

Soil Conservation District Law

TCA §43-14-201

Title 43 Agriculture and Horticulture Chapter 14 Soil Conservation

Part 1 Assent to Federal Law

Tenn. Code Ann. § 43-14-101 (2012)

43-14-101. Assent of general assembly to federal act -- Policy of state -- Duties of trustees of university.

The assent of the general assembly is given to the provisions and requirements of the "Soil Conservation and Domestic Allotment Act" (Public Law No. 46, 74th Congress, approved April 27, 1935, as amended). The general assembly adopts as the policy of the state the policy of cooperating with the governments and agencies of other states and of the United States in carrying out the policy and purposes, specified in § 7(a) of that act of congress, and, in order to effectuate this policy, the trustees of the University of Tennessee are authorized and empowered to:

- (1) Formulate, with the assistance of the extension service and the agricultural experiment station, pursuant to the standards therefore set forth in § 7(a) of the Soil Conservation and Domestic Allotment Act, agricultural plans for this state for each calendar year, and from time to time, make such revisions in these plans as may be necessary to effectuate those purposes;
- (2) Prescribe such rules and regulations with reference to the administration of the plans, including provision for participation in the administration of the plans by county and community committees, or associations of agricultural producers, organized for such purpose, as may be necessary or expedient for the effective administration of the plans;
- (3) Provide in the plans for their administration by the trustees of the University of Tennessee, who are designated and authorized as the state agency of the state to administer the plans;
- (4) Submit the state plans to the secretary of agriculture of the United States, prior to such time and in such manner and form as the secretary may prescribe;
- (5) Receive on behalf of the state of Tennessee any grants made pursuant to § 7 of the Soil Conservation and Domestic Allotment Act, and to utilize and expend the grants in accordance with such state agricultural plans as may have been approved by the secretary of agriculture;
- (6) Utilize the available services and assistance of other state agencies of this state, including the agricultural experiment station and the extension service of the University of Tennessee, and exercise such powers and authorities, as may be necessary or proper to the performance of their duties and functions under this section;
- (7) Provide for the submission to the secretary of agriculture of such reports as may be required to ascertain whether the plans are being carried out according to their terms and assure the correctness, and make possible verification, of the reports; and
- (8) Submit to the governor an annual report for each year covering the administration and operation of the program.

HISTORY: Acts 1937, ch. 44, § 1; C. Supp. 1950, § 552.1 (Williams, § 552.30); T.C.A. (orig. ed.), § 43-1401; Acts 2004, ch. 517, § 5.

43-14-201.Short title.

This part shall be known and may be cited as the "Soil Conservation Districts Law."

HISTORY: Acts 1939, ch. 197, § 1; C. Supp. 1950, § 552.2 (Williams, § 552.31); T.C.A. (orig. ed.), § 43-1501.

43-14-202.Part definitions.

As used in this part, unless the context otherwise requires:

- (1) "Agency of this state" includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state;
- (2) "Committee" means the agency created in § 43-14-203;
- (3) "District" or "soil conservation district" means a subdivision of this state and a public body corporate and politic, organized in accordance with this part, for the purpose, with the powers, and subject to the restrictions set forth in this part;
- (4) "Due notice" means notice published at least twice, with an interval of at least seven (7) days between the two (2) publication dates, in a newspaper or other publication of general circulation within the appropriate area, or, if no such publication of general circulation is available, by posting at a reasonable number of conspicuous places within the appropriate area, the posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held, pursuant to such notice, at the time and place designated in the notice, adjournment may be made from time to time without the necessity of renewing the notice for the adjourned dates;
- (5) "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise of either of them;
- (6) "Land occupier" or "occupier of land" includes any person, firm or corporation, other than the owner who is in possession of any lands lying within a district organized under this part, whether as lessee, renter, tenant or otherwise;
- (7) "Landowner" or "owner of land" includes any person, firm or corporation who holds legal or equitable title to any lands lying within a district organized under this part;
- (8) "Nominating petition" means a petition filed under § 43-14-216 to nominate candidates for the office of supervisor of a soil conservation district;
- (9) "Petition" means a petition filed under § 43-14-207 for the creation of a district;
- (10) "State" means the state of Tennessee;
- (11) "Supervisor" means one (1) of the members of the governing body of a district, elected or appointed in accordance with this part; and
- (12) "United States" or "agencies of the United States" includes the United States, the soil conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States

HISTORY: Acts 1939, ch. 197, § 3; C. Supp. 1950, § 552.3 (Williams, § 552.33); T.C.A. (orig. ed.), § 43-1502.

