

FILED

2002 MAR 21 P 6:44

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

ENROLLED

SENATE BILL NO. 417

(By Senator ANDERSON, ET AL)

PASSED MARCH 7, 2002

In Effect Froy **Passage**

SB 417

FILED

2002 MAR 21 P 6:44

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

Senate Bill No. 417

(BY SENATORS ANDERSON, ROSS, FACEMYER, LOVE AND MINARD)

[Passed March 7, 2002; in effect from passage.]

AN ACT to amend and reenact sections one, two, three, four, five, six, seven, eight, ten, eleven, thirteen-a, thirteen-b, thirteen-c and fourteen, article twenty-one-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section four-a, all relating to soil conservation districts; changing name of "soil conservation districts law of West Virginia" to "conservation districts law of West Virginia"; changing the name "soil conservation districts" to "conservation districts"; changing the name "state soil conservation committee" to "state conservation committee"; adding two members to the conservation committee; and continuing the state conservation committee.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, five, six, seven, eight, ten, eleven, thirteen-a, thirteen-b, thirteen-c and fourteen, article

twenty-one-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section four-a, all to read as follows:

ARTICLE 21A. CONSERVATION DISTRICTS.

§19-21A-1. Title of article.

1 This article may be known and cited as the "Conserva-
2 tion Districts Law of West Virginia".

§19-21A-2. Legislative determinations and declaration of policy.

1 It is hereby declared, as a matter of legislative determi-
2 nation:

3 (a) That the farm and grazing lands of the state of West
4 Virginia are among the basic assets of the state and that
5 the preservation of these lands is necessary to protect and
6 promote the health, safety and general welfare of its
7 people; that improper land-use practices have caused and
8 have contributed to, and are now causing and contributing
9 to, a progressively more serious erosion of the farm and
10 grazing lands of this state by water; that the breaking of
11 natural grass, plant and forest cover has interfered with
12 the natural factors of soil stabilization, causing loosening
13 of soil and exhaustion of humus and developing a soil
14 condition that favors erosion; that the topsoil is being
15 washed out of fields and pastures; that there has been an
16 accelerated washing of sloping fields; that these processes
17 of erosion by water speed up with removal of absorptive
18 topsoil, causing exposure of less absorptive and less
19 protective but more erosive subsoil; that failure by any
20 landowner to conserve the soil and control erosion upon
21 his lands causes a washing of soil and water from his or
22 her lands onto other lands and makes the conservation of
23 soil and control of erosion of such other lands difficult or
24 impossible.

25 (b) That the consequences of such soil erosion in the form
26 of soil washing are the silting and sedimentation of stream
27 channels, reservoirs, dams, ditches and harbors; the piling
28 up of soil on lower slopes and its deposit over alluvial
29 plains; the reduction in productivity or outright ruin of
30 rich bottom lands by overwash of poor subsoil material,
31 sand and gravel swept out of the hills; deterioration of soil
32 and its fertility, deterioration of crops grown thereon and
33 declining acre yields despite development of scientific
34 processes for increasing such yields; loss of soil and water
35 which causes destruction of food and cover for wildlife;
36 the washing of soil into streams which silts over spawning
37 beds and destroys water plants, diminishing the food
38 supply of fish; a diminishing of the underground water
39 reserve which causes water shortages, intensifies periods
40 of drought and causes crop failures; an increase in the
41 speed and volume of rainfall runoff, causing severe and
42 increasing floods which bring suffering, disease and death;
43 impoverishment of families attempting to farm eroding
44 and eroded lands; damage to roads, highways, railways,
45 farm buildings and other property from floods; and losses
46 in navigation, hydroelectric power, municipal water
47 supply, irrigation developments, farming and grazing.

48 (c) That to conserve soil resources and control and
49 prevent soil erosion and prevent floodwater and sediment
50 damage and further the conservation, development,
51 utilization and disposal of water, it is necessary that land-
52 use practices contributing to soil wastage and soil erosion
53 be discouraged and discontinued and appropriate soil-
54 conserving land-use practices and works of improvement
55 for flood prevention or the conservation, development,
56 utilization and disposal of water be adopted and carried
57 out; that among the procedures necessary for widespread
58 adoption are the carrying on of engineering operations
59 such as the construction of terraces, terrace outlets, dams,
60 desilting basins, floodwater retarding structures, channel
61 improvements, floodways, dikes, ponds, ditches and the
62 like; the utilization of strip cropping, lister furrowing,

63 contour cultivating and contour furrowing; land drainage;
64 land irrigation; seeding and planting of waste, sloping,
65 abandoned or eroded lands to water-conserving and
66 erosion-preventing plants, trees and grasses; forestation
67 and reforestation; rotation of crops; soil stabilization with
68 trees, grasses, legumes and other thick-growing, soil-
69 holding crops; retardation of runoff by increasing absorp-
70 tion of rainfall; and retirement from cultivation of steep,
71 highly erosive areas and areas now badly gullied or
72 otherwise eroded.

73 (d) It is hereby declared to be the policy of the Legisla-
74 ture to provide for the conservation of the soil and soil
75 resources of this state, for the control and prevention of
76 soil erosion, for the prevention of floodwater and sediment
77 damage and for furthering the conservation, development,
78 utilization and disposal of water, and thereby to preserve
79 natural resources, control floods, prevent impairment of
80 dams and reservoirs, assist in maintaining the navigability
81 of rivers and harbors, preserve wildlife, protect the tax
82 base, protect public lands and protect and promote the
83 health, safety and general welfare of the people of this
84 state.

85 (e) This article contemplates that the incidental cost of
86 organizing conservation districts will be borne by the
87 state, while the expense of operating the districts so
88 organized will be provided by donations, gifts, contribu-
89 tions, grants and appropriations, in money, services,
90 materials or otherwise, from the United States or any of its
91 agencies, from the state of West Virginia or from other
92 sources, with the understanding that the owners or
93 occupiers will contribute funds, labor, materials and
94 equipment to aid the carrying out of erosion control
95 measures on their lands.

§19-21A-3. Definitions.

