

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

68-West-Statehouse, 300 SW 10th Ave.
Topeka, Kansas 66612-1504
(785) 296-3181 ♦ FAX (785) 296-3824

kslegres@klrd.ks.gov

<http://www.kslegislature.org/klrd>

September 18, 2018

CONSERVATION DISTRICTS

The following is a summary of how conservation districts are created and operated within the State of Kansas—including their purpose, powers, and taxing authority. Following the summary is a synopsis on how conservation districts operate within Iowa, Missouri, and Nebraska.

Background

Severe soil erosion problems during the Dust Bowl period of the 1930s prompted the passage of the Conservation District Law in 1937, KSA §§ 2-1901 *et seq.*, and a subsequent amendment on July 1, 2007. The first conservation district was created in Labette County in 1938 and the last was in Shawnee County in 1954, for a total of 105 conservation districts across the state, one in each county. In recognition that the farm and grazing lands of the state are among its basic assets and must be protected and promoted, the purpose of the Conservation District Law was and is to address improper land-use practices that cause and contribute to the serious erosion of farm and grazing lands within the state. Soil erosion in the 1930s resulted in the loss of fertile soil material in dust storms, the reduction in productivity of rich bottom lands, and the deterioration of Kansas crops.

Organization

The conservation district is the main local unit of government regarding the conservation of soil, water, and other related natural resources located within the boundaries of a county and operates under the purview of what is now the Division of Conservation, located within the Kansas Department of Agriculture. Originally, conservation districts were overseen by the Soil Conservation Commission (Commission), which had the responsibility of administering the Conservation Districts Law, the Watershed District Act, and other statutes authorizing various conservation programs. The Commission's budget was financed through dedicated funding from the Kansas State Water Plan Fund, which historically has been composed of State General Fund and fee fund dollars; however, in recent years, the State Water Plan Fund had not received any State General Fund transfers. In 2011, Governor Brownback issued an Executive Reorganization Order to place the State Conservation Commission, the Animal Health Department, and the Agriculture Marketing Division of the Department of Commerce within the Kansas Department of Agriculture. The term "State Conservation Commission" now refers only to the elected and appointed members of the board who now serve the Division of Conservation. The members on this board continue to hold their positions and their powers, duties, and functions have not changed.

The conservation districts themselves are governed by a board of five elected local citizens who are referred to as supervisors and serve terms based on the number of votes they receive. This board is charged with setting local priorities, establishing policy, and administering non-regulatory conservation programs. The board meets monthly and none of its members receive compensation, although they are entitled to necessary expenses (including travel expenses). Such expenses are paid for by the Division of Conservation which provides financial assistance to conservation districts. The board does have the authority to hire employees to carry out the day-to-day coordination of district activities.

An annual meeting open to the public is held in either January or February. At this meeting, the supervisors are expected to make a full report regarding their activities and the financial affairs of the district over the previous year. If any supervisor's term has expired, an election by secret ballot is held for all the qualified electors of the district. Any supervisor may be removed by the State Conservation Commission upon notice and a hearing, in accordance with the Kansas Administrative Procedure Act, for neglect of duty or malfeasance in office.

A district may be terminated if, after five years of existence, 10 percent of the occupiers of land lying within the district file a petition with the State Conservation Commission to do so; a referendum is held, in which all occupiers of land in the district are eligible to vote; and a majority of the votes cast are in favor of termination. However, the State Conservation Commission has the final authority to determine whether the continued operation of the district is administratively practicable and feasible. If it is determined not to be, the district will be terminated and all ordinances and regulations issued by the district shall have no further force or effect. Upon termination, the supervisors shall dispose of all property belonging to the district at public auction and pay the proceeds into the State Treasury.

Powers

Conservation districts were created to provide for the conservation, use, and development of the soil and water resources of the state, and for the control and prevention of soil erosion, flood damages, and injury to the quality of water, and to thereby preserve the state's natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people.

