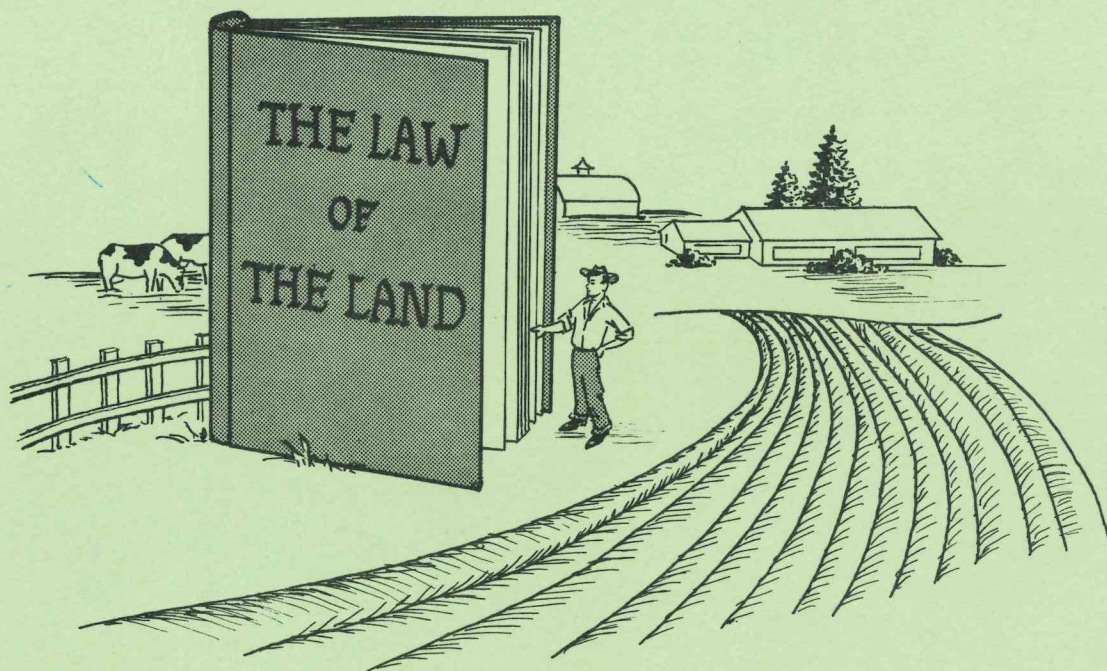


Federal Laws
and
State of Washington Laws
concerning
SOIL AND WATER CONSERVATION



Washington State Soil and Water Conservation Committee
335 General Administration Building — Olympia, Washington

1962

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to cooperate with the United States for certain works for improve-
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at the Department of Conservation, Olympia, Washington.

SOIL CONSERVATION ACT OF APRIL 27, 1935
(16 U.S.C. 590a-590e; 49 Stat. 163;
Public No. 46, 74th Congress)

Title 16, United States Code

§ 590a. Prevention of soil erosion; surveys and investigations; preventive measures; cooperation with agencies and persons; acquisition of land.

It is recognized that the wastage of soil and moisture resources on farm, grazing, and forest lands of the Nation, resulting from soil erosion, is a menace to the national welfare and that it is declared to be the policy of Congress to provide permanently for the control and prevention of soil erosion and thereby to preserve natural resources, control floods, prevent impairment of reservoirs, and maintain the navigability of rivers and harbors, protect public health, public lands and relieve unemployment, and the Secretary of Agriculture, from now on, shall coordinate and direct all activities with relation to soil erosion and in order to effectuate this policy is authorized, from time to time--

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive measures needed, to publish the results of any such surveys, investigations, or research, to disseminate information concerning such methods, and to conduct demonstrational projects in areas subject to erosion by wind or water;

(2) To carry out preventive measures, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land;

(3) To cooperate or enter into agreements with, or to furnish financial or other aid to, any agency, governmental or otherwise, or any person, subject to such conditions as he may deem necessary, for the purposes of this chapter; and

(4) To acquire lands, or rights or interests therein, by purchase, gift, condemnation, or otherwise, whenever necessary for the purposes of this chapter.

(Apr. 27, 1935, ch. 85, § 1, 49 Stat. 163.)

§ 590b. Lands on which preventive measures may be taken.

The acts authorized in section 590a (1) and (2) of this title may be performed--

(a) On lands owned or controlled by the United States or any of its agencies, with the cooperation of the agency having jurisdiction thereof; and

(b) On any other lands, upon obtaining proper consent or the necessary rights or interests in such lands. (Apr. 27, 1935, ch. 85, § 2, 49 Stat. 163.)

§ 590c. Conditions under which benefits of law extended nongovernment controlled lands.

As a condition to the extending of any benefits under this chapter to any lands not owned or controlled by the United States or any of its agencies, the Secretary of Agriculture may, insofar as he may deem necessary for the purposes of said sections, require--

(1) The enactment and reasonable safeguards for the enforcement of State and local laws imposing suitable permanent restrictions on the use of such lands and otherwise providing for the prevention of soil erosion;

(2) Agreements or covenants as to the permanent use of such lands; and

(3) Contributions in money, services, materials, or otherwise, to any operations conferring such benefits.

(Apr. 27, 1935, ch. 85, § 3, 49 Stat. 163.)

§ 590d. Cooperation of governmental agencies; officers and employees, appointment and compensation; expenditures for personal services and supplies.

