

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 412

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Dianna J. Duran

AN ACT

RELATING TO SPECIAL DISTRICTS; REVISING THE SOIL AND WATER
CONSERVATION DISTRICT ACT; AMENDING AND REPEALING SECTIONS OF
THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 73-20-25 NMSA 1978 (being Laws 1965,
Chapter 137, Section 1, as amended) is amended to read:

"73-20-25. SHORT TITLE. -- Sections [~~45-5-42 through~~
~~45-5-64 NMSA 1953, as amended by this and subsequent~~
~~amendments~~] 73-20-25 through 73-20-48 NMSA 1978 may be cited as
the "Soil and Water Conservation District Act". "

Section 2. Section 73-20-27 NMSA 1978 (being Laws 1965,
Chapter 137, Section 3, as amended) is amended to read:

"73-20-27. DEFINITIONS. -- As used in the Soil and Water
Conservation District Act:

underscored material = new
[bracketed material] = delete

1 A. "district" means a soil and water conservation
2 district [~~which is a governmental subdivision of the state, a~~
3 ~~public body corporate and politic; organized for the purposes,~~
4 ~~granted the powers and subject to the restrictions of the Soil~~
5 ~~and Water Conservation District Act]~~ as described in Section
6 73-20-44 NMSA 1978;

7 B. "supervisor" means a member of the governing
8 body of a district;

9 C. [~~"committee" or~~] "commission" means the soil and
10 water conservation commission;

11 D. "agencies of the United States" includes the
12 natural resources conservation service of the United States
13 department of agriculture;

14 E. "landowner" includes resident and nonresident
15 owners of natural resources [~~as defined in the Soil and Water~~
16 ~~Conservation District Act];~~

17 F. "due notice" means the publication or
18 broadcasting of the appropriate information [~~in notice form in~~
19 ~~a newspaper or other written medium of general circulation~~
20 ~~within the affected geographical area at least twice, with a~~
21 ~~period of ten or more days intervening between the first and~~
22 ~~last publication. If a newspaper of general circulation or~~
23 ~~other written medium of general circulation does]~~ by newspapers
24 of general circulation and, if appropriate, broadcast stations
25 licensed by the federal communications commission, or by other

underscored material = new
[bracketed material] = delete

1 means that meet the requirements of the Open Meetings Act. If
2 print or broadcast media do not service the affected
3 geographical area, due notice may be given by posting the
4 appropriate information in notice form in six conspicuous
5 public places where it is customary to post notices concerning
6 county or municipal affairs within the affected geographical
7 area;

8 G. "department" means the New Mexico department of
9 agriculture;

10 H. "director" means the director of the department;

11 I. "natural resources" includes land, except for
12 the oil, [~~and~~] gas and other minerals underlying the land;
13 soil; water; air; vegetation; trees; wildlife; natural beauty;
14 scenery; [~~and~~] open space; and human resources, [~~are included~~
15 ~~where~~] when appropriate; [~~and~~]

16 J. "board of regents" means the board of regents of
17 New Mexico state university; and

18 K. "registered voter" means a person who is
19 registered to vote in New Mexico pursuant to the provisions of
20 the Election Code. "

21 Section 3. Section 73-20-28 NMSA 1978 (being Laws 1965,
22 Chapter 137, Section 4, as amended) is amended to read:

23 "73-20-28. SOIL AND WATER CONSERVATION COMMISSION
24 MEMBERS. --There is created a "soil and water conservation
25 commission" to be composed of seven [~~continuing~~] appointed

. 144108. 1

underscored material = new
[bracketed material] = delete

1 members and five ex-officio members. The seven [~~continuing~~
2 ~~commission~~] appointed members shall be selected by and serve at
3 the pleasure of the governor. Six [~~continuing committee~~] of
4 the appointed members shall be [~~district~~] supervisors and shall
5 be selected and appointed from a panel of three candidates from
6 each region, compiled by the districts of each region and
7 presented by the president of the [~~state~~] New Mexico
8 association of [~~soil and water~~] conservation districts. One
9 [~~continuing commission~~] appointed member shall be selected at
10 large and shall be a person interested and active in the
11 conservation or development of natural resources in New Mexico.
12 The five ex-officio [~~commission~~] members shall serve without
13 vote and shall include:

- 14 A. the governor or his designee;
- 15 B. the associate director of the [~~state~~]
16 cooperative extension service of New Mexico state university or
17 his designee;
- 18 C. the associate director of the [~~state~~]
19 agricultural experiment station of New Mexico state university
20 or his designee;
- 21 D. the state conservationist [~~soil~~] of the natural
22 resources conservation service of the United States department
23 of agriculture or his designee; and
- 24 E. the president of the [~~state~~] New Mexico
25 association of [~~soil and water~~] conservation districts or his

. 144108. 1

underscored material = new
[bracketed material] = delete

1 designee. "

2 Section 4. Section 73-20-29 NMSA 1978 (being Laws 1965,
3 Chapter 137, Section 5, as amended) is amended to read:

4 "73-20-29. SELECTION OF COMMISSION CHAIRMAN-- QUORUM -
5 COMPENSATION-- FUNCTION. --

6 A. Upon the appointment of seven [~~continuing~~
7 ~~commission~~] members by the governor, the commission shall
8 organize and [~~shall select and~~] designate a chairman, who shall
9 serve at the pleasure of the commission.

10 B. In the performance of commission functions, a
11 majority of the [~~continuing commission~~] appointed members shall
12 constitute a quorum; the concurrence of a quorum majority shall
13 be required to carry or to determine any matter of commission
14 business.

