

## Chapter 2: State Soil and Water Conservation District Laws

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On August 25, 1933, the Soil Erosion Service was first created in the U.S. Department of the Interior.<sup>1</sup> On March 25, 1935, this Service was transferred to the U.S. Department of Agriculture (USDA), and it was later renamed the Soil Conservation Service (SCS).<sup>2</sup> On April 27, 1935, after unanimous passage by the House and the Senate, President Roosevelt signed the Soil Conservation Act of 1935.<sup>3</sup> This Act recognized that "soil erosion is a menace to the national welfare and that it is hereby declared to be a policy of Congress to provide permanently for the control and prevention of soil erosion . . . ."<sup>4</sup> Moreover, this Act specifically established a SCS within USDA to develop and supplement ongoing programs of soil and water conservation for the Nation.<sup>5</sup> In April 1995, SCS was renamed Natural Resources Conservation Service (NRCS) with broadened responsibility.

In February 1936, Congress amended Public Law 74-46 by enacting Public Law 74-461.<sup>6</sup> Public Law 74-461, also known as the "Soil Conservation and Domestic Allotment Act," authorized the Secretary of Agriculture to make payments and grants of aid to support approved soil and water conservation measures.<sup>7</sup>

The Soil Conservation Service addressed the challenge by setting up a number of large-scale demonstration projects around the country.<sup>8</sup> Although these projects were themselves successful, this approach was not far-reaching enough. It was not only too costly and too slow to achieve the desired results, but it lacked grass-roots support and participation and did not provide long-lasting conservation treatment.<sup>9</sup>

A local organization was necessary through which conservation can be accomplished.<sup>10</sup> On June 5, 1935, the Secretary of Agriculture's Committee on Soil Conservation recommended that "all erosion control work on private lands, including new demonstration projects' would be undertaken by SCS only through 'legally constituted Soil Conservation Associations . . . .'"<sup>11</sup> From this recommendation, the soil conservation district was born. On February 1937, a Standard Soil Conservation District law was developed for consideration by each of the states.<sup>12</sup> Along with a letter from President Roosevelt, this model enabling act was sent to each of the state governors, suggesting that farmers and ranchers be granted the authority to establish districts specifically for conservation of soil and water resources.<sup>13</sup> The states responded, but with varying degrees of speed. Twenty-

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<sup>1</sup>Soil and Water District Commissioner Handbook, March 1991. Iowa Department of Agriculture & Land Stewardship. Dale M. Cochran, Secretary of Agriculture, p. 5 (noting that this program was the first of its kind anywhere (hereafter, Soil and Water Handbook)).

<sup>2</sup>Id.

<sup>3</sup>Public Law No. 74-46, 49 Stat. 163, 16 U.S.C. 590 (a)-(f).

<sup>4</sup>Id.

<sup>5</sup>Soil and Water Resources Conservation Act: 1980 Appraisal Part II, Soil, Water, and Related Resources in the United States: Analysis of Resources Trends, USDA. Issued August 1981, at 209 (hereafter Soil and Water Resources Appraisal).

<sup>6</sup>Public Law No. 74-461, 49 Stat. 1148, 16 U.S.C. 590 (g, h, i-k, l-q).

<sup>7</sup>Soil and Water Resources Appraisal.

<sup>8</sup>Soil and Water Handbook.

<sup>9</sup>Id.

<sup>10</sup>Id.

<sup>11</sup>Soil and Water Resources Appraisal.

<sup>12</sup>Id.

<sup>13</sup>Soil and Water Resources Appraisal.

two states passed enabling legislation within the same year. Ultimately all 50 states, plus Puerto Rico and the Virgin Islands, adopted the enabling laws.<sup>14</sup>

In the 1950's, most states amended their state conservation district laws to put more emphasis on water conservation and to confer authority to carry out watershed projects.<sup>15</sup> Recent amendments granted authorities to further district participation in state water quality management and erosion and sediment control programs, critical area land use management programs, and administration of special soil and water conservation funds, including funds which provide state financial assistance for installing soil and water conservation practices.<sup>16</sup>

The following section will discuss the soil and water conservation laws of the 50 states. It is further divided into two subsections: a general discussion of the state soil and water conservation laws and a comparison between the standard law and the state laws.

## General: State Soil and Water Conservation Districts Laws

As mentioned earlier, in 1937 the President sent a model state act for forming soil conservation districts to each state governor. All states have enacted legislation based on this model. These state laws are enabling acts, which provide a mechanism for creating soil conservation districts (SCD's) to conserve soil, water, and related resources. A locally elected or appointed board of officials, usually called directors, commissioners, or supervisors governs each district. Although SCD boundaries generally coincide with county boundaries, there are SCD's that cover more than one county and SCD's that cover only part of one county.

Generally, SCD's have the power to plan and carry out programs for soil conservation, flood prevention, water management, recreation, and other purposes

<sup>14</sup>See ALA. CODE § 9-8-20 et seq. (1987); ALASKA. STAT. § 41.10.010 et seq. (1988); ARK. CODE ANN. § 14-125-101 et seq. (1987 & Supp. 1991); ARIZ. REV. STAT. ANN. § 37-1001 et seq. (1993); CAL. PUB. RES. CODE § 9074 et seq. (1977); COLO. REV. STAT. § 35-70-101 et seq. (1995); CONN. GEN. STAT. § 22a-314 et seq. (1983 & Supp. 1993); D.C. CODE ANN. § 1-2801 et seq. (1981); DEL. CODE ANN. tit. 7 § 3901 et seq. (1991); FLA. STAT. ANN. § 582.01 et seq. (1987 & Supp. 1994); GA. CODE ANN. § 2-6-20 et seq. (1982); HAWAII REV. STAT. § 180-1 et seq. (1985 & Supp. 1992); IDAHO. CODE § 22-2715 et seq. (1977 & Supp. 1994); ILL. COMP. STAT. ANN. tit. 70 et seq. § 405/1 et seq. (Smith-Hurd 1993); IND. CODE ANN. § 13-3-1-1 et seq. (1990 & Supp. 1992); IOWA CODE ANN. § 467A.1 et seq. (1991); KAN. STAT. ANN. § 2-1901 et seq. (1991 & Supp. 1992); KY. REV. STAT. ANN. § 262.010 et seq. (1981 & Supp. 1992); LA. REV. STAT. ANN. § 3:1201 et seq. (1987 & Supp. 1993); MD. CODE ANN., AGRIC. §§8-101 et seq. (1985 & Supp. 1994); ME. REV. STAT. ANN. tit. 12, §§ 1 to 158 (West 1981 & Supp. 1992); MICH. STAT. ANN. § 13.1781 et seq. (1987 & Supp. 1993); MIN. STAT. § 103C.001 et seq. (1990 & Supp. 1993); MISS. CODE ANN. §69-27-1 et seq. (1991 & Supp. 1993); MO. REV. STAT. § 278.060 et seq. (1993); MONT. CODE ANN. § 76-15-101 et seq. (1995); N.C. GEN. STAT. §139-1 et seq. (1992); N.D. CENTURY CODE § 4-22-01 et seq. (1987); NEB. REV. STAT. § 2-1575 et seq. (1987); NEV. REV. STAT. *reprinted* 548.010 et seq. (1994); N.J. STAT. ANN. § 4:24-1 et seq. (West 1973 & Supp. 1993); N.H. REV. STAT. ANN. § 432:1 et seq. (1991); N.M. STAT. ANN. § 73-20-25 et seq. (1978 & Supp. 1987); N.Y. SOIL & WATER CONSERVATION. DIST. book 52-B § 1 et seq. (Consol. 1949 & Supp. 1996); OHIO REV. CODE ANN. § 1515.01 et seq. (1986 & Supp. 1992); OKLA. STAT ANN. tit. 27A, § 3-1-101 et seq. (West Supp. 1995); ORE. REV. STAT. § 568.210 et seq. (1991); PA. STAT. ANN. tit. 3 § 849 et seq. (1963 & Supp. 1993); P.R. LAWS ANNO. tit. 5, § 241 et seq. (1981); R.I. GEN. LAW ANN. § 2-4-1 et seq. (1987 & Supp. 1992); S.C. CODE ANN. §48-9-10 et seq. (Law. Co-op. 1987 & Supp. 1992); S.D. CODIFIED LAWS ANN. § 38-8-1 et seq. (1985 & Supp. 1992); TEN. CODE ANN. § 43-14-201 et seq. (1987); TEXAS AGRIC. STAT. CODE ANN. § 201.001 et seq. (1995); UTAH CODE ANN. § 4-18-1 et seq. (1995); WA. CODE ANN. § 89.08.010 et seq. (1992 & Supp. 1996); WIS. STAT. § 92.01 et seq. (1990); VA. CODE § 10.1-500 et seq. (1993 & Supp. 1995); VERMONT STAT. ANN. tit. 10 § 701 et seq. (1984 & Supp. 1990); W.VA. CODE § 19-21A-1 et seq. (1991 & Supp. 1993); WYO. STAT. § 11-16-101 et seq. (1994).

