

## ***CONSERVATION DISTRICT ACT***

### **§27A-3-1-101. Short title.**

This chapter shall be known and may be cited as the "Conservation District Act".

### **§27A-3-1-102. Legislative determination - Declaration of policy.**

In recognition of the ever-increasing demands on the renewable natural resources of the state and of the need to preserve, protect and develop such resources at such a rate and at such levels of quality as will meet the needs of the people of the state, it is hereby declared to be the policy of the State of Oklahoma to provide for the conservation of the renewable natural resources of this state, and for the control and prevention of soil erosion, and for the prevention of floodwater and sediment damages, and for furthering the conservation, development, utilization and disposal of water, and thereby to preserve and develop natural resources, control floods, conserve and develop water resources and water quality, prevent impairment of dams and reservoirs, preserve wildlife, preserve natural beauty, promote recreational development, protect the tax base, protect public lands and protect and promote the health, safety and general welfare of the people of this state. It is further the policy of the Legislature to authorize conservation districts established under the Conservation District Act to serve as the primary local unit of government responsible for the conservation of the renewable natural resources of this state, and competent to administer, in close cooperation with landowners and occupiers, with local governmental units, and with agencies of the government of this state and of the United States, projects, programs and activities suitable for effectuating the policy of the Conservation District Act. Provided, however, in those areas included within the existing jurisdiction of planning commissions created pursuant to the provisions of Titles 11 and/or 19, of the Oklahoma Statutes or their successors, such districts shall serve as the collateral units of government so responsible.

### **§27A-3-1-103. Definitions.**

As used in the Conservation District Act:

1. "District" or "conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of the Conservation District Act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth;
2. "Director" means a member of the governing body of a conservation district, elected or appointed in accordance with the provisions of the Conservation District Act;
3. "Commission" means the Oklahoma Conservation Commission;
4. "State" means the State of Oklahoma;
5. "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;
6. "United States" or "agencies of the United States" includes the United States of America, and any department, agency or instrumentality of the federal government;
7. "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;
8. "Due notice" which shall be in conformance with the Administrative Procedures Act means notice published at least twice, with an interval of at least seven (7) days between the two publication dates, in a newspaper or other publication of general circulation within the district, or, if no such publication of general circulation is available, by posting at five conspicuous places within the district, such posting 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 such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates;

9. "District cooperator" means any person that has entered into a cooperative agreement with a conservation district for the purpose of protecting, conserving and practicing wise use of the renewable natural resources under his or her control;

10. "Renewable natural resources", "natural resources" or "resources" include land, soil, water, vegetation, trees, natural beauty, scenery and open space;

11. "Conservation" includes conservation, development, improvement, maintenance, preservation, protection and wise use of land, water and related natural resources; the control and prevention of floodwater and sediment damages; and the disposal of excess surface waters;

12. "Cost-Share program" means the assumption by the state of a proportional share of the cost of installing conservation structures, conservation practices or best management practices on lands for public and environmental benefits;

13. "Best management practices" means a control method or combination of control methods that is determined to be the most effective and practicable means of preventing soil loss from erosion or reducing the amount of nonpoint source pollution from a given land use;

14. "Nonpoint source" shall have the same meaning as such word is defined by the Oklahoma Environmental Quality Act;

15. "Pollution" shall have the same meaning as such word is defined by the Oklahoma Environmental Quality Act;

16. "Nonpoint source working group" means an advisory group established by the Conservation Commission to provide input into the state's nonpoint source management and assessment program and is open to federal, state and local environmental agencies and natural resource agencies and other interested groups;

17. "Watershed" means an area of land that drains to a given point;

18. "Blue Thumb Program" means a nonpoint source educational program emphasizing water quality education, including volunteer monitoring;

19. "Soil science" means the science which:

- a. is the study of physical, chemical, and biological processes taking place in both naturally occurring and reconstructed unconsolidated material formed by the alteration of parent rock due to exposure at the earth's surface, and
- b. includes sampling, measuring, identification, characterization, classification, and mapping of soil materials and migration of water solute, air and other gaseous components in the unsaturated portion of the earth; and

20. "Soil scientist" means a person who:

- a. has earned a baccalaureate or higher degree in a field of soil science from an institution of higher education which is accredited by a regional or national accrediting agency, with a minimum of thirty (30) semester hours or forty-five (45) quarter hours of undergraduate work in a field of biological, physical, or earth science with a minimum of fifteen (15) semester hours of core soil science courses, and
- b. has a specific and continuous record of related and verifiable soil science work experience for two (2) years. Publications in a soil science publication or prior qualifications as an expert witness in administrative or judicial proceeding, hearing or trial shall be prima facie verification of experience related to soil science.

**§27A-3-2-101. How constituted.**

A. There is hereby established, to serve as an agency of the state and to perform the functions conferred upon it in the Conservation District Act, the Oklahoma Conservation Commission, which commission shall succeed to all the powers, duties and property of the State Soil Conservation Board. The Commission shall consist of five (5) members whose qualifications and manner of appointment shall be hereinafter designated. The State of Oklahoma is hereby divided into five state areas for the purpose of selecting the members of the Oklahoma Conservation Commission. Each of the state areas shall be composed of the following counties:

State Area No. 1 comprising fifteen counties:

Cimarron	Woodward	Blaine
Texas	Dewey	Alfalfa
Beaver	Canadian	Grant
Harper	Woods	Garfield
Ellis	Major	Kingfisher

State Area No. 2 comprising fifteen counties:

Kay	Oklahoma	Love
Noble	Cleveland	Seminole
Logan	McClain	Garvin
Payne	Lincoln	Murray
Pawnee	Pottawatomie	Carter

State Area No. 3 comprising sixteen counties:

Osage	Rogers	Cherokee
Creek	Wagoner	Sequoyah
Washington	Muskogee	Adair
Tulsa	Craig	Delaware
Okmulgee	Mayes	Ottawa
Nowata		

State Area No. 4 comprising fifteen counties:

Roger Mills	Custer	Comanche
Beckham	Washita	Cotton
Greer	Kiowa	Grady
Harmon	Tillman	Stephens
Jackson	Caddo	Jefferson

State Area No. 5 comprising sixteen counties:

Okfuskee	Atoka	Latimer
Hughes	Bryan	Pushmataha
Pontotoc	Pittsburg	Choctaw
Johnston	McIntosh	Le Flore
Marshall	Haskell	McCurtain
Coal		

B. The entire territory of this state shall be included within conservation districts.

C. The Governor shall appoint one member from each of the five state areas as herein created, and each such member so appointed shall be, at the time of his appointment a Conservation District Director. Each member of the Oklahoma Conservation Commission shall be a Conservation District Director during the entire term as a Commission member. No fewer than three members of said Board shall be actively engaged in the practice of farming and/or ranching or shall derive at least a majority of their income from

farming and/or ranching. As a condition to their appointment, such members shall be residents of the state area from which they are appointed. Such appointments shall be made by the Governor and shall be subject to confirmation by the Senate and such appointments shall be made by the Governor within thirty (30) days after the expiration of the terms of office of said members. Each member shall serve for a period of five (5) years, and shall be removed only for cause. In the event of a vacancy, the vacancy shall be filled in the same manner as the original appointment was made and by the same appointing authority.

D. The Commission shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings and promulgate such rules and regulations as may be necessary for the execution of its functions under the Conservation District Act.

