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CHAPTER 346

1981 Senate Bill 72

Date published: May 7, 1982

CHAPTER 346, Laws of 1981
(Vetoed in Part)

AN ACT to repeal 15.07 (1) (b) 6 and (5) (p), 15.131 (3), 15.135 (3), 15.911 (1), 15.915 (1), 20.115 (6), 20.855 (2), 59.07 (60), 59.47 (2m), 59.872 and 893.73 (1) (c); to amend 15.07 (5) (h), 30.28 (3), 31.39 (3), 32.02 (1), 32.07 (2), 33.28 (2) (a), 60.18 (22), 66.34, 80.05 (2) (b), 80.39 (2), 84.02 (3) (a), 84.11 (3) and 91.13 (8) (d); to repeal and recreate 15.07 (1) (c), 36.25 (7), 91.01 (2) and chapter 92; and to create 15.07 (1) (b) 10 and (c), 15.131 (4), 15.135 (4), 20.115 (7), 59.80, 59.81, 144.251 and ~~236.12 (2) (c)~~ of the statutes, relating to abolishing the board of soil and water conservation districts and transferring its functions to the department of agriculture, trade and consumer protection, abolishing the agricultural lands preservation board and transferring its functions to the land conservation board, creating a land conservation board, abolishing soil and water conservation districts, creating county land conservation committees and programs, providing for a study, granting rule-making authority and making appropriations. Vetoed in Part

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

SECTION 1. 15.07 (1) (b) 6 of the statutes is repealed.

SECTION 2. 15.07 (1) (b) 10 of the statutes is created to read:

15.07 (1) (b) 10. Land conservation board.

SECTION 3. 15.07 (1) (c) of the statutes, as affected by chapters 62, 94 and 96, laws of 1981, is repealed and recreated to read:

15.07 (1) (c) Except as provided under par. (cm), fixed terms of members of boards shall expire on May 1 and, if the term is for an even number of years, shall expire in an odd-numbered year.

SECTION 4. 15.07 (1) (cm) of the statutes is created to read:

15.07 (1) (cm) The terms of members of the personnel board shall expire on July 1. The terms of members of the state employees merit award board shall expire on July 1. The term of one member of the ethics board shall expire on each May 1. The terms of members of the radioactive waste review board shall expire as specified under s. 15.105 (11) (c). The terms of the 3 members of the land conservation board appointed under s. 15.135 (4) (b) 2 shall expire on January 1.

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

15.07 (5) (h) Voting members of the land conservation board of soil and water conservation districts, ~~\$15~~ \$25 per day.

SECTION 6. 15.07 (5) (p) of the statutes is repealed.

SECTION 7. 15.131 (3) of the statutes is repealed.

SECTION 8. 15.131 (4) of the statutes is created to read:

15.131 (4) LAND CONSERVATION BOARD. The land conservation board shall have the program responsibilities specified for the board under ch. 92.

SECTION 9. 15.135 (3) of the statutes is repealed.

SECTION 10. 15.135 (4) of the statutes is created to read:

15.135 (4) LAND CONSERVATION BOARD. (a) *Creation*. There is created a land conservation board which is attached to the department of agriculture, trade and consumer protection under s. 15.03.

(b) *Members*. The board consists of:

1. The secretaries of administration and of agriculture, trade and consumer protection or their designees;
2. Three members of county land conservation committees designated biennially by the county land conservation committees at their annual meeting in even-numbered years, appointed for 2-year terms; and
3. Two public members appointed for staggered 4-year terms.

(c) *Advisory members*. The board shall invite the U. S. secretary of agriculture to appoint 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 board shall invite the dean of the college of agricultural and life sciences of the university of Wisconsin-Madison, the secretary of natural resources and the director of the university of Wisconsin-extension to serve or appoint a person to serve as an advisory member of the board.

(d) *Vacancies*. If one or more of the county land conservation committee member positions on the board is vacant, the chairperson may call a special meeting of the committees to fill the vacancies, but vacancies may be filled only if a majority of the committees are represented at the special meeting.

SECTION 11. 15.911 (1) of the statutes is repealed.

SECTION 12. 15.915 (1) of the statutes is repealed.

SECTION 13. 20.005 (2) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

		1981-82	1982-83
	20.115 Agriculture, trade and consumer protection, department of		
Vetoed in Part (7)	(a) LAND CONSERVATION General program operations GPR A	0	155,280
	(b) Preliminary mapping; agricultural land preservation GPR B	0	0
	(c) Soil and water conservation project aids GPR A	0	464,600
	(d) Erosion control program GPR A	0	0

SECTION 14. 20.115 (6) of the statutes is repealed.

SECTION 15. 20.115 (7) of the statutes is created to read:

20.115 (7) LAND CONSERVATION. (a) *General program operations*. The amounts in the schedule for general program operations under chs. 91 and 92.

(b) *Preliminary mapping; agricultural land preservation*. Biennially, the amounts in the schedule to carry out the preliminary mapping function under s. 91.05 after July 1, 1983, and to provide funds to counties for the development of agricultural preservation plans under s. 91.65 (2).

(c) *Soil and water conservation project aids*. The amounts in the schedule for the payment of aids to land conservation committees under s. 92.14.

(d) *Erosion control program*. The amounts in the schedule for the erosion control program under s. 92.10.

SECTION 16. 20.855 (2) of the statutes, as affected by chapters 20 and 93, laws of 1981, is repealed.

SECTION 17. 30.28 (3) of the statutes is amended to read:

30.28 (3) This section does not apply to any federal agency, state agency, county, city, village, town, county utility district, town sanitary district, public inland lake protection and rehabilitation district, metropolitan sewerage district, ~~soil and water conservation district~~ or federally recognized Native American tribal governing body.

SECTION 18. 31.39 (3) of the statutes is amended to read:

31.39 (3) This section does not apply to any federal agency, state agency, county, city, village, town, county utility district, town sanitary district, public inland lake protection and rehabilitation district, metropolitan sewerage district, ~~soil and water conservation district~~ or federally recognized Native American tribal governing body.

