

I. Soil and Water Conservation Districts Law

** A flowchart can be found in the Appendix depicting the legal hierarchy applicable to soil and water conservation districts.*

278.060 Title of law.

Sections 278.060 to 278.155 may be known and cited as "The Soil and Water Conservation Districts Law".

278.070 Definitions.

As used in sections 278.060 to 278.300, the following words and terms mean:

- (1) "Board of soil and water district supervisors" or "soil and water supervisors", the local governing body of a soil and water district, elected or appointed in accordance with the provisions of this law;
- (2) "Land representative", the owner or representative authorized by power of attorney of any farm lying within any area proposed to be established, and subsequently established, as a soil and water district under the provisions of this law, and for the purposes of sections 278.060 to 278.155 each such farm shall be entitled to representation by a land representative; provided, however, that any land representative must be a taxpayer of the county within which the soil and water district is located;
- (3) "Landowner", any person, firm or corporation who holds title to any lands lying within a district organized or to be organized under the provisions of this chapter. Any landowner may be represented by notarized proxy not more than one year old;
- (4) "Soil and water conservation cost-share program", a state-funded incentive program designed for the purpose of saving the soil and protecting the water resources of the state to preserve the productive power of Missouri agricultural land;
- (5) "Soil and water conservation district" or "soil and water district", a county or one or more of its townships wherein a project for saving the soil and water has been established with the authority and duty and subject to the restrictions herein set forth; and in establishing a soil and water district, if the proposed area is less than the area of the county which contains it, but greater than the area of one township, the additional township or townships to be included in such soil and water district need not be contiguous with the first township or with one another, but there shall be only one soil and water district within the boundaries of the same county; and any farm intersected by a soil and water district boundary shall be considered as lying within that district for purposes of soil and water conservation by that district, except that the soil and water conservation of a farm which lies partly within one soil and water district and partly within another shall be considered the duty of the soil and water district in which the home buildings of such farm are located;
- (6) "State soil and water districts commission" or "soil and water commission", the agency created by section 278.080 for the administration of the soil and water conservation districts provided for by sections 278.060 to 278.155;

- (7) "Subdistrict", "watershed", or "watershed district", as used in sections 278.160 to 278.300, a watershed district, with the exception of sections 278.160, whereby subdistrict is specifically used to describe the relationship to an established soil and water conservation district or districts that may be established as a watershed district;
- (8) "Township", municipal township and not congressional or survey township.

278.080 Establishing commission—members—powers and duties—rulemaking—variances to rules permitted, procedure.

1. There is hereby established "The State Soil and Water Districts Commission" to administer for this state the soil and water conservation districts provided for by sections 278.060 to 278.300. The state soil and water districts commission shall formulate policies and general programs for the saving of Missouri soil and water by the soil and water conservation districts, and shall give consideration to the districts' needs based on their character; it shall receive and allocate or otherwise expend for the use or benefit of the soil and water conservation districts any funds appropriated by the general assembly for the use or benefit of such districts, including a soil and water conservation cost-share program; it shall receive and properly convey to the soil and water conservation districts any other form of aid extended to such districts by any other agency of this state, except that any money or other form of aid raised or provided within a soil and water district for the use or benefit of that soil and water district shall be received and administered by the governing body of that soil and water district; it shall exercise other authority conferred upon it and perform other duties assigned to it by sections 278.060 to 278.300; and it shall be the administrative agency to represent this state in these and all other matters arising from the provisions of sections 278.060 to 278.300.
2. The state soil and water districts commission shall be composed of four ex officio members and six farmer members. The six farmer members shall be appointed by the governor of Missouri with the advice and consent of the senate. Three of the farmer members shall reside in the portion of this state which is north of the Missouri River and three of the farmer members shall reside in the portion of this state which is south of the Missouri River. The membership shall be geographically dispersed with no more than one of the farmer members appointed from a state senatorial district. Not more than four of the farmer members shall be from the same political party. The ex officio members shall be the director of the department of natural resources, the director of the department of agriculture, the director of the department of conservation, and the dean of the college of agriculture of the University of Missouri. Each of the six farmer members shall be holding legal title to a farm, and shall be earning at least the principal part of the member's livelihood from a farm, all at the time of appointment to the commission. The farmer members shall each be appointed for a period of three years. All members of the commission serving as of June 27, 2000, may continue to serve the unexpired portion of the member's current term. There is no limitation on the number of terms that any of the farmer members appointed by the governor may serve. If any farmer member vacates his or her term for any reason prior to the expiration of such term, the governor may appoint a farmer member to serve for the remainder of the unexpired term. Each member of the commission shall continue to serve until the member's successor has been duly appointed and qualified.

3. The state soil and water districts commission may call upon the attorney general of the state for such legal services as it may require.
4. At its first meeting in each calendar year, the state soil and water districts commission shall select from its current members a chairman and a vice chairman. The ex officio members shall not have the power to vote on any matter before the commission. A quorum shall consist of four farmer members. For the determination of any matter within the commission's authority, at a meeting comprised of four farmer members, a concurrence of three shall be required. No business of the commission shall be executed in absence of a quorum. Each farmer member of the soil and water commission shall be entitled to expenses, including travel expenses, necessarily incurred in the discharge of his or her duties as a member of this commission. The state soil and water districts commission shall provide for the execution of surety bonds for all of its employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all its proceedings and of all its resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of all its accounts of receipts and disbursements.
5. In addition to the authority and duty herein assigned to the state soil and water districts commission, it shall have the following authority and duty:
 - (1) To encourage the formation of soil and water conservation districts in areas where their establishment seems necessary and their administration seems feasible;
 - (2) To formulate and fix the rules and procedures for fair and impartial referendums on the establishing or disestablishment of soil and water districts and for fair and impartial selection of soil and water district supervisors;
 - (3) To receive petitions for the establishing of soil and water conservation districts as provided in section 278.100; to determine the validity of these petitions; to conduct hearings upon the subject of these petitions; to determine whether the establishment of a soil and water district as petitioned would be effective in the saving of soil and water within the proposed area, and whether a soil and water district if established could be feasibly administered; and, upon reaching a favorable conclusion on these matters, to call for a referendum on the establishing of the soil and water district as petitioned;
 - (4) To advise any soil and water conservation district in developing its program for saving the soil and water in order that such district may become eligible for any form of aid from state or federal sources;
 - (5) Subject to district allocations by the commission and other resources, to provide training, programs and other assistance to soil and water conservation districts to identify programs that respond to the character of the districts' needs;
 - (6) To obtain or accept the cooperation and financial, technical or material assistance of the United States or any of its agencies, and of this state or any of its agencies, for the work of such soil and water districts;