**§27A-3-2-102. Perpetuation of soil and water conservation districts.**

All soil and water conservation districts organized on the date of the adoption of the Conservation District Act are perpetuated and shall continue to exist as conservation districts under the Conservation District Act.

**§27A-3-2-103. Executive Director, technical experts and employees - Office space.**

A. The Commission:

1. May employ an Executive Director and any technical experts and other agents and employees, permanent and temporary, as may be required, and shall determine their qualifications, duties, and compensation;

2. May call upon the Attorney General of the state for any legal services as may be required. In addition, the Commission, if it determines that it is needed, may employ or appoint attorneys or in-house counsel to advise or represent the Commission; and

3. Shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, any powers and duties as it may deem proper.

B. Offices shall be provided by the Office of Management and Enterprise Services in Oklahoma City. Upon request of the Commission for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning, shall, insofar as may be possible under available appropriations and having due regard to the needs of the agency to which the request is directed, assign or detail to the Commission members of the staff or personnel of the agency or institution of learning, and make any special reports, surveys, or studies as the Commission may request.

**§27A-3-2-103a. Seasonal Employees**

A. For the purposes of the Oklahoma Conservation Commission, seasonal employees employed by the Commission who work less than nine hundred ninety-nine (999) hours in a twelve-month period shall be considered temporary employees and shall be unclassified. The Commission may employ seasonal employees throughout the calendar year.

B. The Commission, in its annual budget request, shall include a summary of the use of project labor, which shall include the number of workers employed under the provisions of this section and the total wages paid to these employees.

**§27A-3-2-104. Chairman, quorum and expenses.**

The Commission shall reorganize annually and select a chairman from among its members who shall serve for one (1) year from the date of selection. A member of the Commission shall hold office so long as such member retains the office by virtue of which he shall be serving on the Commission. 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. The chairman and members of the Commission shall be entitled to receive reimbursement for traveling expenses necessarily incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

**§27A-3-2-105. Bonds of employees and officers - Records - Annual audit.**

The Commission shall:

1. Provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property;
2. Provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted; and
3. Provide for and submit to an annual audit of its records and accounts of receipts and disbursements.

**§27A-3-2-106. Powers and duties of Commission.**

A. In addition to other powers and duties specified by law and except as otherwise provided by law, the Oklahoma Conservation Commission shall have the power and duty to:

1. Offer the assistance as may be appropriate to the directors of conservation districts in the carrying out of any of their powers and programs and to:
  - a. assist and guide districts in the preparation and carrying out of programs for resource conservation authorized under the Conservation District Act,
  - b. review district programs,
  - c. coordinate the programs of the several districts and resolve any conflicts in such programs, and
  - d. facilitate, promote, assist, harmonize, coordinate and guide the resource conservation programs and activities of districts as they relate to other special purpose districts, counties and other public agencies;
2. Keep the directors of each of the several districts informed of the activities and experience of all other districts, and to facilitate an interchange of advice and experience between the districts and cooperation between them;
3. Enter into contracts and agreements and execute such instruments in the judgment of the Commission as are necessary, beneficial, or convenient toward the exercise of any of the Commission's powers conferred upon it by law. This includes, but is not limited to, creating shared positions, administering statewide programs with districts, and exploring funding sources for conservation programs, practices, and pilot projects;
4. Review agreements, or forms of agreements, proposed to be entered into by districts with other districts or with any state, federal, tribal, interstate, or other public or private agency, organization or individual, and advise the districts concerning the agreements or forms of agreements;
5. Secure the cooperation and assistance of the United States and any of its agencies, any tribe, agencies of this state, other entities, or individuals in the work of the Commission or districts;
6. Accept donations, grants, gifts and contributions in money, services, or otherwise from the United States or any of its agencies, tribes, the state or any of its agencies, other entities, or individuals in order to carry out the purposes of the Conservation District Act;
7. Disseminate information throughout the state concerning the activities and programs of the conservation districts and to make available information concerning the needs and the work of the conservation districts and Commission to the Governor, the Legislature, executive agencies of the

government of this state, political subdivisions of this state, cooperating federal agencies and the general public;

8. Serve along with conservation districts as the official state agencies for cooperating with the Natural Resources Conservation Service of the United States Department of Agriculture and carrying on conservation operations within the boundaries of conservation districts;

9. Cooperate with and give such assistance as it deems necessary and proper to conservancy districts, watershed associations and other special purpose districts in the State of Oklahoma for the purpose of cooperating with the United States through the Secretary of Agriculture in the furtherance of conservation pursuant to the provisions of the Federal Watershed Protection and Flood Prevention Act, as amended;

10. Recommend the inclusion in annual and longer term budgets and appropriation legislation of the State of Oklahoma of funds necessary for appropriation by the Legislature to finance the activities of the Commission and the conservation districts and to:

- a. administer the provisions of the Conservation District Act hereafter enacted by the Legislature appropriating funds for expenditure in connection with the activities of conservation districts,
- b. distribute to conservation districts funds, equipment, supplies and services received by the Commission for that purpose from any source, subject to such conditions as shall be made applicable thereto in any state or federal statute or local ordinance making available such funds, property or services,
- c. issue guidelines and suitable controls to govern the use by conservation districts of funds, property, and services, and
- d. review all budgets, administrative procedures and operations of such districts and advise the districts concerning their conformance with applicable laws and regulations;

11. Enlist the cooperation and collaboration of state, federal, tribal, regional, interstate, local, public and private agencies with the conservation districts and facilitate arrangements under which the conservation districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation of renewable natural resources;

12. Pursuant to procedures developed mutually by the Commission and federal, tribal, state and local agencies that are authorized to plan or administer activities significantly affecting the conservation of renewable natural resources, receive from these agencies for review and comment suitable descriptions of their plans, programs and activities for purposes of coordination with district conservation programs and to arrange for and participate in conferences necessary to avoid conflict among plans and programs, to call attention to omissions and to avoid duplication of effort;

13. Compile information and make studies, summaries, and analyses of district programs in relation to each other and to other resource conservation programs on a statewide basis;

14. Except as otherwise assigned by law, carry out the policies of this state in programs at the state level for the conservation of the renewable natural resources of this state and represent the state in matters affecting such resources;

15. Assist conservation districts in obtaining legal services from state and local legal officers;

16. Require annual reports from conservation districts, the form and content of which shall be developed by the Commission in consultation with the district directors;

17. Establish by rules, with the assistance and advice of the State Auditor and Inspector, adequate and reasonably uniform accounting and auditing procedures that shall be used by conservation districts;

18. Conduct workshops for district directors to instruct them on the subjects of district finances, the Conservation District Law and related laws, and their duties and responsibilities as directors;

19. Assist and supervise districts in carrying out their responsibilities in accordance with Oklahoma laws;

20. Have power, by administrative order, upon the written request of the board of directors of the conservation district or districts involved, with a showing that such request has been approved by a majority vote of the members of each of the boards involved, to:

- a. transfer lands and assign easements from one district established under the provisions of the Conservation District Act to another,
- b. divide a single district into two or more districts, each of which shall thereafter operate as a separate district under the provisions of the Conservation District Act, and
- c. consolidate two or more districts established under the provisions of the Conservation District Act, which consolidated area shall operate thereafter as a single district under the provisions of the Conservation District Act;

21. Except as otherwise provided by law, act as the management agency having jurisdiction over and responsibility for directing nonpoint source pollution prevention programs outside the jurisdiction or control of cities or towns in Oklahoma. The Commission, otherwise, shall be responsible for all identified nonpoint source categories except silviculture, urban stormwater runoff and industrial runoff;

