



State of Tennessee

PUBLIC CHAPTER NO. 203

SENATE BILL NO. 719

By Johnson, Rose

Substituted for: House Bill No. 764

By Lamberth, Gant, Tim Hicks, Littleton, Hazlewood

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29; Section 5-9-106; Section 6-58-104; Title 43, Chapter 14; Title 43, Chapter 34; Title 64 and Title 69, Chapter 6, relative to soil and water conservation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 43, Chapter 14, Part 1, is amended by deleting the part.

SECTION 2. Tennessee Code Annotated, Title 43, Chapter 14, Part 2, is amended by deleting the part and substituting instead the following:

43-14-201. This part is known and may be cited as the "Soil and Water Conservation Districts Law."

43-14-202. As used in this part, unless the context otherwise requires:

(1) "Agricultural industry representative" means any person:

(A) Engaged in a business that provides a service to, or good for, farmers engaged in production agriculture;

(B) Employed by a local, state, or federal agency that has as part of its mission the conservation of natural resources and the betterment of farming interests; or

(C) Possessing a graduate-level degree in agricultural science, agricultural engineering, or agricultural business;

(2) "Commission" means the Tennessee soil and water conservation commission created by § 43-14-203;

(3) "Commissioner" means the commissioner of agriculture;

(4) "District" or "soil and water conservation district" means a subdivision of this state and a public body corporate and politic, organized under this part, for the purpose, with the powers, and subject to the restrictions set forth in this part;

(5) "Land occupier" means any person, other than the owner, who is in possession of any lands lying within a district, whether as lessee, renter, tenant, or otherwise;

(6) "Landowner" means any person who holds legal or equitable title to any lands lying within a district;

(7) "Neglect of duty" means a public official's failure to perform a duty of office;

(8) "Nominating petition" means a petition filed under § 43-14-214 to nominate candidates for the office of supervisor of a soil and water conservation district;

(9) "Petition" means a petition filed under § 43-14-207 for the creation of a district;

(10) "Supervisor" means a member of the governing body of a district, elected or appointed pursuant to this part;

(11) "Tennessee association of conservation districts" means the nonprofit organization consisting of the ninety-five (95) soil and water conservation districts in this state, with the mission of assisting the districts with the conservation of soil, water, and other natural resources through education, leadership, and advocacy;

(12) "Training and experience" means knowledge of existing conservation practices and programs, first-hand experience with installation of conservation practices, or education and training or experience in soil science, natural resources, environmental science, or a related field; and

(13) "United States" means the government of the United States, the natural resources conservation service of the United States department of agriculture, and any other agency or instrumentality thereof.

43-14-203.

(a) There is established the Tennessee soil and water conservation commission to perform the functions conferred upon it in this part.

(b)(1) The commission consists of seven (7) members appointed by the governor and four (4) ex officio members.

(2) The seven (7) members appointed by the governor include:

(A) Two (2) members from the eastern grand division, one (1) of whom must be a farmer or agricultural industry representative and one (1) of whom must be a supervisor;

(B) Two (2) members from the middle grand division, one (1) of whom must be a farmer or agricultural industry representative and one (1) of whom must be a supervisor;

(C) Two (2) members from the western grand division, one (1) of whom must be a farmer or agricultural industry representative and one (1) of whom must be a supervisor; and

(D) One (1) member who is a supervisor from the state at large.

(3)(A) The following persons serve as ex officio members of the commission and are voting members:

(i) The senior vice president and senior vice chancellor of the University of Tennessee Institute of Agriculture, or the senior vice president and senior vice chancellor's designee;

(ii) The commissioner of agriculture, or the commissioner's designee;

(iii) The commissioner of environment and conservation, or the commissioner's designee; and

(iv) The elected president of the Tennessee association of conservation districts, or the president's designee.

(B) An ex officio member holds office so long as the member retains the office by virtue of which such member is serving on the commission.

(c)(1) The members of the state soil conservation committee on the effective date of this act shall continue to serve as members of the commission until the expiration of their terms.

(2) After the expiration of the terms of office pursuant to subdivision (c)(1), all members appointed to the commission serve for a term of three (3) years.

(d) Whenever a vacancy on the commission exists, the governor shall appoint a member for the remainder of the unexpired term. In making appointments to the commission, the governor shall strive to ensure that at least one (1) person appointed to serve on the commission is sixty (60) years of age or older and that at least one (1) person appointed to serve on the commission is a member of a racial minority. A member appointed as a supervisor member of the commission who ceases to hold the position of supervisor shall continue to serve on the commission until the expiration of such member's term.

