election officers of the district prior to the opening of the polls on the day of such election.

§ 3. CONDUCT OF ELECTION; CANVASS AND REPORT OF ELECTION.] Such election in all respects shall be conducted in the same manner as the election of directors of the district. Immediately after the polls are closed, the election board or boards shall publicly open and proceed to canvass the ballots and shall declare the result of such canvass. The chairman shall securely wrap all ballots, lists, tally sheets, oaths and affirmations, and other documents relating to the progress of the election and shall deliver them to the secretary of the board of directors of the district. The board of directors shall meet on or before the third day after such election and shall proceed to publicly canvass such election returns and by resolution shall declare the result of such election which resolution shall be entered immediately in the records of the district. A certified copy of such resolution and all ballots, lists, tally sheets, and other documents pertaining to the election shall be forwarded to the State Engineer by registered mail or express.

§ 4. PROCEDURE WHEN ELECTION FAVORS DISSOLUTION.] If a majority of the votes cast at the election are in favor of dissolving the district, the board of directors shall cause to be published in the official newspaper of the county, if there is one, and if there is no such newspaper, then in such newspaper as the board shall designate, a notice to the creditors of the district, except holders of district bonds or district improvement warrants, requiring all persons having claims against the district to submit and file such claims with the secretary of the board of directors within one year after the first publication of the notice at the place specified in such notice. The notice shall be published as many times as the board shall direct, but not less than once each week for three consecutive weeks. The secretary of the district shall mail, or cause to be mailed, by registered mail a copy of such notice to each creditor, except the holders of district bonds or district improvement warrants, known to him or of record in his office. After such notice is given, a copy thereof

with the affidavit of publication and affidavit of mailing shall be filed in the office of the secretary of the district. Any claim not thus presented, except claims of holders of district bonds or warrants, shall be forever barred against such districts and against all officers thereof or property therein. Nothing contained in this Act shall be construed to limit or impair the rights of owners or holders of district bonds or district improvement warrants.

§ 5. RESUBMISSION OF QUESTION OF DISSOLUTION AFTER UNFAVORABLE VOTE.] If a majority of the votes cast at the election are against dissolving the district and selling the property thereof, no subsequent election upon the question of dissolution of the district shall be held until after the expiration of at least one year.

§ 6. RESOLUTION OF DISSOLUTION: WHEN EFFECTIVE; DUTIES OF DISTRICT OFFICERS.] If a majority of the votes cast at the election are in favor of dissolving the district, the board of directors, in its resolution declaring the result of the election, shall declare that the district will be dissolved when the obligations of the district have been fully paid. The board of directors and other officers of the district shall continue to act and function until the property and assets of the district have been disposed of in conformity with the provisions of this Act and until all obligations of the district have been settled and paid.

§ 7. SALE OF DISTRICT PROPERTY AUTHORIZED; APPOINTMENT OF APPRAISERS.] If a majority of the votes cast at an election held under the provisions of this Act favor dissolution and sale, the canals, franchises, and other property of the district may be sold at not less than a valuation to be determined by a board of three appraisers. One member of such board of appraisers shall be appointed by the board of directors of the district, one shall be appointed by the State Engineer, and the two appraisers thus selected shall choose the third appraiser. The board of appraisers shall be sworn by an officer authorized to administer oaths by law and who has an official seal. Such board shall appraise the canals, franchises, and all other property of the district at its cash value, and to determine such value, with the consent of the board of directors of the district, may employ engineers, accountants, and such expert assistance as may be necessary. The compensation of such engineers, accountants, and others shall be fixed by the board of directors. The board of directors shall fix the compensation of appraisers, but such compensation shall not exceed ten dollars per day and necessary expenses for each day engaged in such work.

§ 8. DUTY OF APPRAISERS; ADVERTISEMENT OF SALE.] The board of appraisers shall appraise all of the property of the district and shall make a report of its appraisal to the board of directors. A copy of such report shall be filed by the secretary of the district with the State Engineer. The board of directors shall advertise for

sale all of the property of the district and shall publish a notice once each week for two consecutive weeks specifying that sealed bids will be received, opened, and considered by the board at the time and place specified in such notice, and setting forth a description of the property. At the time and place designated in such notice, or as soon thereafter as the board can meet, it shall open and consider all bids received for the purchase of the property, and it shall have the power to reject any and all bids which do not, in the judgment of the board, offer a fair and just consideration.