- (7) To enter into agreements with the United States or any of its agencies on policies and general programs for the saving of Missouri soil and water by the extension of federal aid to any soil and water conservation district; to advise any soil and water conservation district; to advise any soil and water conservation district on the amount or kind of federal aid needed for the effective saving of soil and water in that district; to determine within the limits of available funds or other resources the amount or kind of state aid to be used for saving of soil and water in any soil and water conservation district; and to determine the withholding of state aid of any amount or kind from any soil and water conservation district that has failed to follow the policies of the state soil and water districts commission in any matter under the provisions of sections 278.060 to 278.300;
 - (8) To give such other proper assistance as the soil and water commission may judge to be useful to any soil and water district in the saving of soil and water in that district;
 - (9) To promulgate such rules and regulations as may be necessary to effectively administer a state-funded soil and water conservation cost-share program. Any rule or portion of a rule promulgated under the authority of sections 278.060 to 278.300 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536.
6. Unless prohibited by any federal or state law, the commission may grant individual variances to any rule or regulation promulgated thereto, upon presentation of adequate proof, that compliance with sections 278.070 to 278.300, or any rule or regulation, standard, requirement, limitation or order of the commission will have an arbitrary and unreasonable impact on landowners participating in soil and water conservation eligible practices. The commission shall promulgate such rules, regulations and administrative guidelines as necessary to effectively administer this section.

278.090 Referendum—how conducted.

Wherever in this law a referendum is provided for and is used, it shall be conducted by secret ballot in such a manner that any person connected with, or any official of such referendum or election cannot know how any land representative votes. Ballot boxes similar to those used in any general election in this state shall be used and such boxes shall only be opened and the ballots counted in the presence of at least three persons who are residents of the soil and water district and who shall sign a statement they witnessed the opening of the ballot boxes and the counting of the ballots therein, but such ballot boxes shall not be opened or any ballots counted until immediately after the time expires for casting a ballot. Any person designated to conduct such a referendum or assist in such a referendum, and in that manner gains knowledge as to how any land representative voted and reveals such knowledge to any other person shall be guilty of a misdemeanor.

278.100 Establishment of soil and water conservation districts.

1. Whenever the state soil and water districts commission shall receive from any county or any township or townships thereof a petition declaring that the saving of the soil and water in that county or in the specified township or townships is in their opinion a public necessity, said petition being signed by not less than twenty-five land representatives in each township or by fifty percent of the land representatives, if there are less than fifty land representatives in any township in the area covered by the petition, the soil and water commission, when satisfied that such petition is valid, shall call for and conduct within the area described by such petition, a public hearing of land representatives within that area, on the question of establishing that area as a soil and water conservation district. If from this hearing it shall appear to the soil and water commission that there is a general desire for establishing as a soil and water district the county or the specified township or townships, the commission shall without delay determine by a survey of the conditions of farm land in the county or specified township or townships whether the establishment of that area as a soil and water conservation district is actually necessary and administratively feasible. Upon reaching a favorable conclusion on these matters, the commission shall call for and conduct, or cause to be conducted, a referendum by ballot of land representatives within that area, on the question of establishing the county or the specified township or townships as a soil and water conservation district.
2. If a majority of all land representatives voting in this referendum, do vote in favor of this establishment, and if in the judgment of the soil and water commission the total number of votes cast does amount to a substantial expression of opinion, the soil and water commission shall at once declare the county or township, or townships thereof, as specified by the referendum, to be established as a soil and water conservation district; but if these provisions are not met, the soil and water commission shall at once declare the question of establishment to have been lost, although another referendum on this question may be called by the soil and water commission for this area at any time after two years from the date of this declaration, provided the commission meanwhile has received evidence of a more general desire for the establishment of a soil and water district for this area. Subsequent to the establishment of a township or townships as a soil and water district any other township or townships in the same county may be added to this soil and water district by the procedure used for the first establishment.

278.110 Establishment of board of soil and water district supervisors—members, terms, duties, bonds.

1. The state soil and water districts commission upon declaring the establishment of a soil and water district as provided in section 278.100 shall proceed to arrange in the following manner for the establishment of a board of soil and water district supervisors to act as a local governing body for such soil and water district. This board shall consist of five members, as follows: Ex officio, the county agricultural extension agent; and four land representatives, resident taxpaying citizens within that soil and water district for a period of two years next preceding such election and elected by the majority vote of land representatives under rules and procedures formulated by the soil and water commission, but the date of this election shall not fall upon the date of any regular political election held in that county.

2. The term of office of the ex officio member shall be coincident with his term in the office from which he shall be serving on the supervisory board. The four elected members shall each serve for four years. At the expiration of the terms of members of a supervisory board in a district organized prior to October 13, 1961, and at the first election in a district organized after October 13, 1961, two members shall be elected for terms of two years and two for terms of four years; thereafter all members shall be elected for terms of four years. In case of the death, removal of residence from the county, or resignation from office of any elected member, his successor to the unexpired term shall be appointed by the state soil and water districts commission and such appointee shall be a resident land representative of that county. A soil and water supervisor may succeed himself by reelection in this office.
3. A majority of the board of soil and water supervisors shall constitute a quorum but the concurrence of a majority of the whole board shall be required for the determination of any matter within their duties. The board of soil and water supervisors shall elect a chairman from among themselves, and the county agricultural extension agent shall be secretary of the board.
4. A soil and water supervisor shall receive no compensation for his services, but he shall be entitled to expenses, including travel expense, necessarily incurred in the discharge of his duties as a member of this board. The board of soil and water supervisors may employ within the limits of available funds such assistants as they may require in the performance of their duties and shall determine the qualifications, compensation and duties of such employees.
5. The board of soil and water supervisors shall submit to the state soil and water districts commission for its approval copies of such rules, regulations, forms and other documents as this board shall contemplate using in pursuance of their duties, and such other information concerning their activities as the soil and water commission may require in the performance of its own duties under this law.
6. The board of soil and water supervisors shall provide for the execution of surety bonds for all officers and employees who shall be entrusted with funds or property; shall keep a full and accurate record of all their proceedings and of all their resolutions and regulations issued or adopted; and shall present to the soil and water commission, for approval, a statement of annual audit of all the accounts of receipts and disbursements by the board.
7. The board of soil and water supervisors may invite the legislative body of any municipality or county located near the soil and water district to designate a representative to advise and consult with the soil and water supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.
8. The board of soil and water supervisors will assist the soil and water districts commission in the administration of a state soil and water conservation cost-share program. It may require landowner receiving state cost-share funds to enter into recordable agreements stipulating that:

