

1971 Senate Bill 288

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CHAPTER 323, Laws of 1971

AN ACT to repeal 92.09 (3) and 92.12 (2) to (4); to amend 15.07 (5) (h), 15.347 (2), 15.915 (i), 36.216, 92.03 (2), 92.04 (2), (3) and (4) (intro.), (c), (e), (f) and (g), 92.05, 92.06, 92.07 (1) and (2), 92.08 (1), (2), (4) to (8) and (11), 92.09 (1), (4), (5) (a) and (e) and (6), 92.10, 92.11 (1), 92.12 (1), 92.15 (1) and (2) and 92.20; to repeal and recreate 92.09 (2); and to create 92.04 (4) (i), (j), (k) and (L), 92.08 (4) (a) to (e) and (12) and 92.09 (5) (f) of the statutes, relating to changing the name of the soil conservation board and making various changes in the soil and water conservation law.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 15.07 (5) (h) of the statutes is amended to read:

15.07 (5) (h) ~~Farmer~~ Voting members of the ~~soil conservation board of soil and water conservation districts, except full-time state employees,~~ \$15 per day.

SECTION 1m. 15.347 (2) of the statutes is amended to read:

15.347 (2) NATURAL RESOURCES COUNCIL OF STATE AGENCIES. There is created in the department of natural resources a natural resources council of state agencies consisting of ~~17~~ 18 persons. ~~Fifteen~~ Sixteen of the members shall represent ~~13~~ 14 officers, departments or independent institutions and agencies as follows, and each member shall be designated by the respective named officer or head of the department or independent institution or agency: the governor, the attorney general, the public service commission, the board of regents of state universities, ~~the board of soil and water conservation districts,~~ the departments of administration, of agriculture, of local affairs and development, of public instruction and of transportation, and the divisions of health, of conservation and of resource development shall each designate one member. The university of Wisconsin shall designate 3 members to represent, respectively, the ~~co-operative~~ cooperative extension services, the geological and natural history survey and the water

resources center. In addition, the chairman of the legislative council shall designate 2 members of the council to be members.

SECTION 2. 15.915 (1) of the statutes is amended to read:

15.915 (1) (title) BOARD OF SOIL AND WATER CONSERVATION DISTRICTS. There is created a soil ~~conservation board~~ board of soil and water conservation districts which is attached to the university of Wisconsin under s. 15.03. The board shall consist of a ~~representative of the 4~~ 4 soil and water district supervisors, designated biennially by the ~~board of directors of the Wisconsin association of soil and water district supervisors; a representative of the dean of the college of agriculture of the university of Wisconsin designated by him; a staff member of the college of agriculture engaged in extension work with rural people also designated by him; the secretary of natural resources or a representative of the department of natural resources designated by him~~ districts at their annual meeting in odd-numbered years; and 4 practical farmers, each of whom shall be a co-operator having a farm plan approved by the local soil and water conservation district, appointed for staggered 4-year terms. The board may shall invite the U.S. secretary of agriculture to appoint one person to serve as an advisory member of the board a representative of the soil conservation service and a representative of the agricultural stabilization and conservation service to serve as advisory members of the board. In addition, the dean of the college of agricultural and life sciences of the university of Wisconsin, the director of cooperative extension, the secretary of natural resources and the secretary of agriculture shall each be invited to serve or appoint a person to serve as an advisory member of the board. At any time there are 2 or more vacancies out of the 4 soil and water district supervisors' positions on the board, the chairman may call a special meeting of the districts to fill the vacancies, but vacancies may be filled only if a majority of the districts are represented at the special meeting.

SECTION 3. 36.216 of the statutes is amended to read:

36.216 The board of regents may ~~carry out~~ provide for the educational and administrative functions of s. 92.04 ~~with the advice of the soil conservation board.~~ The board of regents shall make available by separate budget to the ~~soil conservation board of soil and water conservation districts~~ soil and water conservation districts such staff services and funds for operation, office space and administrative services as are necessary for the administration and coordination of its functions.

SECTION 4. 92.03 (2) of the statutes is amended to read:

92.03 (2) "Supervisor" means a member of the ~~committee on agriculture, created by s. 59.87 (2), in a county which has been declared by the county board thereof to be a soil and water conservation governing body of a district.~~

SECTION 5. 92.04 (2), (3) and (4) (intro.), (c), (e), (f) and (g) of the statutes are amended to read:

92.04 (2) The ~~soil conservation board~~ soil conservation board may delegate to its chairman or staff or to one or more of its members such powers and duties as it deems proper. Upon request of the ~~soil conservation board~~ soil conservation board for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning shall, insofar as is possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the ~~soil conservation board~~ soil conservation board members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys or studies as the ~~soil conservation board~~ soil conservation board requests.

