

**OPINION
48-125**

January 20, 1948 (OPINION)

ELECTIONS

RE: Irrigation Districts - Who Are "Electors"

Re: Construction of Section 61-0503 of the 1943 Revised Code,
as amended by Sec. 2 of Chapter 372, Laws 1947

This will acknowledge the receipt of your letter of January 17, 1948, in which you say that recently your office has received inquiries as to the qualifications of "electors" in irrigation districts.

Section 1 of Chapter 372 of the 1947 Session Laws provides:

'Elector' shall mean any landowner owning not less than five acres of land whose land will be or is subject to assessments for construction or other costs, within a proposed or existing irrigation district, and who is a resident of this state.
* * *"

Section 2 of chapter 372 of the 1947 Session Laws provides:

Any elector owning twenty acres and not less than five acres or less, subject to assessments for construction or other costs within a proposed or existing district, shall have one vote, and any elector owning more than twenty acres subject to such assessments within such district shall have one additional vote for each additional twenty acres or major fraction thereof, but no elector shall be entitled to cast more than eight votes in any district election regardless of the number of acres of land owned by him in the district."

I am not aware how the words "or less" got into section 2 of chapter 372. You will recall that the various provisions of S.B. 231 were agreed upon at a conference or meeting called by the Water Conservation Commission before the legislature met in 1947. At that meeting it was understood and agreed that an "elector" should be required to own five acres subject to assessments. As section 2 of chapter 372 now reads, the five acre limitation is meaningless unless the words "or less" are disregarded. If a minimum of five acres had not been intended, section 2 would have read "any elector owning twenty acres or less."

The definition of "elector" in section 1 of chapter 372 is clear and unambiguous. It provides, as hereinbefore mentioned, that "elector shall mean any landowner owning not less than five acres of land * * * subject to assessments for construction or other costs, * * *." This provision, in my opinion, clearly expresses and indicates the legislative intention.

It is, therefore, my opinion that an elector in an irrigation district must own at least five acres of land "subject to assessments

for construction or other costs." An elector owning five acres but not more than twenty acres is entitled to one vote; an elector owning thirty-one acres to two votes; and an elector owning fifty-one acres to three votes, etc. In other words, any person owning twenty acres of land subject to assessments is entitled to one vote. And any person owning more than twenty acres subject to assessments is entitled to one vote and an additional vote for each twenty acres, or major fraction thereof, in excess of twenty acres, but in no case more than eight votes regardless of acreage owned.

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