1 Wherever used or referred to in this article, unless a
2 different meaning clearly appears from the context:

- 3 (1) "District" or "conservation district" means a subdi-
4 vision of this state, organized in accordance with the
5 provisions of this article, for the purposes, with the powers
6 and subject to the restrictions hereinafter set forth.
- 7 (2) "Supervisor" means one of the members of the
8 governing body of a district, elected or appointed in
9 accordance with the provisions of this article.
- 10 (3) "Committee" or "state conservation committee"
11 means the agency created in section four of this article.
- 12 (4) "Petition" means a petition filed under the provisions
13 of subsection (a), section five of this article for the creation
14 of a district.
- 15 (5) "State" means the state of West Virginia.
- 16 (6) "Agency of this state" includes the government of
17 this state and any subdivision, agency or instrumentality,
18 corporate or otherwise, of the government of this state.
- 19 (7) "United States" or "agencies of the United States"
20 includes the United States of America, natural resources
21 conservation service of the United States department of
22 agriculture and any other agency or instrumentality,
23 corporate or otherwise, of the United States of America.
- 24 (8) "Landowners" or "owners of land" includes any
25 person or persons, firm or corporation who shall hold title
26 to three or more acres of any lands lying within a district
27 organized under the provisions of this article.
- 28 (9) "Land occupier" or "occupier of land" includes any
29 person, firm or corporation who shall hold title to, or shall
30 be in possession of, any lands lying within a district
31 organized under the provisions of this article, whether as
32 owner, lessee, renter or tenant.
- 33 (10) "Due notice" means notice published as a Class II
34 legal advertisement in compliance with the provisions of
35 article three, chapter fifty-nine of this code and the

36 publication area for such publication shall be the county
37 in which is located the appropriate area. At any hearing
38 held pursuant to such notice at the time and place desig-
39 nated in such notice, adjournment may be made from time
40 to time without the necessity of renewing such notice for
41 such adjournment dates.

42 (11) The terms "soil conservation", "erosion control" or
43 "erosion prevention projects", when used throughout the
44 article, shall denote those projects that have been estab-
45 lished by federal agencies in cooperation with state
46 agencies for the purpose of demonstrating soil erosion
47 control and water conservation practices.

48 (12) The term "governing body" means the supervisors of
49 any conservation district, town or city, council, city
50 commission, county court or body acting in lieu of a
51 county court, in this state, and the term "governmental
52 division" means any conservation district, town, city or
53 county in this state.

54 (13) "Works of improvement" means such structures as
55 may be necessary or convenient for flood prevention or the
56 conservation, development, utilization or disposal of
57 water.

§19-21A-4. State conservation committee; continuation.

1 (a) The state conservation committee is continued. It is
2 to serve as an agency of the state and to perform the
3 functions conferred upon it in this article. The committee
4 shall consist of nine members. The following shall serve,
5 ex officio, as members of the committee: The director of
6 the state cooperative extension service; the director of the
7 state agricultural experiment station; the director of the
8 division of environmental protection; the state commis-
9 sioner of agriculture, who shall be chairman of the com-
10 mittee; and the director of the division of forestry.

11 The governor shall appoint as additional members of the
12 committee four representative citizens. Members will be

13 appointed for four year terms, which are staggered in
14 accordance with the initial appointments under prior
15 enactment of this act. In the event of a vacancy, appoint-
16 ment shall be for the unexpired term.

17 The committee may invite the secretary of agriculture of
18 the United States of America to appoint one person to
19 serve with the committee as an advisory member.

20 The committee shall keep a record of its official actions,
21 shall adopt a seal, which seal shall be judicially noticed,
22 and may perform such acts, hold such public hearings and
23 promulgate such rules as may be necessary for the execu-
24 tion of its functions under this article.

25 (b) The state conservation committee may employ an
26 administrative officer and such technical experts and such
27 other agents and employees, permanent and temporary, as
28 it may require and shall determine their qualifications,
29 duties and compensation. The committee may call upon
30 the attorney general of the state for such legal services as
31 it may require. It shall have authority to delegate to its
32 chairman, to one or more of its members, or to one or more
33 agents or employees, such powers and duties as it may
34 deem proper. The committee is empowered to secure
35 necessary and suitable office accommodations and the
36 necessary supplies and equipment. Upon request of the
37 committee, for the purpose of carrying out any of its
38 functions, the supervising officer of any state agency or of
39 any state institution of learning shall, insofar as may be
40 possible, under available appropriations and having due
41 regard to the needs of the agency to which the request is
42 directed, assign or detail to the committee, members of the
43 staff or personnel of such agency or institution of learning
44 and make such special reports, surveys or studies as the
45 committee may request.

46 (c) A member of the committee shall hold office so long
47 as he or she shall retain the office by virtue of which he or
48 she shall be serving on the committee. A majority of the

49 committee shall constitute a quorum and the concurrence
50 of a majority in any matter within their duties shall be
51 required for its determination. The chairman and mem-
52 bers of the committee shall receive no compensation for
53 their services on the committee but shall be entitled to
54 expenses, including traveling expenses necessarily in-
55 curred in the discharge of their duties on the committee.
56 The committee shall provide for the execution of surety
57 bonds for all employees and officers who shall be en-
58 trusted with funds or property; shall provide for the
59 keeping of a full and accurate public record of all proceed-
60 ings and of all resolutions, rules and orders issued or
61 adopted; and shall provide for an annual audit of the
62 accounts of receipts and disbursements.

63 (d) In addition to the duties and powers hereinafter
64 conferred upon the state conservation committee, it shall
65 have the following duties and powers:

66 (1) To offer such assistance as may be appropriate to the
67 supervisors of conservation districts, organized as pro-
68 vided hereinafter, in the carrying out of any of their
69 powers and programs.

70 (2) To keep the supervisors of each of the several dis-
71 tricts, organized under the provisions of this article,
72 informed of the activities and experience of all other
73 districts organized hereunder and to facilitate an inter-
74 change of advice and experience between such districts
75 and cooperation between them;

76 (3) To coordinate the programs of the several conserva-
77 tion districts organized hereunder so far as this may be
78 done by advice and consultation;

79 (4) To secure the cooperation and assistance of the
80 United States and any of its agencies and of agencies of
81 this state in the work of such districts;

82 (5) To disseminate information throughout the state
83 concerning the activities and programs of the conservation

84 districts organized hereunder and to encourage the
85 formation of such districts in areas where their organiza-
86 tion is desirable;

87 (6) To accept and receive donations, gifts, contributions,
88 grants and appropriations in money, services, materials or
89 otherwise from the United States or any of its agencies,
90 from the state of West Virginia or from other sources and
91 to use or expend such money, services, materials or other
92 contributions in carrying out the policy and provisions of
93 this article, including the right to allocate such money,
94 services or materials in part to the various conservation
95 districts created by this article in order to assist them in
96 carrying on their operations; and

97 (7) To obtain options upon and to acquire by purchase,
98 exchange, lease, gift, grant, bequest, devise or otherwise
99 any property, real or personal, or rights or interests
100 therein; to maintain, administer, operate and improve any
101 properties acquired; to receive and retain income from
102 such property and to expend such income as required for
103 operation, maintenance, administration or improvement of
104 such properties or in otherwise carrying out the purposes
105 and provisions of this article; and to sell, lease or other-
106 wise dispose of any of its property or interests therein in
107 furtherance of the purposes and the provisions of this
108 article. Money received from the sale of land acquired in
109 the small watershed program shall be deposited in the
110 special account of the state conservation committee and
111 expended as herein provided.

