

CHAPTER 23**SOIL AND WATER CONSERVATION DISTRICTS***S.F. 382*

AN ACT relating to soil conservation districts, by changing the name to soil and water conservation districts.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 25A.2, subsection 1, Code 1987, is amended to read as follows:

1. "State agency" includes all executive departments, agencies, boards, bureaus, and commissions of the state of Iowa, and corporations whose primary function is to act as, and while acting as, instrumentalities or agencies of the state of Iowa, whether or not authorized to sue and be sued in their own names. This definition does not include any contractor with the state of Iowa. Soil and water conservation districts as defined in section 467A.3, subsection 1, water resource districts as defined in section 467D.2, subsection 1, judicial district departments of correctional services as established in section 905.2, and regional boards of library trustees as defined in chapter 303B, are state agencies for purposes of this chapter.

Sec. 2. Section 39.21, subsection 3, Code 1987, is amended to read as follows:

3. Soil and water conservation district commissioners as required by section 467A.5.

Sec. 3. Section 108.10, Code 1987, is amended to read as follows:

108.10 ARTIFICIAL LAKES — SOIL CONSERVATION.

In the construction of artificial lakes on intermittent streams, for which funds ~~may hereafter be~~ are appropriated by the general assembly, the commission shall not proceed with actual construction work unless and until soil conservation practices are in effect on at least seventy-five ~~percentum~~ percent of the land comprising the watershed of the proposed impoundment, or a willingness to carry on such practices ~~shall have~~ has been shown by the owners or operators of seventy-five ~~percentum~~ percent of ~~said~~ the land by signing of a soil conservation farm plan and co-operative agreements with the local soil and water conservation district governing body.

Sec. 4. Section 175.3, subsection 1, Code 1987, is amended to read as follows:

1. The agricultural development authority is established within the department of agriculture and land stewardship. The authority is constituted a public instrumentality and agency of the state exercising public and essential governmental functions. The authority is established to undertake programs which assist beginning farmers in purchasing agricultural land and agricultural improvements and depreciable agricultural property for the purpose of farming, and programs which provide financing to farmers for permanent soil and water conservation practices on agricultural land within the state or for the acquisition of conservation farm equipment, and programs to assist farmers within the state in financing operating expenses and cash flow requirements of farming. The authority shall also develop programs to assist qualified agricultural producers within the state with financing other capital requirements or operating expenses. The powers of the authority are vested in and exercised by a board of eleven members with nine members appointed by the governor subject to confirmation by the senate. The treasurer of state or the treasurer's designee and the secretary of agriculture or the secretary's designee are ex officio nonvoting members. No more than five appointed members shall belong to the same political party. As far as possible the governor shall include within the membership persons who represent financial institutions experienced in agricultural lending, the real estate sales industry, farmers, beginning farmers, average taxpayers, local government, soil and water conservation district officials, and other persons specially interested in family farm development.

Sec. 5. Section 175.34, subsection 2, paragraphs a, c, and e, Code 1987, are amended to read as follows:

a. Loans made pursuant to the soil conservation loan program shall only be made to the owner or operator of a farm located within the state for which a conservation plan has been developed by the soil and water conservation district and the project for which the loan is to be made has been approved by the district. However, loans under the soil conservation loan program for implementation of a permanent soil and water conservation practice shall not be remitted to the applicant until the applicant provides evidence that payment of the permanent soil and water conservation practice is arranged for and the soil and water conservation district certifies that the practice is completed and approved.

c. The division of soil conservation or any other state agency and the commissioners and staffs of the soil and water conservation districts ~~are authorized to~~ may provide technical and financial assistance to the authority or in connection with the soil conservation loan program to assure the success of this program.

e. If a cooperator of a soil and water conservation district qualifies for cost sharing under a state soil conservation cost share program, the cooperator is eligible for a loan request. In granting these requests the authority shall give preference to those with the lower net worths.