15 C. Members of the commission shall receive no
16 compensation for their services but shall be entitled to be
17 reimbursed [~~for actual expenses incurred~~] in accordance with
18 the provisions of the Per Diem and Mileage Act. "

19 Section 5. Section 73-20-31 NMSA 1978 (being Laws 1978,
20 Chapter 175, Section 1, as amended) is amended to read:

21 "73-20-31. POWERS AND DUTIES OF DEPARTMENT AND [~~BOARD~~]
22 COMMISSION. --

23 A. The supervising officer of any state agency or
24 post-secondary educational institution [~~of learning~~] shall,
25 within the limitations of his budget and the demands of his

. 144108. 1

underscored material = new
[bracketed material] = delete

1 agency or institution, assign [~~or detail~~] staff or personnel,
2 render special reports and undertake surveys or studies
3 pertaining to soil and water conservation for the commission
4 and the department as requested.

5 B. The department, with the advice of the
6 commission, shall:

7 (1) assist districts in the development of
8 district soil and water conservation programs and, from such
9 programs, develop a soil and water conservation program for the
10 state;

11 (2) provide information for [~~district~~]
12 supervisors concerning the experience and activities of all
13 districts and facilitate the exchange of experience and advice
14 among districts;

15 (3) promote cooperation [~~among~~] between
16 districts and, by advice and consultation, assist in the
17 coordination of district programs;

18 (4) secure and maintain the cooperation and
19 assistance of state and federal agencies and seek to secure and
20 maintain the cooperation and assistance of national, state and
21 local organizations and groups interested or active in natural
22 [~~resource~~] resources conservation and development;

23 (5) disseminate information throughout the
24 state concerning district activities and programs; and

25 (6) encourage and, within budget limitations,

. 144108. 1

underscored material = new
[bracketed material] = delete

1 render [~~aid and~~] assistance to district activities and
2 facilitate and encourage the formation of new districts in
3 areas where district organization is desirable.

4 C. The commission may [~~on its own initiative,~~
5 ~~furnish advice and recommendations to~~]:

6 (1) advise the department and the board of of
7 regents concerning any matter that in its opinion has a
8 significant impact on or otherwise substantially affects soil
9 and water conservation; and

10 (2) promulgate rules and regulations to carry
11 out the provisions of the Soil and Water Conservation District
12 Act. "

13 Section 6. Section 73-20-33 NMSA 1978 (being Laws 1965,
14 Chapter 137, Section 7, as amended) is amended to read:

15 "73-20-33. SOIL AND WATER CONSERVATION DISTRICTS--
16 CREATION.--

17 A. Twenty-five landowners whose land lies within
18 the exterior limits of a geographical area proposed to be
19 organized into a [~~soil and water conservation~~] district may
20 petition the commission for the organization of a district.
21 The petition shall state:

22 (1) the proposed district name;

23 (2) the need for the proposed district and the
24 manner in which it would be in the interest of the public
25 health, safety and welfare;

. 144108. 1

underscored material = new
[bracketed material] = del ete

1 (3) by accurate description, supplemented and
2 depicted by an accurate map, the geographical area proposed to
3 be organized into a district; and

4 (4) a request that:

5 (a) the commission define the boundaries
6 of the proposed district;

7 (b) a referendum be held within the
8 boundaries submitting to the voters' determination the question
9 of creating the ~~[districts]~~ district; and

10 (c) if a majority of votes cast are in
11 favor of creating the district, the commission subsequently
12 declare the proposed district be created.

13 B. If any portion of the same geographical area is
14 described in more than one petition, the commission may
15 consolidate petitions in the manner it deems expedient.

16 C. In the event of a challenge to the validity of
17 signatures on a petition, the burden of proof shall be on the
18 sponsors of the petition.

19 [~~C.~~] D. Within thirty days next succeeding the
20 filing of a petition, the commission shall cause due notice to
21 be given to all affected persons of a hearing scheduled to
22 determine the necessity and desirability of the proposed
23 district and to determine district boundaries, the propriety of
24 the petition and any other relevant questions. [~~Owners of land~~
25 ~~lying within the geographical area described for the proposed~~

underscored material = new
[bracketed material] = delete

1 ~~district and owners of land which is being considered for~~
2 ~~addition to or inclusion in a proposed or extant district shall~~
3 ~~be given due notice of hearing; and]~~ All affected or interested
4 persons may attend a commission [~~hearings~~] hearing and shall
5 have the right to be heard. If, upon hearing, it is determined
6 to be desirable to include in a proposed district lands not
7 contemplated by the petition, the hearing shall adjourn, an
8 amended petition shall be required and due notice shall be
9 given to all [~~owners of land proposed to be included in the new~~
10 ~~district~~] affected persons.

11 [D.] E. The commission shall determine, at the
12 conclusion of a hearing, whether a proposed district is
13 necessary and desirable. In making its determination of the
14 necessity of a proposed district and in defining district
15 boundaries, the commission shall consider:

16 (1) the need for the proposed district and its
17 probable effect upon the public health, safety and welfare;

18 (2) the topography and composition of soils
19 comprising the area [~~to be affected~~] of the proposed district;

20 (3) the distribution of erosion within the
21 [~~land to be affected~~] proposed district and within surrounding
22 lands;

23 (4) the prevailing land-use practices; and

24 (5) the probable effect of the proposed
25 district upon, and its relation to, watersheds, agriculturally

underscored material = new
[bracketed material] = delete

1 productive lands and other extant or proposed districts.

2 F. The findings of the commission and its final
3 determination shall not be limited solely to an evaluation of
4 the facts adduced at the hearing or those set forth in a
5 petition, but shall be predicated upon all reliable information
6 available to the commission, including reports, studies and
7 other authoritative publications.