For the purposes of this chapter, the Secretary of Agriculture may--

(1) Secure the cooperation of any governmental agency;

(2) Subject to the provisions of the civil-service laws and the Classification Act of 1949, as amended, appoint and fix compensation of such officers and employees as he may deem necessary, except for a period not to exceed eight months from the date of this enactment, the Secretary of Agriculture may make appointments and may continue employees of the organization heretofore established for the purpose of administering those provisions of the National Industrial Recovery Act which relate to the prevention of soil erosion, without regard to the civil-service laws or regulations and the Classification Act of 1949, as amended; and any persons with technical or practical knowledge may be employed and compensated under this chapter on a basis to be determined by the Civil Service Commission; and

(3) Make expenditures for personal services and rent in the District of Columbia and elsewhere, for the purchase of law books and books of reference, for printing and binding, for the purchase, operation, and maintenance of passenger-carrying vehicles, and perform such acts, and prescribe such regulations, as he may deem proper to carry out the provisions of this chapter.

(Apr. 27, 1935, ch. 85, § 4, 49 Stat. 164; Oct. 8, 1949, ch. 782, title XI, § 1106 (a), 63 Stat. 972.)

§ 590e. Soil Conservation Service; establishment; utilization and transfer of existing governmental agencies.

The Secretary of Agriculture shall establish an agency to be known as the "Soil Conservation Service", to exercise the powers conferred on him

by this chapter and may utilize the organization heretofore established for the purpose of administering those provisions of sections 202 and 203 of the National Industrial Recovery Act which relate to the prevention of soil erosion, together with such personnel thereof as the Secretary of Agriculture may determine, and all unexpended balances of funds heretofore allotted to said organization shall be available until June 30, 1937, and the Secretary of Agriculture shall assume all obligations incurred by said organization prior to transfer to the Department of Agriculture. In order that there may be proper coordination of erosion-control activities the Secretary of Agriculture may transfer to the agency created under this chapter such functions, funds, personnel, and property of other agencies in the Department of Agriculture as he may from time to time determine.

(Apr. 27, 1935, ch. 85, § 5, 49 Stat. 164.)

Watershed Protection and Flood Prevention Act, as amended*

AN ACT

To authorize the Secretary of Agriculture to cooperate with States and local agencies in the planning and carrying out of works of improvement for soil conservation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That erosion, floodwater, and sediment damages in the watersheds of the rivers and streams of the United States, causing loss of life and damage to property, constitute a menace to the national welfare; and that it is the sense of Congress that the Federal Government should cooperate with States and their political subdivisions, soil or water conservation districts, flood prevention or control districts, and other local public agencies for the purpose of preventing such damages and of furthering the conservation, development, utilization, and disposal of water and thereby of preserving and protecting the Nation's land and water resources.

SEC. 2. For the purposes of this Act, the following terms shall mean:

The "Secretary" --the Secretary of Agriculture of the United States.

"Works of improvement" --any undertaking for--

(1) flood prevention (including structural and land-treatment measures) or

(2) the conservation, development, utilization, and disposal of water

in watershed or subwatershed areas not exceeding two hundred and fifty thousand acres and not including any single structure which provides more than five thousand acre-feet of floodwater detention capacity, and more than twenty-five thousand acre-feet of total capacity. No appropriation shall be made for any plan involving an estimated Federal contribution to construction costs in excess of \$250,000, or which includes any structure which provides more than twenty-five hundred acre-feet of total capacity unless such plan has been approved by resolutions adopted by the appropriate committees of the Senate and House of Representatives: Provided, That in the case of any plan involving no single structure providing more than 4,000 acre-feet of total capacity the appropriate committees shall be the Committee on Agriculture and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and in the case of any plan involving any single structure of more than 4,000 acre-feet of total capacity the appropriate committees shall be the Committee on Public Works of the Senate and the Committee on Public Works of the House of Representatives, respectively. A number of such subwatersheds when they are component parts of a larger watershed may be planned together when the local sponsoring organizations so desire.

"Local organization" --any State, political subdivision thereof, soil or water conservation district, flood prevention or control district, or combinations thereof, or any other agency having authority under State law to carry out, maintain and operate the works of improvement; or any irrigation or reservoir company, water users' association, or similar organization having such authority and not being operated for profit that may be approved by the Secretary.

SEC. 3. In order to assist local organizations in preparing and carrying out plans for works of improvement, the Secretary is authorized, upon application of local organizations if such application has been submitted to, and not disapproved within 45 days by, the State agency having supervisory responsibility over programs provided for in this Act, or by the Governor if there is no State agency having such responsibility--

(1) to conduct such investigations and surveys as may be necessary to prepare plans for works of improvement;

(2) to prepare plans and estimates required for adequate engineering evaluation;

*(P. L. 566, 83rd Cong., 68 Stat. 666; P. L. 1018, 84th Cong., 70 Stat. 1088;
P. L. 85-624, 85th Cong., 72 Stat. 563; P. L. 85-865, 85th Cong., 72 Stat. 1605;
P. L. 86-468, 86th Cong., 74 Stat. 131, 132; P. L. 86-545, 86th Cong., 74 Stat. 254;
P. L. 87-170, 87th Cong., 75 Stat. 408.)

(3) to make allocations of costs to the various purposes to show the basis of such allocations and to determine whether benefits exceed costs;

(4) to cooperate and enter into agreements with and to furnish financial and other assistance to local organizations: Provided, That, for the land-treatment measures, the Federal assistance shall not exceed the rate of assistance for similar practices under existing national programs;

(5) to obtain the cooperation and assistance of other Federal agencies in carrying out the purposes of this section.

