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Illinois General Assembly; Illinois Compiled Statutes

SPECIAL DISTRICTS

(70 ILCS 405/) Soil and Water Conservation Districts Act.

(70 ILCS 405/1) (from Ch. 5, par. 106)

Sec. 1. Short title. This Act shall be known and may be cited as the "Soil and Water Conservation Districts Act" .
(Source: P.A. 80-159.)

(70 ILCS 405/2) (from Ch. 5, par. 107)

Sec. 2. Declaration of policy. The General Assembly declares it to be in the public interest to provide (a) for the conservation of the soil, soil resources, water and water resources of this State, (b) for the control and prevention of soil erosion, (c) for the prevention of air and water pollution, and (d) for the prevention of erosion, floodwater and sediment damages, and thereby to conserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, conserve wild life and forests, protect the tax base, protect public lands, and protect and promote the health, safety and general welfare of the people of this State.

The General Assembly finds that erosion continues to be a serious problem throughout the State, and that rapid shifts in land use from agricultural to nonagricultural uses, changes in farm enterprises, operations, ownership, construction of housing, industrial and commercial developments, streets, highways, recreation areas, schools, colleges and universities, and other land disturbing activities have accelerated the process of soil erosion and sediment deposition resulting in pollution of the waters of the State and damage to domestic, agricultural, industrial, recreational, fish and wildlife, and other resource uses. It is, therefore, declared to be the policy of this State to strengthen and extend the present erosion and sediment control activities and programs for both rural and urban lands, and to establish and implement, through the Department and soil and water conservation districts in cooperation with units of local government, school districts, other political subdivisions of this State, agencies of this State and other public agencies and private entities, a statewide comprehensive and coordinated erosion and sediment control program to conserve and protect land, water, air and other resources.

The provisions of the "Local Governmental and Governmental Employees Tort Immunity Act" shall apply to all districts created pursuant to this Act.
(Source: P.A. 84-114.)

(70 ILCS 405/3) (from Ch. 5, par. 108)

Sec. 3. Definitions. As used in this Act, unless the context clearly otherwise requires, the terms defined in Sections 3.01 through 3.30 have the meanings ascribed to them in those Sections.

(Source: P.A. 81-1509.)

(70 ILCS 405/3.01) (from Ch. 5, par. 108.01)

Sec. 3.01. "District" or "soil and water conservation district" means a public body corporate and politic, organized in accordance with this Act.

(Source: P.A. 80-159.)

(70 ILCS 405/3.02) (from Ch. 5, par. 108.02)

Sec. 3.02. "Director" means one of the members of the governing body of a district, elected or appointed in accordance with this Act.

(Source: P.A. 80-159.)

(70 ILCS 405/3.03) (from Ch. 5, par. 108.03)

Sec. 3.03. "Department" means the Department of Agriculture of this State.

(Source: P.A. 80-159.)

(70 ILCS 405/3.04) (from Ch. 5, par. 108.04)

Sec. 3.04. "State" means the State of Illinois.

(Source: P.A. 80-159.)

(70 ILCS 405/3.05) (from Ch. 5, par. 108.05)

Sec. 3.05. "Agency of this State" includes the government of this State and any subdivision, agency, or instrumentality thereof.

(Source: P.A. 80-159.)

(70 ILCS 405/3.06) (from Ch. 5, par. 108.06)

Sec. 3.06. "United States" includes the United States of America, the Soil Conservation Service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(Source: P.A. 80-159.)

(70 ILCS 405/3.07) (from Ch. 5, par. 108.07)

Sec. 3.07. "Land owner" or "owner of land" includes any individual of legal voting age, firm, or corporation who holds legal or equitable title to any land lying within a district organized or proposed to be organized under this Act. For the purposes of this Act, a list of the persons who appear from the tax assessment rolls of the county to be owners of land within a district or proposed district is prima facie evidence

of the names and number of such land owners.
(Source: P.A. 80-159.)

(70 ILCS 405/3.08) (from Ch. 5, par. 108.08)

Sec. 3.08. "Land occupier" or "occupier of land" includes any individual of legal voting age, firm or corporation, other than the owner, who is in legal possession of any land lying within a district organized or proposed to be organized under this Act, whether as lessee, renter, tenant or otherwise.
(Source: P.A. 80-159.)

(70 ILCS 405/3.09) (from Ch. 5, par. 108.09)

Sec. 3.09. "Due Notice" means notice given in accordance with Section 31 of this Act.
(Source: P.A. 80-159.)

(70 ILCS 405/3.10) (from Ch. 5, par. 108.10)

Sec. 3.10. "Proxy" means a written authorization complying with Section 32 of this Act.
(Source: P.A. 80-159.)

(70 ILCS 405/3.11) (from Ch. 5, par. 108.11)

Sec. 3.11. "Person" means any owner of land or the owner's designated agent including any individual, partnership, firm, association, joint venture, corporation, trust, estate, commission, board, public or private institution, unit of local government, school district, political subdivision of this State, State agency, any interstate body or any other legal entity.
(Source: P.A. 80-159.)

(70 ILCS 405/3.12) (from Ch. 5, par. 108.12)

Sec. 3.12. "Land disturbing activity" means any change in land, which may result in soil erosion from water or wind and the movement of sediments into state waters or on to lands in the State, including but not limited to, the tilling, clearing, grading, excavating, rehabilitating, transporting, depositing or filling of land, other than federal lands. "Land disturbing activity" does not include such minor activities as home gardens, individual home landscaping, repairs, maintenance or any plat of subdivision approved by municipal or county units of government. This Act shall encourage the establishment of sediment and erosion control ordinances at the municipal and county levels.
(Source: P.A. 80-159.)

(70 ILCS 405/3.13) (from Ch. 5, par. 108.13)

Sec. 3.13. "Waters" means any and all waters, public or private, on the surface of the ground, which are wholly or partially contained within, flow through or border upon this State.

(Source: P.A. 80-159.)

(70 ILCS 405/3.14) (from Ch. 5, par. 108.14)

Sec. 3.14. "Erosion and sediment control plan" or "plan" means a plan for the control of soil erosion and sediment resulting from a land disturbing activity.

(Source: P.A. 80-159.)

(70 ILCS 405/3.15) (from Ch. 5, par. 108.15)

Sec. 3.15. "Conservation standard" or "standard" means any standard adopted by the Department or the districts under this Act.

(Source: P.A. 80-159.)

(70 ILCS 405/3.16) (from Ch. 5, par. 108.16)

Sec. 3.16. "Guideline" means a guide or recommendation to be used by districts in developing a program and standards for erosion and sediment control.

(Source: P.A. 80-159.)

(70 ILCS 405/3.17) (from Ch. 5, par. 108.17)

Sec. 3.17. "Board" means the State Soil and Water Conservation Districts Advisory Board appointed under Section 4 of this Act with which the Department and the soil and water conservation district respectively consult and advise with regard to the erosion and sediment control provisions of this Act.

(Source: P.A. 80-159.)

(70 ILCS 405/3.18) (from Ch. 5, par. 108.18)

Sec. 3.18. "Point source discharge" means any discernible, confined, discrete conveyance of pollutants to waters through pipes or conduits from sewage treatment plants or industrial processes.

(Source: P.A. 80-159.)

(70 ILCS 405/3.19) (from Ch. 5, par. 108.19)

Sec. 3.19. "Enduring erosion and sediment control device, structure or practice" means and includes any device, structure or practice designed for the control and prevention of soil erosion and air and water pollution for a period in excess of one year.

(Source: P.A. 80-159.)

(70 ILCS 405/3.20) (from Ch. 5, par. 108.20)

Sec. 3.20. "Aggrieved party" means any person whose property, resources, interest or responsibility is being injured or impeded in value or utility or any other manner by the adverse effects of sediment caused by soil erosion.

(Source: P.A. 80-159.)

(70 ILCS 405/3.21) (from Ch. 5, par. 108.21)

Sec. 3.21. "Willful or wanton misconduct" means a course of action which shows an actual or deliberate intention to cause harm or which, if not intentional, shows an utter indifference to or conscious disregard for the safety of others or their property.

(Source: P.A. 86-1173.)

(70 ILCS 405/4) (from Ch. 5, par. 109)

Sec. 4. State soil and water conservation districts advisory board. The State Soil and Water Conservation Districts Advisory Board is created. The Board shall consist of 7 members. The Director of the Department and the Director of Agricultural Extension of the College of Agriculture of the University of Illinois shall serve, *ex officio*, as members of the Board. The other 5 members shall be appointed by the Governor by and with the advice and consent of the Senate and shall be individuals who are the owners and active operators of farm lands in this State and who have been engaged in farming in this State for at least 5 years next preceding their appointment, consideration having been given to geographical location and to soil and water conservation district experience. In case of any vacancy in such appointive office during the recess of the Senate, the Governor shall make a temporary appointment until action at the next meeting of the Senate, when he shall nominate some person to fill such office; and any person so nominated who is confirmed by the Senate shall hold his office during the remainder of the term and until his successor is appointed and qualified. If the Senate is not in session at the time this amendatory Act takes effect, the Governor shall make temporary appointments as in the case of a vacancy. The appointed members of the State Soil and Water Conservation Districts Advisory Board shall serve for a period of 4 years, beginning on the third Monday in January of the odd-numbered years in which they are appointed, and until their successors are appointed and qualified. The board may invite the Secretary of Agriculture of the United States of America to appoint one person to serve with the above mentioned members in an advisory capacity.

