

1988

Title 04 Chapter 18: Soil Conservation Districts Act - 1988 Volume 1B

Utah Code Annotated

Follow this and additional works at: <https://dc.law.utah.edu/uca>

The Utah Code Annotated digital collection, hosted by Digital Commons, is brought to you for free and open access by the James E. Faust Law Library at the S.J. Quinney College of Law. Funds for this project have been provided by the Institute of Museum and Library Services through the Library Services and Technology Act and are administered by the Utah State Library Division. For more information, please contact valeri.craigle@law.utah.edu. Reprinted with permission. Copyright 2020 LexisNexis. All rights reserved.

Recommended Citation

Utah Code Annotated Title 4-18 (Michie, 1988)

This Book is brought to you for free and open access by Utah Law Digital Commons. It has been accepted for inclusion in Utah Code Annotated 1943-1995 by an authorized administrator of Utah Law Digital Commons. For more information, please contact valeri.craigle@law.utah.edu.

4-17-11. County noxious weed control fund authorized.

Authority is hereby granted commissions to establish and maintain a noxious weed control fund in each county for use in the administration of this chapter.

History: C. 1953, 4-17-11, enacted by L. 1979, ch. 2, § 18.

4-17-12. Repealed.

Repeals. — Section 4-17-12, as enacted by the chapter class "C" misdemeanors, was repealed by Laws 1979, ch. 2, § 18, making violations of the chapter class "C" misdemeanors, was repealed by Laws 1985, ch. 104, § 8.

CHAPTER 18**SOIL CONSERVATION DISTRICTS ACT**

Section

- 4-18-1. Short title.
- 4-18-2. Purpose declaration.
- 4-18-3. Definitions.
- 4-18-4. Soil Conservation Commission created — Appointment — Composition — Terms — Compensation — Attorney general to provide legal assistance.
- 4-18-5. Soil Conservation Commission — Functions, powers and duties.
- 4-18-5.5. Flood control projects.
- 4-18-6. Agriculture Resource Development Fund — Source of funding.
- 4-18-7. Soil conservation districts — Organization — Petition required.
- 4-18-8. Hearing on petition — Notice — Factors considered — Action on petition and writing in support thereof — Denial — Six month lapse of jurisdiction.
- 4-18-9. Soil conservation districts — Consolidation, division, or termination — Notice and hearing — Factors considered by commission — Action on petition or motion and writing in support thereof — Denial — Commission without jurisdiction for six months.

Section

- 4-18-10. Soil conservation districts — Governing body elected at large — Quorum necessary for transaction of business — Compensation — Terms — Nomination for election — Procedures — Candidates' qualifications — Procedures — Ballots and elections — Commission to certify results — Termination of office upon consolidation, division, or termination — Commission to wind up affairs, merge assets and liabilities, or divide assets — New elections to be conducted.
- 4-18-11. Soil conservation districts — Political subdivision — Functions, powers, and duties.
- 4-18-12. Soil conservation districts — Recommendations regarding land use within district authorized — Some recommendations specified.
- 4-18-13. District courts — Jurisdiction to decide cases and controversies involving land use ordinances — County attorney to act as counsel for districts.

4-18-1. Short title.

This chapter shall be known and may be cited as the "Soil Conservation Districts Act."

History: C. 1953, 4-18-1, enacted by L. 1979, ch. 2, § 19.

4-18-2. Purpose declaration.

The Legislature finds and declares that the soil and water resources of this state constitute one of its basic assets and that the preservation of these resources requires planning and programs to ensure the development and utilization of these resources and to protect them from the adverse effects of wind and water erosion, sediment, and sediment related pollutants.

History: C. 1953, 4-18-2, enacted by L. 1979, ch. 2, § 19.

4-18-3. Definitions.

As used in this chapter:

(1) "Commission" means the state Soil Conservation Commission created by, and established under, this chapter.

(2) "District" or "soil conservation district" means a governmental subdivision of this state organized under this chapter.

(3) "Land occupier" means any person who is in possession of any land situated within a district, whether as an owner, contract purchaser, tenant, or otherwise.

