

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

Part 93

SOIL CONSERVATION DISTRICTS

324.9301 Definitions.

Sec. 9301.

As used in this part:

(a) "Agency of this state" includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.

(b) "Board" or "conservation district board" means the governing body of a conservation district.

(c) "Compliance assistance agent" means an individual who provides technical assistance to individuals, organizations, agencies, or others to aid them in complying with federal and state laws and local conservation ordinances.

(d) "Conservation species" means those plant species beneficial for conservation practices as included on the list prepared under section 9304a by the conservation species advisory panel.

(e) "Conservation species advisory panel" means the conservation species advisory panel created in section 9304a.

(f) "Department" means the department of agriculture and rural development.

(g) "Director" means 1 of the members of the conservation district board, elected or appointed in accordance with this part.

(h) "District" or "conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with this part, for the purposes, with the powers, and subject to the restrictions set forth in this part.

(i) "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

(j) "Landowner" includes any person who holds title to or has contracted to purchase any land lying within a district organized under this part or former 1937 PA 297.

(k) "Person" means an individual, partnership, or corporation.

(l) "Plant rescue" means to physically move native conservation species of plants from 1 location in Michigan to another location in Michigan for the purpose of reestablishing the native conservation species.

(m) "Qualified forester" means that term as defined in section 51301.

(n) "Resident" means a person who is of legal age to vote and can demonstrate residency in the district with 1 piece of identification.

(o) "State" means this state.

(p) "United States" or "agencies of the United States" includes the United States of America, the natural resources conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999 ;-- Am. 2013, Act 45, Imd. Eff. June 6, 2013

Popular Name: Act 451

Popular Name: NREPA

324.9302 Declaration of policy.

Sec. 9302.

It is the policy of the legislature to provide for the conservation of the natural resources of the state, including soil, water, farmland, forestland, and other natural resources, and to provide for the control and prevention of soil erosion, and thereby to conserve the natural resources of this state, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999 ;-- Am. 2013, Act 45, Imd. Eff. June 6, 2013

Popular Name: Act 451

Popular Name: NREPA

324.9303 Conducting business at public meeting; notice; availability of writings to public.

Sec. 9303.

(1) The business that a conservation district board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, in addition to any other notice prescribed in this part.

(2) A writing prepared, owned, used, in the possession of, or retained by a conservation district board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999

Popular Name: Act 451

Popular Name: NREPA

324.9304 Additional duties and powers of department.

Sec. 9304.

In addition to the other duties and powers conferred upon the department under this part, the department has the following duties and powers:

(a) To offer such assistance as may be appropriate to the directors of conservation districts in implementing any of their responsibilities under this part and as otherwise provided by law.

(b) To keep the directors of each of the districts informed of the activities and experience of all other districts and to facilitate cooperation and sharing of advice and experience between the districts.

(c) To approve and coordinate the programs of all conservation districts.

(d) To secure the cooperation and assistance of the United States and any of its agencies, and the state and any of its agencies, in the work of the districts, and to formulate policies and procedures as the department considers necessary for the extension of aid in any form from federal or state agencies to the districts.

(e) To disseminate information throughout the state concerning the activities and programs of the conservation districts and to encourage the formation of districts in areas where their organization is desirable.

(f) To review district budgets and financial information, including audit reports.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999 ;-- Am. 2013, Act 45, Imd. Eff. June 6, 2013

Popular Name: Act 451

Popular Name: NREPA

324.9304a Conservation species advisory panel; creation; membership; establishment of conservation species list.

Sec. 9304a.

(1) The conservation species advisory panel is created within the department. The conservation species advisory panel shall consist of the following members selected by the director of the department and approved by the commission of agriculture:

- (a) Two representatives of the department as follows:
 - (i) One individual from the pesticide and plant management division or its successor agency.
 - (ii) One individual from the environmental division or its successor agency.
- (b) One individual representing the department of natural resources.
- (c) One individual representing the natural resource conservation service.
- (d) Two representatives from Michigan state university as follows:
 - (i) One individual from the department of horticulture or its successor department.
 - (ii) One individual from the department of forestry or its successor department.
- (e) One individual representing conservation districts.
- (f) One individual from a statewide organization representing nursery and landscaping interests in the state.
- (g) One individual from a statewide organization representing seedling growers' interests in the state.