The Board may consult and advise with the qualified persons necessary with regard to the erosion and sediment control provisions of this Act.

(Source: P.A. 80-159.)

(70 ILCS 405/5) (from Ch. 5, par. 110)

Sec. 5. Organization of board.

A majority of the members of the Board shall constitute a quorum and the concurrence of a majority of a quorum shall be required for its determination of any matter. The Board shall elect annually a chairman from among its appointed members. The chairman and members of the Board shall receive no compensation for their services on the Board but shall be

entitled to their expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the Board. Except for the Director of the Department, no Board member shall be employed by the Department as a salaried or paid employee. The Board shall keep a full and accurate record of all its proceedings. The Board shall hold such public hearings as may be necessary for the execution of its functions under this Act. The Board shall advise the Department in establishing policy under and in the administration of this Act.

(Source: Laws 1955, p. 189.)

(70 ILCS 405/6) (from Ch. 5, par. 111)

Sec. 6. Powers and duties. In addition to the powers and duties otherwise conferred upon the Department, it shall have the following powers and duties:

(1) To offer such assistance as may be appropriate to the directors of soil and water conservation districts, organized as provided hereinafter, in the carrying out of any of the powers and programs.

(2) To keep the directors of each of said several districts informed of the activities and experience of other such districts, and to facilitate an interchange of advice and experience between such districts and cooperation between them.

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

(4) To seek the cooperation and assistance of the United States and of agencies of this State, in the work of such districts.

(5) To disseminate information throughout the State concerning the formation of such districts, and to assist in the formation of such districts in areas where their organization is desirable.

(6) To consider, review, and express its opinion concerning any rules, regulations, ordinances or other action of the board of directors of any district and to advise such board of directors accordingly.

(7) To prepare and submit to the Director of the Department an annual budget.

(8) To develop and coordinate a comprehensive State erosion and sediment control program, including guidelines to be used by districts in implementing this program. In developing this program, the Department may consult with and request technical assistance from local, State and federal agencies, and may consult and advise with technically qualified persons and with the soil and water conservation districts. The guidelines developed may be revised from time to time as necessary.

(9) To promote among its members the management of marginal agricultural and other rural lands for forestry, consistent with the goals and purposes of the "Illinois Forestry Development Act".

Nothing in this Act shall authorize the Department or any district to regulate or control point source discharges to waters.

(10) To make grants subject to annual appropriation from the the Build Illinois Bond Fund or any other sources, including the federal government, to Soil and Water Conservation Districts and the Soil Conservation Service.

(11) To provide payment for outstanding health care costs of Soil and Water Conservation District employees incurred between January 1, 1996 and December 31, 1996 that were eligible for reimbursement from the District's insurance carrier, Midcontinent Medical Benefit Trust, but have not been paid to date by Midcontinent. All claims shall be filed with the Department on or before January 30, 1998 to be considered for payment under the provisions of this amendatory Act of 1997. The Department shall approve or reject claims based upon documentation and in accordance with established procedures. The authority granted under this item (11) expires on September 1, 1998.

Nothing in this Act shall authorize the Department in any district to regulate or curtail point source discharges to waters.

(Source: P.A. 94-91, eff. 7-1-05.)

(70 ILCS 405/7) (from Ch. 5, par. 112)

Sec. 7. Employees and assistance of other agencies.

Subject to the provisions of the "Personnel Code" enacted by the 69th General Assembly, the Department may employ an administrative officer, technical experts and such other agents and employees, permanent and temporary, as it may require. The Department may call upon the Attorney General of the State for such legal services as it may require. The Department shall require surety bonds for all its officers and employees who are entrusted with funds or property under this Act and shall provide for an annual audit of their accounts. The Department may establish and provide suitable office accommodations and the necessary supplies and equipment.

Upon request of the Department, for the purpose of carrying out any of its functions, the supervising officer of any State agency, or of any State institution of learning shall, in so far as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the Department members of the staff or personnel of such agency or institution of learning and make such special reports, surveys or studies as the Department may request.

(Source: Laws 1955, p. 2146.)

(70 ILCS 405/8) (from Ch. 5, par. 113)

Sec. 8. Petition for creation of soil and water conservation districts.

Any 25 or more owners of land lying within the limits of the territory proposed to be organized into a district who own at least 10% of the land, by area, within such proposed district may file a petition with the Department asking that a soil and water conservation district be organized in the territory described in the petition. Such petition shall set forth:

(1) The proposed name of said district;
(2) That there is a need, in the interest of the public health, safety, and welfare, for a soil and water conservation district to function in the territory described in the petition;

(3) A reasonably accurate description of the territory proposed to be organized as a district.

(4) A request that the Department 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 Department determine that such a district be created.

Where more than one petition is filed covering the same or parts of the same territory, the Department may consolidate all or any of such petitions.

(Source: Laws 1961, p. 530.)

(70 ILCS 405/9) (from Ch. 5, par. 114)

Sec. 9. Notice and hearing.

Within 30 days after such a petition has been filed with the Department, 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 district; upon the question of the appropriate boundaries to be assigned to such district; upon the propriety of the petition and other proceedings taken under this Act; and upon all questions relevant to such inquiries. All land occupiers and owners of land lying within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all interested parties, shall have the right to attend such 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 hearings shall be given throughout the entire area considered for inclusion in the district, and such further hearing held.

(Source: Laws 1951, p. 428.)

(70 ILCS 405/10) (from Ch. 5, par. 115)

Sec. 10. Findings and determinations of department.

After such hearing, if the Department determines 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 by metes and bounds, or by legal subdivisions, the boundaries of such district. In making such determination and in defining such boundaries, the Department shall give due weight and consideration to the following matters which are hereby stated to be the standards which shall guide the considerations of the Department: 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 the provisions of this Act, and such other physical, geographical, and economic factors as are relevant. The territory to be included within such boundaries need not be contiguous. No territory shall be included within the boundaries of more than one district. In cases where territory is proposed to be added to an existing district, the Department shall also consider the attitude of the district directors as expressed at the hearing, by resolution or otherwise.

If the Department determines after such hearing, and after due consideration of the above-mentioned facts and standards that there is no need for a soil and water conservation district for the territory considered at the hearing, it shall record such determination and deny the petition. No subsequent petitions covering the same or substantially the same territory shall be filed as aforesaid until after the expiration of one year from the date of such denial. (Source: Laws 1961, p. 530.)

(70 ILCS 405/11) (from Ch. 5, par. 116)

Sec. 11. Determination of administrative practicability and feasibility.

After the Department has made and recorded a determination that there is need, in the interest of public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil and water conservation districts in this Act is administratively practicable and feasible. To assist the Department in the determination of such administrative practicability and feasibility, it shall within a reasonable time after entry of the determination that there is need for the organization of the proposed district and the determination of the boundaries thereof, hold a referendum within the proposed district upon the proposition of the creation of the district, and cause due notice of any such referendum to be given.

The question shall be submitted upon ballot in substantially the following form:

Place an X in the square opposite the
proposition for which you desire to vote.

For creation of a soil and water
conservation district of the lands
described below and situated in
the county or counties of (here in-
sert name of county or counties).

Against creation of a soil and water conservation district of the lands described below and situated in the county or counties of (here insert name of county or counties).

(Here insert description.)

Only owners of land lying within the boundaries of the proposed district as determined by the Department shall be eligible to vote in such referendum, and each such owner of land shall have one vote. Owners of land may vote in person or by absentee ballot.

In all cases where a petition for the organization of a district carries the names of more than 55 per cent of the land owners within the proposed district, the Department may determine the question of whether the operation of the district is administratively practicable and feasible without holding a referendum.

(Source: Laws 1961, p. 530.)

(70 ILCS 405/12) (from Ch. 5, par. 117)

Sec. 12. Conduct of referenda.

The Department shall pay all expenses for the issuance of such notices and the conduct of such hearings and referenda and shall supervise the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such 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 such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

(Source: Laws 1951, p. 428.)

(70 ILCS 405/13) (from Ch. 5, par. 118)

Sec. 13. Recordation and determination.

The Department shall publish the result of such referendum. If a majority of the owners of land lying within the district voted in favor of the creation of the district, and if the Department determines that the attitude of such owners, the approximate wealth and income of such landowners, the probable expense of carrying on erosion control operations within such district, and other economic and social factors as may be relevant are such that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. If less than a majority of the owners of land in such district vote in favor of the creation of such district, or if the Department

determines that the attitude of such owners, the approximate wealth and income of such landowners, the probable expense of carrying on erosion control operations within such district, and other economic and social factors as may be relevant are such that the operation of the proposed district is not otherwise practicable and feasible, it shall record such determination and deny the petition.

(Source: Laws 1955, p. 189.)

(70 ILCS 405/14) (from Ch. 5, par. 119)

Sec. 14. Organization of district.