§19-21A-4a. Continuation of state conservation committee.

1 The state conservation committee is continued until the
2 first day of July, two thousand six, pursuant to the provi-
3 sions of article four, chapter ten of the code of West
4 Virginia, unless sooner terminated, continued or reestab-
5 lished pursuant to the provisions of that article.

§19-21A-5. Creation of conservation districts.

1 (a) Any twenty-five owners of land lying within the
2 limits of the territory proposed to be organized into a
3 district may file a petition with the state conservation
4 committee asking that a conservation district be organized
5 to function in the territory described in the petition. Such
6 petition shall set forth:

7 (1) The proposed name of said district;

8 (2) That there is need, in the interest of the public health,
9 safety and welfare, for a conservation district to function
10 in the territory described in the petition;

11 (3) A description of the territory proposed to be orga-
12 nized as a district, which description shall not be required
13 to be given by metes and bounds or by legal subdivisions,
14 but shall be deemed sufficient if generally accurate;

15 (4) A request that the state conservation committee duly
16 define the boundaries for such district; that a referendum
17 be held within the territory so defined on the question of
18 the creation of a conservation district in such territory;
19 and that the committee determine that such a district be
20 created.

21 Where more than one petition is filed covering neighbor-
22 ing parts of the same region, whether or not these areas
23 overlap, the state conservation committee may consolidate
24 all or any such petitions.

25 (b) Within thirty days after such a petition has been filed
26 with the state conservation committee, it shall cause due
27 notice to be given of a proposed hearing upon the question
28 of the desirability and necessity, in the interest of the
29 public health, safety and welfare, of the creation of such
30 district, upon the question of the appropriate boundaries
31 to be assigned to such district, upon the propriety of the
32 petition and other proceedings taken under this article and
33 upon all questions relevant to such inquiries. All owners
34 of land within the limits of the territory described in the
35 petition, and of lands within any territory considered for

36 addition to such described territory, and all other inter-
37 ested parties shall have the right to attend such hearings
38 and to be heard. If it shall appear upon the hearing that it
39 may be desirable to include within the proposed district
40 territory outside of the area within which due notice of the
41 hearing has been given, the hearing shall be adjourned and
42 due notice of further hearing shall be given throughout the
43 entire area considered for inclusion in the district and such
44 further hearing held. After such hearing, if the committee
45 shall determine, upon the facts presented at such hearing
46 and upon such other relevant facts and information as may
47 be available, that there is need, in the interest of the public
48 health, safety and welfare, for a conservation district to
49 function in the territory considered at the hearing, it shall
50 make and record such determination and shall define, by
51 metes and bounds or by legal subdivisions, the boundaries
52 of such district. Districts thus defined may be a watershed
53 or portion thereof and nothing in this article shall be
54 interpreted to exclude from consideration, small areas
55 often constituting a very small part of a large watershed.
56 The district may be large or small, but in making such
57 determination and in defining such boundaries the com-
58 mittee shall give due weight and consideration to the
59 topography of the area considered and of the state, the
60 composition of soils therein, the distribution of erosion,
61 the prevailing land-use practices, the desirability and
62 necessity of including within the boundaries the particular
63 lands under consideration and the benefits such lands may
64 receive from being included within such boundaries, the
65 relation of the proposed area to existing watersheds and
66 agricultural regions and to other conservation districts
67 already organized or proposed for organization under the
68 provisions of this article and such other physical, geo-
69 graphical and economic factors as are relevant, having due
70 regard to the legislative determinations set forth in section
71 two of this article. The territory to be included within
72 such boundaries need not be contiguous. If the committee
73 shall determine after such hearing, after due consideration

74 of the said relevant facts, that there is no need for a
 75 conservation district to function in the territory considered
 76 at the hearing, it shall make and record such determina-
 77 tion and shall deny the petition. After six months shall
 78 have expired from the date of the denial of any such
 79 petition, subsequent petitions covering the same or
 80 substantially the same territory may be filed as aforesaid
 81 and new hearings held and determinations made thereon.

82 (c) After the committee has made and recorded a deter-
 83 mination that there is need, in the interest of the public
 84 health, safety and welfare, for the organization of a
 85 district in a particular territory and has defined the
 86 boundaries thereof, it shall consider the question whether
 87 the operation of a district within such boundaries with the
 88 powers conferred upon conservation districts in this article
 89 is administratively practicable and feasible. To assist the
 90 committee in the determination of such administrative
 91 practicability and feasibility, it shall be the duty of
 92 the committee, within a reasonable time after entry
 93 of the finding that there is need for the organization
 94 of the proposed district and the determination of the
 95 boundaries thereof, to hold a referendum within the
 96 proposed district upon the proposition of the creation
 97 of the district and to cause due notice of such referen-
 98 dum to be given. The question shall be submitted by
 99 ballots upon which the words "For creation of a con-
 100 servation district of the lands below described and lying in
 101 the county (ies) of _____,
 102 _____, and _____,
 103 Against creation of a conservation district of the lands
 104 below described and lying in the county (ies) of
 105 _____, and
 106 _____" shall appear, with a square
 107 before each proposition and a direction to insert an X
 108 mark in the square before one or the other of said proposi-
 109 tions as the voter may favor or oppose creation of such
 110 district. The ballot shall set forth the boundaries of such

111 proposed districts as determined by the committee. All
112 owners of lands lying within the boundaries of the terri-
113 tory, as determined by the state conservation committee,
114 shall be eligible to vote in such referendum.

115 (d) The committee shall pay all expenses for the issuance
116 of such notices and the conduct of such hearings and
117 referenda and shall supervise the conduct of such hearings
118 and referenda. It shall issue appropriate regulations
119 governing the conduct of such hearings and referenda and
120 providing for the registration prior to the date of the
121 referendum of all eligible voters, or prescribing some other
122 appropriate procedure for the determination of those
123 eligible as voters in such referendum. No informalities in
124 the conduct of such referendum or in any matter relating
125 thereto shall invalidate said referendum or the result
126 thereof if notice shall have been given substantially as
127 herein provided and said referendum shall have been fairly
128 conducted.

129 (e) The committee shall publish the result of such
130 referendum and shall thereafter consider and determine
131 whether the operation of the district within the defined
132 boundaries is administratively practicable and feasible. If
133 the committee shall determine that the operation of such
134 district is not administratively practicable and feasible, it
135 shall record such determination and deny the petition. If
136 the committee shall determine that the operation of such
137 district is administratively practicable and feasible, it
138 shall record such determination and shall proceed with the
139 organization of the district in the manner hereinafter
140 provided. In making such determination the committee
141 shall give due regard and weight to the attitudes of the
142 occupiers of lands lying within the defined boundaries, the
143 number of landowners eligible to vote in such referendum
144 who shall have voted, the proportion of the votes cast in
145 such referendum in favor of the creation of the district to
146 the total number of votes cast, the approximate wealth
147 and income of the land occupiers of the proposed district,

148 the probable expense of carrying on erosion-control
149 operations within such district and such other economic
150 and social factors as may be relevant to such determina-
151 tion, having due regard to the legislative determinations
152 set forth in section two of this article: *Provided*, That the
153 committee shall not have authority to determine that the
154 operation of the proposed district within the defined
155 boundaries is administratively practicable and feasible
156 unless at least sixty per centum of the votes cast in the
157 referendum upon the proposition of creation of the district
158 shall have been cast in favor of the creation of such
159 district.