<sup>15</sup>Beatrice H. Holmes, *Legal Authorities for Federal (USDA), State and Local Soil and Water Conservation Activities, Second RCA Appraisal (1987)*, p. 33 [hereafter Holmes].

<sup>16</sup>Holmes.

within their boundaries. Most SCD's have the authority to acquire property, enter into contracts/agreements, cooperate with other districts and agencies, conduct surveys, and receive funds. However, because most states modified the Model Act to some degree, there is a certain amount of diversity in the authorities and administrative mechanisms under which districts operate.

The soil conservation districts cover almost the entire Nation. The SCD's are based on relatively uniform state laws, local initiatives and governance, and cooperation with Federal agencies. It provides a mechanism for delivering much of the conservation assistance authorized under the Federal laws. In addition, many Federal conservation assistance programs that are less formally tied to SCD's use the local districts as an important part of their delivery system.

## **Comparison between standard Model Law and state laws**

The modeling enabling act mainly consists of a number of sections, including—  
the statement of purpose and policy of law,  
the organization and authorized activities of the state soil conservation committee,  
the organization of the conservation district,  
the functions and powers of the district, and  
the conservation district governance.<sup>17</sup>

Although most of the state laws follow this general scheme, they vary in certain areas. A discussion of each section follows.

### ***Statements of purpose and policy of law***

The Model Law makes a legislative declaration about the condition of the state's lands, the consequences, the corrective methods, and a declaration of policy concerning the soil and natural resources and their conservation. The legislative determination and declaration of policy both are broadened in scope.

Most of the state laws follow this approach. However, there are some variations (table 1). Illinois, Kentucky, Massachusetts, Nevada, New Mexico, Oklahoma, Oregon, Rhode Island, South Dakota, Vermont, Virginia, Washington, Wisconsin, and Wyoming, a total of 14 states, extend their purpose and policy to include renewable natural resources. Alaska, Arizona, Colorado, and Michigan give only a declaration of policy. Moreover, Connecticut, Hawaii, Missouri, Ohio, and Tennessee do not even have the statement of purpose and the policy of law section.

### ***Organization of the state soil conservation committee***

The Model Law divides the organization of the state soil conservation committee into four subsections (table 1). They cover—  
name,

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<sup>17</sup>A STANDARD STATE SOIL CONSERVATION DISTRICTS LAW § 2 (U.S. Government Printing Office, 1936) (hereafter Model Law).

position within state government,  
membership and cooperation, and  
authorized activities.

Each of these subsections will be discussed in turn.

The Model Law suggests that the committee be called the State Soil Conservation Committee.<sup>18</sup> However, only 10 states (Colorado, Idaho, Iowa, Maryland, New Hampshire, New Jersey, North Dakota, Tennessee, Utah, and West Virginia) keep this particular name. Most other states change this name to reflect the broadened scope of the law. For example, Alabama, Arkansas, Florida, Georgia, Indiana, Louisiana, Maine, Minnesota, Mississippi, Nevada, New Mexico, New York, North Carolina, Ohio, Oregon, Texas, and Virginia, a total of 17 states, call this committee the State Soil and Water Conservation Commission. Eight states—Kansas, Kentucky, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Washington, and Wyoming call this committee the State Conservation Commission (or committee). Massachusetts calls this committee the Committee for Conservation of Soil, Water, and Related Resources.

The Model Law does not specify the committee's position within a state government. However, most state laws indicate their committees' position within a state government. For example, the state soil conservation commission of Idaho is created in the Department of Lands.<sup>19</sup> For North Carolina, the commission belongs to the Department of Natural and Economic Resources. Furthermore, for Alaska, California, Colorado, Delaware, Hawaii, Indiana, Minnesota, Montana, Nevada, Ohio, and Rhode Island, the committee's position is within the State Department of Conservation or Natural Resources.

The Model Law recommends that the committee consist of a chairman and between 3 to 5 members. Also, certain members shall serve in an ex officio capacity.<sup>20</sup> The total number of members varies from state to state, ranging from 3 to 13 members. For example, for Georgia, there are 5 committee members and 13 ex officio members; the Virginia committee has only 3 members and Ohio has 13. Moreover, the law of each state usually requires that the members must be appointed or elected, or both. Some state laws also require that these members be farmers or ranchers, officers of other state agencies, or district supervisors, or both. Most state laws also require that a number of individuals serve as advisors for the committee.

The Model Law provides that the committee members receive no compensation for services other than expenses such as traveling expenses.<sup>21</sup> Although most states follow this standard, 17 states—Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Nebraska, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Texas, Vermont, and Wisconsin—allow compensation in salaries in addition to expenses.<sup>22</sup>

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<sup>18</sup>Model Law § 4(A).

<sup>19</sup>Idaho Code § 4(A)

<sup>20</sup>Model Law § 4(A).

<sup>21</sup>Model Law § 4(C).

<sup>22</sup>For example, for Indiana, a supervisor is allowed to be paid a salary per diem for any part of a day that the supervisor is engaged in the official business of the supervisor's district. The Indiana Soil and Water Conservation Districts Act, IND. CODE § 13-3-1-7 (1990).

A number of authorized activities are provided for the state soil conservation committee throughout the Model Law. The authorized activities are as follows—

- assisting districts in preparing and carrying out programs,
- facilitating interchange of information between districts,
- reviewing and coordinating programs of districts,
- requesting state appropriations for state agencies and districts,
- receiving and distributing funds to districts,
- enlisting cooperation of state, Federal, and other agencies,
- making information available to the public, and
- providing for an annual audit of the accounts of receipts and disbursement.

Most states' committees have the authorized activities listed (page 11). However, a number of states extend their authorized activities to include reviewing agreement or agreement forms for district use,<sup>23</sup> facilitating arrangements for districts to serve as local operating agencies,<sup>24</sup> cooperating in coordination of other agencies' plans affecting renewable natural resources,<sup>25</sup> assisting in resolving conflicts of programs,<sup>26</sup> making studies and analyses of most states' committees have the authorized activities listed above. However, a number of states extend their authorized activities to include reviewing agreement or districts' programs,<sup>27</sup> carrying out state policies at state level for conservation of renewable natural resources, and representing the state in matters affecting such resources,<sup>28</sup> assisting districts in obtaining legal assistance,<sup>29</sup> requiring annual reports by districts,<sup>30</sup> and carrying out the same activities as districts.<sup>31</sup> In 1993, Mississippi amended the general duties and powers of commission provision to include among other powers, the authority to demonstrate to landowners and operators within the state the equipment that will demonstrate energy and soil and water conservation.<sup>32</sup>

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<sup>23</sup>Arizona, Florida, Illinois, Louisiana, North Dakota, Oklahoma, Oregon, Rhode Island, and Washington include this activity.

<sup>24</sup>Arizona, Arkansas, Kansas, Louisiana, Nevada, North Dakota, Oklahoma, Rhode Island, Washington, and Wyoming include this activity.

<sup>25</sup>Arkansas, California, Louisiana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Virginia, Washington, and Wisconsin include this activity.

<sup>26</sup>Arkansas, Colorado, Louisiana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Vermont, Virginia, Washington, Wisconsin, and Washington include this activity.

<sup>27</sup>Arkansas, California, Delaware, Florida, Louisiana, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, Washington, and Wisconsin include this activity.

<sup>28</sup>Arkansas, California, Louisiana, Nebraska, Nevada, North Dakota, Oklahoma, Rhode Island, South Carolina, South Dakota, Virginia, and Wyoming include this activity.

<sup>29</sup>California, Colorado, Delaware, Georgia, Oklahoma, Rhode Island, Washington, Wisconsin, and Wyoming include this activity.

<sup>30</sup>Alabama, Arizona, Arkansas, California, Colorado, Florida, Indiana, Kentucky, Louisiana, Minnesota, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, Wisconsin, and Wyoming include this activity.

<sup>31</sup>Alaska, Connecticut, Delaware, and Maine include this activity.

<sup>32</sup>Soil Conservation District Law, MISS. CODE ANN. § 69-27-13(k) (Supp. 1994).