43-14-203.State soil conservation committee.

(a) There is established a state soil conservation committee to perform the functions conferred upon it in this part.

(b)(1) The committee shall consist of seven (7) representatives: one (1) farmer and one (1) supervisor from east Tennessee; one (1) farmer and one (1) supervisor from middle Tennessee; one (1) farmer and one (1) supervisor from west Tennessee; one (1) supervisor from the state at large, and three (3) ex officio members.

(2) The following shall serve as ex officio members of the committee: The dean of the college of agricultural sciences and natural resources of the University of Tennessee, located at Knoxville; the commissioner of agriculture, located at Nashville; and the commissioner of environment and conservation, located at Nashville.

(3) An ex officio member of the committee shall hold office so long as the member retains the office by virtue of which such member is serving on the committee.

(c) The first appointees shall serve as follows: west Tennessee, the supervisor member shall serve for a term of one (1) year and the farmer member shall serve for two (2) years; middle Tennessee, the supervisor shall serve for two (2) years and the farmer member shall serve for three (3) years; east Tennessee, the supervisor member shall serve for three (3) years and the farmer member shall serve for one (1) year. The supervisor from the state at large shall serve for three (3) years and, at the expiration of the first term of office, all members thereafter shall serve for a term of three (3) years.

(d) The governor shall appoint all farmer and all supervisor members, and shall fill all vacancies by appointment as these occur. In making appointments to the committee, the governor shall strive to ensure that at least one (1) person appointed to serve on the committee is sixty (60) years of age or older and that at least one (1) person appointed to serve on the committee is a member of a racial minority. A duly appointed supervisor member of the committee who ceases to hold the position of soil conservation district supervisor will continue to serve on the committee until the normal expiration of such member's term.

(e) The committee shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this part.

HISTORY: Acts 1939, ch. 197, § 4; C. Supp. 1950, § 552.4 (Williams, § 552.34); Acts 1957, ch. 158, § 1; T.C.A. (orig. ed.), § 43-1503; Acts 1988, ch. 1013, § 14.

43-14-204. Employment of officers, agents and employees -- Duties -- Compensation.

(a) The soil conservation committee may employ an administrative officer and such technical experts and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation.

(b) All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(c) The committee may call upon the attorney general and reporter for such legal services as it may require.

(d) The committee has the authority to delegate to its chair, to one (1) or more of its members, or to one (1) or more agents or employees, such powers and duties as it may deem proper.

HISTORY: Acts 1939, ch. 197, § 4; C. Supp. 1950, § 552.4 (Williams, § 552.34); Acts 1957, ch. 158, § 1; 1976, ch. 806, § 1(80); T.C.A. (orig. ed.), § 43-1504.

43-14-205. Organization of committee -- Quorum -- Expenses -- Bonds of employees -- Records -- Annual audit -- Meetings.

(a) The committee shall designate one (1) of the farmer-supervisor members as its chair, and may, from time to time, change such designation.

(b) A majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination.

(c) The chair 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. All reimbursements for travel expenses shall be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(d) The committee shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property, shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted, and shall provide for an annual audit of the accounts of receipts and disbursements.

(e) The committee shall hold at least four (4) meetings each year.

HISTORY: Acts 1939, ch. 1194, § 4; C. Supp. 1950, § 552.4 (Williams, § 552.34); Acts 1957, ch. 158, § 1; 1976, ch. 806, § 1(80); T.C.A. (orig. ed.) § 43-1505; Acts 1986, ch. 888, § 1.

43-14-206. Duties and powers of committee.