160 (f) If the committee shall determine that the operation of
161 the proposed district within the defined boundaries is
162 administratively practicable and feasible, it shall appoint
163 two supervisors to act with the supervisors elected as
164 provided hereinafter, as the governing body of the district.

165 (g) The two appointed supervisors shall present to the
166 secretary of state an application signed by them which
167 shall set forth (and such application need contain no detail
168 other than the mere recitals): (1) That a petition for the
169 creation of the district was filed with the state conserva-
170 tion committee pursuant to the provisions of this article
171 and that the proceedings specified in this article were
172 taken pursuant to such petition; that the application is
173 being filed in order to complete the organization of the
174 district under this article; and that the committee has
175 appointed them as supervisors; (2) the name and official
176 residence of each of the supervisors, together with a
177 certified copy of the appointments evidencing their right
178 to office; (3) the term of office of each of the supervisors;
179 (4) the name which is proposed for the district; and (5) the
180 location of the principal office of the supervisors of the
181 district. The application shall be subscribed and sworn to
182 by each of the said supervisors before an officer authorized
183 by the laws of this state to take and certify oaths, who
184 shall certify upon the application that he personally knows

185 the supervisors and knows them to be the officers as
186 affirmed in the application and that each has subscribed
187 thereto in the officer's presence. The application shall be
188 accompanied by a statement by the state conservation
189 committee, which shall certify (and such statement need
190 contain no detail other than the mere recitals) that a
191 petition was filed, notice issued and hearing held as
192 aforesaid; that the committee did duly determine that
193 there is need, in the interest of the public health, safety
194 and welfare, for a conservation district to function in the
195 proposed territory and did define the boundaries thereof;
196 that notice was given and a referendum held on the
197 question of the creation of such district; that the result of
198 such referendum showed a majority of the votes cast in
199 such referendum to be in favor of the creation of the
200 district; and that thereafter the committee did duly
201 determine that the operation of the proposed district is
202 administratively practicable and feasible. The said
203 statement shall set forth the boundaries of the district as
204 they have been defined by the committee.

205 The secretary of state shall examine the application and
206 statement and, if he finds that the name proposed for the
207 district is not identical with that of any other conservation
208 district of this state or so nearly similar as to lead to
209 confusion or uncertainty, he shall file them and shall
210 record them in an appropriate book of record in his or her
211 office. If the secretary of state shall find that the name
212 proposed for the district is identical with that of any other
213 conservation district of this state, or so nearly similar as to
214 lead to confusion and uncertainty, he shall certify such
215 fact to the state conservation committee which shall
216 thereupon submit to the secretary of state a new name for
217 the said district, which shall not be subject to such defects.
218 Upon receipt of such new name, free of such defects, the
219 secretary of state shall record the application and state-
220 ment, with the name so modified, in an appropriate book
221 of record in his or her office. The secretary of state shall
222 make and issue to the said supervisors a certificate, under

223 the seal of the state, of the due organization of the said
224 district and shall record such certificate with the applica-
225 tion and statement. The boundaries of such district shall
226 include the territory as determined by the state conserva-
227 tion committee as aforesaid, but in no event shall they
228 include any area included within the boundaries of
229 another conservation district organized under the provi-
230 sions of this article.

231 (h) After six months shall have expired from the date of
232 entry of a determination by the state conservation commit-
233 tee that operation of a proposed district is not administra-
234 tively practicable and feasible and denial of a petition
235 pursuant to such determination, subsequent petitions may
236 be filed as aforesaid and action taken thereon in accor-
237 dance with the provisions of this article.

238 (i) Petitions for including additional territory within an
239 existing district may be filed with the state conservation
240 committee and the proceedings herein provided for in the
241 case of petitions to organize a district shall be observed in
242 the case of petitions for such inclusion. The committee
243 shall prescribe the form for such petitions, which shall be
244 as nearly as may be in the form prescribed in this article
245 for petitions to organize a district. Where the total
246 number of landowners in the area proposed for inclusion
247 shall be less than twenty-five, the petition may be filed
248 when signed by a majority of the landowners of such area
249 and in such case no referendum need be held. In referenda
250 upon petitions for such inclusion, all owners of land lying
251 within the proposed additional area shall be eligible to
252 vote.

253 (j) In any suit, action or proceeding involving the validity
254 or enforcement of, or relating to, any contract, proceeding
255 or action of the district, the district shall be deemed to
256 have been established in accordance with the provisions of
257 this article upon proof of the issuance of the aforesaid
258 certificate by the secretary of state. A copy of such
259 certificate duly certified by the secretary of state shall be

260 admissible in evidence in any such suit, action or proceed-
261 ing and shall be proof of the filing and contents thereof.

§19-21A-6. Election of supervisors for each district.

1 Within thirty days after the date of issuance by the
2 secretary of state of a certificate of organization of a
3 conservation district, nominating petitions may be filed
4 with the state conservation committee to nominate candi-
5 dates for supervisors of such district.

6 The committee shall have authority to extend the time
7 within which nominating petitions may be filed. No such
8 nominating petition shall be accepted by the committee
9 unless it shall be subscribed by twenty-five or more
10 owners of lands lying within the boundaries of such
11 district and within the boundaries of the county in which
12 the candidate resides. Landowners may sign more than
13 one such nominating petition to nominate more than one
14 candidate for supervisor. The committee shall give due
15 notice of an election to be held for the election of one
16 supervisor from each county or portion thereof within the
17 boundaries of the district. The names of all nominees in
18 each county on behalf of whom such nominating petitions
19 have been filed within the time designated, shall appear
20 arranged in alphabetical order of the surnames upon a
21 ballot, with a square before each name and a direction to
22 insert an X mark in the square before any one name to
23 indicate the voter's preference. All owners of lands lying
24 within the district shall be eligible to vote in such election
25 for one candidate from the county in which they reside.
26 Only such landowners shall be eligible to vote. The
27 candidate in each county who shall receive the largest
28 number of votes cast in such election by landowners
29 residing in his or her county shall be one of the elected
30 supervisors for such district. The committee shall pay all
31 expenses of such election, shall supervise the conduct
32 thereof, shall prescribe regulations governing the conduct
33 of such election and the determination of the eligibility of
34 voters therein and shall make public the results thereof.