8 ~~[E.]~~ G. If the commission ~~[shall find]~~ finds that a
9 proposed district ~~[to be]~~ is necessary and desirable, it shall
10 approve the petition, enter and record its final determination
11 and define the district by legal description. If the
12 commission ~~[shall find]~~ finds no need for a proposed district,
13 it shall deny the petition and enter and record its final
14 determination. A geographical area or a substantial portion
15 ~~[thereof]~~ of it may not be the subject of a petition submitted
16 for consideration by the commission more than one time in any
17 calendar year. "

18 Section 7. Section 73-20-34 NMSA 1978 (being Laws 1965,
19 Chapter 137, Section 8, as amended) is amended to read:

20 "73-20-34. SOIL AND WATER CONSERVATION DISTRICTS--
21 CREATION-- REFERENDUM --

22 A. When a final determination of the commission
23 that a proposed district is necessary and desirable has been
24 entered and recorded, the commission shall then determine
25 whether the operation of the district is administratively

. 144108. 1

underscored material = new
[bracketed material] = delete

1 practicable. To assist in this determination, the commission
2 shall ~~[within a reasonable time]~~ call for a referendum on the
3 proposed district within the geographical boundaries of the
4 district as defined by the commission, to be conducted on the
5 next succeeding first Tuesday in May, if practicable. All
6 ~~[owners of land lying]~~ registered voters residing within the
7 proposed district shall be eligible to vote.

8 B. The commission shall:

9 (1) provide for due notice of a referendum
10 within a proposed district ~~[and for the registration of~~
11 ~~eligible]~~;

12 (2) confirm eligibility of registered voters;
13 and ~~[it shall]~~

14 (3) adopt and publish rules to govern the
15 orderly conduct of a referendum.

16 C. A referendum may not be held during an interval
17 when valid rules adopted and published by the commission are
18 not in effect.

19 D. The proposal shall be presented to the voters on
20 ballots ~~[as follows:~~

21 ~~"9 For the creation of a soil and water conservation~~
22 ~~district of the lands described below and lying in the county~~
23 ~~(counties) of _____, _____, and~~
24 ~~_____. "~~ and

25 ~~"9 Against the creation of a soil and water conservation~~

underscored material = new
[bracketed material] = delete

1 ~~district of the lands described below and lying in the county~~
2 ~~(counties) of _____, _____, and~~
3 ~~_____."~~

4 ~~A square shall be printed before the affirmative and negative~~
5 ~~of each proposition with voter instruction to mark an "X" in~~
6 ~~the square representing the position that the voter adopts on~~
7 ~~the presented proposition. The ballot shall] that define, in~~
8 ~~general terms and by legal description, the area encompassed~~
9 ~~within the proposed district.~~

10 ~~[C.]~~ E. Informalities or irregularities in the
11 conduct of a referendum shall have no effect upon its result if
12 due notice ~~[of referendum]~~ requirements have been substantially
13 complied with and balloting has been fairly conducted in
14 substantial compliance with the rules adopted and published by
15 the commission.

16 F. The commission shall publish referendum results
17 and ~~[thereafter, shall]~~ make a final determination of whether
18 the proposed district is administratively practicable;
19 provided, however, in the event that approval of the proposed
20 district is not carried by a majority of votes cast in a
21 referendum, the commission shall deny the petition and shall
22 enter and record its order.

23 ~~[D. In making its determination of the~~
24 ~~administrative practicability of the proposed district, the~~
25 ~~commission shall consider:~~

. 144108. 1

underscored material = new
[bracketed material] = delete

1 ~~(1) the number and attitudes of the owners of~~
2 ~~lands lying within the defined boundaries of the proposed~~
3 ~~district;~~

4 ~~(2) the number of votes cast in the referendum~~
5 ~~as compared to the number of eligible voters;~~

6 ~~(3) the economic position of the owners of~~
7 ~~lands lying within the defined boundaries of the proposed~~
8 ~~district; and~~

9 ~~(4) the probable burden and expense of a~~
10 ~~resource development program in the proposed district.~~

11 ~~If the commission shall find a proposed district not to be~~
12 ~~administratively practicable, it shall deny the petition and~~
13 ~~enter and record its final determination. If the commission~~
14 ~~shall find a proposed district to be administratively~~
15 ~~practicable, it shall record its final determination and~~
16 ~~proceed with the organization of the district.]"~~

17 Section 8. Section 73-20-35 NMSA 1978 (being Laws 1965,
18 Chapter 137, Section 9, as amended) is amended to read:

19 "73-20-35. SOIL AND WATER CONSERVATION DISTRICTS--
20 ORGANIZATION. --

21 A. Upon the determination that a proposed district
22 is necessary and administratively practicable, the commission
23 shall appoint two interim supervisors who reside within the
24 district who shall be the governing body of the district until
25 an election of supervisors [~~shall be~~] is held. The two interim

. 144108. 1

underscored material = new
[bracketed material] = del ete

1 supervisors shall present to the secretary of state their
2 verified application, stating:

3 (1) a recital of the proceedings conducted;
4 (2) that all proceedings were undertaken
5 lawfully and in accordance with the provisions of the Soil and
6 Water Conservation District Act;

7 (3) the name of the proposed district and its
8 geographical boundaries;

9 (4) the name and official residence of each
10 applicant together with a certified copy of each appointment
11 evidencing the applicant's right to office; and

12 (5) the designation of the principal office of
13 the supervisors of the district.

14 B. The verified application of the two district
15 interim supervisors shall be accompanied by certified copies of
16 the commission's recorded orders of determination that the
17 proposed district is necessary and is administratively
18 practicable.

19 ~~[B.]~~ C. The secretary of state, upon finding the
20 application and its supporting attachments are in substantial
21 compliance with the provisions of this section, shall receive,
22 file and record the application in an appropriate book of
23 record and ~~[he shall make and]~~ issue to the applicants, under
24 state seal, a certificate of organization of the district.

25 From the date of issuance of the certificate of organization by

. 144108. 1

underscored material = new
[bracketed material] = delete

1 the secretary of state, the district shall be [~~an agency and~~] a
2 governmental subdivision of the state. In any action or
3 proceeding relating to a district or an act of the district,
4 the certificate of organization of the district shall be
5 admissible in evidence as proof of its contents.