In addition to other duties and powers conferred upon the state soil conservation committee in this part, it has the duties and powers to:

(1) Offer such assistance as may be appropriate to the supervisors of soil conservation districts, organized as provided in this part, in the carrying out of any of their powers and programs;

(2) Keep supervisors of each of the several districts organized under this part informed of the activities and experience of all other districts organized under this part, and facilitate an interchange of advice and experience among the districts and cooperation between them, and publish an annual report;

(3) Coordinate the programs of the several soil conservation districts organized under this part so far as they may be done by advice and consultation;

(4) Secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of watershed districts and soil conservation districts;

(5) Disseminate information throughout the state concerning the activities and programs of the soil conservation districts and watershed districts, and encourage and facilitate the formation of such districts in areas where their organization is desirable;

(6) Constitute the committee as the state agency having the sole responsibility to administer and approve watershed districts and programs under acts of congress now in effect or hereafter enacted;

(7) Collect and disseminate data and information concerning the causes, extent, and location of soil erosion problems in the state and study alternative solutions to these problems;

(8) Develop and maintain a long-range comprehensive statewide plan for the conservation of Tennessee's soils, and revise this state plan from time to time as needed in consultation with appropriate sources of information; and

(9) Prepare and submit annually to the commissioner of agriculture an annual report and a budget request adequate to allow for the implementation of soil conservation programs in Tennessee.

HISTORY: Acts 1939, ch. 197, § 4; C. Supp. 1950, § 552.4 (Williams, § 552.34); Acts 1957, ch. 158, § 1; 1959, ch. 164, § 1; T.C.A. (orig. ed.), § 43-1506; Acts 1986, ch. 888, § 2.

43-14-207. Landowners petitioning for organization of soil conservation district -- Consolidation of petitions.

(a) Any twenty-five (25) owners of land lying within the limits of the territory proposed to be organized into a district may file a petition with the state soil conservation committee asking that a soil conservation district be organized to function in the territory described in the petition. The description shall not be required to be given by metes and bounds or by legal subdivision, but shall be deemed sufficient if generally accurate.

(b) Where more than one (1) petition is filed covering parts of the same territory, the state soil conservation committee may consolidate all or any such petitions.

HISTORY: Acts 1939, ch. 197, § 5; C. Supp. 1950, § 552.5 (Williams, § 552.35); T.C.A. (orig. ed.), § 43-1507.

43-14-208. Hearing -- Notice -- Right of interested parties to be heard -- Determination by committee of question of need of district.

(a) Within sixty (60) days after a petition has been filed with the state soil conservation committee, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the creation of such districts, upon the question of the appropriate boundaries to be assigned to such districts, upon the propriety of the petition and other proceedings taken under this part, and upon all questions relevant to such inquiries. All owners and occupiers of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to the described territory, and all other interested parties, shall have the right to attend the hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include, within the proposed district, territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and the further hearing held.

(b) If the committee determines, after the hearing, that, upon the facts presented at the hearing and upon such other relevant facts and information as may be available, there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record this determination, and shall define, by metes and bounds or by legal subdivision, the boundaries of such districts. In making this determination and in defining the boundaries, the committee shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under this part, and such other physical, geographical and economic factors as are relevant. The territory to be included within the boundaries need not be contiguous. If the committee determines after the hearing, and after due consideration of the relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record this determination and shall deny the petition. After six (6) months have expired from the date of the denial of any such

petition, subsequent petitions covering the same or substantially the same territory may be filed as mentioned in subsection (a) and new hearings held and determinations made on the petition.

HISTORY: Acts 1939, ch. 197, § 5; C. Supp. 1950, § 552.5 (Williams, § 552.35); T.C.A. (orig. ed.), § 43-1508.

43-14-209. Determination of administrative practicability and feasibility -- Referendum.

(a) After the committee has made and recorded a determination that there is need, in the interest of the public health, safety and welfare, for the organization of a district in a particular territory and has defined the boundaries of the district, it shall consider the question whether the operation of a district within those boundaries, with the powers conferred upon soil conservation districts in this part, is administratively practicable and feasible.

(b) To assist the committee in the determination of administrative practicability and feasibility, it is the duty of the committee, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of the referendum to be given. All owners of lands lying within the boundaries of the territory, as determined by the state soil conservation committee, shall be eligible to vote in the referendum. Only such landowners shall be eligible to vote.

HISTORY: Acts 1939, ch. 197, § 5; C. Supp. 1950, § 552.5 (Williams, § 552.35); T.C.A. (orig. ed.), § 43-1509.

