

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 558
90TH GENERAL ASSEMBLY

Reported from the Committee on Environment and Energy, April 19, 2000, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill No. 558 Do Pass.

ANNE C. WALKER, Chief Clerk

2612L.05C

AN ACT

To repeal section 278.130, RSMo 1994, and section 278.080, RSMo Supp. 1999, as enacted by senate bill no. 3 of the first regular session of the eighty-eighth general assembly, and section 278.080, RSMo Supp. 1999, as enacted by senate bill no. 65 of the first regular session of the eighty-eighth general assembly, relating to the state soil and water districts commission, and to enact in lieu thereof three new sections relating to the same subject, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 278.130, RSMo 1994, and section 278.080, RSMo Supp. 1999, as enacted by senate bill no. 3 of the first regular session of the eighty-eighth general assembly, and section 278.080, RSMo Supp. 1999, as enacted by senate bill no. 65 of the first regular session of the eighty-eighth general assembly, are repealed and three new sections enacted in lieu thereof, to be known as sections 278.080, 278.130 and 278.135, to read as follows:

278.080. 1. There is hereby established "The State Soil and Water Districts Commission" to administer for this state the soil and water conservation districts provided for by sections 278.060 to 278.300. The state soil and water districts commission shall formulate policies and general programs for the saving of Missouri soil and water by the soil and water conservation districts, and shall give consideration to the districts' needs based on their character; it shall receive and allocate or otherwise expend for the use or benefit of the soil and water conservation districts any funds appropriated by the general assembly for the use or benefit of such districts, including a soil and water conservation cost-share program; it shall receive and properly convey to the soil and water conservation districts any other form of aid extended to such districts by any other agency of this state, except that any money or other form of aid raised or provided within a soil and water district for the use or benefit of that soil and water district shall be received and administered by the governing body of that soil and water district; it shall exercise other authority conferred upon it and perform other duties assigned to it by sections 278.060 to 278.300; and shall be the administrative agency to represent this state in these and all other matters arising from the provisions of sections 278.060 to 278.300.

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2. The state soil and water districts commission shall be composed of four ex officio members and six farmer members. The six farmer members shall be appointed by the governor of Missouri with the advice and consent of the senate. Three of the farmer members shall reside in the portion of this state which is north of the Missouri River and three of the farmer members shall reside in the portion of this state which is south of the Missouri River. The membership shall be geographically dispersed with no more than one of the farmer members appointed from a state senatorial district. Not more than four of the farmer members shall be from the same political party. The ex officio members shall be the director of the department of natural resources, the director of the department of agriculture, the director of the department of conservation, and the dean of the college of agriculture of the University of Missouri. Each of the six farmer members shall be holding legal title to a farm, and shall be earning at least the principal part of the member's livelihood from a farm, all at the time of appointment to the commission. The farmer members shall each be appointed for a period of three years. All members of the commission serving as of the effective date of this act may continue to serve the unexpired portion of the member's current term. There is no limitation on the number of terms that any of the farmer members appointed by the governor may serve. If any farmer member vacates his or her term for any reason prior to the expiration of such term, the governor may appoint a farmer member to serve for the remainder of the unexpired term. Each member of the commission shall continue to serve until the member's successor has been duly appointed and qualified.

3. The state soil and water districts commission may call upon the attorney general of the state for such legal services as it may require.

4. At its first meeting in each calendar year, the state soil and water districts commission shall select from its current members a chairman and a vice chairman. The ex officio members shall not have the power to vote on any matter before the commission. A quorum shall consist of four farmer members. For the determination of any matter within the commission's authority, at a meeting comprised of four farmer members, a concurrence of three shall be required. No business of the commission shall be executed in absence of a quorum. Each farmer member of the soil and water commission shall be entitled to expenses, including travel expenses, necessarily incurred in the discharge of his or her duties as a member of this commission. The state soil and water districts commission shall provide for the execution of surety bonds for all of its employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all its proceedings and of all its resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of all its accounts of receipts and disbursements.

5. In addition to the authority and duty herein assigned to the state soil and water districts commission, it shall have the following authority and duty:

(1) To encourage the formation of soil and water conservation districts in areas where their establishment seems necessary and their administration seems feasible;

(2) To formulate and fix the rules and procedures for fair and impartial referendums on the establishing or disestablishment of soil and water districts and for fair and impartial selection of soil and water district supervisors;

(3) To receive petitions for the establishing of soil and water conservation districts as provided in section 278.100; to determine the validity of these petitions; to conduct hearings upon the subject of these petitions; to determine whether the establishment of a soil and water

district as petitioned would be effective in the saving of soil and water within the proposed area, and whether a soil and water district if established could be feasibly administered; and, upon reaching a favorable conclusion on these matters, to call for a referendum on the establishing of the soil and water district as petitioned;