(4) "Notice" means publication by the commission at least twice, not less than seven days apart, of the date, time, place, and agenda of any meeting or hearing to consider the organization, consolidation, division, or termination of a district. The notice shall be published in a newspaper of general circulation within the area proposed for organization or within the districts potentially affected. If no such newspaper exists, it means posting notices displaying the information required for publication in at least three conspicuous places at least 15 days before any such meeting or hearing.

History: C. 1953, 4-18-3, enacted by L. 1979, ch. 2, § 19.

4-18-4. Soil Conservation Commission created — Appointment — Composition — Terms — Compensation — Attorney general to provide legal assistance.

(1) There is established, to serve as an agency of the state and to perform the functions conferred upon it by this chapter, the Soil Conservation Commission composed of the director of the Extension Service at Utah State University, the president of the Association of Soil Conservation Districts, the commissioner, the director of the Department of Natural Resources, and the director of the Department of Health, or their respective representatives, together with seven district supervisors recommended by the commission. Members of the commission shall be appointed to three year terms of office by the governor and shall be selected to provide district representation on the commission on a multi-county basis.

(2) The commissioner shall act as chairman of the commission. Attendance of a simple majority of the commission at a duly called meeting shall constitute a quorum for the transaction of official business. Vacancies which occur

on the commission among appointed members shall be filled by appointment of the governor for the unexpired term of the vacated member.

(3) Appointed members are entitled to per diem and expenses incurred in the performance of their official functions in accordance with § 63-2-15 [as established by the Division of Finance].

(4) The commission shall keep a record of all its official actions. The attorney general shall provide legal services to the commission upon request.

History: C. 1953, 4-18-4, enacted by L. 1979, ch. 2, § 19; 1986, ch. 18, § 1.

Amendment Notes. — The 1986 amendment designated the former paragraphs as Subsections (1) to (4), and in the first sentence of Subsection (1) deleted "state" preceding "Soil Conservation Commission" and preceding "Extension Service," deleted "and" preceding "the director of the Department of Natural Resources," inserted "and the director of the De-

partment of Health," and substituted "seven" for "six" preceding "district supervisors."

Compiler's Notes. Section 63-2-15, referred to in Subsection (3), was repealed by Laws 1981, ch. 257, § 13. The bracketed language following reference to that section was inserted pursuant to instructions by the Office of Legislative Research and General Counsel.

4-18-5. Soil Conservation Commission — Functions, powers and duties.

The commission has and shall exercise the following functions, powers, and duties:

(1) to employ, subject to approval of the department, an administrator and such other technical experts and employees as it requires;

(2) to adopt rules and regulations, subject to the Utah [Administrative] Rulemaking Act, deemed necessary for the administration and enforcement of this chapter;

(3) to coordinate and assist in the development and implementation of the programs of the several districts and apprise such districts of the activities and experiences of other districts in the state;

(4) to disseminate information throughout the state about activities and programs of the several districts and to encourage the formation or reorganization of districts it deems necessary or desirable;

(5) to prescribe uniform accounting and record-keeping procedures for districts and require that each district annually submit to the commission an audit of its funds;

(6) to approve and make loans, restricted to agriculture purposes, from the agriculture resource development fund for non-federal rangeland improvement and management projects, watershed protection and flood prevention projects, agricultural cropland soil and water conservation projects, and for programs designed to promote energy efficient farming practices, which are approved by the commission;

(7) to accept funds from federal or state agencies and, subject to available funds, make loans or grants to land occupiers for the conservation of soil or water resources;

(8) to secure the assistance and cooperation of other state agencies, local governmental units, other states, and federal agencies for the benefit of the programs and activities of the several districts;

(9) to plan watershed and flood control projects in cooperation with appropriate local, state, and federal authorities and function as the state agency responsible for flood control coordination in the state; and

(10) to make and execute contracts or other instruments necessary to exercise its powers and to sue and be sued.

History: C. 1953, 4-18-5, enacted by L. 1979, ch. 2, § 19; L. 1981, ch. 284, § 5; 1983, ch. 6, § 1.

Amendment Notes. — The 1983 amend-

ment rewrote Subsection (6), as amended by Laws 1981, ch. 284, § 5.

