

CHAPTER 103C

SOIL AND WATER CONSERVATION DISTRICTS

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103C.005 SOIL AND WATER CONSERVATION POLICY.

Maintaining and enhancing the quality of soil and water for the environmental and economic benefits they produce, preventing degradation, and restoring degraded soil and water resources of this state contribute greatly to the health, safety, economic well-being, and general welfare of this state and its citizens. Land occupiers have the responsibility to implement practices that conserve the soil and water resources of the state. Soil and water conservation measures implemented on private lands in this state provide benefits to the general public by reducing erosion, sedimentation, siltation, water pollution, and damages caused by floods. The soil and water conservation policy of the state is to encourage land occupiers to conserve soil, water, and the natural resources they support through the implementation of practices that:

- (1) control or prevent erosion, sedimentation, siltation, and related pollution in order to preserve natural resources;
- (2) ensure continued soil productivity;
- (3) protect water quality;
- (4) prevent impairment of dams and reservoirs;
- (5) reduce damages caused by floods;
- (6) preserve wildlife;
- (7) protect the tax base; and
- (8) protect public lands and waters.

History: 2003 c 104 s 2

103C.101 DEFINITIONS.

[For text of subs 1 to 5, see M.S.2002]

Subd. 6. **Federal.** "Federal" means the United States, the natural resources conservation service of the United States Department of Agriculture, and agencies or instrumentalities, corporate or otherwise, of the United States.

[For text of subs 7 and 8, see M.S.2002]

Subd. 9. **Nominating petition.** "Nominating petition" means a petition filed under section 103C.305, subdivision 2, to nominate candidates for the office of supervisor.

Subd. 9a. **Resident owner.** "Resident owner" has the meaning given in section 103D.011, subdivision 25.

[For text of subs 10 to 15, see M.S.2002]

History: 2003 c 104 s 3-5

103C.201 FORMATION OF SOIL AND WATER CONSERVATION DISTRICTS.

Subdivision 1. **Petition.** (a) A petition must be signed by at least 50 resident owners in an area proposed to be organized into a district and filed with the state board requesting that a soil and water conservation district be organized to function in the area described in the petition. The petition must state:

- (1) the proposed name of the district;

(2) that there is need, in the interest of the public health, safety, and welfare, for a district in the described area;

(3) a description of the area proposed to be organized as a district, which need not be by metes and bounds or legal subdivision, but may be by general description that identifies the area;

(4) a request that the state board define the boundaries for the district;

(5) a request for a referendum to be held in the defined territory on the question of the creation of a district in the territory; and

(6) a request by the state board to determine that a district be established.

(b) If more than one petition is filed covering parts of the same area, the state board may consolidate the petitions.

Subd. 2. **Hearings.** (a) By 30 days after a petition has been filed with the state board, the state board may give due notice of a proposed hearing, to be held by the state board or a designated agent, on:

(1) the question of the desirability and necessity, in the interest of the public health, safety, and welfare, for the establishment of a district;

(2) the appropriate boundaries of the district;

(3) the propriety of the petition and other proceedings taken under this section; and

(4) other questions relevant to clauses (1), (2), and (3).

(b) Residents in the area described in the petition and in the area considered for addition to the described area and other interested parties may attend the hearing and be heard. If after a hearing, the state board determines it may be desirable to include in the proposed district area outside the area where notice of the hearing was given, the hearing must be adjourned and due notice of the continued hearing must be given throughout the entire area considered for inclusion in the district, and the continued hearing held.

[For text of subs 3 and 4, see M.S.2002]

Subd. 5. **Referendum for district establishment.** (a) After the state board has made and recorded a determination that there is a need for a district in a particular area and has defined the boundaries, the state board shall consider whether the operation of a district within the boundaries is administratively feasible. To assist the state board to determine the feasibility, the state board shall schedule the referendum at the next general election and shall cooperate with county election officials to accomplish the election in the most expedient manner.

(b) The question shall be submitted by ballots with:

(1) the words printed "For creation of a soil and water conservation district of the lands described below in the county (or counties) of and" and "Against establishment of a soil and water conservation district of the lands described below in the county (or counties) of and" ;

(2) a square before each proposition and a direction to insert an X mark in the square before one proposition or the other as the voter may favor or oppose establishment of the district; and

(3) the boundaries of the proposed district.