22. Establish and maintain an Equipment Revolving Fund for the purpose of loaning conservation districts funds to purchase equipment to be used for the installation of conservation practices. The fund shall consist of all monies appropriated to, deposited in or credited to the fund;

23. Administer cost-share programs to carry out conservation or best management practices on the land to benefit the public through the prevention or reduction of soil erosion and nonpoint source pollution and general resource management. The Commission is not authorized to implement mandatory compliance with management practices, except as otherwise provided by law, to abate agricultural nonpoint source pollution;

24. Plan watershed-based nonpoint source pollution control activities, including the development and implementation of conservation plans for the improvement and protection of the resources of the state;

25. Assist the Oklahoma Water Resources Board on lake projects through stream and river monitoring, assessing watershed activities impacting lake water quality and assisting in the development of a watershed management plan;

26. Maintain the activities of the state's nonpoint source working group;

27. Prepare, revise, and review Oklahoma's nonpoint source management program and nonpoint source assessment report in coordination with other state environmental agencies and compile a comprehensive assessment for the state every five (5) years. The management program and assessment report shall be distributed to the Governor, Secretary of Energy and Environment, the President Pro Tempore of the Oklahoma State Senate, and the Speaker of the Oklahoma House of Representatives;

28. Under the direction of the Office of the Secretary of Energy and Environment, develop and implement the state's nonpoint source water quality monitoring strategy in coordination with other environmental agencies;

29. Monitor, evaluate and assess the waters of the state to determine the condition of streams and rivers impacted by nonpoint source pollution. In carrying out this area of responsibility, the Conservation Commission shall serve as the technical lead agency for nonpoint source pollution categories as defined in Section 319 of the Federal Clean Water Act or other subsequent federal or state nonpoint source programs;

30. Administer the Blue Thumb Program;
  31. Enter into agreements or contracts for services with any of the substate planning districts recognized by the Oklahoma Department of Commerce;
  32. Cooperate with the federal government, or any agency thereof, to participate in and coordinate with federal programs that will yield additional federal funds to the state for programs within the jurisdiction of the Conservation Commission. This participation shall be subject to the availability of state funds;
  33. Implement pilot projects and programs, subject to the availability of funds, that will demonstrate the latest technologies and applications in conservation programs that may provide direct or residual benefits to conservation practices in the state; and
  34. Promulgate rules necessary, expedient, or appropriate to carry out the purposes, objectives, or provisions or appropriate to the performance of the Conservation District Act and the Oklahoma Carbon Sequestration Enhancement Act and:
    - a. may establish and collect fees for services provided pursuant to the Conservation District Act and the Oklahoma Carbon Sequestration Enhancement Act, including any services for the certification or verification of sustainable agricultural production practices including but not limited to the Natural Resources Conservation Service Soil Condition Index, and
    - b. shall promulgate all rules establishing fees in accordance with the Administrative Procedures Act, which fees shall be fair and equitable to all parties concerned.
- B. Nothing in this act shall take away any of the present duties or responsibilities delegated by law or constitution to other environmental agencies.

**§27A-3-2-106a. Conservation Commission Revolving Fund.**

There is hereby created in the State Treasury a revolving fund for the Oklahoma Conservation Commission to be designated the "Conservation Commission Revolving Fund (#405)". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Conservation Commission from appropriations, fees, charges, penalties, and any other sources that are not designated for deposit to any other fund as authorized by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Conservation Commission to perform the duties imposed by the Commission by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

**§27A-3-2-106b. Conservation Commission Tar Creek Mine Reclamation Revolving Fund.**

There is hereby created in the State Treasury a revolving fund for the Oklahoma Conservation Commission to be designated the "Conservation Commission Tar Creek Mine Reclamation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Conservation Commission from appropriations, fees, charges, penalties, federal grants and any other sources including interest earned from the income in the fund that are designated for deposit to such fund or designated for duties associated with the Tar Creek superfund project. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Conservation Commission to perform the duties imposed on the Commission by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

**§27A-3-2-107. Establishment and maintenance - Reports - List of permit approvals.**

A. The Conservation Commission may establish and maintain an environmental and natural resources geographic data base system. Such system shall include but not be limited to pollution complaints filed with the state environmental agencies and state agencies with limited environmental responsibilities, resolutions of complaints and such other data as funds become available and as may be desirable and necessary to provide public access to specific site information.

B. Not more than once each month, each state environmental agency and state agency with limited environmental responsibilities shall submit to the Conservation Commission a report listing the environmental pollution complaints received during the previous month. The report shall include the name of the complainant, if known, the address of the complainant, the location involved in the complaint, the name of the person or company and address thereof alleged to be responsible for the pollution and how the complaint was resolved. The report shall be in such form and made in such manner as is required by the Commission. The report shall be in writing or may be submitted in electronic data or machine-readable form at the discretion of the Commission.

C. The Commission shall annually submit a report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor containing the total number of pollution complaints filed, the total number of complaints and type of complaints addressed by each state environmental agency, the total number of such complaints resolved, the total number of complaints remaining to be resolved, the average time frame for resolving such complaints, and the historical comparison of complaint resolution in previous years, and any other information which the Commission believes is pertinent in regard to pollution complaints.

D. The Conservation Commission may recover costs incurred in duplicating any reports made pursuant to the provisions of this section.

E. The Department of Environmental Quality shall routinely provide the Conservation Commission with a list of permit approvals for inclusion in the Commission's data base.

**§27A-3-2-108. Wetlands Management Strategy - Exclusive jurisdiction - Contents - Submission to Legislature and other officials.**

A. The Commission is hereby given exclusive jurisdiction to prepare a Wetlands Management Strategy for the State of Oklahoma. The Strategy shall:

1. Define wetlands;
2. Enumerate their beneficial uses;
3. Identify and inventory wetlands within this state;
4. Recommend measures to mitigate losses of wetlands;
5. Provide measures to protect wetlands; and
6. Define standards for critical wetlands and measures to ensure protection of property rights of landowners.

B. Upon completion, the Conservation Commission is to forward the Wetlands Management Strategy for the State of Oklahoma and to submit said Strategy to the President Pro Tempore of the Oklahoma Senate, the Speaker of the Oklahoma House of Representatives, and to the Secretary of the Environment or successor secretary position.

**§27A-3-2-109. Concentrated Animal Feeding Operation Revolving Fund.**

There is hereby created in the State Treasury a revolving fund for the Oklahoma Conservation Commission, to be designated the "Concentrated Animal Feeding Operation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of cost-share monies

received by the Commission from the Concentrated Animal Feeding Operation Program. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Commission for the general operation of the Commission. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

**§27A-3-2-110. Oklahoma Conservation Commission Infrastructure Revolving Fund.**

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Conservation Commission to be designated the "Oklahoma Conservation Commission Infrastructure Revolving Fund".

B. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Conservation Commission from the apportionment of gross production tax revenues as prescribed by Section 1004 of Title 68 of the Oklahoma Statutes.

C. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Conservation Commission for the purpose of the rehabilitation of watershed dams and, for the Conservation Cost Share Program and the Conservation Reserve Enhancement Program.

D. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

E. No more than thirty percent (30%) of the monies in the fund shall be used for the payment of administrative expenses, salary or any other continuing obligation of the Oklahoma Conservation Commission; provided, however, such monies shall not be used for salary increases for employees.

**§27A-3-3-101. Status and powers.**

A district perpetuated by the provisions of the Conservation District Act shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers.