Cross-References. — Utah Administrative Rulemaking Act, §§ 63-46a-1 to 63-46a-16.

4-18-5.5. Flood control projects.

If a flood control project provided for under Subsection 4-18-5(9) is partially or wholly funded from the Water Resources Conservation and Development Fund created under § 73-10-24, the commission shall cooperate with the Board and Division of Water Resources, which shall plan, design, and construct the project, as provided in § 73-10-26.

History: C. 1953, 4-18-5.5, enacted by L. 1981, ch. 284, § 6.

4-18-6. Agriculture Resource Development Fund — Source of funding.

There is hereby created a nonlapsing restricted fund account within the General Fund to be known as the "Agriculture Resource Development Fund." The Agriculture Resource Development Fund shall consist of all money appropriated to it by the Legislature, deposits made to the Mineral Lease Account prescribed by § 65-1-64.5, and all money made available to the state for agriculture resource development from any source together with interest that may be earned on such account.

History: C. 1953, 4-18-6, enacted by L. 1979, ch. 2, § 19; L. 1983, ch. 6, § 2.

Amendment Notes. — The 1983 amendment substituted "agriculture resource" for "rangeland" throughout the section; inserted

"deposits made to the mineral lease account prescribed by section 65-1-64.5" in the second sentence; and deleted "federal or private" before "source" in the second sentence.

4-18-7. Soil conservation districts — Organization — Petition required.

Any 25, or more, land occupiers resident within an area proposed for organization into a district may sign and file a written petition with the commission seeking organization of the proposed area into a district. The petition shall be filed in such form as the commission prescribes.

History: C. 1953, 4-18-7, enacted by L. 1979, ch. 2, § 19.

4-18-8. Hearing on petition — Notice — Factors considered — Action on petition and writing in support thereof — Denial — Six month lapse of jurisdiction.

(1) The commission within 30 days after receipt of an organization petition shall cause notice of hearing upon the question of the desirability and necessity for organization to be published within the area or areas proposed for organization.

(2) In determining whether to grant or deny an organization petition, the commission shall consider:

(a) the demonstrated necessity and administrative practicality of organization;

(b) the topography of the proposed area;

(c) the soil compositions within the proposed area;

(d) the prevailing land use practices within the proposed area;

(e) the relationship of the proposed area to existing watersheds and agricultural regions; and

(f) the sentiment expressed by persons within the proposed district for or against organization.

(3) If the commission determines after hearing and consideration that it is not necessary or practical to organize the proposed area into a district, it shall deny the petition and set forth in writing the reasons for its action.

(4) If the commission determines after hearing and consideration that it is necessary and administratively practical to organize the proposed district, it shall grant the petition and set forth in writing the reasons for its action. Provisions for winding up the affairs of a district are set forth in § 4-18-10.

(5) If the petition is granted, the commission shall certify and file a copy of the legal description of the district with the lieutenant governor.

(6) The commission, upon denying a petition for organization, is without jurisdiction to entertain a similar petition for six months following denial.

History: C. 1953, 4-18-8, enacted by L. 1979, ch. 2, § 19; L. 1984, ch. 68, § 1.

ment substituted "lieutenant governor" for "secretary of state" in Subsection (6); and made minor changes in style.

Amendment Notes. — The 1984 amend-

4-18-9. Soil conservation districts — Consolidation, division, or termination — Notice and hearing — Factors considered by commission — Action on petition or motion and writing in support thereof — Denial — Commission without jurisdiction for six months.

(1) Any 25, or more, land occupiers resident within a district may sign and file a written petition with the commission for the consolidation of two or more existing districts, for the division of an existing district into two or more separate districts, or for termination of an existing district; or, the commission on its own motion may propose to consolidate two or more districts, divide a district, or terminate a district.

(2) No district, whether upon written petition or upon the commission's own motion, shall be consolidated, divided, or terminated without compliance with the notice, hearing, and consideration requirements set forth in § 4-18-8.

(3) If the commission determines after hearing and consideration that it is not necessary or administratively practical to allow consolidation, or to allow division, or to allow termination, as the case may be, it shall deny the petition or its own motion and set forth in writing the reasons for its action.