Sec. 6. Section 176B.3, subsection 1, paragraph b, Code 1987, is amended to read as follows:

b. Two members appointed by the district soil and water conservation commissioners, one of whom must be a member of the district soil conservation board of commissioners and one must be a person who is not a commissioner, but is actively operating a farm in the county.

Sec. 7. Section 306.50, Code 1987, is amended to read as follows:

306.50 CONSTRUCTION PROGRAM NOTICE.

The appropriate highway authority shall provide copies of its annual construction program to the soil and water conservation district commissioners' office in each county. The soil and water conservation district commissioners' office shall review the construction program submitted by each highway authority to determine those projects which may impact upon soil erosion and water diversion or retention.

Sec. 8. Section 306.51, Code 1987, is amended to read as follows:

306.51 SOIL EROSION IMPACT.

The soil and water conservation district commissioners shall, within thirty days after receipt of the construction program, notify the appropriate highway authority of the projects which will impact upon soil erosion and water drainage and request that the appropriate highway authority notify them of the date, time, and place for holding the design hearing on preliminary plans.

Sec. 9. Section 306.52, Code 1987, is amended to read as follows:

306.52 REVIEW OF PLANS.

Upon examining the preliminary plans on a road project, the soil and water conservation district commissioners may review each road project for which a drainage structure is required. The soil and water conservation commissioners shall ascertain whether or not the proposed erosion control or runoff control structure is suitable to reduce the velocity of runoff, reduce gully erosion, or provide for sedimentation or other improvement that would enhance soil conservation. The soil and water conservation commissioners shall also ascertain whether any other aspect of the road construction will affect soil and water conservation.

Sec. 10. Section 306.53, Code 1987, is amended to read as follows:

306.53 SUBMISSION OF RECOMMENDATIONS — CONTRIBUTION TO COST.

The soil and water conservation district commissioners shall submit their findings and recommendations to the appropriate highway authority not later than twenty days following examination of the construction plans.

The appropriate highway authority shall respond to the soil and water conservation district commissioners and indicate its agreement to the suggested installation or its rejection of the proposal.

Where feasible and cost-sharing funds are available, the soil and water conservation district may contribute in part or in its entirety to any additional cost for the erosion control structure.

Sec. 11. Section 306.54, Code 1987, is amended to read as follows:
306.54 REPORTING.

If the proposal is rejected, the appropriate highway authority shall provide a written report documenting the reason for the rejection to the soil and water conservation district commissioners and the state department of transportation. The state department of transportation shall submit a written report to the general assembly not later than March 1 of each year. The report shall contain only a list of those highway projects where a disagreement exists between the department and the soil and water conservation district commissioners and the reasons for rejecting the recommendations of the soil and water conservation district commissioners. The report shall be filed with the secretary of the senate and the chief clerk of the house of representatives.

Sec. 12. Section 427.1, subsection 33, Code 1987, is amended to read as follows:

33. Impoundment structures. The impoundment structure and any land underlying an impoundment located outside ~~any~~ an incorporated city, which are not developed or used directly or indirectly for nonagricultural income-producing purposes and which are maintained in a condition satisfactory to the soil and water conservation district commissioners of the county in which the impoundment structure and the impoundment are located. ~~Any~~ A person owning land which qualifies for a property tax exemption under this subsection shall apply to the county assessor each year before the first of July for the exemption. The application shall be made on forms prescribed by the department of revenue and finance. The first application shall be accompanied by a copy of the water storage permit approved by the administrator of the environmental protection division of the department of natural resources and a copy of the plan for the construction of the impoundment structure and the impoundment. The construction plan shall be used to determine the total acre-feet of the impoundment and the amount of land which is eligible for the property tax exemption status. The county assessor shall annually review each application for the property tax exemption under this subsection and submit it, with the recommendation of the soil and water conservation district commissioners, to the board of supervisors for approval or denial. ~~Any~~ An applicant for a property tax exemption under this subsection may appeal the decision of the board of supervisors to the district court. As used in this subsection, "impoundment" means ~~any~~ a reservoir or pond which has a storage capacity of at least eighteen acre-feet of water or sediment at the time of construction; "storage capacity" means the total area below the crest elevation of the principal spillway including the volume of any excavation in ~~such~~ the area; and "impoundment structure" means ~~any~~ a dam, earthfill, or other structure used to create an impoundment.