(c) Only eligible voters residing within the boundaries of the proposed district may vote in the referendum.

Subd. 6. **Administration of hearing and referendum.** The state board shall pay the expenses for the notices and the conduct of the hearing. The state board shall schedule the referendum at the next general election and shall cooperate with county election officials to accomplish the election in the most expedient manner. Informalities in the conduct of a referendum or in a matter related to it do not invalidate the referendum or its result if notice of it has been given substantially as provided by this section and the referendum has been fairly conducted.

Subd. 7. **Determination after referendum.** (a) The state board shall publish the result of the referendum and then determine whether the operation of a district in the defined boundaries is administratively feasible. In making the determination, the state board must consider the policy in section 103A.206, and:

- (1) the attitudes of the land occupiers in the defined boundaries;
- (2) the number of eligible voters who voted in the referendum;
- (3) the proportion of the votes cast in the referendum in favor of establishing the district to the total number of votes cast;
- (4) the approximate wealth and income of the land occupiers of the proposed district;
- (5) the probable expense of carrying on erosion-control operations and related water quality improvements within the district; and
- (6) other relevant economic and social factors. The state board may not determine that the operation of the proposed district within the defined boundaries is administratively feasible unless a majority of the votes cast in the referendum on establishment of the district have been cast in favor of establishing the district.

(b) If the state board determines that the operation of the district is not administratively feasible, the state board shall record the determination and deny the petition. Six months after the date of entry of a determination by the state board that operation of a proposed district is not administratively feasible, a new petition may be filed and a new proceeding started.

(c) If the state board determines that the operation of the district is administratively feasible, it shall record the determination and proceed with the establishment and organization of the district.

Subd. 8. **Application by supervisors to secretary of state.** (a) The district shall be a governmental subdivision of this state and a public body corporate and politic after the actions in this subdivision are taken.

(b) If the state board determines that the operation of the proposed district within the defined boundaries is administratively feasible, the state board must appoint supervisors to act as the district board within 30 days after the district is established. A majority of the supervisors' terms must expire after the next general election following their appointments and the remaining supervisors' terms expire after the second general election following their appointments.

(c) The appointed supervisors shall sign and present an application to the secretary of state with the following recitals:

- (1) a petition for the establishment of a district was filed with the state board;
- (2) the proper proceedings were taken relating to the petition;
- (3) the application is being filed to complete the organization of the district as a governmental subdivision and a public body, corporate or politic;
- (4) the state board has appointed the signers as supervisors;
- (5) the name and official residence of each supervisor, with a certified copy of the supervisor's appointment;
- (6) the term of office of each supervisor;
- (7) the name proposed for the district; and
- (8) the location of the principal office of the district board.

(d) The application shall be subscribed and sworn to by each supervisor before an officer authorized by state law to take oaths. The officer shall certify upon the application that the officer has personal knowledge of the supervisors, that they are the supervisors named in the application, and that each supervisor has signed the application in the officer's presence.

[For text of subs 9 to 11, see M.S.2002]

History: 2003 c 104 s 6-11

103C.205 ANNEXING ADDITIONAL AREA.

(a) Resident owners may file a petition to include additional area within an existing district with the state board. The procedure for a petition to establish a district shall be followed on a petition to include additional area. The state board shall prescribe the form for the petition, which shall be as nearly as possible in the form for a petition to organize a district.

(b) If the petition for an area proposed for inclusion is signed by a majority of the resident owners in the area, a referendum need not be held.

(c) In a referendum to include additional area, all eligible voters within the proposed additional area may vote.

(d) It is not necessary to obtain the consent of the fee owners within the district before the additional area is annexed to a district.

History: 2003 c 104 s 12

103C.211 CONSOLIDATION AND DIVISION OF DISTRICTS.

(a) A petition to consolidate two or more districts or to separate a district into two or more districts may be filed with the state board. The petition must be signed by the majority of each board of the affected districts or by at least 100 resident owners within the affected districts. It is not necessary to obtain the consent of fee owners in an established district before districts are consolidated or an existing district is divided. Proceedings provided for petitions to organize a district shall be followed as far as they are applicable. The state board shall prescribe the form for a petition, which shall be as nearly as possible in the form for petitions to organize a district.

(b) The eligible voters within the affected districts may vote in the referendum. The state board may not determine the administrative feasibility of consolidating or separating districts unless a majority of the votes cast in the referendum within each separate district affected, or within each separate area sought to be made a separate district, is in favor of the consolidation or separation.