SEC. 4. The Secretary shall require as a condition to providing Federal assistance for the installation of works of improvement that local organizations shall--

(1) acquire, or with respect to interests in land to be acquired by condemnation provide assurances satisfactory to the Secretary that they will acquire, without cost to the Federal Government, such land, easements, or rights-of-way as will be needed in connection with works of improvement installed with Federal assistance;

(2) assume (A) such proportionate share, as is determined by the Secretary to be equitable in consideration of the direct identifiable benefits, of the costs of installing any works of improvement, involving Federal assistance, which is applicable to the agricultural phases of the conservation, development, utilization, and disposal of water or for fish and wildlife development, and (B) all of the cost of installing any portion of such works applicable to other purposes except that any part of the construction cost (including engineering costs) applicable to flood prevention and features relating thereto shall be borne by the Federal Government and paid for by the Secretary out of funds appropriated for the purposes of this Act;

(3) make arrangements satisfactory to the Secretary for defraying costs of operating and maintaining such works of improvement, in accordance with regulations presented by the Secretary of Agriculture;

(4) acquire, or provide assurance that landowners or water users have acquired, such water rights, pursuant to State law, as may be needed in the installation and operation of the work of improvement;

(5) obtain agreements to carry out recommended soil conservation measures and proper farm plans from owners of not less than 50 per centum of the lands situated in the drainage area above each retention reservoir to be installed with Federal assistance; and

(6) submit a plan of repayment satisfactory to the Secretary for any loan or advancement made under the provisions of section 8.

SEC. 5. At such time as the Secretary and the interested local organization have agreed on a plan for works of improvement, and the Secretary has determined that the benefits exceed the costs, and the local organization has met the requirements for participation in carrying out the works of improvement as set forth in section 4, the local organization with such assistance as it may request from the Secretary, which assistance the Secretary is hereby authorized to give, shall secure engineering and other services, including the design, preparation of contracts and specifications, awarding of contracts, and supervision of construction, in connection with such works of improvement, and in order to properly carry out such services in such projects as to such structures therein providing for municipal or industrial water supplies, the local organization shall, and in such projects not providing for municipal or industrial water supplies, the local organization may, retain or employ a professional engineer or engineers satisfactory to the Secretary, and the Secretary shall reimburse the local organization for the cost it may incur for the services of such engineer or engineers as is properly chargeable to such works of improvement, except that if the local organization decides not to retain or employ a professional engineer or if the Secretary determines that competent engineering services are not available he may contract for a competent engineer to provide such services or arrange for employees of the Federal Government to provide such services: Provided, That at the request of the local organization which retains or employs a professional engineer or engineers as aforesaid, the Secretary may advance such amounts as may be necessary to pay for such

services, but such advances with respect to any works of improvement shall not exceed 5 per centum of the estimated total cost of such works: Provided further, That, except as to the installation of works of improvement on Federal lands, the Secretary shall not construct or enter into any contract for the construction of any structure unless there is no local organization authorized by State law to undertake such construction or to enter into such contract, and in no event after July 1, 1956: Provided, That in participating in the installation of such works of improvement the Secretary, as far as practicable and consistent with his responsibilities for administering the overall national agricultural program, shall utilize the authority conferred upon him by the provisions of this Act: Provided further, That whenever the estimated Federal contribution to the construction cost of works of improvement in any watershed or sub-watershed area shall exceed \$250,000 or the works of improvement include any structure having a total capacity in excess of twenty-five hundred acre-feet, the Secretary shall transmit a copy of the plan and the justification therefor to the Congress through the President: Provided further, That any such plan involving an estimated Federal contribution to construction costs in excess of \$250,000 or containing any structure having a total capacity in excess of twenty-five hundred acre-feet (a) which includes reclamation or irrigation works or which affects public or other lands or wildlife under the jurisdiction of the Secretary of the Interior, or (b) which includes Federal assistance for floodwater detention structures, shall be submitted to the Secretary of the Interior or the Secretary of the Army, respectively, for his views and recommendations at least thirty days prior to transmission of the plan to the Congress through the President. The views and recommendations of the Secretary of the Interior, and the Secretary of the Army, if received by the Secretary of Agriculture prior to the expiration of the above thirty-day period, shall accompany the plan transmitted by the Secretary of Agriculture to the Congress through the President: Provided further, That, prior to any Federal participation in the works improvement under this Act, the President shall issue such rules and regulations as he deems necessary or desirable to carry out the purposes of this Act, and to assure the coordination of the work authorized under this Act and related work of other agencies including the Department of the Interior and the Department of the Army.

SEC. 6. The Secretary is authorized in cooperation with other Federal and with States and local agencies to make investigations and surveys of the watersheds of rivers and other waterways as a basis for the development of coordinated programs. In areas where the programs of the Secretary of Agriculture may affect public or other lands under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior is authorized to cooperate with the Secretary of Agriculture in the planning and development of works or programs for such lands.

SEC. 7. The provisions of the Act of June 22, 1936 (49 Stat. 1570), as amended and supplemented, conferring authority upon the Department of Agriculture under the direction of the Secretary of Agriculture to make preliminary examinations and surveys and to prosecute works of improvement for runoff and waterflow retardation and soil erosion prevention on the watersheds of rivers and other waterways are hereby repealed: Provided, That (a) the authority of that Department of Agriculture, under the direction of the Secretary, to prosecute the works of improvement for runoff and waterflow retardation and soil erosion prevention authorized to be carried out by the Department by the Act of December 22, 1944 (58 Stat. 887), as amended, and (b) the authority of the Secretary of Agriculture to undertake emergency measures for runoff retardation and soil erosion prevention authorized to be carried out by section 7 of the Act of June 28, 1938 (52 Stat. 1215), as amended by section 216 of the Act of May 17, 1950 (64 Stat. 163), shall not be affected by the provisions of this section: Provided further, That in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented, the Secretary of Agriculture is authorized to prosecute additional works of improvement for the conservation, development, utilization, and disposal of water in accordance with the provisions of section 4 of this Act.

