

Bill No. 18 of 1941

A BILL TO AMEND THE IRRIGATION  
DISTRICTS ACT

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NOTE.

This Bill amends *The Irrigation Districts Act*.

The definition of "purchaser" in paragraph (n) of section 2 has been altered to clarify the provisions relating to the qualifications of voters.

It is often very difficult to appoint an owner resident as returning officer for a district, so subsection (1) of section 8 has been amended to delete this requirement.

The new section 9a enables the Minister to put a stop to the formation of a district where he deems it advisable so to do.

The amendments to section 11 enlarge and clarify the powers of a Board particularly enabling them to enter into contracts for the purchase of power for pumping purposes.

The new proviso to subsection (2) of section 12 allows the Board, with the approval of the Irrigation Council, to pay more than thirty dollars per acre as the single cash payment, or three dollars per acre per annum rental for the use of a ditch. When construction of a ditch across a farmer's land results in damage to the farmer due to severance of his property and taking of the actual land on which it is constructed, in the case of some of the districts where the values of land are relatively high, it is inequitable that this limit be maintained. Where the Board desires to pay more than the maximum stated in subsection (1) of section 12 it may do so now with the approval of the Irrigation Council.

The amendment to section 47 enables the Board to collect a slightly greater sum to cover rates on lands which are temporarily uncollectable due to hail damage or other causes beyond the control of the ratepayer.

The amendment to section 55 makes it clear that the term of office of a trustee elected under special circumstances conforms to those of trustees elected under normal circumstances.

The amendment to section 126 empowers the Board to rebate rates where it is inequitable or unjust that rates should be collected for the time being and where it is not desirable to make a permanent change in the assessment.

The amendments to section 161 are chiefly for the purpose of clarifying the existing provisions of that section.

The Board is also authorized where the construction of an addition costing more per irrigable acre than the parent district to charge the full cost of the addition to the lands included in such addition.

The other changes made by this amendment are for the most part meant to clarify the meaning of the existing sections or to achieve uniformity in the wording of various portions of the Act, and are largely self-explanatory.

W. S. GRAY,  
*Acting Legislative Counsel.*

*(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)*

# BILL

No. 18 of 1941

An Act to amend The Irrigation Districts Act.

(Assented to \_\_\_\_\_, 1941.)

**HIS MAJESTY**, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

**1.** This Act may be cited as "*The Irrigation Districts Act Amendment Act, 1941.*"

**2.** *The Irrigation Districts Act*, being chapter 114 of the Revised Statutes of Alberta, 1922, is hereby amended as to section 2,—

- (a) by striking out the word "smaller" where the same occurs in paragraph (*mm*) therein and by substituting therefor the word "other";
- (b) by striking out paragraph (*n*) thereof and by substituting therefor the following:

"(*n*) 'Purchaser' shall mean any person other than a lessee who has purchased or otherwise acquired land whether he has purchased or otherwise acquired the land direct from the owner thereof or from another purchaser and has not become the owner thereof; Provided however, that in every case, 'purchaser' shall be deemed to mean the last purchaser;"

**3.** The said Act is further amended as to subsection (1) of section 8 thereof by striking out the words "an owner resident in the proposed district, to be" where the same occur therein, and by substituting therefor the word "a".

**4.** The said Act is further amended by adding thereto immediately after section 9 the following new section:

"9a. At any time prior to the appointment of a returning officer as hereinbefore provided, if in the opinion of the Minister it is desirable so to do, he may direct that no further proceedings be taken toward the formation of the district, and he shall at the same time make such direction as may be proper for the disposal of so much of the deposit made pursuant to section 6 as remains unexpended."

**5.** The said Act is further amended as to section 11,—

- (a) by striking out subsection (1) thereof and by substituting therefor the following:

"11. (1) The Board of every district formed hereunder or continued hereby shall be a body corporate capable of holding or alienating any property, real or personal, and shall carry out such irrigation work as may be from time to time necessary; and for that purpose shall have power to enter upon any land, and in so doing, shall have all such powers as are conferred upon the Minister of Public Works in respect of entry upon land required for public works and shall be entitled to construct, maintain and renew all irrigation ditches, drainage ditches or other drains necessary or convenient for the use of the district, and shall have all such power as may be necessary for the operation of any work constructed under the provisions of this section, including the authority to purchase electric or mechanical power for pumping purposes either by long term contract or otherwise upon such terms and conditions as may be approved by the Minister, and to manage, add improvements to, cultivate, and carry on all farm operations on any or all of the lands vested in it and to administer generally the affairs of the district; and shall also have the power to purchase from the Crown public lands lying within or adjacent to the district and to resell the same."