Sec. 13. Section 427.1, subsection 36, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Application for this exemption shall be filed with the commissioners of the soil and water conservation district in which the property is located, or if not located in a district, to the board of supervisors, not later than April 15 of the assessment year, on forms provided by the department of revenue and finance. However, in the case of an exemption granted for wetlands an application does not have to be filed for the second and third years of the three-year exemption period. The application shall describe and locate the property to be exempted and have attached to it an aerial photo of that property on which is outlined the boundaries of the property to be exempted. In the case of an open prairie which is or includes a gully area susceptible to severe erosion, an approved erosion control plan must accompany the application. Upon

receipt of the application, the commissioners or the board of supervisors, if the property is not located in a soil and water conservation district, shall certify whether the property is eligible to receive the exemption. The commissioners or board shall not withhold certification of the eligibility of property because of the existence upon the property of an abandoned building or structure which is not used for economic gain. If the commissioners certify that the property is eligible, the application shall be forwarded to the board of supervisors by May 1 of that assessment year with the certification of the eligible acreage. An application must be accompanied by an affidavit signed by the applicant that if an exemption is granted, the property will not be used for economic gain during the assessment year in which the exemption is granted.

Sec. 14. Section 427.1, subsection 36, unnumbered paragraph 5, Code 1987, is amended to read as follows:

The board of supervisors does not have to grant tax exemptions under this subsection, grant tax exemptions in the aggregate of the maximum acreage which may be granted exemptions, or grant a tax exemption for the total acreage for which the applicant requested the exemption. Only real property in parcels of two acres or more which is wetlands, recreational lakes, forest cover, river and stream, river and stream banks, or open prairie and which is utilized for the purposes of providing soil erosion control or wildlife habitat or both, and which is subject to property tax for the fiscal year for which the tax exemption is requested, is eligible for the exemption under this subsection. However, in addition to the above, in order for a gully area which is susceptible to severe erosion to be eligible, there must be an erosion control plan for it approved by the commissioners of the soil and water conservation district in which it is located or the state soil and water conservation committee if not located in a district. In the case of an exemption for river and stream or river and stream banks, the exemption shall not be granted unless there is included in the exemption land located at least thirty-three feet from the ordinary high water mark of the river and stream or river and stream banks. Property shall not be denied an exemption because of the existence upon the property of an abandoned building or structure which is not used for economic gain. If the real property is located within a city, the approval of the governing body must be obtained before the real property may be is eligible for an exemption. For purposes of this subsection:

Sec. 15. Section 455.135, subsection 1, paragraph c, Code 1987, is amended to read as follows:

c. If the estimated cost of any a repair exceeds ten thousand dollars, or seventy-five percent of the original total cost of the district and subsequent improvements, whichever is the greater amount, the board shall set a date for a hearing on the matter of making the proposed repairs, and shall give notice as provided in sections 455.20 to 455.24. If a hearing is required and the estimated cost of the repair exceeds twenty-five thousand dollars, an engineer's report or a report from the soil and water conservation district conservationist shall be presented at the hearing. The requirement of a report may be waived by the board if a prior report on the repair exists and that report is less than ten years old. The board shall not divide proposed repairs into separate programs in order to avoid the notice and hearing requirements of this paragraph. At the hearing the board shall hear objections to the feasibility of the proposed repairs, and following the hearing the board shall order that the repairs it deems desirable and feasible be made. Any interested party has the right of appeal from such orders in the manner provided in this chapter.