SECTION 19. 32.02 (1) of the statutes is amended to read:

32.02 (1) Any county, town, village, city, including villages and cities incorporated under general or special acts, school district, ~~soil and water conservation district~~, the department of health and social services, the board of regents of the university of Wisconsin system, the building commission, a commission created by contract under s. 66.30, with the approval of the municipality in which condemnation is proposed, or any public board or commission, for any lawful purpose, but in the case of city and village boards or commissions approval thereof shall have been of that action is required to be granted by the governing body. A mosquito control commission, created under s. 59.861, may not acquire property by condemnation.

SECTION 20. 32.07 (2) of the statutes is amended to read:

32.07 (2) ~~If The petitioner shall determine necessity if~~ application is by the state or any commission, department, board or other branch of state government; or by a city, village, town, county, board, commission, public officer, commission created by contract under s. 66.30, redevelopment authority created under s. 66.431, solid waste recycling authority created under ch. 232 or housing authority created under ss. 66.40 to 66.404; ~~or by a soil and water conservation district created under ch. 92; or for the right-of-way of a railroad or a street or interurban railway up to 100 feet in width; or, for a telegraph, telephone or other electric line; or, for the right-of-way for a gas pipeline, main or service; or for easements for the construction of any elevated structure or subway for railroad, street or interurban railway purposes, the petitioner shall determine necessity.~~

SECTION 21. 33.28 (2) (a) of the statutes, as affected by chapter 18, laws of 1981, is amended to read:

33.28 (2) (a) One person appointed by the county board who is a ~~supervisor of the county soil and water conservation district~~ member of the county land conservation committee or is nominated by the ~~supervisors of the soil and water conservation district~~ county land conservation committee and appointed by the county board;

SECTION 22. 36.25 (7) of the statutes is repealed and recreated to read:

36.25 (7) SOIL AND WATER CONSERVATION. The board is responsible for research and educational programs regarding soil and water conservation. The board shall cooperate with the land conservation board, the department of agriculture, trade and consumer protection and the counties in carrying out its soil and water conservation programs. The board shall prepare annually a written program of planned educational activities in soil and water conservation.

SECTION 23. 59.07 (60) of the statutes is repealed.

SECTION 24. 59.47 (2m) of the statutes is repealed.

SECTION 25. 59.80 of the statutes is created to read:

59.80 Land conservation committee. Each board shall create a land conservation committee.

SECTION 25g. 59.81 of the statutes is created to read:

59.81 Land conservation. (1) **SOIL AND WATER CONSERVATION.** Each board is responsible for developing and implementing a soil and water conservation program specified under ch. 92 through its land conservation committee.

(2) **COMMITTEE POWERS AND DUTIES.** The land conservation committee created by the board has the powers and duties specified for that committee under ch. 92.

(3) **APPROPRIATION OF FUNDS.** The board may appropriate funds for soil and water conservation and for other purposes relating to land conservation.

(4) **LAND USE AND LAND MANAGEMENT.** The board may adopt ordinances under s. 92.11 regulating land use and land management practices to promote soil and water conservation.

SECTION 25r. 59.872 of the statutes is repealed.

SECTION 26. 60.18 (22) of the statutes is amended to read:

60.18 (22) **ASSISTING SOIL AND WATER CONSERVATION.** To raise money to assist in ~~the development of a soil and water conservation district including or~~ benefiting all or a portion of ~~such the town or in promoting the program of such a district,~~ and to authorize the town board to expend said money for ~~such these~~ purposes or to pay all or part of ~~said the money to such soil and water conservation district~~ the county land conservation committee to be expended by it for ~~such these~~ purposes.

SECTION 27. 66.34 of the statutes is amended to read:

66.34 Soil conservation. Any county, city, village or town by its governing body or through a committee designated by it for the purpose, may contract to do soil conservation work on privately owned lands, but no ~~such contract shall~~ may involve more than \$1,000 for any one person, ~~nor shall~~ and the amount of work done for any one person may not exceed \$1,000 annually.

SECTION 28. 80.05 (2) (b) of the statutes is amended to read:

80.05 (2) (b) Give notice by registered mail to the department of natural resources, to the department of agriculture, trade and consumer protection and to the ~~board of soil and water conservation districts~~ by registered mail committee in each county through which the highway may pass.

SECTION 29. 80.39 (2) of the statutes is amended to read:

80.39 (2) **NOTICE.** Upon such petition the county board or the commissioners appointed by the board shall give notice of the time and place they will meet to decide ~~thereon, which on the petition.~~ The notice shall be published as a class 2 notice, under ch. 985. ~~Such~~ The notice shall also be given to the department of natural resources and ~~to the board of soil and water conservation districts~~ department of agriculture, trade and consumer protection by serving a copy upon the secretary of natural resources and by serving a copy upon the secretary of ~~the board of soil and water conservation districts~~ agriculture, trade and consumer protection either by registered mail or personally. If the board appoints a committee to act, the notice shall state the fact and the notices shall be signed by the commissioners, otherwise by the chairman of the board.

SECTION 30. 84.02 (3) (a) of the statutes is amended to read:

84.02 (3) (a) Changes may be made in the state trunk system by the department, if it deems that the public good is best served by making ~~such the~~ changes. The department, in making ~~such the~~ changes, may lay out new highways by the procedure under this subsection. Due notice shall be given to the localities concerned of the intention to make changes or discontinuances, and if the change proposes to lay a highway via a new location and the distance along such deviation from the existing location exceeds 2 1/2 miles, then a hearing in or near the region affected by the proposed change shall be held prior to making the change effective. ~~Such~~ The notice shall also be given to the secretary of natural resources and to the secretary of ~~the board of soil and water conservation districts~~ agriculture, trade

and consumer protection either by registered mail or personally. Whenever the department decides to thus change more than 2 1/2 miles of the system ~~such the~~ change shall not be effective until the decision of the department has been referred to and approved by the county board of each county in which any part of the proposed change is situated. A copy of the decision shall be filed in the office of the clerk of each county in which a change is made or proposed. Where the distance along the deviation from the existing location exceeds 5 miles the change shall constitute an addition to the state trunk highway system. The preexisting route shall continue to be a state trunk highway unless the county board of each county in which any part of the relocation lies and the department mutually agree to its discontinuance as a state trunk highway. Whenever such county board or boards and the department cannot so agree the department shall report the problem to the next ensuing session of the legislature for determination.

