

Appendix

State financial assistance for conservation practices

Cost-sharing programs

State laws beginning in 1977 started to provide financial assistance to private landowners to set up conservation practices. Most of these laws follow the Federal model of financial assistance by providing cost-sharing for the placement of various types of conservation practices under contracts with the conservation districts. The cost-share rates among states range from 10 percent to 90 percent of the estimated cost of the conservation practice. Some states, such as Iowa, Nebraska, and Idaho, provide low-interest loans in addition to their cost-sharing programs, while others, such as Utah, only establish loan programs to landowners. These programs also require the participating district's supervision of the practices.

In dealing with cost-sharing programs for soil and water conservation and agricultural nonpoint-source pollution control, some state conservation district laws authorize cost-sharing programs. In turn, state conservation agencies provide financial assistance to the districts to implement their programs and enable the districts to provide financial assistance to landowners and land users to carry out soil and water conservation practices. Other programs, however, are authorized by special laws for specific purposes or practices. For example, Maryland and Idaho only provide cost-sharing programs for water pollution. Tennessee only authorizes cost-sharing programs to control sedimentation and pollution in watershed areas. Delaware implements these programs for all its conservation needs.

Delaware (region 1).—Delaware's cost-sharing program was instituted in 1985 under the authority of the State Conservation District law and the 1977 Erosion and Sediment Control act.³³⁶⁴ This cost-sharing program has been administered by the State's three soil and water conservation districts, with the supervision of the Delaware Department of Natural Resources and Environmental Control.

The law addresses both urban and agricultural concerns. Moreover, it covers not only erosion and sediment control, but also water quality and water management, forestry, organic waste management, wildlife habitat development, and other conservation needs. Following the Soil and Erosion Control Model Act, the basic cost-share rate is 50 percent or more. However, the Delaware law also provides that in special situations, a higher rate may be allowed depending on available funds and the resulting public benefits.

Maryland (region 1).—Maryland's cost-sharing program for agricultural water pollution control was established by a 1982 amendment to the State Agriculture law. This amendment authorizes cost sharing for implementing best management practices (BMPs) to minimize water pollution from sediment, animal wastes, nutrients, and agricultural chemicals in *priority areas* that have critical nonpoint-source pollution conditions.³³⁶⁵ The Maryland law directs the State conservation and water pollution control agencies to jointly identify geographic areas that are

³³⁶⁴Erosion and Sedimentation Control, DEL. CODE ANN. tit. 7, § 4001 et seq. (1991).

³³⁶⁵MD. CODE ANN., NAT. RES. § 8-702.

likely to contain such priority areas, designate the priority areas, and establish eligibility criteria for cost sharing.³³⁶⁶

The selection of projects to be cost shared and of cost-share rates is based on the estimated water quality achievements, the estimated economic benefits of the BMPs to the participating farmers, and other relevant factors as determined by regulation.³³⁶⁷ The law further provides that the maximum cost-share level is 87 1/2 percent of eligible costs, where payments are not to exceed \$10,000 for one project or \$20,000 for a project carried out on different farms under a pooling agreement.³³⁶⁸ In addition, the state cost-sharing funds are made available under contract between the land operator, the conservation district, and the state conservation agency.

The land operator must maintain the BMPs for their expected life span and also bind any successor in title.³³⁶⁹ Failure by the land operator to establish and maintain BMPs practice in accordance with the agreement will render such person liable for the full amount of cost-sharing funds.³³⁷⁰ The conservation district must certify that the BMPs meet applicable technical standards and that all submitted invoices represent eligible cost.³³⁷¹

Alabama (region 2).—In 1985, Alabama amended its Constitution. This amendment establishes the Alabama Agricultural and Conservation Development Commission and requires this Commission to administer a new cost-sharing program to assist practices in reducing erosion and improving agricultural water quality and forest resources.³³⁷²

The Alabama Cost-Share Grants for Soil and Water Conservation law provides that each of Alabama's 67 soil and water conservation districts receives a basic allocation of 1 percent of the available funds.³³⁷³ The remaining 33 percent is allocated to the districts according to three particular factors: the percentage of Alabama's highly erodible land that is situated in a district; reforestation needs; and agricultural water pollution problems.³³⁷⁴ In each district, subject to the approval of the Commission, the district supervisor determines which practices are needed and thus eligible for cost-sharing funds.³³⁷⁵ Cost-share rates are set by the commission and vary depending on the practice. Moreover, cost-share grants are exempt from the state income tax.³³⁷⁶

Since 1985, there has been only one amendment to this chapter. The 1992 amendment, effective March 18, 1992, substituted "Alabama Farmers Federation"

³³⁶⁶MD. CODE ANN., NAT. RES. § 8-703.