If the Department shall determine that the operation of the proposed district is administratively practicable and feasible, it shall appoint 2 temporary directors, who shall hold office until the election and qualification of the permanent board of directors as provided in Section 19. Such district shall be a public body corporate and politic, upon the taking of the following proceedings:

The 2 temporary directors 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 Department pursuant to the provisions of this Act, and that the proceedings specified in this Act were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a public body, corporate and politic, under this Act; that the Department has appointed them as temporary directors; (2) the name and official residence of each of the temporary directors; (3) the name which is proposed for the district; and (4) the location of the principal office of the district. The application shall be subscribed and sworn to by each of the said temporary directors before an officer authorized by the laws of this State to take acknowledgments of deeds, who shall certify upon the application that he personally knows the temporary directors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the Department, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the Department did duly determine 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 proposed territory and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of such district; and that a majority of the owners of land lying within the district voted in favor of the creation of the district; that thereafter the Department did duly determine that the operation of the proposed district is administratively practicable and feasible and that 2 temporary directors, naming them, were duly appointed. The said statement shall set forth the boundaries of the district as they have been defined by the Department.

(Source: Laws 1961, p. 530.)

(70 ILCS 405/15) (from Ch. 5, par. 120)

Sec. 15. Certificate of organization. The Secretary of State shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other district of this State or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. If the Secretary of State finds that the name proposed for the district is identical with that of any other district of this State, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the Department, which shall thereupon submit to the Secretary of State a new name for the district, which is not subject to such defects. Upon receipt of such new name, free of such defects, the Secretary of State shall record the application and statement, with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district constitutes a public body corporate and politic. The Secretary of State shall make and issue to the temporary directors a certificate, under the seal of the State, of the due organization of the district, and shall record such certificate with the application and statement. A copy of the statement and the certificate of organization, duly certified by the Secretary of State, shall be recorded with the recorder of the county in which the office of the district is located.

(Source: P.A. 83-358.)

(70 ILCS 405/15.01) (from Ch. 5, par. 120.1)

Sec. 15.01. Whenever it is desired to change the name of an existing district the directors shall submit the proposed new name to the Department, together with their reasons for desiring the change. If the Department approves the change it shall submit the proposed name to the Secretary of State who, if he finds that the proposed name is not identical with that of any other district of this state or so nearly similar as to lead to confusion or uncertainty, he shall receive and record the change in an appropriate book of record in his office. If the Secretary of State finds that the name proposed for the district is identical with that of any other district of this State, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the Department, which shall thereupon submit to the Secretary of State a new name for the district, which is not subject to such defects and which is satisfactory to the directors. Upon receipt of such new name, free of such defects, the Secretary of State shall record the change in an appropriate book of record in his office.

(Source: Laws 1951, p. 428.)

(70 ILCS 405/16) (from Ch. 5, par. 121)

Sec. 16. Subsequent petitions.

No subsequent petitions covering the same or substantially the same land shall be filed within one year after the denial of a preceding petition.

(Source: Laws 1937, p. 10.)

(70 ILCS 405/17) (from Ch. 5, par. 122)

Sec. 17. Included territory. All of the territory contained within the boundaries of a county or counties shall be a part of the Soil and Water Conservation District whose territories are located within the county or counties except in Cook County in which case all of the territory north of 22nd Street also known as Cermak Road, shall be a part of the North Cook Soil and Water Conservation District and all of the territory of Cook County that is south of 22nd Street also known as Cermak Road, shall be a part of the Will-South Cook Soil and Water Conservation District. The boundaries for any District consolidated after July 1, 1996 in accordance with Section 26a of this Act shall encompass all territory contained within those Districts so consolidating.

(Source: P.A. 91-327, eff. 1-1-00.)

(70 ILCS 405/18) (from Ch. 5, par. 123)

Sec. 18. Certificate evidence of organization.

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 prima facie to have been established in accordance with the provisions of this Act upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate duly certified by the Secretary of State shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of the filing and contents thereof.

(Source: Laws 1937, p. 10.)

(70 ILCS 405/19) (from Ch. 5, par. 124)

Sec. 19. Governing body of district.

The governing body of the district shall consist of 5 directors, who shall be owners or occupiers of lands within the district in which they serve.

Five directors shall be elected before March 1 in the year 1948, three of whom shall serve until the first Monday of March, 1950, and the remaining two shall serve until the first Monday of March, 1949. Successive elections shall be held before March 1 of each year and each director so elected shall serve during the two-year period commencing with the first Monday in March of the year in which he was elected.

Any vacancy in the office of director may be filled by appointment by the remaining directors. The person so appointed shall hold office until the next election at which a member of the governing board of the district is elected. At such election a person shall be elected to fill the vacancy, if there is sufficient time to meet the requirements for

nomination. Otherwise, the person appointed to fill the vacancy shall hold office until the expiration of the term of the director whom he succeeded.
(Source: P. A. 76-110.)

(70 ILCS 405/19.01) (from Ch. 5, par. 124.1)

Sec. 19.01. Occupiers of land lying within the district are eligible to hold office and to vote at all elections held in such district except at elections held for the adoption or approval of land-use regulations.
(Source: Laws 1955, p. 189.)

(70 ILCS 405/20) (from Ch. 5, par. 125)

Sec. 20. Nomination, election of directors.

Within 30 days after the issuance of the Secretary of State of the certification of organization of a soil and water conservation district, nominating petitions may be filed with the Department for the nomination of candidates for directors of such district. The Department may extend the time within which such nominating petitions may be filed. After the first election nominating petitions may be filed with the Department not more than 60 days nor less than 20 days prior to the date of the election. No nominating petition shall be accepted by the Department unless it shall be subscribed by 25 or more owners or occupiers of land, or both, lying within the boundaries of such district. Land owners or occupiers, or both, may sign more than one such nominating petition. The names of all nominees on behalf of whom such nominating petitions have been filed in the time herein designated or such further time as may be granted by the Department shall appear, arranged in the alphabetical order of the surnames upon ballots with a square before each name and a direction to insert an X in the square before a number of names equal to the number of directors to be elected, and with instructions to vote for not more than the proper number of directors. Only owners or occupiers of land, or both, lying within the district are eligible to vote in such election and each shall be entitled to cast one ballot. Such ballot may be cast in person or by absentee ballot. The Department shall prescribe regulations governing the conduct of such election and the determination of the eligibility of voters therein, and shall announce the results thereof. The 5 nominees receiving the highest number of votes shall be declared elected.
(Source: Laws 1961, p. 530.)

(70 ILCS 405/20.01) (from Ch. 5, par. 125.1)

Sec. 20.01. Upon petition of the directors of any district, the Department may authorize that district to nominate and elect directors at annual meetings of the owners or occupiers of land, or both, lying within the district rather than according to the provisions of Section 20. Such meetings shall be held on or before March 1 of each year and directors elected at such meetings shall take office in the same manner as those elected pursuant to Section 20.

(Source: Laws 1955, p. 189.)

(70 ILCS 405/21) (from Ch. 5, par. 126)

Sec. 21. Organization of governing body. The directors shall elect one of their members as chairman to hold for such time as the directors may determine but no longer than the term for which he was elected. A majority of the directors shall constitute a quorum and the concurrence of a majority of a quorum in any matter shall be required for its determination. Directors may receive reasonable compensation for their services not to exceed \$20 per day and may be reimbursed for expenses, including traveling expenses, necessarily incurred in the discharge of their duties. The directors may employ such technical assistants as the district needs. The directors may also employ a secretary and such other officers, agents and employees, permanent and temporary, as they may require and shall determine their qualifications, duties and compensation. The directors may delegate to their chairman or to one or more agents or employees such powers and duties as they deem proper. The directors shall keep a record of all their actions and proceedings and of all resolutions, regulations and orders issued or adopted by them; and shall adopt a seal, which seal shall be judicially noticed.

The directors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; and shall provide for an annual financial report of the results of an examination and review of the accounts of receipts and disbursements in a manner prescribed by the Department.

The directors may provide employee benefits through the Illinois Municipal Retirement Fund if the district meets the applicable requirements of the Illinois Pension Code and the Federal Social Security Act.

The directors may invite any municipal corporation or county located near the territory comprised within the district to designate a representative to advise and consult with the directors of the district on all questions of program and policy which may affect the property, roads, water supply, or other interests of such municipal corporation or county.
(Source: P.A. 90-192, eff. 7-24-97.)

(70 ILCS 405/22) (from Ch. 5, par. 127)

Sec. 22. Powers of districts and directors. A soil and water conservation district organized under the provisions of this Act shall constitute a public body, corporate and politic, exercising public powers, and such district and the directors thereof shall, in addition to the powers created in other Sections of this Act, have the powers enumerated in Sections 22.01 through 22.12, each inclusive.

(Source: P.A. 85-483.)

(70 ILCS 405/22.01) (from Ch. 5, par. 127.1)

Sec. 22.01.

To initiate and conduct surveys, investigations and

research and to develop comprehensive plans for the conservation of soil and water resources and for the control and prevention of soil erosion and erosion, floodwater and sediment damages within the district, which plans shall specify in such detail as may be practicable the acts, procedure, 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, with the approval and assistance of the Department, to publish such plans and information and bring them to the attention of owners and occupiers of land within the district.

(Source: P. A. 77-1757.)

(70 ILCS 405/22.02) (from Ch. 5, par. 127.2)

Sec. 22.02. To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land 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 owners and occupiers of such lands or the necessary rights or interests in such lands.

(Source: Laws 1953, p. 1063.)

