ENGROSSED SENATE
BILL NO. 1766 By: Wyrick of the Senate

and

DeWitt of the House

[conservation districts - powers and duties of the Oklahoma Conservation Commission – codification – repealer -

emergency]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 27A O.S. 2001, Section 3-2-106, is amended to read as follows:

Section 3-2-106. A. In addition to other powers and duties specified by law and except as otherwise provided by law, the Oklahoma Conservation Commission shall have the power and duty to:

1. Offer the assistance as may be appropriate to the directors of conservation districts in the carrying out of any of their powers and programs and to:

a. assist and guide districts in the preparation and carrying out of programs for resource conservation authorized under the Conservation District Act,

b. review district programs,

c. coordinate the programs of the several districts and resolve any conflicts in such programs, and

d. facilitate, promote, assist, harmonize, coordinate and guide the resource conservation programs and activities of districts as they relate to other special purpose districts, counties and other public agencies;

2. Keep the directors of each of the several districts informed of the activities and experience of all other districts, and to facilitate an interchange of advice and experience between ~~such~~ the districts and cooperation between them;

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

4. Secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of ~~such~~ the districts and to accept donations, grants, gifts and contributions in money, services or otherwise from the United States or any of its agencies or from the state or any of its agencies in order to carry out the purposes of the Conservation District Act;

5. Disseminate information throughout the state concerning the activities and programs of the conservation districts and to make

available information concerning the needs and the work of the conservation districts and Commission to the Governor, the Legislature, executive agencies of the government of this state, political subdivisions of this state, cooperating federal agencies and the general public;

6. Serve along with conservation districts as the official state agencies for cooperating with the Natural Resources Conservation Service of the United States Department of Agriculture and carrying on conservation operations within the boundaries of conservation districts;

7. Cooperate with and give such assistance as ~~they deem~~ it deems necessary and proper to conservancy districts, watershed associations and other special purpose districts in the State of Oklahoma for the purpose of cooperating with the United States through the Secretary of Agriculture in the furtherance of conservation pursuant to the provisions of the Federal Watershed Protection and Flood Prevention Act, as amended;

8. Recommend the inclusion in annual and longer term budgets and appropriation legislation of the State of Oklahoma of funds necessary for appropriation by the Legislature to finance the activities of the Commission and the conservation districts and to:

a. administer the provisions of the Conservation District Act hereafter enacted by the Legislature appropriating

funds for expenditure in connection with the activities of conservation districts,

b. distribute to conservation districts funds, equipment, supplies and services received by the Commission for that purpose from any source, subject to such conditions as shall be made applicable thereto in any state or federal statute or local ordinance making available such funds, property or services,

c. issue ~~regulations~~ rules establishing guidelines and suitable controls to govern the use by conservation districts of ~~such~~ funds, property and services~~;~~, and ~~to~~

d. review all budgets, administrative procedures and operations of such districts and advise the districts concerning their conformance with applicable laws and regulations;

9. Enlist the cooperation and collaboration of state, federal, regional, interstate, local, public and private agencies with the conservation districts and to facilitate arrangements under which the conservation districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation of renewable natural resources;

10. Pursuant to procedures developed mutually by the Commission and federal, state and local agencies that are authorized to plan or administer activities significantly affecting the conservation of renewable natural resources, receive from ~~such~~ these agencies for review and comment suitable descriptions of their plans, programs and activities for purposes of coordination with district conservation programs and to arrange for and participate in conferences necessary to avoid conflict among ~~such~~ plans and programs, to call attention to omissions and to avoid duplication of effort;

11. Compile information and make studies, summaries, and analyses of district programs in relation to each other and to other resource conservation programs on a statewide basis;

12. Except as otherwise assigned by law, carry out the policies of this state in programs at the state level for the conservation of the renewable natural resources of this state and represent the state in matters affecting such resources;

13. Assist conservation districts in obtaining legal services from state and local legal officers;

14. Require annual reports from conservation districts, the form and content of which shall be developed by the Commission in consultation with the district directors;

15. Establish by ~~regulations~~ rules, with the assistance and advice of the State Auditor and Inspector, adequate and reasonably

uniform accounting and auditing procedures which shall be used by conservation districts;

16. Conduct workshops for district directors to instruct them on the subjects of district finances, the Conservation District Law and related laws, and their duties and responsibilities as directors;

17. Assist and supervise districts in carrying out their responsibilities in accordance with the Oklahoma laws;

18. Have power, by administrative order, upon the written request of the board of directors of the conservation district or districts involved, with a showing that such request has been approved by a majority vote of the members of each of the boards involved, to:

a. transfer lands from one district established under the provisions of the Conservation District Act to another,

b. divide a single district into two or more districts, each of which shall thereafter operate as a separate district under the provisions of the Conservation District Act, and

c. consolidate two or more districts established under the provisions of the Conservation District Act, which consolidated area shall operate thereafter as a single

district under the provisions of the Conservation District Act;

