

SOIL CONSERVATION

CHAPTER 40

SOIL CONSERVATION

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40.01 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases shall, for the purposes of this chapter, be given the meanings subjoined to them.

Subd. 2. District or soil conservation district. "District" or "soil conservation district" means a governmental subdivision of this state organized in accordance with the provisions of this chapter for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

Subd. 3. Supervisor. "Supervisor" means one of the members of the governing body of a district elected or appointed in accordance with the provisions of this chapter.

Subd. 4. Committee or state soil conservation committee. "Committee" or "state soil conservation committee" means the agency created in section 40.03.

Subd. 5. Petition. "Petition" means a petition filed under the provisions of section 40.04, subdivision 1, for the creation of a district.

Subd. 6. Nominating petition. "Nominating petition" means a petition filed under the provisions of section 40.05 to nominate candidates for the office of supervisor of a soil conservation district.

Subd. 7. State. "State" means the state of Minnesota.

Subd. 8. Agency of this state. "Agency of this state" includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.

Subd. 9. United States or agencies of the United States. "United States" or "agencies of the United States" includes the United States of America, the soil conservation service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

Subd. 10. Government or governmental. "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

Subd. 11. Land occupier or occupier of land. "Land occupier" or "occupier of land" includes any person, firm, or corporation who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this chapter, whether as owner, lessee, renter, tenant, or otherwise.

Subd. 12. Due notice. "Due notice" means notice published at least twice, with an interval of at least seven days between the two publication dates, in a legal newspaper, and by posting at three conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to a notice, at the time and place designated in the notice, adjournment may be made, from time to time, without the necessity of renewing the notice for the adjourned dates.

[1937 c. 441 s. 2] (6932-2)

40.02 PUBLIC POLICY; PURPOSE. As a guide to the interpretation and application of this chapter, the public policy of the state is declared to be as follows. Improper land-use practices have caused and contributed to serious erosion of farm and grazing lands of this state by wind and water and that thereby top soil is being washed out of fields and pastures and has speeded up the removal of the absorptive top soil causing exposure of less absorptive and less protective, but more erosive, subsoil; and that land occupiers have failed to cause the discontinuance of such practice as creates this condition, and the consequences thereof have caused the deterioration of soil and its fertility and the deterioration of crops grown thereon, and declining yields therefrom, and diminishing of the underground water reserve, all of which have caused water shortages, intensified periods of drought, and crop failure, and thus brought about suffering, disease, and impoverishment of families and the damage of property from floods and dust storms; and that all of these effects may be prevented by land-use practices contributing to the conservation of top soil by carrying on of engineering operations such as the construction of terraces, check dams, dikes, ponds, ditches, and the utilization of strip cropping, lister furrowing, contour cultivating, land irrigation, seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees, and grasses.

It is hereby declared that it is for the public welfare, health, and safety of the people of Minnesota to provide for the conservation of the soil and soil resources of this state, and for the control and prevention of soil erosion, and thereby preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wild-life, protect the tax base, and protect public lands by land-use practices, as herein provided for.

[1937 c 441 s 1] (6932-1)

40.03 SOIL CONSERVATION COMMITTEE. Subdivision 1. **Members.** There is hereby established, to serve as an agency of this state and to perform the functions conferred upon it in this chapter, the state soil conservation committee to be composed of nine members, four of whom shall be bona fide farmers actually operating farms either as owners, operators, or tenants, and selected as herein provided. Five members thereof shall be ex officio members composed of the following: the director of the agricultural extension service of the University of Minnesota; the dean of the department of agriculture of the University of Minnesota; the commissioner of conservation; the commissioner of agriculture, dairy, and food, and such person as may be appointed by the secretary of agriculture of the United States, or, in the event of his failure to appoint such person within 30 days after the receipt of a certified copy of this chapter, then the fifth member of the committee shall be appointed by the governor. The other four members of said committee shall be appointed by the governor from nominees recommended by the state association of soil conservation district supervisors submitted to the governor, and in the event of a failure to submit such nominees to the governor he shall make the necessary appointments from bona fide farmers actually operating farms, either as owners, operators or tenants. Such four members shall be first appointed for the following terms: One for one year, one for two years, one for three years, and one for four years, and thereafter their successors shall be appointed for a term of four years. The committee shall keep a record of its official actions, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this chapter.