6 [~~C.~~] D. If the secretary of state [~~shall find~~]
7 finds the name of a proposed district to be the same as or
8 substantially similar to the name of an existing organized
9 district, he shall certify the fact to the commission [~~and~~].
10 The commission shall, with the assistance of the [~~appointed~~
11 ~~district~~] interim supervisors, select and submit a new name to
12 the secretary of state. "

13 Section 9. Section 73-20-36 NMSA 1978 (being Laws 1978,
14 Chapter 85, Section 1, as amended) is amended to read:

15 "73-20-36. SOIL AND WATER CONSERVATION DISTRICTS--
16 MODIFICATION OF EXISTING DISTRICTS. --

17 A. Unless otherwise provided by this section,
18 petitions to modify the boundaries of an existing district
19 shall be subject to the same requirements for notice, hearing,
20 determination of necessity and desirability, referendum and
21 determination of administrative practicability as are required
22 for petitions for the organization of a district pursuant to
23 the Soil and Water Conservation District Act.

24 [~~A.~~] B. Petitions for including additional land
25 within an existing organized district, signed by twenty-five

. 144108. 1

underscored material = new
[bracketed material] = delete

1 registered voters residing in the district or within the
2 boundaries of the additional land proposed to be included or
3 signed by two thirds of the owners of the additional land
4 proposed to be included, whichever is less, may be filed with
5 ~~the [department and shall be treated in the same manner as~~
6 ~~petitions for the creation of a proposed district]~~ commission.
7 If ~~[however such a]~~ the petition is signed by two thirds or
8 more of the owners of the additional land proposed to be
9 included in the district, the ~~[department]~~ commission may enter
10 its determinations without hearing or referendum. The
11 commission shall advise the department ~~[on]~~ of all petitions
12 filed pursuant to this section.

13 ~~[B.]~~ C. Petitions for severing land from the
14 defined geographical area of an existing organized district, or
15 for its severance and inclusion within another existing
16 organized district, signed by twenty-five registered voters
17 residing in the district or within the boundaries of the land
18 proposed to be severed or signed by two thirds of the owners of
19 the land proposed to be severed, whichever is greater, may be
20 filed with the ~~[department and may be treated in the same~~
21 ~~manner as petitions for the creation of a proposed district]~~
22 commission. If ~~[however]~~ the petition is signed by two thirds
23 or more of the owners of the land to be severed or is submitted
24 by the ~~[boards]~~ board of supervisors of each district affected,
25 the ~~[department]~~ commission may enter its determinations

. 144108. 1

underscored material = new
[bracketed material] = delete

1 without hearing or referendum.

2 ~~[C.]~~ D. Petitions for consolidating two or more
3 districts or for separating an existing district into two or
4 more districts may be filed with the ~~[department]~~ commission by
5 the ~~[boards]~~ board of supervisors of each district affected.
6 After due notice, a public hearing shall be held in each
7 district affected ~~[and no action can be taken without the~~
8 ~~majority approval of the voters present at the hearing]~~. If
9 petitions have been filed pursuant to this subsection and
10 approved as provided in the Soil and Water Conservation
11 District Act, it shall not be necessary to obtain the consent
12 of the ~~[landowners]~~ registered voters within the districts
13 prior to the consolidation or division.

14 ~~[D.]~~ E. The ~~[department]~~ commission shall give
15 written notice to the secretary of state of any modification in
16 the defined geographical area of ~~[any]~~ an existing ~~[organized]~~
17 district; the notice of modification shall describe and portray
18 by map the modified geographical area. The secretary of state
19 shall note, file and record each modification and shall issue,
20 under state seal, a certificate of reorganization to each
21 district affected. Certificates of reorganization shall have
22 the same ~~[force and]~~ effect ~~[and shall be accorded the same~~
23 ~~dignity]~~ as the certificates they supersede.

24 F. The commission shall supervise reorganization of
25 the affairs of the district when boundaries are modified.

underscored material = new
[bracketed material] = delete

1 ~~[E.]~~ G. In the event a supervisor of a district is
2 disqualified from holding office by the modification of ~~[his]~~
3 the district, ~~[he]~~ the supervisor shall be deemed to have
4 resigned and ~~[his]~~ a successor shall be appointed to serve the
5 unexpired term by the ~~[remaining supervisors of the district.~~
6 ~~In the event two or more supervisors are disqualified from~~
7 ~~holding office by the modification of a district, their~~
8 ~~successors shall be appointed to serve the unexpired terms by~~
9 ~~the board]~~ commission. "

10 Section 10. Section 73-20-37 NMSA 1978 (being Laws 1965,
11 Chapter 137, Section 11, as amended) is amended to read:

12 "73-20-37. DISTRICT SUPERVISORS--ELECTION AND
13 APPOINTMENT--NEW DISTRICTS. --

14 A. The governing body of ~~[each]~~ a district shall be
15 composed of five supervisors who shall be residents of the
16 district and shall be elected; provided, however, two
17 additional supervisors may be appointed to the governing body
18 of each district by the ~~[board]~~ commission in accordance with
19 the provisions of the Soil and Water Conservation District Act.
20 ~~[The]~~ Four elected ~~[supervisors]~~ supervisor positions of each
21 district shall be ~~[land owners]~~ filled by landowners within the
22 defined geographical area of their district. One elected
23 supervisor position shall be designated supervisor-at-large and
24 the supervisor filling that position may serve the district
25 without landowner qualification. ~~[A supervisor shall serve a~~

. 144108. 1

underscored material = new
[bracketed material] = delete

1 ~~term of three years and shall continue in office until his~~
2 ~~successor has been elected or appointed and has qualified. A~~
3 ~~vacant unexpired term of the office of supervisor shall be~~
4 ~~filled by appointment by the remaining supervisors of the~~
5 ~~district. Two or more vacant unexpired terms of the offices of~~
6 ~~supervisor, occurring simultaneously in the same district,~~
7 ~~shall be filled by appointment by the board.]~~