- (1) If a cost-shared project or practice is altered, modified or removed so as to lessen its effectiveness for a period of ten years or the expected life of the project, whichever is less, the landowner, or his heirs, assignees, or other transferees, shall refund to the program any state money used for the project or practice; and
- (2) The landowner agrees to maintain in good order the projects and practices cost-shared by the program, except in such case as the maintenance would create undue hardship upon the landowner. In this instance, the soil and water district commission may require easements providing for right of access for the maintenance of said projects or practices.

278.120 District shall be body corporate—duties.

1. Any soil and water district organized under the provisions of this law shall be a body corporate and shall possess only such powers as herein provided, but any such powers possessed by said body corporate shall be particularly limited by the following provisos: provided, that the private property of any land representative or owner of property in such soil and water district shall be exempt from execution for the debts of the body corporate or soil and water district and no land representative or owner of property within said soil and water district shall be liable or responsible for any debts of the body corporate or soil and water district, and provided further, that no property of any character, title to which is not vested in said soil and water district, or a soil and water district, as the case may be, shall ever be subject to any lien for any claim or judgment of or against said district, or a soil and water district as the case may be. Any soil and water district so organized shall be officially known and titled "The Soil and Water District of County", and shall be so designated by the county commission by order of record, and in that name shall be capable of suing and being sued and of contracting and being contracted with.
2. A soil and water district through the board of soil and water district supervisors thereof shall have the following authority and duty in addition to other authority and duty granted in other sections of this law:
 - (1) To promote all reasonable measures for the saving of the soil and water within that soil and water district; and all such measures shall be in general agreement with those currently advocated by the college of agriculture of the University of Missouri for saving the productive power of Missouri farm land;
 - (2) To cooperate or enter into agreements with, and to aid within the limits of appropriations duly made available to it by law, any agency, government or otherwise, or any land representative within that soil and water district, in the saving of the soil and water within that district; and all such cooperations or agreements shall be in accord with the policies of the state soil and water districts commission; and any land representative of farm land within that soil and water district shall be eligible to enter into such cooperations or agreements with the soil and water supervisors; and no program or procedure of soil and water conservation shall be ordered or executed by the soil and water supervisors on any farm without the full consent and agreement of the land representative of that farm;

- (3) To make available to any land representative within that soil and water district, through existing agencies if agreements with them seem feasible, or by such other feasible means as the supervisors shall prescribe, such services, materials, and equipment as will assist such land representatives to carry on operations for the saving of the soil and water;
- (4) To accept grants, gifts, and contributions in money, services, or materials from the United States or any of its agencies, and to use or expend such grants, gifts or contributions in carrying on the soil and water district operations; and such use or expenditure shall be in accord with the policies of the state soil and water districts commission;
- (5) To make and execute contracts and other legal instruments, necessary for the saving of the soil and water in that district, subject to approval by the state soil and water districts commission;
- (6) To accept for the purpose of saving soil and water in that district, contributions in money, services or materials from any source not otherwise provided for herein, and to enter into such agreements with land representatives as will tend to prevent future wastage of the soil and water presently benefited by these contributions.

278.130 Soil and water supervisors—limitation of powers.

1. The soil and water supervisors of any soil and water district shall not:
 - (1) Have or exercise the right of eminent domain;
 - (2) Incur indebtedness beyond available funds;
 - (3) Issue bonds;
 - (4) Levy taxes;
 - (5) Make or levy benefit assessments or any other kind of assessments;
 - (6) Take contributions from that soil and water district by exactions or persuasions;
 - (7) Engage in the marketing of farm products or in the buying and selling of farm supplies other than those products or supplies used or needed directly or indirectly in soil and water conservation work, subject to section 278.135;
 - (8) Engage in agricultural research or agricultural extension teaching except under the instruction of the Missouri College of Agriculture.
2. They may accept voluntary contributions from any source, if the donations are offered for the sole and exclusive purpose of promoting the saving of soil and water within the soil and water district, and if the soil and water supervisors satisfactorily guarantee to the donors the faithful use of their donations for that purpose.

278.135 Districts engaging in soil conservation products business, approval of state soil and water commission required—complaint procedures—rulemaking authority.

1. Any soil and water conservation district engaged in the marketing or buying and selling of farm products used directly or indirectly in soil conservation shall be required to obtain approval from the state soil and water districts commission to continue such activity if the commission receives written complaints from three or more business entities. Upon request from any person, all soil and water conservation districts shall provide information on the complaint procedure provided for in this section, including information on how to contact the state soil and water districts commission.
2. The commission shall notify the district upon receiving complaints from three or more business entities pursuant to subsection 1 of this section, and request that the district provide information to the commission on the marketing, buying, and selling activity within sixty days. The commission shall consider information provided by the district and any written comments from concerned citizens and businesses in making its determination. The commission shall grant approval only upon finding that the products being marketed, bought, and sold are:
 - (1) Reasonably related to soil and water conservation; and
 - (2) Not readily available in the area. If the commission grants approval to a district, no complaints about the marketing, buying, or selling activities of such district shall be accepted by the commission from any business entity for a period of one year after the date of approval, and no such complaints shall be accepted by the commission from the same business entities that initiated the approval procedure pursuant to this section for a period of three years after the date of approval.
3. The commission shall enact rules to allow districts with a pending approval request, or districts that have had their approval denied, to sell any existing inventory of products within a reasonable time. This subsection shall not be interpreted to allow any district with a pending approval request to restock or replenish its inventory until such district has received approval from the commission.
4. The commission is authorized to adopt those rules that are reasonable and necessary to accomplish the limited duties specifically delegated within this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is promulgated under the authority delegated in this section shall become effective only if it has been promulgated pursuant to the provisions of chapter 536. This section and chapter 536, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after June 27, 2000, shall be invalid and void.