Sec. 16. Section 467A.3, subsection 1, Code 1987, is amended to read as follows:

1. "District" or "soil and water conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized for the purposes, with the powers, and subject to the restrictions hereinafter in this chapter set forth.

Sec. 17. Section 467A.4, subsection 4, paragraphs a, c, and e are amended to read as follows:

a. To offer ~~such~~ assistance as may be appropriate to the commissioners of soil and water conservation districts in carrying out any of their powers and programs.

c. To co-ordinate the programs of the ~~several~~ soil and water conservation districts so far as this may be done by advice and consultation.

e. To disseminate information throughout the state concerning the activities and program of the soil and water conservation districts.

Sec. 18. Section 467A.5, subsection 1, Code 1987, is amended to read as follows:

1. The one hundred soil and water conservation districts established in the manner which was prescribed by law prior to July 1, 1975 shall continue in existence with the boundaries and the names in effect on July 1, 1975. If the existence of any a district so established is discontinued pursuant to section 467A.10, a petition for re-establishment of the district or for annexation of the former district's territory to any other abutting district may be submitted to, and shall be acted upon by, the state soil conservation committee in substantially the manner provided by section 467A.5, Code 1975.

Sec. 19. Section 467A.6, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The commissioners of each soil and water conservation district shall convene on the first day of January that is not a Sunday or holiday in each odd-numbered year. Those commissioners whose term of office begins on that day shall take the oath of office prescribed by section 63.10. The commissioners shall then organize by election of a chairperson and a vice chairperson.

Sec. 20. Section 467A.7, unnumbered paragraph 1, and subsections 14, 15, and 16, Code 1987, are amended to read as follows:

A soil and water conservation district organized under the provisions of this chapter shall have has the following powers, in addition to others granted in other sections of this chapter:

14. Subject to the approval of the state soil conservation committee, to change the name of ~~such~~ the soil and water conservation district.

15. To take notice of the water resource district plan, and conform to the duly promulgated rules of the water resource district or water resource districts in which the soil and water conservation district is located; ~~provided that.~~ However, this subsection does not grant any authority not otherwise granted by law to the commissioners of soil and water conservation districts.

16. The commissioners shall, as a condition for the receipt of any state cost-sharing funds for permanent soil conservation practices, require the owner of the land on which the practices are to be established to covenant and file, in the office of the soil and water conservation district of the county in which the land is located, an agreement identifying the particular lands upon which the practices for which state cost-sharing funds are to be received will be established, and providing that the project will not be removed, altered, or modified so as to lessen its effectiveness without the consent of the commissioners, obtained in advance and based on guidelines drawn up by the state soil conservation committee, for a period of twenty years after the date of receiving payment. The commissioners shall assist the division in the enforcement of this subsection. The agreement does not create a lien on the land, but is a charge personally against the owner of the land at the time of removal, alteration, or modification if an administrative order is made under section 467A.61, subsection 3.

Sec. 21. Section 467A.10, unnumbered paragraph 1, Code 1987, is amended to read as follows:

At any time after five years after the organization of a district under this chapter, any twenty-five owners of land lying within the boundaries of the district, but in no case less than twenty percent of the owners of land lying within the district, may file a petition with the division asking that the operations of the district be terminated and the existence of the district discontinued. The committee may conduct public meetings and public hearings upon the petition as necessary to assist in the consideration of the petition. Within sixty days after a peti-

tion has been received by the division, the division shall give due notice of the holding of a referendum, shall supervise the referendum, and shall issue appropriate rules governing the conduct of the referendum, the question to be submitted by ballots upon which the words "For terminating the existence of the _____ (name of the soil and water conservation district to be here inserted)" and "Against terminating the existence of the _____ (name of the soil and water conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of the propositions as the voter favors or opposes discontinuance of the district. All owners of lands lying within the boundaries of the district are eligible to vote in the referendum. No informalities in the conduct of the referendum or in any matters relating to the referendum invalidate the referendum or the result of the referendum if notice was given substantially as provided in this section and if the referendum was fairly conducted.

