

CHAPTER 3. CONSERVATION DISTRICT ACT

(2008 Legislative General Session move Act from former location and made some changes)

Chapter 3, Part 1. General Provisions**17D-3-101 Title.**

This chapter is known as the "Conservation District Act."

17D-3-102 Definitions.

As used in this chapter:

- (1) "Commission" means the Conservation Commission created under Section 4-18-4.
- (2) "Conservation district" means a limited purpose local government entity, as described in Section 17D-3-103, that operates under, is subject to, and has the powers set forth in this chapter.
- (3) "Department" means the Department of Agriculture and Food created under Section 4-2-1.

17D-3-103. Conservation district status, authority, and duties.

- (1) A conservation district created under this chapter:
 - (a) is a body corporate and politic;
 - (b) is a political subdivision of the state; and
 - (c) may sue and be sued.
- (2) A conservation district may:
 - (i) survey, investigate, and research soil erosion, flood water, nonpoint source water pollution, flood control, water pollution, sediment damage, and watershed development;
 - (ii) subject to Subsection (2)(b), devise and implement on state or private land a measure to prevent soil erosion, floodwater or sediment damage, nonpoint source water pollution, or other degradation of a watershed or of property affecting a watershed;
 - (iii) subject to Subsection (2)(b), devise and implement a measure to conserve, develop, utilize, or dispose of water on state or private land;
 - (iv) construct, improve, operate, and maintain a structure that the board of supervisors considers necessary or convenient for the conservation district to carry out its purposes under this chapter;
 - (v) acquire property, real or personal, by purchase or otherwise, and maintain, improve, and administer that property consistent with the purposes of this chapter;
 - (vi) enter into a contract in the name of the conservation district;
 - (vii) receive money from:
 - (A) a federal or state agency;
 - (B) a county, municipality, or other political subdivision of the state; or
 - (C) a private source;
 - (viii) subject to Subsection (2)(c), make recommendations governing land use within the conservation district, including:

- (A) the observance of particular methods of cultivation;
 - (B) the use of specific crop programs and tillage practices;
 - (C) the avoidance of tilling and cultivating highly erosive areas where erosion may not be adequately controlled if cultivated;
 - (D) the construction of terraces, terrace outlets, check dams, dikes, ponds, or other structures; and
 - (E) the development or restoration, or both, of range or forest lands or other natural resources, whether in private, state, or federal ownership;
 - (ix) make recommendations for county and municipal land use authorities within the conservation district to consider with respect to land use applications and other development proposals;
 - (x) employ clerical and other staff personnel, including legal staff, subject to available funds; and
 - (xi) perform any other act that the board of supervisors considers necessary or convenient for the efficient and effective administration of the conservation district.
- (b) A conservation district's authority under Subsections (2)(a)(ii) and (iii) is subject to the consent of:
- (i) the land occupier; and
 - (ii) in the case of school and institutional trust lands, as defined in Section 53C-1-103, the director of the School and Institutional Trust Lands Administration, in accordance with Sections 53C-1-102 and 53C-1-303.
- (c) (i) Each recommendation under Subsection (2)(a)(viii) shall be uniform throughout the conservation district or, if the board of supervisors classifies land under Subsection (2) (c), throughout each land classification.
- (ii) The board of supervisors may uniformly classify land within the conservation district with respect to soil type, degree of slope, degree of threatened or existing erosion, cropping and tillage practices in use, or other relevant factors.
- (3) (a) Each conservation district shall annually submit to the commission, no later than the date that the commission prescribes:
- (i) a copy of the minutes of each conservation district meeting;
 - (ii) a copy of the conservation district's annual work plan; and
 - (iii) an accounting of the conservation district's financial affairs, as provided in Subsection (3)(b).
- (b) The accounting required under Subsection (3)(a)(iii) shall:
- (i) be prepared by a disinterested person; and
 - (ii) show the conservation district's debits and credits, including accounts payable and accounts receivable, the purpose of each debit, the source of each credit, and the actual cash balance on hand.