(c) When districts are consolidated or separated, the corporate existence and terms of office of the officers of the old districts expire upon the issuance and recording by the secretary of state of a certificate of organization of the new districts. Upon consolidation, the rights and liabilities of the consolidating districts shall be 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 an equitable proportion determined by the state board. A separation does not affect the term of office for which a supervisor was elected or appointed. The supervisor shall continue to represent the district where the supervisor resides for that full term.

History: 2003 c 104 s 13

103C.225 DISCONTINUANCE OF DISTRICTS.

Subdivision 1. **Petition for termination.** (a) Five years after the organization of a district, a district board may, by resolution adopted by a majority of the board, or resident owners may, by a petition filed with the state board, ask that the operations and existence of the district be terminated. The resident owner petition must be signed by the lesser of:

- (1) at least one percent of the resident owners within the district; or
- (2) 500 resident owners within the district.

(b) The state board may not receive a petition, conduct a referendum, or make a determination on a petition to discontinue a district more often than once in two years.

[For text of subd 2, see M.S.2002]

Subd. 3. **Referendum.** (a) Within 60 days after the petition is received by the state board, it shall give due notice of the holding of a referendum, schedule the referendum at the next general election, and cooperate with county election officials to accomplish the election in the most expedient manner. Prior to the referendum, the state board

shall facilitate the preparation of a plan to continue the administration of the powers, duties, and responsibilities of the district, including the functions of the district board.

(b) The question shall be submitted by ballots, upon which the words "For terminating the existence of the (name of the soil and water conservation district to be here inserted)" and "Against terminating the existence of the (name of the soil and water 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.

(c) Only eligible voters in the district may vote in the referendum.

(d) Informalities in the conduct of the referendum or matters relating to the referendum do not invalidate the referendum, or result of the referendum, if due notice has been given and the referendum has been fairly conducted.

(e) The state board shall publish the result of the referendum.

Subd. 4. Determination by state board. (a) The state board shall determine whether the continued operation of the district board is administratively feasible and give consideration to the public policy under section 103A.206, and:

(1) the attitudes of land occupiers within the district;

(2) the number of eligible voters who voted in the referendum;

(3) the proportion of the votes cast in the referendum in favor of the discontinuance of the district to the total number of votes cast;

(4) the approximate wealth and income of the land occupiers of the district;

(5) the probable expense of carrying on erosion-control operations and related water quality improvements within the district;

(6) the plan to continue the powers, duties, and responsibilities of the district board; and

(7) other economic and social factors relevant to the determination.

(b) If the state board determines that the continued operation of the district is administratively feasible, the state shall record the determination and deny the petition.

(c) If the state board determines that the continued operation of the district is not administratively feasible, the state board shall record the determination and certify the determination to the district board. The state board may determine that the continued operation of the district is not administratively feasible only when at least a majority of the votes cast in the referendum have been cast in opposition to continuance and a satisfactory plan to continue the powers, duties, and responsibilities of the district board is completed.

[For text of subs 5 to 7, see M.S.2002]

Subd. 8. Effect of dissolution. Upon issuance of the certificate of dissolution, the ordinances and regulations in force in the district are of no further force. All contracts entered into, to which the district or district board were parties, shall remain in force and effect for the period provided in the contracts. The state board shall be substituted for the district or district board as party to the contracts and succeed to the district's rights and duties. The state board may delegate the district's rights and duties to a local government unit, as identified in the plan developed under subdivision 3.

History: 2003 c 104 s 14-17

103C.301 [Repealed, 2003 c 104 s 32]

103C.305 GENERAL ELECTION OF SUPERVISORS.

Subdivision 1. Time for election. Elections must be held at the state general election specified in section 204D.03, subdivision 2. A primary may not be held.

[For text of subs 2 to 6, see M.S.2002]

History: 2003 c 104 s 18

103C.311 FORMATION OF SUPERVISOR DISTRICTS.

Subdivision 1. **Supervisors elected at large.** (a) The district board shall, with the approval of the state board, divide a district into supervisor districts for purposes of nomination for election. At each election after the division, one or more supervisors shall be nominated from each supervisor district. A supervisor must be a resident of the supervisor district to be elected.

(b) If the boundary of a soil and water conservation district has been substantially changed by a division of the district, the district shall be divided into supervisor districts for nomination purposes.

