WEST VIRGINIA CODE CHAPTER 19 ARTICLE 21A

WV Legislature

§19-21A-1. Short title.

This article may be known and cited as the Conservation Districts Law of West Virginia.

WV Legislature

§19-21A-2. Legislative determinations and declaration of policy.

It is hereby declared, as a matter of legislative determination:

(a) That West Virginia has a rich history of farming and using natural resources. The farms, forests, soil, and water resources are among the basic assets of the state and conservation of these resources is vital to the maintenance and future of the state and its citizens. However, improper land use practices have led to unnecessary soil erosion and water degradation.

(b) There is a continuing need for the implementation of conservation practices, whether urban, suburban, or rural, that maintain, promote, control, and prevent soil erosion, prevent floodwater and sediment damage, and further the conservation, development, use, disposal, and quality of water, thereby preserving natural resources, controlling floods, preventing impairment of dams and reservoirs, assisting in maintaining the navigability of rivers and harbors, preserving wildlife, protecting the tax base, protecting public lands, and promoting the health, safety, and general welfare of the people of this state.

(c) Adopting sound conservation policies and practices is an investment in West Virginia's Natural Resources and is a foundation for profitable, productive, and healthy ecosystems that are resilient and better able to withstand current and future environmental challenges.

(d) In recognition of the ever-increasing demands on West Virginia's soil and water resources, it is declared the policy of the state that the State Conservation Committee and the State's Conservation Districts, in cooperation with other state and federal agencies, political subdivisions, nongovernmental organizations, private landowners, and others, work to recommend and implement programs and policies that improve soil health and water quality.

(e) This article contemplates that the cost of operating conservation districts will be provided by donations, gifts, contributions, grants, and appropriations, in money, services, materials, or otherwise, from the United States or any of its agencies, from the State of West Virginia or from other sources, with the understanding that the owners or occupiers of the land bear the responsibility of implementing practices to alleviate soil erosion and/or improve water quality on their lands and will contribute funds, labor, materials, and equipment to aid in carrying out such measures.

WV Legislature

§19-21A-3. Definitions.

Wherever used or referred to in this article, unless a different meaning clearly appears from the context:

(1) "Agency of this state" means the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.

(2) "Agriculture" means the production of food, fiber, and woodland products, by means of cultivation, tillage of the soil, and by the conduct of animal, livestock, dairy, apiary, equine, or poultry husbandry, and the practice of forestry, silviculture, horticulture, harvesting of silviculture products, packing, shipping, milling, and marketing of agricultural products conducted by the proprietor of the agricultural operation, or any other legal plant or animal production, and all farm practices.

(3) "Committee" or "State Conservation Committee" means the agency created in §19-21A-4 of this code.

(4) "Conservation" means the reduction of soil erosion, enhancement of water supplies, control, and abatement of nonpoint sources of water pollution, improvement of water quality, increased aquatic and wildlife habitat, and the reduction of damages caused by floodwater and sediment damages and other natural disasters.

(5) "District" or "conservation district" means a subdivision of this state, organized in accordance with the provisions of this article, for the purposes, with the powers and subject to the restrictions hereinafter set forth.

(6) "Grant" means the providing of grants for conservation purposes pursuant to legislative rule.

(7) "Governing body" means the supervisors of any conservation district, town, or city, council, city commission, county court, or body acting in lieu of a county court, in this state, and the term "governmental division" means any conservation district, town, city, or county in this state.

(8) "Land occupier" or "occupier of land" means 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 article, whether as owner, lessee, renter, or tenant.

(9) "Landowners" or "owners of land" means any person or persons, firm, or corporation who holds title to any lands lying within a district organized under the provisions of this article.

(10) "Notice" means notice published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code and the publication area for the publication is the county in which is located the appropriate area. At any hearing held pursuant to such

WV Legislature

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 adjournment dates.

(11) “Petition” means a petition filed under the provisions of §19-21A-14 of this code for the creation of a district.

(12) “Soil conservation”, “erosion control”, or “erosion prevention projects” means those projects that have been established by federal agencies in cooperation with state agencies for the purpose of demonstrating soil erosion control and water conservation practices.

(13) “State” means the State of West Virginia.

(14) “Supervisor” means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this article.

(15) “Urban Agriculture” means the cultivation, processing, and distribution of agricultural products grown in urban and suburban settings, including vertical production, warehouse farms, community gardens, rooftop farms, hydroponic, aeroponic, and aquaponic facilities, and other innovations.

