

SOIL AND WATER CONSERVATION DISTRICTS LAW

Laws 1940, Chapter 727

AN ACT establishing the state soil and water conservation committee, and creating soil and water conservation districts, constituting chapter nine-b of the consolidated laws

Became a law April 23, 1940, with the approval of the Governor. Passed, three-fifths being present

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER 9-B OF THE CONSOLIDATED LAWS SOIL AND WATER CONSERVATION DISTRICTS LAW

ARTICLE I

SHORT TITLE; DECLARATION OF POLICY; DEFINITIONS

Section 1. Short title.

2. Declaration of policy.

3. Definitions.

Section 1. Short title. This chapter shall be known and cited as the "soil and water conservation districts law".

§ 2. Declaration of policy. (1) Preservation of soil and water resources. It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and water resources of this state, and for the improvement of water quality, and for the control and prevention of soil erosion and for the prevention of floodwater and sediment damages and for furthering the conservation, development, utilization and disposal of water, and thereby to preserve natural resources, control and abate nonpoint sources of water pollution, assist in the control of floods, assist in the drainage and irrigation of agricultural lands, 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 of this state.

(2) Promotion of soil health and resiliency. It is further declared the policy of the legislature to promote the health and resiliency of New York's agricultural soils, including the biological, physical, and chemical components of such soils, to sustain agricultural plants and animals, produce a healthy, affordable food supply, promote climate resilient farming and the reduction of agricultural greenhouse gas emissions, and further protect and promote natural resources and the health, safety and welfare of the people of this state.

(3) Utilizing resources to enhance the quality of life. It is further declared the policy of the legislature to encourage the use of agricultural land for recreational uses which are consistent with the primary use of such land while, at the same time, promoting additional tourism and employment opportunities and income for landowners in rural areas and enhancing the quality of life of persons not otherwise able to obtain access to agricultural land for recreational uses.

§ 3. Definitions. Wherever used or referred to in this chapter, unless a different meaning clearly appears from the context: (1) "District" or "soil and water conservation district" means a county whose board of supervisors has by resolution declared said county to be a soil and water conservation district.

(2) "Director" means one member of the governing body of a district, appointed in accordance with the provisions of this chapter.

(3) "Committee" or "state soil and water conservation committee" means the agency created in section four of this chapter.

(4) "State" means the state of New York.

(5) "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.

(6) "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.

(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) "County board" means the county board of supervisors of any county.

(9) "Land occupier" or "occupier of land" includes any person, firm, corporation, or governmental unit 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.

(10) "Agriculture land" shall be defined as any landholding exceeding twenty-five acres which is used by the owner or occupier of the land for the raising of any agricultural or forestry products, provided, however, that concentrated agricultural operations on landholdings of less than twenty-five acres shall be included in the term.

(11) "Concentrated agricultural operations" shall be as defined as any form of agricultural operation including feedlots and poultry operations, which produces, because of its confined nature, large amounts of animal and related wastes in a limited area as defined by the State Soil and Water Conservation Committee.

(12) "Soil and water conservation plan" shall be defined as a document containing proposals for the conservation of soil and water resources and which provides an orderly method for landowners and occupiers to follow in limiting soil erosion and reducing the amount of pollutants entering into the waters or on the lands of the state.

(13) "Nonpoint source" means any source of water pollution or pollutants, as defined in section 17-0105 of the environmental conservation law, which is not a discrete conveyance or point source permitted pursuant to title seven or eight of article seventeen of the environmental conservation law.

(14) "Nonpoint source abatement and control program" means a program of activities and projects for the abatement and reduction of nonpoint source pollution through the implementation of best management practices.

(15) "Agricultural nonpoint source abatement and control program" means a program consisting of activities and projects for the abatement and reduction of water pollution from agricultural nonpoint sources through the installation, operation and maintenance of best management practices. Such program shall address agriculturally related activities

and their impact on water quality and shall include, but not be limited to, activities and projects for controlling losses from the land including nutrients, particularly nitrogen and phosphorus, pathogens, toxic contamination of surface waters and groundwaters from heavy metals, pesticides and other organic substances, and for the prevention of siltation and eutrophication of streams, rivers, lakes and other water bodies.

(16) "Best management practices" means a practice or combination of practices determined to be the most effective, economically feasible and practicable means of preventing or reducing pollution generated by nonpoint sources.

(17) "Priority water body" means a water body identified by the commissioner of environmental conservation pursuant to section 17-1407 of the environmental conservation law.

(18) "Recreational use" means any activity undertaken out of doors for purposes of mental or physical enjoyment and relaxation and may include, but shall not be limited to, hunting, fishing, canoeing, boating, trapping, hiking, cross country skiing, tobogganing, sledding, speleological activities, horseback riding, bicycle riding, hang gliding, motorized vehicle operation for recreational purposes, snowmobile operation and training of dogs.

ARTICLE II

STATE SOIL AND WATER CONSERVATION COMMITTEE, SOIL AND WATER CONSERVATION DISTRICTS, AND OTHER FUNCTIONS

Section 4. State soil and water conservation committee.

