

2012 Kansas Statutes

82a-650. Acquisition of one district by another. (a) As used in this section, unless the context clearly requires otherwise:

(1) "Acquired district" means a rural water district organized under K.S.A. 82a-612 et seq., and amendments thereto, that wishes to transfer its assets, liabilities and the area contained within its boundaries to another rural water district organized under K.S.A. 82a-612 et seq., and amendments thereto.

(2) "Acquiring district" means a rural water district organized under K.S.A. 82a-612 et seq., and amendments thereto, that wishes to receive from an acquired district, the acquired district's assets, liabilities and the area contained within the acquired district's boundaries.

(b) The board of directors of an acquiring district and the board of directors of an acquired district may enter into a memorandum of understanding containing, but not necessarily limited to, terms and conditions for:

(1) The transfer to the acquiring district of control and ownership of the acquired district's water supply and distribution system, including all property, equipment, contracts, records, reports and funds;

(2) continued service, at an agreed upon rate, by the acquiring district to customers served by such system;

(3) assumption by the acquiring district of all of the revenue bond liability and other outstanding obligations of the acquired district;

(4) establishment of a policy for connecting new customers to the acquired water distribution system; and

(5) the acquisition by the acquiring district of the area within the acquired district's boundaries.

(c) The terms contained in a memorandum of understanding entered into pursuant to this act shall take effect by operation of law when:

(1) The board of directors of the acquiring district and the board of directors of the acquired district each adopt a resolution approving such terms;

(2) a copy of the memorandum of understanding is filed for public inspection in the office of the county clerk of each county where there is located any portion of the area served by the acquired district;

(3) the board of directors of the acquired district causes notice of the approval of the terms of the memorandum of understanding, the reasons for such approval and a copy of the memorandum of understanding to be mailed to each participating member of the acquired district;

(4) the board of directors of the acquired district causes to be published once in a newspaper or newspapers of general circulation in the areas served by the acquired district's water supply and distribution system notice of the approval of the memorandum of understanding and the reasons for such approval, together with a statement that the terms of the memorandum of understanding shall take effect unless there is presented to the board of directors of the acquired district a petition as provided by subsection (d); and

(5) if a petition is presented as provided by subsection (d), a majority of the participating members of the acquired district approve the memorandum of understanding as provided by subsection (d).

(d) If, within 60 days after publication of notice pursuant to subsection (c), there is presented to the board of directors of the acquired district a written petition which is signed by participating members of the acquired district equal in number to not less than 10% of the total number of participating members of the acquired district according to the records of the acquired district and requests an election on whether the terms of the memorandum of understanding shall take effect, the board of directors of the acquired district shall call an election on the approval of the terms of such memorandum. The election may be held at a meeting called for that purpose or may be by mail ballot. If such an election is held, the terms of the memorandum of understanding shall not take effect unless they are approved by a majority of the participating members voting at the election to approve such terms.

(e) Notwithstanding the provisions of K.S.A. 82a-629, and amendments thereto, an acquired district shall be dissolved whenever that district enters into a memorandum of understanding pursuant to this section, such memorandum shall take effect by operation of law pursuant to this section, and such memorandum provides for:

(1) Total transfer of the acquired district's water supply and distribution system and all other assets of the acquired district;

(2) continuation of water supply and distribution service to all customers of the acquired district;

(3) assumption by an acquiring district of all revenue bond liability and all other obligations of the acquired district;

(4) a policy for connecting new customers to the water supply and distribution system; and

(5) acquisition by an acquiring district of the area within the acquired district's boundaries.

(f) At the time of the effective date of the acquisition, and unless otherwise provided by the memorandum of understanding:

(1) All the property of the acquired district shall be combined and administered as one unit with that of the acquiring district, and the acquiring district shall thereupon be invested with all the property benefits, franchises and privileges of the acquired and acquiring districts and shall have all of the powers of rural water districts;

(2) all revenue bonds, promissory notes or other liabilities theretofore incurred by the acquired district shall be paid in accordance with the terms thereof from revenues and facilities of both the acquired and acquiring districts; and

(3) a copy of the memorandum of understanding and a map showing the boundaries of the consolidated rural water district shall be filed with the chief engineer and the secretary of state.

History: L. 2005, ch. 142, § 1; Apr. 21.