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CONSERVATION DISTRICTS

74-5,126. Powers, duties and functions of conservation commission transferred to department of agriculture; appointment of executive director. (a) On the effective date of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, the division of conservation is hereby established within the Kansas department of agriculture. The division of conservation shall be a continuation of the state conservation commission and the executive director of conservation shall be a continuation of the executive director of the state conservation commission. The division shall be administered under the supervision of the secretary of agriculture by the executive director of the division of conservation, who shall be the chief administrative officer of the division. The executive director of the division of conservation shall be jointly appointed by the secretary of agriculture and the state conservation commission and shall serve at the pleasure of the secretary and the state conservation commission. The executive director of the division of conservation shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of agriculture, with the approval of the governor.

(b) All of the powers, duties and functions of the existing state conservation commission and the existing executive director of the state conservation commission are hereby transferred to and imposed upon the conservation division of the Kansas department of agriculture and the executive director of the conservation division, respectively.

History: Executive Reorganization Order No. 40, § 15; L. 2011, ch. 135, § 15; July 1.

74-5,127. Department of agriculture successor to conservation commission; application of documentary references and designations; rules and regulations, orders and directives of secretary continued in effect until superseded. (a) The conservation division of the department of agriculture shall be the successor in every way to the powers, duties and functions of the state conservation commission and the executive director of the state conservation commission in which the same were vested prior to the effective date of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto. Every act performed in the exercise of such powers, duties and functions by or under the authority of the secretary of agriculture shall be deemed to have the same force and effect as if performed by the state conservation commission and the executive director of the state conservation commission in which such powers, duties and functions were vested prior to the effective date of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto.

(b) Whenever the state conservation commission or the executive director of the state conservation commission, or words of like effect, are referred to or designated by a statute, contract, memorandum of understanding, plan, grant, waiver or other document, such reference or designation shall be deemed to apply to the conservation division within the department of agriculture or the executive director of the conservation division under the secretary of agriculture.

(c) All rules and regulations, orders and directives of the state conservation commission or the executive director of the state conservation commission that are in effect on the effective date of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the conservation division of the Kansas department of agriculture until revised, amended, revoked or nullified pursuant to law by the secretary of agriculture.

History: Executive Reorganization Order No. 40, § 16; L. 2011, ch. 135, § 16; July 1.

74-5,128. Conservation commission continued. The state conservation commission established by K.S.A. 2-1904, and amendments thereto, is hereby continued in existence within the conservation division within the department of agriculture with respect to the powers, duties and functions of the state conservation commission that are transferred under K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto. Persons who are members of the board shall continue to hold such offices under the conditions and limitations in effect on the effective date of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto.

History: Executive Reorganization Order No. 40, § 17; L. 2011, ch. 135, § 17; July 1.

74-5,129. Department of agriculture successor to conservation commission. The Kansas department of agriculture shall succeed to all property, property rights and records of the state conservation commission and the executive director of the state conservation commission.

History: Executive Reorganization Order No. 40, § 18; L. 2011, ch. 135, § 18; July 1.

74-5,130. Funds and liabilities transferred from conservation commission to department of agriculture. (a) On the effective date of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, the balances of all funds or accounts thereof appropriated or reappropriated for the state conservation commission are hereby transferred within the state treasury to the Kansas department of agriculture and shall be used only for the purpose for which the appropriation was originally made.

(b) Subject to acts of the legislature, all fees and grant funds dedicated to conservation programs shall remain dedicated to conservation programs on and after the effective date of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto.

History: Executive Reorganization Order No. 40, § 19; L. 2011, ch. 135, § 19; July 1.

74-5,131. Transfer of officers and employees; rights and benefits preserved. (a) (1) The executive director of the conservation commission shall become the executive director of the conservation division of the Kansas department of agriculture on the effective date of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto. All other officers and employees of the state conservation commission who, immediately prior to such date, were engaged in the performance of powers, duties and functions for the state conservation commission and who are, in the opinion of the secretary of agriculture in consultation with the executive director, necessary to perform the powers, duties and functions of the state conservation commission that are transferred under K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, shall become officers and employees of the department of agriculture and are hereby transferred to the Kansas department of agriculture on the effective date of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto.

(2) The secretary of agriculture in consultation with the executive director shall determine such officers and employees as are necessary to enable the secretary to carry out the duties of the division of conservation.

(3) All classified employees transferred under this subsection (a) shall retain their status as classified employees. Thereafter, the secretary of agriculture may convert vacant classified positions to positions in the unclassified service under the Kansas civil service act.