(2) By December 1 of each year, the conservation species advisory panel shall establish a list of conservation species for the following calendar year that may be propagated, planted, harvested, sold, or rescued as part of a plant rescue operation. However, conservation species on this list that are propagated, planted, or rescued during that calendar year may be sold, removed, or reestablished in subsequent years even if the species is removed from the list in a subsequent year.

History: Add. 1998, Act 463, Imd. Eff. Jan. 4, 1999

Popular Name: Act 451

Popular Name: NREPA

324.9305 Boundaries; petition to change district's name.

Sec. 9305.

- (1) Boundaries of conservation districts shall include cities, townships, and incorporated villages.
- (2) A conservation district's board may petition the department to change the district's name. The petition form shall be provided by the department. The department shall give due consideration to the petition and, if the request is determined to be needed and practical, shall approve the change in name and request the secretary of state to enter the new name in the secretary of state's official records of the district.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999

Popular Name: Act 451

Popular Name: NREPA

324.9306 Repealed. 1998, Act 463, Imd. Eff. Jan. 4, 1999.

Compiler's Notes: The repealed section pertained to election of district directors.

Popular Name: Act 451

Popular Name: NREPA

324.9307 Conservation district board; directors; chairperson; terms; annual meeting; election; notice; vacancies; certification; special election; quorum; expenses; employees; legal services; delegation of powers and duties; copies of documents; duties of board; eligibility for grant; duties of professional forester; rules; duties of conservation district; removal of director; designation and function of legislative representative.

Sec. 9307.

- (1) A conservation district board shall consist of 5 directors elected or appointed as provided in this part. The board shall designate a chairperson annually.

(2) Except as provided in subsection (6), the term of office of each director is 4 years. Except as otherwise provided in this section, all directors shall be elected at an annual meeting by residents of the district. The election shall be nonpartisan and the directors shall be elected by the residents of the district at large. To become a candidate for director, at least 60 days prior to the annual meeting, an individual shall file at the district office a petition signed by 5 residents of the district. A candidate must be a resident of the district. The annual meeting shall be held at a date determined by the board. Notice of the annual meeting shall be published in the official newspaper of record for the area in which the district is located at least 45 days prior to the date of the annual meeting. This notice shall include the date, time, and location of the annual meeting, an agenda of items to be considered at the meeting, and a list of all candidates for directors of the district. A resident of a district who is unable to attend the annual meeting may vote for the directors of the district by absentee ballot as follows:

(a) In person at the district office, during regular business hours of the district office, at any time after publication of the notice and prior to the annual meeting.

(b) By mail received at the district office at any time after publication of the notice and prior to the annual meeting.

(3) Following the annual meeting, director elections shall be certified by the department. A director shall hold office until a successor has been elected and qualified. Vacancies shall be filled by appointment by the board until the next annual meeting.

(4) The department shall notify the district of its determination on election certification within 90 days after the election. If the department does not certify the director election, the board shall call a special election. The procedures for the special election shall be the same as those for an election at the annual meeting. However, if the board received notification that the department would not be able to certify the director elections from a special election at least 120 days before the next annual meeting, the vacancies shall be filled at the next annual meeting.

(5) A majority of the directors constitutes a quorum of the board, and the concurrence of a majority in any matter within their duties is required for the board's determination. A director is entitled to expenses, including traveling expenses necessarily incurred in the discharge of his or her duties. A director may be paid a per diem for time spent undertaking his or her duties as a director.

(6) If at any time the board has an insufficient number of directors to constitute a quorum, the department shall appoint directors to fill the vacancies on the board. The appointed directors shall serve until new directors are elected as provided for in this section at the next annual meeting and the election is certified by the department. However, new directors who are elected to fill vacancies shall serve for the remainder of the vacated terms.