**§27A-3-3-102. Board of directors - Officers - Filing notice of organization - Quorum - Voting.**

A. At the first meeting following each annual election, the board of directors shall organize and shall select and designate a chair, vice-chair and a treasurer. Notice of the new organization shall be filed with the Conservation Commission annually as prescribed by the Commission.

B. A majority of the directors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination.

**§27A-3-3-103. Secretary, technical experts and other employees - Legal assistance - Delegation of powers - Copies of ordinances, rules and regulations, etc., to Commission.**

A. The directors of a district may employ a secretary, technical experts and other employees as necessary and determine their duties and compensation. Employees of a conservation district are at-will employees.

B. The district attorney within whose jurisdiction a majority of the area of the district is situated shall act as legal advisor for the board of directors and shall afford the board like representation as is now provided for other county officers. The directors may call upon the Attorney General of the state for such legal services as they may require, or may employ their own counsel.

C. The directors may delegate, to their chair, to one or more directors, or to one or more agents or employees such powers and duties as they may deem proper.

D. The directors shall furnish to the commission copies of such ordinances, rules, regulations, orders, contracts, forms and other documents as they shall adopt or employ, and such other information

concerning their activities as it may require in the performance of its duties under the Conservation District Act.

**§27A-3-3-104. Bonds - Records - Audits.**

The directors shall provide for:

1. The execution of surety bonds for all employees and officers who shall be entrusted with funds or property;
2. The keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted; and
3. An annual audit or, at the Commission's discretion, a review or compilation in compliance with standards promulgated by the American Institute of Certified Public Accountants, provided that a complete audit shall be conducted at least every three (3) years of the receipts and disbursements which shall be filed with the commission and with the county clerk of each county within the conservation district.

**§27A-3-3-105. Powers and duties.**

A. In addition to other powers and duties provided by law, a conservation district and the directors thereof shall have the power and duty to:

1. Obtain such information as may be necessary to the proper carrying out of duties and powers prescribed in the Conservation District Act, by making surveys and investigations relating to the conservation of renewable natural resources, and the preventive and control measures and works of improvement needed; provided, however, that such surveys and investigations shall not be undertaken except in cooperation with the State Conservation Commission or with the government of this state or any of its agencies, or with the United States or any of its agencies;
2. Conduct operations for the conservation of renewable natural resources 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 thereof, and on any other lands within the district upon obtaining the consent of the owner of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which the conservation of renewable natural resources may be carried out;
3. Carry out preventive and control measures and works of improvement for the conservation of renewable natural resources within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation and changes in use of land on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner of such lands or the necessary rights or interests in such lands;
4. Cooperate or enter into agreements with, and, within the limits of appropriations duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any owner or occupier of lands within the district, subject to such conditions as the directors may deem necessary to advance the purposes of the Conservation District Act;
5. 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 therein; to maintain, administer and improve any properties acquired; and to:
  - a. receive income from such properties and to expend such income in carrying out the purposes and provisions of the Conservation District Act, and

- b. sell, lease or otherwise dispose of any of its property or interests therein, all in furtherance of the purposes and provisions of the Conservation District Act; provided that in all cases when lands or interests therein are deemed by the directors to be necessary for upstream flood control purposes to carry out the purposes of the Conservation District Act and which cannot otherwise be acquired, the district shall be vested with the power of eminent domain and may condemn and acquire such lands as provided by the laws of this state governing the acquisition of lands by railroad corporations;

6. Make available, on such terms as it shall prescribe, to landowners and occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment as will assist such landowners and occupiers to carry on operations upon their lands for the conservation of renewable natural resources;

7. Construct, improve, repair, operate and maintain such structures as may be necessary or convenient for the performance of any of the operations or activities authorized in the Conservation District Act;

8. Develop resource conservation programs and annual work plans as provided in the Conservation District Act;

9. Acquire by purchase, lease or otherwise, and to administer any project or program concerned with the conservation of renewable natural resources located within its boundaries undertaken by any federal, state or other public agency; and to:

- a. 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, or from any other source, and
- b. use or expend such moneys, services, materials or other contributions in carrying out the purposes of the Conservation District Act, and
- c. enter into contracts and negotiate with any agency of the United States or the State of Oklahoma in any plan related to the conservation of renewable natural resources;

10. Sue and be sued in the name of the district; and to:

- a. have a seal, which seal shall be judicially noticed,
- b. make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and
- c. make, and from time to time amend and repeal, rules and regulations not inconsistent with the Conservation District Act to carry into effect its purposes and powers; and

11. Carry workers' compensation insurance, in its discretion, on any or all its employees, regardless of the nature of the work in which such employee or employees are engaged, such insurance to be carried with the State Insurance Fund, and to be paid for by each district out of the funds of such district.

B. As a condition to the extending of any benefits under the Conservation District Act 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 operations conferring such benefits and may require land occupiers to enter into and perform such agreements or covenants as to the use of such lands as may be consistent with the purposes of the Conservation District Act.

C. No provisions with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the Legislature shall specifically so state.

D. Soil and water conservation district directors have the authority to accept appointment to serve as members of local, municipal, county, regional and state planning agencies, boards, commissions and

authorities and districts may participate in the funding thereof and performance of works and projects thereunder.

**§27A-3-3-106. Authority to obtain loan or grant.**

A conservation district:

1. Shall be authorized to obtain a loan or grant of any funds, property, equipment or services which any state or federal agency or local governmental unit may be authorized to lend or grant for any of the purposes of the Conservation District Act; and

2. May enter into such contract, loan agreement or other administrative arrangement as may be lawfully required in connection with any such loan or grant; and in connection with any such loan or grant may pledge, encumber or obligate any property or income of the district.

**§27A-3-3-107. District as local agency.**

A. Any district organized under the Conservation District Act shall have power to serve as a local agency for operating and maintaining any project or program concerned with the conservation of renewable natural resources that is administered by any local, state, interstate or federal public agency, by entering into a contract or other appropriate administrative arrangement with the agency administering such project or program.

B. In serving as such local agency for any such project or program, the district may use any authority or funds available to it under the Conservation District Act which are required for such purposes.

C. 1. Any agency of the government of this state and any local political subdivision of this state is hereby authorized to make such arrangements with any district, through contract, regulation or other appropriate means, wherever it believes that such arrangements will promote administrative efficiency or economy.

2. In connection with any such arrangements, any state or local agency or political subdivision of this state is authorized, within the limits of funds available to it, to contribute funds, equipment, property or services to any district; and to collaborate with a district in jointly planning, constructing, financing or operating any work or activity provided for in such arrangements and in jointly acquiring, maintaining and operating equipment or facilities in connection therewith.

D. Any district may receive funds, property, equipment and services from any local, state, interstate or federal public agency, or from private donors, for use in serving as the local agency for operating and maintaining a program or project under any such contract or other arrangement.

**§27A-3-3-108. Long-range program and annual work plan - Annual report - Dissemination of works and activities information.**

A. 1. Each district organized under the Conservation District Act shall prepare and keep current a long-range program for the conservation of all the renewable natural resources of the district. The program shall be directed toward conservation of resources for their best uses and in a manner that will best meet the needs of the district and the state, and be consistent with the best uses of the renewable natural resources of the state.

2. The program shall include:

- a. an inventory of all renewable natural resources in the district,
- b. a compilation of current resource needs,
- c. projections of future resource requirements,
- d. priorities for various resource activities,
- e. projected timetables, and

f. provisions for coordination with other resource programs.