To fulfill these duties, conservation districts have been given the power to:

- Conduct surveys, investigations, and research relating to the character of soil erosion, flood damage, and the preventive and control measures needed, and to disseminate information concerning such preventive and control measures. No district shall initiate any research program except in cooperation with the state or federal government to avoid duplication of research activities;
- Conduct projects within the district on lands controlled by the State in order to demonstrate by example the means, methods, and measures by which soil and water resources may be conserved and developed and soil erosion may be prevented and controlled;
- Carry out preventive and control measures within the district, such as engineering operations, methods of cultivation, the growing of vegetation, and

changes in the use of land, on lands owned or controlled by the State or any of its agencies within the district upon obtaining the consent of the occupier of the lands concerned;

- Cooperate, enter into agreements with, or furnish financial aid to any agency or occupier of lands within the district, for erosion-control, flood prevention, and water management operations;
- Obtain options upon and to acquire by purchase or exchange any property; to maintain, administer, and improve any properties acquired; and to receive income from such properties;
- Make available to land occupiers within the district agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings to assist in soil resource conservation and soil erosion-prevention operations;
- Develop comprehensive plans for the conservation of soil and water resources and for the control and prevention of soil erosion, flood damages, impaired drainage, the effects of drought, and the maintenance and improvement of water quality, and to publish these plans and bring them to the attention of the district;
- Take over and administer any soil conservation, erosion-control, erosion-prevention, flood prevention, or water management project located within the district undertaken by the federal or state government, and to accept contributions from the federal or state government or from any persons or corporations to assist in the district's operations;
- Sue and be sued in the name of the district, make and execute contracts, and to make, amend, and repeal rules and regulations to carry into effect the district's purposes and powers;
- Require contributions in money, services, materials, or otherwise to any operation receiving benefits on lands not owned or controlled by the State as a condition to extending any benefits under this act, at the supervisor's discretion, and also may require land occupiers to enter into agreements on the permanent use of such lands to prevent or control erosion upon them;
- Accept and expend funds donated to the district for purposes of providing at least a 20 percent cost-share for the purchase of an eligible water right;
- Cooperate with the supervisors from any other district in the exercise of any of the above powers;
- Call upon the county attorney for any legal services the board may require; and
- Control and eradicate *sericea lespedeza* in the districts located in counties designated by the Secretary of Agriculture as *sericea lespedeza* disaster areas.

State agencies charged with the administration of any State-owned lands of any county are required to cooperate to the fullest extent with the supervisors of conservation districts in their programs and operations. Moreover, supervisors are given free access to enter and perform work upon such publicly owned lands.

Examples of conservation district activities across the state include:

- The Milford Lake Watershed Program, which brings partners together to work with the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) to implement conservation practices within the Milford Lake Watershed in an effort to reduce the amount of nutrients entering Milford Lake. The program seeks to address harmful algal blooms that have adversely affected public water supplies and wildlife. The NRCS will invest a proposed \$2.88 million nationwide to support this effort;
- Sediment and erosion-control workshops on best management practices and strategies for compliance and inspections to maintain water quality in the Shawnee County Conservation District; and
- The Doniphan County Road and Fields Sediment Reduction Program, which is a collaborative program involving the Doniphan County Conservation District, the Doniphan County Road and Bridge Department, and the NRCS. The program seeks to protect local water and soil from soil runoff into roads and ditches caused by erosion issues from steep slopes, less soil, and high rainfall. The NRCS has proposed an investment of \$250,000 for the Kansas project.

Financing

Conservation districts in Kansas are funded as a line item within the Department of Agriculture's annual budget, with all funds coming from the State Water Plan Fund. Conservation districts received \$2.1 million in aid for fiscal year (FY) 2017, received \$2.0 million in FY 2018, and are approved \$2.1 million for FY 2019.

