

Chapter 3 Conservation District Act

Part 1 General Provisions

17D-3-101 Title.

This chapter is known as the "Conservation District Act."

Enacted by Chapter 360, 2008 General Session

17D-3-102 Definitions.

As used in this chapter:

- (1) "Commission" means the Conservation Commission, created in Section 4-18-104.
- (2) "Commissioner" means the commissioner of the department.
- (3) "Conservation district" means a limited purpose local government entity, as described in Section 17D-3-103, that operates under, is subject to, and has the powers set forth in this chapter.
- (4) "Department" means the Department of Agriculture and Food, created in Section 4-2-102.

Amended by Chapter 311, 2020 General Session

17D-3-103 Conservation district status, authority, and duties.

- (1) A conservation district created under this chapter:
 - (a) is a body corporate and politic;
 - (b) is a political subdivision of the state; and
 - (c) may sue and be sued.
- (2)
 - (a) A conservation district may:
 - (i) survey, investigate, and research soil erosion, floodwater, nonpoint source water pollution, flood control, water pollution, sediment damage, and watershed development;
 - (ii) subject to Subsection (2)(b), devise and implement on state or private land a measure to prevent soil erosion, floodwater or sediment damage, nonpoint source water pollution, or other degradation of a watershed or of property affecting a watershed;
 - (iii) subject to Subsection (2)(b), devise and implement a measure to conserve, develop, utilize, or dispose of water on state or private land;
 - (iv) construct, improve, operate, and maintain a structure that the board of supervisors considers necessary or convenient for the conservation district to carry out its purposes under this chapter;
 - (v) acquire property, real or personal, by purchase or otherwise, and maintain, improve, and administer that property consistent with the purposes of this chapter;
 - (vi) enter into a contract in the name of the conservation district;
 - (vii) receive money from:
 - (A) a federal or state agency;
 - (B) a county, municipality, or other political subdivision of the state; or
 - (C) a private source;

- (viii) subject to Subsection (2)(c), make recommendations governing land use within the conservation district, including:
 - (A) the observance of particular methods of cultivation;
 - (B) the use of specific crop programs and tillage practices;
 - (C) the avoidance of tilling and cultivating highly erosive areas where erosion may not be adequately controlled if cultivated;
 - (D) the construction of terraces, terrace outlets, check dams, dikes, ponds, or other structures; and
 - (E) the development or restoration, or both, of range or forest lands or other natural resources, whether in private, state, or federal ownership;
 - (ix) plan watershed and flood control projects in cooperation with local, state, and federal authorities, and coordinate flood control projects in the state;
 - (x) make recommendations for county and municipal land use authorities within the conservation district to consider with respect to land use applications and other development proposals;
 - (xi) employ clerical and other staff personnel, including legal staff, subject to available money; and
 - (xii) perform any other act that the board of supervisors considers necessary or convenient for the efficient and effective administration of the conservation district.
- (b) A conservation district's authority under Subsections (2)(a)(ii) and (iii) is subject to the consent of:
- (i) the land occupier or owner; and
 - (ii) in the case of school and institutional trust lands, as defined in Section 53C-1-103, the director of the School and Institutional Trust Lands Administration, in accordance with Sections 53C-1-102 and 53C-1-303.
- (c)
- (i) A recommendation under Subsection (2)(a)(viii) shall be uniform throughout the conservation district or, if the board of supervisors classifies land under Subsection (2)(c)(ii), throughout each land classification.
 - (ii) The board of supervisors may uniformly classify land within the conservation district with respect to soil type, degree of slope, degree of threatened or existing erosion, cropping and tillage practices in use, or other relevant factors.
- (3)
- (a) A conservation district shall annually submit to the commission, no later than the date that the commission prescribes:
- (i) a copy of the minutes of each conservation district meeting;
 - (ii) a copy of the conservation district's annual work plan; and
 - (iii) an accounting of the conservation district's financial affairs, as provided in Subsection (3)(b).
- (b) The accounting required under Subsection (3)(a)(iii) shall:
- (i) be prepared by a disinterested person; and
 - (ii) show the conservation district's debits and credits, including accounts payable and accounts receivable, the purpose of each debit, the source of each credit, and the actual cash balance on hand.
- (4)
- (a) A conservation district shall register and maintain the conservation district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

- (b) A conservation district that fails to comply with Subsection (4)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Amended by Chapter 311, 2020 General Session

17D-3-104 District court jurisdiction.