§19-21A-7. Supervisors to constitute governing body of district; qualifications and terms of supervisors; powers and duties.

1 The governing body of the district shall consist of the
2 supervisors, appointed or elected, as provided in this
3 article. The two supervisors appointed by the committee
4 shall be persons who are by training and experience
5 qualified to perform the specialized skilled services which
6 will be required of them in the performance of their duties
7 under this section and must be legal residents and land-
8 owners of the district.

9 The supervisors shall designate a chairman and may,
10 from time to time, change the designation. The term of
11 office of each supervisor is three years. A supervisor shall
12 hold office until his or her successor has been elected or
13 appointed. In case a new county or portion of a county is
14 added to a district, the committee may appoint a supervi-
15 sor to represent it until such time as the next regular
16 election of supervisors for the district takes place. In case
17 a vacancy occurs among the elected supervisors of a
18 district the committee shall appoint a successor from the
19 same county to fill the unexpired term. The appointment
20 shall be made from a name or list of names submitted by
21 local farm organizations and agencies. When any county
22 or portion of a county lying within the boundaries of a
23 district has in effect eight hundred or more signed agree-
24 ments of cooperation with occupiers of land located within
25 the county, then at the next regular election of supervisors
26 the land occupiers within the county or portion of the
27 county are entitled to elect two supervisors to represent
28 the county instead of one for the term and in the manner
29 prescribed in this section. A majority of the supervisors
30 constitutes a quorum and the concurrence of a majority in
31 any matter within their duties shall be required for its
32 determination. A supervisor is entitled to expenses and a
33 per diem not to exceed twenty dollars when engaged in the
34 performance of his or her duties.

35 The supervisors may, with the approval of the state
36 committee, employ a secretary, technical experts and any
37 other officers, agents and employees, permanent and
38 temporary, as they may require and shall determine their
39 qualifications, duties and compensation. The supervisors
40 may delegate to their chairman, to one or more supervisors
41 or to one or more agents, or employees, those administra-
42 tive powers and duties they consider proper. The supervi-
43 sors shall furnish to the state conservation committee,
44 upon request, copies of the ordinances, rules, regulations,
45 orders, contracts, forms and other documents they adopt
46 or employ and any other information concerning their
47 activities as it may require in the performance of its duties
48 under this article.

49 The supervisors shall provide for the execution of surety
50 bonds for all employees and officers who shall be en-
51 trusted with funds or property; shall provide for the
52 keeping of a full and accurate record of all proceedings
53 and of all resolutions, regulations and orders issued or
54 adopted; and shall provide for an annual audit of the
55 accounts of receipts and disbursements. Any supervisor
56 may be removed by the state conservation committee upon
57 notice and hearing for neglect of duty or malfeasance in
58 office, but for no other reason.

59 The supervisors may invite the legislative body of any
60 municipality or county located near the territory com-
61 prised within the district to designate a representative to
62 advise and consult with the supervisors of a district on all
63 questions of program and policy which may affect the
64 property, water supply or other interests of the municipal-
65 ity or county.

§19-21A-8. Powers of districts; additional powers of supervisors.

1 A conservation district organized under the provisions of
2 this article shall have the following powers and the
3 supervisor thereof shall have the following powers, in
4 addition to others granted in other sections of this article:

5 (1) To conduct surveys, investigations and research
6 relating to the character of soil erosion and floodwater and
7 sediment damage and to the conservation, development,
8 utilization and disposal of water and the preventive and
9 control measures needed to publish the results of such
10 surveys, investigations or research and to disseminate
11 information concerning such preventive and control
12 measures and works of improvement: *Provided*, That in
13 order to avoid duplication of research activities, no district
14 shall initiate any research program or publish the results
15 except with the approval of the state committee and in
16 cooperation with the government of this state or any of its
17 agencies, or with the United States or any of its agencies;

18 (2) To conduct demonstrational projects within the
19 district on lands owned or controlled by this state or any
20 of its agencies, with the consent and cooperation of the
21 agency administering and having jurisdiction thereof, and
22 on any other lands within the district upon obtaining the
23 consent of the owner and occupier of such lands or the
24 necessary rights or interests in such lands in order to
25 demonstrate by example the means, methods and measures
26 by which soil and soil resources may be conserved and soil
27 erosion in the form of soil washing may be prevented and
28 controlled and works of improvement may be carried out;

29 (3) To carry out preventive and control measures and
30 works of improvement within the district including, but
31 not limited to, engineering operations, methods of cultiva-
32 tion, the growing of vegetation, changes in use of land and
33 the measures listed in subsection (c), section two of this
34 article on lands owned or controlled by this state or any of
35 its agencies with the consent and cooperation of the
36 agency administering and having jurisdiction thereof and
37 on any other lands within the district upon obtaining the
38 consent of the owner and occupier of such lands or the
39 necessary rights or interests in such lands;

40 (4) To cooperate, or enter into agreements with, and
41 within the limits of appropriations duly made available to

42 it by law, to furnish financial or other aid to any agency,
43 governmental or otherwise, or any occupier of lands within
44 the district in the carrying on of erosion-control and
45 prevention operations and works of improvement within
46 the district, subject to such conditions as the supervisors
47 may deem necessary to advance the purposes of this
48 article;

49 (5) To obtain options upon and to acquire, by purchase,
50 exchange, lease, gift, grant, bequest, devise or otherwise,
51 any property, real or personal, or rights or interests
52 therein; to institute condemnation proceedings to acquire
53 any property, real or personal, or rights or interests
54 therein, whether or not located in the district, required for
55 works of improvement; to maintain, administer and
56 improve any properties acquired, to receive income from
57 such properties and to expend such income in carrying out
58 the purposes and provisions of this article; and to sell,
59 lease or otherwise dispose of any of its property or inter-
60 ests therein in furtherance of the purposes and the provi-
61 sions of this article;

62 (6) To make available, on such terms as it shall prescribe,
63 to land occupiers within the district agricultural and
64 engineering machinery and equipment, fertilizer, seeds
65 and seedlings and such other material or equipment as will
66 assist such land occupiers to carry on operations upon
67 their lands for the conservation of soil resources and for
68 the prevention and control of soil erosion and for flood
69 prevention or the conservation, development, utilization
70 and disposal of water;

71 (7) To construct, improve, operate and maintain such
72 structures as may be necessary or convenient for the
73 performance of any of the operations authorized in this
74 article;

75 (8) To develop with the approval of the state committee
76 comprehensive plans for the conservation of soil resources
77 and for the control and prevention of soil erosion and for