(e) The commission shall keep a record of its official actions and may perform acts, hold public hearings, and promulgate rules that are necessary for the execution of its functions under this part.

43-14-204.

(a) The commission may employ an administrative officer and technical experts and other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation.

(b) The commission may call upon the attorney general and reporter for legal services as it may require.

(c) The commission may delegate its powers and duties to its chair, to one (1) or more of its members, or to one (1) or more of its agents or employees.

43-14-205.

(a) The commission shall designate one (1) of the non-ex officio members as its chair, and may, from time to time, change such designation.

(b) A majority of the commission shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination.

(c) The chair and members of the commission shall not receive compensation for their services on the commission, but are entitled to expenses, including travel expenses, necessarily incurred in the discharge of their duties on the commission. All reimbursements for travel expenses must be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(d) The commission shall provide for:

(1) The execution of surety bonds for all commission employees and officers entrusted with public funds or property;

(2) The keeping of a full and accurate record of all proceedings and of all resolutions, rules, and orders issued or adopted by the commission; and

(3) An annual audit of the accounts of receipts and disbursements.

(e) All meetings of the commission are subject to title 8, chapter 44, part 1.

(f)(1) The commission shall conduct at least two (2) meetings each year. However, the commission shall strive to conduct four (4) meetings each year.

(2)(A) Any member who misses more than fifty percent (50%) of the scheduled meetings in a calendar year shall be removed as a member of the commission.

(B) The chair shall promptly notify, or cause to be notified, the appointing authority of any member who fails to satisfy the attendance requirement as prescribed in subdivision (f)(2)(A).

43-14-206. In addition to other duties and powers conferred upon the commission in this part, the commission may:

(1) Assist supervisors in carrying out of their powers and programs, including working to provide training for supervisors and district employees, with an emphasis on proper financial management processes and procedures;

(2) Inform supervisors of the activities and experience of other districts, and facilitate an interchange of advice and experience among the districts and cooperation between them, with a focus on communicating district successes in measurably lessening soil erosion rates, leading districts to engage with landowners who may be experiencing excessive soil erosion and water quality impacts, and better defining the interrelationship between soil erosion reductions and benefits to water and other natural resources;

(3) Adopt resolutions and policies to facilitate the work of the districts and promulgate rules as necessary and appropriate;

(4) Coordinate the programs of the districts by advice and consultation and encourage districts to partner on projects that cross district boundaries if necessary and appropriate to lessen soil erosion;

(5) Secure the cooperation and assistance of the United States and any of its agencies, and of the agencies of this state, in the work of watershed districts established under title 69, chapter 6 and soil and water conservation districts;

(6) Disseminate information throughout this state concerning the activities and programs of the soil and water conservation districts and watershed districts, and encourage and facilitate the formation of such districts in areas where their organization is desirable;

(7) Constitute the state agency having the sole responsibility to administer and approve watershed districts and programs under federal law;

(8) Collect and disseminate data and information concerning the causes, extent, and location of soil erosion problems in this state and encourage the funding of comprehensive research projects to study alternative solutions to these problems;

(9) Collaborate with the state and national associations of conservation districts to leverage their advice, financial assistance, and consultation to assist the supervisors and employees of the districts with providing services to landowners and land occupiers to reduce soil erosion and improve water quality;

(10) Develop and maintain a comprehensive statewide plan for the conservation of Tennessee's soils, including a plan to measurably reduce sedimentation impacts to Tennessee waters, and revise the plan as needed, and at least every five (5) years, in consultation with appropriate sources of information; and

(11) Prepare and submit annually to the commissioner a report of the progress regarding, and a budget request adequate to fund, the implementation of soil and water conservation programs in this state.

43-14-207.

(a) Any twenty-five (25) landowners within the limits of the territory proposed to be organized into a district may file a petition with the commission requesting that a soil and water conservation district be organized for the territory described in the petition. The description is sufficient if generally accurate and the commission shall not require the description to be given by metes and bounds or by legal subdivision.

(b) Where more than one (1) petition is filed covering parts of the same territory, the commission may consolidate the petitions.

