

MAINE STATE LEGISLATURE

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ONE - HUNDRED - FIRST LEGISLATURE

Legislative Document

No. 1490

S. P. 553

In Senate, March 27, 1963

Reported by Senator Pike of Oxford from Committee on Agriculture and printed under Joint Rules No. 10.

CHESTER T. WINSLOW, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT to Create Water Conservation Districts and to Expand Powers of Soil Conservation Districts.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 34, § 1, amended. Section 1 of chapter 34 of the Revised Statutes is amended to read as follows:

‘Soil and Water Conservation Districts.

Sec. 1. Policy. Conservation of soil and water resources may involve adjustments in land and water use and the development, improvement and protection of these resources under various combinations of use. It is declared to be the policy of the Legislature to provide for the conservation of the soil and soil and water resources of this State, and for the control and prevention of soil erosion, for the prevention of floodwater and sediment damages, and for the conservation, development, utilization and disposal of water, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands and protect and promote the health, safety and general welfare of the people of this State.’

Sec. 2. R. S., c. 34, § 2, amended. Section 2 of chapter 34 of the Revised Statutes is amended to read as follows:

‘Sec. 2. Definitions. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context:

I. Committee. “Committee,” “State Soil and Water Conservation Committee,” or “state committee” means the agency created in section 3.

II. District or soil and water conservation district. "District" or "soil and water conservation district" means an agency of the State, and a body corporate and politic, organized in accordance with the provisions of this chapter, for the purposes, with the powers, and subject to the restrictions ~~herein after~~ set forth.

III. Due notice. "Due notice" means notice published at least twice, with an interval of 6 days, in a newspaper or other publication of general circulation within the appropriate area, ~~or by posting at a reasonable number of conspicuous places within the appropriate area as well as notice through the United States mail, in the name of the district, directed to all affected property owners as their names shall appear on the tax records, except that in the event that land occupiers shall be domiciled in states or territories other than the State of Maine, then such land occupiers shall be notified by registered mail at their last known address.~~ At any hearing held pursuant to such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

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

IV-A. State conservationist. "State conservationist" means the federal employee of the United States Department of Agriculture, Soil Conservation Service, who holds said title, and is assigned to the State of Maine by order of the Secretary of Agriculture of the United States.

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

Sec. 3. R. S., c. 34, § 3, amended. Section 3 of chapter 34 of the Revised Statutes, as amended by chapter 325 of the public laws of 1955, is further amended to read as follows:

'Sec. 3. State Soil and Water Conservation Committee.

I. Membership; seal; records; rules and regulations. The State Soil and Water Conservation Committee, as heretofore established, shall serve as an agency of the State and shall perform the functions conferred upon it in this chapter. It shall consist of the following ~~5~~ 7 members: The Dean of the College of Agriculture ~~and~~, the State Commissioner of Agriculture ~~and the State Forest Commissioner~~, who shall serve ex officii; ~~and 3 farmers who shall be appointed by the Governor with the advice and consent of the Council in the following manner; 1 from a list of 3 names submitted by the executive committee of the state grange, 1 from a list of 3 names submitted by the executive committee of the Maine farm bureau association and 1 from a list of 3 names submitted by the Maine state association of soil conservation district supervisors and 4 soil and water conservation district supervisors,~~

one of which shall represent each of the following 4 areas: Area 1, composed of the soil and water conservation districts of St. John Valley, Central Aroostook, Southern Aroostook and Washington County; Area 2, composed of the districts of Piscataquis County, Somerset County, Franklin County and Kennebec County; Area 3, composed of the districts of Oxford County, Androscoggin Valley, Cumberland County and York County; Area 4, composed of Penobscot County, Waldo County, Knox-Lincoln and Hancock County. Any district organized after the effective date of this act shall be included in one of these 4 areas as determined by the state committee. The representative of each such area shall be elected at an annual meeting of the supervisors in the area held at a time specified by the state committee. Persons now serving as appointed members of the committee shall continue to serve until the representatives from the 4 named areas are elected and qualify. The committee may invite the Secretary of Agriculture of the United States of America to appoint ~~a person~~ the state conservationist or his successor to serve with the above-mentioned members as an advisory member of the committee. The committee shall keep an accurate record of its official actions, shall adopt a seal, which seal shall be judicially noticed, **shall have the authority to sue and be sued**, and shall perform such acts, **execute such contracts and other instruments**, hold such public hearings and promulgate such rules and regulations as may be necessary for the execution of its functions under ~~the provisions of~~ this chapter.