§ 9. PRIVATE SALE; WHEN PERMITTED; PROCEEDS OF SALE.] If all bids are rejected by the board, it, by private negotiation, may sell and convey the property or any part thereof for cash at not less than the appraised value thereof, or may agree to sell and convey the property at not less than the appraised value for part cash and part in deferred payments bearing interest at such rate as shall be mutually agreed to between the board and the purchaser. The title to any property so sold shall remain in the district until the purchase price thereof has been fully paid. All moneys realized from the sale of the property shall be deposited with the county treasurer designated as the custodian of district funds, and such moneys shall be paid out only upon warrants duly authorized by the board of directors and signed by the chairman and secretary thereof.

§ 10. SALE OR TRANSFER OF PROPERTY AUTHORIZED.] In carrying out the provisions of this Act for the discontinuance of an irrigation district and the sale of its property and assets, the board of directors may sell, transfer, and convey all of the canals, franchises, and other property owned by the district to the purchaser thereof.

§ 11. LIQUIDATION OF DISTRICT INDEBTEDNESS.] After the sale of the property and franchises of an irrigation district, the board of directors, with the moneys realized from such sale together with such other funds as such district may have, shall make settlement, payment, and redemption of all outstanding bonded or other indebtedness of the district, but in no case shall such board pay more than the par value of outstanding bonds or warrants, as the case may be, with interest up to the time of payment. If the amount realized from the sale of such district property, together with other moneys of the district, shall be insufficient for the payment of all the indebtedness of the district, such district shall not be dissolved or discontinued until such indebtedness is fully paid, and assessments shall continue to be made against the lands in the district in the manner provided by law for the levy of assessments to pay bonds and other indebtedness of irrigation districts until a sufficient amount is raised to pay in full all obligations of such district.

§ 12. SALE DOES NOT AFFECT VESTED RIGHTS; APPURTENANT RIPARIAN RIGHTS CONTINUE.] The sale of the canals, franchises,

and property of an irrigation district shall not in any manner whatsoever be held or construed to affect or impair vested rights, and the right to the use of water acquired under the laws of North Dakota shall be and remain appurtenant to the irrigated land.

§ 13. SALE DOES NOT AFFECT OR RELEASE ASSESSMENT LIENS; DUTY OF COUNTY TREASURER.] The sale of the property and franchises of an irrigation district shall not affect or release the lien of any assessment made by the district upon the lands therein, and such lien shall not be removed until such assessment is paid or the property sold for the payment thereof. The county treasurer shall collect any such assessment in the same manner as provided by law for the collection of the assessments of an irrigation district, and the laws of the state for the collection and sale of land for taxes shall continue to be applicable to the collection of any such assessments.

§ 14. REPORT OF DISSOLUTION: WHEN AND WHERE FILED.] After all the property of the district shall have been disposed of and all the obligations thereof shall have been paid, the directors of such district shall file in the office of the county auditor of each county in which such district is situated, and in the office of the State Engineer, a report signed by the chairman of the board and attested by the secretary, and bearing the seal of the district, stating that the district has disposed of its property and franchises, that all of the obligations of the district have been fully paid, and that the district has been disorganized and dissolved. Such report shall be recorded in the miscellaneous records of the register of deeds in each of the counties in which the district is located, and from and after such filing and recording, such irrigation district shall be deemed to be dissolved.

§ 15. SURPLUS MONEYS OF DISTRICT, HOW DISPOSED OF.] If a disorganized irrigation district shall have moneys in its treasury after the payment of all the debts and obligations of the district, such moneys shall be apportioned and paid to each landowner who has fully paid all assessments against his land in the same proportion that the last assessment of such owner's land bears to the total of all assessments last made, levied, and assessed against all lands in the district.

§ 16. REPEAL.] All acts or parts of acts in conflict with this Act are hereby repealed.