SECTION 31. 84.11 (3) of the statutes is amended to read:

84.11 (3) HEARING. Within 60 days of the receipt of a petition under sub. (2) (a) or on its own motion, the department shall fix a time and place for a hearing and give notice of ~~such the~~ hearing by publication of a class 2 notice, under ch. 985, in the vicinity of the proposed bridge project. Notice shall also be given by registered letter addressed to the clerks of the counties, cities, villages and towns in which any part of the bridge project will be located. ~~Such The~~ notice shall also be given to the secretary of natural resources and to the secretary of ~~the board of soil and water conservation districts~~ agriculture, trade and consumer protection either by registered mail or personally. ~~Such The~~ hearing may be held in any county, city, village or town in which any part of the bridge project will be located.

SECTION 32. 91.01 (2) of the statutes is repealed and recreated to read:

91.01 (2) "Board" means the land conservation board.

SECTION 33. 91.13 (8) (d) of the statutes is amended to read:

91.13 (8) (d) Farming operations shall be conducted in substantial accordance with ~~an approved soil and water conservation district conservation plan. The county soil and water conservation district supervisors shall ensure that such plans are prepared and followed~~ a soil and water conservation plan approved by the land conservation committee of the county board. The land conservation committee shall ensure that these plans are prepared and followed. Deviation from a plan may be allowed, if, in the judgment of the ~~supervisors~~ land conservation committee, personnel are not available to lay out the suggested practices on the land or if the practices are not economical for the owner to adopt.

SECTION 34. Chapter 92 of the statutes is repealed and recreated to read:

CHAPTER 92

SOIL AND WATER CONSERVATION

92.01 Name. This chapter is known as the "soil and water conservation law".

92.02 Legislative intent. (1) The legislature finds that the soil resources of this state are being depleted by wind and water erosion and that the waters of this state are being polluted by nonpoint sources of pollution. The legislature further finds that these are statewide problems endangering the health and welfare of the state's citizens, its recreational resources, agricultural productivity and industrial base.

(2) The legislature declares it to be the policy of this state to halt and reverse the depletion of the state's soil resources and pollution of its waters.

(3) It is the intent of the legislature to implement this policy by enacting this soil and water conservation law to:

(a) Establish goals and standards for conservation of soil and water resources;

(b) Provide for cost sharing, technical assistance, educational programs and other programs to conserve soil and water resources;

(c) Encourage coordinated soil and water conservation planning and program implementation; and

(d) Enable the regulation of harmful land use and land management practices by county ordinance where necessary to achieve the purposes of this chapter.

92.03 Definitions. In this chapter:

(1) "Agency" means any department, agency, board, commission, committee, council, officer, subdivision or instrumentality, corporate or otherwise, of this state.

(2) "Board" means the land conservation board created under s. 15.135 (4).

(3) "Department" means the department of agriculture, trade and consumer protection.

(4) "Landowner" means any person over 18 years of age and any partnership, firm or corporation that holds title to land lying within a county whether or not this land is subject to easement, mortgage, lien, lease or restrictive covenant, except that this term does not include any person who is under guardianship, a person who is incompetent or a person who is mentally ill. A person, partnership, firm or corporation is deemed to hold title to land if the person, partnership, firm or corporation has any of the following:

(a) Title as sole owner.

(b) Title as a joint owner.

(c) Title as owner of an undivided interest.

(d) Title as sole or joint trustee or as sole or joint assignee.

(e) A land contract vendee's interest therein.

(5) "Land user" means any person who uses land as an operator, lessor or renter.

(6) "Secretary" means the secretary of the department.

92.04 Land conservation board. (1) **POWERS.** (a) *Hearings.* The board may hold public hearings in the performance of its functions.

(b) *Delegation.* The board may delegate to its chairperson or to one or more of its members any of its powers or duties.

(2) **DUTIES.** (a) *Advise secretary and department.* The board shall advise the secretary and department on matters relating to exercise of the department's authority under this chapter.

(b) *Review erosion control plans and aid applications.* The board shall review soil erosion control plans prepared under s. 92.10, review aid applications submitted under s. 92.14 and make recommendations to the department on approval or disapproval of the plans or applications and on allocation of funding among the counties.

(c) *Review annual and long-range plans.* The board shall review annual and long-range land conservation plans developed under s. 92.08 and make recommendations to the department on approval or disapproval of the plans.

(d) *Advise the university of Wisconsin system.* The board shall advise the university of Wisconsin system annually on needed research and educational programs relating to soil and water conservation.

(e) *Records.* The board shall keep a full and accurate record of all proceedings before it and all actions taken by it.

(3) **RULES REVIEW.** (a) *Board review.* The board shall review all rules of the department relating to implementation of this chapter prior to promulgation.

(b) *Submission for review.* Before submitting proposed rules to the legislative council staff under s. 227.029, the department shall submit the proposed rules to the board for comment. The board has 30 days to submit comments on the proposed rules to the department.

(c) *Emergency rules.* If the department promulgates an emergency rule under s. 227.027, it shall provide a copy of the rule to the board prior to publication of the rule in the official state paper.

(d) *Hearing.* The chairperson of the board, or his or her designee from the board, may cochair with the department any public hearing held by the department on proposed rules.