78 flood prevention or the conservation, development,
79 utilization and disposal of water within the district, which
80 plans shall specify, in such detail as may be possible, the
81 acts, procedures, performances and avoidances which are
82 necessary or desirable for the effectuation of such plans,
83 including the specification of engineering operations,
84 methods of cultivation, the growing of vegetation, crop-
85 ping programs, tillage practices and changes in use of
86 land; and to publish such plans and information and bring
87 them to the attention of occupiers of lands within the
88 district;

89 (9) To take over, by purchase, lease or otherwise, and to
90 administer any soil-conservation, flood-prevention,
91 drainage, irrigation, water-management, erosion-control
92 or erosion-prevention project, or combinations thereof,
93 located within its boundaries, undertaken by the United
94 States or any of its agencies, or by this state or any of its
95 agencies; to manage, as agent of the United States or any
96 of its agencies, or of this state or any of its agencies, any
97 soil-conservation, flood-prevention, drainage, irrigation,
98 water-management, erosion-control or erosion-prevention
99 project, or combinations thereof, within its boundaries; to
100 act as agent for the United States or any of its agencies, or
101 for this state or any of its agencies, in connection with the
102 acquisition, construction, operation, or administration of
103 any soil-conservation, flood-prevention, drainage, irriga-
104 tion, water-management, erosion-control or erosion-
105 prevention project, or combinations thereof, within its
106 boundaries; to accept donations, gifts, contributions and
107 grants in money, services, materials or otherwise, from the
108 United States or any of its agencies, or from this state or
109 any of its agencies, or from any other source and to use or
110 expend such money, services, materials or other contribu-
111 tions in carrying on its operations;

112 (10) To sue and be sued in the name of the district; to
113 have a seal, which seal shall be judicially noticed; to have
114 perpetual succession unless terminated as hereinafter

115 provided; to make and execute contracts and other instru-
116 ments, necessary or convenient to the exercise of its
117 powers; to make and, from time to time, amend and repeal
118 rules and regulations not inconsistent with this article to
119 carry into effect its purposes and powers;

120 (11) As a condition to this extending of any benefits
121 under this article to, or the performance of work upon, any
122 lands, the supervisors may require contributions in money,
123 services, materials or otherwise to any operations confer-
124 ring such benefits and may require land occupiers to enter
125 into and perform such agreements or covenants as to the
126 permanent use of such lands as will tend to prevent or
127 control erosion and prevent floodwater and sediment
128 damage thereon;

129 (12) No provisions with respect to the acquisition,
130 operation or disposition of property by other public bodies
131 shall be applicable to a district organized hereunder in its
132 acquisition, operation and disposition of property unless
133 the Legislature shall specifically so state;

134 (13) To enter into contracts and other arrangements with
135 agencies of the United States, with persons, firms or
136 corporations, including public corporations, with the state
137 government of this state or other states, or any department
138 or agency thereof, with governmental divisions, with soil
139 conservation, drainage, flood control, soil erosion or other
140 improvement districts in this state or other states, for
141 cooperation or assistance in constructing, improving,
142 operating or maintaining works of improvement within
143 the district, or in preventing floods, or in conserving,
144 developing, utilizing and disposing of water in the district,
145 or for making surveys, investigations or reports thereof;
146 and to obtain options upon and acquire property, real or
147 personal, or rights or interests therein, in other districts or
148 states required for flood prevention or the conservation,
149 development, utilization and disposal of water within the
150 district and to construct, improve, operate or maintain
151 thereon or therewith works of improvement.

§19-21A-10. Authority of supervisors in determining observance of land-use regulations; suits to enforce compliance.

1 The supervisors shall have authority to go upon any
2 lands within the district to determine whether land-use
3 regulations adopted under the provisions of section nine of
4 this article are being observed.

5 Where the supervisors of any district shall find that any
6 of the provisions of land-use regulations adopted in
7 accordance with the provisions of section nine hereof are
8 not being observed on particular lands and that such
9 nonobservance tends to increase erosion on such lands and
10 is interfering with the prevention or control of erosion on
11 other lands within the district, the supervisors may present
12 to the circuit court for the county in which the lands of the
13 defendant may lie, a bill in equity, duly verified, setting
14 forth the adoption of the land-use regulations, the failure
15 of the defendant land occupier to observe such regulations
16 and to perform particular work, operations or avoidances
17 as required thereby and that such nonobservance tends to
18 increase erosion on such lands and is interfering with the
19 prevention or control of erosion on other lands within the
20 district and praying the court to require the defendant to
21 perform the work, operations or avoidances within a
22 reasonable time and to order that if the defendant shall
23 fail so to perform, the supervisors may go on the land,
24 perform the work or other operations or otherwise bring
25 the condition of such lands into conformity with the
26 requirements of such regulations and recover the costs and
27 expenses thereof, with interest, from the occupiers of such
28 land. Upon the presentation of such bill in equity, the
29 court shall cause process to be issued against the defen-
30 dant and shall hear the case. If it shall appear to the court
31 that testimony is necessary for the proper disposition of
32 the matter, it may take evidence, or appoint a special
33 commissioner to take such evidence as it may direct, and
34 report the same to the court with his or her findings of fact

35 and conclusions of law which shall constitute a part of the
36 proceedings upon which the determination of the court
37 shall be made. In ascertaining whether the land-use
38 regulations are reasonable and just, the court may inquire
39 into the extent to which the supervisors have been guided
40 by the administrative standards set forth in paragraph E,
41 section nine of this article. The court may dismiss the bill;
42 or it may require the defendant to perform the work,
43 operations or avoidances and may provide that upon the
44 failure of the defendant to initiate such performance
45 within the time specified in the decree of the court and to
46 prosecute the same to completion with reasonable dili-
47 gence, the supervisors may enter upon the lands involved
48 and perform the work or operations or otherwise bring the
49 condition of such lands into conformity with the require-
50 ments of the regulations and recover the costs and ex-
51 penses thereof, with interest at the rate of five per centum
52 per annum, from the occupier of such lands. In all cases
53 where the person in possession of lands who shall fail to
54 perform such work, operations or avoidances shall not be
55 the owner, the owner of such lands shall be joined as party
56 defendant.

57 The court shall retain jurisdiction of the case until after
58 the work has been completed. Upon completion of such
59 work pursuant to such decree of the court, the supervisors
60 may apply to the court, notice thereof being served upon
61 the defendant in the case, stating the costs and expenses
62 sustained by them in the performance of the work and
63 praying judgment therefor with interest. The court shall
64 have jurisdiction to enter judgment for the amount of such
65 costs and expenses, with interest at the rate of five per
66 centum per annum until paid, together with the costs of
67 suit, including a reasonable attorney's fee to be fixed by
68 the court.

§19-21A-11. Board of adjustment.