(16) “United States” or “agencies of the United States” means the United States of America, Natural Resources Conservation Service of the United States Department of Agriculture (NRCS), and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(17) "Water management" or "water management operation" means practices to conserve and use water as efficiently as possible in agricultural operations and does not refer to or include construction, improvement, operation, or maintenance of flood control dams, channels, dikes, or levees.

(18) “Works of improvement” means such structures as may be necessary or convenient for the conservation, development, or utilization of water but does not include flood control dams, channels, dikes, or levees.

WV Legislature

§19-21A-4. State Conservation Committee; continuation.

(a) The State Conservation Committee is continued. It serves as an agency of the state and is to perform the functions conferred upon it in this article. The committee consists of the following 10 members:

(1) Four citizen members;

(2) The following ex officio members or his or her designee:

(A) The Director of the state Cooperative Extension Service;

(B) The Director of the State Agricultural and Forestry Experiment Station;

(C) The Secretary of the Department of Environmental Protection;

(D) The State Commissioner of Agriculture, who is the chairperson of the committee;

(E) The Director of the Division of Forestry; and

(F) The President of the West Virginia Association of Conservation Districts.

(b) The Governor shall appoint, by and with the consent of the Senate, the four citizen members. Members shall be appointed for four-year terms, which are staggered in accordance with the initial appointments under prior enactment of this section. In the event of a vacancy, the appointment is for the unexpired term.

(c) The committee may invite the Secretary of Agriculture of the United States of America to appoint one person to serve with the committee as an advisory member.

(d) The committee shall keep a record of its official actions, shall adopt a seal, which shall be judicially noticed, and may perform those acts, hold public hearings, and adopt or propose for legislative approval rules necessary for the execution of its functions under this article.

(e) The State Conservation Committee may employ an administrative officer, technical experts, and other agents and employees, permanent and temporary, as it requires. The administrative officer and support staff shall be known as the West Virginia Conservation Agency. The committee shall determine their qualifications, duties, and compensation. The committee may call upon the Attorney General of the state for legal services it requires. It may delegate to its chairperson, to one or more of its members, or to one or more agents or employees, powers and duties it considers proper. The committee may secure necessary and suitable office accommodations and the necessary supplies and equipment. Upon request of the committee, 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 committee members of the staff or personnel

WV Legislature

of the agency or institution of learning and make special reports, surveys, or studies required by the committee.

(f) A member of the committee holds office so long as he or she retains the office by virtue of which he or she is serving on the committee. A majority of the committee is a quorum and the concurrence of a majority in any matter within their duties is required for its determination. The chairperson and members of the committee may receive no compensation for their services on the committee, but are entitled to reimbursement of expenses, including traveling expenses necessarily incurred in the discharge of their duties on the committee. The committee shall:

(1) Require the execution of surety bonds for all employees and officers who are entrusted with funds or property;

(2) Provide for the keeping of a full and accurate public record of all proceedings and of all resolutions, rules, and orders issued or adopted;

(3) Provide for an annual audit of the accounts of receipts and disbursements; and

(4) Cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties.

(g) In addition to other duties and powers conferred upon the State Conservation Committee, it may:

(1) Review district programs and offer appropriate assistance to the supervisors of conservation districts, organized as provided in this article, in the carrying out of any of their powers and programs;

(2) Assist and advise conservation districts and others in implementing conservation improvements, and projects to control and abate nonpoint sources of water pollution;

(3) Keep the supervisors of each of the several districts, organized under the provisions of this article, informed of the activities and experience of all other districts organized under this article, and facilitate an interchange of advice and experience between the districts and cooperation between them;

(4) Review agreements, or forms of agreements, proposed to be entered into by districts with other districts or with any state, federal, interstate, or other public or private agency, organization, or individual, and advise the districts concerning such agreements or forms of agreements;

(5) Coordinate the programs of the several conservation districts so far as this may be done by advice and consultation;

(6) Contract for services directly related to natural disaster recovery and stream restoration

WV Legislature

related to flooding, on an as-needed basis;

(7) Comply with provisions of present and future federal aid statutes and regulations, including execution of contracts or agreements with, and cooperation in, programs of the United States government and any of its proper departments, bureaus, or agencies relating to natural disaster response, natural disaster recovery, or stream restoration related to flooding;

(8) Secure the cooperation and assistance of the United States and any of its agencies and of agencies of this state in the work of the districts;

(9) Disseminate information throughout the state concerning the activities and programs of the conservation districts and encourage the formation of the districts in areas where their organization is desirable;