SEC. 8. The Secretary is authorized to make loans or advancements (a) to local organizations to finance the local share of costs of carrying out works of improvement provided for in this Act, and (b) to State and local agencies to finance the local share of costs of carrying out works of improvement (as defined in section 2 of this Act) in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented: Provided, That the works of improvement in connection with said eleven watershed improvement programs shall be integral parts of watershed or subwatershed work plans agreed upon by the Secretary of Agriculture and the concerned State and local agencies. Such loans or advancements shall be made under contracts or agreements which will provide, under such terms and conditions as the Secretary deems appropriate, for the repayment thereof in not more than fifty years from the date when the principal benefits of the works of improvement first become available, with interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which the loan or advancement is made, which are neither due nor callable for redemption for fifteen years from date of issue. With respect to any single plan for works of improvement, the amount of any such loan or advancement shall not exceed five million dollars.

SEC. 9. The provisions of this Act shall be applicable to Hawaii, Alaska, Puerto Rico, and the Virgin Islands.

SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, such sums to remain available until expended. No appropriation hereafter available for assisting local organizations in preparing and carrying out plans for works of improvement under the provisions of section 3 or clause (a) of section 8 of this Act shall be available for any works of improvement pursuant to this Act or otherwise in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented, or for making loans or advancements to State and local agencies as authorized by clause (b) of section 8.

SEC. 11. This Act may be cited as the "Watershed Protection and Flood Prevention Act".

SEC. 12. When the Secretary approves the furnishing of assistance to a local organization in preparing a plan for works of improvement as provided for in section 3:

(1) The Secretary shall so notify the Secretary of the Interior in order that the latter, as he desires, may make surveys and investigations and prepare a report with recommendations concerning the conservation and development of wildlife resources and participate, under arrangements satisfactory to the Secretary of Agriculture, in the preparation of a plan for works of improvement that is acceptable to the local organization and the Secretary of Agriculture.

(2) Full consideration shall be given to the recommendations contained in any such report of the Secretary of the Interior as he may submit to the Secretary of Agriculture prior to the time the local organization and the Secretary of Agriculture have agreed on a plan for works of improvement. The plan shall include such of the technically and economically feasible works of improvement for wildlife purposes recommended in the report by the Secretary of the Interior as are acceptable to, and agreed to by, the local organization and the Secretary of Agriculture, and such report of the Secretary of the Interior shall, if requested by the Secretary of the Interior, accompany the plan for works of improvement when it is submitted to the Secretary of Agriculture for approval or transmitted to the Congress through the President.

(3) The cost of making surveys and investigations and of preparing reports concerning the conservation and development of wildlife resources shall be borne by the Secretary of the Interior out of funds appropriated to his Department.

U. S. Department of Agriculture
Soil Conservation Service
November 1, 1961

Soil and Water Conservation District Law

Revised Code of Washington
(Laws of 1939, 1949, 1951, 1953, 1955, and 1961)

Sections

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- 89.08.900 Severability.

State participation in soil conservation district—Limit: See RCW 86.26.100

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89.08.005 Short title. This chapter shall be known and cited as the soil and water conservation districts law. (1961 c 240 Sec. 1; 1939 c 187 Sec. 1; RRS Sec. 10726-1.)

89.08.010 Preamble. It is hereby declared, as a matter of legislative determination:

(1) That the farm and grazing lands of the state of Washington 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 landowner to conserve the soil and control erosion upon his lands causes a washing and blowing of soil and water from his lands onto other lands and makes the conservation of soil and control of erosion on such other lands difficult or impossible.

(2) 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 wildlife; 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, intensifies periods of drought, and causes crop failures; an increase in the speed and volume of rainfall run-off, 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.

(3) That to conserve soil resources and control and prevent soil erosion, 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 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, and the like; the utilization of strip cropping, 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 stabilizations with trees, grasses, legumes, and other thick-growing, soil-holding crops, retardation of run-off by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

(4) It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and soil resources of this state, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state. (1939 c 187 Sec. 2; RRS Sec. 10726-2.)

89.08.020 Definitions. Unless the context clearly indicates otherwise, as used in this chapter:

"Committee" and "conservation committee" mean the state soil and water conservation committee created hereunder;

"District" means a soil and water conservation district created hereunder;

"Board" and "supervisors" mean the board of supervisors of a soil and water conservation district;

"Land owner" or "owner of land" means the holder of legal or equitable title to land in a district;

"Tenant" means person or persons who operate a farm under a lease, crop share or similar arrangement;

"Due notice" means a notice published at least twice, with at least six days between publications, in a publication of general circulation within the affected area, or if there is no such publication, by posting at a reasonable number of public places within the area, where it is customary to post notices concerning county and municipal affairs. Any hearing held pursuant to due notice may be postponed from time to time without a new notice. (1961 c 240 Sec. 2; 1955 c 304 Sec. 1; 1939 c 187 Sec. 3; RRS Sec. 10726-3.)

89.08.030 Conservation committee. There is hereby created as an agency of the state, the state soil and water conservation committee.

The committee shall consist of five farmer members and two ex officio members. The farmer members shall be actively engaged in commercial farming in this state. Two of the farmer members shall be appointed by the governor and three shall be elected as herein provided. The appointed farmer members shall serve for a term of four years. The appointments of the first farmer members after June 8, 1955 shall be effective upon the expiration of the terms of the present appointed farmer members.

The other three farmer members shall be elected for three-year terms, one being elected each year by the district supervisors at their annual statewide meeting. One of the members shall be from eastern Washington, one from central Washington and one from western Washington, the specific boundaries to be determined by district supervisors. At the first such election, the term of the member from western Washington shall be one year, central Washington two years and eastern Washington three years, and successors shall be elected for three years.