1 A. Where the supervisors of any district organized under
2 the provision of this article shall adopt any ordinance

3 prescribing land-use regulations in accordance with the
4 provisions of section nine hereof, they shall further
5 provide by ordinance for the establishment of a board of
6 adjustment. Such board of adjustment shall consist of
7 three members, each to be appointed for a term of three
8 years, except that the members first appointed shall be
9 appointed for terms of one, two and three years, respec-
10 tively. The members of each such board of adjustment
11 shall be appointed by the state conservation committee
12 and shall serve at the will and pleasure of the committee.

13 Vacancies in the board of adjustment shall be filled in
14 the same manner as original appointments and shall be for
15 the unexpired term of the member whose term becomes
16 vacant. Members of the state conservation committee and
17 the supervisors of the district shall be ineligible to ap-
18 pointment as members of the board of adjustment during
19 their tenure of such other office. The members of the board
20 of adjustment shall receive no compensation for their
21 services, but they shall be entitled to expenses, including
22 traveling expenses, necessarily incurred in the discharge of
23 their duties. The state committee shall pay the necessary
24 administrative and other expenses of operation incurred
25 by the board, upon the certificate of the chairman of the
26 board.

27 B. The board of adjustment shall adopt rules to govern
28 its procedures, which rules shall be in accordance with the
29 provisions of this article and with the provisions of any
30 ordinance adopted pursuant to this section. The board
31 shall designate a chairman from among its members and
32 may, from time to time, change such designation. Meetings
33 of the board shall be held at the call of the chairman and
34 at such other times as the board may determine. Any two
35 members of the board shall constitute a quorum. The
36 chairman, or in his or her absence such other member of
37 the board as he or she may designate to serve as acting
38 chairman, may administer oaths and compel the atten-
39 dance of witnesses. All meetings of the board shall be

40 open to the public. The board shall keep a full and
41 accurate record of all proceedings, of all documents filed
42 with it and of all orders entered which shall be filed in the
43 office of the board and shall be a public record.

44 C. Any land occupier may file a petition with the board
45 of adjustment alleging that there are great practical
46 difficulties or unnecessary hardship in the way of his or
47 her carrying out upon his or her lands the land-use regula-
48 tions prescribed by ordinance approved by the supervisors
49 and praying the board to authorize a variance from the
50 terms of the land-use regulations in the application of such
51 regulations to the lands occupied by the petitioner. Copies
52 of such petition shall be served by the petitioner upon the
53 chairman of the supervisors of the district within which
54 his or her lands are located and upon the chairman of the
55 state conservation committee. The board of adjustment
56 shall fix a time for the hearing of the petition and cause
57 due notice of such hearing to be given. The supervisors of
58 the district and the state conservation committee shall
59 have the right to appear and be heard at such hearing.
60 Any occupier of lands lying within the district who shall
61 object to the authorizing of the variance prayed for may
62 intervene and become a party to the proceedings. Any
63 party to the hearing before the board may appear in
64 person, by agent or by attorney. If, upon the facts pre-
65 sented at such hearing, the board shall determine that
66 there are great practical difficulties or unnecessary
67 hardship in the way of applying the strict letter of any of
68 the land-use regulations upon the lands of the petitioner,
69 it shall make and record such determination and shall
70 make and record findings of fact as to the specific condi-
71 tions which establish such great practical difficulties or
72 unnecessary hardship. Upon the basis of such findings and
73 determination, the board shall have power by order to
74 authorize such variance from the terms of the land-use
75 regulations, in their application to the lands of the peti-
76 tioner, as will relieve such great practical difficulties or
77 unnecessary hardship and will not be contrary to the

78 public interest and such that the spirit of the land-use
79 regulations shall be observed, the public health, safety and
80 welfare secured and substantial justice done.

81 D. Any petitioner aggrieved by an order of the board
82 granting or denying, in whole or in part, the relief sought,
83 the supervisors of the district or any intervening party may
84 obtain a review of such order in the circuit court of the
85 county in which the land lies, by filing in such a court a
86 petition praying that the order of the board be modified or
87 set aside. A copy of such petition shall forthwith be served
88 upon the parties to the hearing before the board and
89 thereupon the party seeking review shall file in the court
90 a transcript of the entire record in the proceedings,
91 certified by the board, including the documents and
92 testimony upon which the order complained of was
93 entered and the findings, determination and order of the
94 board. Upon such filing, the court shall cause notice
95 thereof to be served upon the parties and shall have
96 jurisdiction of the proceedings and of the questions
97 determined or to be determined therein and shall have
98 power to grant such temporary relief as it deems just and
99 proper and to make and enter a decree enforcing or setting
100 aside, in whole or in part, the order of the board. No
101 contention that has not been urged before the board shall
102 be considered by the court unless the failure or neglect to
103 urge such contention shall be excused because of extraor-
104 dinary circumstances. The findings of the board as to the
105 facts, if supported by evidence, shall be conclusive. If any
106 party shall apply to the court for leave to produce addi-
107 tional evidence and shall show to the satisfaction of the
108 court that such evidence is material and that there were
109 reasonable grounds for the failure to produce such evi-
110 dence in the hearing before the board, the court may order
111 such additional evidence to be taken before the board and
112 to be made a part of the transcript. The board may modify
113 its findings as to the facts or make new findings, taking
114 into consideration the additional evidence so taken and
115 filed, and it shall file such modified or new findings which,

116 if supported by evidence, shall be conclusive and shall file
117 with the court its recommendations, if any, for the setting
118 aside of its original order. The jurisdiction of the court
119 shall be conclusive and its judgment and decree shall be
120 final, except that the same shall be subject to review in the
121 same manner as are other judgments or decrees of the
122 court.

§19-21A-13a. Authority of governmental divisions to expend money for works of improvement; levy.

1 The governing body of any governmental division which
2 may reasonably be expected to receive a benefit from the
3 construction, improvement, operation or maintenance of
4 any works of improvement may expend money for such
5 construction, improvement, operation or maintenance if
6 this expectation exists as to any part of the governmental
7 division and even though such works of improvement are
8 not located within the corporate limits of the governmen-
9 tal division or are not within this state: *Provided*, That if
10 the expenditure is not made directly by the governmental
11 division for such purpose, it shall be made only through a
12 conservation district or watershed improvement district
13 organized under the laws of this state, but it shall not be
14 necessary that any part of the governmental division be
15 within the limits of the district through which the expen-
16 diture is made. Such governing bodies or governmental
17 divisions may set up in their respective budgets funds to be
18 spent for such purposes and municipalities and counties
19 may levy and collect taxes for such purposes in the manner
20 provided by law: *Provided, however*, That in case suffi-
21 cient funds cannot be raised by ordinary levies, additional
22 funds may be raised by municipalities and counties as
23 provided by section sixteen, article eight, chapter eleven of
24 this code.

§19-21A-13b. Assurances of cooperation by governmental division.