(c) This subdivision does not disqualify a supervisor during the term for which the supervisor was elected or nominated for election. Supervisors nominated from the supervisor districts shall be included on the ballot for election from the entire area included in the soil and water conservation district.

(d) A certified copy of the minutes or the resolution of the supervisors establishing supervisor districts must be promptly filed by the chair of the district board with the county auditor of the counties where the district is located and with the state board.

Subd. 2. **Supervisors elected by districts.** (a) The district board, with the approval of the state board, may by resolution provide that supervisors will be elected by supervisor districts as provided in this subdivision.

(b) The supervisor districts must be composed of precincts established by county and municipal governing bodies under section 204B.14. The districts must be compact, include only contiguous territory, and be substantially equal in population. The districts must be numbered in a regular series. The districts must be drawn by the county board of the county containing the largest area of the soil and water conservation district, in consultation with the district board and with the approval of the state board. The boundaries of the districts must be redrawn after each decennial federal census as provided in section 204B.135. A certified copy of the resolution establishing supervisor districts must be filed by the chair of the district board with the county auditor of the counties where the soil and water conservation district is located, with the state board, and with the secretary of state at least 30 days before the first date candidates may file for the office of supervisor.

(c) Each supervisor district is entitled to elect one supervisor. A supervisor must be a resident of the district from which elected.

(d) The district board shall provide staggered terms for supervisors elected by district. After each redistricting, there shall be a new election of supervisors in all the districts at the next general election, except that if the change made in the boundaries of a district is less than five percent of the average population of all the districts, the supervisor in office at the time of the redistricting shall serve for the full term for which elected. The district board shall determine by lot the seats to be filled for a two-year term, a four-year term, and a six-year term.

History: 2003 c 104 s 19,20

103C.315 SUPERVISORS.

Subdivision 1. **Members.** (a) Except as provided in paragraph (c), the district board shall consist of five supervisors, elected or appointed as provided in sections 103C.201, subdivision 8, and 103C.305.

(b) Supervisors must be eligible voters residing in the district.

(c) In counties where the county board consists of seven members and districts have been divided into supervisor districts, under section 103C.311, subdivision 2, the county board may establish seven supervisor districts, elected or appointed as provided in sections 103C.201, subdivision 8; 103C.305; and 103C.311, subdivision 2.

Subd. 2. **Terms.** The supervisors appointed by the state board upon the establishment of a district serve terms ending as provided in section 103C.201, subdivision 8. Their successors shall be elected for terms of four years commencing on the first Monday in January and until a successor is elected or appointed and has qualified.

Vacancies in the office of supervisor appointed by the state board shall be filled by the state board.

[For text of subd 3, see M.S.2002]

Subd. 4. **Compensation.** A supervisor shall receive compensation for services up to \$75 per day, and may be reimbursed for expenses, including traveling expenses, necessarily incurred in the discharge of duties. A supervisor may be reimbursed for the use of the supervisor's own automobile in the performance of official duties at a rate up to the maximum tax-deductible mileage rate permitted under the federal Internal Revenue Code.

Subd. 5. **Removal of supervisor.** A supervisor may be removed from office in accordance with the procedures under sections 351.14 to 351.23 for malfeasance or nonfeasance in office, but for no other reason.

[For text of subd 6, see M.S.2002]

History: 2003 c 104 s 21-24

103C.331 POWERS OF DISTRICT BOARDS.

[For text of subds 1 to 10, see M.S.2002]

Subd. 11. **Comprehensive plan.** (a) A district may develop and revise a comprehensive plan, specifying practices to implement the state policy specified in section 103A.206, including:

- (1) the construction, maintenance, and operation of structural measures;
- (2) methods of cultivation;
- (3) the use of vegetation;
- (4) cropping programs;
- (5) mechanical practices;
- (6) changes in use of land;
- (7) water quality improvement practices;
- (8) other land use, soil erosion reduction, and agricultural practices; and
- (9) related technical standards and specifications.

(b) The plan shall include a classification of the soil types within the district as determined by the Minnesota Cooperative Soil Survey.

(c) The plan must identify the areas within the district where erosion, sedimentation, and related water quality problems appear most in need of control methods.

(d) The plan shall be consistent with the statewide framework water resources plan, the statewide water quality management plan, and the state board's soil and water program plan.