17D-3-104. District court jurisdiction.

The district court in which a conservation district is located has jurisdiction to decide all cases and controversies involving the construction, application, or enforcement of land use ordinances within the conservation district.

Chapter 3, Part 2. Creation, Consolidation, Division, and Dissolution of Conservation Districts**17D-3-201. Commission authority to approve the creation, consolidation, division, and dissolution of conservation districts -- Notice and hearing requirements.**

- (1) As provided in this part, the commission may:
 - (a) pursuant to a petition under Section 17D-3-202, approve the creation of a conservation district; or
 - (b) pursuant to a petition under Section 17D-3-202 or on its own motion, approve:
 - (i) the consolidation of two or more existing conservation districts;
 - (ii) the division of an existing conservation district into two or more conservation districts; or
 - (iii) the dissolution of an existing conservation district.
- (2) Before taking an action authorized under Subsection (1), the commission shall:
 - (a) cause notice of a hearing on the proposed creation, consolidation, division, or dissolution to be published:
 - (i) no more than 30 days after, as the case may be:
 - (A) the filing of a petition under Section 17D-3-202, for a proposed creation, consolidation, division, or dissolution; or
 - (B) adoption of the commission's own motion, for a proposed consolidation, division, or dissolution; and
 - (ii) within:
 - (A) for a proposed creation, the area of the proposed conservation district;
 - (B) for a proposed consolidation, the area of each conservation district proposed to be consolidated; and
 - (C) for a proposed division or dissolution, within the area of the conservation district proposed to be divided or dissolved; and
 - (b) hold a public hearing on the desirability and necessity of the creation, consolidation, division, or dissolution.

17D-3-202. Petition to create conservation district -- Petition or commission motion to consolidate, divide, or dissolve conservation districts -- Petition requirements.

- (1) A petition to create a conservation district, to consolidate two or more existing conservation districts, or to divide or dissolve an existing conservation district may be filed by 25 or more land occupiers residing within:
 - (a) for the proposed creation of a conservation district, the area included within the proposed conservation district;
 - (b) for the proposed consolidation of existing conservation districts, the area included within the conservation districts proposed to be consolidated; or
 - (c) for the proposed division or dissolution of an existing conservation district, the area included within the conservation district proposed to be divided or dissolved.
- (2) Each petition under Subsection (1) shall be:
 - (a) in the form that the commission prescribes; and
 - (b) filed with the commission.

17D-3-203. Considerations in determining whether to approve conservation district creation, consolidation, division, or dissolution -- Denial or approval -- Certification to lieutenant governor -- Prohibition against considering similar creation, consolidation, division, or dissolution if previously denied.

- (1) In determining whether to approve the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, the commission shall consider:
 - (a) the demonstrated necessity and administrative practicality of the creation, consolidation, division, or dissolution;
 - (b) the topography of and soil compositions and prevailing land use practices within the area of the proposed or existing conservation district or districts;
 - (c) the hydrologic unit code of the watershed in which the area of the proposed or existing conservation district or districts is located;
 - (d) the relationship of the area of the proposed or existing conservation district or 2 districts to existing watersheds and agricultural regions; and
 - (e) the sentiment expressed by persons within the area of the proposed or existing conservation district or districts with respect to the proposed creation, consolidation, division, or dissolution.
- (2) After holding a public hearing as required under Subsection 17D-3-201(2)(b) and considering the factors listed in Subsection (1), the commission shall:
 - (a)
 - (i) deny the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, as the case may be, if the commission determines that creation, consolidation, division, or dissolution is not necessary or administratively practical; or
 - (ii) approve the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, as the case may be, if the commission determines that creation, consolidation, division, or dissolution is necessary and administratively practical; and
 - (b) set forth in writing the reasons for the commission's action.
- (3)
 - (a)
 - (i) If the commission approves the creation, consolidation, division, or dissolution, the commission shall certify its action and deliver a copy of the certification to the lieutenant governor.
 - (ii) Each certification under Subsection (3)(a)(i) of a creation, consolidation, or division shall include an accurate legal description of the conservation district or districts as it or they are proposed to exist as a result of the creation, consolidation, or division.
 - (b) Upon the lieutenant governor's issuance of the certificate of creation, consolidation, division, or dissolution under Section 67-1a-6.5, as the case may be, the conservation district is created and incorporated, consolidated, divided, or dissolved, respectively.
- (4) If the commission denies a creation, consolidation, division, or dissolution under Subsection (2)(a)(i), the commission may not, for six months following the denial, consider a similar proposal to create, divide, or dissolve the conservation district or to consolidate the