(3) The ~~soil conservation~~ board shall keep a full and accurate record of all proceedings and of all resolutions, rules and orders issued or adopted by it.

(4) (intro.) The ~~soil conservation~~ board shall:

(c) ~~Approve and coordinate~~ Coordinate the programs of the several soil and water conservation districts or projects, apportion among the several districts any funds allotted from state or federal sources, and be responsible for the expenditures of such funds by the districts. ~~The university of Wisconsin shall make available to the soil conservation board such staff services as are necessary for the administration and coordination of these functions.~~

(e) Disseminate information concerning the activities and programs of the districts, ~~and encourage the formation of such districts in areas where their organization is desirable.~~

(f) Accept contributions of money or gifts from any source to carry ~~on erosion control work under~~ out this chapter.

(g) Have ~~supervisory~~ responsibility over programs provided by P.L. 83-566, as amended, relating to the planning and carrying out of works of improvement for soil and water conservation and other purposes, and such programs shall be reported to the natural resources ~~committee~~ council of state agencies for its information. All P.L. 83-566 environmental impact statements required by the national environmental protection act of 1969 shall be reviewed by the natural resources council of state agencies.

SECTION 6. 92.04 (4) (i), (j), (k) and (L) of the statutes are created to read:

92.04 (4) (i) Prepare and present to the board of regents of the university of Wisconsin a budget to finance the activities of the board and the districts and to administer any law appropriating funds to the districts.

(j) Assist districts in obtaining legal services from state and county offices.

(k) Require annual reports from districts and other special reports as requested by the board.

(L) Approve or disapprove the plans or programs of the districts and disapprove any such plans or programs or any portion thereof found by a regional planning commission to contradict or be in variance with its approved plan or program.

SECTION 7. 92.05 of the statutes is amended to read:

92.05 When the board of supervisors of any county determines that ~~conservation of soil, water or related resources and control and prevention of soil erosion are presents~~ problems of public concern in the county, and further determines that a substantial proportion of the ~~rural~~ land occupiers of the county favors such a resolution, the said board of supervisors, by a resolution adopted at any regular or special meeting of the board, may declare the county to be a soil and water conservation district ~~for the purpose of effectuating the legislative policy announced in s. 92.02.~~ These determinations may be made through hearings, petitions, referenda or any other means which the county board deems appropriate.

SECTION 8. 92.06 of the statutes is amended to read:

92.06 When a county has been declared a soil and water conservation district, the agricultural and extension committee ~~on~~

~~agriculture~~, created pursuant to s. 59.87 (2), shall be the supervisors of said district. ~~In any county which has been designated a soil and water conservation district pursuant to s. 92.05 but which does not have such a committee on agriculture, the county board shall forthwith create such a committee as provided in s. 59.87 (2). The county board may by resolution appoint not more than 2 additional persons who are not members of the county board to serve as supervisors of the district.~~ The committee on agriculture shall exercise the powers and duties imposed upon supervisors of soil and water conservation districts in connection with other powers and duties conferred upon it by law and by the county board. The compensation of the members of the committee on agriculture for performing services as supervisors of the district shall be governed by s. 59.15.

SECTION 9. 92.07 (1) and (2) of the statutes are amended to read:

92.07 (1) The supervisors of the district shall be the governing body thereof. They shall designate a chairman and vice chairman and secretary and may, from time to time, change such designation designations. The supervisors may delegate to their chairman, or to one or more supervisors or their agents, such powers and duties as they shall deem proper. The supervisors shall furnish to the committee board, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this chapter.

(2) The supervisors may employ a secretary and such other assistants staff as they may require. The supervisors shall provide for the execution of surety bonds for all employes who shall be intrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted; and may provide for an annual audit of the accounts of receipts and disbursements. All actions of the board of supervisors shall be by majority vote.