§ 17. EMERGENCY.] An emergency is hereby declared to exist and this Act shall take effect and be in full force from and after its passage and approval.

Approved March 13, 1941.

## CHAPTER 300

H. B. No. 167—(The Committee on Drainage and Irrigation by Request)

## STATE WATER CONSERVATION COMMISSION

An Act to Amend and Re-enact Sections 11, 21 and 22 of Chapter 256 of the Session Laws of North Dakota for the year 1939 relating to the Powers and Duties of the State Water Conservation Commission, relating to State Water Conservation Commission Bonds and Declaring an Emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. That Section 11 of Chapter 256 of the Session Laws of 1939 be, and the same is hereby, amended and re-enacted so as to read as follows:

§ II. AMENDMENT.] CO-OPERATION AND CO-ORDINATION WITH ALL EXISTING AGENCIES.] The State Water Conservation Commission is hereby authorized and empowered to investigate, plan, co-operate and make all contracts or compacts necessary or requisite:

(1) With the United States and any department, agency or officer thereof; (2) with the States of Minnesota, South Dakota, Montana and Wyoming and with any other state, and with any department or officer of any state; (3) with the Dominion of Canada or any of its provinces and, (4) with any agency or department or officer of either of them, who may be empowered, authorized and concerned with questions and problems involving water conservation, flood control, water pollution, irrigation, soil reclamation, or vested with any of the powers or duties imposed by this act upon the State Water Conservation Commission for any of the purposes expressed herein.

This power herewith so granted shall extend to all waters, whether considered as intra-state or inter-state. The State Water Conservation Commission is specially authorized and empowered to co-operate with the United States or any of its agencies concerned with investigation, planning, conserving, utilizing, developing, and handling water in any form for purposes of water conservation, flood control, prevention of water pollution or soil reclamation, or with any other resources of the State, and concerned with the administration of the public works program of the State or any part thereof; and it is further authorized to act and to fully contract with the United States, or with any department, agency or officer thereof with full power of purchase, sale, or lease for carrying out, developing, or administering any federal project within the State of North Dakota, or partly within the State, and also to accept and to use any funds provided by the United States or any agency thereof for any such purposes.

§ 2. That Section 21 of Chapter 256 of the Session Laws of 1939 be, and the same is hereby, amended and re-enacted so as to read as follows:

§ 21. AMENDMENT.] WATER CONSERVATION COMMISSION REVENUE BONDS.]

1. The Commission is hereby authorized to provide resolution, at one time or from time to time, for the issuance of State Water Conservation Commission Revenue Bonds not exceeding a total of three million dollars, for the purpose of paying the cost as hereinbefore defined of any one or more such works and for the purpose of acquiring lands and preparing and developing same for irrigation, the principal and interest of which bonds shall be payable from the special fund herein provided for such payment. Such bonds shall mature at such time or times, either serially or at one time, in not more than thirty (30) years from their date, or dates, as may be fixed by such resolution, but may be made callable before maturity, if so stated in the resolution and on the face of each bond, at not to exceed 105 per cent of the par value thereof, on any interest paying date, upon thirty days notice, which shall be published once in a newspaper of general circulation in Burleigh County. The board shall determine the rate of interest such bonds shall bear, not exceeding five per centum (5%) per annum, the time, or times, of payment of such interest, the form of the bonds and the interest coupons to be attached thereto, and the manner of executing the bonds and coupons, and shall fix the denomination, or denominations, of the bonds and the place, or places, of payment of principal and interest thereto, which may be at any bank or trust company within or without the State. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. All such bonds shall be and shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the Negotiable Instruments Law of the State. Such bonds may be secured by such works or lands, as the case may be, and the income derived therefrom, and the funds received from the sale or disposal of water and from the operation, lease, sale or other disposition of the works, lands, property and facilities to be acquired out of the proceeds of such bonds and as hereinafter provided.