conservation districts, as the case may be.

17D-3-204. Commission action if conservation districts are consolidated, divided, or dissolved.

- (1) If two or more conservation districts are consolidated, the commission shall merge the assets and liabilities of the conservation districts that have been consolidated into the conservation district resulting from the consolidation.
- (2) If a conservation district is divided, the commission shall equitably divide the assets and liabilities of the divided conservation district between the conservation districts resulting from the division.
- (3) If a conservation district is dissolved, the commission shall wind up the affairs of the dissolved conservation district.

Chapter 3, Part 3. Conservation District Board of Supervisors

17D-3-301. Board of supervisors -- Number -- Term -- Chair and officers -- Quorum Compensation.

- (1) Each conservation district shall be governed by a board of supervisors.
- (2)
 - (a) The board of supervisors of a conservation district consists of five member selected as provided in this part, at least three of whom shall be private agricultural land operators.
 - (b) If the board of supervisors divides the conservation district into watershed voting areas under Section 17D-3-308, at least one member of the board of supervisors shall reside within each watershed voting area.
- (3)
 - (a) The term of office of each member of a board of supervisors is four years.
 - (b) Notwithstanding Subsection (3)(a), if multiple conservation districts are consolidated or a single conservation district divided or dissolved under Part 2, Creation, consolidation, Division, and Dissolution of Conservation Districts:
 - (i) the term of each member of the board of supervisors of the consolidated conservation districts or the divided or dissolved conservation district terminates immediately upon consolidation, division, or dissolution; and
 - (ii) (A) the commission shall hold an election, as provided in this part, for all board of supervisors members of the consolidated conservation district or divided conservation districts, as the case may be; and
(B) the term of the two candidates receiving the highest number of votes at an election under Subsection (3)(b)(ii)(A) shall be four years, and the term of the three candidates receiving the next highest number of votes shall be two years.
- (4) The Board of supervisors shall elect a chair from among their number, and may elect other officers from among their number that the board considers necessary.
- (5) A majority of the board of supervisors constitutes a quorum for the transaction of board business, and action by a majority of a quorum present at a meeting of the board constitutes action of the board.
- (6) For performing official duties, each member of the board of supervisors of a conservation district shall receive:
 - (a) compensation for travel and time, as fixed by the commission; and
 - (b) actual and necessary expenses

17-D-3-302. Board of supervisor members to be elected – Candidates nominated by nominating committee or petition – Candidate qualifications.

- (1) As provided in this part, each member of a board of supervisors of a conservation district shall be elected at large within the conservation district from candidates nominated by:
 - (a) a nominating committee consisting of:
 - (i) the chair of the commission or council of the county in which the conservation district is located;
 - (ii) the chair of the USDA Farm Service Agency Committee of the county in which the conservation district is located;
 - (iii) (A) the chair of the board of supervisors of the conservation district; or
(B) the chair's designee, if the chair wishes to be a candidate for reelection;
 - (iv) the agricultural extension service designated representative of the county in which the conservation district is located; or
 - (b) petition under Section 17D-3-304.
- (2) Each candidate for election to the board of supervisors of a conservation district shall be:
 - (a) at least 18 years of age; and
 - (b) a resident within the conservation district.

17-D-303. Nominating committee nomination of candidates for election to the board of supervisors.