(10) Administer the provisions of any law hereinafter enacted by the Legislature appropriating funds for expenditures in connection with the activities of conservation districts; distribute to conservation districts funds, equipment, supplies, and services received by the committee for such purpose from any source subject to conditions in any state or federal statute or local ordinance making such funds, property, or services; adopt rules establishing guidelines to govern the use by conservation districts of such funds, property, and services; and review all budgets, administrative procedures, and operations of such districts and advise the districts concerning their conformance with applicable laws and rules;

(11) Administer a conservation grant program that provides financial assistance to conservation districts and others to promote approved conservation, water quality, and soil conservation projects;

(12) Accept and receive donations, gifts, contributions, grants, and appropriations in money, services, materials, or otherwise, from the United States or any of its agencies, from the State of West Virginia, or from other sources, and use or expend the money, services, materials, or other contributions in carrying out the policy and provisions of this article, including the right to allocate the money, services, or materials in part to the various conservation districts created by this article in order to assist them in carrying on their operations;

(13) Obtain options upon and acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests in the property; maintain, administer, operate, and improve any properties acquired; receive and retain income from the property and expend the income as required for operation, maintenance, administration, or improvement of the properties or in otherwise carrying out the purposes and provisions of this article; and sell, lease, or otherwise dispose of any of its property or interests in the property in furtherance of the purposes and the provisions of this article. Money received from the sale of land acquired in the small watershed program shall be

WV Legislature

deposited in the special account of the State Conservation Committee and expended as provided in this article;

(14) Promulgate emergency and legislative rules to effectuate the provisions of this article;

(15) Upon a Governor's proclamation declaring a state of emergency or federal disaster declaration, the state committee, its employees, or agents may enter any water of the state for the purpose of removing debris and other obstruction which impede water flow and present additional flood hazards. The agency shall make reasonable efforts to secure the permission of the landowner before entering any private property in connection with these removal activities. The exercise of this limited authority does not constitute taking of private property or trespass. This authority shall continue for the duration of the Governor's proclamation or the federal disaster declaration;

(16) Require annual reports from conservation districts, the form and content of which shall be developed by the state committee;

(17) Establish by rule, adequate and reasonably uniform accounting and auditing procedures which shall be used by conservation districts; and

(18) Enter into contracts and other arrangements with agencies of the United States, with persons, firms, or corporations, including public and nonprofit corporations, with the state government of this state or other states, or any department or agency thereof, with governmental divisions, with soil conservation, drainage, flood control, soil erosion, or other improvement districts in this state or other states for cooperation or assistance in constructing, improving, operating, or maintaining works of improvement and flood control dams, channels, dikes, and levees within the state, or in preventing floods, or in conserving, developing, utilizing, and disposing of water in the state, or for making surveys, investigations, or reports thereof; and to obtain options upon and acquire property, real or personal, or rights or interests therein, required for flood prevention and water quality improvement, or the conservation, development, utilization, and disposal of water within the state and to construct, improve, operate, or maintain thereon or therewith works of improvement and flood control dams, channels, dikes, and levees: *Provided*, That any alteration, improvement, or agreement related to a dam owned or sponsored by the state conservation committee is subject solely to the authority of the Department of Environmental Protection.

WV Legislature

§19-21A-4a. Administration of West Virginia Conservation Agency programs; legislative rules.

(a) If a conservation district supervisor applies to participate in a West Virginia Conservation Agency financial assistance program, then his or her application for that particular program shall be evaluated for approval or denial by the West Virginia Conservation Agency.

(b) A conservation district supervisor may not vote for the authorization, approval or ratification of a contract in which he or she or an immediate family member is beneficially interested.

(c) The State Conservation Committee shall propose rules for legislative approval pursuant to article three, chapter twenty-nine-a of this code to establish:

(1) The criteria, ranking and standards required for an applicant to qualify to participate in West Virginia Conservation Agency programs;

(2) A process to disclose the recipients of the award; and

(3) The process for an unsuccessful qualified applicant to appeal an award.

(d) The State Conservation Committee may propose emergency rules as necessary to implement the provisions of this section.

WV Legislature

§19-21A-5. Continuation of conservation districts.

The conservation districts formed throughout the state under the prior enactments of this section are continued and shall remain in effect until reformed or reorganized as provided in section fourteen of this article.

WV Legislature

§19-21A-6. Election of supervisors for each district; filling vacancies.