³³⁶⁷Id.

³³⁶⁸Id. § 8-704(a)(1).

³³⁶⁹Id. § 8-704(a)(4).

³³⁷⁰Id. § 8-705.

³³⁷¹Id. § 8-704(a)(2)(iii).

³³⁷²Constitution of Alabama of 1901, Soil and Water Conservation Commission, Amendment No. 451, proposed by Acts 1985, 1st Ex. Sess., No. 85-78, submitted May 14, 1985, and proclaimed ratified June 4, 1985 (Proclamation Register No. 5, P. 44).

³³⁷³ALA. CODE § 9-8A-5(b).

³³⁷⁴Id. § 9-8A-5(b).

³³⁷⁵Id. § 9-8A-6.

³³⁷⁶Id. § 9-8A-14.

for "Alabama Farm Bureau Federation" in subsection (a) of section 9-8A-3 regarding the composition of the commission.³³⁷⁷

Mississippi (region 3).—In 1985, Mississippi enacted the Soil and Water Conservation Cost-Share Program.³³⁷⁸ The Mississippi Soil and Water Conservation Commission is authorized to adopt and promulgate rules and regulations as necessary for the implementation of the Mississippi Soil and Water Cost-Share Program³³⁷⁹ and to use money appropriated to assist in implementing approved practices on a cost-sharing basis on eligible lands in Mississippi.³³⁸⁰

To implement the provisions of this cost-share program, the commission has a number of powers and duties, including—

determining which approved practices are eligible for cost-sharing assistance;

establishing maximum sums and cost-share rates that any one eligible landowner or land operator may receive;

reviewing periodically the costs of establishing conservation practices and making adjustments if it is necessary.³³⁸¹

Wisconsin (region 4).—Wisconsin's authority to provide cost-sharing for soil erosion and nonpoint-source pollution control practices is found in the 1981 revision of its Soil and Water Conservation law.³³⁸² Under this law, the CLCC must prepare soil erosion control plans, defined to include control of nonpoint-source pollution where it is needed.³³⁸³

The state conservation agency must allocate funds for up to 50 percent of the cost of preparing soil erosion control plans to land conservation committees of counties that have been identified as priority counties for soil erosion control, i.e. counties with the greatest area of severe erosion problems.³³⁸⁴ In addition, the payments must be returned if the practices are not maintained or if title to the land is transferred to an owner who does not agree to maintain the practices.

Iowa (region 5).—The Iowa law allows a cost-sharing amount of 75 percent or less of the estimated cost as established by the commissioners or 75 percent of the actual cost, which ever is less, to be available for installing permanent practices and an amount specified by the state conservation agency to be available for temporary practices.³³⁸⁵ However, cost-share funds are not available for erosion on construction projects.

Nebraska (region 5).—Nebraska provides for any owner or operator at least 90 percent cost-sharing assistance for the installation of permanent soil and water conservation practices that are required in an approved farm unit conservation plan or are

³³⁷⁷ALA. CODE § 9-8A-3 (Supp. 1993).

³³⁷⁸MISS. CODE ANN. § 69-27-301 et seq. (1991).

³³⁷⁹Id. § 69-27-307.

³³⁸⁰Id. § 69-27-309.

³³⁸¹Id. § 69-27-311.

³³⁸²Soil and Water Conservation, WIS. STAT. ANN. § 92.07(3).

³³⁸³Id. § 92.07(2).

³³⁸⁴Id. § 92.10(4)(c).

³³⁸⁵IOWA CODE ANN. § 161A.48 (West 1993).

required to conform agricultural, horticultural, or silvicultural practices to the applicable soil-loss limit pursuant to the Erosion and Sediment Control Act.³³⁸⁶

Texas (regions 6 & 7).—The Texas Soil and Water Conservation law authorized the cost-share assistance program for soil and water conservation land improvement measures.³³⁸⁷ It provides that the state board may give cost-share assistance to landowners or operators for the installation of soil and water conservation land improvement measures consistent with the purpose of controlling erosion, conserving water, or protecting water quality.³³⁸⁸

The conservation district has broad power in approving the application for cost-share assistance. It may approve an application for cost-share assistance if the soil and water conservation land improvement measure is consistent with the purposes of controlling erosion, conserving water, or protecting water quality.³³⁸⁹ However, it cannot do so if the cost-share assistance funds exceed the funds allocated to the conservation district by the State board.³³⁹⁰