(7) The board may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as the board may require, and shall determine their qualifications, duties, and compensation. Upon request of the board, the attorney general may, at his or her discretion, provide legal services to the district. The board may delegate to its chairperson, to 1 or more directors, or to 1 or more agents or employees any powers and duties that the board considers proper. The board shall furnish to the department, upon request, copies of ordinances, rules, regulations, orders, contracts, forms, and other documents that the board adopts or utilizes and any other information concerning the board's activities that the department may require in the performance of its duties under this part.

(8) The board shall do all of the following:

(a) Provide for the execution of surety bonds for all district employees and officers who are entrusted with funds or property.

(b) Provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted.

(c) Determine the fiscal year of the district.

(9) To be eligible for a grant of \$50,000.00 or more from the department, a district shall do all of the following:

(a) Annually submit to the department a budget setting forth the purpose and amount of the expenses expected to be incurred and the source and amount of revenue expected to be received during the ensuing fiscal year.

(b) Maintain accurate financial records of receipts and disbursements and uniform accounting in accordance with generally accepted accounting principles under procedures prescribed by the department.

(c) Provide for a biennial independent certified audit by a certified public accountant of the financial records, accounts, and procedures of the district. The audit report shall show profits and losses and the financial condition of the district.

(d) Agree to comply with subsection (10), and agree to return any grant funds received if subsection (10) is violated.

(10) A professional forester employed under a grant described in subsection (9) shall not use his or her position to do either or both of the following:

(a) Compete with a private sector business.

(b) Develop a client base for forestry consultation during hours when he or she is not employed by the district.

(11) The department may promulgate rules to implement subsection (9). However, rules promulgated under this subsection shall remain in effect not later than June 11, 2016.

(12) The board is responsible for the exercise of the powers and the performance of the duties of a conservation

district under this part.

(13) Any director may be removed by the department upon notice and hearing for neglect of duty or malfeasance in office, but for no other reason.

(14) The board may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the board on all questions of program and policy that may affect the property, water supply, or other interests of the municipality or county.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Eff. June 1, 1999 ;-- Am. 2002, Act 107, Imd. Eff. Mar. 27, 2002 ;-- Am. 2004, Act 439, Imd. Eff. Dec. 21, 2004 ;-- Am. 2013, Act 45, Imd. Eff. June 6, 2013 ;-- Am. 2013, Act 114, Imd. Eff. Sept. 24, 2013

Popular Name: Act 451

Popular Name: NREPA

324.9308 Powers of district and board generally; restrictions.

Sec. 9308.

(1) A conservation district organized under this part constitutes a governmental subdivision of this state and a public body corporate and politic, exercising public powers, and a conservation district and the conservation district board has all of the following powers, in addition to powers otherwise granted in this part:

(a) To conduct surveys, investigations, and research relating to the conservation of farmland, forestland, and natural resources, to publish the results of the surveys, investigations, or research, and to disseminate that information upon obtaining the consent of the landowner or the necessary rights or interest in the lands. In order to avoid duplication of research activities, a district shall not initiate any research program except in cooperation with the government of this state or any of its agencies or with the United States.

(b) To conduct demonstrational projects within the district on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction of the lands, and on any other lands within the district upon obtaining the consent of the owner of the lands or the necessary rights or interest in the lands, to demonstrate by example the means, methods, and measures by which farmland, forestland, and natural resources may be conserved and soil erosion in the form of soil blowing and soil washing may be prevented and controlled.

(c) To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and other measures to achieve purposes listed in declaration of policy, on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction of the lands, and on any other lands within the district upon obtaining the consent of the landowners or the necessary rights or interests in the lands.

(d) To cooperate or enter into agreements with and, within the limits of appropriations made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any landowner within the district or his or her designated representative, in the conducting of erosion-control and prevention operations within the district, subject to conditions as the directors consider necessary to advance the purposes of this part.

