

CHAPTER 40

SOIL CONSERVATION

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40.01 DEFINITIONS. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of this chapter, shall be given the meanings ascribed to them.

Subd. 2. District or soil conservation district. "District" or "soil conservation district" means a governmental subdivision of this state organized in accordance with the provisions of this chapter for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

Subd. 3. Supervisor. "Supervisor" means one of the members of the governing body of a district elected or appointed in accordance with the provisions of this chapter.

Subd. 4. Commission or state soil and water conservation commission. "Commission" or "state soil and water conservation commission" means the agency created in section 40.03.

Subd. 5. Petition. "Petition" means a petition filed under the provisions of section 40.04, subdivision 1, for the creation of a district.

Subd. 6. Nominating petition. "Nominating petition" means a petition filed under the provisions of section 40.05 to nominate candidates for the office of supervisor of a soil conservation district.

Subd. 7. State. "State" means the state of Minnesota.

Subd. 8. Agency of this state. "Agency of this state" includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.

Subd. 9. United States or agencies of the United States. "United States" or "agencies of the United States" includes the United States of America, the soil conservation service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

Subd. 10. Government or governmental. "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

Subd. 11. Land occupier or occupier of land. "Land occupier" or "occupier of land" includes any person, firm, or corporation who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this chapter, whether as owner, lessee, renter, tenant, or otherwise.

Subd. 12. Due notice. "Due notice" means notice published at least twice, with an interval of at least seven days between the two publication dates, in a legal newspaper, and by posting at three conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to a notice, at the time and place designated in the notice, adjournment may be made, from time to time, without the necessity of renewing the notice for the adjourned dates.

Subd. 13. Watershed work plan. Watershed Work Plan. A "watershed work plan" means a plan for the installation in a watershed area of works of improvement, including structural and land treatment measures, for flood prevention or the conservation, development, utilization, and disposal of water developed by the district with or without federal assistance under the Watershed Protection and Flood Prevention Act, Public Law 566 as amended, or any act of Congress.

Subd. 14. **Watershed project.** Watershed Project. A "watershed project" means a project which is approved and authorized to be carried out by the district in a watershed area in accordance with a watershed work plan.

[1937 c 441 s 2; 1965 c 425 s 1; 1967 c 16 s 2] (6932-2)

40.02 PUBLIC POLICY; PURPOSE. As a guide to the interpretation and application of this chapter, the public policy of the state is declared to be as follows. Improper land-use practices have caused and contributed to serious erosion of farm and grazing lands of this state by wind and water and that thereby topsoil is being washed out of fields and pastures and has speeded up the removal of the absorptive top soil causing exposure of less absorptive and less protective, but more erosive, subsoil; and that land occupiers have failed to cause the discontinuance of such practice as creates this condition, and the consequences thereof have caused the deterioration of soil and its fertility and the deterioration of crops grown thereon, and declining yields therefrom, and diminishing of the underground water reserve, all of which have caused water shortages, intensified periods of drought, and crop failure, and thus brought about suffering, disease, and impoverishment of families and the damage of property from floods and dust storms; and that all of these effects may be prevented by land-use practices contributing to the conservation of top soil by carrying on of engineering operations such as the construction of terraces, check dams, dikes, ponds, ditches, and the utilization of strip cropping, lister furrowing, contour cultivating, land irrigation, seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees, and grasses.

It is hereby declared that it is for the public welfare, health, and safety of the people of Minnesota to provide for the conservation of the soil and soil resources of this state, and for the control and prevention of soil erosion, for land resource planning and development, and for flood prevention or the conservation development, utilization, and disposal of water, including but not limited to, measures for fish and wildlife and recreational development, and thereby preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, and protect public lands by land-use practices, as herein provided for.

