

CHAPTER 611

S.B. No. 229

An Act relating to voters in and dissolution of soil and water conservation districts and the operation, powers, duties, and continuation of the State Soil and Water Conservation Board; amending the Agriculture Code, as amended, by adding Sections 201.0141, 201.0151, 201.0191, 201.0231, 201.005, 201.026, and 201.0511; by amending Subsection (a), Section 201.015; Subsection (a), Section 201.022; Subsection (b), Section 201.023; Subsection (d), Section 201.001; Subsections (c) and (d), Section 201.013; Subsection (a), Section 201.023; Subsection (a), Section 201.073; Subsections (b), (c), and (d), Section 201.074; and Subsections (b) and (c), Section 201.080; and by amending Sections 201.019, 201.020, 201.025, 201.075, 201.002, 201.003, and 201.051.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsection (d), Section 201.001, Agriculture Code, is amended to read as follows:

“(d) It is the policy of the legislature to provide for the conservation of soil and *related* [soil] resources of this state and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state, and thus to carry out the mandate expressed in Article XVI, Section 59a, of the Texas Constitution. It is further declared as a matter of legislative intent and determination of policy

that the *State Soil and Water Conservation Board* is the state agency responsible for implementing the constitutional provisions and state laws relating to the conservation and protection of soil resources [~~agencies created, powers conferred, and activities contemplated in this chapter for the conservation of soil and water resources and for the reduction of public damage resulting from failure to conserve those natural resources, are supplementary and complementary to the work of various river and other authorities in this state and to other state officers, agencies, and districts engaged in closely related projects, and shall not duplicate or conflict with that work.~~]

SECTION 2. Subchapter A, Chapter 201, Agriculture Code, is amended by amending Sections 201.002 and 201.003 and adding Section 201.005 to read as follows:

"Section 201.002. DEFINITIONS. In this chapter:

"(1) 'Conservation district' means a soil and water conservation district.

"(2) 'Director' means a member of the governing board of a conservation district.

"(3) 'Family farm corporation' means a farm corporation all shareholders of which are related to each other within the second degree by consanguinity or affinity.

"(4) 'Federal agency' includes the Soil Conservation Service of the United States Department of Agriculture and any other agency or instrumentality of the federal government.

"(5) [(4)] 'Occupier' means a person who is in possession of land lying within a conservation district, either as lessee, tenant, or otherwise.

"(6) [(5)] 'State agency' includes a subdivision, agency, or instrumentality of the state.

"(7) [(6)] 'State board' means the State Soil and Water Conservation Board.

"(8) [(7)] 'State district' means a district established under Section 201.012 of this code.

"Section 201.003. ELIGIBLE VOTER. (a) A person is eligible to vote in an election under this chapter if the person:

"(1) is an individual who holds title to farmland or ranchland lying within a conservation district, a conservation district proposed by petition, or territory proposed by petition for inclusion within a conservation district, as applicable;

"(2) is 18 years of age or older; and

"(3) is a resident of a county all or part of which is included in the conservation district, the conservation district proposed by petition, or the territory proposed for inclusion, as applicable.

"(b) *If a family farm corporation owns farmland or ranchland in a conservation district, in a proposed conservation district, or in territory proposed for inclusion in a conservation district, the corporation is entitled to one vote in each election under this chapter that would affect the land owned by the corporation. The corporation shall designate one corporate officer to vote for the corporation in the election. The designated officer must be:*

"(1) 18 years of age or older; and

"(2) a resident of a county all or part of which is included in the conservation district, the proposed conservation district, or the territory proposed for inclusion in a conservation district."

"Section 201.005. WATER CODE NOT APPLICABLE. Section 12.081, Water Code, does not apply to a conservation district created under this chapter."

SECTION 3. Subsections (c) and (d), Section 201.013, Agriculture Code, are amended to read as follows:

"(c) *After receiving notice of the location of the convention [No later than the 10th day after the date that notice of the location of the convention is received], the chairman of each board of directors shall call a meeting for the purpose of electing a delegate and an alternate to the state district convention. In order to serve as a delegate or an alternate, a person must be an eligible voter of the conservation district and actively engaged in farming or ranching.*

"(d) *The chairman of a board of directors shall certify the name and address of the delegate and the alternate to the state board not later than the 30th day before the date of the convention [10th day after the date of their selection].*"

SECTION 4. Subsection (a), Section 201.023, Agriculture Code, is amended to read as follows:

"(a) *Except as provided by Section 201.080 of this code, the [The] state board shall deposit all money and securities received by it in the state treasury to the credit of a special fund known as the state soil conservation fund. That fund shall be appropriated to the state board for use in the administration of this chapter and is subject to the same care and control while in the state treasury as other funds of the state.*"

SECTION 5. Subchapter B, Chapter 201, Agriculture Code, is amended by adding Section 201.026 to read as follows:

“Section 201.026. NONPOINT SOURCE POLLUTION. The state board shall plan, implement, and manage programs and practices for abating agricultural and silvicultural nonpoint source pollution.”