(e) *Dissenting report.* The department shall submit to the board a copy of the report required under s. 227.018 (2) on proposed rules. The board may prepare a dissenting report stating its recommendations on the proposed rules. The board shall prepare any dissenting report within 10 days from the date of receipt of the department's report. The department shall attach the dissenting report to the department's report, send them to the presiding officer of each house of the legislature and distribute copies under s. 227.018 (2). The department shall cause a statement to appear in the Wisconsin administrative register to the effect that a dissenting report of the board was submitted to the presiding officer of each house of the legislature.

(f) *No rule-making power.* The board has no rule-making authority on matters relating to soil and water conservation.

92.05 Department. (1) **CENTRAL AGENCY.** The department is the central agency of this state responsible for setting and implementing statewide soil and water conservation policies and administering the state's soil and water conservation programs. The department shall coordinate its soil and water conservation program with the nonpoint source water pollution abatement program established under s. 144.25, the inland lake protection and rehabilitation program established under ch. 33 and other programs with objectives related to soil and water conservation administered by the department of natural resources or by other state or federal agencies.

(2) **POWERS.** (a) *Accept gifts.* The department may accept contributions of money or gifts for soil and water conservation purposes.

(b) *Require reports.* The department may require reports from the counties as needed.

(c) *Contract with university of Wisconsin system.* The department may contract with the university of Wisconsin system for soil and water conservation educational and research services.

(3) **DUTIES.** (a) *Information.* The department shall keep county land conservation committee members generally informed of activities and experience useful to them.

(b) *Development; coordination.* The department shall assist in developing and coordinating the plans and programs of each county.

(c) *Rules.* The department shall promulgate rules governing implementation of this chapter and distribution of state or federal funds by the department to the counties. The department shall comply with the procedures under s. 92.04 (3) in promulgating these rules.

(d) *Advise university of Wisconsin system.* The department shall advise the university of Wisconsin system annually on developing research and educational programs relating to soil and water conservation.

(e) *Studies.* The department may undertake studies and investigations and make and issue reports and recommendations with respect to state soil and water conservation program needs. Biennially, the department shall prepare a state soil and water conservation report. This report shall include a description of present soil and water resource uses and a projection of future trends, an assessment of soil and water conservation problems in relation to soil and water resource use practices and any actions necessary to correct or solve these problems including specific goals, action schedules, program evaluation criteria and provisions for the coordination of these actions with programs developed by other

agencies for the development, management and conservation of soil, water and related natural resources. This report shall include the identification of counties and specific parcels within these counties where soil and water conservation problems are most acute and recommendations for actions necessary to correct or solve these problems.

(f) *Nonpoint source water pollution abatement.* The department shall perform the duties specified for the department in the nonpoint source water pollution abatement program under s. 144.25 (5).

(g) *Watershed protection and flood prevention act.* The department has responsibility over programs provided by 16 USC 1001 to 1008 relating to the planning and carrying out of works of improvement for soil and water conservation and other purposes.

(h) *Model ordinances.* The department shall make available model ordinances for counties and municipalities concerning regulation and control of land use and land management practices as authorized under s. 92.11.

(i) *Provide staff.* The department shall provide staff to assist the board in performing its statutory duties.

92.06 Land conservation committees. (1) **CREATION; MEMBERSHIP.** (a) *Creation.* Each county board shall create a land conservation committee.

(b) *Membership.* 1. The county board shall appoint to the land conservation committee at least 2 persons who are members of the committee on agriculture and extension education created under s. 59.87 (2).

2. The county board shall appoint to the land conservation committee a person who is the chairperson of the county agricultural stabilization and conservation committee created under 16 USC 590h (b) or other county agricultural stabilization and conservation committee member designated by the chairperson of the county agricultural stabilization and conservation committee.

3. The county board may appoint to the land conservation committee any number of members who are also members of the county board.

4. The county board may appoint to the land conservation committee up to 2 members who are not members of the county board.

(c) *Terms.* Each member of the land conservation committee shall serve for a term of 2 years or until a successor is appointed, whichever is longer.

(d) *Reimbursement.* Each member of the land conservation committee shall be reimbursed for necessary expenses and shall be paid the same per diem as members of other county board committees except that a member appointed under par. (b) 2 may not be reimbursed or paid a per diem under this paragraph.

(e) *Programs and responsibilities.* The county board may assign other programs and responsibilities to the land conservation committee.

(2) **DESIGNATED REPRESENTATIVES.** The county board shall designate a representative of each county committee with responsibilities related to natural resource management to serve as an adviser to the land conservation committee. The county board shall designate, at a minimum, representatives from any county zoning or land use, forestry, parks and solid waste committees. In addition, the land conservation committee may invite any state, federal or local agency with which the county or committee has a memorandum of understanding to designate a representative to advise the land conservation committee.

Vetoed in Part (3) ~~**CHAIRPERSON, OFFICERS.** The land conservation committee members shall designate a chairperson and other necessary officers and may delegate any powers or duties to one or more committee members or to staff.~~

(4) **PUBLIC PARTICIPATION.** The committee shall actively solicit public participation in the planning and evaluation of soil and water conservation programs.

~~(5) BUDGET. The land conservation committee is responsible for the preparation of a budget reflecting the cost of the committee's operations and services. The chairperson of the committee may present the budget to the county board as a request for county funding.~~ Vetoed in Part

92.07 Land conservation committee; powers. (1) **POWERS GENERALLY.** Each land conservation committee may carry out the powers delegated to the committee under this section subject to the approval of the county board. Vetoed in Part

(2) **STANDARDS.** Each land conservation committee may develop and adopt standards and specifications for management practices to control erosion, sedimentation and nonpoint source water pollution.

(3) **DISTRIBUTE FUNDS.** Each land conservation committee may distribute and allocate federal, state and county funds made available to the committee for cost-sharing programs or other incentive programs for improvements and practices relating to soil and water conservation on private or public lands, and within the limits permitted under these programs, to determine the methods of allocating these funds.