[1937 c 441 s 1; 1965 c 425 s 2] (6932-1)

40.03 SOIL AND WATER CONSERVATION COMMISSION. Subdivision 1. **Members.** There is hereby established, to serve as an agency of this state and to perform the functions conferred upon it in this chapter, the state soil and water conservation commission to be composed of nine members, five of whom shall be bona fide farmers actually operating farms either as owners, operators, or tenants and selected as herein provided. Four members thereof shall be ex officio members composed of the following: The director of the agricultural extension service of the university of Minnesota; the dean of the institute of agriculture of the university of Minnesota; the commissioner of conservation; the commissioner of agriculture. The director of the agricultural extension service may designate the associate director of the agricultural extension service to act in his stead as a member of the commission, with all his rights and privileges. The designation shall be filed with the secretary of state. Similarly, the dean of the institute of agriculture may designate the associate dean of the institute of agriculture to act in his stead, with all his rights and privileges, which designation also shall be filed with the secretary of state. The commission shall invite the state conservationist of the United States soil conservation service to serve as an advisory member. The other five members of said commission shall be appointed by the governor from nominees recommended by the state association of soil conservation district supervisors submitted to the governor, and in the event of a failure to submit such nominees to the governor he shall make the necessary appointments from bona fide farmers actually operating farms, either as owners, operators or tenants. The four members heretofore appointed shall serve for the balance of the terms for which they were appointed. The fifth member shall be appointed for a term of five years. Thereafter as vacancies occur all appointments shall be made for terms of five years. The commission shall keep a record of its official actions, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this chapter.

Subd. 2. **Employees.** The state soil and water conservation commission may employ an administrative officer and such technical experts and such other agents

and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The commission may call upon the attorney general for such legal services as it may require. It shall have authority to prescribe the powers and duties of its officers and employees, and to delegate to its chairman or to one or more of its other officers or members or administrative officer such of its own powers and duties as it may deem proper. Upon request of the commission, for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning, shall, insofar as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the commission members of the staff or personnel of the agency or institution of learning, and make such special reports, surveys, or studies as the commission may request.

Subd. 3. Officers; quorum; bonds. The commission shall designate its chairman, and may annually, from time to time, change such designation. A member of the commission shall hold office so long as he shall retain the office by virtue of which he shall be serving on the commission. A majority of the commission shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. The ex officio members of the commission shall receive no compensation for their services on the commission, but shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the commission. The other members of said commission shall receive \$20 per day for each day while engaged in the performance of their official duties and shall be reimbursed for all expenses, including traveling expenses necessarily incurred in connection with their duties as members of said commission. The commission shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted. The public examiner shall annually audit the books of the commission.

Subd. 4. Powers and duties. In addition to the powers and duties hereinafter conferred upon the state soil and water conservation commission, it shall have the following powers and duties:

(1) To offer such assistance as may be appropriate to the supervisors of soil conservation districts, organized as provided hereinafter, in carrying out any of their powers and programs;

(2) To keep the supervisors of each of the several districts organized under the provisions of this chapter informed of the activities and experience of all other districts organized hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them;

(3) To coordinate the programs of the several soil conservation districts organized hereunder, so far as this may be done by advice and consultation;

(4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such districts;

(5) To disseminate information throughout the state concerning the activities and programs of the soil conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable; and

(6) To subdivide and consolidate districts without a hearing or a referendum so as to confine districts within county limits, provided, further, that no district, when feasible and practicable, shall contain less than four full or fractional congressional townships.

[1937 c 441 s 3; 1947 c 194 s 1; 1949 c 347 s 1; 1957 c 553 s 1; 1961 c 113 s 1; Ex1961 c 9 s 1, 2; 1967 c 16 s 1, 2] (6932-3)

40.04 SOIL CONSERVATION DISTRICTS. Subdivision 1. **Petition.** Any 25 occupiers of land lying within the limits of the territory proposed to be organized into a district may file a petition with the state soil and water conservation commission asking that a soil conservation district be organized to function in the territory described in the petition. The petition shall set forth:

(1) The proposed name of the district;

(2) That there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory described in the petition;

(3) A description of the territory proposed to be organized as a district, which

description shall not be required to be given by metes and bounds or by legal subdivision, but shall be deemed sufficient if generally accurate;

(4) A request that the state soil and water conservation commission duly define the boundaries for such district; and a referendum be held within the territory so defined on the question of the creation of a soil conservation district in such territory; and that the commission determine that such a district be created.