Subd. 2. **Employees.** The state soil conservation committee may employ an administrative officer and such technical experts and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The committee may call upon the attorney general for such legal services as it may require. It shall have authority to prescribe the powers and duties of its officers and employees, and to delegate to its chairman or to one or more of its other officers or members or administrative officer such of its own powers and duties as it may deem proper. Upon request of the committee, for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning, shall, insofar as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee members of the staff or personnel of the agency or institution of learning, and make such special reports, surveys, or studies as the committee may request.

Subd. 3. Officers; quorum; bonds. The committee shall designate its chairman, and may annually, from time to time, change such designation. A member of the committee shall hold office so long as he shall retain the office by virtue of which he shall be serving on the committee. A majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. The ex officio members of the committee shall receive no compensation for their services on the committee, but shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee. The other members of said committee shall receive \$10 per day for each day while engaged in the performance of their official duties and shall be reimbursed for all expenses, including traveling expenses necessarily incurred in connection with their duties as members of said committee. The committee shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted. The public examiner shall annually audit the books of the committee.

Subd. 4. Powers and duties. In addition to the powers and duties herein-after conferred upon the state soil conservation committee, it shall have the following powers and duties:

(1) To offer such assistance as may be appropriate to the supervisors of soil conservation districts, organized as provided hereinafter, in carrying out any of their powers and programs;

(2) To keep the supervisors of each of the several districts organized under the provisions of this chapter informed of the activities and experience of all other districts organized hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them;

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

(4) To 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 districts;

(5) To disseminate information throughout the state concerning the activities and programs of the soil conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable; and

(6) To subdivide and consolidate districts without a hearing or a referendum so as to confine districts within county limits, provided, further, that no district, when feasible and practicable, shall contain less than four full or fractional congressional townships.

[1937 c. 441 s. 3; 1947 c. 194 s. 1; 1949 c. 347 s. 1] (6932-3)

40.04 SOIL CONSERVATION DISTRICTS CREATED. Subdivision 1. **Petition.** Any 25 occupiers of land lying within the limits of the territory proposed to be organized into a district may file a petition with the state soil conservation committee asking that a soil conservation district be organized to function in the territory described in the petition. The petition shall set forth:

(1) The proposed name of the district;

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

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

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

Where more than one petition is filed covering parts of the same territory, the state soil conservation committee may consolidate all or any such petitions.

Subd. 2. Hearings. Within 30 days after such a petition has been filed with the state soil conservation committee, it may cause due notice to be given of a proposed hearing, to be held by the committee or its authorized agent, upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, for the creation of such district, upon the question of the appropriate boundaries to be assigned to the district, upon the propriety of the petition and

other proceedings taken under this chapter, and upon all questions relevant to such inquiries. All occupiers of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to the described territory, and all other interested parties, shall have the right to attend these hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and the further hearing held. After this hearing, if the committee shall determine, upon the facts presented at the hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of the district. In making the determination and in defining the boundaries, the committee shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits these lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions and to other soil conservation districts already organized or proposed for organization under the provisions of this chapter, and such other physical, geographical, and economic factors as are relevant, having due regard to the public policy set forth in section 40.02. The territory to be included within these boundaries need not be contiguous. If the committee shall determine, after such hearing, after due consideration of the relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and deny the petition. After six months shall have expired from the date of the denial of any such petition, subsequent petitions concerning the case or substantially the same territory may be filed, as aforesaid, and new hearings held and determinations made thereon.