Unexpired term vacancies in the office of appointed committee members shall be filled by appointment by the governor in the same manner as full-term appointments. Unexpired terms of elected committee members shall be filled by the vice president of the state association of soil and water conservation districts who serves the part of the state where the vacancy occurs, such term to continue only until district supervisors can fill the unexpired term by electing the committee member.

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The director of the department of conservation and the director of the institute of agricultural sciences at the Washington State University shall be ex officio members of the committee. An ex officio member of the committee shall hold office so long as he retains the office by virtue of which he is a member of the committee.

Upon June 8, 1955, the officers and directors representing the soil and water conservation districts shall appoint one farmer member from each of the three respective areas of the state to serve on the committee until the next annual meeting of the district supervisors, at which time elections shall be held as provided for in this chapter. (1961 c 240 Sec. 3; 1955 c 304 Sec. 3. Prior: 1951 c 216 Sec. 3; 1949 c 106 Sec. 1, part; 1939 c 187 Sec. 4, part; Rem. Supp. 1949 Sec. 10726-4, part.)

89.08.040 Chairman—Expenses—Records, rules, hearings, etc. The committee shall designate its chairman from time to time. Members shall receive no compensation, but shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties.

The committee shall keep a record of all its official actions, proceedings, resolutions, regulations, and orders, provide for an annual audit of its accounts, adopt a seal, which shall be judicially noticed, adopt and promulgate rules, hold public hearings, and do all things necessary to carry out its functions. The state department of conservation is empowered to pay the necessary travel expenses of the farmer members of the state soil and water conservation committee, and the salaries, wages, and other expenses of such administrative officers or other employees as may be required under the provisions of this chapter. (1961 c 240 Sec. 4; 1955 c 304 Sec. 4. Prior: 1951 c 216 Sec 4; 1949 c 106 Sec. 1, part; 1939 c 187 Sec. 4, part; Rem. Supp. 1949 Sec. 10726-4, part.)

89.08.050 Employees—Surety bonds—Delegation—Quorum. The committee may employ an administrative officer, and such technical experts and such other agents and employees as it requires, and determine their qualifications, duties, and compensation, and may call upon the attorney general for such legal services as it may require.

It may delegate to its chairman or to its members or employees such duties and powers as it deems proper. It shall provide for surety bonds for its officers and employees entrusted with funds or property.

A majority of the committee shall constitute a quorum, and a majority must concur in any matter calling for committee action. (1961 c 240 Sec. 5; 1955 c 304 Sec. 5. Prior: 1949 c 106 Sec. 1, part; 1939 c 187 Sec. 4, part; Rem. Supp. 1949 Sec. 10726-4, part.)

County engineer is flood control engineer for soil and water conservation district.
RCW 86.26.030.

89.08.060 Assistance of other state agencies and institutions. The committee may request any state agency or state institution of learning to make studies, surveys, and reports on any matter relating to its functions, and may request that a member of the personnel of such agency or institution be assigned to it as assistant, and such requests shall be complied with so far as possible and practicable. (1955 c 304 Sec. 6. Prior: 1949 c 106 Sec. 1, part; 1939 c 187 Sec. 4, part; Rem. Supp. 1949 Sec. 10726-4, part.)

89.08.070 General duties of committee. In addition to the duties and responsibilities hereinafter conferred upon the committee, it shall have the following duties and responsibilities:

(1) To offer such assistance as may be appropriate to the supervisors of soil and water conservation districts in the carrying out of any of their powers and programs.

(2) To keep the supervisors of each of the several soil and water conservation districts informed of the activities and experience of all other such districts organized hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them.

(3) To coordinate the programs of the several soil and water conservation districts so far as this may be done by advice and consultation.

(4) To secure the cooperation of the United States and any of its agencies, and of agencies of this state in the work of such districts.

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

(6) To establish policies for utilization of state appropriations by the committee and by districts and to decide on distribution and use of such funds within the state; also to manage any other funds which may become available for use by districts or by the committee. (1961 c 240 Sec. 6; 1955 c 304 Sec. 7. Prior: 1949 c 106 Sec. 1, part; 1939 c 187 Sec. 4, part; Rem. Supp. 1949 Sec. 10726-4, part.)

89.08.080 Petition to form district—Contents. To form a soil and water conservation district, twenty-five or more persons owning land within the area to be affected may file a petition with the committee asking that the area be organized into a district.

The petition shall give the name of the proposed district, state that it is needed in the interest of the public health, safety, and welfare, give a general description of the area proposed to be organized and request that the committee determine that it be created, and that it define the boundaries thereof and call an election on the question of creating the district.

If more than one petition is filed covering parts of the same area, the committee may consolidate all or any of them. (1961 c 240 Sec. 7; 1961 c 17 Sec. 1. Prior: 1939 c 187 Sec. 5, part; RRS Sec. 10726-5, part.)

89.08.090 Notice of hearing—Hearing. Within thirty days after a petition is filed, the committee shall give due notice of the time and place of a public hearing thereon. At the hearing all interested persons shall be heard.

If it appears to the committee that additional land should be included in the district, the hearing shall be adjourned and a new notice given covering the entire area and a new date fixed for further hearing, unless waiver of notice by the owners of the additional land is filed with the committee.

No district shall include any portion of a railroad right of way, or another similar district. The lands included in a district need not be contiguous. (1955 c 304 Sec. 9 Prior: 1939 c 187 Sec. 5, part; RRS Sec. 10726-5, part.)

89.08.100 Findings—Order. After the hearing, if the committee finds that the public health, safety, and welfare warrant the creation of the district, it shall enter an order to that effect and define the boundaries thereof by metes and bounds or by legal subdivisions.