(70 ILCS 405/22.02a) (from Ch. 5, par. 127.2a)

Sec. 22.02a.

The Soil and Water Conservation District shall make all natural resource information available to the appropriate county agency or municipality in the promulgation of zoning ordinances or variances. Any person who petitions any municipality or county agency in the district for variation, amendment, or other relief from that municipality's or county's zoning ordinance or who proposes to subdivide vacant or agricultural lands therein shall furnish a copy of such petition or proposal to the Soil and Water Conservation District. The Soil and Water Conservation District shall be given not more than 30 days from the time of receipt of the petition or proposal to issue its written opinion concerning the petition or proposal and submit the same to the appropriate county agency or municipality for further action.

(Source: P. A. 77-1757.)

(70 ILCS 405/22.03) (from Ch. 5, par. 127.3)

Sec. 22.03. To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any owner or occupier of lands within the district, in the carrying on of erosion-control and flood prevention operations within the district, subject to such conditions as the directors may deem necessary to advance the purposes of this Act.

(Source: Laws 1955, p. 189.)

(70 ILCS 405/22.04) (from Ch. 5, par. 127.4)

Sec. 22.04. To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, legacy or through condemnation, any property, real or personal, or rights or interests therein necessary for the purpose of the district; to maintain, administer and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this Act; and to sell, lease or otherwise dispose of any of its property or interests therein in furtherance of the purposes and provisions of this Act.

(Source: P.A. 83-388.)

(70 ILCS 405/22.04a)

Sec. 22.04a. Eminent domain. Notwithstanding any other provision of this Act, any power granted under this Act to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

(Source: P.A. 94-1055, eff. 1-1-07.)

(70 ILCS 405/22.05) (from Ch. 5, par. 127.5)

Sec. 22.05. To make available, on such terms as it shall prescribe, to landowners or occupiers within the district, the use of agricultural and engineering machinery and equipment, and such other material or equipment as will assist such landowners or occupiers to carry on operations upon their lands for the conservation of soil and water resources and for the prevention and control of soil erosion and erosion floodwater and sediment damages.

Soil and water conservation districts may engage in the direct sale of trees, shrubs, or other plant materials as provided in this Section. Plant materials that may be sold are seeds of annual or perennial plants, bare-root stock, or stock in pots not to exceed one gallon. The plant material shall be advertised as follows:

"These plants are for conservation purposes only and shall not be used as ornamentals or for landscaping."

For purposes of this Section, "stock" means hardwood trees not to exceed 48 inches, conifers not to exceed 36 inches, shrubs not to exceed 24 inches, or any other plant materials not to exceed 24 inches.

(Source: P.A. 90-48, eff. 1-1-98.)

(70 ILCS 405/22.06) (from Ch. 5, par. 127.6)

Sec. 22.06. To construct, improve, operate and maintain such structures as may be necessary for the performance of any of the operations authorized in this Act.

(Source: Laws 1955, p. 189.)

(70 ILCS 405/22.07) (from Ch. 5, par. 127.7)

Sec. 22.07. To take over, by purchase, lease or by voluntary agreement, and to administer, any soil-conservation, water-conservation, flood-prevention, erosion-control or erosion-prevention project located within its boundaries, undertaken by the United States, or by this State or any of its agencies; to manage, as agent of the United States, with its consent, or of this State, with its consent, or of any of its agencies, any such project within its boundaries to act as agent if so desired and requested for the United States, or for this State or any of its agencies, in connection with the acquisition, construction, operation or administration of any such project within its boundaries; to accept donations, gifts and contributions in money, services, materials, or otherwise, from the United States, or from this State or any of its agencies, and from any other source, and to use or expend such district moneys, services, materials, or other contributions in carrying on its operations.
(Source: Laws 1961, p. 530.)

(70 ILCS 405/22.07a) (from Ch. 5, par. 127.7a)

Sec. 22.07a. To cooperate and effectuate agreements with individuals or agencies of government, and to plan, construct, operate, and maintain programs and projects relating to the conservation of the renewable natural resources of soil, water, forests, fish, wildlife, and air in this state, for the control and prevention of soil erosion, floods, flood water and sediment damages, and impairment of dams and reservoirs; to assist in maintaining the navigability of rivers and harbors, and in addition, to cooperate with local interests and agencies of government in providing domestic and industrial municipal and agricultural water supplies and recreational project developments and improvements.
(Source: Laws 1963, p. 3492.)

(70 ILCS 405/22.07b) (from Ch. 5, par. 127.7b)

Sec. 22.07b. Natural area guardians. The governing body of any soil and water conservation district may designate Natural Area Guardians for the purpose of managing natural areas on the Illinois Natural Areas Inventory and natural areas of regional or local significance designated by the governing body within the district. The powers of the Natural Area Guardians shall include the following:

- (1) Locating and inventorying natural areas of regional or local significance located in the district.
- (2) Managing or restoring natural areas in the district by itself or in cooperation with other organizations.
- (3) Assisting landowners in managing natural areas at the request or with the acquiescence of the landowner.
- (4) Providing education programs concerning natural areas and otherwise promoting public awareness of natural areas and their preservation.

No individual or entity other than a district governing body, as provided in this Section, shall designate Natural

Area Guardians.

Natural Area Guardians shall have no power with respect to those areas designated as National Historical Sites or Areas. (Source: P.A. 87-85.)

(70 ILCS 405/22.08) (from Ch. 5, par. 127.8)

Sec. 22.08. To sue and be sued in the name of the district; to be represented by the Attorney General of the State who shall provide such legal services as may be required; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers, to make, and from time to time amend and repeal, rules and regulations not inconsistent with this Act, to carry into effect its purposes and powers. No director or officer serving without compensation, other than reimbursement for expenses and services that are consistent with the provisions of Section 21 of this Act, of a district organized under this Act and exempt, or qualified for exemption, from taxation pursuant to Section 501(c) of the Internal Revenue Code of 1986, as amended, and no employee of such a district while receiving compensation in the conduct of the employee's assigned duties and responsibilities, shall be liable, and no cause of action may be brought, for damages resulting from the exercise of judgment or discretion in connection with the duties or responsibilities of such director, officer or employee unless the act or omission involved willful or wanton misconduct. (Source: P.A. 86-1173.)

(70 ILCS 405/22.09) (from Ch. 5, par. 127.9)

Sec. 22.09. As a condition to the extending of any benefits under this Act to, or the performance of work upon, any lands not owned or controlled by this State or any of its agencies, the directors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require land owners 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 thereof; or promote the welfare of the lands of the district.

The District may charge fees to any person who makes a request for services or receives benefits rendered by the District, or who causes or undertakes to cause the District to perform a function prescribed by this Act, including but not limited to any function prescribed by Section 22.02a of this Act, provided that such charges are uniform. The Directors shall maintain a uniform schedule for such fees and may from time to time revise such schedule. The charging of any such fees if uniformly charged and in accordance with a uniform schedule by any District to any person for any such service or benefits or performance of any such functions prior to the effective date of this amendatory Act of 1975 is ratified. (Source: P.A. 79-640.)

(70 ILCS 405/22.10) (from Ch. 5, par. 127.10)

Sec. 22.10. To incur indebtedness as they deem proper in the conduct of the business of the district.
(Source: P.A. 84-113.)

(70 ILCS 405/22.11) (from Ch. 5, par. 127.11)

Sec. 22.11. Purchases made pursuant to this Act shall be made in compliance with the "Local Government Prompt Payment Act", approved by the Eighty-fourth General Assembly.
(Source: P.A. 84-1308.)

(70 ILCS 405/22.12) (from Ch. 5, par. 127.12)

Sec. 22.12. To carry out its duties under the Water Use Act of 1983.
(Source: P.A. 85-483.)

(70 ILCS 405/22a) (from Ch. 5, par. 127a)

Sec. 22a. The directors shall file with the Department, upon request of said Department, 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 the Department may require in the performance of its duties under this Act.
(Source: Laws 1953, p. 1063.)

(70 ILCS 405/23) (from Ch. 5, par. 128)

Sec. 23. Adoption of land-use regulations. The directors of any district shall have authority to formulate regulations governing the use of lands within the district in the interest of conserving soil, soil resources, water and water resources and preventing and controlling soil erosion and erosion, floodwater and sediment damages. The directors shall conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The directors shall not have authority to enact such land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct a referendum for submission of such regulations to the land owners within the boundaries of the district for their approval or disapproval of such proposed regulations, shall have held such referendum, and shall have considered the result of such referendum. The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be filed with the Department for an expression of opinion. The opinion of the Department and any statement it may issue with reference thereto shall be made known to the owners in such district at least 10 days prior to the date of any referendum thereon. Copies of such proposed ordinance shall be available for distribution among, and inspection by owners and occupiers of land in the district during the period between publications of such notice and the date of the referendum. The notices of the referendum shall recite the contents of such proposed ordinance and shall state where copies of such proposed ordinance may be examined or obtained. The question shall be

submitted by ballots, upon which the words "For approval of proposed ordinance No....., prescribing land-use regulations for conservation of soil and water and prevention of erosion" and "Against approval of proposed ordinance No....., prescribing land-use regulations for conservation of soil and water and prevention of erosion" shall appear, with a square before each proposition and a direction to insert an X mark in the square before one or the other of those propositions. A summary or digest of the provisions of the proposed ordinance shall also appear on such ballots. The directors shall supervise such referendum, shall prescribe appropriate regulations governing the conduct thereof, and shall publish the result thereof. All the owners of land within the district shall be eligible to vote in such referendum and each shall have one vote. Such vote may be cast in person or by absentee ballot. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate such referendum or the result thereof if notice thereof shall have been given substantially as herein provided and such referendum shall have been fairly conducted.