43-14-210. Committee supervising hearings and referenda and paying expenses -- Informalities, effect.

The committee shall pay all expenses for the issuance of notices and the conduct of hearings and referenda, and shall supervise the conduct of the hearings and referenda. It shall issue appropriate regulations governing the conduct of the hearings and referenda, and providing for the registration, prior to the date of the referendum, of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum. No informalities in the conduct of the referendum or in any matter relating thereto shall invalidate the referendum or the result thereof, if notice thereof has been given substantially as provided in this part and the referendum has been fairly conducted.

HISTORY: Acts 1939, ch. 197, § 5; C. Supp. 1950, § 552.5 (Williams, § 552.35); T.C.A. (orig. ed.), § 43-1510.

43-14-211. Result of referendum published -- Determination whether operation of district administratively practicable.

The committee shall publish the result of the referendum and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the committee determines that the operation of the district is not administratively practicable and feasible, it shall record this determination and deny the petition. If the committee determines that the operation of the district is administratively practicable and feasible, it shall record this determination and shall proceed with the organization of the district in the manner provided in this part. In making this determination, the committee shall give due regard and weight to the attitudes of the owners and occupiers of lands lying within the defined boundaries, the number of

landowners eligible to vote in the referendum who have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the landowners and occupiers of the proposed district, the probable expense of carrying on erosion-control operations within the district, and such other economic and social factors as may be relevant to such determination; provided, that the committee shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, unless at least a majority of the votes cast in the referendum upon the proposition of creation of the district have been cast in favor of the creation of the district.

HISTORY: Acts 1939, ch. 197, § 5; mod. C. Supp. 1950, § 552.5 (Williams, § 552.35); T.C.A. (orig. ed.), § 43-1511.

43-14-212. Naming proposed district upon determination of practicability -- Appointment and election of supervisors -- Application, form and contents -- Statement of soil conservation committee -- Issuance of certificate -- Boundaries -- Fee.

(a) If the committee determines that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall name the district and shall appoint two (2) supervisors to act, with the three (3) supervisors elected as provided in § 43-14-216, as the governing body of the district.

(b) The two (2) appointed supervisors shall present to the secretary of state an application signed by them, which shall set forth, and such application need contain no detail other than the mere recitals:

(1) That a petition for the creation of the district was filed with the state soil conservation committee pursuant to this part, and that the proceedings specified in this part were taken pursuant to the 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;

(2) The name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office;

(3) The term of office of each of the supervisors;

(4) The name that is proposed for the district; and

(5) The location of the principal office of the supervisors of the district.

(c)(1) The application shall be subscribed and sworn to by each of the supervisors before an officer authorized by the laws of this state to take and certify oaths. The application shall be accompanied by a statement by the state soil conservation committee, which shall certify that, and such statement need contain no detail other than the mere recitals:

(A) A petition was filed, notice issued, and hearing held as mentioned in this part;

(B) The committee did duly determine that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the proposed territory and did define the boundaries thereof;

(C) Notice was given and a referendum held on the question of the creation of the district;

(D) The result of the referendum showed a majority of the votes cast in such referendum to be in favor of the creation of the district; and

(E) Thereafter, the committee did duly determine that the operation of the proposed district is administratively practicable and feasible.

(2) The statement shall set forth the boundaries of the district as they have been defined by the committee.

(d) When the application and statement have been made, filed, and recorded in the office of the secretary of state, the district shall constitute a subdivision of this state and a public body corporate and politic. The secretary of state shall make an issue to the supervisors a certificate, under the seal of the state, of the due organization of the district, and shall record the certificate with the application and statement. The boundaries of the district shall include the territory as determined by the state soil conservation committee as mentioned in subsection (c), but in no event shall the district include any area included within the boundaries of another soil conservation district organized under this part.

(e) There shall be paid to the secretary of state, at the time the certificate is issued, the sum of five dollars (\$5.00), which shall be in lieu of all other fees.

HISTORY: Acts 1939, ch. 197, § 5; 1941, ch. 83, § 1; C. Supp. 1950, § 552.5 (Williams, § 552.35); T.C.A. (orig. ed.), § 43-1512.

43-14-213.Subsequent petitions after determination of nonpracticability.