~~(4) REVIEW SUBDIVISION PLATS. Each land conservation committee may review and object to subdivision plats prepared under ch. 236 with respect to provisions for controlling soil erosion, sedimentation and storm water runoff as authorized by county ordinance.~~ Vetoed in Part

(5) **EDUCATIONAL AND OTHER PROGRAMS.** Each land conservation committee may encourage research and educational, informational and public service programs, advise the university of Wisconsin system on educational needs and assist the university of Wisconsin system and the department in implementing educational programs under ss. 36.25 (7), 59.87 and 92.05.

(6) **PREVENTIVE AND CONTROL MEASURES AND WORKS OF IMPROVEMENT.** Each land conservation committee may carry out preventive and control measures and works of improvement for flood prevention and for conservation, development, utilization and control of water within the county. These preventive and control measures and works of improvement may include, but are not limited to, changes in the use of land and use of engineering operations such as terraces, terrace outlets, desilting basins, floodwater retarding structures, floodways, dikes and ponds, methods of cultivation and the growing of vegetation. These preventive and control measures and works of improvement may be carried out on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction of the land, and on any other lands within the county upon obtaining the consent of the landowner or the necessary rights or interests in the land.

(7) **ASSISTANCE.** Each land conservation committee, in the name of the county, may cooperate with, enter into agreements with, or furnish financial, technical, planning or other assistance to any agency, governmental or otherwise, or any landowner or land user within the incorporated or unincorporated parts of the county, in carrying out resource conservation operations and works of improvement for flood prevention or for the conservation, development, utilization and protection of soil and water resources within the county.

(8) **OBTAIN PROPERTY.** Each land conservation committee, in the name of the county, may obtain options upon and acquire, by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property or rights or interests in property or in water. A land conservation committee may maintain, administer and improve any properties acquired. A land conservation committee may receive income from these properties on behalf of the county and may expend this income in carrying out the purposes and provisions of this chapter. A land conservation committee may sell, lease or otherwise dispose of the property or interests in property in furtherance of the purposes and the provisions of this chapter.

(9) **MACHINERY AVAILABILITY.** Each land conservation committee may make available, on terms it may prescribe, to landowners and land users within the incorporated and unincorporated parts of the county, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and other material or equipment which will assist the landowners and land users in carrying on operations upon their lands for the conservation of soil resources, for the prevention and control of soil erosion, for flood prevention, for the conservation, development and utilization of water or for the prevention of nonpoint source water pollution.

(10) **STRUCTURES.** Each land conservation committee may construct, improve, operate and maintain structures necessary or convenient for the performance of any of the operations or activities authorized in this chapter.

(11) **ADMINISTRATION OF PROJECTS OR PROGRAMS.** Each land conservation committee, in the name of the county, may acquire, by purchase, lease or otherwise, and administer, any soil conservation, flood prevention, water management or nonpoint source water pollution abatement project or combinations of these projects, and participate in programs concerned with the conservation of natural resources located within the county undertaken by the United States or any of its agencies, or by this state or any of its agencies. A land conservation committee may administer, 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, water management, water quality improvement, nonpoint source water pollution abatement, erosion control, erosion prevention project or resource conservation program within the county. A land conservation committee may 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 resource conservation program within the county. A land conservation committee, on behalf of the county, may accept donations, gifts and contributions in money, services, materials or otherwise from any source and use or expend these moneys, services, materials or other contributions in carrying on its operations.

(12) **CONTRACTS; RULES.** Each land conservation committee, in the name of the county, may make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(13) **CONTRIBUTIONS; AGREEMENTS.** As a condition to extending any benefits under this chapter to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, a land conservation committee may require contributions in money, services, materials or otherwise to any operations conferring the benefits, and may require landowners and land users to enter into and perform agreements or covenants respecting the use of land as will lead to conservation of soil and water resources.

(14) **ENTER UPON LANDS.** Each land conservation committee may enter upon any lands within the county to examine the land and make surveys or plans for soil and water conservation without being liable for trespass in the reasonable performance of these duties. This authorization applies to the land conservation committee members and their agents.

92.08 Land conservation plans. (1) **PLANS GENERALLY.** Each land conservation committee may develop and amend comprehensive long-range and annual plans for the development, use, conservation and management of soil, water and related resources within the county. The long-range and annual plans shall specify in as much detail as is practicable the acts, procedures, performances and avoidances which are necessary or desirable to carry out the plans. A land conservation committee may invite public participation in the development and evaluation of the plans. A land conservation committee may publish the plans and information and bring them to the attention of landowners and land users within the county.

(2) **LONG-RANGE PLANS.** Each land conservation committee shall prepare a long-range plan. The long-range plan shall include an inventory of natural resources in the county, a description of present natural resource uses and a projection of future trends, an assessment of resource conservation problems in relation to natural resource use practices and any actions necessary to correct or solve these problems including specific goals, action schedules, program evaluation criteria and provisions for coordination with programs developed by other agencies for the development, management and conservation of soil, water and related natural resources.

(3) **ANNUAL PLANS.** Each land conservation committee shall prepare an annual plan which describes the 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.

(4) **SUBMISSION OF PLANS AND REPORT.** Each land conservation committee shall submit, upon completion, its long-range plan, annual plan and an annual report to the board, department and the county board. The committee shall furnish copies of these documents to appropriate counties, municipalities, regional planning commissions, local units of government, state agencies and federal agencies. The committee shall make these documents available in convenient places for examination by the public.

(5) **PLAN REVIEW AND APPROVAL.** After review of the long-range and annual plan by the board, the department shall either approve each plan or disapprove it and submit recommended changes to the committee. The department may not approve a plan unless the plan is approved by the county board. The land conservation committee shall review the recommendations and resubmit the plan under sub. (4) until it is approved by the department.

92.09 Land conservation committee staff. The land conservation committee may employ county soil and water conservation staff, subject to the approval of the county board. The county soil and water conservation staff, ~~under the direction of the committee,~~ is responsible for the administration of the county soil and water conservation program and may exercise the powers granted to the land conservation committee.

Vetoed
in Part

92.10 Erosion control program. (1) **CREATION.** There is created a statewide erosion control program. The department, board and land conservation committees jointly shall develop and administer this program.

