

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939

ENROLLED

SENATE BILL No. 199

(By Mr. La Folle Mr. President

PASSED March 10th 1939

In Effect Thirty days for Passage



ENROLLED

Senate Bill No. 199

(BY MR. LAFON, Mr. President)

[Passed March 10, 1939; in effect ninety days from passage.]

AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, by adding thereto article twenty-one-a, relating to the establishment of soil conservation districts, to engage in conserving soil resources and preventing and controlling soil erosion; to establish the state soil conservation committee; and to define its powers and duties; to provide for the creation of soil conservation districts; to define the powers and duties of soil conservation districts, and to provide for the exercise of such powers, including the power to acquire property by purchase, gift, and otherwise; to empower such districts to

adopt programs and regulations for the discontinuance of land-use practices contributing to soil wastage and soil erosion, and the adoption and carrying out of soil-conserving land-use practices, and to provide for the enforcement of such programs and regulations; to provide for establishing boards of adjustment in connection with land-use regulations, and to define their functions and powers; to enable flood control measures; to provide for financial assistance to such soil conservation districts; and to provide for the discontinuance of such soil conservation districts.

Be it enacted by the Legislature of West Virginia:

That chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended by adding thereto article twenty-one-a, to read as follows:

Article 21-A. Soil Conservation Districts.

Section 1. *Short Title.* This act may be known and cited
2 as the soil conservation districts law of West Virginia.

Sec. 2. *Legislative Determinations and Declaration of Pol-*
2 *icy.* It is hereby declared, as a matter of legislative deter-
3 mination:

4 A. That the farm and grazing lands of the state of West
5 Virginia are among the basic assets of the state and that the
6 preservation of these lands is necessary to protect and pro-
7 mote the health, safety, and general welfare of its people;
8 that improper land-use practices have caused and have con-
9 tributed to, and are now causing and contributing to, a
10 progressively more serious erosion of the farm and grazing
11 lands of this state by water; that the breaking of natural
12 grass, plant, and forest cover has interfered with the natural
13 factors of soil stabilization, causing loosening of soil and
14 exhaustion of humus, and developing a soil condition that
15 favors erosion; that the topsoil is being washed out of fields
16 and pastures; that there has been an accelerated washing
17 of sloping fields; that these processes of erosion by water
18 speed up with removal of absorptive topsoil, causing ex-
19 posure of less absorptive and less protective but more erosive
20 subsoil; that failure by any land owner to conserve the soil
21 and control erosion upon his lands causes a washing of soil
22 and water from his lands onto other lands and makes the
23 conservation of soil and control of erosion of such other lands
24 difficult or impossible.

25 B. That the consequences of such soil erosion in the form
26 of soil-washing are the silting and sedimentation of stream
27 channels, reservoirs, dams, ditches, and harbors; the piling
28 up of soil on lower slopes, and its deposit over alluvial
29 plains; the reduction in productivity or outright ruin of
30 rich bottom lands by overwash of poor subsoil material, sand,
31 and gravel swept out of the hills; deterioration of soil and
32 its fertility, deterioration of crops grown thereon, and de-
33 clining acre yields despite development of scientific processes
34 for increasing such yields; loss of soil and water which
35 causes destruction of food and cover for wildlife; the
36 washing of soil into streams which silts over spawning
37 beds, and destroys water plants, diminishing the food supply
38 of fish; a diminishing of the under-ground water reserve,
39 which causes water shortages, intensifies periods of drought,
40 and causes crop failures; and increase in the speed and
41 volume of rainfall run-off, causing severe and increasing
42 floods, which bring suffering, disease, and death; impoverish-
43 ment of families attempting to farm eroding and eroded
44 lands, damage to roads, highways, railways, farm buildings,
45 and other property from floods; and losses in navigation,

46 hydro-electric power, municipal water supply, irrigation
47 developments, farming and grazing.

48 C. That to conserve soil resources and control and pre-
49 vent soil erosion and to enable flood control programs, it is
50 necessary that land-use practices contributing to soil
51 wastage and soil erosion be discouraged and discontinued,
52 and appropriate soil-conserving land-use practices be
53 adopted and carried out; that among the procedures neces-
54 sary for widespread adoption, are the carrying on of engi-
55 neering operations such as the construction of terraces,
56 terrace outlets, check-dams, dikes, ponds, ditches, and the
57 like; the utilization of strip cropping, lister furrowing,
58 contour cultivating, and contour furrowing; land irrigation;
59 seeding and planting of waste, sloping, abandoned, or eroded
60 lands to water-conserving and erosion-preventing plants,
61 trees, and grasses; forestation and reforestation; rotation
62 of crops; soil stabilization with trees, grasses, legumes, and
63 other thick-growing, soil-holding crops; retardation of run-
64 off by increasing absorption of rainfall; and retirement from
65 cultivation of steep, highly erosive areas and areas now
66 badly gullied or otherwise eroded.

67 D. It is hereby declared to be the policy of the Legislature
68 to provide for the conservation of the soil and soil resources
69 of this state, and for the control and prevention of soil
70 erosion, and thereby to preserve natural resources, control
71 floods, prevent impairment of dams and reservoirs, assist
72 in maintaining the navigability of rivers and harbors, pre-
73 serve wildlife, protect the tax base, protect public lands,
74 and protect and promote the health, safety, and general
75 welfare of the people of this state.

76 E. This act contemplates that the incidental costs of
77 organizing soil conservation districts will be met by the
78 state, while the expense of operating the districts so orga-
79 nized, will be provided primarily by the United States and/or
80 any of its agencies, with the understanding that the owners or
81 occupiers will contribute funds, labor, materials and equip-
82 ment to aid the carrying out of erosion control measures
83 on their lands.

Sec. 3. *Definitions.* Wherever used or referred to in this
2 act, unless a different meaning clearly appears from the
3 context:

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

8 (2) "Supervisor" means one of the members of the
9 governing body of a district, elected or appointed in ac-
10 cordance with the provisions of this act.

11 (3) "Committee" or "state soil conservation committee"
12 means the agency created in section four of this act.

13 (4) "Petition" means a petition filed under the pro-
14 visions of subsection-a of section five of this act for the
15 creation of a district.

16 (5) "State" means the state of West Virginia.

17 (6) "Agency of this state" includes the government of
18 this state and any subdivision, agency, or instrumentality,
19 corporate or otherwise, of the government of this state.

20 (7) "United States" or "agencies of the United States"
21 includes the United States of America, the soil conservation
22 service of the United States department of agriculture, and
23 any other agency or instrumentality, corporate or otherwise,
24 of the United States of America.

25 (8) "Land Owners" or "Owners of Land" includes any
26 person or persons, firm, or corporation who shall hold title
27 to three or more acres of any lands lying within a district
28 organized under the provisions of this act.