(4) To advise any soil and water conservation district in developing its program for saving the soil and water in order that such district may become eligible for any form of aid from state or federal sources;

(5) Subject to district allocations by the commission and other resources, to provide training, programs and other assistance to soil and water conservation districts to identify programs that respond to the character of the districts' needs;

(6) To obtain or accept the cooperation and financial, technical or material assistance of the United States or any of its agencies, and of this state or any of its agencies, for the work of such soil and water districts;

(7) To enter into agreements with the United States or any of its agencies on policies and general programs for the saving of Missouri soil and water by the extension of federal aid to any soil and water conservation district; to advise any soil and water conservation district; to advise any soil and water conservation district on the amount or kind of federal aid needed for the effective saving of soil and water in that district; to determine within the limits of available funds or other resources the amount or kind of state aid to be used for saving of soil and water in any soil and water conservation district; and to determine the withholding of state aid of any amount or kind from any soil and water conservation district that has failed to follow the policies of the state soil and water districts commission in any matter under the provisions of sections 278.060 to 278.300;

(8) To give such other proper assistance as the soil and water commission may judge to be useful to any soil and water district in the saving of soil and water in that district;

(9) To promulgate such rules and regulations as may be necessary to effectively administer a state-funded soil and water conservation cost-share program. Any rule or portion of a rule promulgated under the authority of sections 278.060 to 278.300 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo.

[278.080. 1. There is hereby established "The State Soil and Water Districts Commission" to administer for this state the soil and water conservation districts provided for by sections 278.060 to 278.300. The state soil and water commission shall formulate policies and general programs for the saving of Missouri soil and water by the soil and water conservation districts; it shall receive and allocate or otherwise expend for the use or benefit of the soil and water conservation districts any funds appropriated by the legislature of this state for the use or benefit of such districts, including a soil and water conservation cost-share program; it shall receive and properly convey to the soil and water conservation districts any other form of aid extended to such districts by any other agency of this state, except that any money or other form of aid raised or provided within a soil and water district for the use or benefit of that soil and water district shall be received and administered by the governing body of that soil and water district; it shall exercise other authority conferred upon it and perform other duties assigned to it by sections 278.060 to 278.300; and shall be the administrative agency to represent this state in these and all other matters arising from the provisions of sections 278.060 to 278.300.

2. The state soil and water districts commission shall be composed of three ex officio members and five farmer members, the latter five to be appointed by the governor of Missouri with

the advice and consent of the senate. Three of the farmer members shall reside in the portion of this state which is north of the Missouri River and two of the farmer members shall reside in the portion of this state which is south of the Missouri River. Not more than one of the farmer members shall be appointed from a state senatorial district. Not more than three of the farmer members shall be from the same political party. The ex officio members shall be the director of the department of natural resources, the director of the department of agriculture, and the dean of the college of agriculture of the University of Missouri. Each of the five farmer members shall be holding legal title to a farm, and shall be earning at least the principal part of his livelihood from a farm, all at the time of his appointment to the soil and water commission. The farmer members shall each be appointed for a period of three years; except that of the first five appointed one shall be appointed for a term of one year, two shall be appointed for a term of two years, and two shall be appointed for a term of three years, as designated by the governor at the time of appointment. The first board to be appointed under this subsection shall be appointed no later than ninety days after August 13, 1986. All members of the board serving on August 13, 1986, shall continue to serve until their successors are duly appointed and qualified. There is no limitation on the number of terms which any of the farmer members appointed by the governor may serve. If any farmer member vacates his term for any reason prior to the expiration of such term, the governor may appoint a farmer member to serve for the remainder of the unexpired term.

3. The state soil and water districts commission may call upon the attorney general of the state for such legal services as it may require.

4. At its first meeting in each calendar year, the state soil and water districts commission shall select from its current members a chairman and a vice chairman. A majority of this commission shall constitute a quorum, but the concurrence of a majority of the whole commission shall be required for the determination of any matter within their duties. Each farmer member of the soil and water commission shall be entitled to expenses, including travel expense, necessarily incurred in the discharge of his duties as a member of this commission. The state soil and water districts commission shall provide for the execution of surety bonds for all of its employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all its proceedings and of all its resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of all its accounts of receipts and disbursements.