SECTION 6. Subchapter C, Chapter 201, Agriculture Code, is amended by amending Section 201.051 and adding Section 201.0511 to read as follows:

“Section 201.051. DISSOLUTION OF CONSERVATION DISTRICT. (a) A conservation district may be dissolved by majority vote of the eligible voters in an election conducted in the manner provided by this subchapter for its creation. The board of directors of the conservation district shall notify the state board of the outcome of an election under this section.

“(b) On receiving notice of a vote to dissolve a conservation district, the state board shall determine whether the conservation district should continue to operate. If the state board determines that continuing the operation of the conservation district is not administratively practicable and feasible, the state board shall deliver to the secretary of state certification of the district’s dissolution.

“(c) Certification by the state board to the secretary of state is sufficient notice of the dissolution of a conservation district. The secretary of state shall issue to the directors of the dissolved district a certificate of dissolution and shall record the fact of dissolution in the appropriate records of the secretary’s office.

“(d) On receiving a certificate of dissolution, the board of directors of the dissolved district shall terminate the affairs of the conservation district. The board shall transfer to the state board all property owned by the conservation district. The state board may:

“(1) sell the property at a public auction and deposit the net proceeds of the sale in the State Treasury; or

“(2) make the property available for use by other conservation districts.

“(e) ~~Except as provided by Subsection (d) of this section, after dissolution of a conservation district has been authorized as provided in Subsection (a) of this section, the directors of the conservation district shall sell at public sale all machinery, equipment, and supplies of the conservation district purchased with state funds. The directors shall deposit the proceeds of that sale and any other state funds to the credit of the conservation district in the state treasury to the credit of the general revenue fund.~~

“~~[(d)]~~ If the dissolution of a conservation district is for the purpose of adjusting the boundaries and the conservation district is immediately reorganized, the funds and equipment of the dissolved conservation district pass to the reorganized conservation district. If more than one conservation district is created under the reorganization, the funds and equipment of the dissolved conservation district shall be divided under terms satisfactory to the directors of the reorganized conservation districts.

“(f) The state board may not conduct an election under this section for a conservation district before the end of the fifth year after the date of the last election under this section for that district.

“Section 201.0511. EFFECT OF DISSOLUTION. (a) On issuance of a certificate of dissolution under Section 201.051 of this code, the ordinances and regulations adopted by the dissolved district cease to be in effect.

“(b) A contract to which a dissolved district was a party remains in effect according to the terms of the contract. The state board is substituted for the dissolved district for purposes of performance of a contract. Under a contract of the dissolved district, the state board has all the rights and liabilities under the contract that the board of directors of the dissolved district had under the contract, including the right to sue and the liability to be sued.

“(c) The dissolution of a conservation district does not affect a lien on a judgment obtained or an action pending under Section 201.128 of this code. The state board has all the rights and obligations with respect to a lien or an action under Section 201.128 as the board of directors of the dissolved district had under that section.”

SECTION 7. Subsection (a), Section 201.073, Agriculture Code, is amended to read as follows:

“(a) Except as provided for the initial election of directors, the persons who are eligible voters and own land in a conservation district [~~subdivision~~] are entitled to elect the directors for the district [~~one director~~]. For that purpose, the eligible voters shall meet on a date and at a time and place designated by the existing board of directors. The directors shall designate for the election a date that is after September 30 and before October 16.”

SECTION 8. Subsections (b), (c), and (d), Section 201.074, Agriculture Code, are amended to read as follows:

~~“(b) The [in each of the subdivisions designated for an election,] persons who are eligible voters and own land in a conservation district [that subdivision] are entitled to elect the directors for the district [one director]. The eligible voters shall meet and elect the directors [director] in the manner provided by Section 201.073 of this code, except that the state board shall designate the date, time, and place for the election.~~

~~“(c) [If there is no objection, the state board may designate places outside of a subdivision as the polling places for electing a director. If there is an objection, the board must receive the approval of a majority of the persons qualified to vote for director before it may make that designation.~~

~~“[(d)] The Election Code does not apply to elections under this section.”~~

SECTION 9. Subsections (b) and (c), Section 201.080, Agriculture Code, are amended to read as follows:

“(b) The directors shall furnish to the state board on request copies of ordinances, rules, regulations, orders, contracts, forms, other documents that the directors adopt or employ, and other information concerning the directors' activities that the state board requires in the performance of its duties under this chapter. *The state board may demand at any time and pay the costs of an audit of a conservation district's accounts.*

“(c) The directors shall deposit all [soil conservation] funds [appropriated to the conservation district under Chapter 332, Acts of the 53rd Legislature, Regular Session, 1953,] with state or national banks or in savings and loan associations. The directors shall either deposit the funds in demand or time accounts, including interest-bearing accounts, or purchase certificates of deposit. The funds may be withdrawn only on approval of the directors and only by check or order signed by the chairman and the secretary.”