2. Provisions may be made for the registration of any of the bonds in the name of the owner as to the principal alone or as to both principal and interest. The bonds authorized under the provisions of this act may be issued and sold from time to time, and in such amounts as may be determined by the Commission and the Commission may sell the bonds in such manner and for such price as it may determine to be for the best interests of the state, but no such sale shall be made for less than the par value of each bond. The

proceeds of such bonds shall be used solely for the payment of the cost of the works or the cost of acquiring lands and preparing or developing such lands for irrigation, as the case may be, and shall be paid out in such manner and under such restrictions as the Commission may provide. Prior to the preparation of definitive bonds, the Commission may under such restrictions issued temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. Such bonds may be issued without any other proceedings or happenings of any other condition and things which are specified and required by this act or by the constitution of this state.

3. Each resolution providing for the issuance of bonds shall set forth the purpose or purposes for which the bonds are to be issued, and the bonds authorized by each such resolution shall constitute a separate series. The bonds of each series shall be identified by a series of letter or letters, and may be sold and delivered at one time or from time to time.

4. Whenever the Commission shall find it necessary to insure or guarantee the payment of a part of the principal or interest of any series of Water Conservation Commission Revenue Bonds, in order to sell or market such bonds, it is hereby authorized, and the Commission may, in its discretion, enter into an agreement to pledge, hypothecate, obligate, place under trust indenture, or agree to deposit in a trust fund, moneys appropriated by Chapter 95 of the Session Laws of 1939 for "construction bond guarantee", and in addition thereto, moneys now or hereafter appropriated, to thus guarantee and insure the payment of the interest on and principal of State Water Conservation Commission Revenue Bonds, and from and with moneys thus appropriated the Commission may guarantee or insure, or agree to pay, the interest on and principal of such bonds, not exceeding, however, twenty per cent of the par value of any such bonds or series of bonds. The Commission shall not thus pledge, hypothecate, or place under trust indenture, or agree to thus pledge, hypothecate or place under trust indenture an amount in excess of the total amount of moneys appropriated by Chapter 95 of the Session Laws of 1939 and moneys subsequently appropriated in addition thereto for such purposes. Any agreement entered into by the Commission to thus pledge, hypothecate or place under trust indenture any amount in excess of moneys appropriated for such guarantee fund purposes shall be, and is hereby, declared null and void. The appropriation of such funds, and the use thereof by the Commission to guarantee or insure the payment of not to exceed twenty per cent of the par value of any of its bonds, shall not be construed to be pledging the credit of the state of North Dakota nor the guaranteeing by the state of any Water Conservation Commission Revenue Bonds. Moneys appropriated to enable the State Water Conservation Commission to guarantee the payment of the interest or principal of its bonds to the extent of not to exceed twenty per cent of

the par value thereof, shall be available to the Commission as a continuing revolving fund, and moneys so appropriated, and any unexpended balances thereof, shall not revert to the state general fund at the end of any biennial fiscal period but shall be available for use by the Commission to insure and guarantee, to the extent herein provided, the payment of interest and principal of its said bonds until otherwise required by law.

§ 3. AMENDMENT.] That Section 22 of Chapter 256 of the Session Laws of 1939 be, and the same is hereby, amended and re-enacted so as to read as follows:

§ 22. LIEN UPON BOND PROCEEDS.] All moneys received from bonds of any series issued pursuant to this act shall be placed in the Water Conservation Commission Bond Payment Fund and shall be used solely for the purpose of paying the cost of the works or projects for the construction of which such bonds have been issued, or for the purpose of acquiring lands and preparing and developing same for irrigation, and there shall be, and is hereby, created and granted a lien upon such moneys, until so used in favor of the holders of the bonds or the trustee hereinafter provided for in respect to such bonds.

§ 4. EMERGENCY.] An emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1941.

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## WEIGHTS AND MEASURES

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### CHAPTER 301

H. B. No. 146—(Kee, Olson of Barnes, Bymers, Johnson of Cass and Crockett) (Companion Bill to House Bill 20)

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#### WEIGHTS AND MEASURES INSPECTION FEES

An Act to amend and re-enact Section 9 of Chapter 311 of the Session Laws for the Year 1931 as amended and re-enacted by Chapter 269 of the Session Laws for the year 1933; relating to fees for inspection of Weights and Measures, and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That Section 9 of Chapter 311 of the Session Laws for the year 1931 as amended and re-enacted by