Subd. 3. Determination; election. After the committee has made and recorded a determination that there is a need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within these boundaries, with the powers conferred upon soil conservation districts in this chapter, is administratively practicable and feasible. To assist the committee in the determination of this administrative practicability and feasibility, it shall be the duty of the committee, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of the referendum to be given. The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands below described and lying in the county (or counties) of and" and "Against creation of a soil conservation district of the lands below described and lying in the county (or counties) of and" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of these propositions as the voter may favor or oppose creation of the district. The ballot shall set forth the boundaries of the proposed district as determined by the committee. All occupiers of land lying within the boundaries of the territory, as determined by the state soil conservation committee, shall be eligible to vote in the referendum. Only these land occupiers shall be eligible to vote.

Subd. 4. Supervision. The state soil conservation committee shall pay all expenses for the issuance of these notices and the conduct of the hearing and referendum, and supervise the conduct of the hearings and referenda. It shall issue appropriate regulations governing the conduct of the hearings and referenda, and providing for the registration, prior to the date of the referendum, of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in the referendum. No informalities in the conduct of the

referendum or in any matters relating thereto shall invalidate the referendum or the result thereof if notice thereof shall have been given substantially as herein provided and the referendum shall have been fairly conducted.

Subd. 5. Result of election; district organized. The state soil conservation committee shall publish the result of the referendum and thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the operation of the district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the operation of the district is administratively practicable and feasible, it shall record such determination and proceed with the organization of the district in the manner hereinafter provided. In making such determination the committee shall give due regard and weight to the attitudes of the occupiers of lands lying within the defined boundaries, the number of land occupiers eligible to vote in the referendum who shall have voted, the proportion of the votes cast in the referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the proposed district, the probable expense of carrying on erosion-control operations within the district, and such other economic and social factors as may be relevant to such determination, having due regard to the public policy set forth in section 40.02; provided, that the committee shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a majority of the votes cast in the referendum upon the proposition of creation of the district shall have been cast in favor of the creation of the district.

Subd. 6. Supervisors a corporation; name of district; certificate of organization. If the state soil conservation committee shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint two supervisors to act, with the three supervisors elected as provided hereinafter, as the governing body of the district. The district shall be a governmental subdivision of this state and a public body corporate and politic, upon the taking of the following proceedings:

The two appointed supervisors shall present to the secretary of state an application signed by them, which shall set forth (and such application need contain no detail other than the mere recitals):

(1) That a petition for the creation of a district was filed with the state soil conservation committee pursuant to the provisions of this chapter, and that the proceedings specified in this chapter were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate or politic, under this chapter; and that the committee has appointed them as supervisors;

(2) The name and official residence of each supervisor, together with a certified copy of the appointment evidencing his right to office;

(3) The term of office of each supervisor;

(4) The name which is proposed for the district; and

(5) The location of the principal office of the supervisors of the district.

The application shall be subscribed and sworn to by each supervisor before an officer authorized by the laws of this state to take oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the state soil conservation committee, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the committee did duly determine that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the proposed territory, and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of the district, and that the result of the referendum showed a majority of the votes cast in the referendum to be in favor of the creation of the district; that thereafter the committee did duly determine that the operation of the proposed district is administratively practicable and feasible. The statement shall set forth the boundaries of the district as they have been defined by the committee.

The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other

soil conservation district in this state, or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and record them in an appropriate book of record in his office. If the secretary of state shall find that the name proposed for the district is identical with that of any other soil conservation district of this state, or so nearly similar as to lead to confusion and uncertainty, he shall certify that fact to the state soil conservation committee, which shall thereupon submit to the secretary of state a new name for the district, which shall not be subject to such defects. Upon receipt of the new name, free from such defects, the secretary of state shall record the application and statement, with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this state. The secretary of state shall make and issue to the supervisors a certificate, under the seal of the state, of the due organization of the district and record the certificate with the application and statement. The boundaries of the district shall include the territory as determined by the state soil conservation committee, as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this chapter.

Subd. 7. Later petitions. After six months shall have expired from the date of entry of a determination by the state soil conservation committee that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid, and action taken thereon in accordance with the provisions of this chapter.