278.140 Two or more districts may cooperate.

Any two or more soil and water conservation districts organized under the provisions of this law may cooperate with one another in the exercise of any authority conferred upon such districts or of any duty described for such districts by this law.

278.145 Counties and cities may cooperate and contribute.

The county commission of any county or the governing body of any city, town or village in which a soil and water conservation district lies in whole or in part may cooperate with the supervisors of the district in carrying out the purposes of the district program, and in the event the county commission or governing body finds that the benefits accruing to the county or municipal area by reason of the program of the soil and water conservation district justify such action, the county commission or governing body may contribute money, services or the use of equipment to the district.

278.150 Disestablishment of soil and water districts—referendum—procedure.

1. The state soil and water districts commission upon receiving at any time a petition for the disestablishment of any soil and water district, said petition being signed by not less than twenty-five land representatives in each township within the area covered by the petition, shall presently call for and conduct within that district a referendum upon the disestablishment of that district; and if a majority of the land representatives voting in this referendum do vote in favor of the disestablishment, the soil and water commission shall declare that district to be disestablished, and the soil and water supervisors of that district may not thereafter enter into any contracts or agreements on behalf of that district.
2. The state soil and water districts commission upon declaring the disestablishment of any soil and water district shall take charge of all property belonging to such soil and water district, and, if practicable, may complete any contract or agreement entered into but left unfinished by the soil and water supervisors of that district. The property shall be sold or transferred to other soil and water districts, by the soil and water commission, and the proceeds from such sale shall be expended by the soil and water commission; provided, however, that such expenditure shall promote soil and water conservation in a soil and water district or in soil and water districts; and provided further, that any property purchased with county funds for the use of a soil and water district shall, upon the disestablishment of that district, be returned to the county commission of that district. The soil and water commission shall also take charge of any unspent funds contributed from private sources to the soil and water district before the disestablishment of such district, and shall either return such funds to the donor or expend such funds in the promotion of soil and water conservation according to the terms of the donation. Subsequent to the disestablishment of a soil and water district the area once comprising this district shall not be eligible to reestablishment as a soil and water district for a period of two years, but at the end of that period it may be reestablished by the same procedure, section 278.100, employed for its first establishment.

278.155 Application to existing districts.

All soil conservation districts organized prior to the effective date of sections 278.060 to 278.155 shall hereafter be known as "Soil and Water Conservation Districts" and shall be subject to the provisions of, and afforded all the privileges granted hereunder.

278.157. Soil and water conservation district considered a political subdivision for purposes of local government employees' retirement system.

1. Notwithstanding the provisions of section 70.600 to the contrary, a soil and water conservation district organized under sections 278.060 to 278.155 shall be considered a political subdivision for the purposes of sections 70.600 to 70.755, and employees of such a soil and water conservation district shall be eligible for membership in the Missouri local government employees' retirement system upon the soil and water district becoming an "employer" as defined in subdivision (11) of section 70.600.
2. Prior to the soil and water commission declaring a soil and water conservation district disestablished under section 278.150, the soil and water commission shall make a determination that all outstanding indebtedness of the soil and water conservation district has been paid, including moneys owed to any retirement plan or system in which the soil and water conservation district participates and has pledged to pay for the unfunded accrued liability of past and current employees.

278.160 Subdistricts authorized.

Subdistricts of a soil and water conservation district may be formed as provided in sections 278.160 to 278.300 for the purpose of carrying out watershed protection and flood prevention programs, for the prevention of floodwater and sediment damage and for furthering the conservation, development, utilization and disposal of water, and for increasing recreation and industrial development and for the development of agricultural water management, irrigation and drainage.

278.170 Subdistrict, petition to form, requirements.

When the landowners in a proposed subdistrict desire that a subdistrict be organized, they shall file a petition with the board of soil and water conservation district supervisors requesting a hearing and a referendum thereon. The area must be contiguous and shall include the entire hydrologic area on which a proposed plan of work is to be developed. The petition shall set forth a legal description by congressional subdivision, or otherwise, of the land suggested for inclusion in the subdistrict. The petition shall contain a brief statement giving the reason for organization, requesting that the proposed area be organized as a subdistrict and must be signed by one or more owners of fifty percent of the lands in the proposed subdistrict. Land already in one subdistrict cannot be included in another. The

supervisors shall review the petition and if found adequate shall arrange for a hearing thereon.

278.180 Hearing—notice.

Within thirty days after the petition has been filed with the board of soil and water district supervisors, they shall fix a date, hour and place for a hearing thereon and direct the secretary to cause notice to be given to the owners of each tract of land, or lot, within the proposed subdistrict, as shown by the county records, and to each lien holder or encumbrancer of any such lands as shown by the county records and to all other persons whom it may concern, and without naming individuals all actual occupants of land in the proposed subdistrict, of the pendency and prayer of the petition and that all objections to establishment of said subdistrict for any reason must be made in writing and filed with the secretary of the soil and water conservation district at or before the time set for hearing.

278.190 Publication of notice.

The notice of hearing on the formation of a subdistrict shall be by publication once each week for two consecutive weeks in some newspaper of general circulation published in the county, the last publication of which shall be not less than ten days prior to the day set for the hearing on the petition. Proof of service shall be made by affidavit of the publisher, and be on file with the secretary of the soil and water district at the time the hearing begins. Notice of the referendum shall be made in the same manner.

278.200 Feasibility determination—election.

1. The soil and water supervisors shall consider and determine whether the operation of the subdistrict within the defined boundaries as proposed is desirable, practicable, feasible, and of necessity in the interest of public health, safety, and the general welfare. All interested parties shall have a right to attend the hearing and to be heard. The soil and water supervisors may for good cause adjourn the hearing to a day certain which shall be announced at the time of adjournment and made a matter of record.
2. Upon reaching a favorable conclusion on these matters, the soil and water supervisors shall call for and conduct, or cause to be conducted, a referendum by ballot of landowners within the area of the proposed subdistrict, on the question of establishing the proposed subdistrict. If sixty-five percent of all landowners voting in this referendum, do vote in favor of this establishment, the soil and water supervisors shall declare that the subdistrict is duly organized and the action shall be recorded in their official minutes

278.210 Regulations, how approved.

The state soil and water districts commission shall develop the procedure including rules, regulations, forms and other documents to be used in the establishment of a subdistrict, and a board of supervisors shall submit to the state soil and water districts commission for its approval copies of any rules, regulations, forms and other documents as this board shall contemplate using in pursuance of their duties, and such other information concerning their activities as the soil and water commission may require in the performance of its own duties under sections 278.160 to 278.300.