Where more than one petition is filed covering parts of the same territory, the state soil and water conservation commission may consolidate all or any such petitions.

Subd. 2. Hearings. Within 30 days after such a petition has been filed with the state soil and water conservation commission, it may cause due notice to be given of a proposed hearing, to be held by the commission or its authorized agent, upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, for the creation of such district, upon the question of the appropriate boundaries to be assigned to the district, upon the propriety of the petition and other proceedings taken under this chapter, and upon all questions relevant to such inquiries. All occupiers of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to the described territory, and all other interested parties, shall have the right to attend these hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and the further hearing held. After this hearing, if the commission shall determine, upon the facts presented at the hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of the district. In making the determination and in defining the boundaries, the commission shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits these lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions and to other soil conservation districts already organized or proposed for organization under the provisions of this chapter, and such other physical, geographical, and economic factors as are relevant, having due regard to the public policy set forth in section 40.02. The territory to be included within these boundaries need not be contiguous. If the commission shall determine, after such hearing, after due consideration of the relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and deny the petition. After six months shall have expired from the date of the denial of any such petition, subsequent petitions concerning the case or substantially the same territory may be filed, as aforesaid, and new hearings held and determinations made thereon.

Subd. 3. Determination; election. After the commission has made and recorded a determination that there is a need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within these boundaries, with the powers conferred upon soil conservation districts in this chapter, is administratively practicable and feasible. To assist the commission in the determination of this administrative practicability and feasibility, it shall be the duty of the commission, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of the referendum to be given. The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands below described and lying in the county (or counties) of and" and "Against creation of a soil conservation district of the lands below described and lying in the county (or counties) of"

..... and” shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of these propositions as the voter may favor or oppose creation of the district. The ballot shall set forth the boundaries of the proposed district as determined by the commission. All occupiers of land lying within the boundaries of the territory, as determined by the state soil and water conservation commission, shall be eligible to vote in the referendum. Only these land occupiers shall be eligible to vote.

Subd. 4. Supervision. The state soil and water conservation commission shall pay all expenses for the issuance of these notices and the conduct of the hearing and referenda, and supervise the conduct of the hearings and referenda. It shall issue appropriate regulations governing the conduct of the hearings and referenda, and providing for the registration, prior to the date of the referendum, of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in the referendum. No informalities in the conduct of the referendum or in any matters relating thereto shall invalidate the referendum or the result thereof if notice thereof shall have been given substantially as herein provided and the referendum shall have been fairly conducted.

Subd. 5. Result of election; district organized. The state soil and water conservation commission shall publish the result of the referendum and thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the commission shall determine that the operation of the district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the commission shall determine that the operation of the district is administratively practicable and feasible, it shall record such determination and proceed with the organization of the district in the manner hereinafter provided. In making such determination the commission shall give due regard and weight to the attitudes of the occupiers of lands lying within the defined boundaries, the number of land occupiers eligible to vote in the referendum who shall have voted, the proportion of the votes cast in the referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the proposed district, the probable expense of carrying on erosion-control operations within the district, and such other economic and social factors as may be relevant to such determination, having due regard to the public policy set forth in section 40.02; provided, that the commission shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a majority of the votes cast in the referendum upon the proposition of creation of the district shall have been cast in favor of the creation of the district.