8 B. Unless a different time is prescribed by the
9 [board] commission, within thirty days following the issuance
10 of a certificate of organization to the two interim supervisors
11 of a district, [~~nominating petitions proposing candidates~~]
12 declarations of candidacy for supervisors of the district may
13 be filed with the [department. ~~Nominating petitions shall be~~
14 ~~signed by no fewer than ten owners of land situate within the~~
15 ~~district; landowners shall not be restricted in the number of~~
16 ~~nominating petitions they may subscribe~~] commission. The
17 [department] commission shall give due notice of election for
18 the offices of five district supervisors. All [~~owners of land~~
19 ~~situate~~] registered voters residing within the district shall
20 be eligible to vote. The [~~board, with the advice of the~~]
21 commission shall adopt and prescribe regulations governing the
22 conduct of the election, shall determine voter eligibility and
23 shall supervise the election and [~~shall~~] publish its results.
24 The districts shall bear the expenses of elections; however,
25 the commission shall bear the expenses of the first election of

underscored material = new
[bracketed material] = delete

1 a newly organized district.

2 C. In the first election of supervisors to serve a
3 newly organized district, two supervisors shall be elected for
4 terms of [~~one year; two~~] four years and three supervisors shall
5 be elected for terms of two years [~~and the supervisor at large~~
6 ~~shall be elected for a term of three years~~]. Thereafter, each
7 elected supervisor shall serve a term of [~~three~~] four years and
8 shall continue in office until his successor has been elected
9 or appointed and has completed an oath of office. Oaths of
10 office may not be completed prior to July 1 after an election.
11 A vacant unexpired term of the office of an elected supervisor
12 shall be filled by appointment by the remaining supervisors of
13 the district. Two or more vacant unexpired terms occurring
14 simultaneously in the same district shall be filled by
15 appointment by the commission.

16 D. Appointed interim supervisors may continue to
17 serve as appointed supervisors at the pleasure of the [~~board~~]
18 commission or until their successors are otherwise appointed."

19 Section 11. Section 73-20-38 NMSA 1978 (being Laws 1965,
20 Chapter 137, Section 12, as amended) is amended to read:

21 "73-20-38. DISTRICT SUPERVISORS--ELECTION AND
22 APPOINTMENT--ORGANIZED DISTRICTS.--

23 A. Successors to supervisors [~~of organized districts~~]
24 whose terms end in a calendar year shall be elected [~~during the~~
25 ~~period September 1 to December 15~~] on the first Tuesday in May

. 144108. 1

underscored material = new
[bracketed material] = delete

1 of that year. [~~Election dates shall be determined by the~~
2 ~~supervisors of the district and may concur with the time of~~
3 ~~annual meeting of district landowners.~~] Elections shall be
4 called, conducted and returned in [~~the same manner as the first~~
5 ~~election of supervisors of a newly organized district;~~
6 ~~provided, however, that the powers conferred upon the board in~~
7 ~~conducting the first election of supervisors in a newly~~
8 ~~organized district shall apply to and be exercised by the~~
9 ~~supervisors of the organized district]~~ accordance with rules
10 adopted and prescribed by the commission.

11 B. [~~In a district election held during an annual~~
12 ~~meeting of district landowners, the nomination of a supervisor~~
13 ~~candidate may be made from the floor of the meeting as well as~~
14 ~~by nominating petition. The district supervisors]~~ A canvassing
15 board appointed by the commission shall determine the results
16 of a district election, shall certify and publish the results
17 and shall give the [~~department~~] commission notice of their
18 canvass within seven days of its completion. A canvass is
19 considered complete when all challenges have been resolved to
20 the satisfaction of the canvassing board.

21 [~~C. In the first annual election of supervisors to~~
22 ~~serve an extant organized district, following the enactment of~~
23 ~~the Soil and Water Conservation District Act, two supervisors~~
24 ~~shall be elected for terms of one year, two supervisors shall~~
25 ~~be elected for terms of two years and the supervisor at large~~

underscored material = new
[bracketed material] = delete

1 ~~shall be elected for a term of three years. Thereafter, each~~
2 ~~elected supervisor shall serve a term of three years.~~

3 ~~D. Regulations promulgated]~~

4 C. Rules adopted and published by the [~~board, with~~
5 ~~the advice of the]~~ commission and the election provisions of
6 the Soil and Water Conservation District Act shall be exclusive
7 in the conduct of district elections. The [~~board]~~ commission
8 may [~~promulgate]~~ adopt and publish rules [~~and regulations]~~ to
9 carry out the provisions of the Soil and Water Conservation
10 District Act.

11 ~~[E. Within forty days after an annual district~~
12 ~~election]~~

13 D. By June 15 of each year, the district supervisors
14 [~~shall]~~ may submit to the [~~department]~~ commission a list of
15 [~~five names of]~~ persons interested in the district and who by
16 experience or training are qualified to serve as supervisors.
17 The [~~board, with the advice of the]~~ commission may appoint [~~two~~
18 ~~persons]~~ from the list submitted, or at will, two persons to
19 serve as [~~district]~~ supervisors if it is the determination of
20 the [~~board]~~ commission that the appointments are necessary or
21 desirable and would benefit or facilitate the work and
22 functions of the district. In the event a list is not
23 submitted to the [~~department]~~ commission by the [~~district]~~
24 supervisors [~~within forty days after an annual district~~
25 ~~election, the board, with the advice of]~~ by June 15, the

. 144108. 1

underscored material = new
[bracketed material] = delete

1 commission may appoint at will two ~~[district]~~ supervisors
2 qualified to serve by training or experience. Appointed
3 ~~[district]~~ supervisors shall serve at the pleasure of the
4 ~~[board]~~ commission and shall have the same powers and perform
5 the same duties as elected supervisors. Successors to
6 appointed supervisors, or replacement-appointed supervisors in
7 the event of vacancy, shall be appointed by the ~~[board, with~~
8 ~~the advice of the]~~ commission from a list of candidates or at
9 will in accordance with the provisions of this subsection. "