278.220 Watershed district located in more than one district, procedure—certificate recorded, where.

1. If the proposed watershed district lies in more than one soil and water conservation district, the petition may be presented to the board of soil and water district supervisors of any one of the districts, and the soil and water supervisors of all the districts shall act jointly as a board of soil and water district supervisors with respect only to matters concerning the formation, consolidation, expansion, disestablishment or eminent domain activities of the watershed district. They shall organize as a single board for such purposes and shall designate the chairman, vice chairman, and secretary-treasurer to serve for terms of one year. A watershed district which lies in more than one soil and water conservation district shall be formed in the same manner and shall have the same powers and duties as a watershed district formed in one soil and water conservation district.
2. Following the entry in the official minutes of the board or boards of soil and water district supervisors of the creation of the watershed district, the soil and water supervisors shall certify this fact on a separate form, authentic copies of which shall be recorded with the recorder of deeds of each county in which any portion of the watershed district lies, and with the state soil and water districts commission.

278.240 District board of supervisors to govern watershed district, combined boards to govern, when—trustees of watershed district, how elected, terms—powers of directors—mileage reimbursement authorized.

1. The board of soil and water conservation district supervisors of the soil and water conservation district in which the watershed district is formed shall act in an advisory capacity to the watershed district board. When a watershed district lies in more than one soil and water conservation district, the combined boards of soil and water conservation district supervisors shall act in an advisory capacity to the watershed district board.
2. Five landowners living within the watershed district shall be elected to serve as trustees of the watershed district. The trustees shall be elected by a vote of landowners participating in the referendum for the establishment of the watershed district, but the date of the election shall not fall upon the date of any regular political election held in the county. The ballot submitting the proposition to form the watershed district shall be so worded as to clearly state that a tax, not to exceed forty cents on one hundred dollars valuation of all real estate within the watershed district, may be authorized if the watershed district is formed. In watershed districts formed after September 28, 1977, two trustees shall be elected for a term of six years, two shall be elected for a term of four years, and one shall be elected for a term of two years. Their successors shall be elected for terms of six years. In any district in existence on September 28, 1977, the three trustees holding office shall continue as trustees. At the next scheduled election within the watershed district, two additional trustees shall be elected. One of the additional trustees shall be elected for a term of four years and one shall be elected for a term of six years. Each successor shall be elected for a term of six years. In case of the death, loss of

landowner standing within the watershed district, or resignation from office of any elected watershed district trustee, his or her successor to the unexpired term shall be appointed by the trustees of that watershed district. A trustee may succeed himself or herself by reelection in this office. The trustees shall elect one of their members as chairman and one of their members as secretary to serve for terms of two years.

3. The trustees shall act in all matters pertaining to the watershed district, except those concerning formation, consolidation, expansion or disestablishment of the watershed district. It shall be the responsibility of the secretary of the trustees to see that each soil and water district board included in the watershed district is provided a copy of the minutes of each meeting held by the trustees. The trustees shall be reimbursed for expenses incurred relating to the business of the watershed district.

278.245 Condemnation authorized, when—other powers of governing body or trustees—taxation authorized.

The trustees of the watershed district shall have the following authority:

- (1) To acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, or through condemnation proceedings pursuant to chapter 523, RSMo, such lands, easements, or rights-of-way as are needed to carry out any authorized purpose of the watershed district; provided that notwithstanding any provision of law to the contrary, the power of eminent domain shall not be exercised:
 - (a) Over the protest of any landowner until it is established that acquisition of the land proposed to be condemned is necessary for the purposes of the watershed district; and to sell, lease or otherwise dispose of any of its property or interest therein pursuant to sections 278.160 to 278.300; and
 - (b) Unless four trustees vote in favor of the use of such power in such case.

Following approval by the trustees, a majority vote of the soil and water supervisors of all the districts included in such watershed district shall also be required prior to any use of the power of eminent domain;

- (2) To construct, repair, enlarge, improve, operate, and maintain such works of improvement as may be necessary for the performance of any of the operations authorized by sections 278.160 to 278.300;
- (3) To borrow money and to execute promissory notes and other evidences of debt in connection therewith for payment of the costs and expenses or for carrying out any authorized purpose of such watershed district, and if promissory notes are issued, to execute such mortgages on any property owned by such district, or assign or pledge such revenues or assessments of such watershed district as may be required by the lender as security for the repayment of the loan; and to issue, negotiate, and sell its bonds pursuant to section 278.280;
- (4) To levy an annual tax and organization tax on the real property within the watershed district subject to the limitations provided in section 278.250 for payment of the costs for carrying out any authorized purpose of such watershed district;

- (5) To make assessments on the real property within the watershed district for special benefits to such real property accruing as a result of the construction of any works of improvement by the watershed district.

278.250 Organization tax—annual tax for watershed district—limitation—levy—collection—lien enforcement—rate of tax—property tax (section 137.073) rate if no levy imposed for year.