SECTION 10. 92.08 (1) of the statutes is amended to read:

92.08 (1) To carry out preventive and control measures and works of improvement for flood prevention ~~or agricultural phases of and for the conservation, development, and utilization and control of navigable water and the conservation, development, utilization and control of nonnavigable water~~ within the district including, but not limited to, engineering operations, such as terraces, terrace outlets, desilting basins, floodwater retarding structures, floodways, dikes and ponds, methods of cultivation, the growing of vegetation, changes in use of land or lands owned or controlled by this state or any of its agencies, with the ~~co-operation~~ cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands. This amendment (1971) shall not affect the authority or the duty of the state as trustee for the people over navigable waters.

SECTION 11. 92.08 (2) and (4) of the statutes are amended to read:

92.08 (2) To ~~co-operate~~ cooperate, or enter into agreements with, and within the limits of funds available to it, to furnish financial or other aid to any agency, governmental or otherwise, or any occupier of lands within the district, in the carrying on of erosion-control and prevention operations and works of improvement for flood prevention ~~or agricultural phases of for the conservation, development, and utilization and control of water~~ within the dis-

tract, subject to such conditions as the soil conservation board may impose and the supervisors may deem necessary to advance the purposes of this chapter.

(4) To develop and ~~amend~~ comprehensive plans for the conservation of soil, ~~water and related~~ resources and ~~for the control and prevention of soil erosion and for flood prevention or agricultural phases of the conservation, development, utilization and control of water~~ within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances and avoidances which are necessary or desirable for the effectuation of such plans ~~including the specification of engineering operations and structures, methods of cultivation, the growing of vegetation, cropping programs, tillage practices and changes in use of land~~; and to publish such plans and information and bring them to the attention of occupiers of lands within the district. In any county included in a regional planning commission, such plans and programs shall not contradict nor be at variance with any plans adopted by the regional planning commission. A regional planning commission may indicate to the board its disapproval of any plan or program or portion thereof which it finds, after hearing, and upon notice to the board and to the district, contradicts or is at variance with an approved plan or program of such commission.

SECTION 12. 92.08 (4) (a) to (e) of the statutes are created to read:

92.08 (4) (a) Such plans shall include an inventory of renewable natural resources in the district prepared in cooperation with other agencies, a compilation of current resource needs, projections of future resource requirements, priorities for various resource activities, projected timetables, descriptions of available alternatives, and provisions for coordination with other natural resource programs developed by other governmental agencies.

(b) The district shall also prepare an annual work plan, which shall describe the action programs, services, facilities, materials, working arrangements and estimated funds needed to carry out the parts of the long-range program that are of the highest priorities.

(c) Each district shall submit to the board of soil and water conservation districts its proposed long-range program, annual work plan and annual report for review and comment.

(d) The long-range resource conservation program, together with the supplemental annual work plans, developed by each district under the foregoing procedures shall have official status as the authorized program of the district, and it shall be published by the districts as its "Resources Conservation Program". Copies shall be furnished by the district to the appropriate counties, municipalities, regional planning commissions, local units of government and state agencies, and shall be made available in convenient places for examination by any public or private interest concerned.

(e) The district may prepare plans, provide standards and technical assistance for controlling erosion, runoff and sedimentation, to incorporated cities and villages or for any parts of such lands upon their request.

SECTION 13. 92.08 (5) to (8) and (11) of the statutes are amended to read:

92.08 (5) To make available, on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment, as will assist such

land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion and for flood prevention or ~~agricultural phases of for~~ the conservation, development, and utilization ~~and control~~ of water.

(6) To construct, improve, operate and maintain such structures as may be necessary or convenient for the performance of any of the operations or activities authorized in this chapter.

(7) To take over, by purchase, lease or otherwise, and to administer, any soil-conservation, flood-prevention, ~~agricultural~~ water management, erosion-control, erosion-prevention project or combinations thereof, and participate in programs concerned with the conservation of natural resources located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-conservation, flood-prevention, ~~agricultural~~ water management, erosion-control, erosion-prevention project or combinations thereof, or programs concerned with the conservation of natural resources within its boundaries; to act as agent for the United States, or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation or administration of any soil-conservation, flood-prevention, ~~agricultural~~ water management, erosion-control, erosion-prevention project or combinations thereof, or programs concerned with the conservation of natural resources within its boundaries; to accept donations, gifts and contributions in money, services, materials or otherwise, ~~from the United States or any of its agencies, or from this state or any of its agencies,~~ any source and to use or expend such moneys, services, materials or other contributions in carrying on its operations.

(8) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to borrow money and to pledge, mortgage or assign the income of the district or its property; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this chapter, to carry into effect its purposes and powers.