Subd. 6. Supervisors a corporation; name of district; certificate of organization. If the state soil and water conservation commission shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint two supervisors to act, with the three supervisors elected as provided hereinafter, as the governing body of the district. The district shall be a governmental subdivision of this state and a public body corporate and politic, upon the taking of the following proceedings:

The two appointed supervisors shall present to the secretary of state an application signed by them, which shall set forth (and such application need contain no detail other than the mere recitals):

(1) That a petition for the creation of a district was filed with the state soil and water conservation commission pursuant to the provisions of this chapter, and that the proceedings specified in this chapter were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate or politic, under this chapter; and that the commission has appointed them as supervisors;

(2) The name and official residence of each supervisor, together with a certified copy of the appointment evidencing his right to office;

(3) The term of office of each supervisor;

(4) The name which is proposed for the district; and

(5) The location of the principal office of the supervisors of the district.

The application shall be subscribed and sworn to by each supervisor before an officer authorized by the laws of this state to take oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the

officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the state soil and water conservation commission, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the commission did duly determine that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the proposed territory, and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of the district, and that the result of the referendum showed a majority of the votes cast in the referendum to be in favor of the creation of the district; that thereafter the commission did duly determine that the operation of the proposed district is administratively practicable and feasible. The statement shall set forth the boundaries of the district as they have been defined by the commission.

The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other soil conservation district in this state, or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and record them in an appropriate book of record in his office. If the secretary of state shall find that the name proposed for the district is identical with that of any other soil conservation district of this state, or so nearly similar as to lead to confusion and uncertainty, he shall certify that fact to the state soil and water conservation commission, which shall thereupon submit to the secretary of state a new name for the district, which shall not be subject to such defects. Upon receipt of the new name, free from such defects, the secretary of state shall record the application and statement, with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this state. The secretary of state shall make and issue to the supervisors a certificate, under the seal of the state, of the due organization of the district and record the certificate with the application and statement. The boundaries of the district shall include the territory as determined by the state soil and water conservation commission, as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this chapter.

Subd. 7. Later petitions. After six months shall have expired from the date of entry of a determination by the state soil and water conservation commission that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid, and action taken thereon in accordance with the provisions of this chapter.

Subd. 8. Territory annexed; procedure. (1) Petitions for including additional territory within an existing district may be filed with the state soil and water conservation commission, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The commission shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this chapter for petitions to organize a district. Where the total number of land occupiers in the area proposed for inclusion shall be less than 25, the petition may be filed when signed by a majority of the occupiers of such area, and in such case no referendum need be held. In referenda upon petitions for such inclusion, all occupiers of land lying within the proposed additional area shall be eligible to vote.

(2) Petitions for consolidating two or more districts or for separating an existing district into two or more districts may be filed with the state soil and water conservation commission by any 25 or more occupiers of land within the district or districts affected. In such event, it shall not be necessary to obtain the consent of any fee owners of lands in any created districts before additional territory is annexed or before districts are consolidated, or before an existing district is divided, but all other proceedings herein provided for in the case of petitions to organize a district shall be followed in so far as they are applicable. The commission shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this chapter for petitions to organize a district.

(3) In the holding of the referendum for consolidation or separation, all land occupiers within the affected district or districts shall be eligible to vote. The commission shall not have authority to determine the administrative practicability or feasibility of consolidating or separating districts unless a majority of the votes

cast in the referendum within each and all of the separate districts to be affected, or within each and all of the separate areas sought to be made separate districts, shall be in favor of such consolidation or separation.

(4) In the case of consolidation or separation of districts, the corporate existence and terms of office of the officers of the old district or districts shall expire upon the issuance and recording by the secretary of state of a certificate of the due organization of the consolidated district, or of the several new districts. Upon consolidation all of the rights and liabilities of the several consolidating districts shall be vested in, and assumed by the consolidated district. Upon separation, the rights and liabilities of the original district shall be vested in and assumed by the new districts in the equitable proportion to be determined by the state soil and water conservation commission; provided, however, that any subdividing shall not affect the term of office of any supervisor for which he was elected or appointed, and such supervisor shall continue to represent the district in which he resides for the full term for which he was elected or appointed.

Subd. 9. Certificate of organization as evidence. In any suit, action, or proceeding involving the validity of enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have been established in accordance with the provisions of this chapter upon proof of the issuance of the aforesaid certificate by the secretary of state. A copy of such certificate, duly certified by the secretary of state, shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of the filing and contents thereof.