After six (6) months have expired from the date of entry of a determination by the state soil conservation committee that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to the determination, subsequent petitions may be filed and action taken in accordance with this part.

HISTORY: Acts 1939, ch. 197, § 5; C. Supp. 1950, § 552.5 (Williams, § 552.35); T.C.A. (orig. ed.), § 43-1513.

43-14-214.Additional territory -- Petition to include -- Form and contents.

Petitions for including additional territory within an existing district may be filed with the state soil conservation committee. The proceedings provided for in this part in the case of petitions to organize a district shall be observed in the case of petitions for inclusion. The committee shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this part for petitions to organize a district. Where the total number of landowners in the area proposed for inclusion is less than twenty-five (25), the petition may be filed when signed by a majority of the owners of the area, and, in such case, no referendum need be held. In referenda upon petitions for inclusion, all owners of land lying with the proposed additional area shall be eligible to vote.

HISTORY: Acts 1939, ch. 197, § 5; C. Supp. 1950, § 552.5 (Williams, § 552.35); T.C.A. (orig. ed.), § 43-1514.

43-14-215.Proper establishment of district proved in action by admission of certificate.

In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have been established, in accordance with this part, upon proof of the issuance of the certificate by the secretary of state. A copy of the certificate duly certified by the secretary of state shall be admissible in evidence in any suit, action, or proceeding and shall be proof of the filing and contents thereof.

HISTORY: Acts 1939, ch. 197, § 5; C. Supp. 1950, § 552.5 (Williams, § 552.35); T.C.A. (orig. ed.), § 43-1515.

43-14-216.Election of three supervisors for each district.

Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a soil conservation district, nominating petitions may be filed with the state soil

conservation committee to nominate candidates for supervisors of the district. The committee shall have authority to extend the time within which nominating petitions may be filed. No nominating petition shall be accepted by the committee, unless it is subscribed to by twenty-five (25) or more owners of lands lying within the boundaries of such districts. Landowners may sign more than one (1) such nominating petition to nominate more than one (1) candidate for supervisor. The committee shall give due notice of an election to be held for the election of three (3) supervisors for the district. All owners of lands lying within the district shall be eligible to vote in the election. Only such landowners shall be eligible to vote. The three (3) candidates who receive the largest number, respectively, of the votes cast in the election shall be the elected supervisors for such district. The committee shall pay all the expenses of the election, shall supervise the conduct of the election, shall prescribe regulations governing the conduct of the election and the determination of the eligibility of voters in the election, and shall publish the results of the election.

HISTORY: Acts 1939, ch. 197, § 6; C. Supp. 1950, § 552.6 (Williams, § 552.36); T.C.A. (orig. ed.), § 43-1516.

43-14-217. Governing body of district -- Qualifications and terms of supervisors -- Quorum -- Compensation and expenses -- Employees -- Program and policy.

(a) The governing body of the district shall consist of five (5) supervisors, elected or appointed, as provided in §§ 43-14-212 and 43-14-216. The two (2) supervisors appointed by the committee shall be persons who are, by training and experience, qualified to perform the specialized skilled service that will be required of them in the performance of their duties under this part.

(b) The supervisors shall designate a chair and may, from time to time, change such designation. The term of office of each supervisor shall be three (3) years, but the terms of office of the two (2) supervisors who are appointed by the committee shall not expire concurrently. A supervisor shall hold office until a 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. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. Supervisors shall each receive the sum of thirty dollars (\$30.00) per day for attending the meetings of the district; provided, that the total of such compensation to any member shall not exceed three hundred sixty dollars (\$360) per year. This sum shall be in lieu of any and all other compensation for expenses.

(c) The supervisors may employ a secretary, technical experts and such other officers, agents and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties and compensation. The supervisors may call upon the attorney general and reporter for such legal services as they may require. The supervisors may delegate to their chair, to one (1) or more supervisors, or to one (1) or more agents or employees, such powers and duties as they may deem proper. The supervisors shall furnish to the state soil conservation committee, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this part.

(d) The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted; and shall provide for

an annual audit of the accounts of receipts and disbursements. Any supervisor may be removed by the state soil conservation committee upon notice and hearing for neglect of duty or malfeasance in office, but for no other reason.