(11) To enter upon any lands within the district to examine the same and make surveys or plans for ~~erosion control work~~ natural resource management without being liable for trespass in the reasonable performance of such duties.

SECTION 14. 92.08 (12) of the statutes is created to read:

92.08 (12) For the purpose of providing funds to meet the expenses of a district, the district supervisors shall annually prepare and approve a budget reflecting the cost of its operation and services. The chairman of the district supervisors shall present to the county board its budgetary needs and the county shall, upon approval of the county board, forward the taxes and revenues raised for the district.

SECTION 15. 92.09 (1) of the statutes is amended to read:

92.09 (1) The supervisors of any soil and water conservation district may formulate proposed regulations for the use of lands lying within the district but outside of the limits of incorporated cities and villages, or for any parts of such lands, in the interest of conserving soil and water resources and controlling erosion, run-off and sedimentation. As far as practicable, regulations under this subsection shall be consistent with the comprehensive plans

described in s. 92.08 (4). When such proposed regulations have been formulated, the supervisors shall hold, within the area to be affected by such regulations, such public meetings or public hearings as they deem advisable. Following the meetings or hearings, the supervisors may draft an ordinance embodying proposed land-use regulations and designating the area to which they shall apply, and recommend to the county board that it enact such ordinance. The county board may enact such ordinance provided ~~at least two thirds of the land occupiers of a simple majority of the electors as defined in s. 6.02~~ residing in the area to be affected and who vote in the referendum thereby approve such ordinance; in a referendum held within such area. Such referendum shall be held according to procedures set forth in s. 5.60 (7) or 5.64 (2). The supervisors shall give notice of such referendum by publication at least twice, with an interval of at least 6 days between the 2 publication dates in a newspaper or other publication of general circulation within the area to be affected by the proposed ordinance.

SECTION 16. 92.09 (2) of the statutes is repealed and recreated to read:

92.09 (2) This section and any ordinance or regulation adopted hereunder shall be liberally construed in favor of the county and shall be construed as minimum requirements for the purposes stated and not as a limitation on other power granted.

SECTION 17. 92.09 (3) of the statutes is repealed.

SECTION 18. 92.09 (4) and (5) (a) and (e) of the statutes are amended to read:

92.09 (4) Any ordinance prescribing land-use regulations may be amended or repealed only in the manner prescribed for the enactment of such ordinance; ~~except that if two thirds of the landowners of the affected area vote in favor of the repeal of such ordinance at the referendum, such ordinance shall be repealed by the county board at its next regular or special meeting. Referenda on the adoption, amendment or repeal of an ordinance prescribing land use regulations shall not be held in the same or substantially the same area more often than once in six months.~~

(5) (a) Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, soil saving dams, sediment traps, dikes, ponds, diversion, channels and other necessary structures;

(e) Provisions for such other means, measures, operations and programs as may assist conservation of soil resources and prevent or control soil erosion ~~having due regard to the legislative findings set forth in section 92.02~~ runoff and sedimentation.

SECTION 19. 92.09 (5) (f) of the statutes is created to read:

92.09 (5) (f) Provisions for the protection of lands exposed by grading, filling, clearing, mineral extraction and similar activities. Such regulations may limit the size of the area to be exposed, the length of time and season during which it may be exposed, require establishment of temporary waterways, storm drains, temporary debris basins, terraces and other structural and nonstructural methods to control erosion, runoff and sedimentation.

SECTION 20. 92.09 (6) of the statutes is amended to read:

92.09 (6) The regulations shall be uniform throughout the area affected by the ordinance except that the supervisors may classify the lands within such area with reference to such factors as soil type, degree of slope, degree of erosion, runoff and

sedimentation threatened or existing, ~~cropping and tillage practices in use present or future uses~~, and other relevant factors, and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this section shall be printed and made available to all interested occupiers of lands lying within the area affected.

SECTION 21. 92.10 of the statutes is amended to read:

92.10 The supervisors shall have authority to go upon any lands within the area affected by an ordinance adopting land-use regulations to determine whether such ordinance is being observed. ~~Any person, firm or corporation who shall violate any provision of an ordinance adopting land use regulations, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$25 nor more than \$100 for each such offense.~~ The county board shall by ordinance prescribe administrative procedures and provide administrative assistance and personnel to the supervisors as it deems necessary for the enforcement of land-use regulations. Such regulations may be enforced by appropriate forfeitures. Compliance with such regulations may also be enforced by injunctive order at the suit of such county or the owner or owners of real estate within the area affected by such regulations.