19. Except as otherwise provided by law, act as the management agency having jurisdiction over and responsibility for directing nonpoint source pollution prevention programs outside the jurisdiction or control of cities or towns in Oklahoma. The Commission, otherwise, shall be responsible for all identified nonpoint source categories except silviculture, urban storm water runoff and industrial runoff;

20. Establish and maintain an Equipment Revolving Fund for the purpose of loaning conservation districts funds to purchase equipment to be used for the installation of conservation practices. The fund shall consist of all monies appropriated to, deposited in or credited to the fund;

21. Establish and maintain a Conservation District Consolidation Fund for the purpose of providing financial assistance to conservation districts who choose to consolidate as outlined in subparagraph c of paragraph 18 of this subsection. The fund shall consist of all monies appropriated to, deposited in or credited to the fund;

22. Administer cost-share programs for the purpose of carrying out conservation or best management practices on the land to benefit the public through the prevention or reduction of soil erosion and nonpoint source pollution and through general resource management.

The Commission is not authorized to implement mandatory compliance with management practices, except as otherwise provided by law, to abate agricultural nonpoint source pollution;

~~21.~~ 23. Plan watershed-based nonpoint source pollution control activities, including the development and implementation of conservation plans for the improvement and protection of the resources of the state;

~~22.~~ 24. Provide assistance to the Oklahoma Water Resources Board on lake projects through stream and river monitoring, assessing watershed activities impacting lake water quality and assisting in the development of a watershed management plan;

~~23.~~ 25. Maintain the activities of the state's nonpoint source working group;

~~24.~~ 26. Prepare, revise and review Oklahoma's nonpoint source management program and nonpoint source assessment report in coordination with other state environmental agencies and compile a comprehensive assessment for the state every five (5) years. ~~Such~~ The management program and assessment report shall be distributed to the Governor, Secretary of Environment, the President Pro Tempore of the Senate and the Speaker of the House of Representatives;

~~25.~~ 27. Under the direction of the Office of the Secretary of the Environment, develop and implement the state's nonpoint source water quality monitoring strategy in coordination with other environmental agencies;

~~26.~~ 28. Monitor, evaluate and assess waters of the state to determine the condition of streams and rivers impacted by nonpoint source pollution. In carrying out this area of responsibility, the Conservation Commission shall serve as the technical lead agency for nonpoint source pollution categories as defined in Section 319 of the Federal Clean Water Act or other subsequent federal or state nonpoint source programs;

~~27.~~ 29. Administer the Blue Thumb Program;

~~28.~~ 30. Enter into agreements or contracts for services with any of the substate planning districts recognized by the Oklahoma Department of Commerce;

~~29.~~ 31. Cooperate with the federal government, or any agency thereof, to participate in and coordinate with federal programs that will yield additional federal funds to the state for programs within the jurisdiction of the Conservation Commission. This participation shall be subject to the availability of state funds; and

~~30.~~ 32. Implement pilot projects and programs, subject to the availability of funds, that will demonstrate the latest technologies and applications in conservation programs that may provide direct or residual benefits to conservation practices in the state.

B. Nothing in this act shall take away any of the present duties or responsibilities delegated by law or constitution to other environmental agencies.

SECTION 2. AMENDATORY 27A O.S. 2001, Section 3-3-102, is amended to read as follows:

Section 3-3-102. A. At the first meeting following each annual election, the board of directors shall organize and shall select and designate a ~~chairman~~ chair, ~~vice-chairman~~ vice-chair and a ~~secretary~~ treasurer. ~~The secretary treasurer may be a director. The secretary-treasurer shall give a good and sufficient bond paid for by the district for the faithful performance of his duties.~~ Notice of the new organization shall be filed with the Conservation Commission ~~no later than May 1 of each year~~ annually as prescribed by the Commission.

B. A majority of the directors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination.

SECTION 3. AMENDATORY 27A O.S. 2001, Section 3-3-103, is amended to read as follows:

Section 3-3-103. A. The directors of a district may employ a secretary, technical experts and ~~such~~ other ~~assistants~~ employees as necessary and determine their duties and compensation. ~~The Commission may, upon the request and with the approval of the directors of a district, employ and/or assign technical experts for work within the district and may require as a condition to the assignment of technical experts to work in such district that said district share in the payment of the salary and expenses of the~~

~~technical experts so assigned.~~ Employees of a conservation district are at-will employees.

B. The district attorney within whose jurisdiction a majority of the area of the district is situated shall act as legal advisor for the board of directors and shall afford the board like representation as is now provided for other county officers. The directors may call upon the Attorney General of the state for such legal services as they may require, or may employ their own counsel.