10 Section 12. Section 73-20-39 NMSA 1978 (being Laws 1965,
11 Chapter 137, Section 13, as amended) is amended to read:

12 "73-20-39. ELECTION OF ~~[DISTRICT]~~ SUPERVISORS--DISTRICT
13 ZONES.--In adopting and ~~[promulgating]~~ publishing rules ~~[and~~
14 ~~regulations]~~ for the election of ~~[district]~~ supervisors and the
15 registration of district voters, the commission may, to ensure
16 proper representation of district ~~[landowners]~~ voters and to
17 facilitate district functions, provide for the geographic
18 zoning of a district. The commission shall provide for the
19 proper and equitable representation for each faction
20 geographically zoned in the district. If a district is divided,
21 or if two or more districts are consolidated, the commission
22 shall provide for the geographic zoning of the resulting
23 district or districts within thirty days after the secretary of
24 state issues the certificate of organization for each new
25 district. "

. 144108. 1

underscored material = new
[bracketed material] = delete

1 Section 13. Section 73-20-40 NMSA 1978 (being Laws 1965,
2 Chapter 137, Section 14, as amended) is amended to read:

3 "73-20-40. SELECTION OF ~~[DISTRICT]~~ SUPERVISOR CHAIRMAN--
4 QUORUM - COMPENSATION. -- Within a reasonable time after each
5 ~~[annual]~~ district election and after newly elected supervisors
6 have completed the oath of office, the supervisors of a
7 district shall organize and shall ~~[select and]~~ designate a
8 ~~[district]~~ chairman who shall be a supervisor and who shall
9 serve at the pleasure of the ~~[district]~~ supervisors. In the
10 performance of district functions, a majority of supervisors
11 shall constitute a quorum; the concurrence of the quorum
12 majority shall be required to carry or to determine any matter
13 of district business. Supervisors shall not receive ~~[no]~~
14 compensation for their services but shall be entitled to be
15 reimbursed ~~[for actual expenses incurred]~~ in accordance with
16 the provisions of the Per Diem and Mileage Act. "

17 Section 14. Section 73-20-41 NMSA 1978 (being Laws 1965,
18 Chapter 137, Section 15, as amended) is amended to read:

19 "73-20-41. POWERS AND DUTIES OF ~~[DISTRICT]~~ SUPERVISORS. --

20 A. ~~[District]~~ Supervisors may employ a secretary and
21 ~~[such]~~ other agents, employees and technical or professional
22 experts as they ~~[may from time to time]~~ require and may
23 determine qualifications, compensation and duties applicable to
24 any agent, employee or expert engaged.

25 B. B. ~~[District]~~ Supervisors shall require and provide

. 144108. 1

underscored material = new
[bracketed material] = delete

1 for the execution of a corporate surety bond in suitable penal
2 sum for and to cover any person entrusted with the care or
3 disposition of district funds or property.

4 C. [~~District~~] Supervisors may delegate their powers
5 to one or more [~~district~~] supervisors or to one or more
6 district employees, agents or experts.

7 D. Supervisors shall call upon the county clerk of a
8 county within which all or a part of the district lands are
9 located for advice and assistance with conduct of elections and
10 referenda.

11 [~~B.—District~~] E. Supervisors may call upon the
12 district attorney of the judicial district within which all or
13 a part of the district lands may be situate for legal services
14 required by the district. [~~District~~] Supervisors may invite
15 the legislative body of any municipality or county [~~situate~~]
16 within, near or comprising a part of the district to designate
17 a representative to advise and consult with the supervisors on
18 matters affecting property, water distribution or other matters
19 of interest to the municipality or county.

20 [~~C.—District~~] F. Supervisors are authorized to adopt
21 and [~~promulgate~~] publish rules [~~and regulations~~] necessary for
22 the proper execution of district duties and activities. The
23 supervisors shall:

24 (1) keep a full and accurate record of all
25 district proceedings and of all resolutions, [~~regulations~~]

underscored material = new
[bracketed material] = delete

1 rules and orders issued or adopted;

2 (2) provide for and submit to an annual audit of
3 district accounts or receipts and disbursements, in the event
4 district receipts total more than five thousand dollars
5 (\$5,000) annually;

6 (3) furnish to the [department] commission a
7 complete report of district proceedings and activities during
8 each fiscal year, including a financial report;

9 (4) furnish or make available to the
10 [department] commission, upon request, district files and
11 copies of rules, [regulations] orders, contracts, forms and
12 other documents adopted or employed in conducting district
13 activities; and

14 (5) call and give due notice of [~~an annual~~
15 ~~meeting of the owners of land situate within the district to be~~
16 ~~held on a designated date within the period September 1 to~~
17 ~~December 15]~~ at least one regular meeting of the supervisors
18 each month of the calendar year, unless otherwise approved by
19 the commission.

20 G. Supervisors and district employees are public
21 employees for the purposes of the Tort Claims Act and shall be
22 provided all insurance and self-insurance coverage provided by
23 the risk management division of the general services
24 department. "

25 Section 15. Section 73-20-42 NMSA 1978 (being Laws 1965,

. 144108. 1

underscored material = new
[bracketed material] = delete

1 Chapter 137, Section 16, as amended) is amended to read:

2 "73-20-42. REMOVAL OF ~~[DISTRICT]~~ SUPERVISORS. -- A
3 ~~[district]~~ supervisor may be removed from office by the
4 commission if it ~~[shall appear]~~ appears to the commission,
5 after reasonable notice and impartial hearing, that the
6 supervisor is guilty of misfeasance or malfeasance in office.
7 ~~[A district supervisor who fails to attend three consecutive~~
8 ~~meetings of district supervisors without reasonable or~~
9 ~~acceptable excuse shall be deemed to have resigned]~~ The office
10 of a supervisor who has missed three consecutive regular
11 meetings of the supervisors may be declared vacant by majority
12 vote of the remaining supervisors. The office of a supervisor
13 who has missed four consecutive regular meetings of the
14 supervisors shall be declared vacant and his successor shall be
15 elected or appointed as in case of any other vacancy. "