In making its finding the committee shall consider the topography of the particular area and of the state generally; the composition of the soil; the distribution of erosion; the prevailing land use practices; the effects upon and benefits to the land proposed to be included; the relation of the area to existing watersheds and agricultural regions and to other similar districts organized or proposed; and consider such other physical, geographical, and economic factors as are relevant.

If the committee finds there is no need for the district, it shall enter an order denying the petition, and no petition covering the same or substantially the same area may be filed within six months thereafter. (1955 c 304 Sec. 10. Prior: 1939 c 187 Sec. 5, part; RRS Sec. 10726-5, part.)

89.08.110 Election—How conducted. If the committee finds that the district is needed, it shall then determine whether it is practicable. To assist the committee in determining this question, it shall, within a reasonable time, submit the proposition to a vote of the landowners and tenants in the proposed district.

The committee shall fix the date of the election, establish the voting precincts, designate the polling places, fix the hours for opening and closing the polls, and appoint the election officials. The election shall be conducted, the vote counted and returns canvassed and the results published by the committee in the same manner as is done in general county elections. (1955 c 304 Sec. 11. Prior: 1939 c 187 Sec. 5, part; RRS Sec. 10726-5, part.)

89.08.120 Ballots. The committee shall provide the ballots for the election which shall contain the words

"[] For creation of a soil and water conservation district of the lands below described and lying in the county or counties of _____, _____ and _____."

"[] Against creation of a soil and water conservation district of the lands below described and lying in the county or counties of _____, _____ and _____."

The ballot shall set forth the boundaries of the proposed district, and contain a direction to insert an X in the square of the voter's choice. (1961 c 240 Sec. 8; 1955 c 304 Sec. 12. Prior: 1939 c 187 Sec. 5, part; RRS Sec. 10726-5, part.)

89.08.130 Notice of election. The committee shall give due notice of the election, which shall state generally the purpose of the election, the date thereof, the place and hours of voting, and set forth the boundaries of the proposed district.

Only owners of land and tenants within the proposed district as determined by the committee may vote at the election. Each voter shall vote in the precinct of his residence. If he resides outside the district, he shall vote at the nearest polling place in the district. (1955 c 304 Sec. 13. Prior: 1939 c 187 Sec. 5, part; RRS Sec. 10726-5, part.)

89.08.140 Expense of hearing and election. The committee shall bear all expense of giving the notices and conducting the hearings and election, and shall issue regulations governing all hearings and elections and supervise the conduct thereof. It shall provide for registration of eligible voters or prescribe the procedure to determine the eligible voters. No informality in connection with the election shall invalidate the results, if the notice thereof was substantially given, and the election fairly conducted. (1955 c 304 Sec. 14. Prior: 1939 c 187 Sec. 5, part; RRS Sec. 10726-5, part.)

89.08.150 Procedure after canvass. If a majority of the votes cast at the election are against the creation of the district, the committee shall deny the petition. If a majority favor the district, the committee shall determine the practicability of the project.

In making such determination, the committee shall consider the attitude of the landowners of the district; the number of eligible voters who voted at the election; the size of the majority vote; the wealth and income of the landowners; the probable expense of carrying out the project; and any other economic factors relevant thereto.

If the committee finds that the project is impracticable it shall enter an order to that effect and deny the petition. When the petition has been denied, no new petition

covering the same or substantially the same area may be filed within six months therefrom. (1955 c 304 Sec. 15. Prior: 1939 c 187 Sec. 5, part; RRS Sec. 10726-5, part.)

89.08.160 Appointment of supervisors—Application to secretary of state. If the committee finds the project practicable, it shall appoint two supervisors, who shall be qualified by training and experience to perform the specialized skilled services required of them. They, with the three elected supervisors, shall constitute the governing board of the district.

The two appointed supervisors shall file with the secretary of state a sworn application, reciting that a petition was filed with the committee for the creation of the district; that all required proceedings were had thereon; that they were appointed by the committee as such supervisors; and that the application is being filed to complete the organization of the district. It shall contain the names and residences of the applicants, a certified copy of their appointments, the name of the district, the location of the office of the supervisors and the term of office of each applicant.

The application shall be accompanied by a statement of the committee, reciting that a petition was filed, notice issued, and hearing held thereon as required; that it determined the need for the district and defined the boundaries thereof; that notice was given and an election held on the question of creating the district; that a majority vote favored the district, and that the committee had determined the district practicable; and shall set forth the boundaries of the district. (1955 c 304 Sec. 16. Prior: 1939 c 187 Sec. 5, part; RRS Sec. 10726-5, part.)

89.08.170 Secretary of state's certificate—Change of name. If the secretary of state finds that the name of the proposed district is such as will not be confused with that of any other district, he shall enter the application and statement in his records. If he finds the name may be confusing, he shall certify that fact to the committee, which shall submit a new name free from such objections, and he shall enter the application and statement as modified, in his records. Thereupon the district shall be considered organized into a body corporate.

The secretary of state shall then issue to the supervisors a certificate of organization of the district under the seal of the state, and shall record the certificate in his office. Proof of the issuance of the certificate shall be evidence of the establishment of the district, and a certified copy of the certificate shall be admissible as evidence and shall be proof of the filing and contents thereof. The name of a soil and water conservation district may be changed upon recommendation by the supervisors of a district and approval by the state soil and water conservation committee and the secretary of state. The new name shall be recorded by the secretary of state following the same general procedure as for the previous name. (1961 c 240 Sec. 9; 1955 c 304 Sec 17. Prior: 1951 c 216 Sec. 1; 1939 c 187 Sec. 5, part; RRS Sec. 10726-5, part.)