Under the Texas Soil and Water Conservation law, the State board must establish the cost-share rates for all eligible soil and water conservation land improvement measures³³⁹¹ and cannot bear more than 75 percent of the cost of a soil and water conservation improvement measure.³³⁹² However, the 75 percent maximum requirement may be excepted if the State board finds that a higher share is necessary to obtain adequate implementation of a certain soil and water conservation land improvement measure.³³⁹³

The recipient of the cost-share assistance cannot receive such assistance if that person is simultaneously receiving cost-share assistance for the measure from another source.³³⁹⁴ However, the board may grant an exception to this limitation if it finds that participation with another cost-share assistance program will not only enhance the efficiency and effectiveness of the improvement measure, but also lessen the State's financial commitment to such an improvement measure.³³⁹⁵

The State board is required to establish standards and specifications for soil and water conservation land improvement measures eligible for cost-share assistance.³³⁹⁶ Furthermore, before it makes a payment to an eligible person, the board may require certification by the conservation district where the measure has been installed indicating whether the measure has been completely installed and whether it satisfies the standards and specifications established by the board.³³⁹⁷

³³⁸⁶Erosion and Sediment Control, NEB. REV. STAT. § 2-4610.

³³⁸⁷Generally Soil and Water Conservation Law, TEX. CODE, §§ 201.301 to 201.311.

³³⁸⁸Soil and Water Conservation Law, TEX. AGRIC. CODE ANN. § 201.302(a) (Supp. 1995). This section was added by Acts 1993, 73rd Leg., ch. 54, § 2 and became effective on April 29, 1993.

³³⁸⁹TEX. AGRIC. CODE ANN. § 201.307(a).

³³⁹⁰Id. § 201.307(b).

³³⁹¹Id. § 201.308(a).

³³⁹²Id. § 201.308(b).

³³⁹³Id. § 201.308(d).

³³⁹⁴Id. § 201.308(c).

³³⁹⁵Id. § 201.308(e).

³³⁹⁶Id. § 201.309.

³³⁹⁷Id. § 201.310.

Texas is unique in that the law allows the State board to designate one or more conservation districts to administer this cost-share procedure locally.³³⁹⁸

In addition to the cost-share assistance program for soil and water conservation, the Texas conservation law also provides a cost-share assistance program for brush control. A brush control fund is created in the State treasury which consists of legislative appropriations, money transferred to that fund from other funds by laws, and other money required by law to be deposited in the brush control fund.³³⁹⁹ However, the board cannot provide more than 70 percent of the total cost of a single brush control project.³⁴⁰⁰ The board must deny the assistance if the borrower is simultaneously receiving any cost-share money for brush control on the same acreage from a Federal Government program.³⁴⁰¹ However, the latter limitation may be excepted by the board if it finds that joint participation of the state brush control program and any Federal brush control program will not only enhance the efficiency and effectiveness of a project, but also lessen the State's financial commitment to the project.³⁴⁰²

Idaho (region 8).—In 1980, Idaho amended its Water Pollution Control law. This amendment authorizes the State water quality agency to enter into contracts with conservation districts to provide for district-administered cost sharing to implement the best management practices (BMP's) identified in the State's Agricultural Water Quality Management Plan.

In a district water quality project, the maximum cost-share rate is 90 percent including cost sharing under other Federal, State, or local programs and payments may not exceed \$25,000 per individual. In addition, with the consultation of the State conservation agency, the conservation districts that contract with the State water quality agency must develop district level projects for controlling nonpoint-source pollution and make sure of adequate participation by landowners in the area. The plan of a project must satisfy a number of requirements, including the landowner water quality objectives, methods for technical assistance and project administration, and cost-share rates for approved practices.

Utah (region 8).—Utah is unique in that it does not have a cost-sharing program. However, it operates a large low-interest loan program (which will be discussed further in the loan section).

Tennessee (region 11 & 12).—Cost-sharing programs in Tennessee are authorized by special laws for specific purposes or practices. These programs are localized and are designed specifically to control sedimentation and nonpoint-source pollution in one or more watershed areas. Moreover, they were created to supplement Federal water quality programs. Thus, Tennessee provides 10 percent of the cost of installing erosion control practices in critical areas in the Obion-Fork Deer River Basin.

³³⁹⁸TEX. AGRIC. CODE ANN. § 201.311.

³³⁹⁹Id. § 203.152.

³⁴⁰⁰Id. § 203.154(a).

³⁴⁰¹Id. § 203.154(b).