(a) All registered voters in each county in a district shall elect two nonpartisan supervisors who shall hold office for a term of four years and until his or her successor is elected and qualified: *Provided*, That any county with a population of 100,000 based on the most recent decennial census shall elect one additional supervisor and any county with a population over 100,000 based on the most recent decennial census shall elect one additional supervisor for each 50,000 residents over 100,000.

(b) The provisions of §3-1-1 *et seq*. of this code apply to the election of supervisors, and the terms of such members shall begin on July 1, next following the primary election at which they were elected: *Provided*, That if no candidate seeks the office, then the district shall advertise and select a candidate from the county in which the vacancy occurs and submit the name to the state committee for appointment.

(c) A candidate for supervisor must have experience in agriculture, as that term is defined in §19-21A-3 of this code; conservation; or natural resources.

(d) Any vacancy occurring in the office of supervisor shall be filled by the state committee by appointment of a person from the county in which the vacancy occurs. Within 90 days after the vacancy occurs, the district shall advertise and select a candidate from the county in which the vacancy occurs and submit the name to the state committee for appointment. If the unexpired term is for less than two years and six months, the appointed person holds office until the expiration of the term. If the unexpired term is for more than two years and six months, the appointed person holds the office until a successor is elected in the next primary or general election and qualified.

WV Legislature

§19-21A-7. Supervisors to constitute governing body of district; qualifications and terms of supervisors; powers and duties; removal.

(a) The governing body of the district consists of the supervisors, appointed or elected, as provided in this article. The supervisors shall be persons who are by training and experience qualified to perform the specialized skilled services which are required of them in the performance of their duties under this section and shall be legal residents and landowners in the district.

(b) The supervisors shall designate a chairperson and may, from time to time, change the designation. On and after the election of supervisors in 2008, the term of office of each elected supervisor is four years. A supervisor holds office until his or her successor has been elected or appointed. In case a new county is added to a district, the committee may appoint two supervisors to represent the county until the next regular election of supervisors for the district takes place.

(c) A supervisor is entitled to reasonable and necessary expenses and a per diem of not more than $150 nor less than $30 when engaged in the performance of his or her duties. The expense and per diem rate shall be established by the state committee based on availability of funds.

(d) The supervisors may, with the approval of the State Conservation Committee, employ a secretary, technical experts and any other officers, agents and employees, permanent and temporary, either with or without compensation, as they may require and shall determine their qualifications, duties and compensation, if any.

(e) The supervisors may delegate to their chairperson, to one or more supervisors or to one or more agents, or employees, those administrative powers and duties they consider proper. The supervisors shall furnish to the State Conservation Committee, upon request, copies of the ordinances, rules, orders, contracts, forms, and other documents they adopt or employ and any other information concerning their activities required in the performance of State Conservation Committee's duties under this article.

(f) The supervisors shall:

(1) Require the execution of surety bonds for all employees and officers who are entrusted with funds or property;

(2) Provide for the keeping of a full and accurate record of all proceedings and of all resolutions, rules, and orders issued or adopted; and

(3) Provide for an annual audit of the accounts of receipts and disbursements.

(g) Any supervisor may be removed from office pursuant to §6-6-7 of this code.

(h) The supervisors may invite the legislative body of any municipality or county located near

WV Legislature

the territory comprised within the district to designate a representative to advise and consult with the supervisors of a district on all questions of program and policy which may affect the property, water quality, or other interests of the municipality or county.

WV Legislature

§19-21A-8. Powers and duties of conservations districts and supervisors.

A conservation district organized under the provisions of this article and the supervisors thereof shall have the following powers and duties, in addition to others granted in other sections of this article:

(1) To hold public meetings, to conduct surveys, investigations, and research relating to the character of soil erosion, floodwater and sediment damage, and nonpoint source water pollution, and to the conservation, development, utilization, water quality, disposal of water, 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 and works of improvement to the public: *Provided*, That in order to avoid duplication of research activities, a district may not initiate any research program or publish the results except with the approval of the state committee and in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies. The provisions of this subdivision may not be construed to affect or alter any state or federal funding to the West Virginia Conservation Agency;

(2) To conduct demonstrational projects within the district on lands owned or controlled by this state or any of its agencies, with the consent and cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner and occupier of the lands or the necessary rights or interests in the 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 washing may be prevented and controlled, and water quality may be improved;

(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; drainage, irrigation, and other agricultural water management operations, or for the control and abatement of nonpoint sources of water pollution; and the measures listed in §19-21A-2 of this code on lands owned or controlled by this state or any of its agencies with the consent and cooperation of the agency administering and having jurisdiction thereof and on any other lands within the district upon obtaining the consent of the owner and occupier of such lands or the necessary rights or interests in such lands;