The directors shall not have authority to enact such proposed ordinance into law unless at least three-fourths of the owners of land voting in such referendum shall vote in such referendum for approval of the proposed ordinance. The approval of the proposed ordinance by three-fourths of the land owners voting on the proposition shall not be deemed to require the directors to enact such proposed ordinance into law. Land-use regulations prescribed in ordinances adopted pursuant to this Section by the directors of any district shall have the force and effect of law in the district and shall be binding and obligatory upon all owners of lands within such district.

Any owner of land within such district may at any time file a petition with the directors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the directors 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 6 months.

The regulations to be adopted by the directors 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 observation of particular methods of cultivation including contour cultivating, contour furrowing, strip cropping, seeding and planting of lands to water-conserving and erosion-preventing plants, trees, grasses, forestation and reforestation.
3. Provisions requiring the permanent retirement from cultivation of highly erosive areas or of areas on which erosion cannot be adequately controlled if

cultivation is carried on.

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

5. Provisions prohibiting the clearcutting of trees within 30 feet of any navigable waters, except for trees that are included in a forestry management plan approved by the Division of Forest Resources of the Department of Natural Resources. However, these provisions shall not prohibit clearcutting incidental to any project, activity or program that has been permitted, licensed, certified or approved by an agency of federal, State or local government. For the purpose of this item 5, "navigable waters" means public waters that are usable for water commerce.

However, these provisions shall not prohibit a public utility from maintaining its transmission facilities and rights of way.

The regulations shall be uniform throughout the territory comprised within the district except that the directors 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. 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.

No authority exercised by or procedure authorized by a district pursuant to this Section 23 imposes any restriction or mandate on land use practices and other policies of municipalities with respect to land located in that municipality, unless the corporate authorities of that municipality authorize by resolution the application of that district's land use regulations within the municipality's corporate limits.

(Source: P.A. 91-327, eff. 1-1-00.)

(70 ILCS 405/24) (from Ch. 5, par. 129)

Sec. 24. Enforcement of land-use regulations.

The directors shall have authority to go upon any lands within the district to determine whether land-use regulations adopted under the provisions of section 23 of this act are being observed. The directors are further authorized to provide by ordinance that any land owner who shall sustain damages from any violation of such regulations by any other land owner may recover damages at law from such other land owner for such violation.

(Source: Laws 1937, p. 10.)

(70 ILCS 405/25) (from Ch. 5, par. 130)

Sec. 25. Performance of work by the directors.

Where the directors of any district shall find that any of

the provisions of land-use regulations prescribed in an ordinance adopted in accordance with the provisions of section 23 hereof are not being observed on particular lands, and that such non-observance tends to increase erosion and is interfering with the prevention or control of erosion and erosion, floodwater and sediment damages on other lands within the district, the directors shall notify the owner of such lands of such non-observance and that upon his failure to comply with the provisions of such land-use regulations within such reasonable time as may be fixed in such notice a petition for authority to perform such work will be presented to the Circuit Court for the county in which the land of the defendant or a major portion thereof, may lie. If the owner of such lands then fails to comply with the provisions of such land-use regulations, the directors may present to such Circuit Court a petition, duly verified, setting forth the adoption of the ordinance prescribing land-use regulations, the failure of the defendant land owner to observe such regulations, and to perform particular work, operations, or avoidances as required thereby, and that such non-observance tends to increase erosion and erosion, floodwater and sediment damages 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 shall fail so to perform the directors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations. Upon the presentation of such petition, the court shall cause process to be issued against the defendant, and shall hear the case. If it shall appear 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 same to the court with his 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. 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 such performance within the time specified in the order of the court, and to prosecute the same to completion with reasonable diligence, the directors may enter upon the lands involved and perform the work or operations or otherwise bring the condition of such lands into conformity with the requirements of the regulations and recover the costs and expenses thereof, with interest at the rate of five per centum per annum, from the land owner of such lands.

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 directors 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 therefor 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 per centum per annum until paid, together with the costs of suit, including a reasonable attorney's fee to be fixed by the court.
(Source: Laws 1955, p. 189.)

(70 ILCS 405/26) (from Ch. 5, par. 131)

Sec. 26. Cooperation between districts.

The directors of any two or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this act.
(Source: Laws 1937, p. 10.)

(70 ILCS 405/26a) (from Ch. 5, par. 131a)

Sec. 26a. Any 25 or more owners of lands lying within the boundaries of any district organized under the provisions of this Act may file, with the Department, a petition proposing the consolidation of such district with one or more adjoining soil conservation districts. Such petition shall set forth: (1) the names of the districts proposed to be consolidated, and (2) the proposed name of the consolidated district.

Within 30 days after such petition is filed the Department shall submit the proposal to the directors of each district proposed to be consolidated. The Directors of each such district, shall within 30 days thereafter, adopt and forward to the Department a resolution approving or disapproving the proposed consolidation.

If the directors of all of the said districts approve the proposals to consolidate such districts, it shall be the duty of the Department to give 10 days notice of the holding of a referendum by causing such notice to be published at least once in one or more newspapers having general circulation within the district and to hold a referendum within each such district upon the proposition or the proposed consolidation. Except as otherwise provided in this Act, the proposition shall be submitted in accordance with Section 28-3 of the Election Code.

The question at such referendum shall be submitted upon ballots in substantially the following form:

Place an X in the square opposite the proposition for which you desire to vote.

For approval of the proposed consolidation of (here insert names of districts to be consolidated) into one soil and water conservation district.

Against approval of the proposed consolidation of (here insert names of districts to be consolidated) into one soil and water conservation district.

Only owners or occupiers of land, or both, lying within

the districts are eligible to vote in such referendum and each shall have one vote. Eligible voters may vote in person or by absentee ballot.

If a majority of the votes cast in the referendum in each of such districts are cast in favor of the proposed consolidation and if the Department determines that such consolidation is administratively practicable and feasible, the Chairmen of the directors of the said districts shall present to the Secretary of State through the Department an application for a certificate of organization of the consolidated district. The application shall be signed and sworn to by all of the said chairmen, and shall set forth the names of the constituent districts, the proposed name of the consolidated district, and the location of the office of the consolidated district. The said application shall be accompanied by the statement from the Department which shall set forth (and such statement need contain no details other than the mere recitals) that a petition for the consolidation of the said district was filed, that the proposed consolidation was, by resolution, approved by the governing bodies of all of such districts, that a referendum was held in each of the said districts on the question of the proposed consolidation, and that the result of such referendum showed a majority of the votes cast in each district to be in favor of the proposed consolidation.

The Secretary of State shall receive and file such application and statement and shall record them in an appropriate book of record in his office. When the application and statements have been made, filed, and recorded as herein provided, the consolidation of such districts shall be deemed affected and the consolidated district shall constitute a public body, corporate and politic, vested with all the power of soil and water conservation districts. The Secretary of State shall make and issue to the signers of the application a certificate, under the seal of the State, of the due organization of the said consolidated district, and shall record such certificate with the application and statement. A copy of the statement and certificate of organization, duly certified by the Secretary of State, shall be recorded with the recorder of the county in which the office of the consolidated district is located.

Upon a consolidation of districts, the directors of all such districts shall continue to hold office and serve as a temporary governing body of the consolidated district until the members of a permanent governing body have been elected and have qualified. The provisions of Sections 19, 20 and 21 of this Act that relate to the number, and to the nomination, election and organization of members of the governing bodies of soil and water conservation districts shall govern the selection of the members of the permanent governing body of a consolidated district.

Upon the issuance, by the Secretary of State, of a certificate of organization to a consolidated district, property belonging to the constituent district shall become the property of the consolidated district. All contracts theretofore entered into, to which the constituent districts are parties, shall remain in force and effect for the period

provided in such contracts. The consolidated districts shall be substituted for each constituent district as party to such contracts, and shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and to be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the constituent district would have had. Any indebtedness, claim, demand or right owing or belonging to any of the constituent districts shall vest in and become due to the consolidated district, which shall have the right to demand, sue for, recover and enforce the same in its own name. Upon a consolidation of districts, all land-use regulations theretofore adopted and in force and effect within any of the constituent districts shall remain in force and effect throughout the territory for which they were originally adopted, until repealed, amended, supplemented, or superseded by action of the consolidated district.

(Source: P.A. 83-358.)

(70 ILCS 405/26a.1) (from Ch. 5, par. 131a-1)

Sec. 26a.1. Division of districts. Any 25 or more owners of lands lying within the boundaries of any district organized under this Act which lies in more than one county may file with the Department a petition proposing the division of the district into 2 or more districts along county lines. Such petition shall set forth:

- (1) The name of the district proposed to be divided,
- (2) The proposed names of the districts to be formed from it.
- (3) The proposed boundaries of each of the districts to be formed.

The petition shall be accompanied by an inventory of the property belonging to the district and of its liabilities and a proposed plan for a division of these assets and liabilities between or among the districts proposed to be formed.