Subd. 10. Change of name. The name of a soil conservation district may be changed with the approval of the state soil and water conservation commission upon the adoption of a resolution by a majority of the supervisors setting forth the new name of the district, and by filing a certified copy thereof with the secretary of state.

Subd. 11. Change of location of principal office. The location of the principal office of the supervisors of a district may be changed with the approval of the state soil and water conservation commission upon the adoption of a resolution by a majority of the supervisors setting forth the new location thereof, and by filing a certified copy thereof with the secretary of state.

Subd. 12. Formation of supervisor districts. The district governing body of any district, heretofore or hereafter organized, after two successive annual elections have been held may, with the approval of the state soil and water conservation commission, divide a district into five supervisor districts for election purposes and at each election thereafter one and only one supervisor shall be elected from each such district, and whenever the boundary of any district has been substantially changed after a division thereof, such district shall thereupon be divided into five supervisor districts for election purposes in accord with this subdivision, provided that nothing herein will be construed to disqualify a supervisor during the term for which he was elected. Any vacancy occurring in any such district by failure to elect a supervisor or otherwise, shall be filled by a majority of the supervisors until the next annual town election.

A certified copy of the minutes or the resolution of the supervisors establishing districts as herein authorized shall be promptly filed by the chairman of the board of supervisors with the county auditor wherein the districts are located and with the state soil and water conservation commission.

[1937 c 441 s 4; 1943 c 274 s 1; 1945 c 95 s 1; 1947 c 194 s 2; 1949 c 347 s 2; 1951 c 340 s 1; Ex1961 c 9 s 3; 1963 c 472 s 1; 1967 c 16 s 2] (6932-4)

40.05 THREE SUPERVISORS ELECTED FOR EACH DISTRICT. Subdivision

1. Within 30 days after the date of issuance by the secretary of state of a certificate of organization of a soil conservation district, or such further time as the state soil and water conservation commission may allow, nominating petitions may be filed with the state soil and water conservation commission nominating legal voters as candidates for election as supervisors of such district, one for a term to expire at the time of the third annual town election in March and one to expire at the time of the fourth succeeding town election, and one to expire at the fifth succeeding town election in March. Each petition must be subscribed by one or more legal voters of the district. No person shall sign petitions nominating more than three candidates and if he does his signature shall not be counted on any petition. The commission shall give due notice of the time and place where the election of three supervisors shall be held in the district, and shall specify therein the names of all

candidates and the terms for which nominated. The commission shall prepare ballots for such election with the surnames of the candidates printed thereon in alphabetical order for each term and a square before each name and a direction to insert an X mark in the square before three names with different terms to indicate the voter's choice. All legal voters shall be eligible to vote at such election. The three candidates who shall receive the highest numbers respectively of the votes cast at such election shall be the elected supervisors for the district. In case of a tie, the election shall be determined by lot, under the direction of the commission. The commission shall supervise such election, pay all the expenses thereof, prescribe the regulations governing the same, determine the eligibility of voters and publish the results.

Subd. 2. In districts heretofore organized, the present elected supervisors shall hold their respective offices until the expiration of their present terms. Thereafter as such terms expire a successor shall be elected for the term of five years.

Subd. 3. After the effective date of Laws 1943, Chapter 274, all elections except that provided for the organization of the district, in subdivision 1, shall be held at the time and place of holding the annual spring town meeting and the town election officers shall act as the officers of the soil conservation district election. Election of supervisors of the soil conservation district shall be by separate ballot. Nominating petitions conforming to the rules stated in subdivision 1 shall be filed with the secretary of the soil conservation district at least 15 days before the time of holding the town meeting. The ballots for use at the election shall be prepared by the secretary of the conservation district and delivered to the town clerk and shall conform to the rules in subdivision 1 so far as applicable. All laws relating to town elections shall govern. The county auditor shall canvass the returns and certify the result to the state soil and water conservation commission, and if the soil conservation district embraces land in more than one county the state soil and water conservation commission shall canvass the results of the election and publish the result.