B. The district shall also prepare an annual work plan, that shall describe the action programs, services, facilities, materials, working arrangements and estimated funds needed to carry out the parts of the long-range program that are of the highest priorities.

C. 1. Every district shall publish an annual report of its plans, programs, activities, budget, receipts, and expenditures.

2. The report shall include therein:

- a. descriptions of its official Resources Conservation Program,
- b. the current annual program related thereto, and
- c. the status of all activities initiated under the program.

3. Each district:

- a. shall submit copies of each annual report to the Governor of the state and to the State Conservation Commission, which shall furnish a copy thereof to the appropriate state legislative officers, in accordance with rules concerning the reports to be issued by the Commission,
- b. shall make copies of the reports, and summaries and digests thereof, available to all federal, state and local cooperating agencies and shall make suitable distribution to the general public, and
- c. may publish additional information and reports as may be necessary and appropriate.

D. Every district shall, through public hearings, publications and other means, keep the general public, and all operators or occupiers of land within the district, informed of the works and activities planned and administered by the district, of the purposes these will serve, of the income and expenditures of the district, the purposes for which the funds are expended, and of the results achieved annually by the district.

E. Each district shall submit to the Commission its proposed long-range program and annual work plans for adoption, rejection, modification or revision.

#### **§27A-3-3-109. Status of district's conservation plan.**

A. The long-range resource conservation program, together with the supplemental annual work plans, developed by each district under the foregoing procedures shall have official status as the authorized program of the district, and it shall be published by the district as its "Resources Conservation Program". Copies shall be made available by the district to the appropriate counties, municipalities, special purpose districts and state agencies, and shall be made available in convenient places for examination by any public or private interest concerned. Summaries of the program and selected material therefrom shall be distributed as widely as feasible for public information.

B. Counties, municipalities and other public agencies of the state that are authorized by law to adopt zoning ordinances shall give the directors of the appropriate district opportunity to review and comment on proposed zoning ordinances and amendments affecting renewable natural resources and their uses directly affecting rural areas not within the jurisdictional area of any incorporated municipalities, metropolitan area, planning commission, or their successors.

C. The districts shall submit from time to time to any public agency authorized to adopt zoning ordinances applicable to any area within the district its recommended provisions for inclusion in zoning ordinances, where such provisions would help achieve the land use or other objectives of the district's Resources Conservation Program.

**§27A-3-3-110.** Repealed by Laws 2008, c. 110, § 14, emerg. eff. May 2, 2008.

**§27A-3-3-111. Cooperation with districts.**

It is policy of the Legislature to require mutual cooperation and assistance among the governing officers of the counties, cities, other municipalities, conservation districts, other special purpose districts and other political subdivisions of the state in all activities directly affecting the conservation of the renewable natural resources of this state, within the broad definition of these terms given in the Conservation District Act.

**§27A-3-3-112. Cooperation between districts.**

A. Any two or more districts organized under the provisions of the Conservation District Act may cooperate with one another in the exercise of any or all powers conferred in the Conservation District Act, and expend locally earned district funds in furtherance of such cooperation.

B. Any two or more districts may engage in joint activities by agreement between or among them in planning, financing, constructing, operating, maintaining and administering any program or project concerned with the conservation of renewable natural resources. The districts concerned may make available for purposes of the agreement any funds, property, personnel, equipment or services available to them under the Conservation District Act.

C. Any district may enter into such agreements with a district or districts in adjoining states to carry out such purposes if the law in such other states permits the districts in such states to enter into such agreements.

D. The Commission shall have authority to propose, guide and facilitate the establishment and carrying out of any such agreements.

**§27A-3-3-113. Procedure.**

A. The districts shall invite the appropriate counties, municipalities and special purpose districts or other governmental units to designate liaison representatives for consultation on each other's programs and plans for resource conservation. The counties, municipalities, special purpose districts and other governmental units are hereby authorized to appoint such liaison representatives and to participate in the preparation and coordination of local planning and programming for resource conservation. The districts shall designate liaison representatives to advise and consult with such other local agencies.

B. The districts shall consult and cooperate with state, regional, interstate and federal agencies to promote harmony and the avoidance of conflict in the programs and plans for resource conservation developed and carried out by any of them. The districts, other local agencies and the agencies of the government of this state shall provide for liaison and consultation among them for all programs that have direct impact on natural resources, including plans for public land acquisition and management, schools, dams and reservoirs, and other water management structures, highway locations, public utilities and subdivisions. Districts shall hold similar consultations with public and private agencies planning, constructing or operating transportation or communication facilities.

C. State agencies, the districts and other local agencies are authorized to make available to each other maps, reports and data in their possession that are useful in the preparation of their respective programs and plans for resource conservation. The districts shall keep the state and local agencies fully informed concerning the status and progress of the preparation of their resource conservation programs and plans.

D. The districts shall hold public hearings at appropriate times in connection with the preparation of programs and plans, shall give careful consideration to the views expressed and problems revealed in hearings, and shall keep the public informed concerning their programs, plans and activities. Agencies and individuals shall be invited to submit proposals for consideration at such hearings. The districts may

supplement such hearings with meetings, referenda and other suitable means to determine the wishes of interested parties and the general public in regard to current and proposed plans and programs of a district. They shall confer with public and private agencies, individually and in groups, to give and obtain information and understanding of the impact of district operations upon agriculture, forestry, water supply and quality, flood control, particular industries, commercial concerns and other public and private interests, both rural and urban.

**§27A-3-3-114. Purpose - Rules - Definition.**

A. The Oklahoma Conservation Commission is hereby authorized to establish and administer a conservation cost-share program as funds become available. The conservation cost-share program shall provide monies to eligible persons for the purpose of implementing conservation or best management practices on such eligible land as described in conservation management plans according to rules promulgated by the Commission.

B. The Commission shall promulgate rules governing the cost-share program.

C. To implement the program, the Commission shall require conservation districts to enter into contracts for eligible projects on eligible land detailing the eligible person's responsibilities.

D. For purposes of the conservation cost-share program:

1. "Eligible person" means any individual, partnership, corporation, legally recognized Indian tribe, estate, or trust who as an owner, lessee, tenant, or operator participates in the care and/or management of land within a conservation district;

2. "Eligible land" means:

- a. privately owned land within the state,
- b. land owned by the state or a political subdivision of the state,
- c. land owned by corporations which are partly owned by the United States,
- d. land temporarily owned by the United States or a corporation wholly owned by it, which were not acquired or reserved for conservation purposes, including lands administered by the Farm Service Agency, the U.S. Department of Defense, or by any other government agency,
- e. any cropland farmed by private persons which is owned by the United States or a corporation wholly owned by it, and
- f. noncropland owned by the United States on which practices are performed by private persons where such practices directly conserve or benefit nearby or adjoining privately owned lands of the persons performing the practices and such persons maintain and use such federally owned noncropland under agreement with the federal agency having jurisdiction thereof; and

3. "Eligible projects" means conservation practices determined to be needed by a conservation district to:

- a. improve or protect water quality,
- b. reduce soil erosion, or both,
- c. accomplish both the objectives described in subparagraphs a and b of this paragraph, or
- d. reduce feral swine population by use of electronic hog traps.

**§27A-3-3-115. Conservation Cost-Share Fund.**

A. There is hereby created within the State Treasury a cost-share fund for the Oklahoma Conservation Commission to be designated the "Conservation Cost-Share Fund". The fund shall be a

continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Conservation Commission to implement and maintain the conservation cost-share program.