89.08.180 Annexation of territory—Boundary change—Combining two or more districts. Territory may be added to an existing district upon filing a petition as in the case of formation with the committee by owners and tenants of the lands to be included. The same procedure shall be followed as for the creation of the district.

As an alternate procedure, the committee may upon the petition of a majority of the owners of land and tenants in any one or more districts or in unorganized territory adjoining a conservation district change the boundaries of a district, or districts, if such action will promote the practical and feasible administration of such district or districts.

Upon petition of the boards of supervisors of two or more districts, the committee may approve the combining of all or parts of such districts and name the district, or districts, with the approval of the name by the secretary of state. A public hearing and/or

a referendum may be held if deemed necessary or desirable by the committee in order to determine the wishes of landowners and tenants.

When districts are combined, the joint boards of supervisors will first select a chairman, secretary and other necessary officers and select a regular date for meetings. All elected supervisors will continue to serve as members of the board until the expiration of their current term of office, and/or until the election date nearest their expiration date. One supervisor shall be elected each year. All appointed supervisors will continue to serve until the expiration of their current term of office, at which time the committee will make the necessary appointments. In the event that more than two districts are combined, a similar procedure will be set up and administered by the committee.

When districts are combined or territory is moved from one district to another, the property, records and accounts of the districts involved shall be distributed to the remaining district or districts as approved by the committee. A new certificate of organization, naming and describing the new district or districts, shall be issued by the secretary of state. (1961 c 240 Sec. 10; 1955 c 304 Sec. 18. Prior: 1951 c 216 Sec. 2; 1939 c 187 Sec. 5, part; RRS Sec. 10726-5, part.)

89.08.190 Nomination and election of supervisors—Annual meeting of voters. Within the thirty days after the issuance of the certificate of organization, unless the time is extended by the committee, petitions may be filed with the committee to nominate candidates for the three elected supervisors. The petition shall be signed by not less than twenty-five district voters, and a voter may sign petitions nominating more than one person. If less than twenty-five voters reside in the district, petitions signed by a majority of the voters will be accepted.

In the case of a new district, the committee shall give due notice to elect the three supervisors. All provisions pertaining to elections on the creation of a district shall govern this election so far as applicable. The names of all nominees shall appear on the ballot in alphabetical order, together with instructions to vote for three. The three candidates receiving the most votes shall be declared elected supervisors, the one receiving the most being elected for a three-year term, the next for two and the last for one year. An alternate method of dividing the district into three zones may be used when requested by the board of supervisors and approved by the committee. In such case, instructions will be to vote for one in each zone. The candidate receiving the most votes in a zone shall be declared elected.

Each year after the creation of the first board of supervisors, at a time fixed by resolution of the board, the board, by giving due notice, shall call an annual meeting of the voters in the district and present an annual report and financial statement and shall hold an election. Names of candidates nominated by petition shall appear in alphabetical order on the ballots, together with an extra line wherein may be written in the name of any other candidate. The committee shall establish procedures for elections, canvass the returns and announce the official results thereof. Election results may be announced by polling officials during the annual meeting, subject to official canvass of ballots by the committee. Supervisors elected shall take office at the first board meeting which shall be held within thirty days following the election. (1961 c 240 Sec. 11; 1955 c 304 Sec. 19; 1939 c 187 Sec. 6; RRS Sec. 10726-6.)

89.08.200 Supervisors—Term, vacancies, removal, etc.—Compensation. The term of office of each supervisor shall be three years and until his successor is appointed or elected and qualified, except that the supervisors first appointed shall serve for one and two years respectively from the date of their appointments, as designated in their appointments.

In the case of elected supervisors, the term of office of each supervisor shall be three years and until his successor is elected and qualified, except that for the first election, the one receiving the largest number of votes shall be elected for three years; the next largest two years; and the third largest one year. Successors shall be elected for three-year terms.

Vacancies in the office of appointed supervisors shall be filled by the state soil and water conservation committee. Vacancies in the office of elected supervisors shall be filled by appointment made by the remaining supervisors for the unexpired term.

A majority of the supervisors shall constitute a quorum and the concurrence of a majority is required for any official action or determination.

Supervisors shall serve without compensation. A supervisor may be removed by the state soil and water conservation committee upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

The governing board shall designate a chairman from time to time. (1961 c 240 Sec. 12; 1955 c 304 Sec. 21. Prior: 1949 c 106 Sec. 2, part; 1939 c 187 Sec. 7, part; Rem. Supp. 1949 Sec. 10726-7, part.)

89.08.210 Powers and duties of board. The board may employ all necessary clerical and technical assistants, and determine the qualifications, duties, and compensation of its employees. It may call upon the attorney general for legal services, or may employ its own counsel and legal staff. It may delegate to its chairman or employees such powers and duties as it deems proper. It shall provide for the execution of surety bonds for the officers and employees entrusted with funds or property.

The board shall keep a record of all its proceedings, resolutions, rules, regulations, orders, and ordinances, which shall be open to public inspection and remain in the custody and control of its chairman. It shall provide for an annual audit of its accounts. It shall furnish the committee, upon request, copies of its rules, regulations, orders, documents and instruments used by it, and any other information concerning its activities.

The board may invite the legislative body of any municipality or county near or within the district, to designate a representative to advise and consult with it on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county. (1955 c 304 Sec. 22. Prior: 1949 c 106 Sec. 2, part; 1939 c 187 Sec. 7, part; Rem. Supp. 1949 Sec. 10726-7, part.)

County engineer is flood control engineer for soil and water conservation district: RCW 86.26.030.