(b) Officers and employees of the state conservation commission transferred by K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, shall retain all retirement benefits and leave balances and rights that had accrued or vested prior to the date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, shall affect the classified status of any transferred person employed by the state conservation commission prior to the date of transfer.

(c) Liability for accrued compensation or salaries of each officer and employee who is transferred to the Kansas department of agriculture under K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, shall be assumed and paid by the Kansas department of agriculture on the effective date of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto.

History: Executive Reorganization Order No. 40, § 20; L. 2011, ch. 135, § 20; July 1.

74-5,132. Rights preserved in legal actions and proceedings. (a) No suit, action, or other proceeding, judicial or administrative, that is lawfully commenced or that could have been lawfully commenced, by or against any state agency or program mentioned in K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

(b) No criminal action that is commenced or that could have been commenced by the state shall abate by the taking effect of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto.

History: Executive Reorganization Order No. 40, § 21; L. 2011, ch. 135, § 21; July 1.

74-5,132a. Powers, duties and functions of division of conservation; employment of administrative office, technical experts and other employees; assignment of personnel from state agency of institution of learning upon request of the division. In addition to the powers and duties conferred in K.S.A. 2013 Supp. 74-5,126, and amendments thereto, the Kansas department of agriculture division of conservation shall have all the powers, duties and functions delegated pursuant to K.S.A. 2013 Supp. 74-5,126, and amendments thereto. It shall also employ an administrative officer and such technical experts as it may require and shall determine their qualifications and duties. Such officer and experts shall be in the unclassified service of the Kansas civil services act and shall receive annual salaries fixed by the division and approved by the state finance council. All other agents and employees, permanent or temporary, required by the division of conservation, shall be within the classified services of the Kansas civil service act. The division may call upon the attorney general of the state for such legal services as it may require. It shall have authority to delegate to one or more agents or employees, such powers and duties as it deems proper. It shall be supplied with suitable office accommodations at the state capital, and shall be furnished with the necessary supplies and equipment. Upon request of the division, for the purpose of carrying out any of its functions, the supervision officer of any state agency or of any state institution of learning, insofar as may be possible under available appropriations and having due regard to the needs of the agency to which the request is directed, shall assign or detail to the division members of the staff or personnel of such agency or institution of learning and make such special reports, surveys or studies as the division may request.

History: L. 2012, ch. 140, sec. 122; July 1.

2-1901. Title to act; “soil conservation district” defined. This act may be known and cited as the conservation districts law. All soil conservation districts now formed and hereafter formed shall be conservation districts, and wherever in the name of such districts the words, “soil conservation district” appears the same is hereby changed to “conservation district.” Whenever in the statutes of this state the term “soil conservation district” shall appear, the reference shall be deemed to be “conservation district.”

History: L. 1937, ch. 5, § 1; L. 1972, ch. 5, § 1; July 1.

Attorney General’s Opinion:

- Authority of conservation district to engage in commercial activity. 82-191.

2-1902. Legislative determination. It is hereby declared, as a matter of legislative determination:

A. *The condition.* That the farm and grazing lands of the state of Kansas are among the basic assets of the state and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this state by wind and water; that the breaking of natural grass, plant, and forest cover have interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being blown and washed out of fields and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion by wind and water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by any land occupier to conserve the soil and control erosion upon said person’s lands causes a washing and blowing of soil and water from said person’s lands onto other lands and makes the conservation of soil, control of erosion, prevention of floods and management, control and protection of water and water quality on such other lands difficult or impossible.

B. *The consequences.* That the consequences of such soil erosion in the form of soil-blowing and soil-washing are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; the loss of fertile soil material in dust storms; the piling up of soil on lower slopes, and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops grown thereon, and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water, which causes destruction of food and cover for wild life; a blowing and washing of soil into streams which silts over spawning beds, and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve, which causes water shortages, intensified periods of drought, and causes crop failures; an increase in the speed and volume of rainfall runoff, causing severe and increasing floods, which bring suffering, disease, and death; impoverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods and from dust storms; and losses in navigation, hydroelectric power; municipal water supply, irrigation developments, farming, and grazing.