B. The Conservation Cost-Share Fund shall consist of:

1. Money received by the Conservation Commission in the form of gifts, grants, reimbursements, donations, industry contributions, state appropriations, funds allocated by federal agencies for cost-share programs and such other monies specifically designated for the cost-share program. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Commission for the conservation cost-share program; and

2. Interest attributable to investment of money in the Conservation Cost-Share Fund.

C. All donations or other proceeds received by the Commission pursuant to the provisions of this section shall be deposited with the State Treasurer to be credited to the Conservation Cost-Share Fund. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. The monies deposited in the Conservation Cost-Share Fund shall at no time become part of the general budget of the Conservation Commission or any other state agency. Except for any administration costs incurred in development and implementation of the cost-share program, no monies from the fund shall be transferred for any purpose to any other state agency or any account of the Conservation Commission or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

#### **§27A-3-3-116. Applications.**

A. The Conservation Commission shall require applicants to submit information, forms and reports as are necessary to properly and efficiently administer the conservation cost-share program.

B. Persons may apply to a conservation district for cost-share funds for eligible conservation projects in the State of Oklahoma, in accordance with rules promulgated by the Commission. To be eligible for reimbursement for a cost-share project, an eligible person must:

1. File a conservation plan approved by the conservation district in which the applicant's land is located; and

2. Enter into a contract with a conservation district detailing the responsibilities of the person.

C. Applications for funds shall be approved or denied by the conservation district in accordance with criteria promulgated by the Commission.

#### **§27A-3-3-117. Financial or general obligation of state - Construction of act.**

Nothing in this act or in the contract executed pursuant to Section 3 of this act shall be interpreted or construed to constitute a financial or general obligation of the state. No state revenue shall be used to guarantee or pay for any damages to property or injury to persons as a result of the provisions of this act or the contract.

#### **§27A-3-3-201. Directors.**

A. The governing body of the district shall consist of five (5) directors, elected or appointed as provided in the Conservation District Act.

B. 1. Three directors shall be elected for a term of three (3) years and shall be elected for staggered terms beginning July 1 and ending June 30.

2. The three elected directors' positions shall be designated as position number one, position number two and position number three by the Commission.

3. To be eligible for election as a director of a conservation district, a person must be a registered voter in the district, and must be a cooperater of the district.

C. Two directors for each district shall be appointed by the Commission to serve a term of two (2) years beginning July 1 and ending June 30. The Commission shall issue a certificate of appointment to all appointed directors. Initially one director shall serve for a period of one (1) year and one director for a period of two (2) years.

D. Any director may be removed from office by the Commission, upon notice and hearing, for neglect of duty or for malfeasance in office.

E. All vacancies in the office of an elected or appointed director shall be filled for the unexpired term by the Commission.

F. Directors shall be entitled to be reimbursed by the district for actual expenses incurred in the official performance of their duties.

G. District directors may be paid a per diem for attending monthly district board meetings not to exceed Fifty Dollars (\$50.00) per meeting as established by the Oklahoma Conservation Commission.

H. If any director shall, during their term of office as director, be elected or appointed to any county or state elective office, or if they shall file as a candidate for the nomination to be elected to any such other office, their office as director shall become vacant and the vacancy shall be filled by appointment of the Commission. Provided, that a district director may also serve on a board of education of a school district.

#### **§27A-3-3-202. Advisory committees.**

A. The board of directors shall appoint such advisory committees as may be needed to assure the availability of appropriate channels of communication to the board, to persons affected by district operations, and to local, regional, state and interstate special purpose districts and agencies responsible for community planning, zoning or other resource development activities.

B. The district shall keep such committees informed of its work, and such advisory committees shall submit recommendations from time to time to the board of directors.

#### **§27A-3-3-301. Date of election - Eligible voters.**

A. There shall be an election each year in every conservation district on the first Tuesday in June, which is hereby designated as Conservation District Day, to elect one director in each district.

B. All registered voters in a district shall be eligible to vote in the election.

#### **§27A-3-3-302. Notice of filing period.**

Each district shall give due notice of the filing period for election of district directors, during the first three (3) weeks in April, setting forth the period in which notifications and declarations of candidacy are to be filed.

Due notice shall be given in each district of the election. The last publication of the notice shall be not less than five (5) days before the date of the election. Said notice shall set forth the purpose, time, date, and polling places for the election.

#### **§27A-3-3-303. Filing period, notification and declaration of candidacy.**

Any person found eligible by the Commission to be elected a district director shall have their name placed on the official ballot, upon filing with the Commission a notification and declaration of candidacy, during the first two weeks in May. The notification and declaration shall be in the form prescribed by the Commission.

**§27A-3-3-304. Election of directors.**

A. The Conservation Commission shall designate the polling places in the district.

B. The names of all candidates who have filed a proper notification and declaration and have been found eligible by the Commission within the time herein designated shall be printed on a ballot prescribed by the Commission.

C. The Commission shall declare the candidate receiving the largest number of votes cast in an election, elected.

D. When two or more candidates receive the same number of votes cast, a runoff election shall be held within thirty (30) days from date of the first election in the manner prescribed above.

E. The Commission shall prescribe rules for holding elections pursuant to the provisions of this section, pay for the elections, supervise the conduct and shall publish the results.

F. When only one qualified candidate files a notification and declaration of candidacy for the office of director in a district as provided herein, no election shall be necessary and the Commission shall declare the person elected.

G. The Commission shall issue a certificate to all elected directors signifying their election to the office of director of their district.

**§27A-3-3-401. Change of name.**

The name of any district may be changed by resolution of the board of directors thereof. Said resolution shall be submitted to the Commission, which shall present same to the Secretary of State who shall, if the Secretary of State finds that such name is not identical or so nearly similar to the name of another conservation district as to lead to confusion or uncertainty, file the resolution and issue a new certificate to the district showing the new name.

**§27A-3-3-402. Certificate of Secretary of State as evidence.**

In any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding or action of a district, the district shall be deemed to have been established in accordance with the provisions of the Conservation District Act upon proof of the issuance of a certificate of organization to a soil conservation district or a soil and water conservation district by the Secretary of State. A copy of such certificate duly certified by the Secretary of State shall be admissible in evidence in any such suit, action or proceeding and shall be proof of the filing and contents thereof.

**§27A-3-3-403. Filing, recording, certification - Fees and charges.**

A conservation district shall not be liable for any fees or charges in connection with the filing, recording or indexing, in the office of the county clerk of any county of this state, of any instrument in favor of such district, or in connection with the certification, by such county clerk, of any copy of any instrument on file or of record in the office of such county clerk, desired by such district, but all such instruments presented by such district or the directors thereof for filing or recording shall be filed, recorded and indexed without charge, and such copies of instruments necessary by such district or the directors thereof shall be certified free of charge.

**§27A-3-3-404. County funds may be appropriated.**

In those counties of the state which contain in whole or in part a conservation district, the county excise board may, at its discretion, upon request of the directors of such conservation district, appropriate money from the county general fund for use by the district or districts serving the particular county from which the appropriation is made.

**§27A-3-3-405. Fund created.**

There is hereby created a revolving fund to be known as the Small Watersheds Flood Control Fund. Said fund shall consist of all monies appropriated to, deposited in or credited to said fund.