(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, and operations for the control and abatement of nonpoint sources of water pollution, subject to such conditions as the supervisors may deem necessary to advance the purposes of this article;

(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 interests therein; to maintain, administer, and improve any properties acquired, to receive income from such

WV Legislature

properties, and to expend such income in carrying out the purposes and provisions of this article; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this article;

(6) To accept and receive donations, gifts, contributions, grants, and appropriations in money, services, materials, or otherwise from the United States or any of its agencies, from the state of West Virginia, or from other sources and use or expend the money, services, materials, or other contributions in carrying out the policy and provisions of this article;

(7) 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, and for the conservation, development, utilization, and quality of water;

(8) To develop and submit to the state committee its proposed long-range program and annual work plans related to the conservation of soil resources, and for the control and prevention of soil erosion, and for water quality improvement, or the conservation, development, and utilization of water within the district. The plans shall specify, in as much 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, drainage, irrigation, water-management, erosion-control or erosion-prevention project, or combinations thereof, 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, drainage, irrigation, water-management, erosion-control or erosion-prevention project, or combinations thereof, 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, drainage, irrigation, water-management, erosion-control or erosion-prevention project, or combinations thereof, within its boundaries; to accept donations, gifts, contributions, and grants in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, or from any other source and to use or expend such money, services, materials, or other contributions in carrying on its operations;

(10) To sue and be sued in the name of the district; to have a seal, which shall be judicially noticed; 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

WV Legislature

inconsistent with this article to carry into effect its purposes and powers;

(11) As a condition to extending any benefits under this article to, or the performance of work upon any lands, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon;

(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 in its acquisition, operation, and disposition of property unless the Legislature shall specifically so state;

(13) Each district shall, through public meetings, publications, or other means, keep the public, agencies, and occupiers of the land within the district informed of the works and activities planned and administered by the district, of the purposes these will serve, and of the results achieved annually by the districts;

(14) By no later than July 1, 2026, each district shall convey and transfer all its ownership and sponsorship interest in any flood control dams, channels, dikes, levees, and any existing contracts or agreements related to those structures, and any property and easements associated with those flood control dams, channels, dikes, and levees, to the West Virginia Conservation Agency and thereafter may not take an ownership or sponsorship interest in, or operate or maintain, any flood control dams, channels, dikes, or levees: *Provided*, That any alteration, improvement, or agreement related to a dam owned or sponsored by the West Virginia Conservation Agency is subject solely to the authority of the Department of Environmental Protection, and as such shall fully consent as the owner or sponsor to any plan approved by the Department of Environmental Protection; and

(15) Upon the conveyance and transfer of its ownership and sponsorship interests in any flood control dams, channels, dikes, levees, and any existing contracts or agreements related to those structures, to the West Virginia Conservation Agency, and by no later than July 1, 2026, each district shall also transfer all funds and accounts associated with the construction, operation, and maintenance of those flood control dams, channels, dikes, and levees to the West Virginia Conservation Agency.

WV Legislature

§19-21A-9. Cooperation between districts.

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

WV Legislature

§19-21A-10. Cooperation between state agencies and districts.

Agencies of this state which 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 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 may cooperate with the supervisors of the districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this article. When such cooperation is undertaken, the supervisors of the districts shall be given free access to enter and perform work upon the publicly owned lands.

WV Legislature

§19-21A-11. Authority of counties and municipalities to expend money for works of improvement; levy.

A county commission or the governing body of any municipality that may reasonably be expected to receive a benefit from the construction, improvement, operation, or maintenance of any works of improvement may expend money for such construction, improvement, operation, or maintenance if this expectation exists as to any part of the county or municipality and even though such works of improvement are not located within the corporate limits of the county or municipality or are not within this state: *Provided*, That if the expenditure is not made directly by the county commission or the governing body of the municipality for such purpose, it shall be made only through the committee or the conservation agency. The governing bodies or municipalities, or county commissions may set up in their respective budgets funds to be spent for such purposes and municipalities and counties may levy and collect taxes for such purposes in the manner provided by law: Provided, however, That in case sufficient funds cannot be raised by ordinary levies, additional funds may be raised by municipalities and counties as provided by §11-8-16 of this code.

WV Legislature

§19-21A-12. Assurances of cooperation by counties and municipalities.