(c) Within sixty (60) days after a petition is filed with the commission, the commission shall give notice of a proposed hearing regarding the desirability and necessity, in the interest of public health, safety, and welfare, of the creation of the proposed district, the appropriate boundaries for the district, the propriety of the petition and other proceedings under this part, and any related questions. All landowners and land occupiers within the limits of the territory described in the petition and any territory considered for addition to the described territory and any other interested parties shall have the right to attend the proposed hearings and to be heard. If, at the hearing, it appears that it may be desirable to include, within the proposed district, territory outside of the area regarding which notice of the hearing

has been given, the hearing shall be adjourned, and the commission shall hold a further hearing following the commission's provision of notice of such further hearing throughout the area considered for inclusion in the district.

(d)(1) If, after the hearing, the commission determines that, based upon the facts presented at the hearing and any other relevant facts and information, there is a need, in the interest of public health, safety, and welfare, for a soil and water conservation district in the territory considered at the hearing, the commission shall make and record this determination, and shall define, by metes and bounds or by legal subdivision, the boundaries of such district. In making this determination and defining the district's boundaries, the commission shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits the lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions and to other soil and water conservation districts already organized or proposed for organization under this part, and any other relevant physical, geographical, and economic factors. The territory to be included within the district need not be contiguous.

(2) If, after the hearing and due consideration of the relevant facts, the commission determines that there is no need for a district in the territory considered at the hearing, it shall make and record this determination and shall deny the petition. After six (6) months have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed, considered, and determined in accordance with this section.

(e) After the commission has made and recorded a determination that there is a need, in the interest of public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries of the district, the commission shall consider whether the operation of a district within those boundaries, with the powers conferred upon districts by this part, is administratively practicable and feasible.

(f) To assist the commission in the determination of administrative practicability and feasibility under subsection (e), the commission shall, within a reasonable time after finding that there is a need for the proposed district and determining its boundaries, hold a referendum within the proposed district regarding the creation of the district and cause notice of the referendum to be given. Only landowners within the boundaries of the territory, as determined by the commission, are eligible to vote in the referendum.

(g) A duly organized local soil conservation district in existence on the effective date of this act continues to exist as a soil and water conservation district, and supervisors of a district serving on the effective date of this act continue to serve as the supervisors of the district until the expiration of their terms.

43-14-208. The commission shall pay all expenses for the issuance of notices and the conduct of hearings and referenda under this part, and shall supervise the conduct of the hearings and referenda. The commission shall promulgate rules governing the conduct of the hearings and referenda and providing for the registration, prior to the date of the referendum, of all eligible voters, or prescribing an alternate procedure for the determination of those eligible as voters in the referendum. No informalities in the conduct of the referendum, or in any matter relating to the referendum, invalidate the referendum or its result, if notice of the referendum was given substantially as provided in this part and the referendum has been fairly conducted.

43-14-209. The commission shall publish the result of the referendum and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the commission determines that the operation of the district is not administratively practicable and feasible, it shall record this determination and deny the petition. If the commission determines that the operation of the district is administratively practicable and feasible, it shall record this determination and shall proceed with the organization of the district in the manner provided in this part. In making this determination, the commission shall give due regard and weight to the attitudes of the landowners and land occupiers of lands lying within the defined boundaries, the number of

landowners eligible to vote in the referendum who have voted, the proportion of the votes cast in the referendum in favor of the creation of the district to the total number of votes cast, the probable expense of carrying on erosion-control operations within the district, and other economic and social factors relevant to the determination; provided, that the commission shall not determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, unless at least a majority of the votes cast in the referendum upon the proposition of creation of the district were cast in favor of the creation of the district.

43-14-210.

(a) If the commission determines that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall name the district and appoint two (2) supervisors to act, with the three (3) supervisors elected pursuant to § 43-14-214, as the governing body of the district.

(b) The two (2) appointed supervisors shall present to the secretary of state an application signed by them, and subscribed and sworn to by each of the supervisors before an officer authorized by the laws of this state to take and certify oaths, which provides:

(1) That a petition for the creation of the district was filed with the commission pursuant to this part, and that the proceedings required by this part were taken pursuant to the petition, that the application is filed in order to complete the organization of the district, and that the commission has appointed the applicants as supervisors;

(2) The name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office;

(3) The term of office of each of the supervisors;

(4) The name proposed for the district; and

(5) The location of the district supervisors' principal office.