Table 1. State conservation district law: purposes and policies of laws; state agency administration

State	Statement of purpose and policy of law						Administrator: State Soil Conservation Board or Commission												
							Name		Position in state government					Membership					
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	
Alabama	✓	✓	✓	✓			✓ <sup>b</sup>	✓						9				6	
Alaska			✓			✓ <sup>c</sup>				✓ <sup>c</sup>				3	3			3	
Arizona						✓ <sup>d</sup>						✓ <sup>e</sup>	✓ <sup>d</sup>						
Arkansas	✓	✓	✓	✓			✓ <sup>b</sup>					✓ <sup>f</sup>		7				7	
California	✓	✓	✓	✓			✓			✓				9				9	
Colorado			✓			✓				✓				9				1	8
Connecticut											✓ <sup>h</sup>		✓ <sup>h</sup>						
Delaware			✓	✓ <sup>h</sup>		✓ <sup>i</sup>				✓				7					
Florida	✓	✓	✓	✓					✓					9	9			9	
Georgia	✓		✓				✓ <sup>b</sup>	✓						5				5	
Hawaii						✓ <sup>k</sup>				✓									
Idaho	✓		✓			✓						✓ <sup>l</sup>		5				5	
Illinois			✓	✓	✓	✓ <sup>m</sup>			✓										
Indiana	✓	✓	✓	✓			✓ <sup>b</sup>			✓				9	✓	3	2	9	
Iowa		✓	✓			✓		✓						9	6		2	9	
Kansas	✓	✓	✓	✓			✓ <sup>o</sup>	✓						9		2		2	5
Kentucky		✓	✓	✓	✓		✓ <sup>o</sup>				✓			9				✓	
Louisiana	✓	✓	✓	✓			✓ <sup>b</sup>	✓						7	5	2		5	
Maine			✓	✓			✓ <sup>b</sup>	✓						11		5		2	✓
Maryland	✓		✓	✓		✓			✓					11		✓		5	
Massachusetts		✓			✓		✓ <sup>q</sup>				✓			7		3		✓	
Michigan			✓						✓					7	✓	3		✓	
Minnesota	✓		✓	✓			✓ <sup>b</sup>			✓				9		✓		5	
Mississippi	✓	✓	✓	✓			✓ <sup>b</sup>	✓						11		6			
Missouri							✓ <sup>w</sup>	✓						5	3	2		5	
Montana	✓		✓	✓						✓									
Nebraska		✓	✓	✓			✓ <sup>r</sup>	✓						15			1	3	12
Nevada	✓	✓	✓	✓	✓		✓ <sup>b</sup>			✓				9		2		7	
New Hampshire		✓	✓	✓		✓		✓						9		✓		5	
New Jersey			✓	✓		✓			✓					11		✓		2 <sup>p</sup>	6
New Mexico	✓	✓	✓	✓	✓		✓ <sup>b</sup>	✓						12				7	
New York			✓	✓			✓ <sup>b</sup>		✓					5	2		1	3	
North Carolina	✓	✓	✓	✓			✓ <sup>b</sup>					✓ <sup>x</sup>		7				1	
North Dakota			✓	✓		✓		✓						7				2	5
Ohio							✓ <sup>b</sup>			✓				7	2	2		✓	
Oklahoma	✓	✓	✓	✓	✓		✓ <sup>o</sup>	✓						5	3			5	
Oregon		✓	✓	✓	✓		✓ <sup>b</sup>	✓						7	5		2	7	
Pennsylvania			✓	✓			✓ <sup>o</sup>				✓			9	✓	3	2	6	
Rhode Island	✓	✓	✓	✓	✓		✓ <sup>o</sup>		✓					7		3 <sup>s</sup>		1	
South Carolina	✓	✓	✓	✓			✓ <sup>v</sup>	✓						5				5	
South Dakota		✓	✓		✓		✓ <sup>o</sup>		✓					9	✓	1	✓	8	
Tennessee						✓		✓						10	3	3			
Texas	✓	✓	✓				✓ <sup>b</sup>							5		✓			5
Utah	✓	✓	✓	✓		✓			✓					12		5		7	
Vermont			✓	✓	✓		✓ <sup>v</sup>				✓			7	✓	3		✓	
Virginia	✓	✓	✓	✓	✓		✓ <sup>b</sup>	✓						11-12	6	✓		7	
Washington	✓	✓	✓	✓	✓		✓ <sup>o</sup>	✓						7	3	2		2	3
West Virginia	✓	✓	✓	✓		✓		✓						7		✓		3	
Wisconsin		✓	✓	✓	✓		✓ <sup>t</sup>		✓					8	✓			✓	✓
Wyoming		✓	✓	✓	✓		✓ <sup>o</sup>	✓ <sup>o</sup>	✓					10		5			5

See column head explanations and footnotes on page following this table.

Table 1. State conservation district law: purposes and policies of laws; state agency administration—Continued.

Administrator: State Soil Conservation Board or Commission—Continued.																			
Membership				Authorized activities															
(19)	(20)	(21)	(22)	(23)	(24)	(25)	(26)	(27)	(28)	(29)	(30)	(31)	(32)	(33)	(34)	(35)	(36)	(36)	(38)
	6		✓	✓		✓			✓		✓						✓		✓ <sup>c</sup>
			✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓		✓		
			✓	✓		✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓		
			✓	✓		✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓		
✓	8		✓	✓		✓	✓	✓	✓				✓			✓	✓		✓ <sup>h</sup>
			✓	✓		✓	✓	✓	✓					✓			✓		✓
			✓	✓	✓	✓	✓	✓	✓							✓	✓		✓
13	5		✓	✓		✓	✓	✓	✓							✓	✓		
			✓	✓		✓	✓	✓	✓								✓		
3P			✓	✓		✓	✓	✓	✓								✓		
8P			✓	✓	✓	✓	✓	✓	✓								✓		
✓n		✓	✓	✓		✓	✓	✓	✓								✓		
2P		✓	✓	✓		✓	✓	✓	✓								✓		
2		✓	✓	✓		✓	✓	✓	✓	✓							✓		
5	9		✓	✓		✓	✓	✓	✓								✓		
✓P		✓	✓	✓	✓	✓	✓	✓	✓	✓							✓		✓
2	5		✓	✓		✓	✓	✓	✓								✓		✓
3			✓	✓		✓	✓	✓	✓								✓		
✓P		✓	✓	✓		✓	✓	✓	✓								✓		
	5	✓	✓	✓		✓	✓	✓	✓								✓		
2	5	✓	✓	✓		✓	✓	✓	✓					✓			✓		
			✓	✓		✓	✓	✓	✓					✓			✓		
13	12	✓	✓	✓		✓	✓	✓	✓				✓	✓	✓		✓		
			✓	✓		✓	✓	✓	✓	✓			✓	✓	✓		✓		
✓n,o	5		✓	✓		✓	✓	✓	✓	✓			✓	✓	✓		✓		
	6		✓	✓		✓	✓	✓	✓								✓		
5	6		✓	✓		✓	✓	✓	✓				✓				✓		
5		✓	✓	✓		✓	✓	✓	✓								✓		
✓P	6	✓	✓	✓		✓	✓	✓	✓								✓		
6		✓	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓		✓		✓
1			✓	✓		✓	✓	✓	✓								✓		
	5	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓		
3P		✓	✓	✓	✓	✓	✓	✓	✓				✓	✓	✓		✓		
2		✓	✓	✓	✓	✓	✓	✓	✓								✓		
9	3		✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓		
9	5		✓	✓		✓	✓	✓	✓								✓		
5P			✓	✓		✓	✓	✓	✓				✓		✓		✓		
	✓		✓	✓		✓	✓	✓	✓								✓		
5		✓	✓	✓		✓	✓	✓	✓								✓		
	7		✓	✓		✓	✓	✓	✓								✓		✓
✓P		✓	✓	✓		✓	✓	✓	✓				✓				✓		
✓P			✓	✓		✓	✓	✓	✓				✓		✓		✓		
	3		✓	✓	✓	✓	✓	✓	✓	✓			✓	✓		✓	✓		
✓P			✓	✓		✓	✓	✓	✓								✓		
5P	✓	✓	✓	✓		✓	✓	✓	✓				✓	✓		✓	✓		
✓P	5		✓	✓		✓	✓	✓	✓	✓			✓	✓	✓	✓	✓		

See column head explanations and footnotes on page following this table.

