

THE HOUSE OF REPRESENTATIVES
Tuesday, April 10, 2007

Committee Substitute for
ENGROSSED
Senate Bill No. 704

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 704 - By: SCHULZ
AND SPARKS of the Senate and LIEBMANN of the House.

An Act relating to conservation districts; amending 27A O.S. 2001, Section 3-2-106, which relates to powers and duties of the Conservation Commission; authorizing the Commission to cooperate with county commissioners on certain projects; amending 27A O.S. 2001, Section 3-3-105, which relates to powers and duties of conservation districts; authorizing districts to cooperate with county commissioners on certain projects; and declaring an emergency.

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

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

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

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

- 1 a. assist and guide districts in the preparation and carrying out of
2 programs for resource conservation authorized under the Conservation
3 District Act,
4 b. review district programs,
5 c. coordinate the programs of the several districts and resolve any
6 conflicts in such programs, and
7 d. facilitate, promote, assist, harmonize, coordinate and guide the
8 resource conservation programs and activities of districts as they
9 relate to other special purpose districts, counties and other public
10 agencies;
- 11 2. Keep the directors of each of the several districts informed of the activities and
12 experience of all other districts, and to facilitate an interchange of advice and experience
13 between such districts and cooperation between them;
- 14 3. Review agreements, or forms of agreements, proposed to be entered into by
15 districts with other districts or with any state, federal, or interstate, or other public or
16 private agency, organization or individual, and advise the districts concerning such
17 agreements or forms of agreements;
- 18 4. Secure the cooperation and assistance of the United States and any of its
19 agencies, and of agencies of this state, in the work of such districts and to accept
20 donations, grants, gifts and contributions in money, services or otherwise from the
21 United States or any of its agencies or from the state or any of its agencies in order to
22 carry out the purposes of the Conservation District Act;

1 5. Disseminate information throughout the state concerning the activities and
2 programs of the conservation districts and to make available information concerning the
3 needs and the work of the conservation districts and Commission to the Governor, the
4 Legislature, executive agencies of the government of this state, political subdivisions of
5 this state, cooperating federal agencies and the general public;

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

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

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

- 19 a. administer the provisions of the Conservation District Act hereafter
20 enacted by the Legislature appropriating funds for expenditure in
21 connection with the activities of conservation districts,

- 1 b. distribute to conservation districts funds, equipment, supplies and
2 services received by the Commission for that purpose from any source,
3 subject to such conditions as shall be made applicable thereto in any
4 state or federal statute or local ordinance making available such funds,
5 property or services,
6 c. issue regulations establishing guidelines and suitable controls to
7 govern the use by conservation districts of such funds, property and
8 services; and to review all budgets, administrative procedures and
9 operations of such districts and advise the districts concerning their
10 conformance with applicable laws and regulations;

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

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

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

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

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

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

11 15. Establish by regulations, with the assistance and advice of the State Auditor
12 and Inspector, adequate and reasonably uniform accounting and auditing procedures
13 which shall be used by conservation districts;

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

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

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

- 1 a. transfer lands from one district established under the provisions of the
2 Conservation District Act to another,
3 b. divide a single district into two or more districts, each of which shall
4 thereafter operate as a separate district under the provisions of the
5 Conservation District Act, and
6 c. consolidate two or more districts established under the provisions of
7 the Conservation District Act, which consolidated area shall operate
8 thereafter as a single district under the provisions of the Conservation
9 District Act;

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

15 20. Administer cost-share programs for the purpose of carrying out conservation or
16 best management practices on the land to benefit the public through the prevention or
17 reduction of soil erosion and nonpoint source pollution and through general resource
18 management. The Commission is not authorized to implement mandatory compliance
19 with management practices, except as otherwise provided by law, to abate agricultural
20 nonpoint source pollution;

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

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

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

8 24. Prepare, revise and review Oklahoma's nonpoint source management program
9 and nonpoint source assessment report in coordination with other state environmental
10 agencies and compile a comprehensive assessment for the state every five (5) years.

11 Such management program and assessment report shall be distributed to the Governor,
12 Secretary of Environment, the President Pro Tempore of the Senate and the Speaker of
13 the House of Representatives;

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

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

22 27. Administer the Blue Thumb Program;

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

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

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

10 31. Cooperate with county commissioners to obtain their assistance, subject to the
11 availability of funds, for roadside erosion control, for the new construction, the operation
12 and maintenance, and the rehabilitation of upstream flood control structures, and for
13 invasive species control.

14 B. Nothing in ~~this act~~ the Conservation District Act shall take away any of the
15 present duties or responsibilities delegated by law or constitution to other environmental
16 agencies.