Provided, that whenever a soil conservation district is located within a town which is unorganized, or which has been dissolved, or where a district is composed entirely of unorganized territory, and where no town meetings or town elections are held, the election of supervisors for any such district shall be held annually on the day when annual spring town meetings and elections of town officers in organized towns are held. The governing body of any such soil conservation district shall designate by resolution the time and place when the annual election will be held, and the secretary of such district shall give posted notice stating the time and place of holding such annual election. All laws relating to town elections and giving notice thereof shall govern. All provisions of law relating to the term of office, the election of supervisors of a soil conservation district, the nominating petitions therefor, and the canvassing and certifying of election returns shall govern. The governing body of any such soil conservation district shall annually appoint three judges and one clerk who shall act as such at the annual election, and who shall receive as compensation for their services the same as judges and clerks of town elections, which compensation shall be audited and paid in the same manner as other expenses of such soil conservation districts.

Subd. 4. If a vacancy except by reason of expiration of term shall occur in the office of an elected supervisor, more than 30 days before the next annual town meeting, the governing body of the district shall fill the vacancy by appointment; and the supervisor appointed shall hold office until the next annual town meeting. If the term does not then expire, his successor shall be elected and hold office for the remainder of the term. If a vacancy except by reason of expiration of term shall occur in such office less than 30 days before the next annual town meeting, the governing body of the district shall fill the vacancy by appointment; and the supervisor shall hold office until the expiration of the term or until the second succeeding town meeting, whichever is the shortest term, when his successors shall be elected.

[1937 c 441 s 5; 1943 c 274 s 2; 1945 c 95 s 2; 1949 c 347 s 3; 1953 c 370 s 1; 1957 c 553 s 2, 3; 1963 c 330 s 1; 1967 c 16 s 2] (6932-5)

40.06 SUPERVISORS. Subdivision 1. **Members; election, appointment.** The governing body of the district shall consist of five supervisors, elected or appointed as herein provided. All supervisors shall be legal voters residing within the district. The two supervisors appointed by the commission upon the creation of the district

as hereinbefore provided shall serve for terms ending respectively at the next annual town election and at the second annual town election following their appointment, as designated by the commission, and thereafter their successors shall be elected for terms of five years. In districts heretofore organized, the present appointed supervisors shall hold office until the next occurring annual town election, and their successors shall be elected for terms of three and four years, respectively, and thereafter their successors shall be elected for terms of five years. Such elections shall be held in like manner as provided for the election of other supervisors.

Subd. 2. Chairman. The supervisors shall elect a chairman to act during their pleasure. A supervisor shall hold office until his successor has been elected or appointed and has qualified. Vacancies in the office of supervisor appointed by the state commission, for an entire term or an unexpired term, shall be filled by the state commission. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall receive such compensation for his services as the commission may determine, and he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties to be paid by the county of which the supervisor is a resident, upon approval by the commission, and the sum so paid shall be reimbursed by the commission out of funds available therefor; provided that a supervisor shall receive as reimbursement for the use of his own automobile in the performance of his duties, 7½ cents per mile to be allowed and paid as above prescribed.

Subd. 3. Employees. The supervisors may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties, and compensation. The county attorney of the county in which the major portion of said soil conservation district is located, shall be the attorney for said district, and the supervisors thereof, and the said supervisors may call upon said attorney for the necessary legal counsel and advice and service. The supervisors may delegate to their chairman, to one or more supervisors, or to one or more agents, or employees such powers and duties as they may deem proper. The supervisors shall furnish to the state soil and water conservation commission, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this chapter.