(c)(1) The application required by subsection (b) must be accompanied by a statement from the commission, which certifies that:

(A) A petition was filed, notice was issued, and a hearing was held as required by this part;

(B) The commission determined that there is a need, in the interest of public health, safety, and welfare, for a soil and water conservation district to function in the proposed territory and defined the boundaries thereof;

(C) Notice was given, and a referendum held on the question of the creation of the district;

(D) A majority of the votes cast in the referendum favored the creation of the district; and

(E) After the referendum, the commission determined that the operation of the proposed district is administratively practicable and feasible.

(2) The statement must set forth the boundaries of the district as they have been defined by the commission.

(d) When the application and statement have been filed and recorded in the office of the secretary of state, the district constitutes a subdivision of this state and a public body corporate and politic. The secretary of state shall make and issue to the supervisors, under the seal of the state, a certificate of the organization of the district, and shall record the certificate with the application and statement. The boundaries of the district must include the territory as defined by the commission under subsection (c), but the district must not include any area included within the boundaries of another soil and water conservation district organized under this part.

(e) In lieu of all other fees, five dollars (\$5.00), must be paid to the secretary of state at the time the certificate is issued.

43-14-211. After six (6) months have expired from the date of the denial of a petition pursuant to a determination by the commission that operation of a proposed district is not administratively practicable and feasible, subsequent petitions may be filed and action taken in accordance with this part.

43-14-212. Petitions for including additional territory within an existing district may be filed with the commission. The proceedings provided for in this part in the case of petitions to organize a district must be observed in the case of petitions for inclusion. The commission shall prescribe the form for such petitions, which must be substantially the same as the form for petitions to organize a district. If the number of landowners in the area proposed for inclusion is less than twenty-five (25), a referendum is not required if the petition is signed by a majority of the landowners of the area. In referenda upon petitions for inclusion, all landowners within the proposed additional area are eligible to vote.

43-14-213. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district is established in accordance with this part upon proof of the issuance of the certificate by the secretary of state pursuant to § 43-14-210. A copy of the certificate certified by the secretary of state is admissible in evidence in any suit, action, or proceeding and is proof of the filing and its contents.

43-14-214.

(a) Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a district, nominating petitions may be filed with the commission to nominate candidates for supervisors of the district. The commission is authorized to extend the time within which nominating petitions may be filed. The commission shall not accept a nominating petition unless it is signed by twenty-five (25) or more landowners within the boundaries of the district. Landowners may sign more than one (1) nominating petition. All candidates for supervisor shall maintain their primary residence in the district of their candidacy. The commission shall give notice of an election to be held for three (3) supervisors for the district. Only landowners within the district are eligible to vote in the election. The three (3) candidates who receive the largest number, respectively, of the votes cast in the election shall be the elected supervisors for the district. The commission shall pay the expenses of the election, supervise the conduct of the election, promulgate rules governing the conduct of the election and the determination of voter eligibility in the election, and publish the results of the election.

(b) For elections subsequent to the first election of supervisors, the following procedures apply:

(1) Candidates for election to the position of supervisor shall maintain their primary residence in the district of their candidacy and shall present a completed nominating petition to the district in accordance with subdivision (b)(3);

(2) Upon notification by the commission, the county extension agricultural and natural resources agent of the University of Tennessee shall convene and chair a meeting of the local nominating committee to nominate candidates for election as supervisors. The local nominating committee shall determine the number of candidates nominated. A local nominating committee must include, but is not limited to, local representatives from agricultural organizations, such as the county farm service agency committee, the county extension committee, the county farm bureau, and members of the district whose terms are not expiring. The district staff shall take minutes at the local nominating committee's meeting to record its decisions;

(3) For districts holding an election of supervisors, nominating petitions must be completed for each candidate on the ballot, regardless of whether the candidate was nominated by the local nominating committee. The commission shall not accept a nominating petition unless it is signed by twenty-five (25) or more landowners within the boundaries of the district. Landowners may sign more than one (1) nominating petition;

(4) The district shall give notice of an election to be held for three (3) supervisors, which must include the names of the candidates in alphabetical order, the dates and times of the election, voting locations, and the deadline for submitting nominating petitions;

(5) Only landowners within the district are eligible to vote in the election. Voting by proxy or by absentee ballot is not permitted; and

(6) The ballots must be counted and certified by selected district polling officials, and the results must be transmitted to the commission. The three (3) candidates who receive the largest number of the votes cast in the election shall be the elected supervisors for the district.