(2) **PURPOSES.** The purposes of the erosion control program are to:

(a) Conserve long-term soil productivity and protect the quality of related natural resources;

(b) Provide the necessary administrative framework and financial assistance to meet soil erosion control needs of the state;

(c) Focus program resources in areas of the state with the most severe soil erosion problems; and

(d) Assure adequate program evaluation to develop recommendations for improvements in erosion control programs.

(3) **IMPLEMENTATION; DEPARTMENT DUTIES.** (a) *Data.* The department shall develop a systematic method of collecting and organizing statewide data related to soil erosion.

(b) *Plan assistance.* The department shall assist land conservation committees in preparing the soil erosion control plans required under this section and may allocate funds appropriated under s. 20.115 (7) (d) to the committees for this purpose.

(c) *Plan review.* The department shall review and approve or disapprove soil erosion control plans submitted by the land conservation committees under this section. The department may require land conservation committees to indicate specific projects to be funded under each plan and the related cost-sharing rates. The department may not

allocate any cost-sharing funds to a land conservation committee under this section unless its soil erosion control plan is approved.

(d) *Allocate funds.* The department shall allocate funds appropriated under s. 20.115 (7) (d) to the land conservation committees to cover up to 75% of the cost of implementing conservation practices included in soil erosion control plans. The department shall give priority to those areas in which the most severe soil erosion problems are located.

(e) *Report.* The department shall report biennially to the presiding officer of each house of the legislature and the governor on the progress of this program.

(4) IMPLEMENTATION; BOARD DUTIES. (a) *Plan review.* The board shall review soil erosion control plans submitted by the land conservation committees and make recommendations to the department.

(b) *Solicit comments.* The board shall solicit comments on land conservation committee plans from the agencies identified as advisers to the board under s. 15.135 (4).

(5) IMPLEMENTATION; COMMITTEE DUTIES. (a) *Plan preparation.* Each land conservation committee shall prepare a soil erosion control plan which does all of the following:

1. Specifies maximum acceptable rates of soil erosion.
2. Identifies the parcels and locations of the parcels where soil erosion standards are not being met.
3. Identifies the land use changes or management practices which would bring each area of land into compliance with standards adopted by the land conservation committee.
4. Specifies procedures to be used to assist landowners and land users in controlling soil erosion.
5. Establishes priorities for controlling soil erosion.

(b) *Notification.* Each land conservation committee shall notify landowners and land users of the results of any determinations of soil erosion rates, and provide an opportunity for landowners and land users to present information relating to the accuracy of the determinations during preparation of the plan.

(c) *Hearings.* Each land conservation committee shall hold one or more public hearings on the plan.

(d) *Plan submission.* Each land conservation committee shall submit the plan and any request for state funding of up to 75% of the cost of implementing conservation practices included in the plan to the board and department.

(e) *Plan adoption.* Each land conservation committee shall make the approved plan a part of the committee's long-range plan required under s. 92.08.

(f) *Local implementation.* Each land conservation committee shall administer local implementation of the approved plan. Local implementation includes, but is not limited to:

1. Providing technical assistance to landowners and land users;
2. Selecting practices to be cost-shared; and
3. Assuring application and maintenance of cost-shared practices in accordance with the approved plan.

(6) CONTRACTS. No cost-sharing funds may be distributed to a landowner or land user unless he or she, by contract with the land conservation committee, agrees:

(a) To maintain the cost-shared practice for its normal expected life, to replace it with an equally effective soil erosion control practice or to repay the cost-sharing funds to the land conservation committee;

(b) To conduct all land management activities in substantial accordance with the committee's approved plan or to repay the cost-sharing funds to the land conservation committee; and

(c) To repay to the land conservation committee the cost-sharing funds if title to the land on which the cost-shared practice is installed is transferred, unless the subsequent landowner or land user agrees to comply with the requirements of the committee's approved plan.

92.11 Regulation of land use and management practices. (1) **PROPOSED ORDINANCES.** To promote soil and water conservation or nonpoint source water pollution abatement, a land conservation committee may develop proposed county ordinances for the regulation of land use and land management practices.

(2) **APPLICABILITY; CONTENTS.** (a) An ordinance enacted under this section may be applicable throughout the county or to any part of the county, including both incorporated and unincorporated areas.

(b) An ordinance enacted under this section may prohibit land uses and land management practices which cause excessive soil erosion, sedimentation, nonpoint source water pollution or storm water runoff.

(3) **PRESENTATION; NOTICE; HEARING; COUNTY BOARD ADOPTION.** Any ordinance proposed by the land conservation committee under this section shall be presented to the county board together with a report on the need for the ordinance and its expected economic and environmental impact. Within 2 weeks after its receipt, the county board shall publish the proposed ordinance as a class 2 notice, under ch. 985, in a newspaper having general circulation throughout the county and make the report available for public inspection. The county board shall hold one or more public hearings on the proposed ordinance before taking final action. The county board shall adopt, with revisions or disapprove the ordinance.

(4) **REFERENDUM; LOCAL APPROVAL REQUIRED.** (a) *Definition.* As used in this subsection, "affected area" means the entire town, all of a village within the county or all of a city within a county if an ordinance adopted under this section or a revision to an ordinance adopted under this section is applicable to any part of the town, village or city.

(b) *Referendum required.* No ordinance adopted under this section and no revision to an ordinance adopted under this section may take effect in any affected area in that county unless the ordinance or revision is approved by referendum.

(c) *Wording of ballot question; procedure.* The county board shall include the wording of the question to be placed before the electors in the referendum as a part of the ordinance adopted under this section or the revision to an ordinance adopted under this section. Upon the adoption of the ordinance or revision the county board shall forward a copy of the ordinance or revision to the county clerk who shall cause the question to be placed before the voters of the affected area in the next spring or general election occurring not less than 45 days after the adoption of the ordinance or revision. The form of the ballot shall correspond substantially with form "D" annexed to s. 5.64 (2).