C. *The appropriate corrective methods.* That to conserve soil resources and control and prevent soil erosion and reduce flood damages and to provide for the conservation, development, utilization and disposal of water, it is necessary that land-use practices contributing to soil wastage and soil erosion be discouraged and discontinued, and appropriate soil-conserving land-use practices and structural works of improvement be adopted and carried out; that among the procedures necessary for widespread adoption, are the carrying on of engineering operations such as the construction of terraces, terrace outlets, check-dams, dikes, ponds, ditches, detention dams, grade stabilization structures, channel improvements, floodways, water resource developments and the like; the utilization

of strip cropping; lister furrowing, contour cultivating, and contour furrowing; land irrigation; seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees, and grasses; forestation and reforestation; rotation of crops; soil stabilization with trees, grasses, legumes, and other thick-growing soil-holding crops, retardation of runoff by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

D. *Declaration of policy.* It is hereby declared to be the policy of the legislature to provide for the conservation, use and development of the soil and water resources of this state, and for the control and prevention of soil erosion, flood damages and injury to the quality of water, and thereby to 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, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state.

History: L. 1937, ch. 5, § 2; L. 1955, ch. 7, § 1; L. 1979, ch. 6, § 1; July 1.

Attorney General's Opinion:

- Authority of conservation district to engage in commercial activity. 82-191.
- Conservation district personnel are covered by Kansas tort claims act. 87-31.
- Soil erosion caused by wind; authority of board of county commissioners and soil conservation districts. 96-80.

2-1903. Definitions. As used in this act: (1) "District" or "conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(2) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this act.

(3) "Commission" means the conservation program policy board created in K.S.A. 2-1904, and amendments thereto, including the state conservation commission continued in existence by K.S.A. 74-5,128, and amendments thereto.

(4) "State" means the state of Kansas.

(5) "Agency of this state" includes the government of this state and any subdivision, agency or instrumentality, corporation or otherwise, of the government of this state.

(6) "United States" or "agencies of the United States" includes the United States of America, the natural resources conservation service of the United States department of agriculture and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(7) "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.

(8) "Division" means the division of conservation established within the Kansas department of agriculture in K.S.A. 74-5,126, and amendments thereto.

(9) "Director" means the executive director of the division.

(10) "Invasive plant species" means a species of plant not native to Kansas whose introduction, presence or spread does or is likely to cause economic harm, environmental harm or harm to human health.

(11) "Secretary" means the secretary of the Kansas department of agriculture.

History: L. 1937, ch. 5, § 3; L. 1972, ch. 5, § 2; L. 1994, ch. 45, § 1; Jan. 1, 1995; L. 2012, ch. 140, sec. 123; July 1; as amended by 2021 SB 38, sec. 3; effective May 6, 2021.

2-1904. State conservation commission; members; terms; records; seal; powers and duties; rules and regulations; compensation and expenses; employees; office and supplies. (a) There is hereby established, to serve as a conservation program policy board of the state and to perform the functions conferred upon it in this act, the state conservation commission. The state conservation commission shall succeed to all the powers, duties and property of the state soil conservation committee. The commission shall consist of nine members as follows:

(1) The dean of the Kansas state university college of agriculture located at Manhattan, Kansas shall appoint two designees to serve on the commission as members. One designee shall represent an agricultural experiment station and one shall represent the cooperative extension service.

(2) The secretary shall request the secretary of agriculture of the United States of America to appoint one person, and the secretary shall appoint one person, each of whom shall be residents of the state of Kansas to serve as members of the commission. These members shall hold office for four years and until a successor is appointed and qualifies, with terms commencing on the second Monday in January beginning in 1973.

(3) Five members of the commission shall be elected by the conservation district supervisors at a time and place to be designated by the commission. The method of electing such members to be conducted as follows: The state is to be divided into five separate areas. Area No. I to include the following counties: Cheyenne, Rawlins, Decatur, Norton, Phillips, Smith, Osborne, Rooks, Graham, Sheridan, Thomas, Sherman, Wallace, Logan, Gove, Trego, Ellis and Russell. Area No. II to include: Greeley, Wichita, Scott, Lane, Ness, Rush, Pawnee, Hodgeman, Finney, Kearny, Hamilton, Edwards, Ford, Gray, Haskell, Grant, Stanton, Morton, Stevens, Seward, Meade, Clark, Comanche and Kiowa. Area No. III to include: Jewell, Republic, Mitchell, Cloud, Lincoln, Ottawa, Ellsworth, Saline,