4-a. Farm drain tile revolving loan program.

5. Creation of soil and water conservation districts.

6. Designation of district directors.

7. Appointment, qualifications, compensation and tenure of directors.

8. Organization of directors.

9. Powers of districts and directors.

10. Cooperation between districts.

11. State agencies to cooperate.

11-a. State aid to districts.

11-b. Agricultural nonpoint source abatement and control projects.

12. Discontinuance of districts.

§ 4. State soil and water conservation committee. (1) There is established in the department of agriculture and markets, the state soil and water conservation committee as an agency of this state which committee shall exercise the functions conferred upon it in this chapter. The administrative functions of such department under the agriculture and markets law shall not operate or be applied in derogation of the powers of the committee, or of the free exercise thereof, as conferred by this chapter. The following shall serve as members of the committee: five interested and qualified citizens to be appointed by the governor, one of whom shall be appointed from a list of nominees submitted by the state grange, one of whom shall be appointed from a list of nominees submitted by the state farm bureau federation, one of whom shall be appointed from a list of nominees submitted by the New York Soil Conservation Districts Association, Inc., one of whom shall be appointed at large, who shall represent the farm interest, and a fifth member appointed at large who shall represent the urban, suburban and rural non-farm landowner interest; the director of the state agricultural extension service, or his or her designated representative; the dean of the state college of agriculture and life sciences, or his or her designated representative; the president of the college of environmental science and forestry of the state university of New York, or his or her designated representative; the commissioner of environmental conservation, or his or her designated representative; the commissioner of agriculture and markets, or his or her designated representative; the commissioner of health, or his or her designated representative; the secretary of state, or his or her representative; a representative of the New York State Conservation District Employees' Association; and the state conservationist of the soil conservation service of the United States department of agriculture, or his designated representative. The five lay members shall be the voting members. The balance of the committee will serve in an advisory or consulting capacity. The committee shall keep a record of its official

actions, and may perform such acts, and promulgate such rules and regulations as may be necessary for the execution of its functions under this chapter. After April twenty-third, nineteen hundred sixty-four, the first appointment of the member chosen from a list submitted by the New York soil and water conservation districts association shall be made of a successor to the member representing the state grange whose term first expires, and the first appointment of the member representing non-farm interests shall be made of a successor to the member representing the New York farm bureau whose term first expires.

(2) The committee may call upon the attorney-general of the state for such legal services as it may require. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees such 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 such agency or institution of learning, and make such special reports, surveys or studies as the committee may request.

(3) The committee shall designate its chairman and may from time to time change such designation. The lay members shall be appointed for a period of five years, except that the first five appointed shall be designated to serve terms of one, two, three, four and five years respectively, the terms of office to correspond to the state's fiscal year. Committee members shall hold office until their successors have been appointed and have qualified. The selection of successors to fill a vacancy shall be made in the same manner in which the retiring committee members shall have been selected. 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 members shall not receive a salary or other compensation, but shall be entitled to their actual and necessary expenses, including traveling expenses incurred in the discharge of their duties. The committee 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 of receipts and disbursements.

(4) In addition to the duties and powers hereinafter conferred upon the state soil and water conservation committee, it shall have the following duties and powers:

a. To adopt such policies in the carrying out of district programs as it deems appropriate;

b. To keep the directors 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;

c. To approve and coordinate the programs of the several soil and water conservation districts organized hereunder;

d. 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;

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

f. To accept contributions from any source to carry on work under the provisions of this chapter;

g. To develop and maintain principles and standards for, and procedures for participating in, the agricultural environmental management (AEM) program in partnership with the department of environmental conservation, as set forth in article eleven-A of the agriculture and markets law;

h. To develop evaluation criteria, collect, maintain and analyze

information to assess the AEM program for effectiveness in meeting state and federal environmental and public health goals;

i. To coordinate and approve the participation of the several districts in the AEM program as set forth in article eleven-A of the agriculture and markets law;

j. To coordinate and approve the participation of the several districts in support of soil health and climate resilient farming as set forth in article eleven-B of the agriculture and markets law.

§ 4-a. Farm drain tile revolving loan program. (1) Definitions. (a) "Farm drain tile project." A specific work or improvement that is undertaken by an agricultural producer for the construction or improvement of drain tile for the purpose of enhancing farm fields.

(b) "Local loan administrator." A farm credit bureau or member of the farm credit system or a banking institution or non-governmental organization with a demonstrated ability to provide financial assistance and service to agricultural rural areas, that have entered into a master servicing agreement prescribed pursuant to subdivision two of this section.

(2) Master servicing agreement. (a) The state soil and water conservation committee ("committee") is hereby authorized to use the monies held in the farm drain tile revolving loan fund to make advances to a local loan administrator that has entered into a written master servicing agreement prescribed by the committee pursuant to paragraph (b) of this subdivision.