II. Legal services; employees. The committee may call upon the Attorney General for such legal services as it may require. It ~~may~~ shall employ an **executive secretary or** administrative officer and such other **temporary or permanent** employees as it may require. It shall have authority to delegate to any of its members, or to any agent or employee, such powers and duties as it may deem proper.

III. Chairman; term; quorum; expenses. The committee shall elect one of its members to be chairman and may, from time to time, change such designation. An ex officio member of the committee shall hold office so long as he shall hold the office by virtue of which he ~~may be~~ is serving on the committee. The ~~former elected~~ members of the committee shall serve for a term of ~~3~~ 4 years from the date of their ~~appointment~~ election and until their successors have been ~~appointed~~ elected and qualified, **except that of those first elected, the representatives from areas 1, 2, 3 and 4 shall serve for terms of one, 2, 3 and 4 years, respectively.** Upon the expiration of the term of office of, or in the case of a vacancy in, the office of an ~~appointed~~ elected member, his successor shall be appointed by the governor with the advice and consent of the council elected in the same manner, **and from the same area**, as the retiring member was ~~appointed~~ elected. ~~A vacancy shall be filled for the unexpired term in the same manner as the original appointment.~~ A majority of the committee shall constitute a quorum, and the concurrence of a majority **of the said quorum** in any matter within their duties shall be required for its determination. The chairman and members of the committee shall receive no compensation for their services on the committee, but shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee, if and when funds are available. The committee

shall provide for the keeping of an accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted.

IV. Additional powers and duties. 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 offer such assistance as may be appropriate to the supervisors of soil and water conservation districts ~~organized as provided hereinafter~~ in the carrying out of any of their powers and programs, and to enter into such agreements as may be appropriate with such districts, with land occupiers, and with other state and federal agencies;

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

C. To coordinate the programs of the several districts ~~organized hereunder~~ so far as this may be done by advice and consultation;

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, and in carrying out the functions of the committee under this chapter; to accept grants, services and materials, and to borrow money from the United States or from any corporation or agency of the United States or from the State of Maine or any of its subdivisions or from any other source, but in no event shall the faith and credit of the State of Maine or any county or other political subdivision thereof be pledged by the committee for the repayment of any indebtedness;

E. To disseminate information throughout the State concerning the activities and programs of the districts ~~organized hereunder~~, and to encourage the formation of such districts in areas where their organization is desirable;

F. To carry out preventive and control measures and works of improvement for the control and prevention of soil erosion, flood prevention, or the conservation, development, utilization and disposal of water;

G. To conduct surveys, investigations and research relating to the character of soil erosion and floodwater and sediment damages and to the conservation, development, utilization and disposal of water and the preventive and control measures and works of improvement needed, to publish the results of such surveys, investigations and research, and to disseminate information concerning such preventive and control measures and works of improvement;

H. To obtain options upon and to acquire by purchase, exchange, lease, gift, grant, bequest, devise or otherwise any property 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 other-

wise dispose of any of its real or personal property or interests therein, in furtherance of the purpose and provisions of this chapter, including the conveyance, with or without consideration, of lands or interests therein to soil and water conservation districts for use in carrying out their authorized purposes;

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

J. To have supervision and control of the Soil and Water Conservation Districts Fund which shall consist of all moneys appropriated thereto, and any moneys received as donations, repayments of loans or from other sources. The committee may use such fund for carrying out any of its authorized functions, for furnishing financial and other assistance to districts, for making allocations of funds to districts, and for making loans to districts under such terms and conditions as the committee may prescribe. Any balance in this fund shall not lapse but shall be carried forward from year to year to be expended for the purposes set forth in this section;

K. To serve as a sponsoring or co-sponsoring local organization, within the meaning of the term as used in Public Law 566, as amended, Watershed Protection and Flood Prevention Act, and to serve as a sponsoring or co-sponsoring local organization where a watershed is situated wholly or in part within the geographical boundaries of any unorganized territory or territories.'