(d) *Approval; disapproval.* If the question placed before the electors in the referendum is approved by a majority of all votes cast on that subject in an affected area in that county, the ordinance adopted under this section or the revision to an ordinance adopted under this section takes effect in that affected area. Otherwise, the ordinance or revision does not take effect in that affected area.

(5) **ENFORCEMENT.** (a) The county board shall by ordinance prescribe administrative procedures and provide personnel necessary for the enforcement of any ordinance enacted under this section. Ordinances enacted under this section may be enforced through civil forfeiture or through issuance of an injunction by the circuit court in an action initiated by the county or land conservation committee. The court may award

reasonable attorney fees to any plaintiff in a successful action for enforcement through injunction.

(b) At least one year before the county or land conservation committee may initiate an action for enforcement, the land conservation committee shall make a reasonable effort to contact the landowner or land user in person and to furnish the landowner or land user all of the following:

1. An explanation orally and in writing of the reasons for the excessive soil erosion.
2. A management plan which, if followed, would reduce soil erosion to a rate established as acceptable by the land conservation committee. The management plan shall, with reasonable limits, set forth all of the options which are available to the landowner or land user to achieve acceptable soil erosion rates.
3. An explanation of the financial aids and technical assistance which are available to the landowner or land user. These may include, but are not necessarily limited to, cost-sharing, loans, tax incentives and technical assistance available from the land conservation committee and other agencies.

Vetoed in Part (6) **BOARD OF ADJUSTMENT.** The county board shall provide for the appointment of a board of adjustment ~~as provided under s. 59.99~~, in any county which adopts an ordinance under this section. ~~Section 59.99 applies to the granting of special exceptions to the ordinance.~~

(7) **CONSTRUCTION.** Any ordinance enacted under this section shall be liberally construed in favor of the county. It shall be construed as setting minimum requirements for the purposes stated and not as a limitation on other powers granted the county board and land conservation committee.

Vetoed in Part **92.12 Intergovernmental cooperation.** ~~Land conservation committees,~~ counties, cities, villages, towns and public agencies with natural resource responsibilities in the same or different counties may cooperate in carrying out the purposes of this chapter. If a problem of soil or water conservation is defined in part by drainage basin boundaries beyond a single county's borders or otherwise transcends these borders, the respective ~~land conservation committees,~~ counties, cities, villages, towns and public agencies with natural resource responsibilities may enter into mutually binding agreements and contracts containing, but not limited to, provisions for mutually enforced and administered regulatory ordinances and cost-sharing distribution arrangements.

92.13 State and local agencies to cooperate. Agencies of the state having jurisdiction over, or charged with the administration of any state-owned lands, and any county or other governmental subdivision of the state having jurisdiction over, or charged with the administration of any county-owned or other publicly owned lands, shall cooperate to the fullest extent with the land conservation committee in carrying out programs under this chapter. The land conservation committee may enter and perform work upon these publicly owned lands. The provisions of land conservation practices ordinances enacted under s. 92.11 are applicable to these publicly owned lands, and shall be in all respects observed by the agencies administering the lands.

92.14 State aids for conservation projects. A land conservation committee may, on or before the date established by the department, submit to the board and department an application for state aid for one or more conservation projects. The application shall set forth the purpose, estimated cost, work to be done and any other data that the department requires. After receiving recommendations of the board on the applications, the department shall approve or disapprove each application and allocate the funds appropriated under s. 20.115 (7) (c) to the land conservation committees with approved applications. No allocation may exceed 75% of the cost of the projects proposed in an application. The state aid may be used for personnel and associated costs, for materials and associated

costs necessary in the planning, application, repair or maintenance of conservation measures, for equipment and for educational materials. The land conservation committee shall keep the department informed of the status of work on funded projects.

SECTION 35. 144.251 of the statutes is created to read:

144.251 Watershed projects. The department shall assist and advise the department of agriculture, trade and consumer protection regarding watershed projects under 16 USC 1001 to 1008.

~~SECTION 36. 236.12 (2) (c) of the statutes is created to read:
236.12 (2) (c) One copy to the land conservation committee of the county board, if the county has adopted an ordinance requiring the subdivision to meet soil erosion, sedimentation or storm water runoff standards. The land conservation committee may object to the plat only if soil erosion, sedimentation or storm water runoff standards are not met. In incorporated areas a county ordinance is applicable only if the city or village does not enact an ordinance with provisions at least as restrictive as the county ordinance.~~

Vetoed
in Part

SECTION 37. 893.73 (1) (c) of the statutes is repealed.

SECTION 38. **Changes in terminology.** (1) Wherever the term "board of soil and water conservation districts" appears in the following sections of the statutes, the term "department of agriculture, trade and consumer protection" is substituted: 84.01 (17), 88.22 (3) (intro.), 144.25 (3) (a), (5) (intro.) and (8) (g) (intro.) and (h) 1.

(2) Wherever the term "soil and water conservation district" appears in the following sections of the statutes, the term "county land conservation committee" is substituted: 33.14 (2) (b) and (4) (d), 33.16 (4) (d), 60.18 (21), 88.05 (4) (a), 91.13 (2) and 91.35 (1).

(3) Wherever the term "board of soil and water conservation districts" appears in the following section of the statutes, the term "land conservation board" is substituted: 15.347 (8) (c).

(4) Wherever the term "soil and water conservation districts" appears in the following section of the statutes, the term "county land conservation committees" is substituted: 91.05 (1).

SECTION 38g. **Nonstatutory provisions; duties and responsibilities pending creation of land conservation committee.** (1) The county board shall act in place of the county land conservation committee between July 1, 1982 and the date when a land conservation committee is created or until the first day of the 6th month commencing after publication of this act, whichever occurs first, and, while acting in place of the land conservation committee, it has the functions, duties, powers, authority and responsibilities specified for the land conservation committee under sections 20.115 (7) (c), 33.14 (2) (b) and (4) (d), 33.16 (4) (d), 60.18 (21) and (22), 80.05 (2) (b), 91.13 (2), 91.35 (1), 92.06 (4) and (5), 92.07 to 92.14 and 236.12 (2) (c) of the statutes as created or affected by this act.