(e) Each district that applies for cost-sharing funds under section 103C.501 shall submit to the state board an annual work plan for the high priority erosion, sedimentation, and water quality problems in the district. The work plan shall be prepared as required by the rules of the state board. In preparing the annual work plan, the district shall actively identify and seek out land occupiers with high priority erosion problems who have not participated in cost-sharing contracts and encourage their participation in programs to control their erosion problems.

Subd. 12. **Assumption of conservation projects.** (a) A district may take over by purchase, lease, or otherwise, and may improve, maintain, operate, and administer a soil or water conservation, erosion-control, erosion-prevention, water quality improvement, watershed protection, flood prevention, or flood control project in its boundaries undertaken by the United States or by a state agency.

(b) A district may accept donations, gifts, grants, or contributions in money, services, materials, or otherwise from the United States, a state agency, or other source to accomplish the authorization in this section. A board may enter into a contract or

agreement necessary or appropriate to accomplish the transfer. A board may use or expend money, services, materials, or other things to accomplish an authorized purpose.

[For text of subds 13 to 18, see M.S.2002]

Subd. 19. Administration of official controls. A district may accept delegation from the state, a county, or a city of authority to administer soil and water conservation-related official controls, as defined in section 103B.305, subdivision 7, of the county or city. Prior to the delegation, the district and the state, county, or city agreement must include provisions that:

- (1) provide for the source of funding for administering the official controls;
- (2) the district will provide notice and hearing in the same instances that the county or city would; and
- (3) identify who will provide legal advice and support for administration and enforcement.

Subd. 20. Coordination and cooperation. In implementing its authorities, a district shall cooperate as far as possible with federal, state, and local agencies and with private organizations in order to avoid duplication and to enhance implementation of public and private conservation initiatives within its jurisdiction.

History: 2003 c 104 s 25-28

103C.401 BOARD OF WATER AND SOIL RESOURCES.

Subdivision 1. Powers and duties. In addition to the powers and duties of the state board provided by other law, the state board shall:

- (1) offer to assist the district boards to implement their programs;
- (2) keep the district boards of the state informed of the activities and experience of other districts and facilitate cooperation and an interchange of advice and experience among the districts;
- (3) coordinate the programs and activities of the districts with appropriate agencies by advice and consultation;
- (4) approve or disapprove the plans or programs of districts relating to the use of state funds administered by the state board;
- (5) secure the cooperation and assistance of agencies in the work of the districts and develop a program to advise and assist appropriate agencies in obtaining state and federal funds for erosion, sedimentation, flooding, and agriculturally related pollution control programs;
- (6) develop and implement a public information program concerning the districts' activities and programs, the problems and preventive practices relating to erosion control, sedimentation, agriculturally related pollution, flood prevention, and the advantages of formation of districts in areas where their organization is desirable;
- (7) divide and consolidate districts without a hearing or a referendum to confine districts within county limits, without allowing a district, if feasible and practicable, to contain less than four full or fractional congressional townships;
- (8) assist the statewide program to inventory and classify the types of soils in the state as determined by the Minnesota Cooperative Soil Survey;
- (9) identify research needs and cooperate with other public agencies in research concerning the nature and extent of erosion, sedimentation, flooding and agriculturally related pollution, the amounts and sources of sediment and pollutants delivered to the waters of the state, and long-term soil productivity;
- (10) develop structural, land use management practice, and other programs to reduce or prevent soil erosion, sedimentation, flooding, and agriculturally related pollution;
- (11) develop a system of priorities to identify the erosion, flooding, sediment, and agriculturally related pollution problem areas that most need control systems;

(12) ensure compliance with statewide programs and policies established by the state board by advice, consultation, and approval of grant agreements with the districts; and

(13) service requests from districts to consolidate districts across county boundaries and facilitate other agreed-to reorganizations of districts with other districts or other local units of government, including making grants, within the limits of available funds, to offset the cost of consolidation or reorganization.

Subd. 2. Use of funds. (a) Funds made available to a district from the state for expenditures necessary for its operations may be used only for purposes authorized by the state board.

(b) A district may designate the board of county commissioners to act as the agent of the district to receive and expend the funds at the direction and with the approval of the district board.

(c) The state board shall, in a manner it prescribes, provide closeout reports to the districts regarding the expenditure of the funds.

History: 2003 c 104 s 29,30