Sec. 4. R. S., c. 34, § 4, sub-§ I, amended. The first sentence of subsection I of section 4 of chapter 34 of the Revised Statutes is amended to read as follows:

'Any 25 occupiers of land lying within the limits of the territory proposed to be organized into a district may file a petition with the State Soil and Water Conservation Committee asking that a soil and water conservation district be organized to function in the territory described in the petition.'

Sec. 5. R. S., c. 34, § 4, sub-§ I, ¶ D, amended. Paragraph D of subsection I of section 4 of chapter 34 of the Revised Statutes is amended to read as follows:

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

Sec. 6. R. S., c. 34, § 4, sub-§ II, amended. The 4th sentence of subsection II of section 4 of chapter 34 of the Revised Statutes is amended to read as follows:

'After such hearing, if the committee shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety and welfare, for a soil and water conservation district to function in the territory

considered at the hearing, it shall make and record such determination and shall define the boundaries of such district.'

Sec. 7. R. S., c. 34, § 4, sub-§ II, amended. The 7th sentence of subsection II of section 4 of chapter 34 of the Revised Statutes is amended to read as follows:

'If the committee shall determine after such hearing, after due consideration of the said relevant facts, that there is no need for a soil and water conservation district to function in the territory, or any part thereof, considered at the hearing, it shall make and record such determination and shall deny the petition.'

Sec. 8. R. S., c. 34, § 4, sub-§ III, amended. The 2nd paragraph of subsection III of section 4 of chapter 34 of the Revised Statutes is amended to read as follows:

'All occupiers of lands lying within the boundaries of the territory, as determined by the State Soil and Water Conservation Committee, and only such land occupiers, shall be eligible to vote in such referendum.'

Sec. 9. R. S., c. 34, § 4, sub-§ VI, paragraph A, amended. Paragraph A of subsection VI of section 4 of chapter 34 of the Revised Statutes is amended to read as follows:

'A. That a petition for the creation of the district was filed with the State Soil and Water Conservation Committee, and that the proceedings specified in this chapter were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district; and that the committee has appointed them as supervisors;'

Sec. 10. R. S., c. 34, § 4, sub-§ VI, amended. The 2nd sentence of the 2nd paragraph from the end of subsection VI of section 4 of chapter 34 of the Revised Statutes is amended to read as follows:

'The application shall be accompanied by a statement by the State Soil and Water Conservation Committee, which shall certify that a petition was filed, notice issued and hearing held ~~as aforesaid~~; that the committee did duly determine that there is need for a soil and water conservation district to function in the proposed territory and it did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of such district, and that the result of such referendum showed a majority of the votes cast to be in favor of the creation of the district; that thereafter the committee did duly determine that the operation of the proposed district is administratively practicable and feasible.'

Sec. 11. R. S., c. 34, § 6, amended. Section 6 of chapter 34 of the Revised Statutes is amended to read as follows:

'**Sec. 6. Appointment, qualifications and tenure of supervisors.** The governing body of the district shall consist of 5 supervisors, elected or appointed. The 2 supervisors appointed by the committee shall be persons who are by training and experience qualified to perform the services which will be required

of them in the performance of their duties. In appointing supervisors, the state committee shall take into consideration the recommendations of the representative of the state committee from the area in which the district is located, as well as representation of the various interests of the district such as agricultural, woodland, wildlife, recreation, community and area development.