(b) The committee, in consultation with the comptroller, shall prescribe a master servicing agreement to be executed by the committee and local loan administrators. Such agreement shall provide that: (i) any advances made to a local loan administrator shall be used solely for the purpose of providing loans to agricultural producers for undertaking farm drain tile projects; (ii) the total amount of loans made to any single agricultural producer shall not exceed fifty thousand dollars per annum; (iii) the term of any loan shall not exceed ten years and equal payments of principal payable no less frequently than annually shall be

required to be made on such loan during the term such loan is outstanding which payments will liquidate the entire principal balance of the loan over its term; (iv) the local loan administrator is required to pay to the committee for deposit into the farm drain tile revolving loan fund all repayments including interest, if any, received from any agricultural producers on account of such loan, except for that portion permitted to be retained by the local loan administrator as a fee pursuant to the master servicing agreement. The master servicing agreement shall also set forth: (i) the form of any note and security agreement to be executed by the agricultural producer in connection with any loan; (ii) the rate of interest, if any, to be charged on any loan; (iii) the amount of any fee to be retained by the local loan administrator for servicing any loan; (iv) the form of application required to be completed by an agricultural producer for any loan; (v) the form of requisition and certification to be required from a local loan administrator to obtain an advance of funds from the committee; (vi) any other conditions to be imposed upon an agricultural producer as a condition of receiving a loan; (vii) the responsibilities to be performed by the local loan administrator in connection with reviewing, approving and servicing the loan and the circumstances under which the committee may terminate a master servicing agreement; (viii) conditions necessary to insure prompt closing on loans for which funds are advanced, including payment of interest of funds from the time advanced until utilized; and (ix) such other requirements as the committee may from time to time establish by rules and regulations consistent with the purposes of this section.

(3) (a) The committee shall, subject to the availability of funds as appropriated by the legislature, advance from the farm drain tile revolving loan fund to a local loan administrator the amount of funds requested in any requisition within fifteen business days after receipt of all of the following: a completed requisition for an advance of funds; copies of any applications and any supporting documentation to which such requisition pertains; and a certification from the local loan administrator with respect to such requisition in addition to any other representation and statement required by the committee. The certification from the local loan administrator shall state that: (i) the loan administrator has performed its responsibilities in connection

with review and approval of applications to which such requisition pertains, (ii) to the best of the local loan administrator's knowledge the loans, to which the advances pertain, comply with the master servicing agreement and the provisions of this section, and (iii) the borrowers have demonstrated their ability to make the repayments required under the loan. In the event that funds are not available or the committee determines that the requisition, application or certification is defective, it shall so notify the local loan administrator within fifteen business days after receipt of the requisition.

(b) The committee shall establish criteria for prioritizing loan applications in the event that the requisitions submitted to the committee by one or more local loan administrators exceed the amount then available for the purposes of this section. In determining priority, the committee shall take into account: (i) whether the farm drain tile project to which the application pertains is the most cost effective approach to enable the agricultural producer to construct or improve farm drain tile on the farm; (ii) whether the agricultural producer making application lacks the financial resources to undertake the farm drain tile project without obtaining a loan pursuant to this section; and (iii) such other factors as the committee deems relevant. In applying the criteria to be utilized for prioritizing loans, the committee shall be entitled to rely on the information contained in the copies of the applications submitted with the requisition.

(4) Examination by comptroller. The comptroller, or his or her legally authorized representative, is hereby authorized and empowered from time to time to examine the books and accounts of the committee relating to the farm drain tile fund, and from time to time, to examine the books and accounts of any local loan administrator which has received advances from such fund pursuant to this section, but only insofar as those books and accounts relate to such advances and to the local loan administrator's compliance with the master servicing agreement entered into pursuant to this section.

(5) Establishment of fund. (a) There is hereby created and established in the committee a revolving loan fund to be known as the "farm drain tile revolving loan fund."

(b) There shall be paid into such farm drain tile revolving loan fund

(i) any moneys appropriated and made available by the state for the purposes of such fund, (ii) notwithstanding the provisions of the state finance law or any other provision of law, any moneys which the committee shall receive in repayment of advances made from such fund, and (iii) any other moneys which may be made available to the committee for the purpose of such fund from any other source or sources.

(c) All moneys paid into the fund from repayments of loans authorized by subdivision three of this section shall continue to be made available for the purpose of providing loans pursuant to such subdivision.

(d) Any moneys held in such farm drain tile revolving loan fund not required for immediate disbursement may be invested, at the discretion of the committee, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government. Any income or interest earned by, or increment to, such farm drain tile revolving loan fund shall be added to the moneys held in such fund for the purposes herein provided.

(6) Rules and regulations. The committee is empowered to promulgate such rules and regulations and to prescribe such forms as it shall deem necessary to effectuate the purposes of this section.

§ 5. Creation of soil and water conservation districts. (1) When the board of supervisors of any county determines that conservation of soil and water resources and control and prevention of soil erosion and prevention of floodwater and sediment damages are problems of public concern in the county, and further determines that a substantial proportion of the rural land occupiers of the county favors such a resolution, the said board of supervisors, by a resolution adopted at any regular or special meeting of the board, may declare the county to be a soil and water conservation district for the purpose of effectuating the legislative policy announced in section two, providing written notice of intention to act on such resolution, together with the basis for action, is provided by the county board to the state soil and water conservation committee at least thirty days before action is taken on such resolution. These determinations may be made through hearings, petitions or referenda.