(c) The first two (2) supervisors appointed following formation of a new district shall be appointed by the commission under § 43-14-210(a).

(d) For appointments subsequent to the first appointment of supervisors, the following procedures apply:

(1) The supervisors appointed by the commission must be persons who are, by training and experience, qualified to perform their duties under this part. Candidates for appointment as supervisor must maintain their primary residence in the district of appointment;

(2) Upon notification by the commission, the county extension agricultural and natural resources agent of the University of Tennessee shall convene and chair a meeting of the local nominating committee for the purpose of nominating candidates for appointment as supervisors. The local nominating committee must include, but is not limited to, local representatives from agricultural organizations, such as the county farm service agency committee, the county extension committee, the county farm bureau, and members of the district whose terms are not expiring. The district staff shall take minutes at the local nominating committee's meeting to record its decisions;

(3) The district staff shall transfer the nominations of the local nominating committee, along with a summary of each nominee's training and experience, to the commission as soon as practicable following the local nominating committee's meeting; and

(4) The commission shall consider all local nominating committee nominees and shall appoint supervisors by vote of the commission.

(e) All supervisors shall serve a term of three (3) years beginning on April 1, except that one (1) of the first two (2) supervisors appointed following formation of a new district under § 43-14-210(a) shall serve a term of four (4) years, so that the terms of the two (2) appointed supervisors do not expire simultaneously.

(f) If there is a vacancy in the office of supervisor, the remaining supervisors, with the advice and consent of the commission, shall fill the vacancy by appointment for the remainder of the unexpired term. If the majority of a district's offices of supervisor are vacant, the commission shall fill the vacancies by appointment. All persons appointed to fill a supervisor vacancy must maintain their primary residence in the district of appointment and are eligible for subsequent election or, if qualified by training and experience, appointment as supervisor.

43-14-215.

(a) The governing body of the district consists of five (5) supervisors, elected or appointed as provided in § 43-14-214.

(b) The supervisors shall designate a chair and may, from time to time, change such designation. The term of office of each supervisor is three (3) years, except as provided in § 43-14-214(e). A supervisor shall hold office until a successor has been elected or appointed. A majority of the supervisors constitutes a quorum and the concurrence of a majority of supervisors present is required for the determination of a matter within the district's duties. Supervisors shall each receive the sum of thirty dollars (\$30.00) per day for expenses incurred for attending district meetings where a quorum is present; provided, that the total of such payments to any

supervisor shall not exceed three hundred sixty dollars (\$360) per year. This sum is in lieu of any other payment for expenses.

(c) Supervisors may, on a permanent or temporary basis, employ technical experts and such other officers, agents, and employees as they may require and shall determine their qualifications, duties, and compensation. Such persons shall comply with title 8, chapter 31. Supervisors may call upon the attorney general and reporter for legal services as they may require. Supervisors may delegate to their chair, to one (1) or more supervisors, or to one (1) or more agents or employees, such powers and duties as they deem proper. Supervisors shall furnish to the commission, upon request, copies of any ordinances, rules, regulations, orders, contracts, forms, or other documents they adopt or employ, and any other information concerning their activities.

(d) Supervisors shall provide for the execution of surety bonds for all employees and officers entrusted with funds or property and the keeping of a full and accurate record of all proceedings and resolutions, rules, and orders issued or adopted. Supervisors shall provide an annual report to the commission, including a complete report of the district's revenues and disbursements.

(e) The commission may remove a supervisor for neglect of duty or malfeasance in office, upon notice and a hearing.

(f) Supervisors may invite the legislative body of any municipality or county located near the district to designate a representative to advise and consult with the supervisors, including with respect to matters concerning property, water supply, wastewater, or stormwater infrastructure or operation.

(g) Supervisors may designate persons as emeritus or associate members of the district and may form youth boards to assist in carrying out the district's purposes.

(h) It is neglect of duty for a supervisor to miss four (4) consecutive, regularly scheduled district governing body meetings without cause.