89.08.220 Corporate status and powers of district. A district shall constitute a body corporate, exercising public powers, but shall not levy taxes or issue bonds.

A district may:

(1) Conduct, in cooperation with the Washington State University and any state or federal agency, surveys relating to water and to the character of soil erosion and control measures needed within the district; publish the results thereof; and disseminate the information concerning such measures;

(2) Conduct demonstrational projects within the district on lands or waters controlled by any state agency in cooperation with such agency and on other lands or waters within the district with the consent of the owner thereof, in order to demonstrate how soil or water and soil and water resources may be conserved and soil erosion prevented and controlled;

(3) Carry out preventative and control measures, such as engineering operations, methods of cultivation, growing of vegetation or changes in water use or land use on land or water within the district, with the consent and cooperation of the person or agency owning it or in control thereof;

(4) Cooperate or enter into agreements with any agency or landowner or tenant and furnish financial or other aid in carrying on erosion control and preventive operations within the district, as the board deems necessary to carry out the purposes of this chapter;

(5) Obtain options upon and acquire in any manner, except by condemnation, any property or rights therein necessary or proper to further the purposes for which it was created, and manage, lease, and dispose of such property for such purposes, and use the income therefrom for district purposes;

(6) Make available to landowners and tenants in the district, agricultural and engineering equipment, fertilizer, seeds, seedlings, and such other equipment and material as will assist them to conserve their water and soil resources and prevent and control soil erosion;

(7) Develop detailed comprehensive plans for the conservation of water and soil resources and prevention and control of soil erosion and publish such plans and spread the information thereon throughout the district;

(8) Acquire or lease and operate any water or soil conservation, erosion control, or prevention project in the district undertaken by any state or federal agency; act as agent for the agency in acquiring, constructing, or operating the project; and accept contributions from the agency and use them to carry out its operations;

(9) Cooperate with other districts organized under this chapter in the exercise of any of its powers;

(10) Construct, improve, and maintain structures necessary or convenient for its purposes; and

(11) Sue and be sued in its name; adopt a seal; have perpetual existence, subject to termination provided herein; execute all instruments necessary for its purposes; and make an amend rules to carry out its purposes. (1961 c 240 Sec. 13; 1955 c 304 Sec. 23. Prior: (i) 1939 c 187 Sec. 8; RRS Sec. 10726-8. (ii) 1939 c 187 Sec. 13; RRS Sec. 10726-13.)

89.08.230 through 89.08.330. (1939 c 187 Sections 9, 10, 11, 12; RRS Sections 10726-9, -10, -11, -12.) Repealed by 1955 c 304 Sec. 29.

89.08.340 Intergovernmental cooperation—Transfer, allocation, of funds.
The state and any subdivision thereof owning or controlling lands or operating within a district may cooperate with the district in carrying out its program and may transfer or allocate such funds as may be required for this purpose. (1961 c 240 Sec. 14; 1939 c 187 Sec. 14; RRS Sec. 10726-14.)

89.08.350 Petition to dissolve district—Election. At any time after five years from the organization of a district, fifteen owners and tenants of land in the district may file with the committee a petition, praying that the district be dissolved. The committee may hold public hearings thereon, and within sixty days from receipt of the petition, shall give due notice of an election on the question of dissolution. It shall provide appropriate ballots, conduct the election, canvass the returns, and declare the results in the same manner as for elections to create a district.

All owners and tenants of land in the district may vote at the election. No informality relating to the election shall invalidate it if notice is substantially given and the election is fairly conducted. (1955 c 304 Sec. 25. Prior: 1939 c 187 Sec. 15, part; RRS Sec. 10726-15, part.)

89.08.360 Result of election—Determination of practicability. If a majority of the votes cast at the election are for dissolution, the district shall be dissolved. If two-thirds of the votes are against dissolution, the committee shall determine whether the continuance of the district is practicable. In making the determination it shall consider all the factors considered by it in determining that the district was practicable originally. If it finds that further operation of the district is impracticable it shall order it dissolved and certify its determination to the supervisors. (1955 c 304 Sec. 26. Prior: 1939 c 187 Sec. 15, part; RRS Sec. 10726-15, part)

89.08.370 Disposition of affairs upon dissolution. If the district is ordered dissolved, the supervisors shall forthwith terminate the affairs of the district and dispose of all district property at public auction, and pay the proceeds therefrom to the state treasurer.

They shall then file a verified application with the secretary of state for the dissolution of the district, accompanied by a certificate of the committee reciting the determination that further operation of the district is impracticable. The application shall recite that the property of the district has been disposed of, that the proceeds therefrom have been paid to the treasurer, and contain a full accounting of the property and proceeds. Thereupon the secretary shall issue to the supervisors a certificate of dissolution and file a copy thereof in his records. (1955 c 304 Sec. 27. Prior: 1939 c 187 Sec. 15, part; RRS Sec. 10726-15, part.)

89.08.380 Effect of dissolution—Committee substituted. A dissolution of a district shall not affect any contracts or obligations of the district. Upon the issuance of the certificate of dissolution, the committee shall be substituted for the supervisors and it shall assume all the duties, liabilities, and powers of the supervisors.

When a petition for the dissolution of a district is rejected, no new petition may be filed for a period of five years. (1955 c 304 Sec. 28. Prior: 1939 c 187 Sec. 15, part; RRS Sec. 10726-15, part.)

89.08.390 Water rights preserved. 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: Provided, however, That none of the provisions of this chapter shall be construed so as to impair water rights appurtenant to lands within or without the boundaries of any district or districts organized hereunder. (1939 c 187 Sec. 17; RRS Sec. 10726-17.)

89.08.900 Severability. If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby. (1939 c 187 Sec. 16; RRS Sec. 10726-16.)