**Table 1 column headings**

- (1) Legislative declaration.
- (2) Broadened scope.
- (3) Declaration of policy.
- (4) Broadened program.
- (5) Extended to include renewable natural resources.
- (6) State Soil Conservation Committee.
- (7) Name changed to reflect broadened scope of law.
- (8) Independent agency.
- (9) Responsible to or associated with State Department of Agriculture or State university.
- (10) State Department of Conservation or Natural Resources.
- (11) State Environmental Department.
- (12) Other state department or agency.
- (13) Total number.
- (14) Farmers or ranchers.
- (15) Officers of other state agencies.
- (16) Urban or other nonfarmer representation required.
- (17) Appointed.
- (18) Elected.
- (19) Advisory.
- (20) District supervisors.
- (21) Compensation authorized in addition to expenses.
- (22) Assist districts to prepare and carry out programs.
- (23) Facilitate interchange between districts.
- (24) Review agreements or agreement forms for district use.
- (25) Review and coordinate programs of districts.
- (26) Request state appropriations for state agency and districts.
- (27) Receive and distribute funds to districts.
- (28) Enlist cooperation of state, federal and other agencies.
- (29) Facilitate arrangements for districts to serve as local operating agency.
- (30) Make information available to public.
- (31) Cooperate in coordination of other agencies' plans affecting renewable natural resources.
- (32) Help to resolve programs' conflicts.
- (33) Make studies and analyses of districts' programs.
- (34) Carry out states' policies at state level and represent state in matters concerning conservation of renewable natural resources.
- (35) Assist districts in obtaining legal assistance.
- (36) Require annual report by district.
- (37) Set up uniform accounting and auditing procedures for districts.
- (38) Carry out same activities as districts.

**Table 1 footnotes**

- a Includes conservation districts, soil and water conservation districts, etc.
- b State Soil and Water Conservation Commission.
- c Powers are in the Commissioner of Natural Resources; Soil Conservation Board advises the Commissioner and governs the district, which includes the entire state.
- d State Natural Resource Conservation Commission.
- e State Land Department.
- f Division of Soil and Water Resources, Department of Commerce.
- g State Resource Conservation Commission establishes policies for Division of Resource Conservation, the administering agency.
- h Powers are in the Commissioner of Environmental Protection who appoints council and establishes soil and water districts and boards.
- i Responsibility in the Division of Soil and Water Conservation, Department of Natural Resources and Environmental Control.
- j Ex officio.
- k Department of Land and Natural Resources.
- l Department of Lands.
- m Department of Agriculture exercises power.
- n Governor may appoint advisory members.
- o State Conservation Commission or committee.
- p Committee may invite Secretary of Agriculture to appoint a member.
- q Committee for Conservation of Soil, Water, and Related Resources.
- r Natural Resources Commission.
- s Includes two members of legislature.
- t Board of Soil and Water Conservation Districts.
- u State Land Resources Conservation Commission.
- v Natural Resources Conservation Council.
- w State Soil and Water Districts Commission.
- x Department of Natural and Economic Resources.



## *Conservation district organization*

The Model Law identifies the district as the Soil Conservation District.<sup>33</sup> Although a number of states maintain this identification (table 2),<sup>34</sup> most change the name to Soil and Water Conservation District,<sup>35</sup> Conservation District,<sup>36</sup> Natural Resources District,<sup>37</sup> or Resource Conservation District.<sup>38</sup>

The Model Law defines the district as a governmental subdivision of the state and a public body corporate and politic.<sup>39</sup> Most of the state enabling acts maintain this definition. However, Georgia and Maine define it as an agency of the state. Only Missouri defines it as a body corporate.

The Model Law provides that land occupiers—defined to include both owners and nonowning operators—may file a petition to the state to request creation of a conservation district. The state committee must hold hearings and cause a referendum to be voted by land occupiers. It only requires a majority, i.e. 51 percent, and vote in favor to create a district.

Although states generally follow this scheme, there are variations in the individuals permitted to file a petition, the individuals allowed to vote in the referendum, and the percentage of vote necessary to permit creation of a district. Eleven states—Alabama, Arizona, Arkansas, Florida, Illinois, Indiana, Mississippi, Nevada, North Carolina, Utah, and Washington—allow only landowners to petition and to vote. Some states, such as California, Colorado, Idaho, Montana, North Dakota, Oregon, and Washington, are even stricter because they allow only electors, i.e. qualified voters, to vote. For example, North Dakota law defines a *qualified voter* as a person of the age of 18 or older who is a United States citizen and who has resided in the state and in the precinct 30 days before any election, whether or not the person is living in a rural or urban area.<sup>40</sup> Clearly, this definition would exclude landowners that are not U.S. citizens.

Most follow the model rule in requiring a simple majority of votes to create a district. However, Alabama, Arkansas, South Dakota, and Texas require a two-thirds (67 percent) vote in favor of creation; Arizona, Iowa, and Ohio require 65 percent in favor; and West Virginia requires 60 percent. Two states—Arizona and New Jersey—are even stricter in the demand that the vote percentage figure must represent a certain percentage of acreage in the district. For example, in addition to the 65 percent vote requirement, Arizona demands that voting landowners must own not less than 50 percent of privately owned land lying within the proposed district.<sup>41</sup>

Four states—California, New York, Pennsylvania, and Wisconsin—allow the county governing body to organize conservation districts.

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<sup>33</sup>MODEL LAW § 5.

<sup>34</sup>Alaska, Arkansas, Colorado, Idaho, Iowa, Maryland, Michigan, New Jersey, North Dakota, Tennessee, Utah, and West Virginia.

<sup>35</sup>Alabama, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maine, Minnesota, Mississippi, Missouri, New York, North Carolina, Ohio, Oregon, South Carolina, Texas, Virginia, and Wisconsin.

<sup>36</sup>Arkansas, Kansas, Kentucky, Massachusetts, Montana, Nevada, New Hampshire, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Washington, and Wyoming.

<sup>37</sup>Arizona, Nebraska, New Mexico, and Vermont.

<sup>38</sup>California.

<sup>39</sup>MODEL LAW § 3(1), p.3.

<sup>40</sup>N.D. CENTURY CODE § 4-22-02(8) (Supp. 1994).

<sup>41</sup>ARIZ. REV. STAT. ANN. § 37-1035 (1993).

Table 2. Conservation district organization

State	District identification					District defined as			Power to create district							
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
Alabama		✓			✓	✓		✓	✓			✓	✓			67
Alaska	✓															
Arizona				✓ <sup>k</sup>			✓ <sup>g</sup>	✓	✓			✓	✓			65 <sup>b</sup>
Arkansas	✓		✓		✓	✓		✓	✓			✓	✓			67
California				✓ <sup>a</sup>					✓		✓	✓			✓	51
Colorado	✓					✓		✓	✓			✓	✓ <sup>j</sup>			51
Connecticut		✓						✓ <sup>c</sup>								
Delaware		✓			✓											
Florida		✓			✓	✓		✓	✓			✓	✓			51
Georgia		✓					✓ <sup>d</sup>	✓								
Hawaii		✓			✓	✓		✓		✓		✓		✓		51
Idaho	✓				✓	✓		✓	✓			✓			✓	51
Illinois		✓				✓			✓			✓	✓			51
Indiana		✓			✓	✓		✓	✓			✓	✓			51
Iowa	✓				✓	✓		✓	✓			✓	✓			65
Kansas			✓		✓	✓		✓		✓		✓		✓		51
Kentucky			✓		✓	✓		✓	✓			✓	✓			51
Louisiana		✓			✓	✓		✓	✓			✓	✓			51
Maine		✓				✓	✓ <sup>d</sup>	✓		✓		✓		✓		
Maryland	✓				✓	✓										
Massachusetts			✓					✓		✓						
Michigan	✓				✓	✓		✓		✓		✓		✓		51
Minnesota		✓			✓	✓		✓		✓		✓		✓		51
Mississippi		✓			✓	✓		✓	✓ <sup>h</sup>			✓	✓			51
Missouri		✓					✓ <sup>g</sup>	✓	✓ <sup>h</sup>			✓		✓ <sup>h</sup>		51
Montana			✓		✓	✓		✓ <sup>i</sup>		✓ <sup>j</sup>		✓			✓	51
Nebraska				✓ <sup>k</sup>	✓	✓		✓ <sup>l</sup>				✓				
Nevada			✓		✓	✓		✓		✓		✓		✓		51
New Hampshire			✓		✓	✓										
New Jersey	✓				✓	✓		✓	✓			✓	✓			51 <sup>b</sup>
New Mexico				✓ <sup>k</sup>	✓	✓		✓	✓			✓	✓			51
New York		✓									✓					
North Carolina		✓			✓	✓		✓		✓		✓	✓			51
North Dakota	✓				✓	✓		✓		✓ <sup>j</sup>		✓			✓	51
Ohio		✓			✓			✓	✓			✓		✓		65
Oklahoma			✓		✓	✓										
Oregon		✓			✓	✓		✓	✓			✓			✓	51
Pennsylvania			✓			✓					✓					
Rhode Island			✓		✓			✓ <sup>n</sup>								
South Carolina		✓			✓	✓		✓	✓			✓	✓			51
South Dakota			✓		✓	✓		✓	✓			✓	✓			67
Tennessee	✓				✓			✓	✓			✓	✓			51
Texas		✓			✓	✓		✓	✓			✓	✓			67
Utah	✓				✓	✓		✓		✓		✓		✓		51
Vermont				✓ <sup>k</sup>	✓	✓		✓	✓			✓	✓			51
Virginia		✓			✓	✓		✓	✓ <sup>o</sup>							
Washington			✓		✓	✓		✓		✓		✓			✓	51
West Virginia	✓				✓	✓		✓	✓			✓	✓			60
Wisconsin		✓			✓	✓		✓			✓					
Wyoming			✓		✓	✓		✓	✓			✓		✓		51

See column head explanations and footnotes at end of table.