43-14-216. A district and its supervisors may, in addition to other powers granted in this part:

(1) Conduct surveys, investigations, and research relating to the character of soil erosion and necessary erosion prevention and control measures, the relationships between reductions in soil erosion rates and water quality improvement, the synergistic effects of reductions in soil loss on wildlife and other natural resource benefits, the economic impact of conservation measures and improvements in soil quality on agricultural operations, publish the results of such surveys, investigations, or research, and disseminate information concerning erosion prevention and control measures; provided, that in order to avoid duplication of research activities, no district shall initiate a research program except in cooperation with the commission, the department of agriculture, and the United States;

(2) Conduct demonstration projects within the district, upon obtaining the consent of the landowner and land occupier or the necessary rights or interests in lands, in order to demonstrate, by example, the means, methods, and measures by which soil and soil resources may be conserved and improved, soil erosion in the form of soil washing may be prevented and controlled, and the relationships between soil erosion reduction and water quality or other benefits;

(3) Carry out prevention and control measures within the district, including engineering operations, methods of cultivation, growing vegetation, and changes in use or management of land within the district, upon obtaining the consent of the landowner and land occupier or the necessary rights or interests in lands;

(4) Cooperate, or enter into agreements, with any landowner and land occupier within the district to carry out erosion control and prevention operations, to help improve traditional areas of farm production, and to encourage diversification and innovation of farming operations within the district, subject to such conditions as the supervisors deem necessary to advance the purposes of this part;

(5) Enter into agreements with the department of agriculture, other state agencies, local governments, and nonprofit organizations, including the national and state associations of conservation districts, to administer or assist in the administration of programs for the benefit of landowners and land occupiers within the

district in carrying out erosion control and prevention operations, installing conservation practices to reduce erosion and improve related natural resources, improving traditional areas of farm production, diversifying farming operations, and encouraging farming innovation and nontraditional agricultural activities within the district;

(6)(A) Obtain options upon, and acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein;

(B) Maintain, administer, and improve any properties acquired, to receive income from the properties, and to expend the income in carrying out this part;

(C) Sell, lease, or otherwise dispose of any property or property interests owned in furtherance of this part; and

(D) Subject to the approval of the commissioner, or the commissioner's designee, and the comptroller of the treasury, or the comptroller's designee, borrow money for the purposes authorized by subdivisions (6)(A) and (6)(B), by issuing notes pursuant to title 9, chapter 21, part 6. The notes must be secured by:

(i) Lawfully available district revenues and a guarantee of the full faith, credit, and taxing power of each local government within which the district is located; or

(ii) Lawfully available district revenues and a statutory lien on the property financed by the notes;

(7) Make available, on terms that the district prescribes, to landowners and land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, of which all forest tree seedlings must be obtained, if practicable, from the nurseries of the forestry division operated by the department of agriculture or the forest service of the United States department of agriculture, and other material or equipment that will assist landowners and land occupiers in conserving soil resources and preventing and controlling soil erosion;

(8) Construct, improve, and maintain structures that are necessary or convenient for the performance of operations authorized in this part;

(9) Develop comprehensive plans for the conservation of soil resources and the control and prevention of soil erosion within the district, which must specify, in reasonable detail, the acts, procedures, performances, and avoidances to effectuate the plans, including any specification of engineering operations, methods of cultivation, growing of vegetation, cropping programs, tillage practices, and changes in use of land, and publish the plans and information in a manner that will bring the plans to the attention of landowners and land occupiers within the district;

(10) Take over and administer, as agent of the United States, any soil conservation, erosion control, or erosion prevention project, undertaken by the United States within its boundaries;

(11) Accept, use, and expend donations, gifts, and contributions in any form from the United States or from this state or any of its agencies;

(12) Enter into agreements with the United States department of agriculture or its agencies to optimize the delivery of federal programs to landowners and land occupiers in the district, reduce erosion, and improve the condition of related natural resources in the district, and clarify the roles and responsibilities of each entity;

(13) Sue and be sued in the name of the district;

(14) Have a seal, which must be judicially noticed;

(15) Have perpetual succession, unless terminated as provided in § 43-14-218;

(16) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers;

(17) Make, amend, and repeal rules consistent with this part to carry into effect its purposes and powers;

(18) As a condition of extending any benefit to, or performing work upon, land under this part, require contributions in any form or entry into agreements or covenants as to the use of such land to prevent or control erosion; and

(19) Carry out, maintain, and operate works of improvement for flood prevention and agricultural phases of conservation development, utilization, and management of water.

43-14-217. The supervisors of two (2) or more districts may cooperate with one another in the exercise of the powers conferred in this part.

43-14-218.