Rice, McPherson, Reno, Harvey, Kingman, Sedgwick, Sumner, Harper, Barber, Pratt, Barton and Stafford. Area No. IV to include: Washington, Marshall, Nemaha, Brown, Doniphan, Clay, Riley, Pottawatomie, Jackson, Atchison, Jefferson, Leavenworth, Wyandotte, Johnson, Douglas, Shawnee, Wabaunsee, Geary, Dickinson, Morris, Osage, Franklin and Miami. Area No. V to include: Marion, Chase, Lyon, Coffey, Anderson, Linn, Bourbon, Allen, Woodson, Greenwood, Butler, Elk, Wilson, Neosho, Crawford, Cowley, Chautauqua, Montgomery, Labette and Cherokee. Areas II and IV shall elect members in even-numbered years and Areas I, III and V shall elect members in odd-numbered years for two-year terms. The elected commission members from Areas I, III and V shall take office on January 1 of the even-numbered years. The remaining two elected members of the state commission from Areas II and IV shall take office on January 1 of the odd-numbered years. The method of election is to be by area caucus of the district supervisors of each of the five separate areas of Kansas. The commission shall give each district notice of the time and place of such annual election meeting by letter if a member is to be elected to the commission from that area that year. The selection of a successor to fill an unexpired term shall be by appointment by the commission. The successor who is appointed to fill the unexpired term shall be a resident of the same area as that of the predecessor.

(b) The commission shall keep a record of its official actions and shall review all rules and regulations proposed by the division that are necessary for the execution of its the division's functions under this act.

(c) In addition to the powers and duties conferred in this section, the commission shall have the powers and duties not delegated to the division pursuant to K.S.A. 74-5,126, and amendments thereto.

(d) The commission shall designate its chairperson and, from time to time, may change such designation. A majority of the commission shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. Members of the commission attending meetings of such commission or attending a subcommittee meeting thereof authorized by such commission shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. The commission shall provide for keeping of a full and accurate record of all proceedings and of all resolutions, *rules and* regulations and orders issued or adopted.

(e) The commission together with the division shall make conservation program policy decisions to be approved by the secretary, including modification of current conservation programs, creation of new conservation programs and annual budget recommendations.

(f) The division in consultation with the commission shall have the following duties and powers:

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

(2) to keep the supervisors of each of the several districts organized under the provisions of this act 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 conservation districts organized hereunder;

(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 and to contract with or to accept donations, grants, gifts and contributions in money, services or otherwise from the United States or any of its agencies or from the state or any of its agencies in order to carry out the purposes of this act;

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

(6) to cooperate with and give assistance to watershed districts and other special purpose districts in the state of Kansas for the purpose of cooperating with the United States through the secretary of agriculture in the furtherance of conservation pursuant to the provisions of the watershed protection and flood prevention act, as amended;

(7) to cooperate in and carry out, in accordance with state policies, activities and programs to conserve and develop the water resources of the state and maintain and improve the quality of such water resources;

(8) to enlist the cooperation and collaboration of state, federal, regional, interstate, local, public and private agencies with the conservation districts;

(9) to facilitate arrangements under which conservation districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation of natural resources; and

(10) to take such actions as are necessary to restore, establish, enhance and protect natural resources with conservation easements for the purpose of compensatory mitigation required under section 404 of the federal clean water act, including:

(A) Accepting, purchasing or otherwise acquiring conservation easements, as defined in K.S.A. 58-3810, and amendments thereto, on behalf of watershed districts for the purpose of protecting compensatory mitigation sites;

(B) contracting with engineering consultants, surveyors and construction contractors for the purpose of restoration, establishment and enhancement of natural resources; and

(C) establishing fees for the acquisition and administration of conservation easements held on behalf of watershed districts, accepting such fees from state and local government agencies, and assuming responsibility to ensure the terms of the conservation easement are met, as approved by the department, for the length of term of the easement for which fees have been accepted.

(g) There is hereby established in the state treasury the compensatory mitigation fund to be administered by the department of agriculture. All expenditures from the compensatory mitigation fund shall be for conservation. All expenditures from the compensatory mitigation fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or the designee of the secretary. The secretary of agriculture shall remit all moneys received by or for the secretary under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the compensatory mitigation fund.

(h) All costs associated with compensatory mitigation, including, but not limited to, the costs of any litigation or civil fines or penalties, shall be paid by the watershed district for which the division holds the conservation easement.

(i)(1) Except as provided in paragraph (2), the Kansas department of agriculture shall not expend moneys appropriated from the state general fund or from any special revenue fund or funds for the purpose of accepting, purchasing or otherwise acquiring conservation easements on behalf of watershed districts.

(2) The Kansas department of agriculture may expend moneys in the compensatory mitigation fund established by this section for the purpose of accepting, purchasing or otherwise acquiring conservation easements on behalf of watershed districts and for the administration of such conservation easements.

(j) The division shall not accept, purchase or otherwise acquire any conservation easement other than for the purposes of this section.