The district court in which a conservation district is located has jurisdiction to decide all cases and controversies involving the construction, application, or enforcement of land use ordinances within the conservation district.

Enacted by Chapter 360, 2008 General Session

17D-3-105 Conservation districts subject to other provisions.

- (1) Subject to Subsection (3), a conservation district is, to the same extent as if it were a local district, subject to and governed by:
 - (a) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-110, 17B-1-113, 17B-1-116, 17B-1-121, 17B-1-307, 17B-1-311, 17B-1-313, and 17B-1-314;
 - (b) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;
 - (c) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;
 - (d) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and
 - (e) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.
- (2) For purposes of applying the provisions listed in Subsection (1) to a conservation district, each reference in those provisions to the local district board of trustees means the board of supervisors described in Section 17D-3-301.
- (3) A conservation district may not exercise taxing authority.

Amended by Chapter 122, 2020 General Session

17D-3-106 Fiscal year.

The fiscal year of a conservation district shall be, as determined by the commission:

- (1) the calendar year; or
- (2) a period beginning on July 1 and ending on the following June 30.

Enacted by Chapter 103, 2012 General Session

17D-3-107 Annual budget and financial reports requirements.

- (1) Upon agreement with the commission, the state auditor may modify:
 - (a) for filing a budget, a requirement in Subsection 17B-1-614(2) or 17B-1-629(3)(d); or
 - (b) for filing a financial report, a requirement in Section 17B-1-639.
- (2) Beginning on July 1, 2019, a conservation district is a participating local entity, as that term is defined in Section 67-3-12, and is subject to Section 67-3-12.

Amended by Chapter 84, 2021 General Session

Part 2
Creation, Consolidation, Division, and Dissolution of Conservation Districts

17D-3-201 Commission authority to approve the creation, consolidation, division, and dissolution of conservation districts -- Notice and hearing requirements.

- (1) As provided in this part, the commission may:
 - (a) pursuant to a petition under Section 17D-3-202, approve the creation of a conservation district; or
 - (b) pursuant to a petition under Section 17D-3-202 or on its own motion, approve:
 - (i) the consolidation of two or more existing conservation districts;
 - (ii) the division of an existing conservation district into two or more conservation districts; or
 - (iii) the dissolution of an existing conservation district.
- (2) Before taking an action authorized under Subsection (1), the commission shall:
 - (a) cause notice of a hearing on the proposed creation, consolidation, division, or dissolution to be published:
 - (i) no more than 30 days after, as the case may be:
 - (A) the filing of a petition under Section 17D-3-202, for a proposed creation, consolidation, division, or dissolution; or
 - (B) adoption of the commission's own motion, for a proposed consolidation, division, or dissolution; and
 - (ii) within:
 - (A) for a proposed creation, the area of the proposed conservation district;
 - (B) for a proposed consolidation, the area of each conservation district proposed to be consolidated; and
 - (C) for a proposed division or dissolution, within the area of the conservation district proposed to be divided or dissolved; and
 - (b) hold a public hearing on the desirability and necessity of the creation, consolidation, division, or dissolution.

Enacted by Chapter 360, 2008 General Session

17D-3-202 Petition to create conservation district -- Petition or commission motion to consolidate, divide, or dissolve conservation districts -- Petition requirements.

- (1) A petition to create a conservation district, to consolidate two or more existing conservation districts, or to divide or dissolve an existing conservation district may be filed by 25 or more land occupiers residing within:
 - (a) for the proposed creation of a conservation district, the area included within the proposed conservation district;
 - (b) for the proposed consolidation of existing conservation districts, the area included within the conservation districts proposed to be consolidated; or
 - (c) for the proposed division or dissolution of an existing conservation district, the area included within the conservation district proposed to be divided or dissolved.
- (2) Each petition under Subsection (1) shall be:
 - (a) in the form that the commission prescribes; and
 - (b) filed with the commission.

Enacted by Chapter 360, 2008 General Session

17D-3-203 Considerations in determining whether to approve conservation district creation, consolidation, division, or dissolution -- Denial or approval -- Notice and plat to lieutenant

governor -- Recording requirements -- Prohibition against considering similar creation, consolidation, division, or dissolution if previously denied.