(e) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests in property; to maintain, administer, and improve any properties acquired, to receive income from the properties, and to expend income in carrying out the purposes and provisions of this part; and to sell, lease, or otherwise dispose of any of its property or interests in property in furtherance of the purposes and provisions of this part.

(f) To make available, on the terms it prescribes, to landowners or their designated representatives within the district and to other conservation districts, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and other material or equipment that will assist landowners or their designated representatives to carry on operations upon their lands for the conservation of farmland, forestland, and natural resources and for the prevention and control of soil erosion.

(g) To engage in plant rescue operations and to propagate, plant, harvest, and, subject to section 9304a, sell only conservation species. A conservation district that violates this subdivision is subject to a civil fine of not more than \$100.00 per day of violation. An action to enforce this subdivision may be brought by the state or a county in the circuit court for the county in which the conservation district is located or in which the violation occurred.

(h) To provide technical assistance to other conservation districts.

(i) To construct, improve, and maintain structures as may be necessary or convenient for the performance of any of the operations authorized in this part.

(j) To develop comprehensive plans for the conservation of farmland, forestland, and natural resources and for

the control and prevention of soil erosion within the district or other conservation districts. The plans shall specify, in such detail as is possible, the acts, procedures, performances, and avoidances that are necessary or desirable for the effectuation of the plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish the plans and information described in this subdivision and bring them to the attention of residents of the district.

(k) To take over, by purchase, lease, or otherwise, and to administer any farmland, forestland, or natural resource conservation project located within its boundaries undertaken by the United States or any of its agencies or by this state or any of its agencies; to manage, as agent of the United States or any of its agencies or of this state or any of its agencies, any farmland, forestland, or natural resource conservation project within its boundaries; to act as agent for the United States or any of its agencies or for this state or any of its agencies in connection with the acquisition, construction, operation, or administration of any farmland, forestland, or natural resource conservation project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies or from this state or any of its agencies, and to use or expend the money, services, materials, or other contributions in carrying on its operations; and to accept money, gifts, and donations from any other source not specified in this subdivision.

(l) To sue and be sued in the name of the district; to have a seal that is judicially noticed; to have perpetual succession unless terminated as provided in this part; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers; and to make, and from time to time amend and repeal, rules and regulations in a manner that is not inconsistent with this part to carry into effect its purposes and powers.

(m) To borrow money for facilities or equipment for conservation purposes and pledge the assets of the district as collateral against loans. Any money borrowed shall be solely the obligation of the conservation district and not the obligation of the state or any other public entity in the state.

(n) As a condition to the extension of any benefit under this part to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the directors may require contributions in money, services, materials, or otherwise to any operation conferring the benefits, and may require landowners to enter into and perform agreements or covenants as to the permanent use of the lands that will tend to prevent or control erosion on those lands.

(o) To act as a compliance assistance agent for other federal, state, and county laws.

(p) To act as the enforcing agency for a county if designated under section 9105.

(q) To collaborate with the department in reviewing applications for exemption as qualified forest property under section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].

(r) Subject to subsection (2), in cooperation with the department, to evaluate nonindustrial private forestlands.

(s) Subject to subsection (3), to provide landowners any of the following:

(i) Technical assistance regarding potential environmental, ecological, and economic benefits of forestry, wildlife habitat, and wetland development and restoration.

(ii) Contact information for qualified foresters.

(iii) Contact information for other forest resource professionals that may have voluntarily provided information to the department.

(2) Except as otherwise provided in this subsection, a conservation district shall not develop management plans for nonindustrial private forestlands. A district shall provide a landowner upon request with a list of qualified foresters to develop management plans. The list shall be developed and maintained by the department. If requested by a landowner, the conservation district shall post on its website notice that the landowner is seeking forest management plan preparation; timber harvesting, marketing, or thinning; or similar services. If, after the notice is posted for at least 30 days on the conservation district's website, a landowner is unable to identify a private forester willing to develop a forest management plan, the conservation district may, upon approval by the department, prepare a forest management plan for the landowner.