Within 30 days after such a petition is filed, the Department shall submit the proposal to the directors of the district proposed to be divided. The directors shall within 30 days thereafter adopt and submit to the Department a resolution approving or disapproving the proposed division.

If the directors disapprove the proposed division, the petition shall be denied. If the directors favor the proposed division, the Department shall give 10 days notice of the holding of a referendum by causing such notice to be published at least once in one or more newspapers having general circulation within the district and hold a referendum within the district upon the question of the proposed division. Except as otherwise provided in this Act, the proposition shall be submitted in accordance with Section 28-3 of the Election Code. The proposition shall be submitted upon ballots in substantially the following form:

Place an X in the square opposite the
proposition for which you wish to vote.

For the division of the
Soil and Water Conservation District
into the and Soil and Water
Conservation Districts with the
boundaries described below.

Against the division of the
Soil and Water Conservation District
into the and Soil and Water
Conservation Districts with the
boundaries described below.

(Here insert descriptions of proposed new districts.)

Only owners or occupiers of land, or both, lying within
the district are eligible to vote in the referendum. Such vote
may be cast in person or by absentee ballot.
(Source: Laws 1961, p. 530.)

(70 ILCS 405/26a.2) (from Ch. 5, par. 131a-2)

Sec. 26a.2. If a majority of the votes cast in the
referendum under Section 26a.1 are cast in favor of the
proposed division and if the Department determines that such
division is administratively practicable and feasible, the
Department shall also determine the boundaries of the proposed
new districts, record these determinations and proceed with
the division of the district in the manner hereinafter
provided. If less than a majority of the votes cast in the
referendum are cast in favor of the proposed division or if
the Department determines that such division is not
administratively practicable and feasible, it shall record
such determination and deny the petition.

After the Department has determined that the proposed
division is administratively practicable and feasible, it
shall consider the proposed division of the district's assets
and liabilities. If the plan suggested in the petition appears
to be fair and equitable, the Department shall approve it and
the assets and liabilities shall be distributed and assumed in
accordance therewith. The Department may, however, make
whatever modifications in the plan of distribution it deems
necessary to make the scheme fair and equitable.
(Source: Laws 1959, p. 2249.)

(70 ILCS 405/26a.3) (from Ch. 5, par. 131a-3)

Sec. 26a.3. After the Department has made and recorded a
determination that division of the district is
administratively practicable and feasible, the directors of
the district shall present to the Secretary of State through
the Department an application for the discontinuance of the
district and for a certificate of organization for each of the
new districts. The application shall be signed and sworn to by
the directors and shall set forth the name of the district
being divided, the proposed names of the districts being
formed and the location of the offices of each of the new
districts. The application shall be accompanied by a statement

from the Department setting forth (and such statement need contain no details other than the mere recitals) that a petition for the division of the district was filed, that the proposed division was, by resolution, approved by the governing body of the district, that a referendum was held in the district on the question of the proposed division, and that the result of such referendum showed a majority of the votes cast to be in favor of the proposed division.

The Secretary of State shall receive and file the application and statement and shall record them in an appropriate book of record in his office. When the application and statement had been made, filed and recorded, the division of the district shall be deemed effected and each of the new districts shall constitute a public body, corporate and politic, vested with all the powers of soil and water conservation districts. The Secretary of State shall issue to the signers of the application a separate certificate, under the seal of the State, of the due organization of each of the new districts, and shall record the certificates with the application and statement. A copy of the statement, along with the appropriate certificate of organization, shall be recorded with the recorder of the county in which each new district has its office.

(Source: P.A. 83-358.)

(70 ILCS 405/26a.4) (from Ch. 5, par. 131a-4)

Sec. 26a.4. Upon a division of a district, the directors of the divided district shall continue to hold office and serve as a temporary governing body of each of the new districts until the members of a permanent governing body for each of the new districts have been elected and have qualified. The provisions of Sections 19, 20 and 21 of this Act that relate to the number, and to the nomination, election and organization of members of the governing bodies of soil and water conservation districts shall govern the selection of the members of the permanent governing body for each of the new districts.

(Source: Laws 1961, p. 530.)

(70 ILCS 405/26a.5) (from Ch. 5, par. 131a-5)

Sec. 26a.5. Upon the issuance, by the Secretary of State, of a certificate of organization to the new districts, property and things in action belonging to the original district shall become the property of the new districts in accordance with the plan of distribution approved by the Department. The liabilities of the divided district shall be assumed by the new districts also in accordance with the plan approved by the Department. All contracts theretofore entered into, to which the divided district was a party shall remain in force for the period provided in them. The new district to which they are allotted by the Department shall be substituted for the original district as party to such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as

original district had. Any indebtedness, claim, demand or right owning or belonging to the original district shall vest in and become due to the new district to which it is allotted, which may demand, sue for, recover and enforce the same in its own name. Upon a division of a district, all land-use regulations theretofore adopted and in force and effect within the district shall remain in force and effect in each of the new districts until repealed, amended, supplemented or superseded by action of the new district.
(Source: Laws 1959, p. 2249.)

(70 ILCS 405/26b) (from Ch. 5, par. 131b)

Sec. 26b. Formation of sub-districts - General tax.

Sub-districts of a Soil and Water Conservation District may be formed in a watershed area as provided in this Act. When duly formed such sub-districts shall have the power to develop and execute plans and programs and projects relating to any phase of flood prevention, flood control, erosion control and control of erosion, floodwater and sediment damages, and to cooperate and enter into agreements with the Secretary of Agriculture of the United States and to carry out, maintain and operate works of improvement pursuant to the "Watershed Protection and Flood Prevention Act" of August 4, 1954, as amended and in addition, such sub-districts shall have the power to levy and collect tax not in excess of .125% of the value of all taxable property within the sub-district, as equalized or assessed by the Department of Revenue, to be used for general corporate purposes of the sub-district.

The Directors of the sub-district shall annually within the first quarter of the fiscal year adopt an appropriation ordinance appropriating such sums of money as are necessary for the cost of operating the sub-district in accordance with the provisions of this Act.

After the adoption of the appropriation ordinance and on or before the second Tuesday in September of each year, the Directors of the sub-district shall ascertain the total amount of the appropriations legally made which are to be provided for from the tax levy for that year. Then, by an ordinance specifying in detail the purposes for which such appropriations have been made and the amounts appropriated for such purposes, the directors of the sub-district shall levy not to exceed the total amount so ascertained upon all the property subject to taxation in the sub-district as the same is assessed and equalized for State and County purposes for the current year. A certified copy of such ordinance shall be filed on or before the first Tuesday in October with the Clerk of each County wherein the sub-district or any part thereof is located.

The Board of Directors of any sub-district shall have power to build, construct, maintain and operate works of improvement, to borrow money and issue bonds and pay for such by special assessment or from the proceeds of the tax hereinbefore authorized, or both, as they by ordinance shall prescribe. The proceedings for borrowing money, issuing bonds, making, levying, collecting and enforcing of any special assessment levied hereunder, the letting of contracts,

performance of work and all other matters pertaining to the construction and making of the improvement, shall be the same as nearly as may be as is prescribed in Division 2 of Article 9 of the "Illinois Municipal Code", approved May 29, 1961, as now or hereafter amended; but no special assessments shall be levied upon property situated outside of such sub-district and in no case shall any property be assessed more than it will be benefited by the improvement for which the assessment is levied. Whenever in that article the words "City Council" or the words "Board of Local Improvements" are used, the same shall apply to the board of directors of the respective sub-districts as constituted by this Act; the word "Mayor" or "President" of the "board of local improvements" shall apply to the Chairman of the board of directors of such sub-districts constituted by this Act, and the words applying to the City or its officers in that article shall be held to apply to the respective sub-district created under this act and its officers.

Such sub-districts in the area included within their boundaries shall have and may exercise all of the powers enumerated in Sections 22.01 through 22.09 of this Act, in addition to the powers herein otherwise provided.

(Source: P.A. 81-1509.)

(70 ILCS 405/26b.1) (from Ch. 5, par. 131b-1)

Sec. 26b.1. Petition. When a majority of the land owners in a proposed sub-district who also own a majority of the land in such sub-district desire that a sub-district be organized they shall file a petition with the directors of the district. The area included in the petition need not be contiguous but shall serve compatible purposes. The petition shall contain a legal description of the lands proposed to be included, a brief statement of the reasons for requesting organization of the sub-district and a request that the proposed area be organized as a sub-district. The petition must be signed by a majority of those owning land in the proposed area who also own a majority of such land. Land already in one sub-district cannot be included in another.

(Source: P.A. 77-1757.)

(70 ILCS 405/26b.2) (from Ch. 5, par. 131b-2)

Sec. 26b.2. Hearing. Within 30 days after such a petition has been filed with the directors they shall cause due notice to be given of a hearing upon the practicability and feasibility of creating the proposed sub-district. All interested parties shall have a right to attend such a hearing and to be heard. If it shall appear at the hearing that other lands should be included or that lands included in the petition should be excluded the directors may permit such inclusion or exclusion, provided the petition still meets the requirements of Section 26b.1. No petitioner may withdraw from the petition without the consent of a majority of the other petitioners. The directors shall adjourn the hearing to a day certain, but not sooner than 15 days nor later than 30 days. Further adjournments may be made, but only for good cause.