Table 2. Conservation district organization—Continued.

District boundaries		Changes in boundaries and name					Subarea	Discontinuance		
(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)	(25)	(26)	(27)
✓		✓	✓	✓	✓	✓		3	✓	51
		✓	✓		✓			5 <sup>P</sup>	✓	65
		✓	✓		✓		✓	5	✓	51
		✓	✓		✓				✓	51
		✓	✓		✓		✓	3	✓	51
✓	✓	✓	✓		✓	✓			✓	67
✓ <sup>e</sup>		✓ <sup>e</sup>	✓ <sup>e</sup>		✓ <sup>e</sup>			5	✓	51
		✓	✓		✓				✓	51
		✓	✓	✓	✓			5	✓	51
		✓	✓	✓	✓	✓		3	✓	51
	✓			✓	✓			2	✓	51
		✓	✓		✓	✓		5	✓	65
		✓	✓		✓	✓			✓	51
		✓	✓	✓	✓			5	✓	67
		✓	✓	✓	✓			5	✓	51
✓	✓ <sup>f</sup>	✓	✓	✓	✓			5	✓	51
		✓	✓		✓				✓	51
		✓	✓	✓	✓			2	✓	51
		✓	✓	✓	✓		✓	5	✓	51
		✓	✓	✓	✓				✓	51
✓		✓	✓	✓	✓		✓		✓	51
✓	✓	✓	✓	✓	✓				✓	51
		✓	✓		✓				✓	51 <sup>b</sup>
	✓	✓	✓		✓	✓			✓	51
		✓	✓	✓	✓			5	✓	51
		✓	✓	✓	✓	✓		5	✓	51
		✓	✓	✓	✓		✓	5	✓	51
✓		✓	✓	✓	✓			5	✓	51
		✓	✓	✓	✓			5	✓	67
✓	✓	✓	✓	✓	✓			5	✓ <sup>m</sup>	51
		✓	✓		✓	✓		5	✓	51
		✓	✓		✓			5	✓	51
		✓	✓		✓			5	✓	51
		✓	✓	✓	✓			5	✓	51
		✓	✓	✓	✓			5	✓	51
✓	✓	✓	✓	✓	✓	✓		5	✓ <sup>m</sup>	51
		✓	✓	✓	✓			5	✓	51
		✓	✓	✓	✓			5	✓	51
		✓	✓	✓	✓			5	✓	51

See column head explanations and footnotes on next page.

**Table 2 Column head explanations**

- (1) Soil conservation district.
- (2) Soil and water conservation district.
- (3) Conservation district.
- (4) Other.
- (5) Governmental subdivision of state.
- (6) Public body corporate and politic.
- (7) Other.
- (8) Vested in state committee [board or commission].
- (9) Petition by owners.
- (10) Petition by owners and non-owning operators [occupiers].
- (11) Organized by county governing body.
- (12) Reference on creation of district.
- (13) Vote in referendum by owners.
- (14) Vote in referendum by owners and non-owning operators [occupiers].
- (15) Vote in referendum by electors.
- (16) Percentage of vote necessary to permit creation of district.
- (17) Established by state law.
- (18) Conterminous with county lines.
- (19) Provisions for adding territory.
- (20) Provisions for changing boundaries.
- (21) Provisions for including urban areas.
- (22) Provisions for changing name.
- (23) Subdistricts authorized.
- (24) Project areas authorized.
- (25) Years required after creation.
- (26) By petition and referendum.
- (27) Percentage of vote making discontinuance mandatory.

**Table 2 Footnotes**

- a Resource conservation district.
- b Required to represent certain percentage of acreage in district.
- c Required to represent a specified percentage of acreage in district.
- d Agency of the State.
- e Law fixed boundaries as of 7/1/73 with provisions for alteration.
- f Except Frederick County.
- g Body corporate.
- h Or land representatives.
- i Department of Natural Resources and Conservation.
- j Must be electors [qualified voters].
- k Natural resources district.
- l Specific number of districts and boundaries determined by state commission, not less than 16 nor more than 28.
- m Action of county board.
- n Committee determines whether district shall function.
- o Petition may be by voters, or by governing body of a district, county, or city.
- p Not more than once in 3 years thereafter.

Although the Model Law does not specify district boundaries, it provides for inclusion of territory.<sup>42</sup> Most states have this provision in addition to others, which allow change of boundaries, inclusion of urban areas, and change of the district's name. Furthermore, although the Model Law does not require that the boundaries be conterminous with county lines, Delaware, Indiana, Maryland (except Frederick County), New Hampshire, New York, Pennsylvania, Rhode Island, and Wisconsin require this.

The Model Law allows discontinuance of a district at any time from 5 years after the organization of the district if it is done by petition and referendum and obtains a majority vote (51 percent).<sup>43</sup> Although most states follow this scheme for discontinuance, there are variations. Alabama, Colorado, and Illinois require only a minimum of 3 years after organization; Indiana and Michigan require only 2 years. Instead of the required petition and referendum, Pennsylvania is unique because its law allows discontinuance action by the county board. Regarding the percentage of vote required for discontinuance, Florida, Kentucky, and Oregon require a 67 percent vote; Arizona, Iowa, and Ohio require 65 percent.

### *Functions and powers of the conservation districts*

The Model Law lists the following as district functions (table 3). The functions (items 1 through 11) follow:

- soil conservation
- drainage
- irrigation
- flood prevention
- water supply
- sediment prevention

Most states adopt these functions. However, there are a number of unique states. Although Alabama's district has only two functions, soil conservation and drainage, other functions-flood prevention, irrigation, and sediment prevention-are in the hands of its subdistricts. Missouri's district functions are similar to Alabama's, except that the function of drainage also belongs to Missouri's subdistricts. Some states extend this list of functions by including recreation<sup>44</sup> and soil and water pollution control. The Model Law lists a number of powers (items 12 through 34) entrusted to the conservation districts. These powers are:

- entering into contracts
- providing assistance
- constructing and maintaining structures
- acquiring and administering projects
- suing and being sued
- conducting surveys, investigation and research
- receiving money from the United States
- use regulations
- acquiring and disposing of property
- developing districtwide plans
- cooperating with other districts and maintaining structuresies
- imposing conditions for furnishing assistance
- adopting land
- receiving money from the state
- receiving income from property by sales<sup>45</sup>

<sup>42</sup>MODEL LAW § 5(H), p. 12.

<sup>43</sup>MODEL LAW § 15, p. 26.

<sup>44</sup>Most states' districts have this function.

<sup>45</sup>MODEL LAW § 8, p. 15.

Table 3. Functions, powers, and financing of conservation districts

State	Functions								Powers							
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
Alabama	✓	✓ <sup>a</sup>	✓	✓ <sup>a</sup>				✓ <sup>a</sup>	✓	✓	✓	✓	✓	✓		✓
Alaska	✓								✓		✓	✓	✓	✓		
Arizona	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓	✓		
Arkansas	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
California	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓	✓	✓	✓
Colorado	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓
Connecticut <sup>d/</sup>	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓ <sup>a</sup>	✓	✓	✓
Delaware	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		
Florida	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓
Georgia	✓	✓		✓					✓	✓	✓	✓	✓	✓		✓
Hawaii	✓							✓ <sup>e</sup>	✓	✓	✓	✓	✓	✓		
Idaho	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓
Illinois	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓
Indiana	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓
Iowa	✓	✓	✓ <sup>a</sup>					✓	✓	✓	✓	✓	✓	✓		
Kansas	✓	✓	✓	✓					✓	✓	✓	✓	✓	✓		✓
Kentucky	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓
Louisiana	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓	✓	✓		✓
Maine	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓
Maryland	✓	✓	✓	✓				✓	✓	✓	✓	✓	✓	✓		✓
Massachusetts	✓	✓	✓	✓	✓	✓			✓ <sup>g</sup>	✓	✓	✓	✓			
Michigan	✓	✓						✓	✓	✓	✓	✓	✓	✓		✓
Minnesota	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Mississippi	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓	✓	✓		✓
Missouri	✓	✓ <sup>a</sup>	✓ <sup>a</sup>	✓ <sup>a</sup>	✓ <sup>a</sup>			✓ <sup>a</sup>	✓	✓	✓	✓	✓ <sup>a</sup>	✓		
Montana	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓
Nebraska	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Nevada	✓			✓					✓	✓	✓	✓	✓	✓	✓	✓
New Hampshire	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓	✓	✓		✓
New Jersey	✓	✓							✓	✓	✓	✓	✓	✓		✓
New Mexico	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓
New York	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓
North Carolina	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓
North Dakota	✓	✓							✓	✓	✓	✓	✓	✓		✓
Ohio	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓
Oklahoma	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Oregon	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓
Pennsylvania	✓	✓	✓	✓					✓	✓	✓	✓	✓	✓		✓
Rhode Island	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
South Carolina	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓
South Dakota	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓
Tennessee	✓	✓	✓	✓					✓	✓	✓	✓	✓	✓		✓
Texas	✓			✓					✓	✓	✓	✓	✓	✓		✓
Utah	✓	✓	✓	✓				✓	✓	✓	✓	✓	✓	✓		✓
Vermont	✓	✓	✓						✓	✓	✓	✓	✓	✓		✓
Virginia	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓
Washington	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
West Virginia	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓
Wisconsin	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓
Wyoming	✓	✓	✓	✓				✓	✓	✓	✓	✓	✓	✓	✓	✓