(4) If the commission determines after hearing and consideration that it is necessary and administratively practical to consolidate, divide, or terminate a district or districts, as the case may be, it shall grant the petition or its own motion, as the case may be, and set forth in writing the reasons for its action.

(5) If two or more districts are consolidated or if a district is divided, the commission shall certify and file a copy of the legal description of the new district or districts with the lieutenant governor. The commission shall also certify and file a "notice of termination" with the lieutenant governor immediately following the termination of any district.

(6) The commission, upon denying its own motion or a petition for consolidation, division, or termination, is without jurisdiction to entertain a similar motion or petition for six months following denial.

History: C. 1953, 4-18-9, enacted by L. 1979, ch. 2, § 19; L. 1984, ch. 68, § 2. Amendment Notes. — The 1984 amendment substituted "lieutenant governor" for "secretary of state" in two places in Subsection (5).

4-18-10. Soil conservation districts — Governing body elected at large — Quorum necessary for transaction of business — Compensation — Terms — Nomination for election — Procedures — Candidates' qualifications — Procedures — Ballots and elections — Commission to certify results — Termination of office upon consolidation, division, or termination — Commission to wind up affairs, merge assets and liabilities, or divide assets — New elections to be conducted.

(1) The governing body of each district shall be comprised of five supervisors elected at large within the district. The supervisors shall elect a chairman from among their number. A simple majority of supervisors present at a duly called meeting shall constitute a quorum for the transaction of official business. Any vacancy which occurs in the office of a supervisor shall be filled by the remaining supervisors for the unexpired term of the vacated supervisor. Supervisors shall receive in the performance of their official duties compensation for mileage as fixed by the commission and actual and necessary expenses.

(2) Supervisors shall be elected to four year terms of office; provided, that at the initial election of supervisors under this chapter two of the supervisors elected shall be elected to only two year terms of office. The two candidates at such initial election who receive the fourth and fifth largest number of votes are deemed elected to the two year terms of office.

(3) Each candidate who stands for election to the office of district supervisor shall be nominated by a nominating committee composed of the following persons:

- (a) the chairman of the county commission;
- (b) the chairman of the county agricultural stabilization and conservation service;
- (c) the chairman of the district supervisors; and
- (d) the county agricultural extension agent.

(4) The nominating committee shall nominate for each district election a slate of candidates equal in number to one more than the number of supervisors to be elected.

(5) Candidates, other than those nominated by the nominating committee, shall be placed on the ballot upon the receipt of a petition, not later than January 1 of the year in which the district supervisor election is to be conducted, which states: the candidate's name; that the candidate is over 18 years of age; and that the candidate is a resident of the district in which the election is to be held. Each petition shall list the name, address, voting district number, and signature of at least six persons who are registered voters within the same district as the candidate.

(6) The names of all nominees, whether nominated by the nominating committee or upon petition, shall be received by the commission on or before January 1 of each year in which any district supervisor election is to be conducted. The commission shall fix the date of election in each district which, in no event, shall be held later than six weeks after the date nominations close and shall, at least three weeks before the date scheduled for each election, publish notice of the election in a newspaper or other publication with general circulation within each district where an election is to be held. The notice shall state the date of the election, the names of all candidates, and the fact that ballots may be obtained for the election by any land occupier from the commission offices or from such other place as the commission designates. The notice shall specify the address of the commission offices or such other place where ballots may be obtained.

(7) The names of all nominees shall be printed on the ballot in alphabetical order according to surname and a square shall appear before each name. A printed instruction to insert an "X" mark in the square before the name of any two or three names (depending upon the number of persons to be elected) to show the voter's preference shall also appear on the ballot.

(8) The department shall conduct the election of district supervisors by mail. Each person within a district where an election is to be held who is listed on the county agricultural stabilization and conservation service list and each other land occupier within the district who requests a ballot shall receive a ballot from the commission. Ballots shall be mailed not later than five days before the date set for election and each ballot shall specify the date after which ballots will not be accepted for purposes of the election. The two or three candidates receiving the highest number of votes, respectively (depending upon the number of candidates to be elected), are deemed elected and shall take office on March 15, following the date of election. The commission shall determine all questions of eligibility, count and tally all ballots and votes cast, and declare and certify each district supervisor elected. All expenses incident to the election shall be paid by the commission.