Sec. 22. Section 467A.13, Code 1987, is amended to read as follows:

467A.13 PURPOSE OF SUBDISTRICTS.

Subdistricts of a soil and water conservation district may be formed as hereinafter provided in this chapter for the purposes of co-operating with water resource districts and of carrying out watershed protection and flood prevention programs within the subdistrict but may shall not be formed solely for the purpose of establishing or taking over the operation of an existing drainage district.

Sec. 23. Section 467A.14, Code 1987, is amended to read as follows:

467A.14 PETITION TO FORM.

When the landowners in a proposed subdistrict desire that a subdistrict be organized, they shall file a petition with the commissioners of the soil and water conservation district. The area must be contiguous and in the same watershed but in no event it shall it not include any area located within the boundaries of an incorporated city. The petition shall set forth an intelligible description by congressional subdivision, or otherwise, of the land suggested for inclusion in the subdistrict and shall state whether the special annual tax or special benefit assessments will be used, or whether the use of both is contemplated. The petition shall contain a brief statement giving the reasons for organization, and requesting that the proposed area be organized as a subdistrict, and must be signed by sixty-five percent of the landowners in the proposed subdistrict. Land already in one subdistrict cannot be included in another. The soil and water conservation district commissioners shall review such the petition and if it is found adequate shall arrange for a hearing thereon on it.

Sec. 24. Section 467A.15, Code 1987, is amended to read as follows:

467A.15 NOTICE AND HEARING.

Within thirty days after such a petition has been filed with the soil and water district commissioners, 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 transfer books of the auditor's office, and to each lienholder, 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 purpose of said the petition and that all objections to establishment of said the 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. The soil and water conservation district commissioners 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 health, safety, and public welfare. All interested parties shall have a right to may attend such the hearing and to be heard. The soil and water district commissioners 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. If the soil and water district commissioners determine that the petition meets the requirements set forth

~~herein in this section~~ and in section 467A.5, they shall declare that the subdistrict is duly organized and shall record such action in their official minutes together with an appropriate official name, or designation for the subdistrict.

Sec. 25. Section 467A.17, Code 1987, is amended to read as follows:
467A.17 SUBDISTRICT IN MORE THAN ONE DISTRICT.

If the proposed subdistrict lies in more than one soil and water conservation district, the petition may be presented to the commissioners of any one of such districts, and the commissioners of all such districts shall act jointly as a board of commissioners with respect to all matters concerning ~~such~~ the subdistrict, including its formation. They shall organize as a single board for such purposes and shall designate its chairperson, vice chairperson, and secretary-treasurer to serve for terms of one year. Such a subdistrict shall be formed in the same manner and ~~shall have~~ has the same powers and duties as a subdistrict formed in one soil and water conservation district.

Sec. 26. Section 467A.18, Code 1987, is amended to read as follows:
467A.18 AUTHENTICATION.

Following the entry in the official minutes of the soil and water district commissioners of the creation of the subdistrict, the commissioners shall certify this fact on a separate form, authentic copies of which shall be recorded with the county recorder of each county in which any portion of the subdistrict lies, and with the division of soil conservation.

Sec. 27. Section 467A.19, Code 1987, is amended to read as follows:
467A.19 GOVERNING BODY.

The commissioners of a soil and water conservation district in which the subdistrict is formed ~~shall be~~ are the governing body of the subdistrict. When a subdistrict lies in more than one soil and water conservation district, the combined board of commissioners ~~shall be~~ is the governing body. The governing body of the subdistrict shall appoint three trustees living within the subdistrict to assist with the administration of the subdistrict.

Sec. 28. Section 467A.21, Code 1987, is amended to read as follows:
467A.21 CONDEMNATION BY SUBDISTRICT.