SECTION 10. Subchapter B, Chapter 201, Agriculture Code, is amended by adding Section 201.0141 to read as follows:

“Section 201.0141. **INELIGIBILITY TO SERVE ON BOARD.** (a) *A person may not serve as a member of the state board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of the person's activities for compensation in or on behalf of a profession related to the operation of the board.*

“(b) *A person may not serve as a member of the state board or be an employee of the board if the person is an officer, employee, or paid consultant of a statewide association whose primary purpose is soil and water conservation.*

“(c) *A person may not serve as a member of the state board or be an employee of the board of the grade 17 or over, including exempt employees, according to the position classification schedule under the General Appropriations Act, if the person cohabits with or is the spouse of an officer, managerial employee, or paid consultant of a statewide association whose primary purpose is soil and water conservation.*”

SECTION 11. Subsection (a), Section 201.015, Agriculture Code, is amended to read as follows:

“(a) *Members of the state board serve for staggered terms of two [five] years. The terms of the members elected from State Districts No. 1, No. 3, and No. 5 expire in odd-numbered years. The terms of the members elected from State Districts No. 2 and No. 4 expire in even-numbered years [; with the term of one member expiring each year].*”

SECTION 12. Subchapter B, Chapter 201, Agriculture Code, is amended by adding Section 201.0151 to read as follows:

“Section 201.0151. **REMOVAL FROM BOARD.** (a) *It is a ground for removal from the state board if a member:*

“(1) *does not have at the time of election the qualifications required by Subsection (c) of Section 201.013 of this code;*

“(2) *does not maintain during service on the board the qualifications required by Subsection (c) of Section 201.013 of this code;*

“(3) *violates a prohibition in Section 201.0141 of this code;*

“(4) *is unable to perform the member's duties for a substantial portion of the term for which the member was elected because of illness or disability; or*

“(5) *is absent from more than half of the regularly scheduled board meetings during each calendar year which the member is eligible to attend, except when the absence is excused by a majority vote of the board.*

“(b) *The validity of an action of the state board is not affected by the fact that the action was taken when a ground for removal existed for a member of the board.*

“(c) If the executive director knows that a potential ground for removal exists, the director shall notify the chairman of the board.”

SECTION 13. Section 201.019, Agriculture Code, is amended by amending Subsection (b) and adding Subsections (f), (g), (h), and (i) to read as follows:

“(b) The state board may employ an executive director [administrative officer] and other agents and employees, temporary or permanent, as it may require, and shall determine their qualifications, duties, and compensation according to the terms and amounts specified in the General Appropriations Act.”

“(f) The state board shall provide to its members and employees as often as is necessary information regarding their qualifications under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers and employees.”

“(g) The executive director shall develop an intraagency career ladder program, one part of which shall require the intraagency posting of all nonentry level positions concurrently with any public posting.”

“(h) The executive director shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for employees of the state board must be based on the system established under this subsection.”

“(i) The agency shall develop and implement policies which clearly separate the respective responsibilities of the state board and the staff of the board.”

SECTION 14. Subchapter B, Chapter 201, Agriculture Code, is amended by adding Section 201.0191 to read as follows:

“Section 201.0191. EQUAL OPPORTUNITY EMPLOYMENT. (a) The executive director shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The policy statement must include:

“(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

“(2) a comprehensive analysis of the agency’s work force that meets federal and state guidelines;

“(3) procedures by which a determination can be made of significant underutilization in the agency’s work force of all persons of whom federal or state guidelines encourage a more equitable balance; and

“(4) reasonable methods to appropriately address areas of significant underutilization in the agency’s work force of all persons of whom federal or state guidelines encourage a more equitable balance.”

“(b) The policy statement shall be filed with the governor’s office before November 1, 1985, cover an annual period, and be updated at least annually. The governor shall develop a biennial report to the legislature based on the information submitted. The report may be made separately or as a part of other biennial reports made to the legislature.”

SECTION 15. Section 201.020, Agriculture Code, is amended to read as follows:

“Section 201.020. RECORDS; HEARINGS; RULES. (a) The state board shall keep a complete record of all of its official actions, may hold public hearings at times and places in this state as determined by the board, and may adopt rules as necessary for the performance of its functions under this chapter.

“(b) The state board shall develop and implement policies which will provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.”