Explanations for column heads and footnotes appear at the end of table.

Table 3. Functions, powers, and financing of conservation districts —Continued

Powers—Continued									Financing sources			Financing powers					
(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)	(25)	(26)	(27)	(28)	(29)	(30)	(31)	(32)	(33)	(34)
	✓	✓ <sup>a</sup>		✓				✓		✓	✓	✓		✓ <sup>a</sup>	✓ <sup>a</sup>		
✓	✓							✓		✓	✓	✓					
✓	✓	✓		✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓ <sup>c</sup>
✓	✓	✓ <sup>b</sup>		✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	
✓	✓	✓		✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
✓	✓	✓ <sup>b</sup>		✓	✓ <sup>e</sup>	✓ <sup>e</sup>	✓ <sup>e</sup>	✓		✓	✓	✓	✓	✓		✓	
✓	✓				✓ <sup>e</sup>			✓	✓	✓	✓	✓	✓				
✓	✓	✓	✓	✓				✓	✓	✓	✓	✓	✓ <sup>a</sup>	✓ <sup>a</sup>	✓ <sup>a</sup>		
✓	✓	✓ <sup>a</sup>		✓ <sup>f</sup>	✓ <sup>f</sup>		✓	✓	✓	✓	✓	✓	✓ <sup>a</sup>	✓ <sup>a</sup>	✓ <sup>a</sup>		
✓	✓	✓ <sup>b</sup>		✓				✓	✓	✓	✓	✓	✓ <sup>a</sup>	✓ <sup>a</sup>	✓ <sup>a</sup>	✓	✓
✓	✓		✓	✓	✓ <sup>e</sup>	✓ <sup>e</sup>	✓ <sup>e</sup>	✓	✓	✓	✓	✓		✓	✓		
✓	✓				✓ <sup>e</sup>	✓ <sup>e</sup>	✓ <sup>e</sup>	✓	✓	✓	✓	✓	✓	✓	✓		
✓	✓	✓ <sup>a</sup>		✓				✓	✓	✓	✓	✓	✓ <sup>a</sup>	✓ <sup>a</sup>	✓ <sup>a</sup>		
✓	✓	✓		✓	✓ <sup>e</sup>	✓ <sup>e</sup>	✓ <sup>e</sup>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
✓	✓	✓		✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
✓	✓	✓	✓	✓	✓ <sup>e</sup>	✓ <sup>e</sup>	✓ <sup>e</sup>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
✓	✓	✓ <sup>a</sup>	✓	✓	✓ <sup>e</sup>	✓ <sup>e</sup>	✓ <sup>e</sup>	✓	✓	✓	✓	✓	✓	✓ <sup>a</sup>	✓ <sup>a</sup>	✓ <sup>a</sup>	
✓	✓				✓ <sup>e</sup>	✓ <sup>e</sup>	✓ <sup>e</sup>	✓	✓	✓	✓	✓	✓	✓	✓		✓
✓	✓	✓		✓				✓	✓	✓	✓	✓	✓	✓	✓		
✓	✓	✓ <sup>a</sup>	✓	✓	✓ <sup>e</sup>	✓ <sup>e</sup>	✓ <sup>e</sup>	✓	✓	✓	✓	✓	✓ <sup>a</sup>	✓ <sup>a</sup>	✓ <sup>a</sup>		✓
✓	✓				✓ <sup>e</sup>	✓ <sup>e</sup>	✓ <sup>e</sup>	✓	✓	✓	✓	✓	✓	✓	✓		
✓	✓	✓		✓				✓	✓	✓	✓	✓	✓	✓ <sup>b</sup>			
✓	✓	✓		✓				✓	✓	✓	✓	✓	✓	✓			
✓	✓	✓ <sup>a</sup>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓ <sup>a</sup>	✓ <sup>a</sup>	✓ <sup>a</sup>		
✓	✓	✓		✓				✓	✓	✓	✓	✓	✓	✓		✓	
✓	✓	✓ <sup>a</sup>		✓				✓	✓	✓	✓	✓	✓ <sup>a</sup>	✓ <sup>a</sup>	✓ <sup>a</sup>		

Explanations for column heads and footnotes appear on next page.

**Table 3 column headings**

- (1) Soil conservation.
- (2) Flood prevention.
- (3) Drainage.
- (4) Irrigation.
- (5) Recreation.
- (6) Water supply.
- (7) Pollution control.
- (8) Sediment prevention.
- (9) Enter into contracts.
- (10) Acquire and dispose of property.
- (11) Provide assistance.
- (12) Develop district wide plants.
- (13) Construct and maintain structures.
- (14) Cooperate with other districts and agencies.
- (15) Cooperate with districts in other states.
- (16) Acquire and administer projects.
- (17) Impose condition for furnishing assistance.
- (18) Sue and be sued.
- (19) Exercise its public powers.
- (20) Review subdivision or other earth-moving plans.
- (21) Adopt land-use regulations.
- (22) Carry out state/county erosion and sediment control program.

- (23) Adopt erosion and sediment control plans.
- (24) Enforcement provision in erosion and sediment control program.
- (25) Conduct surveys, investigations and research.
- (26) Receive money from a county.
- (27) Receive money from the state.
- (28) Receive money from the United States.
- (29) Receive income from property.
- (30) Levy taxes and assessments.
- (31) Borrow money.
- (32) Issue bonds.
- (33) Receive matching funds.
- (34) Receive revolving funds.

**Table 3 footnotes**

<sup>a</sup> Power in subdistricts.

<sup>b</sup> Power limited.

<sup>c</sup> Development fund.

<sup>d</sup> Powers are vested in Commissioner of Environmental Protection, who has authority to establish districts.

<sup>e</sup> Authority for this activity is granted in a state law other than the district law.

<sup>f</sup> Districts are required to establish and enforce soil loss limits.

<sup>g</sup> No real property.



Most states give similar powers to their districts. However, 10 states—Arkansas, California, Connecticut, Minnesota, Nebraska, Nevada, Oklahoma, Rhode Island, Washington, and Wyoming—allow districts to cooperate with districts in other states. Nineteen states—Alabama, Arkansas, Colorado, Connecticut, Georgia, Illinois, Iowa, Kentucky, Missouri, Nebraska, New Jersey, New Mexico, North Carolina, Oklahoma, South Carolina, Virginia, West Virginia, Wisconsin, and Wyoming—permit the districts to exercise public powers.<sup>46</sup> Among these states, the public powers of Colorado, Georgia and Kentucky are limited.<sup>47</sup>

Illinois, Maryland, New Mexico, South Carolina, and Virginia are special because the state laws allow the districts to review subdivision or other plans. Virginia is the only state that allows the districts to carry out state/county erosion and sediment control programs, to adopt erosion and sediment control plans, and to have an enforcement provision in erosion and sediment control programs.<sup>48</sup> California and Nebraska are unique in that they allow districts to have further powers such as levying taxes and assessments, borrowing money, issuing bonds, receiving matching funds, and receiving revolving funds.

### *Conservation district governance*

Although most states follow the Model Law by identifying the governing body members as supervisors, a number of states identify the members as directors<sup>49</sup> or commissioners (table 4).<sup>50</sup> The Model Law provides that the governing body of the district consists of five elected or appointed supervisors.<sup>51</sup> Most states follow this scheme. Three states are unique—California, Kentucky, and Pennsylvania. In 1992, California added some provisions that allowed Resources Conservation Districts (RCD's) to have elected or appointed five, seven, or nine directors rather than being limited to just five directors per board. These directors are to be elected or appointed by division within each district.<sup>52</sup> Kentucky and Pennsylvania call for seven supervisors. Contrary to the Model Law's suggestion that a vacancy is filled as the retiring member was selected,<sup>53</sup> most states require vacancies to be filled by appointment.