16 Section 16. Section 73-20-44 NMSA 1978 (being Laws 1965,
17 Chapter 137, Section 18) is amended to read:

18 "73-20-44. DISTRICTS ~~[DEFINED]~~ -- DESCRIPTION -- GENERAL
19 POWERS OF DISTRICTS. -- A "soil and water conservation district",
20 organized under or perpetuated by the provisions of the Soil
21 and Water Conservation District Act, is a governmental
22 subdivision of the state, a public body politic and corporate.
23 By and through its supervisors, a district may:

24 A. conduct research, investigations and surveys
25 treating soil erosion and floodwater and sediment damage,

. 144108. 1

underscored material = new
[bracketed material] = delete

1 concerning the conservation, development, utilization and
2 disposal of all waters and relating to control programs and
3 public works necessary to facilitate conservation and
4 development. To prevent duplication of research activities,
5 district investigative programs shall be initiated in
6 cooperation with a governmental unit, if any, conducting or
7 charged with the conduct of research in the same or similar
8 scientific field;

9 B. publish and disseminate research findings and
10 preventive and control measures relating to resource
11 conservation and development;

12 C. with the consent and cooperation of the landowner
13 or the state or federal agency administering the land, conduct
14 projects upon land within the district to demonstrate by
15 example the methods by which soil and other natural resources
16 may be conserved, by which soil erosion in the form of blowing
17 and washing may be controlled or prevented and by which flood
18 prevention and the conservation, development, utilization and
19 disposal of water may be carried out; the projects may include,
20 but shall not be limited to, engineering operations, methods of
21 cultivation and variations in land use;

22 D. assist, contract with and render financial aid to
23 district landowners and state or federal agencies administering
24 land within the district [~~and which~~] that are engaged in
25 erosion control and prevention projects, flood prevention works

. 144108. 1

underscored material = new
[bracketed material] = delete

1 or the conservation, development, utilization and disposal of
2 water within the district;

3 E. make available to district landowners, on such
4 terms as the supervisors may prescribe, tools, machinery,
5 equipment, fertilizer, seeds and other materials to assist the
6 landowners in initiating and developing natural resource
7 conservation and development projects;

8 F. develop comprehensive plans for natural resource
9 conservation, [~~and~~] development and utilization, including
10 flood prevention, control and prevention of soil erosion and
11 the development, utilization and disposal of water; the plans
12 shall be detailed and shall specify as completely as possible
13 the necessary or desirable acts, procedures, performances and
14 avoidances to implement the plan, including engineering
15 specifications, methods of cultivation, cropping programs,
16 tilling practices and land use changes;

17 G. foster, publish and promote district natural
18 resource development plans and their adoption and development
19 by landowners within the district;

20 H. acquire or administer the project of any other
21 governmental agency undertaken to provide for [~~soil~~
22 ~~conservation, erosion control, erosion prevention, flood~~
23 ~~prevention or~~] the conservation, development and utilization
24 [~~or disposal of water~~] of natural resources within the
25 district;

. 144108. 1

underscored material = new
[bracketed material] = del ete

1 I. act as agent for any instrumentality or agency of
2 the state or of the federal government in the acquisition,
3 construction, operation or administration of a natural resource
4 conservation, utilization or development project or program
5 within the district; and

6 J. construct, improve, operate or maintain physical
7 projects and structures necessary or convenient for the
8 performance of any authorized district function. "

9 Section 17. Section 73-20-45 NMSA 1978 (being Laws 1965,
10 Chapter 137, Section 19) is amended to read:

11 "73-20-45. SPECIFIC POWERS OF DISTRICTS. -- A [~~soil~~ and
12 ~~water conservation~~] district, by and through its supervisors,
13 is authorized to:

14 A. sue and be sued in the name of the district;

15 B. adopt an official seal;

16 C. contract, [~~to~~] convey and [~~to~~] make and execute
17 other instruments and documents necessary or convenient to the
18 exercise of district powers;

19 D. [~~to~~] borrow money and otherwise contract
20 indebtedness for the purposes of the district and, without
21 limitation of the generality of the foregoing, [~~to~~] borrow
22 money and accept grants from the United States [~~of America~~] or
23 from [~~any~~] a corporation or agency created or designated by the
24 United States [~~of America~~] and, in connection with any such
25 loan or grant, [~~to~~] enter into [~~such~~] agreements as the United

. 144108. 1

underscored material = new
[bracketed material] = delete

1 States [~~of America~~] or [~~such~~] the corporation or agency may
2 require; and [~~to~~] issue its notes or obligations therefor and
3 [~~to~~] secure the payment thereof by mortgage, pledge or deed of
4 trust of all or any of its property, assets, rights,
5 privileges, licenses, rights-of-way, easements, revenues or
6 income;

7 E. option, as optionee and optioner, and [~~to~~]
8 acquire, in any manner, real and personal property or any right
9 or interest [~~therein~~] in it;

10 F. improve, rent, lease and sell district property or
11 any interest [~~therein~~] in it;

12 G. receive, invest and reinvest rents and income from
13 district property and [~~to~~] expend rents and income for district
14 purposes; and

15 H. accept contributions, gifts and donations and [~~to~~]
16 expend and utilize them to further district purposes. [~~Neither~~
17 ~~the State Purchasing Act nor any other statute, except the Soil~~
18 ~~and Water Conservation District Act, shall apply to the~~
19 ~~acquisition, use or disposition of district property.~~]"

20 Section 18. Section 73-20-46 NMSA 1978 (being Laws 1965,
21 Chapter 137, Section 20, as amended) is amended to read:

22 "73-20-46. DISTRICT ASSESSMENTS. --

23 A. In the event a district is unable to meet or bear
24 the expense of the duties imposed upon it by the Soil and Water
25 Conservation District Act, the supervisors may adopt a