The supervisors shall elect one of their members to be chairman and may, from time to time, change such designation. The term of office of each supervisor shall be 3 years except that the first appointed supervisors shall be appointed to serve terms of one and 2 years respectively, and the first elected supervisors shall be elected to serve for terms of one, 2 and 3 years respectively. A supervisor shall hold office until his successor has been elected or 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 made in the same manner in which the retiring supervisors shall, respectively, have been selected, except that all elections of supervisors other than the first election, as provided in section 5, shall be supervised and conducted by the district supervisors of the districts involved. Such election shall be held during a period prescribed or approved by the State Soil and Water Conservation Committee and in such manner and under such rules and regulations as the committee shall prescribe. The cost of conducting such elections shall be borne by the district involved. The board of supervisors shall certify to the committee the names of the elected supervisors. The committee shall issue certificates of election to each elected supervisor so certified. In existing soil and water conservation districts, the successors to the present elected supervisors shall be elected to serve one, 2 and 3 year terms, respectively, and thereafter their successors shall be elected to serve a regular term of 3 years, and in any district where the terms of office of appointed supervisors now expire concurrently, their successors shall be appointed to serve one and 2 year terms, respectively, and thereafter the successors of such supervisors shall be appointed to serve a regular term of 3 years.

A majority of the supervisors shall constitute a quorum and the concurrence of a majority of the said quorum in any matter within their duties shall be required for its determination. A supervisor shall may receive no compensation for his services but and he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties, if and when funds are available.

The supervisors may employ a secretary and such other employees as they may require, if and when funds are available. The supervisors may call upon the Attorney General for such legal services as they may require. The supervisors may delegate to one or more supervisors, or to any agents or employees, such powers and duties as they may deem proper. The supervisors shall furnish to the State Soil and Water Conservation Committee, upon request, any information concerning their activities as it may require in the performance of its duties under the provisions of this chapter.

The supervisors shall require the execution of surety bonds by all employees and officers who shall be entrusted with funds or property; shall provide for

the keeping of an accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted.'

Sec. 12. R. S., c. 34, § 7, amended. Section 7 of chapter 34 of the Revised Statutes is amended to read as follows:

'Sec. 7. Powers of districts and supervisors. A soil and water conservation district organized under the provisions of this chapter shall constitute an agency of the State and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this chapter:

I. Preventive and control measures; flood prevention. To carry out preventive and control measures and works of improvement for flood prevention, or the conservation, development, utilization and disposal of water within the district, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands;

II. Agreements. To cooperate, or enter into agreements with, and within the limits of appropriations or other funds duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any occupier of lands within the district, in the carrying on of erosion-control and prevention operations and works of improvement for flood prevention and the conservation, development, utilization and disposal of water within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this chapter;

III. Options, purchase, sale, etc. of property. To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest or devise, any property, real or personal, or rights or interests therein, after consultation with town, city and county officials; all such property shall be exempt from taxation by the State or any subdivisions or ~~agency~~ agencies thereof; 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 real and personal property or interests therein in furtherance of the purposes and provisions of this chapter;

IV. Equipment and machinery made available. To make available, on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, and such other equipment or material, as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion, and for flood prevention or the conservation, development, utilization and disposal of water;

V. Construct and maintain structures. To construct, improve, operate and

maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this chapter;

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

VII. Agent for federal and state agencies; accept gifts; contracts. To act as agent for the United States or any of its agencies, or for this State or any of its agencies, in connection with the acquisition, construction, operation or administration of any **project** for soil conservation, ~~or erosion control project,~~ **erosion prevention, flood prevention or for the conservation, development, utilization and disposal of water** within its boundaries; to accept donations, gifts and contributions in money, services, materials or otherwise from the United States or any of its agencies; or from this State or any of its agencies, and to use or expend such moneys, services, materials or other contributions in carrying on its operations; and to enter into contracts or negotiations with any and all federal agencies having responsibility for the distribution of surplus war or other materials suitable for utilization in soil-conservation **or water conservation** projects for the use thereof; **to enter into contracts and negotiate with any agency of the United States Government in any plan related to soil conservation, flood prevention, or the conservation, development, utilization and disposal of water;**

VIII. Sue and be sued; seal; borrow money. 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, **to execute promissory notes, bonds and other evidences of indebtedness in connection therewith;** to make and from time to time amend and repeal, rules and regulations not inconsistent with ~~the provisions of~~ this chapter, to carry into effect its purposes and powers;

IX. Supervisors may require contributions. As a condition to the extending of any benefits under ~~the provisions of~~ this chapter to, or the performance of work upon, any lands not owned or controlled by this State or any of its agencies, the supervisors may require contributions in money, services, materials or otherwise to any operations conferring such benefits; and may require land occupiers to enter into such agreements as to the permanent use of such lands as will tend to prevent or control erosion thereon;

X. Cooperate with other districts. To cooperate with any other district or-

ganized under ~~the provisions of~~ this chapter in the exercise of any or all powers conferred in this chapter.