1. In order to facilitate the preliminary work of the watershed district, the trustees of the watershed district may levy an organization tax not to exceed forty cents per one hundred dollars of assessed valuation of all real estate within the watershed district, the proceeds of which may be used for organization and administration expenses of the watershed district the acquisition of real and personal property, including easements for rights-of-way, necessary to carry out the purposes of the watershed district. This levy may be made one time only. The organization tax may be imposed pursuant to subsections 4 and 5 of this section.
2. After the * trustees of the watershed district have obtained agreements to carry out recommended soil conservation measures and proper farm plans from owners of not less than sixty-five percent of the lands situated in the watershed district, an annual tax may be imposed for construction, repair, alteration, maintenance and operation of the present and future works of improvement within the boundaries of the watershed district in order to participate in funds from federal sources appropriated for watershed protection and flood prevention. The annual tax may be imposed as provided for in subsections 4 and 5 of this section.
3. Within the first quarter of each calendar year, the trustees for the watershed district shall prepare an itemized budget of the funds needed for administration of the watershed district and for construction, operation and maintenance of works of improvement for the ensuing fiscal year. The budget shall be subject to the approval of the watershed district trustees pursuant to section 278.240.
4. The * trustees of the watershed district, pursuant to section 278.240, shall make the necessary levy on the assessed valuation of all real estate within the boundaries of the watershed district to raise the needed amounts, but in no event shall the levy exceed forty cents on each one hundred dollars of assessed valuation per annum and, on or before the first day of September of each year, shall certify the rate of levy to the county commission of the county or counties within which the watershed district is located with directions that at the time and in the same manner required by law for the levy of taxes for county purposes the county commission shall levy a tax at the rate so fixed and determined upon the assessed valuation of all real estate within the watershed district, in addition to such other taxes as are levied by the county commission.
5. The body having authority to levy taxes within the county shall levy the taxes provided in this law, and all officials charged with the duty of collecting taxes shall collect the taxes at the time and in the form and manner and with like interest and penalties as other taxes are collected; computation shall be made on the regular tax bills, and when collected shall pay the same to the watershed district ordering its levy and collection or entitled to the same, and the payment of such collections shall be made monthly to the treasurer of the

watershed district. The proceeds shall be kept in a separate account by the treasurer of the watershed district and identified by the official name of the watershed district in which the levy was made. Expenditures from the fund shall be made on requisition of the chairman and secretary of the watershed district board of trustees.

6. All taxes levied under this law, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same, shall, until paid, constitute a perpetual lien on and against the property taxed, and such lien shall be on a parity with the tax lien of general taxes, and no sale of such property to enforce any general tax or other lien shall extinguish the perpetual lien of watershed district taxes.
7. If the taxes levied are not paid as provided in this section, then the delinquent real property shall be sold at the regular tax sale for the payment of the taxes, interest and penalties, in the manner provided by the statutes of the state of Missouri for selling property for the nonpayment of general taxes. If there are no bids at the tax sale for the property so offered, the property shall be struck off to the county or other agency provided by law, and the county or agency shall account to the district in the same manner as provided by law for accounting for school, town, and city taxes.
8. For purposes of section 22 of article X of the Constitution of Missouri, the tax authorized in the ballot submitting the proposition to form the watershed district under section 278.240, if approved by a majority of the voters on or prior to November 4, 1980, shall be deemed the current levy authorized by law on November 4, 1980, if on that date a levy was not actually imposed or was imposed in a lesser amount. This tax shall also be considered as the 1984 tax for purposes of section 137.073, RSMo, in the event no levy was imposed by the watershed district for that year.

278.257 Consolidation of two or more subdistricts, procedure.

1. Petitions for consolidating two or more watershed subdistricts may be filed with the supervisors of the soil and water conservation district. In such cases the provisions of sections 278.170 to 278.190 in respect to the creation of a watershed subdistrict shall be observed.
2. If sixty-five percent of all landowners in each of the areas proposed to be consolidated voting in the referendum do vote in favor of the consolidation, the soil and water district supervisors shall declare the areas consolidated and the action recorded in the official minutes, except that if any subdistrict shall have issued bonds which are outstanding at the time of the consolidation, the taxes levied to pay such bonds and the interest thereon shall be an obligation of only the property within such component subdistrict.

278.258 Detachment from watershed subdistrict, procedure— certification by trustees.

1. After a watershed subdistrict has been organized and the organization tax pursuant to section 278.250 has been levied, any county in the subdistrict which has not adopted the annual tax pursuant to section 278.250 may detach from the subdistrict upon approval of such detachment of a majority of the qualified voters residing within such subdistrict in such county; however, before such detachment the watershed district trustees shall make

arrangements for the county to pay any outstanding indebtedness for services or works of improvement rendered by the subdistrict in such county.

2. Following the entry in the official minutes of the trustees of the watershed district of the detachment of the county, the watershed district trustees shall certify this fact on a separate form, authentic copies of which shall be recorded with the recorder of deeds in each county in which any portion of the watershed subdistrict lies and with the state soil and water districts commission.

278.259 Expansion of subdistrict, procedure.

1. Petitions for including additional land within a duly created and existing watershed subdistrict may be filed with the supervisors of the soil and water conservation district and in such cases the provisions of sections 278.170 to 278.190 in respect to the creation of a watershed subdistrict shall be observed.
2. If sixty-five percent of all landowners of the area proposed to be included in the existing subdistrict voting in the referendum do vote in favor of the inclusion, the proposed area shall be included in the existing subdistrict and the soil and water district supervisors shall declare the area duly included and the action recorded in their official minutes.

278.260 Cooperation with federal programs authorized.

Nothing in sections 278.160 to 278.300 shall prevent water conservation districts, flood prevention districts, drainage districts, counties or townships or other similar units of government with tax making powers from cooperating with the federal government through their program as outlined in Public Law 566, 83rd Congress (16 U.S.C.A. Section 1001 et seq.), and amended in Public Law 1018, 84th Congress, in areas where there is at present no soil and water conservation district.

278.280 Projects, how financed--special assessment appraisers, duties, compensation—assessment resolution, hearings—election—bonds—special levy.

1. When a plan of work is approved the trustees of the watershed district, pursuant to section 278.240, shall then by resolution propose that the cost of all works of improvement contemplated in the plan be paid either by a general levy against all real estate in the watershed district, subject to the limitations of section 278.250, or that such cost be paid by special assessment against lands within the watershed district to be benefited by the installation of the proposed works of improvement, or that such cost be paid by both such general levy and special assessment stating the portion to be paid by each method.
2. If the resolution of financing provides that all or any part of the cost of the works of improvement is to be paid by special assessment of benefits the trustees of the watershed district, pursuant to section 278.240, shall appoint three appraisers, who shall be residents of the state of Missouri, and who shall not be landowners in such watershed district, who shall recommend apportionment of the special assessment to the tracts of land which will receive benefits from the installation of the works of improvement proposed in the plan of work. The appraisers shall have access to all available engineering reports and data

pertaining to the works contemplated and may request additional legal counsel or engineering data from a registered professional engineer as found necessary to carry out their duties.