Subd. 8. Territory annexed; procedure. (1) Petitions for including additional territory within an existing district may be filed with the state soil conservation committee, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The committee shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this chapter for petitions to organize a district. Where the total number of land occupiers in the area proposed for inclusion shall be less than 25, the petition may be filed when signed by a majority of the occupiers of such area, and in such case no referendum need be held. In referenda upon petitions for such inclusion, all occupiers of land lying within the proposed additional area shall be eligible to vote.

(2) Petitions for consolidating two or more districts or for separating an existing district into two or more districts may be filed with the state soil conservation committee by any 25 or more occupiers of land within the district or districts affected. In such event, it shall not be necessary to obtain the consent of any fee owners of lands in any created districts before additional territory is annexed or before districts are consolidated, or before an existing district is divided, but all other proceedings herein provided for in the case of petitions to organize a district shall be followed in so far as they are applicable. The committee shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this chapter for petitions to organize a district.

(3) In the holding of the referendum for consolidation or separation, all land occupiers within the affected district or districts shall be eligible to vote. The committee shall not have authority to determine the administrative practicability or feasibility of consolidating or separating districts unless a majority of the votes cast in the referendum within each and all of the separate districts to be affected, or within each and all of the separate areas sought to be made separate districts, shall be in favor of such consolidation or separation.

(4) In the case of consolidation or separation of districts, the corporate existence and terms of office of the officers of the old district or districts shall expire upon the issuance and recording by the secretary of state of a certificate of the due organization of the consolidated district, or of the several new districts. Upon consolidation all of the rights and liabilities of the several consolidating districts shall be vested in, and assumed by the consolidated district. Upon separation, the rights and liabilities of the original district shall be vested in and assumed by the new districts in the equitable proportion to be determined by the state soil conservation committee; provided, however, that any subdividing shall not affect the term of office of any supervisor for which he was elected or appointed, and such supervisor

shall continue to represent the district in which he resides for the full term for which he was elected or appointed.

Subd. 9. Certificate of organization as evidence. In any suit, action, or proceeding involving the validity of enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have been established in accordance with the provisions of this chapter upon proof of the issuance of the aforesaid certificate by the secretary of state. A copy of such certificate, duly certified by the secretary of state, shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of the filing and contents thereof.

[1937 c. 441 s. 4; 1943 c. 274 s. 1; 1945 c. 95 s. 1; 1947 c. 194 s. 2; 1949 c. 347 s. 2] (6932-4)

40.05 THREE SUPERVISORS ELECTED FOR EACH DISTRICT. Subdivision

1. Within 30 days after the date of issuance by the secretary of state of a certificate of organization of a soil conservation district, or such further time as the state soil conservation committee may allow, nominating petitions may be filed with the state soil conservation committee nominating legal voters as candidates for election as supervisors of such district, one for a term to expire at the time of the third annual town election in March and one to expire at the time of the fourth succeeding town election, and one to expire at the fifth succeeding town election in March. Each petition must be subscribed by ten or more legal voters of the district. No person shall sign petitions nominating more than three candidates and if he does his signature shall not be counted on any petition. The committee shall give due notice of the time and place where the election of three supervisors shall be held in the district, and shall specify therein the names of all candidates and the terms for which nominated. The committee shall prepare ballots for such election with the surnames of the candidates printed thereon in alphabetical order for each term and a square before each name and a direction to insert an X mark in the square before three names with different terms to indicate the voter's choice. All legal voters shall be eligible to vote at such election. The three candidates who shall receive the highest numbers respectively of the votes cast at such election shall be the elected supervisors for the district. In case of a tie, the election shall be determined by lot, under the direction of the committee. The committee shall supervise such election, pay all the expenses thereof, prescribe the regulations governing the same, determine the eligibility of voters and publish the results.

Subd. 2. In districts heretofore organized, the present elected supervisors shall hold their respective offices until the expiration of their present terms. Thereafter as such terms expire a successor shall be elected for the term of five years.