History: L. 1937, ch. 5, § 4; L. 1951, ch. 11, § 1; L. 1959, ch. 5, § 1; L. 1972, ch. 5, § 3; L. 1974, ch. 348, § 3; L. 1979, ch. 6, § 2; L. 1989, ch. 5, § 1; L. 1992, ch. 116, § 23; L. 2001, ch. 86, § 3; April 12; L. 2012, ch. 140, sec. 124; July 1; L. 2015, ch. 58, § 1; July 1; as amended by 2021 SB 38, sec. 4; effective May 6, 2021.

Attorney General's Opinions:

- Conservation districts; employees; authority to pay expenses. 85-33.
- Conservation district personnel are covered by Kansas tort claims act. 87-31.

2-1907. Supervisors; qualifications; terms; meetings; vacancies; chairperson; quorum; expenses; employees; powers and duties; bonds for employees; records; removal of supervisor. The governing body of the district shall consist of five supervisors who are qualified electors residing within the district. The supervisors who are first elected shall serve for terms of one, two and three years according to the following plan: The two persons receiving the highest number of votes in the election shall hold office for three years; the two persons receiving the next highest number of votes shall hold such office for a term of two years; and the remaining supervisor shall hold office for a term of one year. In the event of a tie vote, such terms shall be decided by lot. Nothing in this section shall be construed as affecting the length of the term of supervisors holding office on January 1, 1995. Successors to such persons shall be elected for terms of three years. An annual meeting of all qualified electors of the district shall be held in the month of January or February. Notice of the time and place of such meeting shall be given by such supervisors by publishing a notice in the official county paper once each week for two consecutive weeks prior to the week in which such meeting is to be held. At such meeting the supervisors shall make full and due report of their activities and financial affairs since the last annual meeting and shall conduct an election by secret ballot of all of the qualified electors of the district there present for the election of supervisors whose terms have expired. Whenever a vacancy occurs in the membership of the governing body the remaining supervisors of the district shall appoint a qualified elector of the district to fill the office for the unexpired term. The supervisors shall designate a chairperson and may from time to time change such designation. A supervisor shall hold office until a successor has been elected or appointed and has qualified. A majority of the supervisors shall constitute a quorum and the concurrence of a majority of the supervisors in any matter within their duties shall be required for its determination. A supervisor shall receive no compensation for services, but may be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of duties. 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 supervisors may call upon the county attorney of the county in which a major portion of the district lies, or the attorney general for such legal services as they may require. The supervisors may delegate to their chairperson, 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 division, upon request, copies of such 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 act. 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; and shall provide for an annual audit of the accounts and receipts and disbursements. Any supervisor may be removed by the secretary in consultation with the commission upon notice and hearing in accordance with the provisions of the Kansas administrative procedure act, for neglect of duty or malfeasance in office, but for no other reason. 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 that may affect the property, water supply, or

other interests of such municipality or county.

History: L. 1937, ch. 5, § 7; L. 1949, ch. 5, § 1; L. 1951, ch. 11, § 3; L. 1972, ch. 5, § 4; L. 1976, ch. 7, § 3; L. 1988, ch. 356, § 29; L. 1989, ch. 5, § 2; L. 1994, ch. 45, § 4; Jan. 1, 1995; L. 2012, ch. 140, sec. 125; July 1; as amended by 2021 SB 38, sec. 5; effective May 6, 2021.

Attorney General's Opinions:

- Conservation districts; employees; authority to pay expenses. 85-33.
- Conservation district personnel are covered by Kansas tort claims act. 87-31.
- Soil erosion caused by wind; authority of board of county commissioners and soil conservation districts. 96-80.

2-1907b. Finance of operation of conservation district; moneys from county general fund; tax levies; use of moneys. The board of county commissioners, upon request of the board of supervisors of the conservation district, may pay to the district moneys from the county general fund for the supervisors to carry out their duties under this act. In addition to moneys from the county general fund, the board of county commissioners may levy an annual tax against the taxable tangible property within the district, not to exceed 2 mills or \$55,000 whichever is less, to provide additional moneys for the operation of the conservation district.

The levy shall be sufficient to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county, which levy may be in addition to all other tax levies authorized by law and not subject to or within any tax levy limit or aggregate tax levy limit prescribed by law. Funds appropriated or allocated under the provisions of this section and K.S.A. 2-1907c, and amendments thereto, shall 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. Such funds shall not be used for prizes, or incentives for achievements or attendance at meetings or for travel or expenses for anyone other than supervisors and employees of the district.

History: L. 1953, ch. 6, § 1; L. 1959, ch. 5, § 2; L. 1963, ch. 7, § 1; L. 1969, ch. 8, § 1; L. 1972, ch. 5, § 5; L. 1976, ch. 7, § 4; L. 1979, ch. 7, § 1; L. 1979, ch. 8, § 1; L. 1981, ch. 9, § 1; L. 1985, ch. 11, § 1; L. 1987, ch. 9, § 1; L. 1989, ch. 5, § 3; L. 1994, ch. 45, § 2; July 1.