(2) In any suit, action, or proceeding involving the validity or 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 article upon proof of the adoption of the resolution of the county board declaring the county to be a soil and water conservation district. A copy of such resolution duly certified by the clerk of the board shall be admissible in evidence in any such suit, action or proceeding and shall be proof of the filing and contents thereof.

(3) Any soil conservation district heretofore created or existing shall be deemed to be continued for all purposes and shall hereafter be designated as a soil and water conservation district.

(4) Notwithstanding any other provision of this chapter, the mayor of the city of New York shall have the authority to establish a soil and water conservation district encompassing the five counties of the city.

§ 6. Designation of district directors. 1. (a) When a county has been declared a soil and water conservation district a board of directors consisting of five members shall be appointed by the county board. This board of directors shall consist of two members of the county board and three persons not members of the county board of supervisors, two of whom shall be practical farmers. One of these farmers shall be appointed from a list submitted by the county grange, one of these farmers shall be appointed from a list submitted by the county farm bureau. Should the appointed farm bureau representative not be a resident of the county, the farm bureau representative must own or rent land in the county in which they serve. The fifth member shall be appointed from the county at large and shall represent the urban, suburban and rural non-farm landownership interest.

(b) In counties where one or both of the above named farm groups lack formal county organization, the county board shall appoint from the county at large in place of from a list of nominees from such lacking farm organization or organizations.

(c) At the option of the county legislative body, the board of directors of the soil and water conservation district may be expanded to seven members. Of the two additional board members, they shall be

residents of the county and at least one shall be a practical farmer.

2. Notwithstanding any other provision of this chapter, in Westchester county, the county executive shall appoint a board of directors of the soil and water conservation district, which board of directors shall consist of seven members selected at large from residents of the county, the term of office of each of whom shall be three years from date of appointment, except that such board may include not more than two officials of constituent local municipalities, each of whom shall serve for one year or until he sooner ceases to hold such local office.

3. Notwithstanding any other provision of this chapter, in Nassau county, the county executive shall appoint a board of directors of the soil and water conservation district, which board of directors shall consist of seven members to be appointed as follows:

(a) Three members shall be appointed at large from among the residents of Nassau county for a term of three years. The original appointments, however, shall be made for terms of one year, two years and three years;

(b) One member shall be appointed from among the Nassau county officials for a term of one year;

(c) One member shall be appointed from among the officers of each of the three towns in the county of Nassau for a term of one year. All such appointments shall be subject to confirmation by the board of supervisors.

4. Notwithstanding any other provision of this chapter, in Rockland county the county executive, subject to the confirmation of the county legislature, shall appoint a board of directors of the soil and water conservation district, which board of directors shall consist of five members, one of whom shall reside in each of the towns comprising such county.

The board of directors of the soil and water conservation district in the city of New York shall consist of nine members seven of whom shall be appointed by the mayor and two of whom shall be appointed by the city council, all of whom shall be residents of the city. Of the members so appointed by the mayor, one shall be appointed upon the recommendation

of each of the borough presidents and such members shall be a resident of the borough of the president making such recommendation. Each of the remaining two members may be a resident of any borough. Members shall be appointed to serve for a term of three years, commencing on January first and ending on December thirty-first provided, however, that of the members first appointed to such board, two shall serve for a term of one year and three shall serve for a term of two years. Vacancies in the membership of the board shall be filled in the manner provided for original appointment. All appointments shall be subject to confirmation of the city council.

§ 7. Appointment, qualifications, compensation and tenure of directors. The two members from the county board shall be appointed annually. The other members shall serve for terms of three years each, except that the first three appointed shall be designated to serve for terms of one, two and three years respectively. A director shall hold office until his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. The selection of successors to fill an unexpired term or for a full term shall be according to the manner in which the respective retiring directors shall have been selected.

Any director may be removed by the county board upon acceptable proof presented by the district board, the county board or by the state committee upon notice and hearing for neglect of duty, continued absence from meetings, failure to perform accepted assignments or malfeasance in office and for no other reason.

The compensation of the members of the governing body of the district, for performing services as directors of the district shall be fixed by the county board for each calendar day they are actually engaged in the performance of their duties, and mileage in going and returning from places where they are required to go in the performance of their duties, provided funds are made available by the county board for this purpose.

§ 8. Organization of directors. (1) The directors of the district shall be the governing body thereof. They shall designate a chairman and may, from time to time, change such designation. The directors may delegate to their chairman, or to one or more directors, such powers and duties as they shall deem proper. They shall designate a secretary and a treasurer, and an assistant treasurer if necessary, who need not be directors, and may, from time to time, change such designations. The duties of the secretary shall be to record the minutes of all meetings, carry on the necessary correspondence for the district, and other duties in line with the position. The duties of the treasurer shall be to receive and have the custody of the funds of the district and to disburse the same for authorized purposes on the order of the directors, to keep appropriate and required books and records in connection therewith, and to submit same for examination and make reports to the directors at any time, upon their request. It shall be the duty of the assistant treasurer, if any, to assist the treasurer in the performance of his duties. The directors shall furnish to the state committee, upon request, copies of such rules, 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.