**§27A-3-3-406. Control.**

The Small Watersheds Flood Control Fund shall be under the control and supervision of the Oklahoma Conservation Commission and shall be paid on its itemized form which shall be audited by the said board and, upon final approval, vouchers which are payable from said fund shall be forwarded to the Director of the Office of Management and Enterprise Services, who shall audit the same and, upon approval thereof, warrants shall be issued according to law, and said warrants shall be paid by the State Treasurer from the said fund.

**§27A-3-3-407. Allocation of funds.**

A. The Commission shall have authority to allocate to any conservation district in this state, from the Small Watersheds Flood Control Fund, such sum or sums as in the judgment of the said Commission may be necessary to enable such district to acquire real property or easements needed by such district to permit such district to install upstream flood control structures on rivers and streams and the tributaries thereof, including cooperative projects between such district and the United States government.

B. Monies from the fund may also be used for costs associated with the rehabilitation of flood control structures, including, but not limited to, landrights.

**§27A-3-3-408. Requirements for funds to be expended.**

None of the funds in the Small Watersheds Flood Control Fund shall be expended until eighty percent (80%) of the easements are obtained for the watershed project in which the money from the fund is to be used.

**§27A-3-3-409. Restriction on use of funds.**

No funds from the Small Watersheds Flood Control Fund shall be used to acquire, by condemnation, lands under and existing valid oil and gas mining lease from which oil and/or gas are being produced.

**§27A-3-3-410. Payment of insurance premiums for employees.**

The Oklahoma Conservation Commission is hereby authorized to equitably apportion and pay dependent health insurance premiums for local conservation district employees from funds appropriated for such purpose.

**§27A-3-3-411. "Operation and maintenance" or "operate and maintain" - Interpretation.**

A. Oklahoma has a large number of preventive and control measures and works of improvement that are operated and maintained by conservation districts and their assigns throughout the state. These preventive and control measures and works of improvement include, but are not limited to, flood control dams, erosion control practices, and channels constructed with the assistance of the United States Department of Agriculture (USDA) through USDA's watershed programs.

B. Pursuant to the Conservation District Act, the phrase "operation and maintenance" or "operate and maintain" as used in a variety of contractual documents, easements, statutes, rules, and other legal authority by the conservation districts and their assigns shall be interpreted to:

1. Encompass the terms repair, modification, alteration, rehabilitation, upkeep, upgrade, improvement, construction, reconstruction, decommission, and inspection; and
2. Benefit the state and conservation districts.

**§27A-3-3-412. Operation and maintenance of structures for flood control.**

Except as otherwise provided by state or federal law, a conservation district's responsibility for the operation and maintenance of any structure for the purpose of flood control pursuant to any contractual, statutory, regulatory or other legal authority or obligation, shall not be deemed to include maintaining, protecting or improving the quality of any soil, air, groundwater or surface water or biota affected by, near or comprising any part of the structure, including any water, soil or sediment pooled, impounded or diverted by the structure, including but not limited to, monitoring, limiting, or abating or otherwise controlling or eliminating any point source or nonpoint source pollution or any other biological, chemical, radiological or physical contamination by any source or mechanism.

**§27A-3-3-413. Directors' participation in health or dental insurance plans.**

Directors of a conservation district may elect to participate in the health or dental insurance plan offered by the conservation district to its employees as provided for in the State and Education Employees Group Insurance Act. The conservation district director shall pay the full cost of the insurance premium for the coverage at the rate prescribed by and pursuant to the terms and conditions of the health or dental plan.

**§27A-3-3-414. Transfer of employee service time.**

A conservation district employee who transfers to a state agency shall not lose the service time the employee has accrued for the purposes of calculating longevity benefits and leave benefits.

**§27A-3-3-501. Creation of program - Purpose.**

A. The Oklahoma Conservation Commission is hereby authorized to establish and administer the Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Program as funds become available and otherwise appropriated. The Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Program shall provide monies to eligible communities and rural water districts for the purpose of implementing conservation or best management practices on such eligible land pursuant to priority watershed work or Conservation Reserve Enhancement Program (CREP) work, or watershed rehabilitation or watershed operation and maintenance work in accordance to rules promulgated by the Commission.

B. The Commission shall promulgate rules as necessary to implement the provisions of this act.

**§27A-3-3-502. Revolving fund.**

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Conservation Commission to be designated the "Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Revolving Fund".

B. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Conservation Commission in the form of gifts, grants, reimbursements, donations, industry contributions, state appropriations, funds allocated by federal agencies for cost-share programs and such other monies specifically designated for the Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Program. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Commission for the Municipal Infrastructure

Conservation Cost-Share Program; and interest attributable to investment of money in the Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Revolving Fund.

C. All donations or other proceeds received by the Commission pursuant to the provisions of this section shall be deposited with the State Treasurer to be credited to the Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Revolving Fund. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Conservation Commission for the purpose of matching municipal or rural water district funds for the rehabilitation of watershed dams and for the Conservation Cost-Share Program and the Conservation Reserve Enhancement Program pursuant to the Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Program.

E. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

F. No more than five percent (5%) of the monies in the fund shall be used for the payment of administrative expenses, salary or any other continuing obligation of the Oklahoma Conservation Commission.

**§27A-3-4-101. Short title – Legislative findings and intent.**

A. This article shall be known and may be cited as the "Oklahoma Carbon Sequestration Enhancement Act".

B. The Oklahoma Legislature finds that:

1. Increasing levels of carbon dioxide and other gases in the atmosphere have led to growing interest in national and international forums for implementing measures to slow and reverse the buildup of such atmospheric constituents. These measures may include, but are not limited to, the establishment of systems of trading in carbon dioxide credits or adoption of practices, technologies, or other measures which decrease the concentration of carbon dioxide in the atmosphere and improve air quality;

2. Carbon sequestration practices have great potential to increase carbon sequestration and help offset the impact of carbon dioxide emissions on carbon dioxide concentrations in the atmosphere; and

3. It is in the interest of the citizens of this state that the Oklahoma Conservation Commission document and quantify carbon sequestration associated with terrestrial and agricultural carbon sequestration practices. The provisions of this act shall not include geologic carbon sequestration occurring in Underground Injection Control (UIC) Class II or Class VI projects.

C. It is the intent of the Legislature that such efforts to document and quantify carbon sequestration associated with terrestrial and agricultural carbon sequestration practices will enhance the ability of the state's landowners to participate in any system of carbon dioxide emissions marketing or trading that may be developed in the future.

D. For purposes of the Oklahoma Carbon Sequestration Enhancement Act, "carbon sequestration practices" and "carbon capture and storage practices" shall mean and include:

1. Improved agricultural practices, including, but not limited to, decreasing soil tillage, planting and managing vegetation, growing agricultural crops, or managing any existing vegetated area;

2. Improved natural resources conservation practices, including, but not limited to, vegetation, revegetation, forestation, afforestation, and reforestation on rangeland and other agricultural and nonagricultural lands;

3. Other improved methods of stewardship for the natural resources of this state; and

4. Other terrestrial and agricultural methods of sequestering, displacing, or avoiding carbon dioxide emissions approved by the Oklahoma Conservation Commission.

**§27A-3-4-102. Oklahoma Conservation Commission - Duties.**

The Oklahoma Conservation Commission shall:

1. Encourage the production of educational and advisory materials regarding terrestrial and agricultural carbon sequestration and storage and the opportunities to participate in a related system of carbon dioxide emissions trading or marketing that may be developed in the future; and

2. Identify areas of research needed to better understand and quantify terrestrial and agricultural carbon sequestration and storage involved in terrestrial and agricultural carbon sequestration practices within the state.