5. In addition to the authority and duty herein assigned to the state soil and water districts commission, it shall have the following authority and duty:

(1) To encourage the formation of soil and water conservation districts in areas where their establishment seems necessary and their administration seems feasible;

(2) To formulate and fix the rules and procedures for fair and impartial referendums on the establishing or disestablishment of soil and water districts and for fair and impartial selection of soil and water district supervisors;

(3) To receive petitions for the establishing of soil and water conservation districts as provided in section 278.100; to determine the validity of these petitions; to conduct hearings upon the subject of these petitions; to determine whether the establishment of a soil and water district as petitioned would be effective in the saving of soil and water within the proposed area, and whether a soil and water district if established could be feasibly administered; and, upon reaching a favorable conclusion on these matters, to call for a referendum on the establishing of the soil and water district as petitioned;

(4) To advise any soil and water conservation district in developing its program for saving

the soil and water in order that such district may become eligible for any form of aid from state or federal sources;

(5) To obtain or accept the cooperation and financial, technical or material assistance of the United States or any of its agencies, and of this state or any of its agencies, for the work of such soil and water districts;

(6) To enter into agreements with the United States or any of its agencies on policies and general programs for the saving of Missouri soil and water by the extension of federal aid to any soil and water conservation district; to advise any soil and water conservation district; to advise any soil and water conservation district on the amount or kind of federal aid needed for the effective saving of soil and water in that district; to determine within the limits of available funds or other resources the amount or kind of state aid to be used for saving of soil and water in any soil and water conservation district; and to determine the withholding of state aid of any amount or kind from any soil and water conservation district which has failed to follow the policies of the state soil and water districts commission in any matter under the provisions of sections 278.060 to 278.300;

(7) To give such other proper assistance as the soil and water commission may judge to be useful to any soil and water district in the saving of soil and water in that district;

(8) To promulgate such rules and regulations and administrative guidelines as necessary to effectively administer a state-funded soil and water conservation cost-share program. No rule or portion of a rule promulgated under the authority of sections 278.060 to 278.300 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

[278.080. 1. There is hereby established "The State Soil and Water Districts Commission" to administer for this state the soil and water conservation districts provided for by sections 278.060 to 278.300. The state soil and water commission shall formulate policies and general programs for the saving of Missouri soil and water by the soil and water conservation districts; it shall receive and allocate or otherwise expend for the use or benefit of the soil and water conservation districts any funds appropriated by the legislature of this state for the use or benefit of such districts, including a soil and water conservation cost-share program; it shall receive and properly convey to the soil and water conservation districts any other form of aid extended to such districts by any other agency of this state, except that any money or other form of aid raised or provided within a soil and water district for the use or benefit of that soil and water district shall be received and administered by the governing body of that soil and water district; it shall exercise other authority conferred upon it and perform other duties assigned to it by sections 278.060 to 278.300; and shall be the administrative agency to represent this state in these and all other matters arising from the provisions of sections 278.060 to 278.300.

2. The state soil and water districts commission shall be composed of three ex officio members and six farmer members. The six farmer members shall be appointed by the governor of Missouri with the advice and consent of the senate. Three of the farmer members shall reside in the portion of this state which is north of the Missouri River and three of the farmer members shall reside in the portion of this state which is south of the Missouri River. Not more than one of the farmer members shall be appointed from a state senatorial district. Not more than four of the farmer members shall be from the same political party. The ex officio members shall be the director of the department of natural resources, the director of the department of agriculture, and the dean of the college of agriculture of the University of Missouri. Each of the six farmer members shall be holding legal title to a farm, and shall be earning at least the principal part of his livelihood from a farm, all at the time of his appointment to the soil and water commission. The farmer members shall

each be appointed for a period of three years; except that of the first five appointed one shall be appointed for a term of one year, two shall be appointed for a term of two years, and two shall be appointed for a term of three years, as designated by the governor at the time of appointment. The first board to be appointed under this subsection shall be appointed no later than ninety days after August 13, 1986. All members of the board serving on August 13, 1986, shall continue to serve until their successors are duly appointed and qualified. There is no limitation on the number of terms which any of the farmer members appointed by the governor may serve. If any farmer member vacates his term for any reason prior to the expiration of such term, the governor may appoint a farmer member to serve for the remainder of the unexpired term.

3. The state soil and water districts commission may call upon the attorney general of the state for such legal services as it may require.

4. At its first meeting in each calendar year, the state soil and water districts commission shall select from its current members a chairman and a vice chairman. The chairman shall serve in a nonvoting capacity, unless the votes cast by the commission are equally divided, in which case the chairman shall cast the deciding vote. A majority of this commission shall constitute a quorum, but the concurrence of a majority of the whole commission shall be required for the determination of any matter within their duties. Each farmer member of the soil and water commission shall be entitled to expenses, including travel expense, necessarily incurred in the discharge of his duties as a member of this commission. The state soil and water districts commission shall provide for the execution of surety bonds for all of its employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all its proceedings and of all its resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of all its accounts of receipts and disbursements.