. 144108. 1

underscored material = new
[bracketed material] = delete

1 resolution [~~which~~] that, to be effective, shall be approved by
2 referendum in the district and [~~which~~] that shall provide for
3 an annual levy for a stated period of up to ten years in a
4 stated amount not exceeding one dollar (\$1.00), or any lower
5 maximum amount required by operation of the rate limitation
6 provisions of Section 7-37-7.1 NMSA 1978 upon the assessment
7 authorized by this section, on each one thousand dollars
8 (\$1,000) of net taxable value, as that term is defined in the
9 Property Tax Code, of real property within the district, except
10 that real property within incorporated cities and towns in the
11 district may be excluded. The referendum held to approve or
12 reject the resolution of the supervisors shall be conducted
13 with appropriate ballot and in substantially the same manner as
14 a referendum adopting and approving the creation of a proposed
15 district. After the initial authorization is approved by
16 referendum, the supervisors shall adopt a resolution in each
17 following year authorizing the levy. To extend an assessment
18 beyond the period of time originally authorized and approved by
19 referendum, the supervisors shall adopt a new resolution and
20 the district voters shall approve it in a referendum. The
21 extension shall be for the same period of time as originally
22 approved, but the rate of the tax may be different as long as
23 it does not exceed one dollar (\$1.00) on each one thousand
24 dollars (\$1,000) of net taxable value of real property within
25 the district, except that real property within incorporated

. 144108. 1

underscored material = new
[bracketed material] = delete

1 municipalities in the district may be excluded. If the
2 district is indebted to the United States or the state or any
3 of their respective agencies or instrumentalities, including
4 the New Mexico finance authority, at the time of the expiration
5 of the original authorization, the supervisors may renew the
6 assessment by resolution for a period not to exceed the
7 maturity date of the indebtedness, and no referendum for that
8 renewal is necessary.

9 B. ~~[No]~~ A resolution authorized under Subsection A of
10 this section shall not be effective, and neither a referendum
11 nor a levy is authorized, unless the resolution is submitted to
12 and approved in writing by the commission.

13 C. In the event a resolution of the supervisors is
14 adopted and approved in accordance with the provisions of
15 Subsection A of this section, the supervisors of the district
16 shall certify by the fifteenth of July of each year to the
17 county assessor of each county in which there is situate land
18 subject to the district assessment:

19 (1) a copy of the resolution of the ~~[district]~~
20 supervisors;

21 (2) the results of any referendum held in the
22 year the certification is made; and

23 (3) a list of landowners of the district and a
24 description of the land owned by each ~~[which]~~ that is subject
25 to assessment.

underscored material = new
[bracketed material] = delete

1 D. A county assessor shall indicate the information
2 on the tax schedules, ~~shall~~ compute the assessment and
3 ~~shall~~ present the district assessment by regular tax bill.

4 E. The district assessment shall be collected by the
5 county treasurer of each county in which taxable district land
6 is situate in the same manner and at the same time that county
7 ad valorem taxes are levied. The conditions, penalties and
8 rates of interest applicable to county ad valorem taxation
9 apply to the levy and collection of district assessments. A
10 county treasurer shall be entitled to a collection fee equal to
11 the actual costs of collection or four percent of the money
12 collected from the levy of the district assessment, whichever
13 is the lesser.

14 F. District ~~[assessment]~~ funds, regardless of origin,
15 shall be transferred to and held by the ~~[district]~~ supervisors
16 and shall be expended for district obligations and functions.
17 The supervisors shall prepare an annual budget and submit it
18 for approval to the commission and to the local government
19 division of the department of finance and administration. All
20 district funds shall be expended in accordance with the
21 approved budgets ~~[approved by the commission and by the local~~
22 ~~government division of the department of finance and~~
23 ~~administration].~~

24 G. In the event the supervisors of a district
25 determine that there are or will be sufficient funds available

underscored material = new
[bracketed material] = delete

1 for the operation of the district for any year for which an
2 assessment is to be levied, they shall, by resolution, direct
3 the assessor of each county in which taxable district land is
4 situate, by July 15 of each year, to decrease the district
5 assessment or to delete the district assessment reflected on
6 the tax schedules.

7 H. Any levy authorized by the Soil and Water
8 Conservation District Act and any loan or other indebtedness
9 authorized by that act [~~which~~] that will require a levy shall
10 be based exclusively on or levied exclusively on the real
11 property in the district, except that real property within
12 incorporated cities and towns may be excluded. [~~Owners of~~
13 ~~nonagricultural land may petition the district board of~~
14 ~~supervisors to delete their real property from the tax~~
15 ~~schedules, insofar as the district assessment is concerned;~~
16 ~~provided that these lands will not benefit from the operation~~
17 ~~of the district or the project for which the loan or levy is to~~
18 ~~be made.]"~~

19 Section 19. Section 73-20-48 NMSA 1978 (being Laws 1965,
20 Chapter 137, Section 22) is amended to read:

21 "73-20-48. STATE AGENCIES TO COOPERATE. -- Agencies,
22 instrumentalities and political subdivisions of this state
23 having jurisdiction over or charged with the administration of
24 public lands situate within the defined geographical area of
25 any district shall cooperate to the fullest extent with the

underscored material = new
[bracketed material] = delete

1 district's supervisors in effectuating district projects and
2 programs. [~~District~~] Supervisors shall have free access to
3 enter and perform work upon state public lands lying within
4 their districts; provided, however, [~~district~~] supervisors
5 shall not have unqualified access to state public lands [~~which~~]
6 that are subject to private dominion under lease or [~~which~~]
7 that are developed for, or devoted to, another public use.
8 County clerks of the counties within which all or a part of the
9 district lands are located shall provide advice and assistance
10 with conduct of elections and referenda."

11 Section 20. REPEAL. -- Section 73-20-49 NMSA 1978 (being
12 Laws 1965, Chapter 137, Section 23, as amended) is repealed.

13 - 36 -
14
15
16
17
18
19
20
21
22
23
24
25