A subdistrict of a soil and water conservation district may condemn land or rights or interests ~~therein in the subdistrict~~ to carry out the authorized purposes of the subdistrict.

Sec. 29. Section 467A.22, Code 1987, is amended to read as follows:
467A.22 GENERAL POWERS APPLICABLE — WARRANTS OR BONDS.

A subdistrict organized under ~~the provisions of this chapter~~ shall ~~have~~ has all of the powers of a soil and water conservation district in addition to other powers granted to the subdistrict in other sections of this chapter.

The governing body of the subdistrict, upon determination that benefits from works of improvement as set forth in the watershed work plan to be installed will exceed costs thereof, and that funds needed for purposes of the subdistrict require levy of a special benefit assessment as provided in section 467A.23, in lieu of the special annual tax as provided in section 467A.20, shall record its decision to use ~~said~~ its taxing authority and ~~shall have authority~~, upon majority vote of ~~said~~ the governing body and with the approval of the state soil conservation committee, ~~to~~ may issue warrants or bonds payable in not more than forty semiannual installments in connection ~~therewith~~ with the special benefit assessment, and ~~to~~ pledge and assign the proceeds of the special benefit assessment and other revenues of the subdistrict as security ~~therefor~~ for the warrants or bonds. ~~Such~~ The warrants and bonds of indebtedness shall ~~be~~ are general obligations of the subdistrict, exempt from all taxes, state and local, and ~~in no event shall such warrants and bonds constitute an~~ are not indebtedness of the soil and water conservation district or the state of Iowa.

Sec. 30. Section 467A.42, subsections 1, 5, 7, and 8, Code 1987, are amended to read as follows:

1. "Soil loss limit" means the maximum amount of soil loss due to erosion by water or wind, expressed in terms of tons per acre per year, which the commissioners of the respective soil and water conservation districts shall determine is acceptable in order to meet the objectives expressed in section 467D.1.

5. "Farm unit" means a single contiguous tract of agricultural land, or two or more adjacent tracts of agricultural land, located within a single soil and water conservation district, upon which farming operations are being conducted by a person who owns or is purchasing or renting all of such the land, or by that person's tenant or tenants. If a landowner has multiple farm tenants, the land on which farming operations are being conducted by each tenant shall constitute a separate farm unit. This definition does not prohibit land which is within a single soil and water conservation district and is owned or being purchased by the same person, or is being rented by the same tenant, from being treated as two or more farm units if the commissioners of the soil and water conservation district deem it preferable to do so.

7. "Farm unit soil conservation plan" means a plan jointly developed by the owner and, if appropriate, the operator of a farm unit and the commissioners of the soil and water conservation district within which that farm unit is located, based on the conservation folder for that farm unit and identifying those permanent soil and water conservation practices and temporary soil and water conservation practices the use of which may be expected to prevent soil loss by erosion from that farm unit in excess of the applicable soil loss limit or limits. The plan shall if practicable identify alternative practices by which this objective may be attained.

8. "Conservation agreement" means a commitment by the owner or operator of a farm unit to implement a farm unit soil conservation plan or, with the approval of the commissioners of the soil and water conservation district within which the farm unit is located, a portion of a farm unit soil conservation plan. The commitment shall be conditioned on the furnishing by the soil and water conservation district of such technical or planning assistance in the establishment of, and cost sharing or other financial assistance for establishment and maintenance of the soil and water conservation practices necessary to implement the plan, or a portion of the plan.

Sec. 31. Section 467A.44, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The commissioners of each soil and water conservation district shall, with approval of and within time limits set by administrative order of the division, adopt reasonable regulations as are deemed necessary to establish a soil loss limit or limits for the district and provide for the implementation of the limit or limits, and may subsequently amend or repeal their regulations as they deem necessary. The division shall review the soil loss limit regulations adopted by the soil and water conservation districts at least once every five years, and shall recommend changes in the regulations of a soil and water conservation district which the division deems necessary to assure that the district's soil loss limits are reasonable and attainable. The commissioners may:

Sec. 32. Section 467A.45, Code 1987, is amended to read as follows:

467A.45 SUBMISSION OF REGULATIONS TO DIVISION — HEARING.