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<sup>46</sup>The term "public powers" denotes the governmental power to take private property for public use. For an example of "public powers" authorization, see Soil and Water Conservation District Law, N.C. GEN. STAT. § 139-8 (1992).

<sup>47</sup>For an example of a state with limited power authorization, see COLO. REV. STAT. CODE, art. 70, § 35-70-108(1) (1989). This power is limited in the sense that it is subjected to rules, regulations, and bylaws adopted by district or special meeting called by qualified voters. *Id.*

<sup>48</sup>Georgia, Maryland, Michigan, Montana, New Jersey, North Carolina, Pennsylvania, South Carolina, and South Dakota, have these three similar powers. However, the authority for these powers is contained in state laws other than the district laws.

<sup>49</sup>Arkansas, California, Hawaii, Illinois, Michigan, Nebraska, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, and Virginia use the term "director".

<sup>50</sup>The states using the term "commissioner" in lieu of "supervisor" are: Iowa, Mississippi, and South Carolina.

<sup>51</sup>MODEL LAW § 7, p. 14.

<sup>52</sup>Resource Conservation, CAL. PUBL. RES. CODE § 9301 (West 1977 & Supp. 1995).

<sup>53</sup>The states which follow the model rule in filling vacancies are: Georgia, Hawaii, Indiana, Iowa, Maine, Nevada, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, and Wisconsin.

Table 4. Conservation district governance

State	Governing body member know as—				Selection and qualification of governing body members								Vacancies filled
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	
Alabama	✓			5 <sup>a</sup>				5	✓				✓
Alaska	✓ <sup>b</sup>					5					5		
Arizona	✓			2 <sup>c</sup>		3				5			✓
Arkansas		✓		2		3				3			✓
California		✓			5 <sup>x</sup>				5 <sup>e</sup>				✓
Colorado	✓			2		3			3				✓
Connecticut	✓ <sup>g</sup>												
Delaware	✓			2		4	✓ <sup>h</sup>						✓
Florida	✓				5					5			✓
Georgia	✓			✓ <sup>i</sup>		✓ <sup>j</sup>						✓	
Hawaii		✓		2		3						✓	
Idaho	✓					✓ <sup>v</sup>			✓ <sup>g</sup>				✓
Illinois		✓				✓ <sup>v</sup>			5				✓
Indiana	✓			2		3						✓	
Iowa			✓			5				5		✓	
Kansas	✓			2		3				5	5		✓
Kentucky	✓				7		3						✓
Louisiana	✓			2		3			5	5	5		✓
Maine	✓			2		3						✓	
Maryland	✓			5									✓
Massachusetts	✓					5					5		✓
Michigan		✓				5							✓
Minnesota	✓				5					5			✓
Mississippi			✓	2		3							✓
Missouri	✓			✓ <sup>u</sup>		4					4 <sup>k</sup>		✓
Montana	✓			2		5	2						✓
Nebraska		✓			5-12 <sup>l</sup>								✓
Nevada	✓			1-2		5	1-2			5		✓	
New Hampshire	✓			5 <sup>c</sup>							5		✓
New Jersey	✓			3-5					3-5				✓
New Mexico	✓			2		5		4	4				✓
New York		✓		5			1					✓	
North Carolina	✓			2 <sup>o</sup>	3								✓
North Dakota	✓			2 <sup>p</sup>	3						3		✓
Ohio	✓					5						✓	✓
Oklahoma		✓		2		3				3			✓
Oregon		✓			5-7			3-5	3-5		1-2		✓
Pennsylvania		✓		7			2-4					✓	
Rhode Island		✓		5							5	✓	
South Carolina			✓	2		3				3			✓
South Dakota	✓				5		1		1		3		✓
Tennessee	✓			2		3						✓	
Texas		✓				5		5	5				✓
Utah	✓			2		3							✓
Vermont	✓					5				5			✓
Virginia		✓		2	3 <sup>f</sup>					3			✓
Washington	✓			2		3			3				✓
West Virginia	✓			2		✓ <sup>s</sup>			2				✓
Wisconsin	✓			✓ <sup>t</sup>								✓	
Wyoming	✓				5		1		3	1			✓

Explanations of column heads and footnotes appear at end of this table.

Table 4. Conservation district governance—Continued

Eligibility to nominate and vote					Term of office					Governing body functions			
(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)	(25)	(26)	(27)
		✓		3		✓	✓				✓		
			✓	2	6	✓	✓	✓	✓		✓		✓
			✓ <sup>d</sup>	3	3	✓	✓			✓ <sup>f</sup>	✓		
			✓ <sup>d</sup>	4	4	✓			✓		✓	✓	
				2	3	✓				✓	✓		
				3	4		✓		✓				
			✓	2	3	✓	✓				✓		
		✓		3	3	✓							
					4	✓	✓				✓		
		✓			2	✓	✓				✓	✓	✓
		✓				✓	✓				✓		
			✓			✓	✓			✓	✓ <sup>q</sup>		
		✓		3	3	✓	✓				✓		
			✓		4	✓	✓						✓
			✓	3	3	✓	✓		✓		✓		✓
			✓	3	3	✓	✓			✓	✓		✓
				4			✓	✓			✓		✓
	✓	✓			5	✓					✓		✓
			✓		3	✓	✓		✓		✓		✓
	✓				3	✓	✓		✓	✓ <sup>f</sup>	✓		✓
✓				3	3	✓	✓		✓		✓		✓
	4 <sup>k</sup>				4	✓					✓		
			✓	3	3		✓		✓	✓	✓		
			✓		4	✓	✓		✓		✓		
	✓			2	4	✓	✓	✓	✓		✓		
				3		✓	✓				✓		
				3		✓	✓				✓		
			✓ <sup>m</sup>			✓	✓						✓
✓				1	3				✓		✓		
			✓ <sup>n</sup>			✓	✓	✓			✓		✓
			✓	4	4	✓	✓			✓	✓		✓
			✓	1	6	✓	✓			✓	✓		✓
	✓				3	✓	✓		✓		✓		
			✓	2	3	✓	✓		✓	✓	✓		✓
			✓		4	✓	✓	✓	✓	✓	✓		✓
		✓		4 <sup>w</sup>		✓	✓			✓	✓		✓
				3	3	✓	✓		✓	✓	✓	✓	
			✓	3	3	✓	✓		✓	✓	✓		✓
				3	3	✓	✓			✓	✓		✓
			✓		4	✓	✓			✓	✓		✓
			✓	3	3	✓	✓			✓	✓		✓
			✓	3	3	✓	✓			✓	✓		✓
				3	3	✓	✓			✓	✓		✓
			✓	2		✓	✓			✓	✓		✓

Explanations of column heads and footnotes appear on next page.

**Table 4 column headings**

- (1) Supervisors.
- (2) Directors.
- (3) Commissioners.
- (4) Appointed (number).
- (5) Elected at general election (number).
- (6) Elected at special election (number).
- (7) Representatives of urban or non-farm interests (number).
- (8) Representative of designated areas (number).
- (9) Landowners (number).
- (10) Electors.
- (11) Land occupiers (number).
- (12) As retiring member was selected.
- (13) By appointment.
- (14) Owners.
- (15) Owners and non-owning operators.
- (16) Occupiers.
- (17) Electors.
- (18) Appointed members (years).
- (19) Elected members (years).
- (20) Terms expire at different times.
- (21) Removal for misfeasance, malfeasance, nonfeasance.
- (22) Removal for failure to attend meetings.
- (23) Governing body to organize annually and elect chairman among members.
- (24) May call on state commissioner or attorney general for legal services.
- (25) Governing body to provide annual audit.
- (26) Governing body may appoint advisory committees for coordination with other agencies.
- (27) Governing body may receive compensation in addition to expenses.