(2) The directors shall provide for the execution of surety bonds for any members or employees 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 of receipts and disbursements.

(3) The directors may invite the legislative body of any municipality to designate a representative to advise and consult with the directors of the district on all questions of program and policy which may affect the property, water supply or other interests of such municipality.

§ 9. Powers of districts and directors. The directors of a soil and water conservation district 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, floodwater, sediment damages, nonpoint source water pollution, 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 program except in cooperation with the New York state college of agriculture, and any agency of the state or of the United States as may be dealing with allied problems;

(1-a). To authorize officers and employees to perform such duties as are necessary for the operation of the district. Directors while performing such duties or assignments shall be compensated pursuant to section seven of this article;

(1-b). To establish and abolish positions of employment and to fix the compensation and time of payment thereof and of the secretary, treasurer, assistant treasurer and other officers and employees;

(1-c) The board of directors of a soil and water conservation district may authorize the treasurer to establish and maintain a petty cash fund, not in excess of two hundred fifty dollars, for specific district purposes or undertakings, from which may be paid in advance of audit, properly itemized and verified or certified bills for materials, supplies or services furnished to the district for the conduct of its affairs and upon terms calling for the payment of cash to the vendor upon the delivery of any such materials or supplies or the rendering of any such services. Lists of all expenditures made from such petty cash fund shall be presented to the board of directors at each regular meeting thereof, together with the bills supporting such expenditures, for audit and the board shall direct reimbursement of such petty cash fund from any district moneys in an amount equal to the total of such bills which it shall so audit and allow. Any of such bills or any portion of any such bills as shall be disallowed upon audit shall be the personal responsibility of the treasurer and such official shall forthwith reimburse such petty cash fund in the amount of such disallowances;

(1-d). To authorize the district treasurer to establish revolving fund accounts for specific administrative and operational accounts, which may be carried from one fiscal year to another, and to authorize the

district treasurer temporarily to deposit or invest moneys not required for immediate expenditure in special time deposit accounts in, or certificates of deposit issued by, a bank or trust company located and authorized to do business in this state, provided however, that such time deposit account or certificate of deposit shall be payable within such time as the proceeds shall be needed to meet expenditures for which such moneys were obtained and provided further that such time deposits or certificate of deposit be secured by a pledge of obligations of the United States of America or obligations of the state of New York or obligations of any municipality school district or district corporation of the state of New York.

(2) To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation and changes in use of land and drainage, irrigation and other agricultural water management operations and measures for the prevention of floodwater and sediment damages, or for the control and abatement of nonpoint sources of water pollution on lands owned or controlled by this state or any of its agencies, with the consent and cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district and, notwithstanding any general, special, local or other provision of law, including the lands of directors, officers or employees of said district, upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands;

(3) 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 carrying on of erosion-control, flood prevention and sediment damage prevention operations, control and abatement of nonpoint sources of water pollution, and land use adjustments including ditching, draining and flood control operations for effective conservation and utilization of the lands and waters within the district, subject to such conditions as the directors may deem necessary to advance the purposes of this chapter;

(4) 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 interests 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 the provisions of this chapter;

(4-a) To acquire, by purchase, exchange, gift, bequest, devise, or otherwise, a conservation easement as defined in section 49-0303 of the environmental conservation law; to hold, maintain, administer, and improve, in compliance with any such easement and title three of article forty-nine of the environmental conservation law, any conservation easements acquired; to enforce any of the terms of a conservation easement, either as a holder of an acquired easement or under a third party enforcement right, as defined in section 49-0303 of the environmental conservation law, granted to the district in a conservation easement; to receive any income from the holding, maintenance, administration, improvement or enforcement of conservation easements as authorized in this subdivision and to expend such income in carrying out the purposes and provisions of this chapter; and to extinguish any such conservation easements in compliance with such easement and title three of article forty-nine of the environmental conservation law, in furtherance of the purposes and provisions of this chapter.

(5) 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 effective conservation and utilization of soil and water resources, prevention and control of soil erosion, prevention of floodwater and sediment damages, and for the control and abatement of nonpoint sources of water pollution;

(6) 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, provided, however, that no agreement or contract for the maintenance of such a structure, improvement or other works shall be valid or create any liability against the county, unless such agreement or contract shall have been approved by the county board by resolution duly adopted;

(7) (a) To develop and update comprehensive plans for the conservation of soil and water resources, control and prevention of soil erosion, prevention of floodwater and sediment damages, control and abatement of nonpoint sources of water pollution, and for agricultural water management 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 the use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district; provided, however, that in order to avoid duplication of educational activities no district shall publish any such plans and information except in cooperation with the New York state college of agriculture and with the approval of the state soil conservation committee; and otherwise assist in the administration of the agricultural environmental management (AEM) program as set forth in article eleven-A of the agriculture and markets law. Plans prepared by districts shall utilize and incorporate to the extent practical and appropriate existing soil and water conservation plans for agricultural land within the district;