(e) The supervisors may invite the legislative body of any municipality or county, located near the territory comprised within the district, to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy that may affect the property, water supply, or other interests of such municipality or county.

HISTORY: Acts 1939, ch. 197, § 7; C. Supp. 1950, § 552.7 (Williams, § 552.37); T.C.A. (orig. ed.), § 43-1517; Acts 1980, ch. 508, § 1; 1985, ch. 32, § 1; 2007, ch. 295, § 1.

43-14-218. Powers of districts and supervisors.

A soil conservation district organized under this part, and the supervisors of the district, shall have the power, in addition to other powers granted in this part to

(1) Conduct surveys, investigations and research relating to the character of soil erosion and the preventive and control measures needed, publish the results of the surveys, investigations or research, and disseminate information concerning the preventive and control measures; provided, that in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the state experiment station and the extension service of the University of Tennessee, or with the United States or any of its agencies;

(2) Conduct demonstrational projects within the district, upon obtaining the consent of the owner and occupier of lands, or the necessary rights or interests in lands, in order to demonstrate by example the means, methods and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil washing may be prevented and controlled;

(3) Carry out preventive and control measures within the district, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land on any lands within the district, upon obtaining the consent of the owner and occupier of the lands or the necessary rights or interests in the lands;

(4) Cooperate, or enter into agreements, with any owner and occupier of lands within the district to carry out erosion control and prevention operations, to help improve traditional areas of farm production, and to encourage diversification and innovation of farming operations within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this part;

(5) Enter into agreements with the department of agriculture and other agencies of the state to administer or assist in the administration of programs for the benefit of owners and occupiers of lands within the district in carrying out erosion control and prevention operations, improving traditional areas of farm production, diversifying farming operations and encouraging farming innovation and nontraditional agricultural activities within the district;

(6)(A) Obtain options upon, and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein;

(B) Maintain, administer and improve any properties acquired, to receive income from the properties and to expend the income in carrying out the purposes and provisions of this part; and

(C) Sell, lease or otherwise dispose of any of its property, or interests in any of its property, in furtherance of the purposes and the provisions of this part;

(7) Make available, on such terms as it shall prescribe, to landowners and occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, except that all forest tree seedlings shall be obtained, insofar as available, from the nurseries of the forestry division, operated by the forestry division in cooperation with the United States forest service of the United States department of agriculture, and such other material or equipment as will assist such landowners and occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion;

(8) Construct, improve and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this part;

(9) Develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify, in such detail as may be possible, the acts, procedures, performances and avoidances that are necessary or desirable for the effectuation of the 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 publish the plans and information and bring them to the attention of owners and occupiers of lands within the district;

(10) Take over and administer any soil conservation, erosion control or erosion prevention project, located within its boundaries, undertaken by the United States or any of its agencies, as agent of the United States or any of its agencies; act as agent for the United States or any of its agencies; and 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 use or expend such moneys, services, materials or other contributions in carrying on its operations;

(11) Sue and be sued in the name of the district; have a seal, which seal shall be judicially noticed; have perpetual succession, unless terminated as provided in § 43-14-223, to make and execute contracts and other instruments necessary or convenient to the exercise of its powers; and make, and from time to time amend and repeal, rules and regulations not inconsistent with this part, to carry into effect its purposes and powers;

(12) As a condition to extending any benefit under this part to, or the performance of work upon, any lands, the supervisors may require contributions in money, services, materials or otherwise to any operations conferring benefits, and may require landowners and occupiers to enter into and perform such agreements or covenants, as to the permanent use of such lands, as will tend to prevent or control erosion thereon; and

(13) Carry out, maintain and operate works of improvement for flood prevention and agricultural phases of conservation development, utilization, and disposal of water.

HISTORY: Acts 1939, ch. 197, § 8; C. Supp 1950, § 552.8 (Williams, § 552.38); Acts 1955, ch. 132, § 1; T.C.A. (orig. ed.), § 43-1518; Acts 1992, ch. 693, § 15; 2004, ch. 517, § 6; 2007, ch. 295, §§ 2, 3.

43-14-219.Land-use regulations -- Adoption -- Amendment or repeal -- Provisions.