**Table 4 footnotes**

- <sup>a</sup> One member to represent each county, but not less than five.
- <sup>b</sup> Governing body of subdistricts created by Commissioner of Natural Resources.
- <sup>c</sup> Additional advisory members may be appointed.
- <sup>d</sup> Must also be landowner or agent of landowner who resides in the district.
- <sup>e</sup> Or agent of landowner who resides in the district.
- <sup>f</sup> May call on county attorney.
- <sup>g</sup> The Commissioner of Environmental Protection is authorized to issue.
- <sup>h</sup> In two districts, four elected must be farmers; in third district, two elected must be farmers, two must be nonfarmers.
- <sup>i</sup> One for each county in district, except two appointed for single county district.
- <sup>j</sup> One elected for each county in district, but not less than three for each district.
- <sup>k</sup> Land representative resident tax paying citizen.
- <sup>l</sup> Number determined by state commission.
- <sup>m</sup> Serve at pleasure of state committee.
- <sup>n</sup> Two serve 1 year, 3 serve 3 years.
- <sup>o</sup> One additional supervisor may be appointed in districts composed of 4 or more counties.
- <sup>p</sup> The elected supervisor appoints two supervisors.
- <sup>q</sup> Biennially.
- <sup>r</sup> Increased if district contains more than 1 county or city.
- <sup>s</sup> One from each county or portion of a county in district, plus 1 for county or portion thereof having over 800 cooperators.
- <sup>t</sup> County Agriculture and Extension Education Committee and not more than two additional persons appointed by the County Board of Supervisors.
- <sup>u</sup> One ex officio member, the county agricultural extension agent.
- <sup>v</sup> Or occupiers, farmers, operators.
- <sup>w</sup> Except 1 county commissioner who serves 1 year.
- <sup>x</sup> RCD's may elect or appoint 5, 7, or 9 directors per board.

The Model Law provides that each supervisor serves for a term of 3 years. However, the supervisors who are first appointed are designated to serve for terms of 1 and 2 years respectively. The terms expire at different times, and supervisors may be removed for neglect of duty or malfeasance in office, not any other reason. Although most state laws follow this design, there are a few variations regarding terms of office and cause for removal. For example, Arizona, Iowa, Minnesota, and North Dakota allow the elected members to serve for 6 years; Illinois law allows the elected members to serve for only 2 years. In addition, Arizona, Maryland, Nevada, New York, Oregon, and Pennsylvania provide that failure to attend meetings in conjunction with malfeasance or nonfeasance, or both, can be cause for removal.

The Model Law lists a number of governing body functions for the district. They are—

- the governing body must organize annually and elect a chairman among its members,
- the district can call on the state commissioner or attorney general for legal services,
- the governing body must provide an annual audit, and
- the governing body can appoint an advisory committee for coordination with other agencies.

Most states follow the majority of these governing body functions. Contrary to the model rule, a few states provide that the governing body may receive compensation in addition to expenses.<sup>54</sup> California is unique in a sense because although the RCD directors are not allowed to receive compensation for their services, the law provides that the RCD's may properly use their funds to pay premiums for major medical group insurance plans for the directors through the *California Special District Associations*.<sup>55</sup>

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<sup>54</sup>Arizona, Illinois, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, North Carolina, South Dakota, Texas, Utah, Vermont, West Virginia, and Wisconsin.

<sup>55</sup>Resource Conservation Law, CAL. PUBL. RES. CODE § 9303 (West 1977).

## Soil and water conservation laws in selected counties

**York County, Pennsylvania (region 1).**—No known county laws affect conservation in the county of York, Pennsylvania.<sup>56</sup>

**Otoe County, Nebraska (region 5).**—Because Otoe County belongs to Nemaha Natural Resource District (NRD), Otoe County is subject to the Soil and Water Conservation Program (SWCP) adopted by the Nemaha NRD. Under this program, all SWCP/NRD cost-share program funds are distributed as a percentage to each county according to land treatment plan as identified through the Natural Resources Conservation Service field office support computer program. Moreover, it allows the manager of the NRD to redistribute unobligated SWCP funds by October 1 of each year to use SWCP funds in a timely manner.

Under this program, any landowner—whether as an individual, a partnership, a corporation, or other legal entity—within the Nemaha NRD is eligible to apply for SWCP funds. If a landowner's application is approved, the District will pay 50 percent of the county average for that particular activity or 50 percent of actual cost, whichever is less. Moreover, the landowner is eligible to receive a maximum of \$3,500 within any program year. Such landowner may also apply for additional funds. If the requested overruns are for \$2,000 and under, the manager may approve it automatically; however, if the overruns are more than \$2,000, the landowner must complete a form and send it to the district for approval. If land is sold after it has been approved for SWCP funds, the new landowner may use those funds if the installation work has not been started.

The district program categorizes practices into eligible and ineligible practices. Eligible practices are further categorized into high and low priority practices. High priority practices include—

- standard broad base (gradient) terraces,
- push-up-broad base terraces,
- cut and fill and narrow base terraces,
- cost-share on all other NRCS terrace systems (parallel, or non-NRCS recommended storage terraces) will receive the cost-share rate of a standard broad based,
- grassed waterways,
- rile terrace system,
- diversions and storage diversions with underground outlet,
- establishing trees and shrubs, warm or cool season grasses on cropland, and
- installation of terraces on land coming out of CRP.

Low priority practices include—

- rebuilding obsolete/nonfunctional terrace system over 10 years old,
- planned grazing system, and
- irrigation water reuse pits.

<sup>56</sup>Letter from William H. Clifton, District Conservationist, York Field Office to Liu Chuang, Natural Resource Inventory Division, dated August 14, 1995 (on file with Liu Chuang).

Nemaha NRD has different cost-share guidelines for different types of conservation. Each shall be discussed in turn.

***Nemaha NRD Cost-share Guideline for Tree Planting.***—The guideline specifies that SWCP cost-share assistance applies only to the Nemaha NRD trees, shrubs, and planting. It does not apply to site preparation or chemical weed control. The cost-share funds for trees and shrubs may be combined with other Federal, state, and local cost-share moneys. It is required that eligible plantings must have a minimum row length of 500 feet or equivalent, must consist of at least 3 rows, and contain a minimum of three species of trees or shrubs, or both. Site preparation on ground that is in sod must be completed in the fall/winter prior to January 1 of the year in which trees are to be planted. Weeds must be controlled at least 3 feet on both sides of tree and shrub rows during the first 3 years after planting. In addition, eligible planting must be for windbreaks, wildlife enhancement, or CRP acres. Trees may not be resold with the roots attached.

***Guidelines for Planned Grazing Systems under SWCP.***—The guidelines that are applicable to all planned grazing systems in all areas of the Nemaha NRD are as follows:

- Planned grazing systems must have at least 80 acres of connecting grassland to be developed into at least 2 grazing cells with planned rest periods.
- Applicants must have a planned grazing system for a minimum of 10 years developed by the NRCS.
- Applicants are required to sign a 10-year cost-share agreement with the Nemaha NRD.
- All approved cost-share items must meet NRCS specifications.
- CRP lands are not eligible for State SWCP funds.
- The amount and type of eligible practices used will be determined by the overall grazing system plan and the most cost effective alternative available.
- Cost-share on eligible practices must be based on 50 percent of actual or county average costs, whichever is less. A landowner is eligible to receive up to \$3,500 within any program year.

The guideline provides that eligible cost-share practices for planned grazing systems include—

cross fencing (only fencing designed to facilitate cell division, not boundary fences, is eligible for cost-share),

livestock water dugouts (must be sized by daily animal needs and meet Nebraska Engineering Handbook Standards),

livestock well installation (livestock wells will be sized to provide a maximum of 15 animals within each cell; no cost-share is available for domestic, irrigation wells or well test holes),

livestock water tanks (only tanks with a concrete base are eligible),

livestock water pipeline installation, and  
spring development.

***Nemaha NRD Watershed Structure Cost-Share Program.***—This program was created with the purpose of encouraging landowners and counties in the district to construct structures that provide grade stabilization, flood control, erosion and sediment control, road protection, livestock water, recreation, and wildlife habitat.

Under this program, the NRD cost-share assistance will be no less than 25 percent or more than 75 percent of the project not exceeding \$50,000. The district must evaluate each project to determine the specific cost-share rate. Eligible practices include watershed structures, county roads, dams, water and sediment control basins, and farm ponds. Eligible project costs include site preparation, construction, engineering, and inspection costs during construction, seeding the dam and emergency spillway, and fencing when required.

Moreover, a watershed structure may also qualify as a floodwater control structure and be eligible for cost-share above the 50 percent limit if a number of criteria are satisfied, including—

the structure site must have a minimum of 100 acres of drainage;

the structure must control either a 25-year, 24-hour frequency rainstorm or have a release rate of not more than 20 CFS per square mile; and

landowners will be required to donate land rights (easements).

***Nemaha NRD Abandoned Well Program.***—In August 1994, the Nemaha NRD Board of Directors adopted some changes to the Abandoned Well Program. Under the new Abandoned Well Program, the cost-sharing assistance rate is 75 percent, with a maximum cost-share amount of \$300 for cased wells and \$700 for hand-dug wells. All wells are required to be decommissioned by a licensed water well contractor or pump installation contractor. Moreover, the person decommissioning the well must sign a notarized affidavit that the well is properly decommissioned.