(a) Beginning five (5) years after a district's certificate of organization is issued, a district, upon unanimously adopting a motion to dissolve the district, may file a petition with the commission requesting that the district and its operations be terminated. The commission may conduct public meetings and hearings regarding the petition. Within sixty (60) days after the commission receives a petition to terminate a district, the commission shall give notice of, issue appropriate rules regarding, and supervise a referendum regarding the petition. Only landowners of the district are eligible to vote in the referendum. No informalities in the conduct of the referendum or in any matter relating thereto invalidates the referendum or the result thereof, if notice thereof has been given substantially as provided in this subsection (a) and the referendum has been fairly conducted.

(b) The commission shall publish the results of the referendum and determine whether the continued operation of the district is administratively practicable and feasible. If the commission determines that the continued operation of the district is administratively practicable and feasible, it shall record this determination and deny the petition, after which no such petition regarding that district may be filed or considered for five (5) years. If the commission determines that the continued operation of the district is not administratively practicable and feasible, it shall record this determination and shall certify the determination to the supervisors of the district. In making this determination, the commission shall give due regard and weight to the attitudes of the landowners and land occupiers of lands lying within the defined boundaries, the number of landowners eligible to vote in the referendum who have voted, the proportion of the votes cast in the referendum in favor of the termination of the district to the total number of votes cast, and any other economic and social factors relevant to such determination; provided, that the commission shall not determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible if a majority of the votes cast in the referendum upon the proposition of termination of the district were cast in favor of the termination of the district.

(c) Upon receipt from the commission of a certification that the commission has determined that the continued operation of the district is not administratively practicable and feasible, the supervisors shall immediately terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay the proceeds to the department of agriculture for use in supporting the costs of soil and water conservation in the district territory. The supervisors shall then file a verified application with the secretary of state for the discontinuance of the district, and transmit with the application the certificate of the commission determining that the continued operation of the district is not administratively practicable and feasible. The application must recite that the district's property has been disposed of and the proceeds paid to the department of agriculture and set forth a full accounting of such property and proceeds. The secretary of state shall issue to the supervisors a certificate of dissolution and record the certificate in an appropriate book of record in the secretary of state's office.

(d) Upon issuance of a certificate of dissolution by the secretary of state, all ordinances and rules previously adopted and in force within the districts are of no further force and effect. All contracts to which the district or its supervisors are parties must be terminated in writing as provided in the contract.

43-14-219. For purposes of the provisions of §§ 43-14-207, 43-14-210, 43-14-214, and 43-14-218 requiring notice, the notice must be published twice, with an interval of at

least seven (7) days between the two (2) publication dates, in a newspaper or other publication of general circulation within the appropriate area, or, if no such publication of general circulation is available, by posting at a reasonable number of conspicuous places within the appropriate area to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice at the time and place designated in the notice, adjournment may be made from time to time without the necessity of renewing the notice for the adjourned dates.

SECTION 3. Tennessee Code Annotated, Title 43, Chapter 14, Part 3, is amended by deleting the part.

SECTION 4. Tennessee Code Annotated, Section 4-29-243(a)(32), is amended by deleting the language "State soil conservation committee" and substituting "Tennessee soil and water conservation commission".

SECTION 5. Tennessee Code Annotated, Section 5-9-106(a), is amended by deleting the word "soil" wherever it appears in the subsection and substituting "soil and water".

SECTION 6. Tennessee Code Annotated, Section 6-58-104(a)(1)(E), is amended by deleting the word "soil" and substituting "soil and water".

SECTION 7. Tennessee Code Annotated, Section 43-34-103, is amended by deleting the language "soil conservation district" from subdivisions (1), (3), and (6) and substituting "soil and water conservation district".

SECTION 8. Tennessee Code Annotated, Section 43-34-103(7), is amended by deleting the language "Soil conservation district" and substituting "Soil and water conservation district".

SECTION 9. Tennessee Code Annotated, Section 43-34-103(8), is amended by deleting the language "State soil conservation committee" and substituting "Tennessee soil and water conservation commission".

SECTION 10. Tennessee Code Annotated, Section 43-34-104, is amended by deleting the language "soil conservation district" wherever it appears in the section and substituting "soil and water conservation district".

SECTION 11. Tennessee Code Annotated, Section 43-34-105, is amended by deleting the language "soil conservation district" wherever it appears in the section and substituting "soil and water conservation district".

SECTION 12. Tennessee Code Annotated, Section 43-34-105(d), is amended by deleting the language "state soil conservation committee" wherever it appears in the subdivision and substituting "Tennessee soil and water conservation commission".