29 (9) "Land occupier" or "occupier of land" includes any
30 person, firm, or corporation who shall hold title to, or shall
31 be in possession of, any lands lying within a district
32 organized under the provisions of this act, whether as owner,
33 lessee, renter, or tenant.

34 (10) "Due notice" means notice published at least twice,
35 with an interval of at least seven days between the two
36 publication dates, in two newspapers of opposite politics and of
37 general circulation published in the county in which is located
38 the appropriate area, or if no such publication of general circu-
39 lation be available, by posting at a reasonable number of con-
40 spicuous places within the appropriate area, such posting to in-
41 clude, where possible, posting at public places where it may be
42 customary to post notices concerning county or municipal
43 affairs generally. At any hearing held pursuant to such notice,
44 at the time and place designated in such notice, adjournment

45 may be made from time to time without the necessity of re-
46 newing such notice for such adjourned dates.

47 (11) The terms "soil conservation," "erosion control,"
48 or "erosion prevention projects," when used throughout the
49 act, shall denote those projects that have been established by
50 federal agencies in cooperation with state agencies for the pur-
51 pose of demonstrating soil erosion control and water conserva-
52 tion practices.

Sec. 4. *State Soil Conservation Committee.* A. There is
2 hereby established, to serve as an agency of the state and to
3 perform the functions conferred upon it in this act, the state
4 soil conservation committee. The committee shall consist
5 of seven members. The following shall serve, ex officio, as
6 members of the committee: the director of the state agri-
7 cultural extension service; the director of the state agri-
8 cultural experiment station; the director of the state con-
9 servation commission; and the state commissioner of agri-
10 culture, who shall be chairman of the committee.

11 The governor shall appoint as additional members of the
12 committee, three representative citizens. The term of mem-
13 bers thus appointed shall be four years, except that of the

14 first members so appointed, one shall be appointed for a term
15 of two years, one for a term of three years, and one for a
16 term of four years. In the event of a vacancy, appointment
17 shall be for the unexpired term.

18 The committee may invite the secretary of agriculture
19 of the United States of America to appoint one person to serve
20 with the committee as an advisory member.

21 The committee shall keep a record of its official actions,
22 shall adopt a seal, which seal shall be judicially noticed, and
23 may perform such acts, hold such public hearings, and pro-
24 mulgate such rules and regulations as may be necessary for
25 the execution of its functions under this act.

26 B. The state soil conservation committee may employ an
27 administrative officer and such technical experts and such
28 other agents and employees, permanent and temporary, as it
29 may require, and shall determine their qualifications, duties,
30 and compensation. The committee may call upon the
31 attorney general of the state for such legal services as
32 it may require. It shall have authority to delegate
33 to its chairman, to one or more of its members, or
34 to one or more agents or employees, such powers

35 and duties as it may deem proper. The committee
36 is empowered to secure necessary and suitable office
37 accommodations, and the necessary supplies and equipment.
38 Upon request of the committee, for the purpose of carrying
39 out any of its functions, the supervising officer of any state
40 agency, or of any state institution of learning shall, insofar
41 as may be possible under available appropriations, and
42 having due regard to the needs of the agency to which the
43 request is directed, assign or detail to the committee mem-
44 bers of the staff or personnel of such agency or institution
45 of learning, and make such special reports, surveys, or
46 studies as the committee may request.

47 C. A member of the committee shall hold office so long
48 as he shall retain the office by virtue of which he shall be
49 serving on the committee. A majority of the committee shall
50 constitute a quorum, and the concurrence of a majority in
51 any matter within their duties shall be required for its
52 determination. The chairman and members of the committee
53 shall receive no compensation for their services on the com-
54 mittee, but shall be entitled to expenses, including traveling
55 expenses, necessarily incurred in the discharge of their

56 duties on the committee. The committee shall provide for
57 the execution of surety bonds for all employees and officers
58 who shall be entrusted with funds or property; shall provide
59 for the keeping of a full and accurate public record of all
60 proceedings and of all resolutions, regulations, and orders
61 issued or adopted; and shall provide for an annual audit
62 of the accounts of receipts and disbursements.

63 D. In addition to the duties and powers hereinafter con-
64 ferred upon the state soil conservation committee, it shall
65 have the following duties and powers:

66 (1) To offer such assistance as may be appropriate to the
67 supervisors of soil conservation districts, organized as pro-
68 vided hereinafter, in the carrying out of any of their powers
69 and programs.

70 (2) To keep the supervisors of each of the several dis-
71 tricts organized under the provisions of this act informed of
72 the activities and experience of all other districts organized
73 hereunder, and to facilitate an interchange of advice and
74 experience between such districts and cooperation between
75 them.

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

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

82 (5) To disseminate information throughout the state con-
83 cerning the activities and programs of the soil conservation
84 districts organized hereunder, and to encourage the forma-
85 tion of such districts in areas where their organization is
86 desirable.

87 To accept and receive donations, gifts, contributions,
88 grants and appropriations, in money, services, materials or
89 otherwise, from the United States or any of its agencies,
90 from the State of West Virginia, or from other sources, and
91 to use or expend such money, services, materials, or other
92 contributions, in carrying on its administrative duties as set
93 forth herein or in assisting the operations of any soil con-
94 servation district.

Sec. 5. *Creation of Soil Conservation Districts.* A. Any

2 twenty-five owners of land lying within the limits of the ter-

3 ritory proposed to be organized into a district may file a
4 petition with the state soil conservation committee asking that
5 a soil conservation district be organized to function in the ter-
6 ritory described in the petition. Such petition shall set forth :

7 (1) The proposed name of said district;

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

11 (3) A description of the territory proposed to be organized
12 as a district, which description shall not be required to be given
13 by metes and bounds or by legal subdivisions, but shall be
14 deemed sufficient if generally accurate;

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

20 Where more than one petition is filed covering neighboring
21 parts of the same region, whether or not these areas overlap,
22 the state soil conservation committee may consolidate all or
23 any such petitions.