(b) (i) Upon the determination of any such board that conditions in the district are appropriate, develop a plan to promote one or more recreational programs applicable to privately owned or leased lands and waters which plan may include:

(1) an analysis of the amount of open land and water in the district and the amount of such land and water which is posted and not posted;

(2) a determination of the potential for obtaining permission from the owners or lessees of open lands and waters to obtain access to such lands and waters for recreational use;

(3) the terms and conditions under which such land and waters may be made accessible for one or more recreational uses;

(4) the potential for the creation of employment opportunities for the owners and lessees of the lands and waters or their relatives or neighbors in the event such plan is implemented;

(5) the potential for encouraging tourism and the impact thereof upon the land and water to be included in the plan; upon local governments in

the district, including additional tax revenues and the impact of such revenues, if any, upon the owners or lessees of the lands and waters;

(6) the type of recreational use, the times of such use and the impact thereof upon the lands and waters; and

(7) a method of involving interested community agencies and groups in plan development and implementation.

(ii) Such plan may also include a description of the activities, program and strategies intended to be used to promote recreational use of the lands and waters, which uses shall be compatible with the primary use of the land and which may enhance the economic well-being of the owner of the land as well as the economic viability of the general area. Included in such plan shall be rules that may be amended from time to time and may include but shall not be limited to:

(1) the location and identification of the lands and waters to be included in the plan and the uses to be permitted on such lands and waters;

(2) a method of identifying the users of such lands and a determination of the method by which users of lands may be charged, in the event charges are imposed;

(3) rules relating to the conduct of persons using such lands;

(4) the method by which the owners of such lands or waters are protected from actions that may be brought against them by the users of such lands or waters or other persons as a result of the use of such lands or waters, which method may include blanket insurance or other method of insurance to be made available or some acceptable method of indemnification;

(5) rules relating to the time when such lands may be used and the purpose of such use at such time;

(6) a method by which collected charges are used and distributed to the owners or lessees of such lands and waters;

(7) a method by which a landowner who has consented to be included in the plan may withdraw from such plan;

(8) a procedure by which lands, including waters wholly or partially on such lands or adjacent thereto, will be stocked with fish or game to continue the viability of the plan; and

(9) a method of marketing the use of recreational lands with respect to potential patrons.

(iii) The district board may develop and implement the plan after consultation with interested farm, recreational and open space groups including, but not limited to: county agricultural and farmland protection boards, municipalities, regional and/or state fish and wildlife boards, and county-based offices of Cornell cooperative extension.

(8) 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, maintenance or administration of any soil-conservation, erosion-control, or erosion-prevention, agricultural water management, flood prevention, sediment damage prevention, or nonpoint source water pollution control and abatement 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, or from any other source, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

(9) 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 chapter, to carry into effect its purposes and powers;

(10) 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 directors 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 long term use of such lands as will tend to prevent or control erosion, prevent floodwater and sediment damages, control and abate nonpoint sources of water pollution, and make for more effective agricultural water management thereon;

(11) 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;

(12) (a) A county may, on recommendation of the county superintendent of highways, permit the use of any street or highway machinery, tools or equipment owned by the county, by a soil and water conservation district created under and pursuant to the soil and water conservation districts law, upon such terms as may be agreed upon but with payment to the county of not less than the hourly rate as fixed by the state commissioner of transportation for the rental or hiring of such machinery, tools or equipment by the county. Moneys received by a county pursuant to the provisions of this section shall be paid into the county road machinery fund.

(b) A town superintendent of highways, with the approval of the town board and of the county superintendent, may permit the use of any highway machinery, tools or equipment owned by the town, by a soil and water conservation district created under and pursuant to the soil and water conservation districts law, upon such terms as may be agreed upon but with payment to the town of not less than the hourly rate as fixed by the state commissioner of transportation for the rental or hiring of such machinery, tools or equipment by the town. Moneys received by a town pursuant to the provisions of this section shall be applicable for the purposes for which amounts may be raised as provided in subdivision three of section two hundred seventy-one of the highway law.

(c) The state commissioner of transportation may permit the use of any street or highway machinery, tools or equipment owned by the state by a soil and water conservation district created under and pursuant to the soil and water conservation districts law, under the same terms and conditions as provided for the use of county owned equipment by such districts.

(d) No such machinery, tools and equipment shall be so leased to a soil and water conservation district unless (1) adequate insurance shall be secured thereon which will protect the county, town or state, as the case may be, in the event of the loss of or damage to such leased machinery, tools and equipment by reason of fire and theft and (2) adequate liability and property damage insurance shall be secured for the protection of the county, town or state, as the case may be, upon all machinery and equipment operated, or propelled, by motors. The

determination of what shall be "adequate" insurance shall be made by resolution of the board of supervisors of the county, the town board of a town, or the state commissioner of transportation, as the case may be, and no officer or official of any such county, town, or of the state, shall be held personally responsible to such county, town, the state, or to third persons should such insurance in any event prove to be inadequate in amount. The cost of any such insurance shall be paid for by the district in addition to the payments hereinabove provided.