Subd. 3. After the effective date of Laws 1943, Chapter 274, all elections except that provided for the organization of the district, in subdivision 1, shall be held at the time and place of holding the annual spring town meeting and the town election officers shall act as the officers of the soil conservation district election. Election of supervisors of the soil conservation district shall be by separate ballot. Nominating petitions conforming to the rules stated in subdivision 1 shall be filed with the secretary of the soil conservation district at least ten days before the time of holding the town meeting. The ballots for use at the election shall be prepared by the secretary of the conservation district and delivered to the town clerk and shall conform to the rules in subdivision 1 so far as applicable. All laws relating to town elections shall govern. The county auditor shall canvass the returns and certify the result to the state soil conservation committee, and if the soil conservation district embraces land in more than one county the state soil conservation committee shall canvass the results of the election and publish the result.

Subd. 4. If a vacancy except by reason of expiration of term shall occur in the office of an elected supervisor, more than 30 days before the next annual town meeting, the governing body of the district shall fill the vacancy by appointment; and the supervisor appointed shall hold office until the next annual town meeting. If the term does not then expire, his successor shall be elected and hold office for the remainder of the term. If a vacancy except by reason of expiration of term shall occur in such office less than 30 days before the next annual town meeting, the governing body of the district shall fill the vacancy by appointment; and the supervisor shall hold office until the expiration of the term or until the second succeeding town meeting, whichever is the shortest term, when his successors shall be elected.

[1937 c. 441 s. 5; 1943 c. 274 s. 2; 1945 c. 95 s. 2; 1949 c. 347 s. 3] (6932-5)

40.06 SUPERVISORS. Subdivision 1. The governing body of the district shall consist of five supervisors, elected or appointed as herein provided. All supervisors shall be actual bona fide farmers operating farms as owners or renters, tenants, and legal voters residing within the district. The two supervisors appointed by the committee upon the creation of the district as hereinbefore provided shall serve for terms ending respectively at the next annual town election and at the second annual town election following their appointment, as designated by the committee, and thereafter their successors shall be elected for terms of five years. In districts heretofore organized, the present appointed supervisors shall hold office until the next occurring annual town election, and their successors shall be elected for terms of three and four years, respectively, and thereafter their successors shall be elected for terms of five years. Such elections shall be held in like manner as provided for the election of other supervisors.

Subd. 2. The supervisors shall elect a chairman to act during their pleasure. A supervisor shall hold office until his successor has been elected or appointed and has qualified. Vacancies in the office of supervisor appointed by the state committee, for an entire term or an unexpired term, shall be filled by the state committee. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall receive such compensation for his services as the committee may determine, and he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties to be paid by the county of which the supervisor is a resident, upon approval by the committee, and the sum so paid shall be reimbursed by the committee out of funds available therefor.

Subd. 3. **Employees.** The supervisors may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties, and compensation. The county attorney of the county in which the major portion of said soil conservation district is located, shall be the attorney for said district, and the supervisors thereof, and the said supervisors may call upon said attorney for the necessary legal counsel and advice and service. The supervisors may delegate to their chairman, to one or more supervisors, or to one or more agents, or employees such powers and duties as they may deem proper. The supervisors shall furnish to the state soil conservation committee, upon request, 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 this chapter.

Subd. 4. **Employee bonds; audit; removal of supervisor.** The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; the public examiner shall annually audit the books of said soil conservation district and its supervisors. Any supervisor may be removed by the state soil conservation committee upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

Subd. 5. **Advisory assistance.** The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

[1937 c. 441 s. 6; 1943 c. 274 s. 3; 1945 c. 95 s. 3; 1947 c. 194 s. 3; 1949 c. 347 s. 4] (6932-6)

40.07 POWERS OF DISTRICTS AND SUPERVISORS. A soil conservation district organized under the provisions of this chapter shall constitute a governmental subdivision of this state, and a public body, corporate and politic, exercising public powers, and the district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this chapter:

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive and control measures needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures; provided, however, that in order to avoid duplication of research activities, no district shall initiate any research pro-

gram except in cooperation with the government of the state or any of its agencies, or with the United States or any of its agencies;