1 By vote of the governing body, any governmental
2 division authorized to expend money on works of improve-

3 ment by section thirteen-a of this article may alone, or in
4 combination with any other governmental division or
5 divisions so authorized to expend money on works of
6 improvement, give assurances, by contract or otherwise,
7 satisfactory to agencies of the United States, congressional
8 committees or other proper federal authority and to
9 conservation districts or watershed improvement districts
10 organized under the laws of this state that the governmen-
11 tal division or divisions will construct, improve, operate or
12 maintain works of improvement or will appropriate a sum
13 or sums of money and expend it for such purposes as
14 provided in section thirteen-a of this article.

15 The assurances, whether by contract or otherwise, shall
16 be reduced to writing and before final approval of the
17 governing bodies involved shall be submitted to the
18 attorney general for approval. After approval by the
19 attorney general and by the governing body or bodies
20 concerned, certified copies of the assurances shall be filed
21 in the office of the county clerk of the county or counties
22 in which the governmental division is located and in the
23 office of the state tax commissioner.

24 Any assurance hereunder may be valid and binding for
25 a period of time not to exceed fifty years.

**§19-21A-13c. Contracts with district for construction of flood
control projects; power to borrow money; levy.**

1 The county court of each county and the governing body
2 of each municipality in the state is hereby authorized and
3 empowered to enter into a contract or agreement with the
4 conservation district or districts for the purpose of con-
5 structing flood control projects within their respective
6 counties or municipalities or adjacent thereto and to use
7 said projects as recreational areas or public parks. For the
8 purpose of defraying the cost of any such project or
9 projects, the county court or the governing body of any
10 municipality is hereby authorized to borrow from the
11 federal government or from any federal agency having

12 money to loan, a sum sufficient to cover the cost of such
 13 project or projects. For the purpose of retiring any such
 14 indebtedness incurred under the provisions of this section,
 15 notwithstanding any other provisions of law, said county
 16 courts or the governing body of any municipality is hereby
 17 authorized to lay and impose a county or citywide levy as
 18 the case might be.

§19-21A-14. Discontinuance of districts.

1 At any time after five years following the organization
 2 of a district under the provisions of this article, any
 3 twenty-five owners of land lying within the boundaries of
 4 such district may file a petition with the state conservation
 5 committee praying that the operations of the district be
 6 terminated and the existence of the district discontinued.
 7 The committee may conduct such public meetings and
 8 public hearings upon such petition as may be necessary to
 9 assist it in the consideration thereof. Within sixty days
 10 after such a petition has been received by the committee it
 11 shall give due notice of the holding of a referendum and
 12 shall supervise such referendum and issue appropriate
 13 regulations governing the conduct thereof. The questions
 14 shall be submitted by ballots upon which the words "For
 15 terminating the existence of the
 16 (name of the conservation district to be here inserted)" and
 17 "Against terminating the existence of the
 18 (name of the conservation district to be here inserted)"
 19 shall appear, with a square before each proposition and a
 20 direction to insert an X mark in the square before one or
 21 the other of said propositions as the voter may favor or
 22 oppose discontinuance of such district. All owners of
 23 lands lying within the boundaries of the district shall be
 24 eligible to vote in such referendum. Only such landowners
 25 shall be eligible to vote. No informalities in the conduct of
 26 such referendum or in any matters relating thereto shall
 27 invalidate said referendum or the result thereof if notice
 28 thereof shall have been given substantially as herein

29 provided and said referendum shall have been fairly
30 conducted.

31 The committee shall publish the result of such referen-
32 dum and shall thereafter consider and determine whether
33 the continued operation of the district within the defined
34 boundaries is administratively practicable and feasible. If
35 the committee shall determine that the continued opera-
36 tion of such district is administratively practicable and
37 feasible, it shall record such determination and deny the
38 petition. If the committee shall determine that the contin-
39 ued operation of such district is not administratively
40 practicable and feasible, it shall record such determination
41 and shall certify such determination to the supervisors of
42 the district. In making such determination the committee
43 shall give due regard and weight to the attitudes of the
44 owners of lands lying within the district, the number of
45 landowners eligible to vote in such referendum who shall
46 have voted, the proportion of the votes cast in such
47 referendum in favor of the discontinuance of the district to
48 the total number of votes cast, the approximate wealth
49 and income of the land occupiers of the district, the
50 probable expense of carrying on erosion-control opera-
51 tions within such district and such other economic and
52 social factors as may be relevant to such determination,
53 having due regard to the legislative findings set forth in
54 section two of this article: *Provided*, That the committee
55 shall not have authority to determine that the continued
56 operation of the district is administratively practicable
57 and feasible unless at least a majority of the votes cast in
58 the referendum shall have been cast in favor of the contin-
59 uance of such district.

60 Upon receipt from the state conservation committee of
61 certification that the committee has determined that the
62 continued operation of the district is not administratively
63 practicable and feasible, pursuant to the provisions of this
64 section, the supervisors shall forthwith proceed to termi-
65 nate the affairs of the district. The supervisors shall

66 dispose of all property belonging to the district at public
67 auction and shall pay over the proceeds of such sale to be
68 converted into the state treasury. The supervisors shall
69 thereupon file an application, duly verified, with the
70 secretary of state for the discontinuance of such district
71 and shall transmit with such application the certificate of
72 the state conservation committee setting forth the determi-
73 nation of the committee that the continued operation of
74 such district is not administratively practicable and
75 feasible. The application shall recite that the property of
76 the district has been disposed of and the proceeds paid
77 over as in this section provided, and shall set forth a full
78 accounting of such properties and proceeds of the sale. The
79 secretary of state shall issue to the supervisors a certificate
80 of dissolution and shall record such certificate in an
81 appropriate book of record in his or her office.

82 Upon issuance of a certificate of dissolution under the
83 provisions of this section, all regulations theretofore
84 adopted and in force within such district shall be of no
85 further force and effect. All contracts theretofore entered
86 into, to which the district or supervisors are parties, shall
87 remain in force and effect for the period provided in such
88 contracts. The state conservation committee shall be
89 substituted for the district or supervisors as party to such
90 contracts. The committee shall be entitled to all benefits
91 and subject to all liabilities under such contracts and shall
92 have the same right and liability to perform, to require
93 performance, to sue and be sued thereon and to modify or
94 terminate such contracts by mutual consent or otherwise,
95 as the supervisor of the district would have had. Such
96 dissolution shall not affect the lien of any judgment
97 entered under the provisions of section ten of this article,
98 nor the pendency of any action instituted under the
99 provisions of such section, and the committee shall succeed
100 to all the rights and obligations of the district or supervi-
101 sors as to such liens and actions.

102 The state conservation committee shall not entertain
103 petitions for the discontinuance of any district nor conduct
104 referenda upon such petitions nor make determinations
105 pursuant to such petitions in accordance with the provi-
106 sions of this article more often than once in three years.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is* approved this the *21st*
Day of *March*, 2002.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/15/02

Time 5:30 p