- (b) by striking out subsection (2) thereof and by substituting therefor the following:

"(2) The Board of any district formed hereunder or continued hereby shall in addition to the powers conferred upon it herein have such further powers for the conduct of the affairs and business of the district as may be from time to time prescribed by the Minister."

**6.** The said Act is further amended as to section 12 by adding immediately after subsection (2) thereof the following proviso:

"Provided that in any case the Board may, with the approval of the Irrigation Council, agree to pay more than the amounts specified herein as the maximum amount per acre and in the event of disagreement as to the proper rental per acre or amount of the said single cash payment the Irrigation Council shall fix the same."

**7.** The said Act is further amended as to section 20 by adding immediately after the words "as the case may be" where the same occur in the proviso thereto, the following words: "by reason only of receiving any payment pursuant to the provisions of section 14, or by reason only of his being a purchaser of land from the Board, or".

8. The said Act is further amended as to section 28*c* thereof by striking out the word "ratepayers" where the same occurs therein and by substituting therefor the words "water users".

9. The said Act is further amended as to section 32,—

- (a) by striking out subsection (1) thereof and by substituting therefor the following:

"32. (1) Subject to the other provisions of this Act, the regular annual election of a trustee or trustees shall, in the event of more candidates being nominated than the number required to fill any vacancy or vacancies then existing in the Board, take place on a day in the month of April, and the proceedings at, prior to and subsequent to such annual election shall as nearly as possible be the same as at the first election of trustees."

- (b) by striking out subsection (3) thereof.

10. The said Act is further amended as to section 39,—

- (a) by striking out the words "the Board shall immediately" where the same occur in subsection (1) thereof and by substituting therefor the following: "or the Board is unable to sell the debentures, it may";
- (b) by adding the following words at the end of subsection (4) thereof: "and in such order or by subsequent order, direct as to the disposal of any surplus".

11. The said Act is further amended as to section 46*a* by striking out subsection (9) thereof and by substituting therefor the following:

"(9) Any water user who has made default in the completion of work, or supply of material, or payment of expenses as apportioned against him, shall be liable for the estimated cost of completion and for all other costs and expenses occasioned by his default, and the same, if not paid by him, shall form a charge against his lands and shall be charged against the parcel or parcels of land in respect of which the apportionment was made against him as an irrigation rate and be recoverable as such."

12. The said Act is further amended as to section 47,—

- (a) by adding at the end of paragraph (b) of subsection (1) thereof the following words: "and on any capital indebtedness not covered by debentures";
- (b) by adding at the end thereof as subsection (4) the following new subsection:

"(4) Any irrigation rate imposed, may also be sufficient to bring in a sum to provide for the payment of rates levied on lands where the crop may

be totally or partially destroyed by hail or where the Board rebates the payment of all or part of the rates for that or any other cause."

**13.** The said Act is further amended as to section 48 by striking out subsection (1) thereof and by substituting therefor the following:

"**48.**—(1) Notwithstanding that the irrigation rates payable by any water user are calculated with respect to the number of acres of his land which are to be irrigated, they shall when calculated form a special lien upon each parcel of land which contains any portion of the land to be irrigated."

**14.** The said Act is further amended as to section 49 by striking out subsection (3) thereof.

**15.** The said Act is further amended as to section 51 by adding at the end thereof the following new subsection:

"(3) The Board of any district may by by-law provide that there shall be allowed a discount of not more than five per centum on rates paid on or before the fifteenth day of November or of not more than two and one-half per centum if paid after the fifteenth day of November and on or before the fifteenth day of December in the year in which they are imposed."

**16.** The said Act is further amended as to section 55 by adding at the end thereof the following new subsection:

"(3) In case the Lieutenant Governor in Council orders an election of new trustees pursuant to subsection (1) the secretary or such person as may be appointed by the Minister shall be the Returning Officer and the provisions of this Act relating to the first election of trustees, their position on the list and time of retirement shall, *mutatis mutandis*, and as far as the same are applicable apply to every such election."

**17.** The said Act is further amended as to section 71,—

- (a) by striking out the words "in possession" where the same occur in subsection (1) thereof;
- (b) by striking out the words "or occupant" where the same occur in subsection (2) thereof;
- (c) by striking out the word "occupant" where the same occurs in subsection (3) thereof;
- (d) by striking out subsection (4) thereof and by substituting therefor the following:

"(4) In the event of any second or subsequent election taking place prior to the preparation of an assessment roll the qualifications for voting at such election shall be the same as in a first election."