(e) If any such agreement between a county, a town, the state, and a district shall provide that the equipment, tools or machinery leased shall be operated by an employee of the county, town, or the state, any such employee, regardless of the terms of such contract, shall continue to be paid by and to be an employee of the county, town, or the state, and shall be considered as such for any and all purposes, and the agreement between the county, town, or the state, and the district shall provide for the payment by the district to the county, town, or the state, of amounts at least equal to the compensation which any such employee shall receive from the county, town or the state. The moneys received by a county, town, or the state, for reimbursement of the compensation of such employees shall be credited to the fund from which such compensation was paid while such equipment, tools or machinery was leased.

(13) The directors may call upon the county attorney for such legal services as the district may require and the county attorney shall render such service;

(14) Within the limits of appropriations made available for such purposes, to annually expend in such district the actual and necessary expenses of maintaining and continuing the New York soil and water conservation district's association and any of its activities in this state for the purpose of devising practical ways and means for obtaining greater economy and efficiency in soil and water conservation;

(15) Whenever the work relating to soil erosion and other preventive control measures proposed by the directors of a soil and water conservation district shall benefit the highways, bridges, or other property of the county or town, either by repair of actual damage inflicted, or prevention of damage likely to be inflicted by flood waters or erosion, the county or town shall be authorized when

permission is granted by the proper authorities thereof to contribute necessary funds, or to loan equipment, or furnish to them necessary aid without charge for the use of such equipment for the work to be done for the particular improvement. No such funds contributed, or equipment loaned, or aid furnished, shall be used except for work which shall benefit such municipality so furnishing the same.

* (16) Within the limits of appropriations made available for such purposes, to undertake a public information and education program regarding the principles and practices of preservation and conservation of the soil and water resources of this state set forth in section two of this chapter.

* NB There are 2 sb (16)'s

* (16) To carry out preventative and control measures for the spread of prohibited and regulated species pursuant to section 9-1709 of the environmental conservation law.

* NB There are 2 sb (16)'s

§ 10. Cooperation between districts. The directors 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.

§ 11. 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 may cooperate with the directors of such districts in the effectuation of programs and operations undertaken by the directors under the provisions of this chapter.

§ 11-a. State aid to districts. (1) To aid districts in carrying out the purposes of this chapter, including, but not limited to, providing

technical assistance to landowners, the state, within the amount appropriated therefor, shall:

(a) Reimburse each soil and water conservation district to the extent of fifty percent of the amount expended by the district for the items specified in this paragraph, up to sixty thousand dollars per district in any fiscal year. Reimbursement pursuant to this paragraph shall be limited to expenditures for the employment of conservation field technicians or district managers, and the purchase of supplies and equipment related to these positions, for the purpose of supervising or providing technical assistance for the establishment and implementation of soil and water conservation practices in accordance with programs undertaken by the district. At the end of each calendar year, verified and detailed claims for such reimbursement shall be submitted to the state soil and water conservation committee in such form and manner and containing such information as the state soil and water conservation committee, the commissioner of agriculture and markets and the state comptroller may require. Notwithstanding any other provision of this chapter, the soil and water conservation district of New York city shall be considered the equivalent of five districts when reimbursed in accordance with the provisions of this paragraph.

(b) Within amounts available, provide financial assistance to each soil and water conservation district in an amount of up to six thousand dollars, in addition to the reimbursement provided under paragraph (a) of this subdivision, for the purposes of carrying out projects which conserve, restore and enhance the soil and water resources of this state; assist in the implementation of agricultural best management practices; prevent and reduce agricultural and non-agricultural nonpoint-source water pollution; assist in the control of floods and mitigate flood damage; protect and restore streams and wetlands; protect and restore wildlife and aquatic habitat; assist in the drainage of agricultural lands; prevent impairment of dams and reservoirs; control stormwater run-off, including from construction sites; assist in maintaining the navigability of rivers and harbors; reduce agriculturally-generated air pollution; assist the agricultural production of green energy; protect open space; collect and dispose of pesticides; manage public lands; and protect and manage rural and urban forests. For purposes of this paragraph, the soil and water conservation

of New York city shall be considered the equivalent of five districts.

(c) Within amounts available, financial assistance to each soil and water conservation district, in addition to the amounts provided under paragraphs (a) and (b) of this subdivision shall be distributed equally to districts that qualify pursuant to performance standards to be established by the soil and water conservation committee and the commissioner of the department of agriculture and markets in rules and regulations. Such standards shall include, but not be limited to, (i) demonstrating the extent and sufficiency of district board activity including board operations, financial oversight and training; (ii) district reporting requirements, including annual reports and responding to the state committee, and public outreach and education activities; (iii) the quality of the delivery of state natural resource conservation programs including appropriate certifications, training, timely completion of projects, and compliance with reporting; (iv) the ability of the district to use such funding to leverage additional funds from local, federal and private sources; and (v) the ability to promote partnerships and assist local governments and non-governmental organizations.