(Source: Laws 1955, p. 189.)

(70 ILCS 405/26b.3) (from Ch. 5, par. 131b-3)

Sec. 26b.3. Referendum. If the directors determine that the petition meets the requirements of Section 26b.1 and Section 26b.2, they shall, within 30 days after the conclusion of the hearing, give 10 days notice of the holding of a referendum by causing such notice to be published at least once in one or more newspapers having general circulation within the subdistrict. Except as otherwise provided in this Act, the proposition shall be submitted in accordance with Section 28-3 of The Election Code. The proposition shall be submitted upon ballots in substantially the following form:

Place an X in the square opposite the
proposition for which you wish to vote.

For organization of the subdistrict of
the Soil and Water Conservation
District or Districts, described below
including the levy of an annual tax of
not in excess of .125% of the full, cash
value of all taxable property in such
subdistrict.

Against organization of the subdistrict
of the Soil and Water Conservation
District or Districts, described below
including the levy of an annual tax of
not in excess of .125% of the full, cash
value of all taxable property in such
subdistrict.

(Here insert description of proposed subdistrict.)

All legal voters within a proposed subdistrict may vote and if a majority of the votes cast in the referendum are cast in favor of the proposed subdistrict, the directors shall declare that the subdistrict is duly organized, and shall record such fact in their official minutes, together with an appropriate official name or designation for the subdistrict.
(Source: P.A. 84-1308.)

(70 ILCS 405/26b.4) (from Ch. 5, par. 131b-4)

Sec. 26b.4. Certificate of organization - recording. Following entry in the official minutes of the district of the organization of the sub-district, the directors shall certify this fact on a separate form, authentic copies of which shall be recorded with the County Clerk of each county in which any portion of the sub-district lies, and with the State Department of Agriculture.
(Source: Laws 1955, p. 189.)

(70 ILCS 405/26b.5) (from Ch. 5, par. 131b-5)

Sec. 26b.5. Sub-districts in more than one Soil and Water Conservation District. If a proposed sub-district lies in more than one Soil and Water Conservation District, the petition may be presented to the directors of any one of such districts, and the directors of all districts shall act jointly as a board of directors with respect to its formation. Such a sub-district shall be formed in the same manner and shall have the same powers and duties as a sub-district formed in one Soil and Water Conservation District.
(Source: Laws 1963, p. 3492.)

(70 ILCS 405/26b.6) (from Ch. 5, par. 131b-6)

Sec. 26b.6. Governing body of sub-district.) The governing body of any sub-district shall consist of 5 sub-district directors, of legal voting age, who shall be owners of land within the sub-district or resident occupiers of land within the sub-district, in which they serve. Nominating petitions shall be filed and the election of such sub-district directors shall be conducted and held in the manner provided in Section 20 of this Act with respect to the election of directors. The 5 nominees receiving the highest number of votes shall be declared elected. After the first such election, the sub-district directors shall be divided into 3 classes, each consisting as nearly as may be of one-third of the entire number of sub-district directors and one class of sub-district directors shall be elected each year. The term of office of the members of the first sub-district board shall be determined by lot following their election and 2 shall hold office for 3 years, 2 for 2 years and one for one year. Their successors shall hold office for 3 years and shall be nominated and elected, in the manner provided in Section 20 of this Act, in the years in which the respective terms of office of the members of the sub-district board expire.

The governing body of the sub-district shall designate from its membership, a chairman, vice chairman and secretary-treasurer, to serve for a term of one year.

At the close of the fiscal year of each sub-district, a report of the operations of the sub-district for the year, including a report of receipts and expenditures, shall be filed with the board of directors of each Soil and Water Conservation District within which the sub-district or any part thereof lies.

Each sub-district director shall receive for his services while actually engaged in the business of the sub-district, a sum of not to exceed \$20 per day, to be fixed by ordinance. No sub-district director may receive compensation under this sub-section on any day for which he receives compensation under Section 21 of this Act.

(Source: P.A. 79-1003.)

(70 ILCS 405/26b.7) (from Ch. 5, par. 131b-7)

Sec. 26b.7. Addition of territory to a sub-district.

(a) Any one or more owners of land may petition the governing body of the sub-district to have their lands added to the sub-district. The petition shall as nearly as

practicable follow the form prescribed in Section 26b.1, except that the provision respecting a majority of the owners shall not apply. A hearing shall be held as nearly as practicable in accordance with the provisions of Section 26b.2. Following the hearing the governing body of the sub-district shall determine whether or not the lands included in the petition, or any portion of them, shall be included in the sub-district. If it is determined that such lands should be added, this fact shall be entered in the official minutes of the sub-district and certified copies of such entry recorded with the county clerk of each county in which any portion of such lands lie, and with the State Department of Agriculture. Thereafter such lands shall be a part of the sub-district.

(b) When a petition for the addition of territory includes any lands the owners of which do not sign the petition, the petition must meet as nearly as practicable the provisions of Section 26b.1, including the requirement that it be signed by a majority of the landowners in the area proposed to be added. Proceedings shall then be had, as nearly as practicable, as prescribed in sections 26b.2, 26b.3 and 26b.4. Petitions under this subsection may include lands lying in more than one county.

(Source: Laws 1955, p. 189.)

(70 ILCS 405/26b.8) (from Ch. 5, par. 131b-8)

Sec. 26b.8. Detachment of lands from a sub-district. The owner or owners of lands which have not been, are not and cannot be benefited by their inclusion in the sub-district may petition the governing body of the sub-district to have such land detached. The petition shall describe such lands and pray the governing body to hear the causes why such lands should be detached. Within 30 days after the receipt of such petition the governing body shall conduct a hearing, having first notified the petitioners by mail at least ten days in advance and by causing such notice to be published at least once in one or more newspapers having general circulation within the sub-district. Following the hearing the governing body shall determine whether or not such lands or any portion of them should be detached. If it is determined that lands shall be detached this fact shall be entered in the official minutes of the sub-district, and certified copies of such entry recorded with the county clerk of each county in which any portion of such detached lands lie, and with the State Department of Agriculture.

(Source: Laws 1955, p. 189.)

(70 ILCS 405/26b.9) (from Ch. 5, par. 131b-9)

Sec. 26b.9. Discontinuance of sub-district. A sub-district may be discontinued upon petition to the governing body. The petition shall as nearly as practicable meet the conditions specified in section 26b.1. Proceedings shall then be had as nearly as practicable in accord with the provisions of sections 26b.2, 26b.3 and 26b.4. A petition for discontinuance may not be submitted within three years of the date of

organization of a sub-district.
(Source: Laws 1955, p. 189.)

(70 ILCS 405/27) (from Ch. 5, par. 132)

Sec. 27. State agencies to cooperate.

Agencies of this State which shall have jurisdiction over, or be charged with the administration of, any State-owned lands, and of any county, or other governmental subdivision of the State, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall cooperate to the fullest extent practicable with the directors of such districts in the effectuation of programs and operations undertaken by the directors under the provisions of this act.

(Source: Laws 1937, p. 10.)

(70 ILCS 405/28) (from Ch. 5, par. 133)

Sec. 28. Discontinuance of district.

At any time after 3 years after the organization of a district, under the provisions of this Act, any 25 or more owners of land within the limits of such district who own at least 10% of the land, by area, within such district may file a petition with the Department praying that the operations of the district be terminated and the existence of the district discontinued. The Department may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof.

Within 60 days after such a petition has been received by the Department it shall give due notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the(name of the soil and water conservation district to be here inserted)" and "Against terminating the existence of the(name of the soil and water conservation district to be here inserted)" shall appear with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions. Only owners of land lying within the boundaries of the district shall be eligible to vote in such referendum and each shall have one vote. Owners of land may vote in person or by absentee ballot. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

(Source: Laws 1961, p. 530.)

(70 ILCS 405/29) (from Ch. 5, par. 134)

Sec. 29. Determination for discontinuance.

The Department shall publish the result of such referendum and shall thereafter consider and determine whether the continued operation of the district is administratively

practicable and feasible. If at least a majority of the owners of land within the district shall vote in the referendum on the question of discontinuance, and if a majority of the votes cast in such referendum were in favor of discontinuance or if a majority of the votes cast in such referendum were for continuance or if the Department determines that the attitude of the owners of lands lying within the district, the approximate wealth and income of the land occupiers of the district, the probable expense of carrying on erosion control operations within the district and other economic and social factors as may be relevant are such that the continued operation of the district is not otherwise practicable and feasible, the Department shall record such determination and shall certify such determination to the directors of the district.

(Source: Laws 1951, p. 428.)

(70 ILCS 405/30) (from Ch. 5, par. 135)

Sec. 30. Winding up district affairs. Upon receipt from the Department of a certification that the Department has determined that the continued operation of the district is not administratively practicable and feasible, the directors shall forthwith proceed to terminate the affairs of the district. The directors shall dispose of all property belonging to the district at public auction and, after settlement of all legal obligations against the district, shall pay over the proceeds of such sale into the State treasury. The directors shall thereupon file an application, duly verified, with the Secretary of State for the discontinuance of such district, and shall transmit with such application the certificate of the Department setting forth the determination of the Department that the continued operation of such district is not administratively practicable and feasible and that all debts of the district have been paid. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The Secretary of State shall issue to the directors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office. A copy of such certificate of dissolution issued by the Secretary of State shall be recorded with the recorder of the county in which the office of such district is located.