(2) The county board chairperson shall act in place of the chairperson of the county land conservation committee between July 1, 1982 and the date when the land conservation committee is created and appoints a chairperson or until the first day of the 7th month commencing after publication of this act, whichever occurs first, and, while acting in place of the chairperson of the land conservation committee, the county board chairperson has the functions, duties, powers, authority and responsibilities specified for the chairperson of the land conservation committee under sections 88.05 (4) (a) and 92.06 (5) of the statutes as created or affected by this act.

Vetoed
in Part

(3) If a person is to be appointed by the county board under section 33.28 (2) (a) of the statutes, as affected by this act, between July 1, 1982 and the date when the land conservation committee is created or until the first day of the 6th month commencing

after publication of this act, whichever occurs first, then the county board may appoint any person, notwithstanding the provisions of that section.

SECTION 38r. Nonstatutory provisions; deadline for creation of land conservation committee; designation of chairperson. (1) Each county board shall act to create a land conservation committee as required under sections 59.81 and 92.06 (1) of the statutes, as created or affected by this act, on or before the first day of the 6th month commencing after the publication of this act.

Vetoed in Part (2) A county ~~land conservation committee~~ shall act to designate a chairperson ~~as required under section 92.06 (3)~~, as affected by this act, within one month after that committee is created.

SECTION 39. Nonstatutory provisions; forestry mill tax study. The department of agriculture, trade and consumer protection and the department of natural resources shall study jointly the legality and feasibility of utilizing funds derived from the proceeds of the forestry mill tax imposed under section 70.58 of the statutes for soil and water conservation programs. These departments shall report to the legislature on or before March 1, 1983, on the results of this study and shall submit any recommendations and proposed statutory changes at that time.

SECTION 40. Appropriation changes. There is transferred to the appropriation under section 20.115 (7) (a) of the statutes from the appropriation under section 20.285 (1) (a) of the statutes, as affected by the laws of 1981, \$155,900 in the 1982-83 fiscal year.

SECTION 41. Position authorizations and reductions. (1) The authorized FTE positions for the department of agriculture, trade and consumer protection are increased by 6.0 GPR positions on July 1, 1982, to be funded from the appropriation under section 20.115 (7) (a) of the statutes, as affected by the laws of 1981.

(2) The authorized FTE positions for the university of Wisconsin system are decreased by 6.0 GPR positions on July 1, 1982, funded out of the appropriation under section 20.285 (1) (a) of the statutes, as affected by the laws of 1981, to eliminate positions performing duties related to soil and water conservation that are not held by tenured faculty members.

(3) The university of Wisconsin system shall give notice on or before May 1, 1982, and notice is hereby given, to the personnel holding the positions eliminated under subsection (2) that their positions will be terminated on July 1, 1982.

SECTION 42. Transitional provisions. (1) **INITIAL BOARD MEMBERS.** Before July 1, 1982:

(a) The soil and water conservation districts shall designate 3 soil and water conservation district supervisors who shall serve as initial members of the land conservation board in place of members of county land conservation committees, with terms expiring January 1, 1983.

(b) The governor shall nominate 2 public members to serve as initial members of the land conservation board, who shall serve terms expiring on May 1, 1984, and May 1, 1986. The governor shall designate which nominee is to serve what term.

(c) The U.S. secretary of agriculture, the dean of the college of agricultural and life sciences of the university of Wisconsin-Madison, the secretary of the department of natural resources and the director of the university of Wisconsin-extension may appoint persons to serve as initial advisory members of the land conservation board.

(2) **RULES.** All rules of the board of soil and water conservation districts in effect on July 1, 1982, shall remain in force until modified or rescinded by the department of agriculture, trade and consumer protection under this act. All rules of the agricultural lands preservation board in effect on July 1, 1983, shall remain in force until modified or rescinded by the land conservation board, as created by this act.

(3) TRANSFER OF APPLICATIONS. On July 1, 1982, all applications and other matters pending before the board of soil and water conservation districts are transferred to the department of agriculture, trade and consumer protection. All plans, ordinances, applications and other matters pending before the agricultural lands preservation board on July 1, 1983, are transferred to the land conservation board, as created by this act.

(4) TRANSFER OF PROPERTY. On July 1, 1982, all records and property of the board of soil and water conservation districts are transferred to the department of agriculture, trade and consumer protection. All records and property of the agricultural lands preservation board on July 1, 1983, are transferred to the land conservation board, as created by this act.

(5) DISTRICT PROPERTY AND RECORDS TRANSFERS. All records and property of soil and water conservation districts shall be transferred to the land conservation committee or, if none exists, to the county board for the same county on July 1, 1982. All contractual rights and responsibilities of the districts shall be transferred to the land conservation committee or, if none exists, to the county board for the same county on July 1, 1982. Any county board to which records, property, rights or responsibilities are transferred under this subsection shall transfer those records, property, rights or responsibilities to the county land conservation committee upon its creation.

Vetoed
in Part

SECTION 43. Program responsibility changes. In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

(3) AGRICULTURE, TRADE AND CONSUMER PROTECTION.

(a) Department.

A	B	C
Statute Sections	References Deleted	References Inserted
15.131 (intro.)	none	ch. 92 88.22 (3)

(b) Land conservation board.

A	B	C
Statute Sections	References Deleted	References Inserted
15.131 (4)	none	ch. 91

SECTION 44. Cross-reference changes. In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
91.65 (2)	20.115 (6)(b)	20.115 (7)(b)

SECTION 45. Effective dates. (1) Except as provided in subsections (2) and (3), this act takes effect on July 1, 1982.

(2) SECTIONS 1, 6, 7, 9, 14, 32 and 43 (3) (b) of this act take effect on July 1, 1983.

(3) SECTION 25 of this act takes effect on the day following publication. The treatment of section 92.06 of the statutes by this act takes effect on the day following publication.