(2) To conduct demonstrational projects within the district on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district, upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and controlled;

(3) To carry out preventive and control measures within the district, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures referred to in section 40.02, on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district, upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands, including the owner of the fee thereof;

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any occupier of lands within the district, in the carrying on of erosion control and prevention operations within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this chapter;

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interest therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and provisions of this chapter;

(6) To make available, on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion;

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

(8) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify, in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

(9) To take over, by purchase, lease, or otherwise, and to administer, any soil-conservation, erosion-control, or erosion-prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to act as agent for the United States or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

(10) To sue and be sued in the name of the district; to have perpetual succession, unless terminated as hereinafter provided; to make and execute contracts

and other instruments, necessary or convenient to the exercise of its powers; to make, and, from time to time, amend and repeal, rules and regulations not inconsistent with this chapter, to carry into effect its purposes and powers;

(11) As a condition to the extending of any benefits under this chapter to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise, to any operations conferring such benefits; but

(12) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state.

[1937 c. 441 s. 7] (6932-7)

40.08 ADOPTION OF LAND-USE REGULATIONS. The supervisors of any district shall have authority to formulate regulations governing the use of lands within the district in the interest of conserving soil resources and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct a referendum for submission of the regulations to the occupiers of lands lying within the boundaries of the district for their indication of approval or disapproval of the proposed regulations, and until after the supervisors have considered the result of the referendum. The proposed regulations shall be embodied in a proposed ordinance. Copies of the proposed ordinance shall be available for the inspection of all eligible voters during the period between publication of the notice and the date of the referendum. The notices of the referendum shall recite the contents of the proposed ordinance, or shall state where copies of the proposed ordinance may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed ordinance No., prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed ordinance No., prescribing land-use regulations for conservation of soil and prevention of erosion" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of these propositions as the voter may favor or oppose approval of the proposed ordinance. The supervisors shall supervise the referendum, prescribe appropriate regulations governing the conduct thereof, and publish the result thereof. All occupiers of lands within the district shall be eligible to vote in the referendum. Only these land occupiers shall be eligible to vote. No informalities in the conduct of such referendum, or in any matters relating thereto, shall invalidate the referendum or the result thereof, if notice thereof shall have been given substantially as herein provided and the referendum shall have been fairly conducted.

The supervisors shall not have authority to enact the proposed ordinance into law unless at least 85 per cent of the votes cast in the referendum shall have been cast for approval of the proposed ordinance. The approval of the proposed ordinance by 85 per cent of the votes cast in the referendum shall not be deemed to require the supervisors to enact the proposed ordinance into law. Land-use regulations prescribed in ordinances adopted pursuant to the provisions of this section by the supervisors of any district shall have the force and effect of law in the district and shall be binding and obligatory upon all occupiers of lands within the district.

Any occupier of land within the district may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this section be amended, supplemented, or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provisions of this section shall not be amended, supplemented, or repealed except in accordance with the procedure prescribed in this section for adoption of land-use regulations. Referenda on adoption, amendment, supplementation, or repeal of land-use regulations shall not be held more often than once in six months.

The regulations to be adopted by the supervisors under the provisions of this section may include:

(1) Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures;

(2) Provisions requiring observance of particular methods of cultivation, including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding, and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation, and reforestation;

(3) Specifications of cropping programs and tillage practices to be observed;

(4) Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;

(5) Provisions for such other means, measures, operations, and programs as may assist conservation of soil resources and prevent or control soil erosion in the district, having due regard to the declaration of public policy set forth in section 40.02.

The regulations shall be uniform throughout the territory comprised within the district, except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this section shall be printed and made available to all occupiers of lands lying within the district.

[1937 c. 441 s. 8] (6932-8)

40.09 ENFORCEMENT OF LAND-USE REGULATIONS. The supervisors may have authority, with the consent of the occupier thereof, to go upon any lands within the district to determine whether land-use regulations adopted under the provisions of section 40.08 are being observed.