C. The directors may delegate, to their ~~chairman~~ chair, to one or more directors, or to one or more agents or employees such powers and duties as they may deem proper.

~~B.~~ D. The directors shall furnish to the commission copies of such ordinances, rules, regulations, orders, contracts, forms and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under the Conservation District Act.

SECTION 4. AMENDATORY 27A O.S. 2001, Section 3-3-108, is amended to read as follows:

Section 3-3-108. A. 1. Each district organized under the Conservation District Act shall prepare and keep current a long-range program for the conservation of all the renewable natural resources of the district. ~~Such~~ The program shall be directed toward conservation of resources for their best uses and in a manner that will best meet the needs of the district and the state, and be

consistent with the best uses of the renewable natural resources of the state.

2. The program shall include:

a. an inventory of all renewable natural resources in the district,

b. a compilation of current resource needs,

c. projections of future resource requirements,

d. priorities for various resource activities,

e. projected timetables, and

f. ~~descriptions of available alternatives, and~~

~~g.~~ provisions for coordination with other resource programs.

B. The district shall also prepare an annual work plan, ~~which~~ that shall describe the action programs, services, facilities, materials, working arrangements and estimated funds needed to carry out the parts of the long-range program that are of the highest priorities.

C. 1. Every district shall publish an annual report of its plans, programs, activities, budget, receipts, and expenditures.

2. The report shall include therein:

a. descriptions of its official Resources Conservation Program,

b. the current annual program related thereto, and

c. the status of all activities initiated under the program.

3. Each district:

a. shall submit copies of each annual report to the Governor of the state and to the State Conservation Commission, which shall furnish a copy thereof to the appropriate state legislative officers, in accordance with ~~regulations~~ rules concerning ~~such~~ the reports to be issued by the Commission,

b. shall make copies of ~~such~~ the reports, and summaries and digests thereof, available to all federal, state and local cooperating agencies and shall make suitable distribution to the general public, and

c. may publish ~~such~~ additional information and reports as may be necessary and appropriate.

D. Every district shall, through public hearings, publications and other means, keep the general public, and all operators or occupiers of land within the district, informed of the works and activities planned and administered by the district, of the purposes these will serve, of the income and expenditures of the district, the purposes for which ~~such~~ the funds are expended, and of the results achieved annually by the district.

E. Each district shall submit to the Commission its proposed long-range program and annual work plans for adoption, rejection, modification or revision.

SECTION 5. AMENDATORY 27A O.S. 2001, Section 3-3-201, as amended by Section 6, Chapter 479, O.S.L. 2003 (27A O.S. Supp. 2007, Section 3-3-201), is amended to read as follows:

Section 3-3-201. A. The governing body of the district shall consist of five (5) directors, elected or appointed as provided in the Conservation District Act.

B. 1. Three directors shall be elected for a term of three (3) years and shall be elected for staggered terms ~~as provided by the Conservation District Act~~ beginning July 1 and ending June 30.

2. The three elected directors' positions shall be designated as position number one, position number two and position number three by the Commission.

3. To be eligible for election as a director of a conservation district, a person must be a registered voter in ~~said~~ the district, and must be a cooperator of ~~said~~ the district.

C. Two directors for each district shall be appointed by the Commission to serve a term of two (2) years beginning July 1 and ending June 30. The Commission shall issue a certificate of appointment to all appointed directors. Initially one director shall serve for a period of one (1) year and one director for a period of two (2) years.

D. ~~A director shall hold office until the director's successor or replacement has been elected or appointed, and qualified.~~

~~E.~~ Any director may be removed from office by the Commission, upon notice and hearing, for neglect of duty or for malfeasance in office.

~~F.~~ E. All vacancies in the office of an elected or appointed director shall be filled for the unexpired term by the Commission.

~~G.~~ F. Directors shall be entitled to be reimbursed by the district for actual expenses incurred in the official performance of their duties.

~~H.~~ G. District directors may be paid a per diem ~~of Twenty-five Dollars ($25.00) per meeting~~ for attending monthly district board meetings ~~and for such other area and state meetings as are called by~~ not to exceed Fifty Dollars ($50.00) per meeting as established by the Oklahoma Conservation Commission.

~~I.~~ H. If any director shall, during ~~his or her~~ their term of office as director, be elected or appointed to any county or state elective office, or if ~~he or she~~ they shall file as a candidate for the nomination to be elected to any such other office, ~~his or her~~ their office as director shall become vacant and the vacancy shall be filled by appointment of the Commission. Provided, that a district director may also serve on a board of education of a school district.

