

24-142. Same; procedure; petition, hearing; duties of board of county commissioners; appeal of board's decision. (a) Whenever the governing body of a drainage district deems it advisable that territory located within an adjacent drainage district be transferred, the governing body may submit a petition to the board of county commissioners requesting such transfer. The petition shall:

(1) Describe the territory to be transferred by metes and bounds, or, if platted, by appropriate descriptions as lots or blocks or parts of lots or blocks.

(2) State the name of the drainage district from which the territory is to be detached and the name of the drainage district to which the territory is to be attached.

(3) State that the proposed transfer will result in more efficient or more adequate protection of the territory from overflow or damage and injury resulting therefrom, or will be conducive to the public health, convenience and welfare.

(4) Any other information in support of such transfer.

(b) Upon submission of a petition authorized by subsection (a) to the board of county commissioners, the board shall call and hold a hearing on such petition. Notice of the hearing shall include the time, date and location of the public hearing to be held on the petition. Such notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in each drainage district. The last publication shall be at least 10 days, but not more than 20 days, prior to the date of the public hearing. The cost of such publication shall be paid by the district which submitted the petition.

(c) At such hearing, the board shall hear testimony as to the advisability of granting the petition. In determining whether to grant the petition, the board's considerations shall include, but not be limited to:

(1) Testimony presented at the public hearing.

(2) The present cost methods and adequacy of providing drainage district operations, services and works or improvements in the area.

(3) The proposed cost, extent and the necessity of any proposed or existing drainage district operations, services and works or improvements to be provided by the district which submitted the petition.

(4) The impact on the tax base of each drainage district and the territory sought to be transferred if the transfer is approved or disapproved.

(5) The extent to which any services or benefits are provided to the territory by the district which submitted the petition.

(6) The impact on the provision of drainage district operations, services and works or improvements in the territory and in the remainder of the district if the transfer is approved.

(7) Whether the proposed transfer will result in more efficient or more adequate protection of the territory from overflow or damage and injury resulting therefrom or will be conducive to the public health, convenience and welfare.

(8) Whether the district which submitted the petition is obligated to operate or maintain dikes, levees or other flood control works previously constructed by the United States army corps of engineers or other agencies of the United States government in the territory.

(d) The board may continue the hearing beyond the time and date specified in the notice without further notice. After the conclusion of the hearing or any continuation thereof, the board shall render its decision. If the board, by unanimous vote thereof, determines that the transfer of the territory as described in the petition, or a lesser portion thereof, should be approved, the board shall so find and approve the transfer. Any order of the board approving or disapproving a transfer shall be spread at length upon the journal of the proceedings of the board. The failure to spread an order granting the transfer upon the journal shall not invalidate such order.

(e) If the territory is located in more than one county, the petition shall be submitted to the board of county commissioners of each county. The board of county commissioners of each county shall be required to approve the transfer of any territory located in such county. The hearing required by this section may be held jointly by the board of county commissioners of each affected county.

(f) Any owner of territory which is transferred pursuant to this section or a drainage district aggrieved by the decision of the board of county commissioners may appeal the decision of the board to the district court of the same county in the manner and method set forth in K.S.A. 19-223, and amendments thereto. Any drainage district appealing the decision of the board shall not be required to execute the bond prescribed in K.S.A. 19-223, and amendments thereto. Nothing in this subsection shall be construed as granting the owner of land in areas near or adjacent to the territory which is transferred pursuant to this section the right to appeal the decision of the board of county commissioners.

History: L. 2002, ch. 172, § 3; July 1.