[1937 c. 441 s. 9] (6932-9)

40.10 NOT COMPULSORY UPON LAND OCCUPIER. Nothing in this chapter shall be deemed to be compulsory upon any land occupier.

[1937 c. 441 s. 10] (6932-10)

40.11 BOARD OF ADJUSTMENT. Subdivision 1. **Membership.** Where the supervisors of any district organized under the provisions of this chapter shall adopt an ordinance prescribing land-use regulations in accordance with the provisions of section 40.08, they shall further provide by ordinance for the establishment of a board of adjustment. Such board of adjustment shall consist of three members, each to be appointed for a term of three years, except that the members first appointed shall be appointed for terms of one, two, and three years, respectively. The members of each such board of adjustment shall be appointed by the state soil conservation committee, with the advice and approval of the supervisors of the district for which such board has been established, and shall be removable, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason, such hearing to be conducted jointly by the state soil conservation committee and the supervisors of the district. Vacancies in the board of adjustment shall be filled in the same manner as original appointments, and shall be for the unexpired term of the member whose term becomes vacant. Members of the state soil conservation committee and the supervisors of the district shall be ineligible to appointment as members of the board of adjustment during their tenure of such other office. The members of the board of adjustment shall receive compensation for their services at the rate of \$5.00 per diem for time spent on the work of the board, in addition to expenses, including traveling expenses, necessarily incurred in the discharge of their duties, if funds are available therefor. The supervisors shall pay the necessary administrative and other expenses of operation incurred by the board, upon the certificate of the chairman of the board.

Subd. 2. **Rules; meetings; quorum.** The board of adjustment shall adopt rules to govern its procedure, which rules shall be in accordance with the provisions of this chapter and with the provisions of any ordinance adopted pursuant to this section. The board shall designate a chairman from among its members, and may, from time to time, change such designation. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Any two members of the board shall constitute a quorum. The chairman, or in his absence such other member of the board as he may designate to serve as acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep a full and accu-

rate record of all proceedings, of all documents filed with it, and of all orders entered, which shall be filed in the office of the board and shall be a public record.

Subd. 3. Petitions; hearings. Any land occupier may file a petition with the board of adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of his carrying out upon his lands the strict letter of the land-use regulations prescribed by ordinance approved by the supervisors, and praying the board to authorize a variance from the terms of the land-use regulations in the application of such regulations to the lands occupied or owned by the petitioner. Copies of such petition shall be served by the petitioner upon the chairman of the supervisors of the district within which his lands are located and upon the chairman of the state soil conservation committee, personally or by registered mail. The board of adjustment shall fix a time for the hearing of the petition and cause due notice of such hearing to be given. The supervisors of the district and the state soil conservation committee shall have the right to appear and be heard at such hearing. Any occupier of lands lying within the district who objects to the authorizing of the variance prayed for may intervene and become a party to the proceedings. Any party to the hearing before the board may appear in person or by attorney. If, upon the facts presented at such hearing, the board shall determine that there are great practical difficulties or unnecessary hardship in the way of applying the strict letter of any of the land-use regulations upon the lands of the petitioner, it shall make and record such determination and shall make and record findings of fact as to the specific conditions which establish such great practical difficulties or unnecessary hardship. Upon the basis of such findings and determination, the board shall have power, by order, to authorize such variance from the terms of the land-use regulations, in their application to the lands of the petitioner, as will relieve such great practical difficulties or unnecessary hardship and will not be contrary to the public interest, and such that the spirit of the land-use regulations shall be observed, the public health, safety, and welfare secured, and substantial justice done.

