

Legally Relevant



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Attachment and release of lands from rural water districts

Like most things in the world of water supply, many of the procedures involved with attaching land to and releasing land from the territory of rural water districts has changed over the past several years. At the beginning of this decade, all attachments and releases of land required the approval of the county commission of the county which contained the majority of the district's

territory. A few years ago, however, important laws were passed that eliminated county commission approval for certain releases of land. Those laws also added a process for allowing one district to release land and another district to attach that land, all without county commission approval. This article will provide an overview of the attachment and release options available to rural water districts and the customers they serve.

Attachments

When 50% or more of the landowners in an area want to have their land attached to a rural water district, and their land is not currently within the territory of a district, there are several steps that must be taken. First, they must file a petition with the county commission asking that their land be attached. The petition is filed with the county in which the greatest portion of the district's territory is located, even if the land to be attached is in a different county.

As a practical matter, if the district wants to serve the landowners within the area, the district will usually assist in preparing the petition. The petition must include a legal description of the land to be attached, a statement that the landowners do not have an adequate water supply and a statement that the attachment will promote public health and welfare.

Once the county commission receives the petition, it will be filed by the county clerk and the commission will hold a hearing within 30 days. The county clerk will then send notice of that hearing to all landowners in the area to be attached. At the hearing, landowners in the area to be attached are given an opportunity to let the commission know whether they approve of the attachment. If the commission finds at the hearing that the district's board of directors approves of the attachment and that the attachment will promote public health and welfare, it will make a formal finding that the land has become a part of the district's territory.

Releases

When landowners in an area served by a rural water district no longer want to be served by the district and don't want to be served by another district, a different process applies. To have their

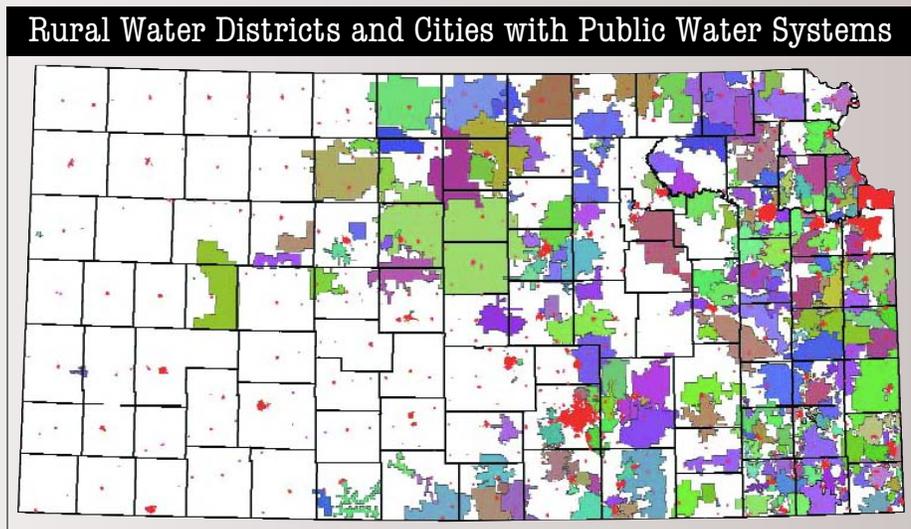
land released from the district, at least 75% of them must sign and present a petition to the district's board of directors rather than the county commission. The petition must contain a legal description of the land to be released. If the board finds that the petition is in proper form, it must conduct a hearing on the petition. Notice of the hearing must be sent to all affected landowners at least 10 days before the hearing.

At the hearing, the district's board must consider whether the petitioners' land can be economically and adequately served by the district and whether releasing the land would be in the best interests of all affected landowners and the district. If the board approves the release, the land is no longer within the district's territory and the district can no longer serve the land. If the district denies the release, any landowner who is dissatisfied may bring a lawsuit in county court, challenging the board's decision.

Transfer of land from one district to another

When landowners in an area served by one rural water district want to be served by another district, a process involving both districts applies. To have their land transferred from one district to the other, at least 75% of the landowners must sign and present a petition to their district's board of directors. The petition must include a legal description of the land to be attached and must state that the release of the land is conditioned on the second district's attachment of the land. Once the first district's board receives the petition, it will hold a hearing within 30 days. Notice of the hearing must be sent by the board to all affected landowners at least 10 days before the hearing. At the hearing, the board must approve or deny the petition based on what it determines is in the best interests of the petitioning landowners and the district.

If the first district's board releases the land, the same landowners must then sign and present a petition to the second district's board of directors asking that the land be attached to the second district. Once the second district's board receives the



■ - CITIES, OTHER GRAPHICS - RWDs

There are 930 public water supply systems in Kansas, approximately 300 of which are rural water districts. This graphic shows the general boundaries of the RWDs.

petition, it will hold a hearing within 30 days. Notice of the hearing must be sent by the board to all affected landowners at least 10 days before the hearing. At the hearing, the board must approve or deny the petition based on what it determines is in the best interests of the petitioning landowners and the district. If the board approves the petition, the land becomes a part of its district. If it denies the petition, the first district's approval becomes void.

Summary

In summary, the rules relating to attachments, releases and transfers of land from one district to another are each different.

The Kansas Statute that deals with attachment of lands to RWDs is K.S.A. 82a-622; releases of lands from RWDs are addressed in K.S.A. 82a-646 and an alternate procedure, in K.S.A. 82a-647.