(a) The supervisors of any district have the authority to formulate regulations governing the use of lands within the district, in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact land-use regulations, until after they have caused due notice to be given of their intention to conduct a referendum for submission of the regulations to the owners of lands lying within

the boundaries of the district, for their indication of approval or disapproval of the proposed regulations, and until after the supervisors have considered the result of the referendum. The proposed regulations shall be embodied in a proposed ordinance. Copies of the proposed ordinance shall be available for the inspection of all eligible voters during the period between publication of the notice and the date of the referendum. The notices of the referendum shall recite the contents of the proposed ordinance, or shall state where copies of the proposed ordinance may be examined. The supervisors shall supervise the referendum, shall prescribe appropriate regulations governing the conduct of the referendum, and shall publish the result of the referendum. All owners of lands within the district shall be eligible to vote in the referendum. Only landowners shall be eligible to vote. No informalities in the conduct of the referendum or in any matter relating thereto shall invalidate the referendum or the result of the referendum, if notice of the referendum has been given substantially as provided in this subsection (a) and the referendum has been fairly conducted.

(b) The supervisors shall not have authority to enact a proposed ordinance, unless at least two thirds (2/3) of the votes, cast in the referendum, of the landowners have been cast for approval of the proposed ordinance. The approval of the proposed ordinance by two thirds (2/3) of the votes cast in the referendum shall not be deemed to require the supervisors to enact the proposed ordinance into law. Land-use regulations prescribed in ordinances adopted, pursuant to this section, by the supervisors of any district shall have the force and effect of law in the district and shall be binding and obligatory upon all owners and occupiers of lands within the district.

(c) Any owner of land within the district may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under this section shall be amended, supplemented or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to this section shall not be amended, supplemented or repealed, except in accordance with the procedure prescribed in this section for adoption of land-use regulations. Referenda on adoption, amendment, supplementation or repeal of land-use regulations shall not be held more often than once in six (6) months.

(d) The regulations to be adopted by the supervisors under this section may include:

(1) Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches and other necessary structures;

(2) Provisions requiring observance of particular methods of cultivation, including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation and reforestation;

(3) Specifications of cropping programs and tillage practices to be observed;

(4) Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on; and

(5) Provisions for such other means, measures, operations and programs as may assist conservation of soil resources and prevent or control soil erosion in the district.

(e) The regulations shall be uniform throughout the territory comprised within the district, except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type.

(f) Copies of land-use regulations adopted under this section shall be printed and made available to all owners and occupiers of lands lying within the district.

HISTORY: Acts 1939, ch. 197, § 9; C. Supp. 1950, § 552.9 (Williams, § 552.39); T.C.A. (orig. ed.), § 43-1519.

43-14-220.Damages for violation of land-use regulations -- Determining observance.

(a) Any landowner in the district, who sustains damages to the landowner's land as a result of violation of any land-use regulation by any other landowner in the district, may recover damages at law from the other landowner for such violation.

(b) The supervisors have the authority to go upon any lands within the district to determine whether land-use regulations adopted under § 43-14-219 are being observed.

HISTORY: Acts 1939, ch. 197, § 10; C. Supp. 1950, § 552.10 (Williams, § 552.40); T.C.A. (orig. ed.), § 43-1520.

43-14-221.Nonobservance of regulations basis of court action -- Petition -- Hearing -- Enforcement of observance.

(a) Where the supervisors of any district find that any land-use regulations, prescribed in an ordinance adopted in accordance with § 43-14-219 are not being observed on particular lands, and that this non-observance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may present to the circuit court or chancery court, for the county in which the defendant's land lies, a petition, duly verified, setting forth the adoption of the ordinance prescribing land-use regulations, the failure of the defendant landowner or occupier to observe the regulations, and to perform particular work, operations, or avoidances as required by the regulations, and that the nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the court to require the defendant to perform the work, operations, or avoidances within a reasonable time, and to order that, if the defendant fails so to perform, the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of the lands into conformity with the requirements of the regulations, and recover the costs and expenses of the work or other operations, with interest, from the defendant.

(b) Upon the presentation of the petition, the court shall cause process to be issued against the defendant, and shall hear the case. If it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and report the evidence to the court with the referee's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.