Provisions with respect to the acquisition, operation or disposition of property by other public bodies shall not be applicable to a district organized hereunder unless the Legislature shall specifically so state.'

Sec. 13. R. S., c. 34, § 9, amended. Section 9 of chapter 34 of the Revised Statutes is amended to read as follows:

'**Sec. 9. Discontinuance of districts.** At any time after 5 years after the organization of a district under ~~the provisions of~~ this chapter, any 25 occupiers of land lying within the boundaries of such district may file a petition with the State Soil and Water Conservation Committee requesting that the operations of the district be terminated and the existence of the district discontinued. Upon receipt of the petition for the discontinuance of a district, the committee shall conduct such public hearings and referenda as may be necessary to assist it in the consideration thereof. In conducting such hearings and referenda, the committee shall adhere substantially to the same procedures and give weight to each of the considerations set forth in section 5, as were followed in the organization of such districts; ~~provided, however, that the~~. The committee may not determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such district.

The State Soil and Water Conservation Committee shall not entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with ~~the provisions of~~ this chapter, more often than once in 5 years.'

Sec. 14. R. S., c. 34, § 10, amended. Section 10 of chapter 34 of the Revised Statutes is amended to read as follows:

'**Sec. 10. Allocation of funds.**

I. Committee to distribute. Unless otherwise provided by law, ~~all moneys which may from time to time be available to pay the administrative and other expenses of soil conservation districts organized under the provisions of this chapter~~ be under the control of the state committee in the Soil and Water Conservation Districts Fund, or in any other account, shall be allocated by the State Soil and Water Conservation Committee among the districts already organized or to be organized ~~during the ensuing biennial fiscal period~~, in accordance with the procedure specified in subsection II. All moneys allocated to any district by the said committee shall be available to the supervisors of such district for all administrative and other expenses of the district under ~~the provisions of~~ this chapter.

II. Budget and allocations. ~~Seventy five per cent of all moneys which may be appropriated to pay the administrative and other expenses of soil conservation district shall be allocated equally by the committee among all the districts organized, or to be organized, within the ensuing biennial fiscal period under the provisions of this chapter. The remaining 25% of~~

~~said moneys shall be allocated by the state committee among the districts on such basis of allocation as shall be fair, reasonable and in the public interest, giving due consideration to the greater relative expense of carrying on operations within the particular districts because of such factors as unusual topography, unusual severity of erosion, special difficulty of carrying on operation, special volume of work to be done and the special importance of instituting erosion control operations immediately. Allocations to soil and water conservation districts shall be made on the basis of a budget submitted by each district to the state committee by February 1st of each year. In making such allocations of such moneys, the committee shall retain an amount estimated by it to be adequate to enable it to make subsequent allocations in accordance with the provisions of this section from time to time among newly organized districts which may be organized after the initial allocations are made, but within the ensuing biennial fiscal period.'~~

Sec. 15. R. S., c. 34, § 11, repealed. Section 11 of chapter 34 of the Revised Statutes is repealed.

Sec. 16. R. S., c. 34, § 12, amended. Section 12 of chapter 34 of the Revised Statutes is amended to read as follows:

'Sec. 12. Title. This chapter may be known and cited as the "Soil and Water Conservation Districts" law. **Districts organized before or after the effective date of this act under this chapter shall be known as "soil and water conservation districts".'**

Sec. 17. Appropriation. There is appropriated from the General Fund the sum of \$55,000 for the fiscal year ending June 30, 1964 and the sum of \$55,000 for the fiscal year ending June 30, 1965 to carry out the purposes of this act. Such funds may be allocated as follows: Not more than \$30,000 each fiscal year for regular administrative and operational costs; not more than \$25,000 each fiscal year for watershed development, operation and maintenance. Any balance in this fund shall not lapse but shall be carried forward from year to year to be expended for the purposes set forth in this section.