Subd. 4. Review. Any petitioner aggrieved by an order of the board granting or denying, in whole or in part, the relief sought, the supervisors of the district, or any intervening party, may obtain a review of such order in any district court, by commencing in such court an action to have the order of the board modified or set aside. Upon such an action being commenced, the court shall have jurisdiction of the proceedings and of the questions determined or to be determined therein, and shall have power to grant such temporary and permanent relief as it deems just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order of the board. No contention that has not been urged before the board shall be considered by the court unless the failure or neglect to urge such contention shall be excused because of extraordinary circumstances. The matter as heard in the district court shall be a trial de novo or may be heard by stipulation of the parties to the action upon the record made before the board of adjustment. The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review in the same manner as are other judgments or decrees of the district court in civil actions.

[1937 c. 441 s. 11] (6932-11)

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

[1937 c. 441 s. 12] (6932-12)

40.13 STATE AGENCIES TO COOPERATE. Agencies of this state which shall have jurisdiction over, or be charged with the administration of, any state-owned lands, and of any county, or other governmental subdivision of the state, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall cooperate with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this chapter. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands. The provisions of land-use regulations adopted pursuant to section 40.08 shall have the force and effect of law over all such publicly owned lands, and shall be in all respects observed by the agencies administering such lands.

[1937 c. 441 s. 13] (6932-13)

40.14 DISCONTINUANCE OF DISTRICTS. At any time after five years after the organization of a district under the provisions of this chapter, 25 occupiers of land lying within the boundaries of the district may file a petition with the state soil conservation committee praying that the operations of the district be terminated and the existence of the district discontinued. The committee may conduct such public meetings and public hearings upon the petition as may be necessary to assist in the consideration thereof. Within 60 days after the petition has been received by the committee, it shall give due notice of the holding of a referendum, supervise the referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots, upon which the words "For terminating the existence of the (name of the soil conservation district to be here inserted)" and "Against terminating the existence of the (name of the soil conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of these propositions as the voter may favor or oppose discontinuance of the district. All occupiers of lands lying within the boundaries of the districts shall be eligible to vote in the referendum. Only these land occupiers shall be eligible to vote. No informalities in the conduct of the referendum or in any matters relating thereto shall invalidate the referendum, or the result thereof, if notice thereof shall have been given substantially as herein provided and the referendum shall have been fairly conducted.

The committee shall publish the result of the referendum and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the continued operation of the district is administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the continued operation of the district is not administratively practicable and feasible, it shall record such determination and certify such determination to the supervisors of the district. In making such determination the committee shall give due regard and weight to the attitudes of the occupiers of lands lying within the district, the number of land occupiers eligible to vote in the referendum who shall have voted, the proportion of the votes cast in the referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the district, the probable expense of carrying on erosion-control operations within the district, and such other economic and social factors as may be relevant to such determination, having due regard to the declaration of public policy set forth in section 40.02. The committee shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the continuance of the district.

Upon receipt from the state soil conservation committee of a certification that the committee has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and pay over the proceeds of the sale to be covered into the state treasury. The supervisors shall thereupon file an application, duly verified, with the secretary of state for the discontinuance of the district, and transmit with the application the certificate of the state soil conservation committee setting forth the determination of the committee that the continued operation of the district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and set forth a full accounting of these properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and record the certificate in an appropriate book of record in his office.

Upon issuance of a certificate of dissolution under the provisions of this section, all ordinances and regulations theretofore adopted and in force within these districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in the contracts. The state soil conservation committee shall be substituted for the district or supervisors as party to the contracts. The committee shall be entitled to all benefits and subject to all liabilities under the contracts, and

shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate the contracts by mutual consent, or otherwise, as the supervisors of the district would have had. The dissolution shall not affect the lien of any judgment entered under the provisions of section 40.11, nor the pendency of any action instituted under the provisions of section 40.11, and the committee shall succeed to all the rights and obligations of the district or supervisors as to these liens and actions.

The state soil conservation committee shall not entertain petitions for the discontinuance of any district nor conduct referenda upon the petitions, nor make determinations pursuant to the petitions in accordance with the provisions of this chapter, more often than once in two years.

[1937 c. 441 s. 14] (6932-14)

40.15 SHORT TITLE. This chapter may be known and cited as the Minnesota soil conservation districts law.

[1937 c. 441 s. 16] (6932-16)