SECTION 13. Tennessee Code Annotated, Section 43-34-106, is amended by deleting the language "soil conservation district" wherever it appears in the section and substituting "soil and water conservation district".

SECTION 14. Tennessee Code Annotated, Section 43-34-106(2), is amended by deleting the language "state soil conservation committee" and substituting "Tennessee soil and water conservation commission".

SECTION 15. Tennessee Code Annotated, Section 43-34-107, is amended by deleting the language "soil conservation district" wherever it appears in the section and substituting "soil and water conservation district".

SECTION 16. Tennessee Code Annotated, Section 64-1-203(a)(2)(A)(v), is amended by deleting the language "soil conservation district" and substituting "soil and water conservation district".

SECTION 17. Tennessee Code Annotated, Section 64-1-210, is amended by deleting the language "soil conservation districts" and substituting "soil and water conservation districts".

SECTION 18. Tennessee Code Annotated, Section 64-1-1102(a)(1)(C), is amended by deleting the language "One (1) member who is a supervisor of a soil conservation district in the participating counties, as established under the Soil Conservation Districts Law" and substituting "One (1) member who is a supervisor of a soil and water conservation district in the participating counties, as established under the Soil and Water Conservation Districts Law".

SECTION 19. Tennessee Code Annotated, Section 64-1-1107, is amended by deleting the language "soil conservation districts as established under the Soil Conservation Districts Law" and substituting "soil and water conservation districts as established under the Soil and Water Conservation Districts Law".

SECTION 20. Tennessee Code Annotated, Section 64-3-108, is amended by deleting the language "United States soil conservation agency" and substituting "United States natural resources conservation service".

SECTION 21. Tennessee Code Annotated, Section 69-6-103, is amended by deleting the language "state soil conservation committee" wherever it appears in the section and substituting "Tennessee soil and water conservation commission".

SECTION 22. Tennessee Code Annotated, Section 69-6-104(a)(1)(C), is amended by deleting the language "state soil conservation committee" and substituting "Tennessee soil and water conservation commission".

SECTION 23. Tennessee Code Annotated, Section 69-6-106, is amended by deleting the language "state soil conservation committee" wherever it appears in the section and substituting "Tennessee soil and water conservation commission".

SECTION 24. Tennessee Code Annotated, Section 69-6-107(a), is amended by deleting the language "state soil conservation committee" and substituting "Tennessee soil and water conservation commission".

SECTION 25. Tennessee Code Annotated, Section 69-6-111(a), is amended by deleting the language "state soil conservation committee" and substituting "Tennessee soil and water conservation commission".

SECTION 26. Tennessee Code Annotated, Section 69-6-111(b), is amended by deleting the language "chair of the committee" and substituting "chair of the commission".

SECTION 27. Tennessee Code Annotated, Section 69-6-112, is amended by deleting the language "state soil conservation committee" wherever it appears and substituting "Tennessee soil and water conservation commission".

SECTION 28. Tennessee Code Annotated, Section 69-6-115(a), is amended by deleting the language "state soil conservation committee" and substituting "Tennessee soil and water conservation commission".

SECTION 29. Tennessee Code Annotated, Section 69-6-117(b), is amended by deleting the language "state soil conservation committee" and substituting "Tennessee soil and water conservation commission".

SECTION 30. Tennessee Code Annotated, Section 69-6-120(a), is amended by deleting the language "state soil conservation committee" wherever it appears in the subsection and substituting "Tennessee soil and water conservation commission".

SECTION 31. Tennessee Code Annotated, Section 69-6-121(a), is amended by deleting the language "state soil conservation committee" and substituting "Tennessee soil and water conservation commission".

SECTION 32. Tennessee Code Annotated, Section 69-6-122(c), is amended by deleting the language "state soil conservation committee" and substituting "Tennessee soil and water conservation commission".

SECTION 33. Tennessee Code Annotated, Section 69-6-142(d), is amended by deleting the language "state soil conservation committee" and substituting "Tennessee soil and water conservation commission".

SECTION 34. Tennessee Code Annotated, Section 69-6-148, is amended by deleting the language "state soil conservation committee" wherever it appears in the section and substituting "Tennessee soil and water conservation commission".

SECTION 35. This act takes effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 719

PASSED: April 1, 2021



RANDY McNALLY
SPEAKER OF THE SENATE



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 22nd day of April 2021



BILL LEE, GOVERNOR