24 B. Within thirty days after such a petition has been filed
25 with the state soil conservation committee, it shall cause due
26 notice to be given of a proposed hearing upon the question
27 of the desirability and necessity, in the interest of the public
28 health, safety, and welfare, of the creation of such district,
29 upon the question of the appropriate boundaries to be assigned
30 to such district, upon the propriety of the petition and other
31 proceedings taken under this act, and upon all questions
32 relevant to such inquiries. All owners of land within the
33 limits of the territory described in the petition, and of lands
34 within any territory considered for addition to such described
35 territory, and all other interested parties, shall have the right
36 to attend such hearings and to be heard. If it shall appear
37 upon the hearing that it may be desirable to include within
38 the proposed district territory outside of the area within
39 which due notice of the hearing has been given, the hearing
40 shall be adjourned and due notice of further hearing shall be
41 given throughout the entire area considered for inclusion in
42 the district, and such further hearing held. After such
43 hearing, if the committee shall determine, upon the facts
44 presented at such hearing and upon such other relevant facts

45 and information as may be available, that there is need, in
46 the interest of the public health, safety, and welfare, for a
47 soil conservation district to function in the territory consid-
48 ered at the hearing, it shall make and record such determina-
49 tion, and shall define, by metes and bounds or by legal sub-
50 divisions, the boundaries of such district. Districts thus de-
51 fined may be a watershed or portion thereof, and nothing in
52 this act shall be interpreted to exclude from consideration,
53 small areas often constituting a very small part of a large
54 watershed. The district may be large or small, but in making
55 such determination and in defining such boundaries, the com-
56 mittee shall give due weight and consideration to the topog-
57 raphy of the area considered and of the state, the composition
58 of soils therein, the distribution of erosion, the prevailing
59 land-use practices, the desirability and necessity of including
60 within the boundaries the particular lands under considera-
61 tion and the benefits such lands may receive from being in-
62 cluded within such boundaries, the relation of the proposed
63 area to existing watersheds and agricultural regions, and to
64 other soil conservation districts already organized or proposed
65 for organization under the provisions of this act, and such

66 other physical, geographical, and economic factors as are rele-
67 vant, having due regard to the legislative determinations set
68 forth in section two of this act. The territory to be included
69 within such boundaries need not be contiguous. If the com-
70 mittee shall determine after such hearing, after due con-
71 sideration of the said relevant facts, that there is no need for
72 a soil conservation district to function in the territory con-
73 sidered at the hearing, it shall make and record such deter-
74 mination and shall deny the petition. After six months shall
75 have expired from the date of the denial of any such petition,
76 subsequent petitions covering the same or substantially the
77 same territory may be filed as aforesaid and new hearings
78 held and determinations made thereon.

79 C. After the committee has made and recorded a deter-
80 mination that there is need, in the interest of the public
81 health, safety, and welfare, for the organization of a district
82 in a particular territory and has defined the boundaries
83 thereof, it shall consider the question whether the operation
84 of a district within such boundaries with the powers conferred
85 upon soil conservation districts in this act is administratively
86 practicable and feasible. To assist the committee in the de-

87 termination of such administrative practicability and feasi-
88 bility, it shall be the duty of the committee, within a reason-
89 able time after entry of the finding that there is need for
90 the organization of the proposed district and the determination
91 of the boundaries thereof, to hold a referendum within the
92 proposed district upon the proposition of the creation of the
93 district, and to cause due notice of such referendum to be
94 given. The question shall be submitted by ballots upon which
95 the words "For creation of a soil conservation district of the
96 lands below described and lying in the county (ies) of
97,, and" and
98 "Against creation of a soil conservation district of the lands
99 below described and lying in the county (ies) of,
100, and" shall appear, with
101 a square before each proposition and a direction to insert an
102 X mark in the square before one or the other of said proposi-
103 tions as the voter may favor or oppose creation of such district.
104 The ballot shall set forth the boundaries of such proposed
105 district as determined by the committee. All owners of lands
106 lying within the boundaries of the territory, as determined

107 by the state soil conservation committee, shall be eligible to vote
108 in such referendum.

109 D. The committee shall pay all expenses for the issuance
110 of such notices and the conduct of such hearings and ref-
111 erenda, and shall supervise the conduct of such hearings and
112 referenda. It shall issue appropriate regulations governing
113 the conduct of such hearings and referenda, and providing
114 for the registration prior to the date of the referendum of all
115 eligible voters, or prescribing some other appropriate pro-
116 cedure for the determination of those eligible as voters in
117 such referendum. No informalities in the conduct of such
118 referendum or in any matter relating thereto shall invalidate
119 said referendum or the result thereof if notice thereof shall
120 have been given substantially as herein provided and said
121 referendum shall have been fairly conducted.

122 E. The committee shall publish the result of such referen-
123 dum and shall thereafter consider and determine whether
124 the operation of the district within the defined boundaries is
125 administratively practicable and feasible. If the committee
126 shall determine that the operation of such district is not ad-
127 ministratively practicable and feasible, it shall record such

128 determination and deny the petition. If the committee shall
129 determine that the operation of such district is administrative-
130 ly practicable and feasible, it shall record such determination
131 and shall proceed with the organization of the district in the
132 manner hereinafter provided. In making such determination
133 the committee shall give due regard and weight to the at-
134 titudes of the occupiers of lands lying within the defined
135 boundaries, the number of land owners eligible to vote in such
136 referendum who shall have voted, the proportion of the votes
137 cast in such referendum in favor of the creation of the district
138 to the total number of votes cast, the approximate wealth and
139 income of the land occupiers of the proposed district, the
140 probable expense of carrying on erosion-control operations
141 within such district, and such other economic and social fac-
142 tors as may be relevant to such determination, having due
143 regard to the legislative determinations set forth in section
144 two of this act: *Provided, however,* That the committee shall
145 not have authority to determine that the operation of the
146 proposed district within the defined boundaries is administra-
147 tively practicable and feasible unless at least sixty per centum
148 of the votes cast in the referendum upon the proposition of

149 creation of the district shall have been cast in favor of the
150 creation of such district.

151 F. If the committee shall determine that the operation of
152 the proposed district within the defined boundaries is ad-
153 ministratively practicable and feasible, it shall appoint two
154 supervisors to act, with the three supervisors elected as pro-
155 vided hereinafter, as the governing body of the district.

156 G. The two appointed supervisors shall present to the
157 secretary of state an application signed by them which shall
158 set forth (and such application need contain no detail other
159 than the mere recitals): (1) that a petition for the creation
160 of the district was filed with the state soil conservation com-
161 mittee pursuant to the provisions of this act, and that the
162 proceedings specified in this act were taken pursuant to such
163 petition; that the application is being filed in order to com-
164 plete the organization of the district under this act; and that
165 the committee has appointed them as supervisors; (2) the
166 name and official residence of each of the supervisors, to-
167 gether with a certified copy of the appointments evidencing
168 their right to office; (3) the term of office of each of the
169 supervisors; (4) the name which is proposed for the district;

170 and (5) the location of the principal office of the supervisors
171 of the district. The application shall be subscribed and sworn
172 to by each of the said supervisors before an officer authorized
173 by the laws of this state to take and certify oaths, who shall
174 certify upon the application that he personally knows the
175 supervisors and knows them to be the officers as affirmed in
176 the application, and that each has subscribed thereto in the
177 officer's presence. The application shall be accompanied by
178 a statement by the state soil conservation committee, which
179 shall certify (and such statement need contain no detail other
180 than the mere recitals) that a petition was filed, notice issued,
181 and hearing held as aforesaid; that the committee did duly
182 determine that there is need, in the interest of the public
183 health, safety, and welfare, for a soil conservation district
184 to function in the proposed territory and did define the boun-
185 daries thereof; that notice was given and a referendum held
186 on the question of the creation of such district; and that
187 the result of such referendum showed a majority of the votes
188 cast in such referendum to be in favor of the creation of the
189 district; that thereafter the committee did duly determine
190 that the operation of the proposed district is administratively

191 practicable and feasible. The said statement shall set forth
192 the boundaries of the district as they have been defined by the
193 committee.