Upon issuance of a certificate of dissolution under the provisions of this section, all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into, to which the district is a party, shall remain in force and effect for the period provided in such contracts. The Department shall be substituted for the district as party to such contracts. The Department shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the directors of the district would have had. Such dissolution

shall not affect the lien of any judgment entered under the provisions of Section 25 of this Act, nor the pendency of any action instituted under the provisions of such section, and the Department shall succeed to all the rights and obligations of the district as to such liens and actions.

The Department shall not be required to entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this Act, more often than once in 3 years.

(Source: P.A. 83-358.)

(70 ILCS 405/31) (from Ch. 5, par. 136)

Sec. 31. Due notice.

Whenever notice is required to be given under the provisions of this Act, a notice published at least twice, with an interval of at least seven (7) days between the two (2) publication dates, in one or two newspapers of general circulation published within the area; or, if any such newspaper is not published within such area, then by publication in at least one newspaper published outside the area but having general circulation in such area and by posting copies of such notice in at least three (3) conspicuous places within the area, such posting to include posting at public places where it may be customary to post notices generally, shall be deemed "due notice."

(Source: Laws 1937, p. 10.)

(70 ILCS 405/32) (from Ch. 5, par. 137)

Sec. 32. Absentee voting.

All absentee voting shall be conducted in accordance with the applicable provisions of Article 19 of the Election Code which are not inconsistent with the provisions of this Act, except that the Department shall be substituted for the county clerk in instances referring to application, mailing or delivery, folding, depositing and receipt of ballots.

(Source: Laws 1955, p. 189.)

(70 ILCS 405/33) (from Ch. 5, par. 138)

Sec. 33. Separability clause.

If any provision of this Act, or the application of any provision of any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(Source: Laws 1937, p. 10.)

(70 ILCS 405/34) (from Ch. 5, par. 138.1)

Sec. 34. All books, papers, records and property under the custody or control of the State Soil Conservation Districts Board at the time this amendatory Act of 1951 takes effect shall be transferred to the Department.

This amendatory Act shall not affect any act done by said Board, any action pending by or against said Board, nor any

function of said Board in progress at the time this amendatory Act becomes effective, but in all such instances the Department shall be substituted for said Board.
(Source: Laws 1951, p. 428.)

(70 ILCS 405/35) (from Ch. 5, par. 138.2)

Sec. 35. All districts created and in being under this Act at the time this amendatory Act of 1961 takes effect shall be known as Soil and Water Conservation Districts. Any action or proceeding had or commenced at such time may be continued without amendment of such action or proceeding, and any contract, indebtedness, claim, demand, right or regulation shall not be affected by this amendatory Act.

(Source: Laws 1961, p. 530.)

(70 ILCS 405/36) (from Ch. 5, par. 138.3)

Sec. 36. Guidelines. The Department shall, pursuant to subsection (8) of Section 6 of this Act, adopt and revise guidelines for erosion and sediment control. Before adopting or revising any guidelines, the Department must hold public hearings with respect thereto. At least 30 days notice of the hearing must be given by the Department in such manner as the Department considers as best suited to bring the hearing to the attention of soil and water conservation districts and of all other persons interested in the guidelines or proposed revisions. Like notice must be given by the Department to any person who has filed a request for notice of such hearings. Copies of the proposed guidelines or revisions must be made available to all those receiving notice of the hearing and to any other person, upon request.

In developing its guidelines for implementing and administering the comprehensive State erosion and sediment control program, the Department shall:

(a) base those guidelines on available relevant physical and developmental information concerning the watersheds and drainage basins of the State, including but not limited to, data relating to land use, soils, hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and services;

(b) include any survey of lands and waters as the Department considers appropriate, or as is required by any applicable law, to identify areas with erosion and sediment problems; and

(c) include conservation guidelines for various types of soils and land uses, which guidelines shall include criteria, techniques and methods for the control of erosion and sediment resulting from land disturbing activities.

The program and guidelines shall be made available for public inspection at the office of the Department and shall be provided to any person upon request.

(Source: P.A. 80-159.)

(70 ILCS 405/37) (from Ch. 5, par. 138.4)

Sec. 37. Coastal Zone Management - financing.

The State erosion and sediment control program may not be adopted unless it includes a means of adequately financing the increased district and Department work load to be incurred by the administration and implementation of the plan.
(Source: P.A. 83-172.)

(70 ILCS 405/38) (from Ch. 5, par. 138.5)

Sec. 38. District erosion and sediment control program. Each district in the State shall, within 2 years after the adoption of the State program and guidelines by the Department, develop and adopt a soil erosion and sediment control program and standards that are technically feasible, economically reasonable and consistent with the State program and guidelines developed by the Department.

To assist in developing its program and standards, each district shall name an advisory committee of not less than 8 members who are representative of a wide variety of interests, including but not limited to, agriculture, business, commerce, financing, local government, housing, industry and recreation. The district shall advise and consult with its advisory committee in the development of its program and standards.

Upon the request of a district, the Department shall assist in the preparation of the district's program and standards. Upon its adoption, the district shall submit its program and standards to the Department for review and approval. If a district fails to adopt a program and standards and to submit them to the Department by the time specified in this Section, the Department shall, after such hearings or consultations with the various local interests in the district as it considers appropriate, develop an appropriate program and standards to be carried out by the district.

To carry out its program, a district shall establish conservation standards for various types of soils and land uses. The program shall include criteria, guidelines, techniques and methods for the control of erosion and sediment resulting from land disturbing activities and shall be consistent with the State program and guidelines. Such conservation program standards may be revised from time to time as necessary. Before adopting or revising conservation standards, the district shall, after giving due notice as provided for in Section 31 of this Act, conduct a public hearing on the proposed conservation standards or proposed changes in existing standards.

The program and conservation standards shall be made available for public inspection at the principal office of the district and shall be provided to any person upon request.
(Source: P.A. 80-159.)

(70 ILCS 405/39) (from Ch. 5, par. 138.6)

Sec. 39. Compliance with standards - cost sharing. Any person engaging in any land disturbing activity shall be encouraged to comply with the standards for erosion and sediment control established by the district, except those land disturbing activities relating to surface mining

permitted under Chapter 4 of the Illinois Pollution Control Board regulations. When proposed land disturbing activities are to be performed on State land or by or on behalf of a State agency, the person engaging in the activities may elect to comply with standards established by the Department. If land disturbing activities involve land in more than one district, the person engaging in the activities may elect to comply with standards established by each district or standards established by the Department. He shall notify, in writing, each district involved and the Department concerning the standards he elects to comply with.

Upon request, the district, or the Department, as the case may be, shall make available to any person engaged in a land disturbing activity, adequate information and technical assistance to enable that person to comply with the standards of the district or the Department.

The program adopted by each district shall provide for the sharing by the district of part of the cost of enduring erosion and sediment control devices, structures and practices and shall specify the cost-sharing ratios which shall apply to various types of enduring erosion and sediment control devices, structures and practices in that district. The program adopted by the Department shall, in the same manner, provide for cost-sharing by the Department with respect to enduring erosion and sediment control devices, structures and practices when required in relation to a land disturbing activity involving land in more than one district.

When a land disturbing activity does not comply with district or Department standards, the district or the Department, as the case may be, shall suggest such modifications, terms and conditions as will enable the person engaged in the land disturbing activity to comply with the standards.

(Source: P.A. 80-159.)

(70 ILCS 405/40) (from Ch. 5, par. 138.7)

Sec. 40. Lands not within jurisdiction of district. All lands presently lying within the boundaries of a soil and water conservation district shall remain under the jurisdiction of a soil and water conservation district.

For a period not to exceed 24 months after the effective date of this amendatory Act of 1977, the governing body of any incorporated or unincorporated city or village shall have the authority by resolution to the district and Department to remove all or a part of its land lying within its boundaries from a soil and water conservation district.

(Source: P.A. 80-159.)

(70 ILCS 405/41) (from Ch. 5, par. 138.8)

Sec. 41. Complaints. All complaints for sediment and erosion damages shall be filed with the soil and water conservation districts or the Department if it has jurisdiction. All complaints shall be filed on forms provided by the soil and water conservation districts or the Department.

Upon receipt of a properly filed complaint, the district, or the Department if it has jurisdiction, shall notify the landowner and occupier and seek consultation with such person or persons to determine whether the standards of this Act are being observed. Notice of the determination by the district board of directors shall be given to the owner and occupier alleged to be in violation of the standards and voluntary compliance with the standards shall be sought.

If a schedule for compliance has not been entered into within one year of Notice of Violation, then the district board shall hold a formal hearing on the Notice of Violation to determine the reason for non-compliance. The district board shall publish and make available its findings to the Department. The Department shall review the complaint and the district board's findings and may, if in its opinion a violation exists, hold a formal hearing to determine why standards are not being observed. The Department shall publish and make available its findings.

(Source: P.A. 80-159.)

(70 ILCS 405/42) (from Ch. 5, par. 138.9)

Sec. 42. Review. All final administrative decisions of any district or of the Department under this Act are subject to judicial review under the Administrative Review Law, and the rules adopted thereunder.

(Source: P.A. 82-783.)