(2) Reimbursement and funding pursuant to this section, when approved by the state soil and water conservation committee and the commissioner of agriculture and markets, shall be paid out of the state treasury from funds appropriated and made available for the purposes of this section upon audit and warrant of the state comptroller on vouchers certified by the state soil and water conservation committee and the commissioner of agriculture and markets in the manner provided by law.

(3) The commissioner of agriculture and markets and the state soil and water conservation committee are each empowered to promulgate such rules and regulations and to prescribe such forms as each shall deem necessary to effectuate the purposes of this section.

§ 11-b. Agricultural nonpoint source abatement and control projects.

1. Subject to the availability of funds appropriated therefor, a matching grant program is established to fund agricultural nonpoint source abatement and control projects that meet the following criteria:

- a. the project must consist of activities or plans which will identify, reduce, abate, control or prevent nonpoint source pollution originating from agricultural sources;
- b. the project must be proposed for implementation by a district or group of districts acting jointly;
- c. the project must identify agricultural nonpoint sources of pollution or propose to implement best management practices, as defined in section three of this chapter; and
- d. the district or districts must have funds available to pay for its share of the eligible project costs.

2. Applications for matching grants shall contain the following information:

- a. the name and location of the water body and the nonpoint source problem to be addressed;
- b. identification of the best management practices to be implemented, if applicable;
- c. a cost estimate for the proposed project;
- d. the source of funds available to the district to pay for its share of the eligible costs;
- e. information sufficient to demonstrate that the criteria in subdivision one of this section have been met; and
- f. such further information as may be required by the committee through regulations.

3. In awarding grants the committee shall give preference to those projects located in priority water bodies identified pursuant to section 17-1407 of the environmental conservation law. The committee shall also

give preference to projects proposed to promote participation or further the priorities of the agricultural environmental management (AEM) program as set forth in article eleven-A of the agriculture and markets law.

4. Eligible costs that may be funded pursuant to this section are architectural and engineering services, plans and specifications, including watershed based or individual agricultural nonpoint source pollution assessments, consultant and legal services, conservation easements and associated transaction costs specific to title thirty-three of article fifteen of the environmental conservation law and other direct expenses related to project implementation.

5. State assistance payments pursuant to this section shall be up to a maximum of seventy-five percent of the eligible costs, as determined pursuant to subdivision four of section 17-1409 of the environmental conservation law, for any specified project. Such maximum shall be increased by a percentage equal to the percentage of the total eligible costs for such specified projects that are contributed by the owner or operator of agricultural land upon which such specified project is being conducted, provided, however, that in no event shall the total of such state assistance payments exceed eighty-seven and one-half percent of such eligible costs for any specified project.

6. The committee may adopt rules and regulations necessary to effectuate the purposes of this section.

7. Notwithstanding any other provision of law, a concentrated animal feeding operation permitted pursuant to title seven or eight of article seventeen of the environmental conservation law shall be treated as a nonpoint source for purposes of qualifying for funding pursuant to this section.

§ 12. Discontinuance of districts. (1) The county board of any county or the city council of the city of New York which, by resolution, has declared the county or the city of New York to be a soil and water

conservation district, may at any time after five years from the passage of said resolution, and after determining that a substantial proportion of the rural land occupiers of the district so desire, repeal said resolution at a regular or special meeting of said board or council, providing written notice of intended action on such resolution, together with the basis for action, is provided by the county board or city council to the state soil and water conservation committee at least thirty days before action is taken on such resolution. This determination may be made through hearings, petitions or referenda.

(2) Upon the repeal of the resolution which declared the county or the city of New York to be a soil and water conservation district, the directors may not enter into any more contracts or agreements on behalf of the district, and all rules and regulations theretofore adopted and in force within such district shall be of no further force and effect. Such district, however, shall continue for the purpose of fulfilling its contracts, discharging any existing obligations, collecting and distributing its assets and doing all other acts required to adjust and wind up its affairs.

(3) Upon the repeal by the county board or the city council of the resolution declaring the county or the city of New York to be a soil and water conservation district, the directors shall at public auction dispose of all property belonging to the district as soon as said property is no longer needed by the district to fulfill any existing contracts, and shall forthwith pay over the proceeds of such sale, after paying the necessary costs of the sale, into the county or the city of New York treasury. The directors shall, at least ten days prior to the holding of such public auction, notify the state committee of the property proposed to be sold thereat, and after such sale shall render to the county board or the city council and to the state committee a report of such sale, specifying the property sold, the amount received therefore, and the disposition of the proceeds. Such report of the sale shall also be accompanied by a list of the remaining property of the district still undisposed of.

ARTICLE III

SEPARABILITY CLAUSE; INCONSISTENCY WITH OTHER ACTS;

EFFECTIVE DATE

Section 13. Separability clause.

14. Inconsistency with other acts.

15. Effective date.

§ 13. Separability clause. If any provisions of this chapter or the application of any provision to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

§ 14. Inconsistency with other acts. Insofar as any of the provisions of this chapter are inconsistent with the provisions of any other law, the provisions of this chapter shall be controlling.

§ 15. Effective date. This chapter shall take effect immediately.