The nominating committee under Subsection 17-D-3-302 (1)(a) shall:

- (1) nominate for each conservation district election a slate of candidates for election to the board of supervisors of the conservation district equal in number to at least one more than the number of board of supervisors members to be elected; and
- (2) submit the names of candidates to the commission no later than the date set by the commission as the close of nominations.

17-D-3-304. Petition to nominate candidates for election to the board of supervisors.

- (1) A person may be nominated to be a candidate for election as a member of a board of supervisors of a conservation district by a petition filed with the commission no later than the date set by the commission as the close of nominations.
- (2) Each petition under Subsection (1) shall:
 - (a) state:
 - (i) the candidate's name;
 - (ii) that the candidate is at least 18 years of age; and
 - (iii) that the candidate is a resident of the conservation district for which the election is to be held;
 - (b) contain the signatures of at least six persons who reside and are registered voters within the conservation district; and
 - (c) list the name, address, and voting precinct number of each person who signs the petition.

17-D-3-305. Setting the date of an election of the board of supervisors -- Notice of the election.

- (1) The commission shall:
 - (a) set the date of the election of members of the board of supervisors of a conservation district; and
 - (b) publish notice of the election in a newspaper or other media outlet method with general circulation within the conservation district.
- (2) The date set for an election under Subsection (1)(a) may not be later than six weeks after the date set by the commission for the close of nominations.
- (3) The notice required under Subsection (1)(b) shall:
 - (a) state:
 - (i) the date of the election;
 - (ii) the names of all candidates; and
 - (iii) that a ballot request form of the election may be obtained from the commission office or from any other place that the commission designates; and
 - (b) specify the address of the commission office or other place where a ballot request form may be obtained.

17-D-3-306. Eligibility to vote in an election for board of supervisors members.

A person is eligible to vote in an election of members of the board of supervisors of a conservation district if the person:

- (1) (a) is a registered voter; and
- (b) resided within the conservation district: or
- (2) (a) owns or operates private agricultural land in the conservation district; and
- (b) (i) requests a ballot; or
- (ii) has voted in one of the last two elections of the conservation district's board of supervisors members.

17D-3-307. Supervisor's election mailing list.

- (1) The commission and department shall establish and maintain for each conservation district a supervisor's election mailing list that contains the name and mailing address of each person eligible to vote in an election of board of supervisors members.
- (2) Before each election of board of supervisors members and if requested by the nominating committee under Subsection 17-D-3-302(1), the commission shall deliver a copy of the supervisor's election mailing list to the nominating committee for the committee's review and approval.

17D-3-308. Watershed voting areas.

The board of supervisors of a conservation district may divide the conservation district into no more than three watershed voting areas.

17D-3-309. Election of board of supervisors members -- Ballots -- Commission duties regarding elections -- Election expenses.

- (1) The commission and department shall conduct by mail each election of members of the board of supervisors of a conservation district.
- (2) (a) No later than five days before the date set for the election of board of supervisors

members, the commission shall mail a ballot to each person listed on the supervisor's election mailing list under Section 17D-3-307.

- (b) Each ballot shall:
 - (i) contain:
 - (A) the names of all nominees for board of supervisors members, listed in alphabetical order according to last name;
 - (B) a place for the voter to indicate the person or persons for whom the voter is voting; and
 - (C) instructions to the voter on how to mark the ballot to indicate the voter's vote; and
 - (ii) specify the date after which the ballot will not be accepted for purposes of the election.
- (3) The candidates equal in number to the number of board of supervisors positions available and receiving the highest number of votes are elected as members of the board of supervisors and take office on the date set by the commission for their terms to begin.
- (4) The commission shall:
 - (a) determine all questions of voter eligibility;
 - (b) certify the count and tally of ballots and votes cast; and
 - (c) declare and certify each board of supervisors member elected.
- (5) The department shall pay all expenses incident to an election of board of supervisors members.

17D-3-310. Vacancies in the board of supervisors.

If a vacancy occurs in the office of board of supervisors member, the remaining members of the board of supervisors shall appoint a person to fill the vacancy, to serve the remainder of the unexpired term of the member creating the vacancy.

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