(9) If a district is consolidated, or if a district is divided or terminated, the offices of supervisors within the affected district or districts shall terminate immediately and the commission shall proceed to wind up the affairs of a terminated district; or, in the case of consolidation, to merge the assets and liabilities of the original districts into the newly created district; or, in the case of division, to equitably divide the assets of the original district between the newly created districts. New elections for supervisors shall be conducted in any divided or consolidated district.

History: C. 1953, 4-18-10, enacted by L. 1979, ch. 2, § 19.

4-18-11. Soil conservation districts — Political subdivision — Functions, powers, and duties.

Each district organized under this chapter is a political subdivision of the state and has and shall exercise the following functions, powers, and duties:

(1) to employ, subject to available funds, clerical and staff personnel including legal staff;

(2) to conduct surveys, investigations, and research relating to soil erosion, floodwater, nonpoint water pollution, flood control, water pollution, sediment damage, and watershed development;

(3) to devise and implement measures for the prevention of soil erosion, floodwater and sediment damages, nonpoint water pollution, and for the conservation, development, utilization and disposal of water on state or private lands with the consent of the land occupier;

(4) to construct, improve, operate, and maintain any structures deemed necessary or convenient for the performance of any operation authorized by this chapter, and acquire property, both real and personal, through purchase, or otherwise, and maintain, improve, and administer such property consistent with the purposes of this chapter;

(5) to enter into contracts or agreements in the name of the district, and sue and be sued;

(6) to receive funds from any federal or state agency or from any county, city, or other political subdivision within the state or from any private source;

(7) to annually submit to the commission on or before January 30, of each year, a copy of the minutes of each district meeting, a copy of its annual work plan, and an accounting of the district's financial affairs. The accounting shall be prepared by a disinterested person and show the district's debits and credits including accounts payable and accounts receivable, the purpose of each debit, the source of each credit, and the actual cash balance on hand;

(8) to do all other things necessary or convenient for the efficient and effective administration of the district.

History: C. 1953, 4-18-11, enacted by L. 1979, ch. 2, § 19.

4-18-12. Soil conservation districts — Recommendations regarding land use within district authorized — Some recommendations specified.

In addition to the functions, powers, and duties imposed upon each district by § 4-18-11, each district is authorized to make recommendations governing land use within the district. Such recommendations may include, but are not limited to:

- (1) provisions requiring the observance of particular methods of cultivation;
- (2) provisions requiring specific crop programs and tillage practices;
- (3) provisions prohibiting the tillage and cultivation of highly erosive areas where erosion may not be adequately controlled if cultivated; and
- (4) provisions requiring the construction of terraces, terrace outlets, check dams, dikes, ponds, and other structures.

Each recommendation adopted under this section shall be uniform throughout the district; provided, that the supervisors may uniformly classify land within the district with reference to soil type, degree of slope, degree of threatened or existing erosion, cropping and tillage practices in use, or according to other relevant factors.

History: C. 1953, 4-18-12, enacted by L. 1979, ch. 2, § 19.

4-18-13. District courts — Jurisdiction to decide cases and controversies involving land use ordinances — County attorney to act as counsel for districts.

The district court with jurisdiction in the county in which the district is located has jurisdiction to decide all cases and controversies involving the construction, application, or enforcement of land use ordinances within the district and the county attorney within such county shall act as legal counsel for the district in all such cases and controversies.

History: C. 1953, 4-18-13, enacted by L. 1979, ch. 2, § 19.

CHAPTER 19

RURAL REHABILITATION

Section		Section	
4-19-1.	Department responsible for conduct and administration of rural rehabilitation program.		newals, methods of payments, and interest rates — Guidelines in fixing interest rates declared.
4-19-2.	Department authorized to approve and make loans, acquire property, or lease or operate property.	4-19-4.	Utah Rural Rehabilitation Fund created — State treasurer to maintain fund — Income from rural rehabilitation program to be deposited in fund.
4-19-3.	Loans — Not to exceed period of ten years — Agricultural Advisory Board to approve loans and re-		