Regulations which the commissioners propose to adopt, amend, or repeal shall be submitted to the division, in a form prescribed by the division, for its approval. The division may approve the regulations as submitted, or with amendments as it deems necessary. The commissioners shall, after approval, publish notice of hearing on the proposed regulations, as approved, in a newspaper of general circulation in the district, setting a date and time not less than ten nor more than thirty days after the publication when a hearing on the proposed regulations will be held at a specified place. The notice shall include the full text of the proposed regulations or shall state that the proposed regulations are on file and available for review at the office of the affected soil and water conservation district.

Sec. 33. Section 467A.47, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The commissioners of any a soil and water conservation district shall inspect or cause to

be inspected any land within the district, upon receipt of a written and signed complaint, from an owner or occupant of land being damaged by sediment, that soil erosion is occurring ~~thereon on the land~~ in excess of the limits established by the district's soil erosion control regulations. If they find that sediment damages are occurring to property owned or occupied by the person filing the complaint and that ~~such~~ excess soil erosion is ~~so~~ occurring on the land inspected, they shall issue an administrative order to the landowner or landowners of record, and to the occupant of the land if known to the commissioners, describing ~~said~~ the land and stating as nearly as possible the extent to which soil erosion ~~thereon on the land~~ exceeds the limits established by the district's regulations. The order shall be delivered either by personal service or by restricted certified mail to each of the persons to whom it is directed, and shall:

Sec. 34. Section 467A.48, subsection 2, Code 1987, is amended to read as follows:

2. The division shall review these requirements once each year, and may authorize soil and water conservation district commissioners to make the mandatory establishment of any specified soil and water conservation practice in any particular case conditional on a higher proportion of public cost-sharing than is required by this section. When the commissioners have been so authorized, they shall, in determining the amount of cost-sharing for establishment of a specified soil and water conservation practice to comply with an administrative order issued pursuant to section 467A.47, consider the extent to which the practice will contribute benefits to the public in relation to the benefits that will accrue to the individual owner or occupant of the land on which the practice is to be established. Evidence that an application for public or other cost-sharing funds, from a source or sources having authority to pay a portion of the cost of work needed to comply with an administrative order issued pursuant to section 467A.47, has been submitted to the proper officer or agency constitutes commencement of the work within the meaning of sections 467A.43 through 467A.53.

Sec. 35. Section 467A.53, Code 1987, is amended to read as follows:

467A.53 CO-OPERATION WITH OTHER AGENCIES.

Soil and water conservation districts ~~are hereby authorized to may~~ enter into agreements with the federal government or any agency ~~thereof of the federal government~~, as provided by state law, or with the state of Iowa or any agency ~~thereof of the state~~, any other soil and water conservation district or water resource district, or other political subdivision of this state, for co-operation in preventing, controlling, or attempting to prevent or control, soil erosion. Soil and water conservation districts may accept, as provided by state law, any money disbursed for soil erosion control purposes by the federal government or any agency ~~thereof of the federal government~~, and expend ~~such~~ the money for the purposes for which it was received.

Sec. 36. Section 467A.54, Code 1987, is amended to read as follows:

467A.54 STATE AGENCY CONSERVATION PLANS — EXEMPTIONS.

Each state agency shall enter into an agreement with the soil and water conservation district in which the state agency has public land under its control in cultivation. The agreement shall contain a plan of the state agency to prevent soil erosion in excess of soil loss limits by the use of soil and water conservation practices and erosion control practices. This section applies to all public land which is used for horticultural or agricultural purposes. State soil conservation cost-sharing funds shall not be used on these public lands. Conservation plans required by this section shall be completed by July 1, 1986, and implementation shall occur consistent with the schedule contained in the conservation plan. Application for exemption from this section may be submitted to the appropriate soil and water conservation district. The exemption shall be granted for land upon which soil management research for the purposes of the study, evaluation, understanding and control of erosion, sedimentation and run-off water is conducted by or in conjunction with institutions governed by the board of regents.