- (1) In determining whether to approve the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, the commission shall consider:
 - (a) the demonstrated necessity and administrative practicality of the creation, consolidation, division, or dissolution;
 - (b) the topography of and soil compositions and prevailing land use practices within the area of the proposed or existing conservation district or districts;
 - (c) the hydrologic unit code of the watershed in which the area of the proposed or existing conservation district or districts is located;
 - (d) the relationship of the area of the proposed or existing conservation district or districts to existing watersheds and agricultural regions; and
 - (e) the sentiment expressed by persons within the area of the proposed or existing conservation district or districts with respect to the proposed creation, consolidation, division, or dissolution.
- (2) After holding a public hearing as required under Subsection 17D-3-201(2)(b) and considering the factors listed in Subsection (1), the commission shall:
 - (a)
 - (i) disapprove the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, if the commission determines that creation, consolidation, division, or dissolution is not necessary or administratively practical; or
 - (ii) approve the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, if the commission determines that creation, consolidation, division, or dissolution is necessary and administratively practical; and
 - (b) set forth in writing the reasons for the commission's action.
- (3)
 - (a) If the commission approves the creation, consolidation, division, or dissolution, the commission shall:
 - (i) deliver to the lieutenant governor:
 - (A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
 - (B) except in the case of a dissolution, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and
 - (ii) upon the lieutenant governor's issuance of a certificate of boundary action under Section 67-1a-6.5:
 - (A) if the conservation district is or, in the case of dissolution, was located within the boundary of a single county, submit to the recorder of that county:
 - (I) the original:
 - (Aa) notice of an impending boundary action;
 - (Bb) certificate of boundary action; and
 - (Cc) except in the case of dissolution, approved final local entity plat; and
 - (II) a certified copy of the document that the commission adopted approving the boundary action; or
 - (B) if the conservation district is or, in the case of a dissolution, was located within the boundaries of more than a single county:
 - (I) submit to the recorder of one of those counties:

- (Aa) the original of the documents listed in Subsections (3)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and
- (Bb) a certified copy of the document that the commission adopted approving the boundary action; and
- (II) submit to the recorder of each other county:
 - (Aa) a certified copy of the documents listed in Subsections (3)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and
 - (Bb) a certified copy of the document that the commission adopted approving the boundary action.
- (b) Upon the lieutenant governor's issuance of the certificate of creation, consolidation, division, or dissolution under Section 67-1a-6.5, the conservation district is created and incorporated, consolidated, divided, or dissolved, respectively.
- (4) If the commission disapproves a creation, consolidation, division, or dissolution under Subsection (2)(a)(i), the commission may not, for six months following the denial, consider a similar proposal to create, divide, or dissolve the conservation district or to consolidate the conservation districts, as the case may be.

Amended by Chapter 311, 2020 General Session

17D-3-204 Commission action if conservation districts are consolidated, divided, or dissolved.

- (1) If two or more conservation districts are consolidated, the commission shall merge the assets and liabilities of the conservation districts that have been consolidated into the conservation district resulting from the consolidation.
- (2) If a conservation district is divided, the commission shall equitably divide the assets and liabilities of the divided conservation district between the conservation districts resulting from the division.
- (3) If a conservation district is dissolved, the commission shall wind up the affairs of the dissolved conservation district.

Enacted by Chapter 360, 2008 General Session

Part 3
Conservation District Board of Supervisors

17D-3-301 Board of supervisors -- Number -- Term -- Chair and officers -- Quorum -- Compensation.

- (1) A board of supervisors shall govern a conservation district.
- (2) The board of supervisors of a conservation district consists of five members appointed as provided in this part, at least three of whom shall be private agricultural land operators.
- (3)
 - (a) Subject to Subsection (3)(c), the term of office of a member of a board of supervisors is four years.
 - (b) Notwithstanding Subsection (3)(a), if multiple conservation districts are consolidated or a single conservation district divided or dissolved under Part 2, Creation, Consolidation, Division, and Dissolution of Conservation Districts:

- (i) the term of each member of the board of supervisors of the consolidated conservation districts or the divided or dissolved conservation district terminates immediately upon consolidation, division, or dissolution; and
- (ii)
 - (A) the commissioner shall appoint a new board of supervisors, as provided in this part, for the consolidated conservation district or divided conservation districts, as the case may be; and
 - (B) subject to Subsection (3)(c), the term of office of a member of the board of supervisors appointed is four years.
- (c) Notwithstanding the other provisions of this Subsection (3), the commissioner may, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
- (4) The board of supervisors shall elect a chair from among their number for a term of one year, and may elect other officers from among their number that the board considers necessary.
- (5) A majority of the board of supervisors constitutes a quorum for the transaction of board business, and action by a majority of a quorum present at a meeting of the board constitutes action of the board.
- (6) For performing official duties, a member of the board of supervisors of a conservation district shall receive:
 - (a) per diem and travel expenses in accordance with Section 11-55-103; and
 - (b) actual and necessary expenses as determined by the department.