17 SECTION 2. AMENDATORY 27A O.S. 2001, Section 3-3-105, is amended to
18 read as follows:

19 Section 3-3-105. A. In addition to other powers and duties provided by law, a
20 conservation district and the directors thereof shall have the power and duty to:

21 1. Obtain such information as may be necessary to the proper carrying out of duties
22 and powers prescribed in the Conservation District Act, by making surveys and

1 investigations relating to the conservation of renewable natural resources, and the
2 preventive and control measures and works of improvement needed; provided, however,
3 that such surveys and investigations shall not be undertaken except in cooperation with
4 the State Conservation Commission or with the government of this state or any of its
5 agencies, or with the United States or any of its agencies;

6 2. Conduct operations for the conservation of renewable natural resources within
7 the district on lands owned or controlled by this state or any of its agencies, with the
8 cooperation of the agency administering and having jurisdiction thereof, and on any
9 other lands within the district upon obtaining the consent of the owner of such lands or
10 the necessary rights or interests in such lands, in order to demonstrate by example the
11 means, methods, and measures by which the conservation of renewable natural resources
12 may be carried out;

13 3. Carry out preventive and control measures and works of improvement for the
14 conservation of renewable natural resources within the district including, but not limited
15 to, engineering operations, methods of cultivation, the growing of vegetation and changes
16 in use of land on lands owned or controlled by this state or any of its agencies, with the
17 cooperation of the agency administering and having jurisdiction thereof, and on any
18 other lands within the district upon obtaining the consent of the owner of such lands or
19 the necessary rights or interests in such lands;

20 4. Cooperate or enter into agreements with, and, within the limits of appropriations
21 duly made available to it by law, to furnish financial or other aid to any agency,
22 governmental or otherwise, or any owner or occupier of lands within the district, subject

1 to such conditions as the directors may deem necessary to advance the purposes of the
2 Conservation District Act;

3 5. Obtain options upon and to acquire, by purchase, exchange, lease, gift, grant,
4 bequest, devise or otherwise, any property, real or personal, or rights or interests therein;
5 to maintain, administer and improve any properties acquired; and to:

6 a. receive income from such properties and to expend such income in
7 carrying out the purposes and provisions of the Conservation District
8 Act, and

9 b. sell, lease or otherwise dispose of any of its property or interests
10 therein, all in furtherance of the purposes and provisions of the
11 Conservation District Act; provided that in all cases when lands or
12 interests therein are deemed by the directors to be necessary for
13 upstream flood control purposes to carry out the purposes of the
14 Conservation District Act and which cannot otherwise be acquired, the
15 district shall be vested with the power of eminent domain and may
16 condemn and acquire such lands as provided by the laws of this state
17 governing the acquisition of lands by railroad corporations;

18 6. Make available, on such terms as it shall prescribe, to landowners and occupiers
19 within the district, agricultural and engineering machinery and equipment, fertilizer,
20 seeds and seedlings, and such other material or equipment as will assist such
21 landowners and occupiers to carry on operations upon their lands for the conservation of
22 renewable natural resources;

1 7. Construct, improve, repair, operate and maintain such structures as may be
2 necessary or convenient for the performance of any of the operations or activities
3 authorized in the Conservation District Act;

4 8. Develop resource conservation programs and annual work plans as provided in
5 the Conservation District Act;

6 9. Acquire by purchase, lease or otherwise, and to administer any project or
7 program concerned with the conservation of renewable natural resources located within
8 its boundaries undertaken by any federal, state or other public agency; and to:

9 a. accept donations, gifts and contributions, in money, services, materials
10 or otherwise, from the United States or any of its agencies, or from this
11 state or any of its agencies, or from any other source, and

12 b. use or expend such moneys, services, materials or other contributions
13 in carrying out the purposes of the Conservation District Act, and

14 c. enter into contracts and negotiate with any agency of the United
15 States or the State of Oklahoma in any plan related to the
16 conservation of renewable natural resources;

17 10. Sue and be sued in the name of the district; and to:

18 a. have a seal, which seal shall be judicially noticed,

19 b. make and execute contracts and other instruments necessary or
20 convenient to the exercise of its powers, and

1 c. make, and from time to time amend and repeal, rules and regulations
2 not inconsistent with the Conservation District Act to carry into effect
3 its purposes and powers; ~~and~~

4 11. Carry workers' compensation insurance, in its discretion, on any or all its
5 employees, regardless of the nature of the work in which such employee or employees are
6 engaged, such insurance to be carried with ~~the State Insurance Fund~~ CompSource
7 Oklahoma, and to be paid for by each district out of the funds of such district; and

8 12. Cooperate with county commissioners to obtain their assistance, subject to the
9 availability of funds for roadside erosion control, for the new construction, the operation
10 and maintenance and the rehabilitation of upstream flood control structures, and for
11 invasive species control.

12 B. As a condition to the extending of any benefits under the Conservation District
13 Act to or the performance of work upon any lands not owned or controlled by this state or
14 any of its agencies, the directors may require contributions in money, services, materials
15 or otherwise to any operations conferring such benefits and may require land occupiers to
16 enter into and perform such agreements or covenants as to the use of such lands as may
17 be consistent with the purposes of the Conservation District Act.

18 C. No provisions with respect to the acquisition, operation or disposition of property
19 by other public bodies shall be applicable to a district organized hereunder unless the
20 Legislature shall specifically so state.

21 D. Soil and water conservation district directors have the authority to accept
22 appointment to serve as members of local, municipal, county, regional and state planning

1 agencies, boards, commissions and authorities and districts may participate in the
2 funding thereof and performance of works and projects thereunder.

3 SECTION 3. It being immediately necessary for the preservation of the public
4 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
5 this act shall take effect and be in full force from and after its passage and approval.

6 COMMITTEE REPORT BY: COMMITTEE ON NATURAL RESOURCES, dated 04-09-
7 07 - DO PASS, As Amended.