Attorney General's Opinions:

- Discretion of county to provide funds for conservation district. 82-184.
- Authority of conservation district to engage in commercial activity. 82-191.
- Conservation districts; employees, authority to pay expenses. 85-33.
- Conservation district personnel are covered by Kansas tort claims act. 87-31.
- Conservation districts; powers; lease-purchase agreements. 92-121.
- County commissioners cannot buy equipment with county general funds to give to soil conservation district to lease to private individuals. 95-152.

2-1907c. Same; amount of moneys provided by county, certification to state; state financial assistance; budget request, limitation; disbursement and distribution. On or before September 1 of each year, each conservation district shall submit to the division a certification of the amount of money to be furnished by the county commissioners for conservation district activities for the ensuing calendar year. Such amount shall be the same as authorized for such purposes in each approved county budget. For the purpose of providing state financial assistance to conservation districts, the division in the regular budget request, as a line item for the forthcoming fiscal year, shall submit a special request for an amount equal to the sum of the allocations of each county to each conservation district, but in no event to exceed the sum of \$25,000 per district. This \$25,000 limitation shall be applicable for fiscal year 2008, and thereafter, subject to appropriations therefor. The Kansas department of agriculture division of conservation, as soon as practicable after July 1 of the following year, shall disburse such moneys as may be appropriated by the state for this purpose to each conservation district to match funds allocated by the commissioners of each county. Distribution shall be prorated in proportion to county allocations in the event that appropriations are insufficient for complete matching of funds. Municipal accounting procedures shall be used in the distribution of and in the expenditure of all funds.**History:** L. 1963, ch. 7, § 2; L. 1969, ch. 8, § 2; L. 1972, ch. 5, § 6; L. 1979, ch. 7, § 2; L. 1994, ch. 45, § 3; L. 2007, ch. 84, § 1; L. 2012, ch. 140, § 126; July 1; as amended by 2021 SB 38, sec. 6; effective May 6, 2021.

Attorney General's Opinions:

- Authority of conservation district to engage in commercial activity. 82-191.
- Conservation districts; employees; authority to pay expenses. 85-33.
- Conservation district personnel are covered by Kansas tort claims act. 87-31.

2-1908. Conservation districts; powers. A conservation district organized under the provisions of K.S.A. 2-1901 et seq., and amendments thereto, shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this act:

(a) To conduct surveys, investigations, and research relating to the character of soil erosion, soil and grassland health, flood damage, water quality 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. In order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies;

(b) 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; and to demonstrate by example, the means, methods, and measures by which water and water resources may be conserved, developed, used and disposed of to alleviate drought, to maintain and improve water quality and to reduce flooding and impaired drainage;

(c) 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 listed in subsection C of K.S.A. 2-1902, and amendments thereto, 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;

(d) to cooperate, or enter into agreements with, and within the limitations 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 flood prevention, soil and grassland health initiatives, water quality and water management operations within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this act;

(e) 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 act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this act;

(f) 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, soil and grassland health, protection of water quality and for the prevention and control of soil erosion;

(g) to 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 within the district and the maintenance and improvement of water quality, with such plans specifying in such detail as may be possible, the acts, procedures, performances, and avoidances that 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;

(h) to take over, by purchase, lease, gift or donation, and to administer, any soil-conservation, erosion-control, soil and grassland health, erosion-prevention, flood prevention, water quality or water management project located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies subject to the authority of the authorizing state or federal agency; 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, flood prevention or water management project within its boundaries; to act for the district or 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, maintenance, or administration of any soil-conservation, erosion-control, soil and grassland health, erosion-prevention, flood prevention, water quality or water management 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 from persons, firms, corporations or associations, and to use or expend such moneys, services, materials or other contributions in carrying on its operations;

(i) to sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; 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 act, to carry into effect its purposes and powers;

(j) as a condition to the extending of any benefits under this act, 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, and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon;

(k) 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;

(l) the supervisors of any district shall not contract debts or obligations in the name of the district beyond the current appropriation made available to the district by the division or federal grants or other financial sources;

(m) to accept and expend funds donated to the district for purposes of providing at least 20% cost-share for the purchase of an eligible water right from the holder of the water right under the provisions of K.S.A. 2-1915, and amendments thereto; and

(n) to control invasive species within the district .