SECTION 6. AMENDATORY 27A O.S. 2001, Section 3-3-301, is amended to read as follows:

Section 3-3-301. A. There shall be an election each year in every conservation district on the ~~second~~ first Tuesday in ~~March~~ June, which is hereby designated as Conservation District Day, to elect one director in each district.

B. All registered voters in a district shall be eligible to vote in ~~such~~ the election.

SECTION 7. AMENDATORY 27A O.S. 2001, Section 3-3-302, is amended to read as follows:

Section 3-3-302. Each district shall give due notice of the filing period for election of district directors, during the first three (3) weeks in ~~January~~ April, setting forth the period in which notifications and declarations of candidacy are to be filed.

Due notice shall be given in each district of the election. The last publication of ~~said~~ the notice shall be not less than five (5) days before the date of ~~said~~ the election. Said notice shall set forth the purpose, time, date, and polling places for ~~said~~ the election.

SECTION 8. AMENDATORY 27A O.S. 2001, Section 3-3-303, is amended to read as follows:

Section 3-3-303. Any person found eligible by the Commission to be elected a district director shall have ~~his~~ their name placed on the official ballot, upon filing with the Commission a notification

and declaration of candidacy, during the first two weeks in ~~February~~ May. The notification and declaration shall be in the form prescribed by the Commission.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-3-411 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Oklahoma has a large number of preventive and control measures and works of improvement that are operated and maintained by conservation districts and their assigns throughout the state. These preventive and control measures and works of improvement include, but are not limited to, flood control dams, erosion control practices, and channels constructed with the assistance of the United States Department of Agriculture (USDA) through USDA's watershed programs.

B. Pursuant to the Conservation District Act, the phrase "operation and maintenance" or "operate and maintain" as used in a variety of contractual documents, easements, statutes, rules, and other legal authority by the conservation districts and their assigns shall be interpreted to:

1. Encompass the terms repair, modification, alteration, rehabilitation, upkeep, upgrade, improvement, construction, reconstruction, decommission, and inspection; and

2. Benefit the state and conservation districts.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-3-412 of Title 27A, unless there is created a duplication in numbering, reads as follows:

Except as otherwise provided by state or federal law, a conservation district's responsibility for the operation and maintenance of any structure for the purpose of flood control pursuant to any contractual, statutory, regulatory or other legal authority or obligation, shall not be deemed to include maintaining, protecting or improving the quality of any soil, air, groundwater or surface water or biota affected by, near or comprising any part of the structure, including any water, soil or sediment pooled, impounded or diverted by the structure, including but not limited to, monitoring, limiting, or abating or otherwise controlling or eliminating any point source or nonpoint source pollution or any other biological, chemical, radiological or physical contamination by any source or mechanism.

SECTION 11. AMENDATORY 27A O.S. 2001, Section 3-3-304, is amended to read as follows:

Section 3-3-304. A. The Conservation Commission shall designate the polling places in the district.

B. The names of all candidates who have filed a proper notification and declaration and have been found eligible by the Commission within the time herein designated shall be printed~~, arranged in the alphabetical order of the surnames, upon ballots,~~

~~with a square before each name and a direction to insert an "X" mark in the square before one name to indicate the voter's preference~~ on a ballot prescribed by the Commission.

C. The ~~board of directors of said district shall certify the results of said election to the Commission, whereupon said~~ Commission shall declare the candidate receiving the largest number of votes cast in ~~such~~ an election, elected.

D. When two or more candidates receive the same number of votes cast, a runoff election shall be held within thirty (30) days from date of the first election in the manner prescribed above.

E. The Commission shall prescribe ~~regulations~~ rules for holding elections pursuant to the provisions of this section, pay for ~~such~~ the elections, supervise the conduct ~~thereof~~ and shall publish the results ~~thereof~~.

F. When only one qualified ~~person~~ candidate files a notification and declaration of candidacy for the office of director in a district as provided herein, no election shall be necessary and the Commission shall declare ~~such~~ the person elected.

G. The Commission shall issue a certificate to all elected directors signifying their election to the office of director of ~~said~~ their district.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-3-413 of Title 27A, unless there is created a duplication in numbering, reads as follows:

Directors of a conservation district may elect to participate in the health or dental insurance plan offered by the conservation district to its employees as provided for in the State and Education Employees Group Insurance Act. The conservation district director shall pay the full cost of the insurance premium for the coverage at the rate prescribed by and pursuant to the terms and conditions of the health or dental plan.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-3-414 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A conservation district employee who transfers to a state agency shall not lose the service time the employee has accrued for the purposes of calculating longevity benefits and leave benefits.

SECTION 14. REPEALER 27A O.S. 2001, Section 3-3-110, is hereby repealed.

SECTION 15. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 3rd day of March, 2008.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2008.

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Presiding Officer of the House of Representatives