5. In addition to the authority and duty herein assigned to the state soil and water districts commission, it shall have the following authority and duty:

(1) To encourage the formation of soil and water conservation districts in areas where their establishment seems necessary and their administration seems feasible;

(2) To formulate and fix the rules and procedures for fair and impartial referendums on the establishing or disestablishment of soil and water districts and for fair and impartial selection of soil and water district supervisors;

(3) To receive petitions for the establishing of soil and water conservation districts as provided in section 278.100; to determine the validity of these petitions; to conduct hearings upon the subject of these petitions; to determine whether the establishment of a soil and water district as petitioned would be effective in the saving of soil and water within the proposed area, and whether a soil and water district if established could be feasibly administered; and, upon reaching a favorable conclusion on these matters, to call for a referendum on the establishing of the soil and water district as petitioned;

(4) To advise any soil and water conservation district in developing its program for saving the soil and water in order that such district may become eligible for any form of aid from state or federal sources;

(5) To obtain or accept the cooperation and financial, technical or material assistance of the United States or any of its agencies, and of this state or any of its agencies, for the work of such soil and water districts;

(6) To enter into agreements with the United States or any of its agencies on policies and general programs for the saving of Missouri soil and water by the extension of federal aid to any soil

and water conservation district; to advise any soil and water conservation district; to advise any soil and water conservation district on the amount or kind of federal aid needed for the effective saving of soil and water in that district; to determine within the limits of available funds or other resources the amount or kind of state aid to be used for saving of soil and water in any soil and water conservation district; and to determine the withholding of state aid of any amount or kind from any soil and water conservation district which has failed to follow the policies of the state soil and water districts commission in any matter under the provisions of sections 278.060 to 278.300;

(7) To give such other proper assistance as the soil and water commission may judge to be useful to any soil and water district in the saving of soil and water in that district;

(8) To promulgate such rules and regulations and administrative guidelines as necessary to effectively administer a state-funded soil and water conservation cost-share program.

6. No rule or portion of a rule promulgated under the authority of this chapter shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided herein, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided herein.

7. Upon filing any proposed rule with the secretary of state the filing agency shall concurrently submit such proposed rule to the committee which may hold hearings upon any proposed rule or portion thereof at any time.

8. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the filing agency may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

9. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

- (1) An absence of statutory authority for the proposed rule;
- (2) An emergency relating to public health, safety or welfare;
- (3) The proposed rule is in conflict with state law;
- (4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

10. If the committee disapproves any rule or portion thereof, the filing agency shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

11. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

12. Upon adoption of a rule as provided herein, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV, of the constitution, by concurrent resolution upon recommendation of the joint committee on

administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.]

278.130. 1. The soil and water supervisors of any soil and water district shall not

- (1) Have or exercise the right of eminent domain;
- (2) Incur indebtedness beyond available funds;
- (3) Issue bonds;
- (4) Levy taxes;
- (5) Make or levy benefit assessments or any other kind of assessments;
- (6) Take contributions from that soil and water district by exactions or persuasions;
- (7) Engage in the marketing of farm products or in the buying and selling of farm supplies

other than those products or supplies used or needed directly or indirectly in soil and water conservation work, **subject to section 278.135;**

(8) Engage in agricultural research or agricultural extension teaching except under the instruction of the Missouri college of agriculture.

2. They may accept voluntary contributions from any source, if the donations are offered for the sole and exclusive purpose of promoting the saving of soil and water within the soil and water district, and if the soil and water supervisors satisfactorily guarantee to the donors the faithful use of their donations for that purpose.

278.135. 1. Any soil and water conservation district engaged in the marketing or buying and selling of farm products used directly or indirectly in soil conservation shall be required to obtain approval from the state soil and water districts commission to continue such activity if the commission receives written complaints from three or more business entities. Upon request from any person, all soil and water conservation districts shall provide information on the complaint procedure provided for in this section, including information on how to contact the state soil and water districts commission.

2. The commission shall notify the district upon receiving complaints from three or more business entities pursuant to subsection 1 of this section, and request that the district provide information to the commission on the marketing, buying, and selling activity within sixty days. The commission shall consider information provided by the district and any written comments from concerned citizens and businesses in making its determination. The commission shall grant approval only upon finding that the products being marketed, bought, and sold are:

- (1) Reasonably related to soil and water conservation; and**
- (2) Not readily available in the area.**

If the commission grants approval to a district, no complaints about the marketing, buying, or selling activities of such district shall be accepted by the commission from any business entity for a period of one year after the date of approval, and no such complaints shall be accepted by the commission from the same business entities that initiated the approval procedure pursuant to this section for a period of three years after the date of approval.

3. The commission shall enact rules to allow districts with a pending approval request, or districts that have had their approval denied, to sell any existing inventory of products within a reasonable time. This subsection shall not be interpreted to allow any district with

a pending approval request to restock or replenish its inventory until such district has received approval from the commission.

4. The commission is authorized to adopt those rules that are reasonable and necessary to accomplish the limited duties specifically delegated within this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in this section shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

Section B. Because immediate action is necessary for the soil and water districts commission to administer the state soil and water districts, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Bill

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