History: L. 1937, ch. 5, § 8; L. 1955, ch. 7, § 2; L. 1979, ch. 6, § 3; L. 1988, ch. 396, § 1; L. 2002, ch. 37, § 2; L. 2004, ch. 96, § 3; July 1; as amended by 2021 SB 38, sec. 7; effective May 6, 2021.

Attorney General's Opinions:

- Authority of conservation district to engage in commercial activity. 82-191.
- Conservation district personnel are covered by Kansas tort claims act. 87-31.
- Conservation districts; powers; lease-purchase agreements. 92-121.
- Conservation district is subject to cash-basis law; lease purchase agreements, authority. 96-2.
- Soil erosion caused by wind; authority of board of county commissioners and soil conservation districts. 96-80.

2-1913. Cooperation with another district. The supervisors of any two or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this act.

History: L. 1937, ch. 5, § 13; April 10.

2-1914. Publicly owned lands. 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 to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this act. 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 K.S.A. 2-1909 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.

History: L. 1937, ch. 5, § 14; April 10.

Attorney General's Opinions:

- Soil erosion caused by wind; authority of board of county commissioners and soil conservation districts. 96-80.

2-1915. Conservation structures and practices, grants; riparian and wetland protection programs; return of water right, cost-share grants; water quality buffers, grants, valuation of land. (a) (1) Appropriations may be made for grants out of funds in the treasury of this state for:

(A) Terraces, terrace outlets, check dams, dikes, ponds, ditches, critical area planting, grassed waterways, irrigation technology, precision land forming, range seeding, soil and grassland health, detention and grade stabilization structures and other enduring water conservation and water quality practices installed on public lands and on privately owned lands; and,

(B) the control of invasive species on public lands and on privately owned lands.

(2) Except as provided by the multipurpose small lakes program act and other programs approved by the secretary, any such grant shall not exceed 80% of the total cost of any such practice.

(b) A program for protection of riparian and wetland areas shall be developed by the division and implemented by the conservation districts. The conservation districts shall prepare district programs to address resource management concerns of water quality, erosion and sediment control and wildlife habitat as part of the conservation district long-range and annual work plans. Preparation and implementation of conservation district programs shall be accomplished with assistance from appropriate state and federal agencies involved in resource management.

(c) Subject to the provisions of K.S.A. 2-1919, and amendments thereto, any holder of a water right, as defined by K.S.A. 82a-701(g), and amendments thereto, who is willing to voluntarily return all or a part of the water right to the state shall be eligible for a grant not to exceed 80% of the total cost of the purchase price for such water right. The division shall administer this cost-share program with funds appropriated by the legislature for such purpose. The chief engineer shall certify to the division that any water right for which application for cost-share is received under this section is eligible in accordance with the criteria established in K.S.A. 2-1919, and amendments thereto.

(d) (1) Subject to appropriation acts therefor, the division shall develop the Kansas water quality buffer initiative for the purpose of restoring riparian areas using best management practices. The director shall ensure that the initiative is complementary to the federal conservation reserve program and update any applicable standards from time to time as necessary for the continued success of the program.

(2) There is hereby created in the state treasury the Kansas water quality buffer initiative fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director or the director's designee. Moneys credited to the fund shall be used for the purpose of making grants to install water quality best management practices pursuant to the initiative.

(3) The county or district appraiser shall identify and map riparian buffers consisting of at least one contiguous acre per parcel of real property located in the appraiser's county. Notwithstanding any other provisions of law, riparian buffers shall be valued by the county or district appraiser as tame grass land, native grass land or waste land, as appropriate. As used in this paragraph, "riparian buffer" means an area of stream-side vegetation that: (A) Consists of tame or native grass and may include forbs and woody plants; (B) is located along a perennial or intermittent stream, including the stream bank and adjoining floodplain; and (C) is a minimum of 66 feet wide and a maximum of 180 feet wide.

(e) The division, with the approval of the secretary, shall adopt rules and regulations to administer such grant and protection programs. Prior to submission of any proposed rules and regulations of the division to the director of the budget, the secretary of administration and the attorney general in accordance with the rules and regulations filing act, K.S.A. 77-415 et seq., and amendments thereto:

(1) The director shall submit such proposed rules and regulations to the commission; and

(2) the commission shall review and make recommendations to the director and the secretary regarding such proposed rules and regulations.

(f) Any district is authorized to make use of any assistance whatsoever given by the United States, or any agency thereof, or derived from any other source, for the planning and installation of such practices. The division may enter into agreements with other state and federal agencies to implement the Kansas water quality buffer initiative.