(3) The exercise of powers under subsection (1)(s) does not affect the regulatory authority of any state department.

(4) Unless authorized by the county board of commissioners of each county in which a conservation district is located, a conservation district shall not enforce state or federal laws.

(5) Unless otherwise specifically provided by law, provisions with respect to the acquisition, operation, or disposition of property by other public bodies are not applicable to a district organized under this part.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999 ;-- Am. 2013, Act 45, Imd. Eff. June 6, 2013

Popular Name: Act 451

Popular Name: NREPA

324.9309 Cooperation between districts.

Sec. 9309.

The directors of any 2 or more districts organized under this part may cooperate with one another in the exercise of any or all powers conferred in this part.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.9310 Cooperation of state agencies; agreements.

Sec. 9310.

(1) Agencies of this state that have jurisdiction over, or are charged with the administration of, any state owned lands, and agencies of any county or other governmental subdivision of the state that have jurisdiction over, or are charged with the administration of, any county owned or other publicly owned lands, lying within the boundaries of any conservation district, shall cooperate to the fullest extent with the district in the effectuation of programs and operations undertaken by the district under this part. Agents of the district shall be given free access to enter and perform work upon such publicly owned lands.

(2) A conservation district may cooperate with and enter into agreements with a county, township, municipality, or other subdivision of state government in implementing soil, water, forestland, and related land-use projects. A county, township, municipality, or other subdivision of state government through its governing body may cooperate with and enter into agreement with a conservation district in carrying out this part and may assist a district by providing it with such materials, equipment, money, personnel, and other services.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999 ;-- Am. 2013, Act 45, Imd. Eff. June 6, 2013

Popular Name: Act 451

Popular Name: NREPA

324.9311 Repealed. 1998, Act 463, Imd. Eff. Jan. 4, 1999.

Compiler's Notes: The repealed section pertained to termination of district.

Popular Name: Act 451

Popular Name: NREPA

324.9312 Revision of boundaries; procedure.

Sec. 9312.

(1) One or more conservation districts may petition the department for a revision in the boundaries of 1 or more conservation districts. The department shall not take action on the petition unless it is signed by a majority of the directors of each of the districts involved in the proposed revision. Within 30 days after receipt of a proper petition, the department shall cause notice of hearing to be given to the residents in the area or areas affected by the proposed revision as identified by the directors of a district and within 60 days hold a hearing to receive comments relative to the proposed change.

(2) The department shall determine if the proposed revision as petitioned for is desirable. If it finds in the affirmative, the department shall issue an order that states that the boundaries of the districts are to be moved,

merged, consolidated, or separated at a date specified in the order and includes the name and the revision of the boundaries of the revised district or districts.

(3) Upon transmission of the order to the secretary of state, a certificate of due organization under seal of the state shall issue, if necessary, to the directors of the district as provided in this part. The revised district or districts shall have the same powers, duties, and functions as other districts organized under this part.

(4) The department shall appoint the first board of directors of the revised district, 1 of whom shall be appointed for a term of 1 year, 2 for a term of 2 years, and 2 for a term of 3 years. Thereafter, directors shall be elected as provided in section 9307.

(5) All assets, liabilities, records, documents, writings, or other property of whatever kind of the districts of which the consolidated district is composed shall become the property of the consolidated district, and all agreements made by, and obligations of, the former districts shall be binding upon and enforceable by the consolidated district. At the date specified in the department's order, the districts of which the consolidated district is composed shall cease to exist, and their powers and duties shall cease after that date. The consolidated district shall be governed by this part.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999

Popular Name: Act 451

Popular Name: NREPA

324.9313 Appropriations.

Sec. 9313.

The necessary expenses of any conservation districts shall be made from appropriations made for those purposes.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995 ;-- Am. 1998, Act 463, Imd. Eff. Jan. 4, 1999

Popular Name: Act 451

Popular Name: NREPA