3. The appraisers shall proceed to view the premises and determine the value of all land or other property within or without the watershed district, to be acquired and used for rights-of-way or other works set out in the plan of work; they shall assess the amount of benefits, and the amount of damage if any, that will accrue to each governmental lot, forty-acre tract or other subdivision of land according to ownership, railroad and other rights-of-way, railroad roadways, and other property from carrying out and putting into effect the plan of work heretofore adopted, and shall make written reports of their findings to the trustees of the watershed district. Each appraiser so appointed shall be paid for his or her services and necessary expenses.
4. Upon receiving the report from the appraisers, the trustees of the watershed district, pursuant to section 278.240, shall prepare a resolution which shall contain a list of the tracts of land found to be benefited and the amount of assessment to be levied against each such tract, except that no such assessment against any tract of land shall exceed the estimated benefits to such land by such project. Such tracts of land shall be legally described and the names of the owners thereof shall be set forth beside the description of each tract so listed. After adopting such resolution the trustees of the watershed district, pursuant to section 278.240, shall fix a time and place for hearing any complaint that may be made as to the benefit to any tract of land appraised, notice of which hearing shall be given by the secretary by publication pursuant to section 278.190. The board of trustees at the hearing may alter the benefits to any tract if, in its judgment, the same has been appraised too high or too low. The hearing shall be conducted in the manner set forth in section 278.200. The trustees of the watershed district, pursuant to section 278.240, shall immediately after the hearing pass a resolution fixing the benefit assessment as to each tract of land.
5. After the resolution fixing the benefit assessment has been adopted the trustees of the watershed district, pursuant to section 278.240, shall submit the proposal for collection of such assessed benefits to the owners of the lands so assessed for approval and if bonds are to be issued the amount of the issue so proposed, the rate of interest, and the amount of any necessary tax levy in excess of the amount authorized in section 278.250. If two-thirds of the owners of such lands voting favor the proposal as submitted, it shall be adopted. The provisions of sections 278.190 to 278.210 as to notice and procedure shall apply to the referendum held pursuant to this section.
6. The trustees of the watershed district, pursuant to section 278.240, shall make the necessary general levy against all real estate in the watershed district and the special assessment against lands within the watershed district to be benefited by the improvement and shall certify the rate of levy and the amount of the special assessment to the county commission of the county or counties in which the watershed district is located with directions that at the time and in the same manner required by law for the levy of taxes for county purposes the county commission shall levy a tax at the rate so fixed and determined upon the assessed valuation of all real estate within the watershed district and shall levy the amount of the special assessment, in addition to such other taxes as are levied by the county commission.

7. The bond issue, authorized by this section in whole or part, may be offered for sale to the United States Department of Agriculture's Rural Development or other federal agency without public offering or the securing of competitive bids on such bond offering.

278.290 Disestablishment of watershed district, procedure.

1. After a watershed district has been organized for more than five years and that watershed district does not have any outstanding bonds, has not constructed or contracted to construct any works of improvement, nor incurred any continuing obligations for maintenance and operation of any works of improvement or if any works of improvement have been constructed, if there are no bonds outstanding, and an agency of the United States government or the state of Missouri or a county or municipal corporation of this state has made arrangements satisfactory to the Secretary of Agriculture and the state soil and water districts commission to assume responsibility for operating and maintaining such improvement, not less than fifty percent of the landowners of the watershed district may petition the governing body of the watershed district to call for and conduct a referendum upon the disestablishment of the watershed district. If sixty-five percent of the landowners voting in referendum do vote in favor of the disestablishment of the watershed district, the watershed district board shall declare the watershed district to be disestablished; however, prior to any such declaration the watershed district board shall pay or make arrangements to pay any outstanding indebtedness. The provisions of sections 278.190, 278.200 and 278.210 as to notice, qualification of voters and manner of holding the referendum in organizing a watershed district to the extent practicable shall apply to the referendum held pursuant to this section.
2. Following the entry in the official minutes of the board or boards of watershed district supervisors of the disestablishment of the watershed district, the watershed district supervisors shall certify this fact on a separate form, authentic copies of which shall be recorded with the recorder of deeds of each county in which any portion of the watershed district lies and with the state soil and water districts commission.
3. Whenever a watershed district is declared to be disestablished, the respective boards of supervisors of the soil and water conservation districts in which the watershed district was formed shall take charge of all property and funds of the watershed district. After all property has been sold and the obligations of the watershed district are met, any remaining funds shall be turned over to the county commissions of the respective counties.

278.300 State soil and water districts commission to control watershed district formerly under a disestablished soil and water conservation district.

If a soil and water conservation district is disestablished pursuant to section 278.150, the state soil and water districts commission shall have the same responsibilities as the soil and water conservation district with respect to formation, consolidation and disestablishment of any watershed district or portion thereof, organized within the boundaries of such soil and water conservation districts. In all other matters after a district is disestablished, the commission shall act in an advisory capacity to the watershed district board in lieu of the soil and water district board.

II. Privileged Information not Subject to Disclosure

261.130. Certain agriculture information and data not subject to disclosure, when — disclosure permitted, when.

1. For purposes of this section, the following terms shall mean:

(1) "**Agent**", a duly authorized representative of the Missouri department of agriculture or the Missouri department of natural resources;

(2) "**Agricultural land**", the same as defined in section [350.010](#);

(3) "**Agricultural operation**", any sole proprietorship, partnership, corporation, cooperative, or other business entity which derives income from farming;

(4) "**Disclose**", to publish or otherwise share with or release to individuals, business entities, political subdivisions, media outlets, or other entities;

(5) "**Farming**", the same as defined in section [350.010](#);

(6) "**Personal information**", data which is linked to a specific individual including, but not limited to, Social Security numbers, telephone numbers, and addresses;

(7) "**Voluntary participation**", participation in a government program that is not compulsory but requires the collection of specific information from an agricultural producer or owner of agricultural land in order to participate in such program.

2. Information or data in either paper or electronic form concerning an agricultural producer or owner of agricultural land that, in connection with such producer's^{**} or owner's voluntary participation in a program, is collected from or provided by an agricultural producer or owner of agricultural land that is related to a farmer's personal information, their agricultural operation, farming or conservation practices, environmental or production data, details on assets of their farm, or the land itself and any geospatial information maintained by the Missouri department of agriculture or by the Missouri department of natural resources based on agricultural land or operations where a farmer's agricultural operation, farming or conservation practices, environmental or production data, details on assets of their farm, or the land itself is depicted or identified shall not be considered a public record and shall not be subject to disclosure under [chapter 610](#). Further, such information shall not be disclosed to agents of the department of agriculture or the department of natural resources unless such disclosure complies with subsection 3 of this section.