(c) The court may dismiss the petition; or it may require the defendant to perform the work, operations, or avoidances, and may provide that, upon the failure of the defendant to initiate performance within the time specified in the order of the court, and to prosecute the same to completion with reasonable diligence, the supervisors may enter upon the lands involved and perform the work or operations or otherwise bring the condition of the lands into conformity with the requirements of the regulations and recover the costs and expenses of the work or operations, with interest at the rate of five percent (5%) per annum, from the defendant. In all cases where the person

in possession of lands, who fails to perform such work, operations, or avoidances, is not the owner, the owner of the lands shall be joined as party defendant.

(d) The court shall retain jurisdiction of the case until after the work has been completed. Upon completion of such work, pursuant to such order of the court, the supervisors may file a petition with the court, a copy of which shall be served upon the defendant in the case, stating the costs and expenses sustained by them in the performance of the work and praying judgment therefore with interest. The court shall have jurisdiction to enter judgment for the amount of such costs and expenses, with interest at the rate of five percent (5%) per annum until paid, together with the costs of suit, including a reasonable attorney's fee to be fixed by the court.

HISTORY: Acts 1939, ch. 197, § 11; C. Supp. 1950, § 552.11 (Williams, § 552.41); T.C.A. (orig. ed.), § 43-1521.

43-14-222.Cooperation between districts.

The supervisors of any two (2) or more districts organized under this part may cooperate with one another in the exercise of any or all powers conferred in this part.

HISTORY: Acts 1939, ch. 197, § 12; C. Supp. 1950, § 552.12 (Williams, § 552.42); T.C.A. (orig. ed.), § 43-1522.

43-14-223.Discontinuance of districts -- Petition -- Notice -- Hearing -- Referendum -- Determination by committee -- Termination of affairs -- Certificate of dissolution.

(a) At any time after five (5) years after the organization of a district under this part, any twenty-five (25) owners of land, lying within the boundaries of the district, may file a petition with the state soil conservation committee praying that the operations of the district be terminated and the existence of the district discontinued. The committee may conduct such public meetings and public hearings upon the petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such a petition has been received by the committee, it shall give due notice of the holding of a referendum, and shall supervise a referendum, and issue appropriate regulations governing the conduct of the referendum. All owners of land lying within the boundaries of the district shall be eligible to vote in the referendum. Only such landowners shall be eligible to vote. No informalities in the conduct of the referendum or in any matters relating to the referendum shall invalidate the referendum or the results of the referendum, if notice has been given substantially as provided in this subsection (a) and the referendum has been fairly conducted.

(b) The committee shall publish the results of the referendum and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the committee determines that the continued operation of the district is administratively practicable and feasible, it shall record this determination and deny the petition. If the committee determines that the continued operation of the district is not administratively practicable and feasible, it shall record this determination and shall certify the determination to the supervisors of the district. In making this determination, the committee shall give due regard and weight to the attitudes of the owners and occupiers of lands lying within the district, the number of landowners eligible to vote in the referendum who have voted, the proportion of the votes cast in the referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the landowners and occupiers of the district, the probable expense of carrying on erosion control operations within the district, and such other economic and

social factors as may be relevant to such determination; provided, that the committee shall not have authority to 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 have been cast in favor of the continuance of the district.

(c) Upon receipt from the committee of a certification that the committee has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the state treasury. The supervisors shall thereupon file an application, duly verified, with the secretary of state for the discontinuance of the district, and shall transmit with the application the certificate of the committee, setting forth the determination of the committee that the continued operation of the district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over, as in this section provided, and shall set forth a full accounting of the properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record the certificate in an appropriate book of record in the secretary of state's office.

(d) Upon issuance of a certificate of dissolution under this section, all ordinances and regulations previously adopted and in force within the districts shall be of no further force and effect. All contracts previously entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in the contracts. The committee shall be substituted for the district or supervisors as party to the contracts. The committee shall be entitled to all benefits and subject to all liabilities under the contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate the contracts by mutual consent or otherwise, as the supervisors of the district would have had. The dissolution shall not affect the lien of any judgment entered under § 43-14-221, nor the pendency of any action instituted under that section, and the committee shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

(e) The 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 this part, more often than once in five (5) years.

HISTORY: Acts 1939, ch. 197, § 13; C. Supp. 1950, § 552.13 (Williams, § 552.43); T.C.A. (orig. ed.), § 43-1523.