³⁴⁰²Id. § 203.154(c).

Loan programs

Loan programs were designed to assist farm and ranch conservation programs. However, not all states have laws creating these loan programs.

Iowa (region 5).—The Iowa Department of Soil Conservation established a revolving fund that provides eligible landowners to borrow up to \$10,000 at no interest for up to 10 years to construct permanent soil conservation practices.³⁴⁰³ To be eligible, a landowner must be able to secure the loan and be capable of repaying the loan in equal annual installments.³⁴⁰⁴ All loans must be for farms for which a district conservation plan has been developed and only for projects approved by the conservation districts.³⁴⁰⁵ Loans made under this program will become due for payment upon sale of the land on which those practices are established.³⁴⁰⁶ Furthermore, loans may not be used to supplement State or Federal cost-sharing assistance for conservation practices.³⁴⁰⁷

Nebraska (region 5).—In 1981, Nebraska has enacted a law which creates an independent corporation—the Nebraska Conservation Corporation (corporation)—to manage a low-cost loan program to assist farmers and ranchers to implement land treatment and water conservation practices. In 1985, this law was amended to include loans to districts and to general-purpose local governments.

The corporation is required to coordinate these activities with State land and water resource practices, programs, and plans, particularly those of the Department of Environmental Control, the Nebraska Natural Resources Commission, and the natural resource districts. The corporation also has to adopt regulations regarding the number and location of conservation practices to be financed by loans, standards and requirements for allocation of available money, and commitment requirements for conservation practices.

To finance this loan program, Nebraska sells tax-exempt bonds to banks to enable them to make loans for soil and water conservation purposes at rates below the prime rate.

Idaho (region 8).—The Idaho Soil Conservation District law provides that eligible applicants may apply for loans for the purpose of financing conservation improvement costs.³⁴⁰⁸ The maximum cost-share rate is 75 percent including cost-sharing under other Federal and State programs. In his or her application, the applicant must—

describe the nature and purpose of the improvements;

set forth or be attached a conservation plan approved by the local soil conservation district, including engineering and economic feasibility data, and an estimated cost of construction;

indicate whether money from other source(s) is available and will be used for improvement costs;

³⁴⁰³Soil and Water Conservation, IOWA CODE ANN. § 161A.71(1) (West 1990).

³⁴⁰⁴Id. § 161A.71(1). For addition information regarding Iowa No Interest Loan Program, see SWCD Policies and Procedures Manual, SWCD-LEG-2-11.

³⁴⁰⁵Id. § 161A.71.

³⁴⁰⁶Id. § 161A.71(1).

³⁴⁰⁷Id. § 161A.71(1).

³⁴⁰⁸Soil Conservation District Law, IDAHO CODE § 22-2732.

show that the applicant holds or can acquire title to all lands or has necessary easements and rights of way for the improvement; and show that the proposed project is feasible and economically justifiable.

After receiving the application, the local soil conservation district must review and evaluate, and investigate all aspects of the proposed improvements if necessary. If the district determines that the plan is not satisfactory, the applicant's plan will be returned.

If it finds that the application is satisfactory, it must forward the application to the commission with a recommendation for funding. The commission may approve the requested loan for conservation improvements if, after review, evaluation, and investigation if necessary, it finds that—

the applicant is qualified and reasonable;

there is reasonable assurance that the borrower-applicant can repay the loan;

the money in the resource conservation and rangeland development account is available for the loans; and

the loan will not result in a condition where the applicant has a loan liability in excess of \$50,000.³⁴⁰⁹

If the commission approves the loan, the applicant must execute a promissory note for repayment, together with interest not to exceed 6 percent annually as determined by the commission. Moreover, the repayment with interest will commence not later than 2 full years from the date the note is signed. Repayment must be completed within the time period specified by the commission, not to exceed 15 years, unless the commissioner issues an extension of the repayment period in the event of emergency or hardship.³⁴¹⁰

Utah (region 8).—In 1983 Utah's conservation district law was amended to create the Agriculture Resource Development Fund and authorize the State conservation agency to approve and make loans from the fund to farmers and ranchers, whether individually or in groups. Conservation practices that are qualified for loans include practices on the *State list*, special practices that must be approved by the State agency, and repair and replacement of practices.

The law provides that State loans may be used to supplement Federal cost-share payments. Moreover, the law gives priority to applicants whose primary source of income is farming or ranching.

³⁴⁰⁹IDAHO CODE § 22-2732(c).

³⁴¹⁰Id. § 22-2732(d).