FY 2017 Actual	\$2,092,637
FY 2018 Actual	2,000,000
FY 2019 Approved	2,092,637

The conservation district board may request funding from the board of county commissioners out of the county general fund. To provide additional funds for the district, the county commissioners may levy an annual tax on taxable tangible property within the district that cannot exceed \$2 per \$1,000 of taxable value or \$55,000, whichever is less. Moreover, on or before September 1 of each year, each conservation district must submit to the Division of Conservation a certificate of the amount of funds that will be provided for the upcoming calendar year by the county commissioners. To provide state financial assistance to the districts, the Division of Conservation, in its regular budget request as a line item for the upcoming fiscal year, submits a special request for an amount equal to the sum of the allocation of each county to each conservation district, but not to exceed \$25,000 per district.

Funds appropriated to the district must be used to carry out the activities and functions of the district, including cost of travel and expenses of supervisors and employees of the district, educational materials, conservation awards, annual meeting expenses (excluding meals), and membership dues to conservation-related organizations. The funds cannot be used for prizes, incentives for achievements or attendance at meetings, or for travel or expenses for anyone other than supervisors and employees of the district. Additionally, the supervisors of any district cannot contract debts or obligations in the name of the district beyond the current appropriation made available to the district by the Division of Conservation, federal grants, or other financial sources.

CONSERVATION DISTRICTS IN OTHER STATES

Iowa

Conservation districts were created in 1939 as an effort to protect the soil and water resources of the state of Iowa, as well as to encourage the development of farm management and agricultural practices that are consistent with the capability of the land to sustain agriculture and thereby preserve the state's natural resources. There is a state Division of Soil Conservation that oversees the various conservation districts who operate as a legal subdivision of state government. By working with the NRCS and the Iowa Department of Agriculture and Land Stewardship—Division of Soil Conservation, the conservation districts address natural resource issues that are most critical in their district.

Each district is managed by five commissioners who serve four-year terms and are elected on a general ballot in each county. Only two commissioners may reside in any single township. The commissioners are responsible for carrying out state laws and programs within their districts, including sediment control law, conservation cost-sharing, conservation revolving loan funds, water quality projects, and resource enhancement and protection. Additionally, they assist in implementing the federal Conservation Reserve Program and Environmental Quality Incentives Program. Funding comes through the Iowa Department of Agriculture and Land Stewardship—Division of Soil Conservation. Sub-districts of soil and water conservation districts can be formed to carry out watershed protection and flood prevention programs and have the ability to impose a special annual tax to pay for actual and necessary expenses incurred to organize the sub-district; to acquire land or rights; and to repair, maintain, and operate the works of improvement within the boundaries. Additionally, the conservation districts receive state personnel support and funding.

Missouri

In response to the Dust Bowl and severe erosion problems within the state, Missouri established local Soil and Water Conservation Districts (SWCDs). The Soil and Water Conservation Program (SWCP) supports a SWCD in each of Missouri's 114 counties. Missouri's SWCDs are locally operated sub-units of state government that operate under the SWCP and are governed by a board of supervisors with five members. Four are elected from landowners in the county, who serve four-year terms, and the fifth is a representative from University Extension. Board members are public officials responsible for all district action, decisions, and employees, but they have no regulatory or taxing authority and are not paid. Most Soil and Water Conservation Districts receive and administer locally generated funds as well as funds

from state government. The SWCD Commission developed a cost-share program to provide financial incentives to help farmers and landowners install erosion-control practices. The Commission receives technical assistance from the NRCS. The local districts also provide informational and educational activities, which include grazing schools and field tours.

Nebraska

Natural Resources Districts (NRDs) were created to solve flood control, soil erosion, irrigation run-off, and groundwater quantity issues. The functions performed by soil and water conservation districts, watershed conservancy districts, watershed districts, advisory watershed improvement boards, and watershed planning boards were all consolidated into NRDs. NRDs are unique to Nebraska in that they are governed by locally elected boards and are charged under state law with 12 areas of responsibility, including flood control, soil erosion, groundwater management, grazing, trees and wildlife, urban conservation, and recreation. Major Nebraska river boundaries form the district boundaries, which allow NRDs to best respond to local needs. Funding comes from both the State of Nebraska and local property taxes. In many cases, the NRDs use 1 to 2 percent of all property taxes collected in the county. In certain circumstances, NRDs may issue bonds for the construction of facilities or qualified projects.