194 The secretary of state shall examine the application and
195 statement and, if he finds that the name proposed for the
196 district is not identical with that of any other soil conserva-
197 tion district of this state or so nearly similar as to lead to
198 confusion or uncertainty, he shall file them and shall record
199 them in an appropriate book of record in his office. If the
200 secretary of state shall find that the name proposed for the
201 district is identical with that of any other soil conservation
202 district of this state, or so nearly similar as to lead to con-
203 fusion and uncertainty, he shall certify such fact to the state
204 soil conservation committee, which shall thereupon submit to
205 the secretary of state a new name for the said district, which
206 shall not be subject to such defects. Upon receipt of such
207 new name, free of such defects, the secretary of state shall
208 record the application and statement, with the name so modi-
209 fied, in an appropriate book of record in his office. The sec-
210 retary of state shall make and issue to the said supervisors a
211 certificate, under the seal of the state, of the due organization

212 of the said district, and shall record such certificate with the
213 application and statement. The boundaries of such district
214 shall include the territory as determined by the state soil
215 conservation committee as aforesaid, but in no event shall
216 they include any area included within the boundaries of
217 another soil conservation district organized under the pro-
218 visions of this act.

219 H. After six months shall have expired from the date of
220 entry of a determination by the state soil conservation com-
221 mittee that operation of a proposed district is not admin-
222 istratively practicable and feasible, and denial of a petition
223 pursuant to such determination, subsequent petitions may be
224 filed as aforesaid, and action taken thereon in accordance
225 with the provisions of this act.

226 I. Petitions for including additional territory within an
227 existing district may be filed with the state soil conservation
228 committee, and the proceedings herein provided for in the
229 case of petitions to organize a district shall be observed in the
230 case of petitions for such inclusion. The committee shall
231 prescribe the form for such petitions, which shall be as nearly
232 as may be in the form prescribed in this act for petitions to

233 organize a district. Where the total number of land owners
234 in the area proposed for inclusion shall be less than twenty-
235 five, the petition may be filed when signed by a majority
236 of the land owners of such area, and in such case no referen-
237 dum need be held. In referenda upon petitions for such in-
238 clusion, all owners of land lying within the proposed addi-
239 tional area shall be eligible to vote.

240 J. In any suit, action, or proceeding involving the validity
241 or enforcement of, or relating to, any contract, proceeding,
242 or action of the district, the district shall be deemed to have
243 been established in accordance with the provisions of this
244 act upon proof of the issuance of the aforesaid certificate by
245 the secretary of state. A copy of such certificate duly certified
246 by the secretary of state shall be admissible in evidence in
247 any such suit, action, or proceeding and shall be proof of the
248 filing and contents thereof.

Sec. 6. *Election of Three Supervisors for Each District.*

2 Within thirty days after the date of issuance by the secretary
3 of state of a certificate of organization of a soil conservation
4 district, nominating petitions may be filed with the state
5 soil conservation committee to nominate candidates for super-

6 visors of such district. The committee shall have authority
7 to extend the time within which nominating petitions may be
8 filed. No such nominating petition shall be accepted by the
9 committee unless it shall be subscribed by twenty-five or more
10 owners of lands lying within the boundaries of such district.
11 Land owners may sign more than one such nominating peti-
12 tion to nominate more than one candidate for supervisor.
13 The committee shall give due notice of an election to be held
14 for the election of three supervisors for the district. The
15 names of all nominees on behalf of whom such nominating
16 petitions have been filed within the time herein designated,
17 shall appear, arranged in the alphabetical order of the sur-
18 names, upon ballots, with a square before each name and a
19 direction to insert an X mark in the square before any three
20 names to indicate the voter's preference. All owners of lands
21 lying within the district shall be eligible to vote in such elec-
22 tion. Only such land owners shall be eligible to vote. The
23 three candidates who shall receive the largest number, re-
24 spectively, of the votes cast in such election shall be the elected
25 supervisors for such district. The committee shall pay all
26 the expenses of such election, shall supervise the conduct

27 thereof, shall prescribe regulations governing the conduct
28 of such election and the determination of the eligibility of
29 voters therein, and shall make public the results thereof.

Sec. 7. *Appointment, Qualifications and Tenure of Super-*
2 *visors.* The governing body of the district shall consist of five
3 supervisors, appointed or elected as provided in preceding
4 sections. The two supervisors appointed by the committee
5 shall be persons who are by training and experience qualified
6 to perform the specialized skilled services which will be re-
7 quired of them in the performance of their duties hereunder,
8 and must be legal residents and land owners of the district.

9 The supervisor shall designate a chairman and may, from
10 time to time, change such designation. The term of office of
11 each supervisor shall be three years, except that the super-
12 visors who are first appointed shall be designated to serve for
13 terms of one and two years respectively, from the date of their
14 appointment. A supervisor shall hold office until his suc-
15 cessor has been elected or appointed. The selection of suc-
16 cessors to fill a vacancy shall be made in the same manner in
17 which the retiring supervisors were selected. A majority of
18 the supervisors shall constitute a quorum and the concurrence

19 of a majority in any matter within their duties shall be re-
20 quired for its determination. A supervisor shall be entitled
21 to expenses, and a per diem not to exceed four dollars when
22 engaged in the performance of his duties.

23 The supervisors may with the approval of the state com-
24 mittee employ a secretary, technical experts, and such other
25 officers, agents, and employees, permanent and temporary,
26 as they may require, and shall determine their qualifications,
27 duties, and compensation. The supervisors may delegate
28 to their chairman, to one or more supervisors, or to one or
29 more agents, or employees, such administrative powers and
30 duties as they may deem proper. The supervisors shall fur-
31 nish to the state soil conservation committee, upon request,
32 copies of such ordinances, rules, regulations, orders, contracts,
33 forms, and other documents as they shall adopt or employ,
34 and such other information concerning their activities as it
35 may require in the performance of its duties under this act.

36 The supervisors shall provide for the execution of surety
37 bonds for all employees and officers who shall be entrusted
38 with bonds or property; shall provide for the keeping of a
39 full and accurate record of all proceedings and of all resolu-

40 tions, regulations, and orders issued or adopted; and shall
41 provide for an annual audit of the accounts of receipts and
42 disbursements. Any supervisor may be removed by the state
43 soil conservation committee upon notice and hearing, for
44 neglect of duty or malfeasance in office, but for no other reason.