History: L. 1937, ch. 5, § 15; L. 1976, ch. 7, § 5; L. 1979, ch. 9, § 1; L. 1985, ch. 342, § 9; L. 1986, ch. 7, § 1; L. 1987, ch. 10, § 1; L. 1988, ch. 396, § 2; L. 1989, ch. 308, § 1; L. 1998, ch. 143, § 46; L. 2001, ch. 64, § 1; L. 2002, ch. 37, § 3; L. 2004, ch. 96, § 4; L. 2012, ch. 140, § 127; July 1; as amended by 2021 SB 38, sec. 8; effective May 6, 2021.

Attorney General's Opinion:

- County authority to impose local environmental standards or separation distances for confined animal feeding facilities which are more strict than state law. 1998-41.

2-1916. Petition for discontinuance of district; hearings; election; publication of result; certificate of dissolution. At any time after five years after the organization of a district under the provisions of this act, 10% of the occupiers of land lying within the boundaries of such district may file a petition with the division praying that the operations of the district be terminated and the existence of the district discontinued. The division may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within 60 days after such a petition has been received by the division, the division shall give due notice of the holding of a referendum, and shall supervise such 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 said propositions as the voter may favor or oppose discontinuance of such district. All occupiers of lands lying within the boundaries of the district shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if

notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted. The division shall publish the result of such 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 division shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the division shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination, the division 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 such referendum who shall have voted, the proportion of the votes in such 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 such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in K.S.A. 2-1902, and amendments thereto, except that the division shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such district.

Upon receipt from the division of certification that the division 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 immediately proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such 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 such district and shall transmit with such application the certificate of the division setting forth the determination of the division that the continued operation of such 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 shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in the secretary of state's office.

Upon issuance of a certificate of dissolution under the provisions of this section, all ordinances and regulations adopted and in force within such districts shall be of no further force and effect. All contracts, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The division shall be substituted for the district or supervisors as party to such contracts. The division shall be entitled to all benefits and subject to all liabilities under such 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 such contracts by mutual consent or otherwise, as the supervisors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of K.S.A. 2-1911, prior to its repeal, nor the pendency of any action instituted under the provisions of such section, and the committee shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions. The state soil conservation committee shall not entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this act, more often than once in 5 years.

History: L. 1937, ch. 5, § 16; L. 1959, ch. 5, § 3; June 30; as amended by 2021 SB 38, sec. 9; effective May 6, 2021.

2-1917. Invalidity of part. If any provisions of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

History: L. 1937, ch. 5, § 17; April 10.

2-1918. Inconsistent laws. Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling.

History: L. 1937, ch. 5, § 18; April 10.

2-1919. Cost-share limitations; purchase of surface water right outside the state. (a) Except as provided by subsection (b), any application for cost-share for the purchase of the water right under the provisions of K.S.A. 2-1915, and amendments thereto, shall be subject to the following limitations:

(1) The water right is an active vested or certified water appropriation right that has not been abandoned under the provisions of K.S.A. 82a-718, and amendments thereto;

(2) (A) in the case of a water right for diverting groundwater, such water right is in an area where the rate of withdrawal of groundwater equals or exceeds the rate of recharge and the chief engineer has closed the area to further appropriations and designated the area as being in need of aquifer restoration;

(B) in the case of a water right for diverting groundwater or surface water, such water right is within a stream reach where the chief engineer has closed the stream reach to further appropriations and designated the stream reach as being in need of stream recovery;

(3) a local entity has provided an assurance that it will pay at least 20% of the purchase price negotiated by the entity and the holder of the water right; and

(4) the holder of the water right agrees to return the water right to the custodial care of the state.

(b) In the case of a purchase of a surface water right from outside the state, such purchase shall be considered and evaluated by the chief engineer on the basis of the potential of the water right to provide stream recovery within a designated stream reach.

History: L. 1988, ch. 396, § 4; July 1.

2-1920. Conservation district capital outlay fund; use of moneys. (a) There is hereby authorized to be established in every conservation district of the state a fund which shall be called the capital outlay fund. The fund shall consist of any moneys deposited therein from funds received according to provisions of the conservation district law.

(b) Any moneys in the capital outlay fund of the conservation district may be used for the purpose of acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing and equipping of buildings necessary for district operations, including architectural expenses incidental thereto and the acquisition of building sites and the acquisition of other equipment to carry out the activities and functions of the district.

(c) The conservation district board of supervisors is hereby authorized to invest any portion of the capital outlay fund, which is not currently needed in investments authorized by K.S.A. 12-1675, and amendments thereto. All interest received on any such investment shall be credited to the capital outlay fund.

History: L. 1989, ch. 5, § 4; July 1.