**§27A-3-4-103. Acceptance of public and private funds.**

The Oklahoma Conservation Commission may apply for and accept grants, gifts, or other sources of public and private funds to carry out the purposes of the Oklahoma Carbon Sequestration Enhancement Act.

**§27A-3-4-104. Carbon Sequestration Assessment Cash Fund.**

The "Carbon Sequestration Assessment Cash Fund" is hereby created. The fund shall be used by the Oklahoma Conservation Commission to carry out the Oklahoma Carbon Sequestration Enhancement Act. The State Treasurer shall credit to the fund any money appropriated to the fund by the Legislature and any money received as gifts, grants, or other contributions from public or private sources obtained for the purposes of the Oklahoma Carbon Sequestration Enhancement Act.

**§27A-3-4-105. Carbon sequestration certification program - Applications - Fees.**

A. The Oklahoma Conservation Commission is hereby authorized to establish and administer the terrestrial and agricultural carbon sequestration certification program. The purposes of the program are to provide a mechanism for creating and preserving carbon reserves in this state by encouraging voluntary practices that protect or improve natural resources, to enable Oklahomans to participate in market-based programs for natural resource protection, to provide a mechanism for Oklahomans to benefit from the ecosystem services they provide, to verify carbon sequestration or storage associated with terrestrial and agricultural carbon sequestration practices, and to issue carbon sequestration certificates associated with terrestrial and agricultural carbon sequestration practices that the Commission determines qualify for such certificates.

B. The Commission, in consultation with the Department of Environmental Quality and with the advice of the terrestrial and agricultural carbon sequestration stakeholder groups appointed by the Commission, shall develop and promulgate rules as necessary to administer, implement, and enforce the provisions of [Section 3-4-101](#) et seq. of this title, including, but not limited to, developing and implementing uniform standards and criteria for verifying carbon sequestration and storage associated with terrestrial and agricultural carbon sequestration practices and issuing carbon sequestration certificates associated with approved terrestrial and agricultural carbon sequestration practices. In promulgating the rules, the Commission shall develop the program to be as consistent as possible with other governmental

programs designed to create carbon reserves for the purpose of voluntarily reducing greenhouse gases or designed to certify terrestrial and agricultural carbon sequestration practices.

C. In order for terrestrial and agricultural carbon sequestration to be verified and certified under this section, an applicant shall file an application with the Commission. Along with the application, the applicant shall submit a resource management plan, or a project plan as applicable, detailing activities that will increase or maintain existing trapped carbon including, but not limited to, improved forest management, alteration of or changes in silviculture practices, and growing of designated crops and any other such terrestrial and agricultural carbon sequestration practices.

D. The Commission shall require applicants to submit such information, forms, and reports as are necessary to properly and efficiently administer the program.

E. Prior to granting a carbon sequestration certificate, the Commission shall adopt criteria associated with the approved terrestrial and agricultural carbon sequestration practice for which an application is submitted. In addition, the Commission shall determine, based upon compliance with the site criteria, the volume or numerical amount of credits or offsets achievable by the specific terrestrial and agricultural carbon sequestration practice.

F. Applications for a terrestrial and agricultural carbon sequestration certificate shall be approved or denied in accordance with criteria promulgated by the Commission.

G. The Commission is authorized to establish fees associated with the terrestrial and agricultural carbon sequestration certification program.

**§27A-3-4-106.** Repealed by Laws 2012, SB 1096, c. 212, § 2

**§27A-3-4-106.1. Oklahoma State Facilities Energy Conservation Program.**

A. There is hereby created the Oklahoma State Facilities Energy Conservation Program.

B. As used in this section:

1. "State agency" means any office, officer, bureau, board, commission, counsel, unit, division, body, authority or institution of the executive branch of state government, whether elected or appointed and shall include institutions within The Oklahoma State System of Higher Education. Technology Center School Districts shall not be subject to the provisions of this act but are encouraged to implement local district energy conservation efforts as approved by the local technology center board;

2. "State facilities" or "facilities" means buildings or assets owned or operated by a state agency which have a heating, ventilation, or air conditioning system or utility services;

3. "Program" means the Oklahoma State Facilities Energy Conservation Program;

4. "Director" means the Director of the Office of State Finance; and

5. "IPMVP" means the International Performance Measurement and Verification Protocol.

C. All state facilities shall be subject to the provisions of the Oklahoma State Facilities Energy Conservation Program. The Director of the Office of State Finance, or a designee selected by the Director, shall oversee the development and implementation of the Program, including the selection of the most qualified vendor or vendors by utilizing a request for proposal to contract for the development and implementation of an organizational behavior-based or performance-based energy conservation program.

D. The objectives and scope of the Program and the request for proposal shall be to:

1. Promote a centralized effort to gather information pertaining to energy use in state facilities and designate knowledgeable personnel to prioritize projects and make recommendations for conservation implementation;

2. Benchmark state facilities energy usage prior to implementation of the Program and measure energy conservation savings utilizing commercially available energy accounting software that adheres to the IPMVP;

3. Target a cumulative energy savings of not less than twenty percent (20%) by the year 2020 when compared to the 2012 fiscal year utility expenditures. The express purpose of the targeted energy savings shall be to capitalize on opportunities for organizational behavior-based or performance-based energy conservation efforts and existing equipment and building optimization while maintaining or improving the operational environment during times when facilities are occupied;

4. When reasonably feasible, consider working with local utilities in implementing energy reduction efforts and to utilize utility demand side management and energy efficiency programs to further capture energy efficiency potential;

5. Provide an annual reconciliation of the costs versus the savings resulting from the Program as determined by the Director utilizing the selected energy accounting software;

6. Fully fund the Program within existing state agency budgets through savings generated by reducing energy costs;

7. Endeavor to utilize, when reasonably possible, existing personnel to implement the Program at state facilities, provided that compensation costs for additional personnel or additional compensation costs for existing personnel dedicated exclusively to implementation of the Program shall be funded from the savings generated by the Program;

8. Include implementation of a formalized organizational behavior-based or performance-based energy conservation program;

9. Evaluate existing facility energy accounting systems and determine if the existing systems or a commercially available energy accounting software program will be utilized to measure savings from the Program in a way that adheres to the IPMVP;

10. Seek to obtain ENERGY STAR recognition for facilities that comply with the necessary requirements as established by the United States Environmental Protection Agency;

11. Provide for an initial fee-free period of not less than twelve (12) months during which foundational elements of the Program are established and energy savings are generated before any fee payments are due to a selected vendor; and

12. Provide for free ongoing support from the vendor beyond the initial term of the Program, if the state substantially continues implementation of the Program.

E. Upon implementation of the Program, all state agencies shall input historical utility cost data into an IPMVP-adherent energy accounting software database on a monthly basis and shall deliver an annual report on the progress and cost savings of the Program to the Director within ninety (90) days after the end of each fiscal year.

F. Upon notification by a state agency, the Director shall consider any organizational behavior-based or performance-based energy conservation programs under contract with a state agency prior to August 24, 2012, to be in compliance with the provisions of this section.

G. Compliance with the Program shall not prohibit any state agency from entering into a performance-based efficiency contract for capital improvements pursuant to Section 318 of Title 62 of the Oklahoma Statutes. The Director is authorized to work with state agencies to develop a separate statewide plan for capital improvements for performance-based efficiency contracts pursuant to the provisions of Section 318 of Title 62 of the Oklahoma Statutes.