(a) By vote of the governing body of a municipality or a county commission, any county or municipality authorized to expend money on works of improvement by §19-21A-11 of this code, may alone, or in combination with, the committee or the conservation agency, give assurances, by contract or otherwise, satisfactory to agencies of the United States, congressional committees or other proper federal authority that the county or municipality will construct, improve, operate, or maintain works of improvement or will appropriate a sum or sums of money and expend it for such purposes as provided in §19-21A-11 of this code.

(b) The assurances, whether by contract or otherwise, shall be reduced to writing and before final approval of the governing bodies involved shall be submitted to the Attorney General for approval. After approval by the Attorney General and by the governing body or bodies concerned, certified copies of the assurances shall be filed in the office of the county clerk of the county or counties in which the governing bodies are located and in the office of the State Tax Commissioner.

(c) Any assurance hereunder may be valid and binding for a period of time not to exceed 50 years.

WV Legislature

§19-21A-13. Contracts for construction of flood control projects; power to borrow money; levy.

The county commission of each county and the governing body of each municipality in the state are hereby authorized and empowered to enter into a contract or agreement with the conservation committee or the conservation agency for the purpose of constructing flood control projects within their respective counties or municipalities or adjacent thereto and to use the projects as recreational areas or public parks. For the purpose of defraying the cost of any such project or projects, the county commission or the governing body of any municipality is hereby authorized to borrow from the federal government or from any federal agency having money to loan, a sum sufficient to cover the cost of such project or projects. For the purpose of retiring any indebtedness incurred under the provisions of this section, notwithstanding any other provisions of law, the county commission or the governing body of any municipality is hereby authorized to lay and impose a county or citywide levy as the case might be.

WV Legislature

§19-21A-13a.

Repealed.

Acts, 2006 Reg. Sess., Ch. 38.

WV Legislature

§19-21A-13b.

Repealed.

Acts, 2006 Reg. Sess., Ch. 38.

WV Legislature

§19-21A-13c.

Repealed.

Acts, 2006 Reg. Sess., Ch. 38.

WV Legislature

§19-21A-14. Discontinuing and reforming districts.

(a) At any time after five years following the organization of a district under the provisions of this article, any twenty-five owners of land lying within the boundaries of a district may file a petition with the state Conservation Committee praying that the district be discontinued and the county or counties of the district be added to another district or districts.

(b) The committee shall conduct one or more public meetings or public hearings upon the petition in the affected county or counties including the district or districts which may accept one or more counties from the district being discontinued. After the public meetings or hearings have been held by the committee, it shall notify the Secretary of State that a referendum question is to be added to the ballot of the next primary or general election to be held in the county or counties of the affected districts.

(c) The questions shall be submitted by ballots or electronic voting system upon which the words "For discontinuing the _____ (name of the conservation district to be here inserted) and adding _____ (county or counties) to _____ (district or districts) (If one or more counties in a district are to be combined with one or more other districts, each combination must be specified.)" and "Against discontinuing the _____ (name of the conservation district to be here inserted)" shall appear, with a square before each proposition and a direction to mark the square before one or the other of the propositions as the voter may favor or oppose discontinuance of the district. All registered voters lying within the boundaries of the district to be discontinued and the district or districts to which all or part of the district being discontinued may be added are eligible to vote on the referendum.

(d) If a majority of the votes cast in the referendum are in favor of discontinuing the district, the supervisors shall proceed to terminate the affairs of the district. The supervisors of the district being discontinued shall file an application to discontinue the district with the Secretary of State. The application shall recite the process undertaken in discontinuing the district and the distribution of the property, assets, liabilities, contracts, duties and responsibilities and transfer of territory to one or more districts.

(e) The Secretary of State shall issue to the supervisors a certificate of discontinuance and shall record the certificate in an appropriate book of record in his or her office.

(f) The supervisors of the district or districts gaining all or part of the discontinued district shall file an application with the Secretary of State adding the additional territory to such district or districts.

(g) The property, assets, liabilities, contracts, duties and responsibilities of the district shall be assigned in accordance with the division of the district.

(h) All contracts entered into by the district being discontinued or its supervisors are parties shall remain in force and effect for the period provided in the contract. The reformed district

WV Legislature

receiving the assets, liabilities, duties and responsibilities related to the contract shall be substituted for the district or supervisors as party to such contracts. The reformed district shall be entitled to all benefits and subject to all liabilities under such contract and have the same right and liability to perform, to require performance, to sue and be sued thereon and to modify or terminate such contracts by mutual consent or otherwise, as the supervisor or district would have had.

(i) The State Conservation Committee shall not entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this article more often than once in three years.

WV Legislature