45 The supervisors may invite the legislative body of any
46 municipality or county located near the territory comprised
47 within the district to designate a representative to advise
48 and consult with the supervisors of the district on all ques-
49 tions of program and policy which may affect the property,
50 water supply, or other interests of such municipality or
51 county.

Sec. 8. *Powers of Districts and Supervisors.* A soil conser-
2 vation district organized under the provisions of this act
3 shall have the following powers, and the supervisors thereof
4 shall have the following powers, in addition to others granted
5 in other sections of this act:

6 (1) To conduct surveys, investigations, and research re-
7 lating to the character of soil erosion and the preventive
8 and control measures needed, to publish the results of such
9 surveys, investigations, or research, and to disseminate

10 information concerning such preventive and control meas-
11 ures: *Provided, however,* That in order to avoid duplication
12 of research activities, no district shall initiate any research
13 program or publish the results except with the approval of
14 the state committee and in cooperation with the government
15 of this state or any of its agencies, or with the United States
16 or any of its agencies;

17 (2) To conduct demonstrational projects within the dis-
18 trict on lands owned or controlled by this state or any of its
19 agencies, with the consent and cooperation of the agency
20 administering and having jurisdiction thereof, and on any
21 other lands within the district upon obtaining the consent
22 of the owner and occupier of such lands or the necessary
23 rights or interests in such lands, in order to demonstrate by
24 example the means, methods and measures by which soil
25 and soil resources may be conserved, and soil erosion in the
26 form of soil washing may be prevented and controlled;

27 (3) To carry out preventive and control measures within
28 the district including, but not limited to, engineering
29 operations, methods of cultivation, the growing of
30 vegetation, changes in use of land, and the meas-

31 ures listed in subsection C of section two of this
32 act, on lands owned or controlled by this state
33 or any of its agencies, with the consent and co-
34 operation of the agency administering and having
35 jurisdiction thereof, and on any other lands within the dis-
36 trict upon obtaining the consent of the owner and occupier
37 of such lands or the necessary rights or interests in such
38 lands;

39 (4) To cooperate, or enter into agreements with, and
40 within the limits of appropriations duly made available to it
41 by law, to furnish financial or other aid to, any agency,
42 governmental or otherwise, or any occupier of lands within
43 the district, in the carrying on of erosion-control and pre-
44 vention operations within the district, subject to such con-
45 ditions as the supervisors may deem necessary to advance
46 the purposes of this act;

47 (5) To obtain options upon and to acquire, by purchase,
48 exchange, lease, gift, grant, bequest, devise, or otherwise,
49 any property, real or personal, or rights or interests therein;
50 to maintain, administer, and improve any properties ac-
51 quired, to receive income from such properties and to ex-

52 pend such income in carrying out the purposes and pro-
53 visions of this act; and to sell, lease, or otherwise dispose of
54 any of its property or interests therein in furtherance of the
55 purposes and the provisions of this act;

56 (6) To make available, on such terms as it shall prescribe,
57 to land occupiers within the district, agricultural and engi-
58 neering machinery and equipment, fertilizer, seeds, and
59 seedlings, and such other material or equipment, as will
60 assist such land occupiers to carry on operations upon their
61 lands for the conservation of soil resources and for the pre-
62 vention and control of soil erosion;

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

66 (8) To develop with the approval of the state committee
67 comprehensive plans for the conservation of soil resources
68 and for the control and prevention of soil erosion within the
69 district, which plans shall specify in such detail as may be
70 possible, the acts, procedures, performances, and avoidances
71 which are necessary or desirable for the effectuation of such
72 plans, including the specification of engineering operations,

73 methods of cultivation, the growing of vegetation, cropping
74 programs, tillage practices, and changes in use of land;
75 and to publish such plans and information and bring them
76 to the attention of occupiers of lands within the district;

77 (9) To take over, by purchase, lease, or other-
78 wise, and to administer any soil-conservation, erosion-
79 control, or erosion-prevention project located within
80 its boundaries undertaken by the United States or any of its
81 agencies, or by this state or any of its agencies; to manage,
82 as agent of the United States or any of its agencies, or of this
83 state or any of its agencies, any soil-conservation, erosion-
84 control, or erosion-prevention project within its boundaries;
85 to act as agent for the United States, or any of its agencies,
86 or for this state or any of its agencies, in connection with the
87 acquisition, construction, operation, or administration of any
88 soil-conservation, erosion-control, or erosion-prevention
89 project within its boundaries; to accept donations, gifts,
90 contributions and grants in money, services, materials, or
91 otherwise, from the United States or any of its agencies, or
92 from this state or any of its agencies, or from any other

93 source, and to use or expend such money, services, materials,
94 or other contributions in carrying on its operations;

95 (10) To sue and be sued in the name of the district; to
96 have a seal, which seal shall be judicially noticed; to have
97 perpetual succession unless terminated as hereinafter pro-
98 vided; to make and execute contracts and other instruments,
99 necessary or convenient to the exercise of its powers; to
100 make, and from time to time amend and repeal, rules and
101 regulations not inconsistent with this act, to carry into effect
102 its purposes and powers;

103 (11) As a condition to this extending of any benefits
104 under this act to, or the performance of work upon, any
105 lands, the supervisors may require contributions in money,
106 services, materials, or otherwise to any operations con-
107 ferring such benefits, and may require land occupiers to
108 enter into and perform such agreements or covenants as to
109 the permanent use of such lands as will tend to prevent or
110 control erosion thereon;

111 (12) No provisions with respect to the acquisition, opera-
112 tion, or disposition of property by other public bodies shall
113 be applicable to a district organized hereunder in its

114 acquisition, operation and disposition or property unless the
115 legislature shall specifically so state.

Sec. 9. *Adoption of Land-Use Regulations.* A. The super-
2 visors of any district shall have authority to formulate
3 regulations governing the use of lands within the district
4 in the interest of conserving soil and soil resources and pre-
5 venting and controlling soil erosion. The supervisors shall
6 conduct such public meetings and public hearings upon
7 tentative regulations as may be necessary to assist them in
8 this work. The supervisors shall not have authority to
9 enact such land-use regulations into law until after they
10 shall have caused due notice to be given of their intention
11 to conduct a referendum for submission of such regulations
12 to the owners of lands lying within the boundaries of the
13 district for their indication of approval or disapproval of
14 such proposed regulations, and until after the supervisors
15 have considered the result of such referendum. The pro-
16 posed regulations shall be embodied in a proposed ordinance.
17 Copies of such proposed ordinance shall be available for the
18 inspection of all eligible voters during the period between
19 publication of such notice and the date of the referendum.