SECTION 16. Subsection (a), Section 201.022, Agriculture Code, is amended to read as follows:

“(a) In addition to other powers and duties provided by this chapter, the state board shall:

“(1) offer appropriate assistance to the directors of conservation districts in carrying out programs and powers under this chapter;

“(2) coordinate the programs of the conservation districts to the extent possible through advice and consultation;

“(3) secure the cooperation and assistance of the federal government, federal agencies, and state agencies;

“(4) disseminate information throughout this state concerning the activities and programs of the conservation districts; [and]

“(5) encourage the formation of a conservation district in each area in which the organization of a conservation district is desirable; and

“(6) prepare information of public interest describing the functions of the board and make the information available to the general public and to appropriate state agencies.”

SECTION 17. Subsection (b), Section 201.023, Agriculture Code, is amended to read as follows:

“(b) The state board shall obtain a biennial audit from the state auditor ~~[and shall furnish a biennial report to the governor]~~. The board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report that accounts for all funds received and disbursed by the board during the preceding year. The form of the annual report and the time for the report shall be prescribed in the General Appropriations Act.”

SECTION 18. Subchapter B, Chapter 201, Agriculture Code, is amended by adding Section 201.0231 to read as follows:

“Section 201.0231. **COMPLAINTS.** (a) The state board shall keep an information file about each complaint filed with the board.

“(b) If a written complaint is filed with the state board, the board shall notify the parties to the complaint at least quarterly regarding the status of the complaint.”

SECTION 19. Section 201.025, Agriculture Code, is amended to read as follows:

“Section 201.025. **SUNSET PROVISION.** The state board is subject to the Texas Sunset Act (Article 5429k, Vernon’s Texas Civil Statutes). Unless continued in existence as provided by that Act, the board is abolished and this chapter expires effective September 1, 1997 ~~[1985]~~.”

SECTION 20. Section 201.075, Agriculture Code, is amended to read as follows:

“Section 201.075. **TERMS OF DIRECTORS.** (a) Except as provided for the initial directors, directors serve for staggered terms of ~~four~~ ~~[five]~~ years with the term of one or two members ~~[member]~~ expiring each year. ~~[The term of a director elected from Subdivision No. 1 expires in a year that ends in a four or a nine. The term of a director elected from Subdivision No. 2 expires in a year that ends in a five or a zero. The term of a director elected from Subdivision No. 3 expires a year that ends in a six or a one. The term of a director elected from Subdivision No. 4 expires in a year that ends in a seven or a two. The term of a director elected from Subdivision No. 5 expires in a year that ends in an eight or a three.]~~

“(b) The term of office of a director begins on the day after the director’s election.

“~~[(c) The term of each elected or appointed initial director expires in the year provided for by Subsection (a) of this section according to the subdivision for which the director was appointed or elected.]~~”

SECTION 21. (a) At the state district conventions held in 1986, each state district under Chapter 201, Agriculture Code, shall elect a member to the State Soil and Water Conservation Board. The term of each current member of the state board expires at the time the newly elected member is elected and qualified. The terms of the members then elected from District Nos. 1, 3, and 5 expire in 1987, and the terms of the members then elected from District Nos. 2 and 4 expire in 1988. Thereafter, the members are elected for terms of two years expiring in accordance with Section 201.015, Agriculture Code, as amended by this Act.

(b) Not later than October 15, 1985, the State Soil and Water Conservation Board shall appoint new directors to the board of directors of each conservation district under Chapter 201, Agriculture Code. The term of each current member of a board of directors of a conservation district expires at the time the state board appoints new members to that board and the new members qualify by signing an oath of office. For each conservation district board of directors then appointed:

- (1) the terms of the new directors from Subdivision Nos. 1 and 2 expire in 1986;
- (2) the term of the new director from Subdivision No. 3 expires in 1987;
- (3) the term of the new director from Subdivision No. 4 expires in 1988; and
- (4) the term of the new director from Subdivision No. 5 expires in 1989.

(c) On expiration of terms of district directors appointed under this section, district directors are elected for terms of four years in accordance with Section 201.075, Agriculture Code, as amended by this Act.

SECTION 22. (a) All governmental actions and proceedings of the State Soil and Water Conservation Board that occur before May 15, 1986, are validated as of the date on which the action or proceeding occurred.

(b) All governmental actions and proceedings of the board of directors of a conservation district under Chapter 201, Agriculture Code, that occur before October 15, 1985, are validated as of the date on which the action or proceeding occurred.

(c) This section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

SECTION 23. This Act takes effect September 1, 1985.

SECTION 24. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 5, 1985, by a viva-voce vote; passed the House on May 22, 1985, by a non-record vote.

Approved: June 14, 1985

Effective: September 1, 1985