3. The department of agriculture and the department of natural resources may disclose the information or data described in subsection 2 of this section to agents only if:

(1) Such information or data will not be subsequently disclosed beyond such agent except in accordance with subsection 4 of this section;

(2) Such agent is providing technical or financial assistance with respect to the agricultural operation, agricultural land, or farming or conservation practices, and so long as there is a written agreement in place between the parties certifying adherence to this section; or

(3) Such agent is responding to an agricultural disease or pest threat or other related emergency impacting agricultural operations, if the director of the department of agriculture and the director of the department of natural resources both determine that a threat to agricultural operations exists and the disclosure of information to a person or cooperating government entity is necessary to assist such departments in responding to the disease or pest threat or emergency.

4. Nothing in this section shall prevent:

(1) The disclosure of information described in subsection 2 of this section in paper format if such information has been transformed into a statistical or aggregate form, or from an electronic database where such information can be compiled for distribution into a statistical or aggregate form, that prevents the information from directly or indirectly naming or identifying any individual owner, operator, producer, or operation or a specific data gathering site;

(2) The disclosure of information described in subsection 2 of this section pursuant to the expressed written consent of both the agriculture producer and owner of agriculture land; or

(3) The disclosure of information or data required by law as a condition of compliance with any of the departments' regulatory functions;

(4) The disclosure of information collected not in connection with a producer's^{**} or owner's voluntary participation in a government program.

5. The participation of an agricultural producer or owner of agricultural land in, or receipt of any benefit under, any program administered by the department of agriculture or the department of natural resources shall not be conditioned on the consent of the agricultural producer or owner of agricultural land under subdivision (2) of subsection 4 of this section.

Procedures for Implementing 261.130.

1. Board Meetings

- a. When discussing landowner information, conservation practices, and conservation plans for the state cost-share and/or federal programs during board meetings, the SWCD board must go into closed session.
- b. When the SWCD goes into closed session the board will cite the following: "to discuss legal, confidential, or privileged matters under section 610.021(1) which are otherwise protected from disclosure by law."
- c. When in closed session the SWCD can discuss landowner names, conservation practices, conservation plans and farm/field locations as needed. Once the board has completed their discussion in closed session, the board will vote to end the closed session.
- d. When back in open session, the board will vote to approve the cost-share contracts, change orders and contract payments, in addition to federal conservation plans. When approving these documents in open session, only the contract number and cost-share amount can be mentioned. The meeting minutes must include a report that lists the contract number and cost share amount for all approved contracts, change orders, and contract payments. Landowner names and practice types should not be included in the meeting minutes or attached reports. A general statement such as "the SWCD board approved conservation plans", should be shown in your minutes.

2. In Office Procedures

- a. SWCD staff must also be cognizant of this law when communicating with landowners. Staff must make sure that all protected information is secured so as to not be visible to the public. This may require not allowing landowners' access to the staff work area, and alternatively meeting at the front counter or a separate work station.
- b. Discussing landowner names and practices among office staff and partners that are providing assistance to those landowners is acceptable. Working documents that list landowner name and practice may be shared with other staff and partners as well. Care should be taken that these documents are not shared in public.
- c. Documents that list landowner name and practice cannot be shared with contractors. The only exception to this is if a landowner has given the SWCD written permission to discuss their cost share information with a specific contractor.

3. Sunshine Law Policy

All SWCDs must also update their current Sunshine Law policy to include information on RSMO 261.130, and what the SWCD is doing to meet the requirements of this statute. Information on conducting board meetings, information/education activities and in-office procedures must all be included.

4. Commission Requests and Appeals

If the SWCD submits a Commission request or appeal for cost-share, the letter submitted by the SWCD must not include the landowner's name. Since the Commission

meeting is a public meeting, the landowner's name cannot be mentioned; although the contract number and dollar amount should be in the request letter.

5. Information/Education Activities

When the SWCD is conducting an educational event, such as a tour or field day, the district must get written permission from the landowner to discuss the practices that will be highlighted. Also, if a landowner is receiving an award, the district must get written permission from the landowner (who is the cooperator on the contracts) before they can publicly discuss any of the conservation practices that the landowner installed.

III. Chapter 610 Conduct of Public Business (Missouri Sunshine Law)

The State's most current open meetings and records law booklet, containing the actual law, can be obtained from the Office of the Attorney General, P.O. Box 899, Jefferson City, Missouri, 65102 or at the following website <https://ago.mo.gov/missouri-law/sunshine-law>.

Sunshine Law Summary

1. When in doubt, a meeting or record of a public body should be opened to the public.
2. The Sunshine Law applies to all records, regardless of what form they are kept in, and to all meetings, regardless of the manner in which they are held.
3. The Sunshine Law allows a public body to close meetings and records to the public in some limited circumstances, but it almost never requires a public body to do so.
4. Except in emergency situations, a public body must give at least 24 hours' public notice before holding a meeting. If the meeting will be closed to the public, the notice must state the specific provision within Section 610.021, RSMo., that allows the meeting to be closed.
5. Each public body must have a written Sunshine Law policy and a custodian of records whose name is available to the public upon request.
6. The Sunshine Law requires a custodian of records to respond to a records request as soon as possible but no later than three business days after the custodian receives it.
7. The Sunshine Law deals with whether a public body's records must be open to the public, but it generally does not state what records the body must keep or for how long. A body cannot, however, avoid a records request by destroying records after it receives a request for those records. For more information concerning records retention schedules, please visit the Missouri Secretary of State's Website – the Local Records Division for local public governmental bodies, and the Records Management Division for state agencies.
8. The Sunshine Law allows for public meetings to be both audio and video recorded by attendees. Each public governmental body may set up guidelines regarding the recording process. These guidelines can be found in the body's Sunshine Law Policy. No one is allowed to record a closed meeting, if they are not given permission to do so.

9. When responding to a request for copies of its records, the Sunshine Law limits how much a public body can charge – per page, and per hour – for copying and research costs.
10. There are specific provisions governing access to law enforcement and judicial records.