20 The notices of the referendum shall recite the contents of
21 such proposed ordinance, or shall state where copies of such
22 proposed ordinance may be examined. The question shall be
23 submitted by ballots, upon which the words "For approval
24 of proposed ordinance No., prescribing land-use regu-
25 lations for conservation of soil and prevention of erosion"
26 and "Against approval of proposed ordinance No.,
27 prescribing land-use regulations for conservation of soil and
28 prevention of erosion" shall appear, with a square before
29 each proposition and a direction to insert an X mark in the
30 square before one or the other of said propositions as the
31 voter may favor or oppose approval of such proposed ordi-
32 nance. The supervisors shall supervise such referendum,
33 shall prescribe appropriate regulations governing the con-
34 duct thereof, and shall publish the result thereof. All
35 owners of lands within the district shall be eligible to vote
36 in such referendum. Only such land owners shall be
37 eligible to vote. No informalities in the conduct of such
38 referendum or in any matters relating thereto shall in-
39 validate said referendum or the result thereof if notice
40 thereof shall have been given substantially as herein pro-

41 vided and said referendum shall have been fairly con-
42 ducted.

43 The supervisors shall not have authority to enact such
44 proposed ordinance into law unless at least sixty per
45 centum of the votes cast in such referendum shall have been
46 cast for approval of the said proposed ordinance. The
47 approval of the proposed ordinance by sixty per centum of
48 the votes cast in such referendum shall not be deemed to
49 require the supervisor to enact such proposed ordinance into
50 law. No ordinance shall become effective without the ap-
51 proval of the state committee. Land-use regulations adopted
52 pursuant to the provisions of this act shall be binding on
53 all land occupiers within such district.

54 B. Any owner of land within such district may at any
55 time file a petition with the supervisors asking that any or
56 all of the land-use regulations adopted by the supervisors
57 under the provisions of this article shall be amended, sup-
58 plemented, or repealed. Land-use regulations adopted pur-
59 suant to the provisions of this act shall not be amended,
60 supplemented, or repealed except in accordance with the

61 procedure prescribed in this act for adoption of land-use
62 regulations.

63 C. Regulations to be adopted by the supervisors under
64 the provisions of this act may include:

65 (a) Provisions requiring the construction of terraces,
66 terrace outlets, check dams, dikes, ponds, ditches, and other
67 necessary structures;

68 (b) Provisions requiring observance of particular
69 methods of cultivation including contour cultivating, con-
70 tour furrowing, lister furrowing, sewing, planting, strip
71 cropping, seeding and planting of lands to water-conserving
72 and erosion-preventing plants, trees and grasses, forestation
73 and reforestation;

74 (c) Specifications of cropping programs and tillage
75 practices to be observed;

76 (d) Provisions limiting the cultivation of highly erosive
77 areas or of areas on which erosion may not be adequately con-
78 trolled if cultivation is carried on;

79 (e) Provisions for such other means, measures, operations
80 and programs as may assist conservation of soil resources
81 and prevent or control soil erosion in the district, having due

82 regard to the legislative findings set forth in section two of
83 this act.

84 D. The regulations shall be uniform throughout the
85 territory comprised within the district except that the super-
86 visors may classify the lands within the district with refer-
87 ence to such factors as soil type, degree of slope, degree of
88 erosion threatened or existing, cropping and tillage practices
89 in use, and other relevant factors, and may provide regu-
90 lations varying with the type or class of land affected, but
91 uniform as to all lands within each class or type. Copies of
92 land-use regulations adopted under the provisions of this act
93 shall be printed and made available to all owners and
94 occupiers of lands lying within the district.

95 E. In formulating and enacting such land-use regula-
96 tions, the supervisors shall give due weight and con-
97 sideration to the respective total acreages for and against
98 the establishment of the regulations, to the topography of
99 the area considered and of the state, the composition of
100 soils therein, the distribution of erosion, the prevailing land-
101 use practices, the desirability and necessity of including
102 within the regulations the particular lands under considera-

103 tion and the benefits such lands may receive from being
104 included within such regulations, the relation of the pro-
105 posed area to existing watersheds and agricultural regions,
106 and to other soil conservation districts already organized
107 or proposed for organization under the provisions of this act,
108 and such other physical, geographical, and economic factors
109 as are relevant, having due regard to the legislative de-
110 termination set forth in section two of this act.

Sec. 10. *Performance of Work Under the Regulations by*
2 *the Supervisors.* The supervisors shall have authority to go
3 upon any lands within the district to determine whether
4 land-use regulations adopted under the provisions of section
5 nine of this act are being observed.

6 Where the supervisors of any district shall find that any
7 of the provisions of land-use regulations adopted in ac-
8 cordance with the provisions of section nine hereof are not
9 being observed on particular lands, and that such non-
10 observance tends to increase erosion on such lands and is
11 interfering with the prevention or control of erosion on other
12 lands within the district, the supervisors may present to the
13 circuit court for the county in which the lands of the de-

14 defendant may lie, a bill in equity, duly verified, setting forth
15 the adoption of the land-use regulations, the failure of the
16 defendant land occupier to observe such regulations, and
17 to perform particular work, operations, or avoidances as
18 required thereby, and that such nonobservance tends to in-
19 crease erosion on such lands and is interfering with the pre-
20 vention or control of erosion on other lands within the
21 district, and praying the court to require the defendant to
22 perform the work, operations, or avoidances within a
23 reasonable time and to order that if the defendant shall fail
24 so to perform the supervisors may go on the land, perform
25 the work or other operations or otherwise bring the con-
26 dition of such lands into conformity with the requirements
27 of such regulations, and recover the costs and expenses
28 thereof, with interest, from the occupiers of such land.
29 Upon the presentation of such bill in equity, the court shall
30 cause process to be issued against the defendant, and shall
31 hear the case. If it shall appear to the court that testimony
32 is necessary for the proper disposition of the matter, it may
33 take evidence, or appoint a special commissioner to take
34 such evidence as it may direct and report the same to the

35 court with his findings of fact and conclusions of law, which
36 shall constitute a part of the proceedings upon which the
37 determination of the court shall be made. In ascertaining
38 whether the land-use regulations are reasonable and just,
39 the court may inquire into the extent to which the super-
40 visors have been guided by the administrative standards set
41 forth in section nine, paragraph E. The court may dis-
42 miss the bill; or it may require the defendant to perform the
43 work, operations, or avoidances, and may provide that upon
44 the failure of the defendant to initiate such performance
45 within the time specified in the decree of the court and to
46 prosecute the same to completion with reasonable diligence,
47 the supervisors may enter upon the lands involved and per-
48 form the work or operations or otherwise bring the condition
49 of such lands into conformity with the requirements of the
50 regulations and recover the costs and expenses thereof,
51 with interest at the rate of five per centum per annum, from
52 the occupier of such lands. In all cases where the person in
53 possession of lands, who shall fail to perform such work,
54 operations, or avoidances shall not be the owner, the owner
55 of such lands shall be joined as party defendant.