Subd. 4. Employee bonds; audit; removal of supervisor. The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; the public examiner shall annually audit the books of said soil conservation district and its supervisors. Any supervisor may be removed by the state soil and water conservation commission upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

Subd. 5. Advisory assistance. The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

[1937 c 441 s 6; 1943 c 274 s 3; 1945 c 95 s 3; 1947 c 194 s 3; 1949 c 347 s 4; 1951 c 340 s 2; 1957 c 553 s 4; 1967 c 16 s 2] (6932-6)

40.07 POWERS OF DISTRICTS AND SUPERVISORS. A soil conservation district organized under the provisions of this chapter shall constitute a governmental subdivision of this state, and a public body, corporate and politic, exercising public powers, and the district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this chapter:

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive and control measures needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures; provided, however, that in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of the state or any of its agencies, or with the United States or any of its agencies;

(2) To conduct demonstrational projects within the district on lands owned or

controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district, upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and controlled;

(3) To carry out preventive and control measures within the district, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures referred to in section 40.02, on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district, upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands, including the owner of the fee thereof;

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any occupier of lands within the district, in the carrying on of erosion control and prevention operations within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this chapter;

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interest therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and provisions of this chapter;

(6) To make available, on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion;

(7) To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this chapter;

(8) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify, in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

(9) To take over, by purchase, lease, or otherwise, and to administer, any soil-conservation, erosion-control, or erosion-prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to act as agent for the United States or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

(10) To sue and be sued in the name of the district; to have perpetual succession, unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and, from time to time, amend and repeal, rules and regulations not inconsistent with this chapter, to carry into effect its purposes and powers;

(11) As a condition to the extending of any benefits under this chapter to, or the performance of work upon, any lands not owned or controlled by this state or

any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise, to any operations conferring such benefits; but

(12) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state.

(13) To make application to the secretary of agriculture, or other designated authority, for federal assistance under the provisions of Public Law 566, 83rd Congress, Chapter 656, 2d Session, or any act amendatory thereof or supplementary thereto.

(14) To enter into any agreement or contract with the secretary of agriculture, or other designated authority, under the provisions of said Public Law 566, or any act amendatory thereof or supplementary thereto, for the construction, maintenance, and operation of works of improvement as defined in said act; to acquire without cost to the federal government such land, easements, or rights-of-way as will be needed in connection with works of improvement installed with federal assistance; to assume such proportionate share of the cost of installing any works of improvement involving federal assistance as may be determined by the secretary to be equitable in consideration of anticipated benefits from such improvements; to make arrangements satisfactory to the secretary for defraying costs of operating and maintaining such works of improvement in accordance with regulations prescribed by said secretary of agriculture; to acquire or provide assurance that land owners have acquired such water rights, pursuant to state law, as may be needed in the installation and operation of said works of improvement; to obtain agreements to carry out recommended soil conservation measures and proper farm plans from owners of not less than 50 percent of the lands situated in any drainage area above any retention reservoir which may be installed with federal assistance, all as prescribed in said Public Law 566, and to do any and all other acts necessary to secure federal aid under said Public Law 566, or any act amendatory thereof or supplementary thereto, subject, however, to the provisions contained in the following paragraph.

(15) Every contract attempted to be entered into or indebtedness or pecuniary liability attempted to be incurred by any soil conservation district, or supervisors thereof, whereby a financial obligation, express or implied, results or is created in excess of moneys or funds under the control and supervision of such soil conservation district, or supervisors thereof, available for the payment thereof, shall be null and void in regard to any obligation thereby sought to be imposed, and no claim therefor shall be allowed by the supervisors of any such soil conservation district. Every supervisor of any soil conservation district participating or authorizing any such contract or obligation shall be individually liable to the soil conservation district, of which he is supervisor, for any damages caused thereby, and shall be liable to any person furnishing any labor, services, or material, on any such contract entered into or obligation assumed.

[1937 c 441 s 7; 1955 c 553 s 1; 1967 c 16 s 2] (6932-7)

40.071 ADDITIONAL POWERS OF A DISTRICT. In addition to powers and duties otherwise provided by law, a soil conservation district may procure insurance as provided in Minnesota Statutes, Section 466.13, Subdivision 3.