- (e) by adding at the end thereof the following new subsection:

“(5) Notwithstanding anything else contained in this section, no person shall be entitled to vote at any annual election of trustees held after an assessment roll has been prepared unless he is the owner or purchaser of land appearing on the assessment roll of the district as land to be irrigated.”

**18.** The said Act is further amended as to section 108,—

- (a) by striking out subsection (1) thereof and by substituting therefor the following:

“**108.**—(1) The secretary shall as soon as possible, after the formation of a district, make with the assistance of the district engineer an assessment roll of the district, in which he shall set down in the first column thereof the name of the owner and the name of the purchaser, if any, or of the occupant, if any, of each parcel of land in the district, and his or their post office addresses, if known; in the second column thereof a description of the parcel of land; in the third column thereof the number of acres in the parcel of land which are to be irrigated as shown by maps and plans prepared by the district engineer; and in the fourth column the number of acres therein which are not to be irrigated.”

- (b) by adding thereto the following new subsection:

“(4) Every purchaser of land within a district, shall immediately upon acquiring an interest in the same, notify the secretary and produce such proof of his interest therein as the secretary may require.”

**19.** The said Act is further amended as to section 126 by adding thereto the following new subsection:

“(5) Whenever it appears to the Board of any district that the payment of all or part of the irrigation rates and penalties, if any, on all or any portion of any parcel or parcels of land in the district would work an injustice or hardship on the water user, the Board may, with the consent of the Council, cancel or refund all or part of the rates and penalties, if any, owing or paid.”

**20.** The said Act is further amended as to section 145a by striking out the same and by substituting therefor the following:

“**145a.** All rates due and payable under this Act in respect of any parcel of land, are hereby declared to be a first lien and charge upon all crops and other farm produce grown or produced on the parcel, and upon all live stock belonging to the water user, and upon the amount remaining unpaid of the sale price thereof until it has been paid

in full; and upon the secretary-treasurer delivering to a buyer thereof a demand in writing for the amount of the rates hereby declared to be a first lien and charge upon the amount remaining unpaid of the sale price thereof, the buyer shall out of such amount remaining unpaid then in his hands, pay the amount of the said rates to the secretary-treasurer in priority to all other claims and demands whatsoever."

**21.** The said Act is further amended as to section 161,—

- (a) by striking out subsection (3) thereof and by substituting therefor the following:

"(3) Any such change of content shall not be made save upon a petition to the Board from owners of land other than the Crown or the district collectively owning at least one-half of the land other than Crown or district lands which it is sought to include in or exclude from the district."

- (b) by striking out subsections (6) and (7) thereof and by substituting therefor the following:

"(6) At its first regular meeting after such day, the Board shall hear the petition and the objections thereto, and shall report its opinion thereon to the Minister.

"(7) Any Board to which any petition to include any lands in the district is presented, may require that the petitioners shall severally pay or give approved security to the Board for payment upon such terms as may be prescribed by the Board, such respective sums as shall be determined by the Board at the hearing above provided for, which sums shall be such equitable amount as such lands should pay in order to equalize the benefit received by and the burden imposed upon all lands within the district.

"(7a) Notwithstanding any other provisions of this section, in any case where the district is the owner or purchaser of lands lying outside of its boundaries, such lands may be included in the district by an order of the Minister on the application of the Board of such district.

"(7b) In any case where the Crown, in the right of the Province, is the owner of lands lying outside of a district, such lands may be included in a district by an order of the Minister on the application of the Board of such district, provided that the consent of the Crown and the purchaser, if any, has first been obtained by the Board.

"(7c) The Minister in his discretion, may grant or refuse any such petition or application in whole or in part and upon his so doing, he shall forthwith



make an order including in or excluding from the district all or part of the lands described in the petition or the application.

“(7*d*) In any case where the capital cost per irrigable acre of works to serve land so included exceeds either the cost or the outstanding indebtedness per irrigable acre of the original district, the Board may, with the approval of the Council, charge the full cost to such included lands, and for the purposes of imposing and recovering irrigation rates, such included lands shall be dealt with in the same manner as if they constituted a separate irrigation district.”

**22.** This Act shall come into force on the day upon which it is assented to.

FIRST SESSION  
NINTH LEGISLATURE  
5 GEORGE VI  
1941

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**BILL**

An Act to amend The Irrigation  
Districts Act.

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. MACMILLAN.

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