56 The court shall retain jurisdiction of the case until after
57 the work has been completed. Upon completion of such
58 work pursuant to such decree of the court the supervisors
59 may apply to the court, notice thereof being served upon the
60 defendant in the case, stating the costs and expenses sus-
61 tained by them in the performance of the work and praying
62 judgment therefor with interest. The court shall have juris-
63 diction to enter judgment for the amount of such costs and
64 expenses, with interest at the rate of five per centum per
65 annum until paid, together with the costs of suit, including
66 a reasonable attorney's fee to be fixed by the court.

Sec. 11. *Board of Adjustment.* A. Where the supervisors
2 of any district organized under the provision of this act shall
3 adopt any ordinance prescribing land-use regulations in ac-
4 cordance with the provisions of section nine hereof, they shall
5 further provide by ordinance for the establishment of a board
6 of adjustment. Such board of adjustment shall consist of
7 three members, each to be appointed for a term of three
8 years, except that the members first appointed shall be ap-
9 pointed for terms of one, two, and three years, respectively.
10 The members of each such board of adjustment shall be ap-

11 pointed by the state soil conservation committee, and shall
12 serve at the will and pleasure of the committee.

13 Vacancies in the board of adjustment shall be filled in the
14 same manner as original appointments, and shall be for the
15 unexpired term of the member whose term becomes vacant.
16 Members of the state soil conservation committee and the
17 supervisors of the district shall be ineligible to appointment
18 as members of the board of adjustment during their tenure
19 of such other office. The members of the board of adjustment
20 shall receive no compensation for their services, but they shall
21 be entitled to expenses, including traveling expenses, neces-
22 sarily incurred in the discharge of their duties. The state
23 committee shall pay the necessary administrative and other
24 expenses of operation incurred by the board, upon the certifi-
25 cate of the chairman of the board.

26 B. The board of adjustment shall adopt rules to govern its
27 procedures, which rules shall be in accordance with the pro-
28 visions of this act and with the provisions of any ordinance
29 adopted pursuant to this section. The board shall designate a
30 chairman from among its members, and may, from time to time,
31 change such designation. Meetings of the board shall be held at

32 the call of the chairman and at such other times as the board
33 may determine. Any two members of the board shall constitute
34 a quorum. The chairman, or in his absence such other mem-
35 ber of the board as he may designate to serve as acting chair-
36 man, may administer oaths and compel the attendance of wit-
37 nesses. All meetings of the board shall be open to the public.
38 The board shall keep a full and accurate record of all pro-
39 ceedings, of all documents filed with it, and of all orders en-
40 tered, which shall be filed in the office of the board and shall
41 be a public record.

42 C. Any land occupier may file a petition with the board of
43 adjustment alleging that there are great practical difficulties
44 or unnecessary hardship in the way of his carrying out upon
45 his lands the land-use regulations prescribed by ordinance
46 approved by the supervisors, and praying the board to au-
47 thorize a variance from the terms of the land-use regulations
48 in the application of such regulations to the lands occupied
49 by the petitioner. Copies of such petition shall be served
50 by the petitioner upon the chairman of the supervisors of the
51 district within which his lands are located and upon the
52 chairman of the state soil conservation committee. The board

53 of adjustment shall fix a time for the hearing of the petition
54 and cause due notice of such hearing to be given. The super-
55 visors of the district and the state soil conservation committee
56 shall have the right to appear and be heard at such hearing.
57 Any occupier of lands lying within the district who shall object
58 to the authorizing of the variance prayed for may intervene
59 and become a party to the proceedings. Any party to the
60 hearing before the board may appear in person, by agent,
61 or by attorney. If, upon the facts presented at such hearing,
62 the board shall determine that there are great practical diffi-
63 culties or unnecessary hardship in the way of applying the
64 strict letter of any of the land-use regulations upon the lands
65 of the petitioner, it shall make and record such determination
66 and shall make and record findings of fact as to the specific
67 conditions which establish such great practical difficulties or
68 unnecessary hardship. Upon the basis of such findings and
69 determination, the board shall have power by order to au-
70 thorize such variance from the terms of the land-use regula-
71 tions, in their application to the lands of the petitioner, as
72 will relieve such great practical difficulties or unnecessary
73 hardship and will not be contrary to the public interest, and

74 such that the spirit of the land-use regulations shall be ob-
75 served, the public health, safety, and welfare secured, and
76 substantial justice done.

77 D. Any petitioner aggrieved by an order of the board
78 granting or denying, in whole or in part, the relief sought, the
79 supervisors of the district or any intervening party, may
80 obtain a review of such order in the Circuit Court of the
81 County in which the land lies, by filing in such a court a pe-
82 tition praying that the order of the board be modified or set
83 aside. A copy of such petition shall forthwith be served upon
84 the parties to the hearing before the board and thereupon
85 the party seeking review shall file in the court a transcript of
86 the entire record in the proceedings, certified by the board,
87 including the documents and testimony upon which the order
88 complained of was entered, and the findings, determination,
89 and order of the board. Upon such filing, the court shall cause
90 notice thereof to be served upon the parties and shall have
91 jurisdiction of the proceedings and of the questions deter-
92 mined or to be determined therein, and shall have power to
93 grant such temporary relief as it deems just and proper, and to
94 make and enter a decree enforcing or setting aside, in whole

95 or in part, the order of the board. No contention that has
96 not been urged before the board shall be considered by the
97 court unless the failure or neglect to urge such contention
98 shall be excused because of extraordinary circumstances. The
99 findings of the board as to the facts, if supported by evidence,
100 shall be conclusive. If any party shall apply to the court
101 for leave to produce additional evidence and shall show to the
102 satisfaction of the court that such evidence is material and
103 that there were reasonable grounds for the failure to produce
104 such evidence in the hearing before the board, the court may
105 order such additional evidence to be taken before the board
106 and to be made a part of the transcript. The board may
107 modify its findings as to the facts or make new findings, taking
108 into consideration the additional evidence so taken and filed,
109 and it shall file such modified or new findings which, if sup-
110 ported by evidence, shall be conclusive, and shall file with the
111 court its recommendations, if any, for the setting aside of its
112 original order. The jurisdiction of the court shall be exclusive
113 and its judgment and decree shall be final, except that the same
114 shall be subject to review in the same manner as are other
115 judgments or decrees of the court.

Sec. 12. *Cooperation Between Districts.* The supervisors
2 of any two or more districts organized under the provisions
3 of this act may cooperate with one another in the exercise
4 of any or all powers conferred in this act.