Amended by Chapter 311, 2020 General Session

17D-3-302 Board of supervisors members to be appointed -- Candidates nominated by nominating committee -- Candidate qualifications -- Nomination committee.

- (1) As provided in this part, the commissioner shall appoint a member of a board of supervisors of a conservation district from candidates nominated by a nominating committee consisting of:
 - (a) the chair of the commission or council of the county in which the conservation district is located;
 - (b) the chair of the USDA Farm Service Agency Committee of the county in which the conservation district is located;
 - (c)
 - (i) the chair of the board of supervisors of the conservation district; or
 - (ii) the chair's designee, if the chair wishes to be a candidate for reappointment; and
 - (d) the agricultural extension service designated representative of the county in which the conservation district is located.
- (2) The commissioner may remove an individual from the nominating committee upon the request of the group the individual represents.
- (3) A candidate for appointment to the board of supervisors of a conservation district shall be:
 - (a) at least 18 years of age; and
 - (b) a resident within the conservation district.

Amended by Chapter 311, 2020 General Session

17D-3-303 Nominating committee nomination of candidates for appointment to the board of supervisors.

The nominating committee under Subsection 17D-3-302(1) shall:

- (1) nominate for a conservation district a slate of candidates for appointment to the board of supervisors of the conservation district equal or greater in number to the number of board of supervisors members to be appointed; and
- (2) submit the names of candidates to the commissioner no later than the date set by the commission as the close of nominations.

Amended by Chapter 311, 2020 General Session

17D-3-304 Petition to nominate candidates for appointment to the board of supervisors.

- (1) In addition to the procedure in Section 17D-3-302, a person may be nominated to be a candidate for appointment as a member of a board of supervisors of a conservation district by a petition filed with the department no later than the date set by the commission as the close of nominations.
- (2) A petition under Subsection (1) shall:
 - (a) state:
 - (i) the candidate's name;
 - (ii) that the candidate is at least 18 years old; and
 - (iii) that the candidate for appointment is a resident of the conservation district for which the nomination for candidacy is to be held; and
 - (b) contain the notarized signature of the candidate.
- (3) The department shall forward a petition received under this section to the nominating committee for consideration under Sections 17D-3-302 and 17D-3-303.

Amended by Chapter 4, 2020 Special Session 5

17D-3-305 Setting the date of nomination of the board of supervisors -- Notice requirements.

- (1) The commission shall set the date of the nomination of members of the board of supervisors of a conservation district.
- (2) The commission shall publish notice of the nomination day described in Subsection (1):
 - (a)
 - (i) in a newspaper of general circulation within the conservation district at least once, no later than four weeks before the day of the nomination; or
 - (ii) if there is no newspaper of general circulation in the conservation district, at least four weeks before the nomination day, by posting one notice, and at least one additional notice per 2,000 population of the conservation district, in places within the conservation district that are most likely to give notice to the residents in the conservation district;
 - (b) on the Utah Public Notice Website created in Section 63A-16-601, for four weeks before the day of the nomination;
 - (c) in accordance with Section 45-1-101, for four weeks before the day of the nomination; and
 - (d) if the conservation district has a website, on the conservation district's website for four weeks before the day of the nomination.
- (3) The commissioner shall appoint the board of members by no later than six weeks after the date set by the commission for the close of nominations.
- (4) The notice required under Subsection (2) shall state:
 - (a) the nomination date; and
 - (b) the number of open board member positions for the conservation district.

Amended by Chapter 84, 2021 General Session

Amended by Chapter 345, 2021 General Session

17D-3-310 Vacancies in the board of supervisors.

If a vacancy occurs in the office of board of supervisors member, the remaining members of the board of supervisors shall nominate an individual to the commissioner to appoint to fill the vacancy, to serve the remainder of the unexpired term of the member creating the vacancy.

Amended by Chapter 311, 2020 General Session

17D-3-311 Training for board members.

- (1) A member of a board of supervisors shall, within one year after appointment, complete the training described in Subsection (2).
- (2) The state auditor shall, with the assistance of the commission and an association that represents conservation districts, develop a training curriculum for a member of the board of supervisors and conduct the training.

Amended by Chapter 311, 2020 General Session