[1967 c 39 s 1]

40.08-40.11 [Repealed, 1955 c 553 s 2]

40.12 COOPERATION BETWEEN DISTRICTS. The supervisors of any two or more districts organized under the provisions of this chapter may cooperate with one another in the exercise of any or all powers conferred in this chapter.

[1937 c. 441 s. 12] (6932-12)

40.13 STATE AGENCIES TO COOPERATE. Agencies of this state which shall have jurisdiction over, or be charged with the administration of, any state-owned lands, and of any county, or other governmental subdivision of the state, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall cooperate with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this chapter. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands.

[1937 c 441 s 13; 1957 c 553 s 5] (6932-13)

40.14 DISCONTINUANCE OF DISTRICTS. At any time after five years after the organization of a district under the provisions of this chapter, 25 occupiers of

land lying within the boundaries of the district may file a petition with the state soil and water conservation commission praying that the operations of the district be terminated and the existence of the district discontinued. The commission may conduct such public meetings and public hearings upon the petition as may be necessary to assist in the consideration thereof. Within 60 days after the petition has been received by the commission, it shall give due notice of the holding of a referendum, supervise the referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots, upon which the words "For terminating the existence of the (name of the soil conservation district to be here inserted)" and "Against terminating the existence of the (name of the soil conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of these propositions as the voter may favor or oppose discontinuance of the district. All occupiers of lands lying within the boundaries of the districts shall be eligible to vote in the referendum. Only these land occupiers shall be eligible to vote. No informalities in the conduct of the referendum or in any matters relating thereto shall invalidate the referendum, or the result thereof, if notice thereof shall have been given substantially as herein provided and the referendum shall have been fairly conducted.

The commission shall publish the result of the referendum and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the commission shall determine that the continued operation of the district is administratively practicable and feasible, it shall record such determination and deny the petition. If the commission shall determine that the continued operation of the district is not administratively practicable and feasible, it shall record such determination and certify such determination to the supervisors of the district. In making such determination the commission shall give due regard and weight to the attitudes of the occupiers of lands lying within the district, the number of land occupiers eligible to vote in the referendum who shall have voted, the proportion of the votes cast in the referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the district, the probable expense of carrying on erosion-control operations within the district, and such other economic and social factors as may be relevant to such determination, having due regard to the declaration of public policy set forth in section 40.02. The commission shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the continuance of the district.

Upon receipt from the state soil and water conservation commission of a certification that the commission has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and pay over the proceeds of the sale to be covered into the state treasury. The supervisors shall thereupon file an application, duly verified, with the secretary of state for the discontinuance of the district, and transmit with the application the certificate of the state soil and water conservation commission setting forth the determination of the commission that the continued operation of the district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and set forth a full accounting of these properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and record the certificate in an appropriate book of record in his office.

Upon issuance of a certificate of dissolution under the provisions of this section, all ordinances and regulations theretofore adopted and in force within these districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in the contracts. The state soil and water conservation commission shall be substituted for the district or supervisors as party to the contracts. The commission shall be entitled to all benefits and subject to all liabilities under the contracts, and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate the contracts by

mutual consent, or otherwise, as the supervisors of the district would have had. The dissolution shall not affect the lien of any judgment entered under the provisions of section 40.11, nor the pendency of any action instituted under the provisions of section 40.11, and the commission shall succeed to all the rights and obligations of the district or supervisors as to these liens and actions.

The state soil and water conservation commission shall not entertain petitions for the discontinuance of any district nor conduct referenda upon the petitions, nor make determinations pursuant to the petitions in accordance with the provisions of this chapter, more often than once in two years.

[1937 c 441 s 14; 1967 c 16 s 2] (6932-14)

40.15 CITATION, SOIL CONSERVATION DISTRICTS LAW. This chapter may be known and cited as the Minnesota soil conservation districts law.

[1937 c 441 s. 16] (6932-16)