Sec. 13. *State Agencies to Cooperate.* Agencies of this
2 state which shall have jurisdiction over or be charged with
3 the administration of, any state-owned lands, and of any
4 county, or other governmental subdivision of the state, which
5 shall have jurisdiction over, or be charged with the admin-
6 istration of, any county-owned or other publicly-owned lands,
7 lying within the boundaries of any district organized here-
8 under, may cooperate with the supervisors of such districts in
9 the effectuation of programs and operations undertaken by
10 the supervisors under the provisions of this act. When such
11 cooperation is undertaken, the supervisors of such districts
12 shall be given free access to enter and perform work upon
13 such publicly-owned lands. In connection with land-use regu-
14 lations adopted pursuant to section nine of this act, the state,
15 through its proper agency, and governmental subdivisions of
16 the state, may cooperate in the effectuation of such regulations.

Sec. 14. *Discontinuance of Districts.* At any time after
2 five years following the organization of a district under the
3 provisions of this act, any twenty-five owners of land lying
4 within the boundaries of such district may file a petition
5 with the state soil conservation committee praying that the
6 operations of the district be terminated and the existence of
7 the district discontinued. The committee may conduct such
8 public meetings and public hearings upon such petition as
9 may be necessary to assist it in the consideration thereof.
10 Within sixty days after such a petition has been received
11 by the committee it shall give due notice of the holding of a
12 referendum, and shall supervise such referendum, and issue
13 appropriate regulations governing the conduct thereof. The
14 question shall be submitted by ballots upon which the words
15 “For terminating the existence of the (name of
16 the soil conservation district to be here inserted)” and
17 “Against terminating the existence of the (name of the
18 soil conservation district to be here inserted)” shall appear,
19 with a square before each proposition and a direction to
20 insert an X mark in the square before one or the other of
21 said propositions as the voter may favor or oppose discon-

22 tinuance of such district. All owners of lands lying within
23 the boundaries of the district shall be eligible to vote in such
24 referendum. Only such land owners shall be eligible to vote.
25 No informalities in the conduct of such referendum or in
26 any matters relating thereto shall invalidate said referendum
27 or the result thereof if notice thereof shall have been given
28 substantially as herein provided and said referendum shall
29 have been fairly conducted.

30 The committee shall publish the result of such referendum
31 and shall thereafter consider and determine whether the con-
32 tinued operation of the district within the defined boundaries
33 is administratively practicable and feasible. If the com-
34 mittee shall determine that the continued operation of such
35 district is administratively practicable and feasible, it shall
36 record such determination and deny the petition. If the
37 committee shall determine that the continued operation of
38 such district is not administratively practicable and feasible,
39 it shall record such determination and shall certify such
40 determination to the supervisors of the district. In making
41 such determination the committee shall give due regard and
42 weight to the attitudes of the owners of lands lying within

43 the district, the number of land owners eligible to vote in
44 such referendum who shall have voted, the proportion of the
45 votes cast in such referendum in favor of the discontinuance
46 of the district to the total number of votes cast, the ap-
47 proximate wealth and income of the land occupiers of the
48 district, the probable expense of carrying on erosion control
49 operations within such district, and such other economic and
50 social factors as may be relevant to such determination,
51 having due regard to the legislative findings set forth in
52 section two of this act: *Provided, however,* That the com-
53 mittee shall not have authority to determine that the con-
54 tinued operation of the district is administratively practicable
55 and feasible unless at least a majority of the votes cast in
56 the referendum shall have been cast in favor of the con-
57 tinuance of such district.

58 Upon receipt from the state soil conservation committee
59 of certification that the committee has determined
60 that the continued operation of the district is not
61 administratively practicable and feasible, pursuant
62 to the provisions of this section, the supervisors
63 shall forthwith proceed to terminate the affairs of the dis-

64 trict. The supervisors shall dispose of all property belonging
65 to the district at public auction and shall pay over the
66 proceeds of such sale to be converted into the state treasury.
67 The supervisors shall thereupon file an application, duly
68 verified, with the secretary of state for the discontinuance
69 of such district, and shall transmit with such application the
70 certificate of the state soil conservation committee setting
71 forth the determination of the committee that the continued
72 operation of such district is not administratively practicable
73 and feasible. The application shall recite that the property
74 of the district has been disposed of and the proceeds paid
75 over as in this section provided, and shall set forth a full
76 accounting of such properties and proceeds of the sale.
77 The secretary of state shall issue to the supervisors a certi-
78 ficate of dissolution and shall record such certificate in an
79 appropriate book of record in his office.

80 Upon issuance of a certificate of dissolution under the
81 provisions of this section, all regulations theretofore adopted
82 and in force within such district shall be of no further force
83 and effect. All contracts theretofore entered into, to which
84 the district or supervisors are parties, shall remain in force

85 and effect for the period provided in such contracts. The
86 state soil conservation committee shall be substituted for
87 the district or supervisors as party to such contracts. The
88 committee shall be entitled to all benefits and subject to all
89 liabilities under such contracts and shall have the same right
90 and liability to perform, to require performance, to sue and
91 be sued thereon, and to modify or terminate such contracts
92 by mutual consent or otherwise, as the supervisor of the
93 district would have had. Such dissolution shall not affect
94 the lien of any judgment entered under the provisions of
95 section ten of this act, nor the pendency of any action in-
96 stituted under the provisions of such section, and the com-
97 mittee shall succeed to all the rights and obligations of the
98 district or supervisors as to such liens and actions.

99 The state soil conservation committee shall not entertain
100 petitions for the discontinuance of any district nor conduct
101 referenda upon such petitions nor make determinations
102 pursuant to such petitions in accordance with the provisions
103 of this act, more often than once in three years.

Sec. 15. *Separability Clause.* If any provision of this act,
2 or the administrative application of any provision to any

3 person or circumstance, is held invalid, the remainder of the
4 act, and the application of such provision to other persons
5 or circumstances, shall not be affected thereby.

Sec. 16. *Inconsistency With Other Acts.* Insofar as any of
2 the provisions of this act are inconsistent with the provisions
3 of any other law, the provisions of this act shall be con-
4 trolling.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

E. O. Wiseman

Chairman Senate Committee

W. H. Walker

Chairman House Committee

Originated in the

Senate

Takes effect

Ninety days for

passage

Richard M. ...

Clerk of the Senate

W. H. ...

Clerk of the House of Delegates

W. H. ...

President of the Senate

James Key Thomas

Speaker House of Delegates

The within

Approved

this the

16th

day of

March

1939.

Shaw ...

Governor



Filed in the office of the Secretary of State
of West Virginia. **MAR 17 1939**
Wm. S. O'BRIEN,
Secretary of State