SECTION 22. 92.11 (1) of the statutes is amended to read:

92.11 (1) Where the supervisors of any district shall find that any of the provisions of land-use regulations prescribed in an ordinance adopted in accordance with the provisions of section 92.09 hereof are not being observed on particular lands, and that such nonobservance tends to increase erosion, runoff and sedimentation on such lands and or is interfering with the prevention or control of erosion, runoff and sedimentation on other lands within the district, the supervisors may present to the court a petition, duly verified, setting forth the adoption of the ordinance prescribing land-use regulations, the failure of the defendant land occupier to observe such regulations, and to perform particular work, operations or avoidances as required thereby, and that such nonobservance tends to increase erosion, runoff and sedimentation on such lands and or is interfering with the prevention or control of erosion, runoff and sedimentation on other lands within the district, and praying the court to require the defendant to perform the work, operations or avoidances within a reasonable time and to order that if the defendant ~~shall fail~~ fails so to perform the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and recover the costs and expenses thereof, with interest, from the occupier of such land.

SECTION 23. 92.12 (1) of the statutes is amended to read:

92.12 (1) In any county which by resolution has been declared a soil and water conservation district, and in which ~~land use~~ land-use regulations have been adopted under ss. 92.02, 92.10 and 92.11, the county board shall create a board of adjustment as provided in s. 59.99 ~~if such board of adjustment does not exist therein and as far as practicable s. 59.99 shall apply to the land-use regulations.~~

SECTION 24. 92.12 (2) to (4) of the statutes are repealed.

SECTION 25. 92.15 (1) and (2) of the statutes are amended to read:

92.15 (1) The county board of any county which, by resolution, has declared the county to be a soil and water conservation district, may, at any time after 5 years from the passage of said

ordinance, and after determining that a substantial proportion of the ~~rural~~ land occupiers of the district so desire, repeal said resolution at a regular or special meeting of said board. This determination may be made through hearings, petitions, referenda or any other means which the county board deems appropriate.

(2) Upon the repeal of the ordinance which declared the county to be a soil and water conservation district, the county board may not pass any more ordinances adopting land-use regulations or effecting changes in such an ordinance previously adopted, and the supervisors may not enter into any more contracts or agreements on behalf of the district. Ordinances prescribing land-use regulations shall continue to be effective until repealed, in the manner herein provided, and the special committee ~~on agriculture~~ shall continue to act as supervisors for the purpose of enforcing the existing contracts of the district and ordinances prescribing land-use regulations.

SECTION 26. 92.20 of the statutes is amended to read:

92.20 A soil and water conservation district may, on or before ~~July 1~~ the date established by the board, file with the soil conservation board of soil and water conservation districts a plan for one or more soil and water conservation projects to be undertaken in the next year. Such plan shall set forth the purpose, estimated cost, work to be done and such other data as the soil conservation board requires. The soil conservation board shall tentatively allocate a sum of \$1,000 or more annually, or one-half of the cost of technical services and experimental or special equipment ~~not available locally~~ the project, whichever is less, to each district whose plan has been approved by the soil conservation board. The funds may be used for technical and nontechnical services, and for materials necessary in the planning and application of conservation measures, field equipment and for educational materials. The soil and water conservation district supervisors shall keep the soil conservation board informed of the progress of the work on approved projects. ~~When the soil conservation board is satisfied that the progress on the project warrants it, the executive secretary of the soil conservation board shall certify to the department of administration that the district be paid a state aid of \$1,000 annually, or one-half the cost of technical services and experimental or special equipment not available locally, whichever is less. If any district fails to submit a plan by July 1 the date established by the board, the soil conservation board may allocate the sum remaining in the appropriation to one or more other districts for that year, but such additional allocation plus the original allocation shall not exceed one-half of the total approved expenditures for technical services and experimental or special equipment not available locally. Thereafter the board may allocate the appropriation remaining for plans submitted by one or more districts after the date set by the board.~~

SECTION 27. STATE BOARD OF SOIL AND WATER CONSERVATION DISTRICTS. Wherever the term "soil conservation board" appears in sections 15.911 (1), 20.285 (1) (f), 80.05 (2) (b), 80.39 (2), 84.02 (3) (a), 84.025 (3), 84.11 (3), 88.05 (4) (a), 88.22 (3) (intro.), 92.04 (title) and (1), 92.12 (3) and 92.15 (3) of the statutes, the term "board of soil and water conservation districts" is substituted.