Sec. 37. Section 467A.61, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

In addition to the authority granted by section 467A.47, the commissioners of ~~any~~ a soil and water conservation district may inspect or cause to be inspected any land within the district on which they have reasonable grounds to believe that soil erosion is occurring in excess of the limits established by the district's soil erosion control regulations. If the commissioners find from an inspection conducted under authority of either section 467A.47 or this section that soil erosion is occurring on that land in excess of the applicable soil loss limits established by the district's soil erosion control regulations, they shall send notice of that finding to the landowner or landowners of record, and to the occupant of the land if known to the commissioners. The notice shall describe the land affected and shall state as nearly as possible the extent to which soil erosion from that land exceeds the applicable soil loss limits.

Sec. 38. Section 467A.61, subsection 2, Code 1987, is amended to read as follows:

2. Beginning January 1, 1985, or five years after the completion of the conservation folder for a particular farm unit pursuant to this section, whichever date is later, the commissioners of the soil and water conservation district in which that farm unit is located may petition the district court for an appropriate order with respect to that farm unit if its owner or occupant has been sent a notice by the commissioners under subsection 1, paragraph "b" for three or more consecutive years. The commissioners' petition shall seek a court order which states a time not more than six months after the date of the order when the owner or occupant must commence, and a time when the owner or occupant must complete the steps necessary to comply with the order. The time allowed to complete the establishment of ~~any~~ a temporary soil and water conservation practice employed to comply or advance toward compliance with the court's order shall be not more than one year after the date of that order, and the time allowed to complete the establishment of ~~any~~ a permanent soil and water conservation practice employed to comply with the court's order shall be not more than five years after the date of that order. ~~The provisions of section~~ Section 467A.48 shall apply ~~applies~~ to a court order issued under this subsection. The steps required of the farm unit owner or operator by the court order shall be are those which are necessary to do one of the following:

Sec. 39. Section 467A.62, Code 1987, is amended to read as follows:

467A.62 DUTIES OF COMMISSIONERS AND OF OWNERS AND OCCUPANTS OF AGRICULTURAL LAND — RESTRICTIONS ON USE OF COST-SHARING FUNDS.

The commissioners of each soil and water conservation district shall seek to implement or to assist in implementing the following requirements:

1. Each farm unit shall be furnished a conservation folder complying with the rules of the department by the soil and water conservation district in which the farm unit is located, not later than January 1, 1985, or as soon thereafter as adequate funding is available to permit completion of a conservation folder for every farm unit in the state. Technical assistance in the development of the conservation folder may be provided by the United States department of agriculture soil conservation service through the memorandum of understanding with the district or by the department. The department shall provide by rule that an updated farm plan prepared for a particular farm unit within ten years prior to the effective date of this subsection shall be considered an adequate replacement for the conservation folder for that farm unit. Upon completion of the conservation folder for a particular farm unit, the district shall send the owner of that farm unit, and also the operator of the farm unit if known by the commissioners to be other than the owner, a letter offering that person or those persons a copy of the folder. The district shall keep a record of the date the folder is completed and the letter is sent. The folder shall be updated from time to time by the district as it deems necessary.

2. The commissioners of each soil and water conservation district shall complete preparation of a farm unit soil conservation plan for each farm unit within the district, not later than

January 1, 1985, or five years after completion of the conservation folder for that farm unit, whichever date is later, or as soon thereafter as adequate funding is available to permit compliance with this requirement. Technical assistance in the development of the farm unit soil conservation plan may be provided by the United States department of agriculture soil conservation service through the memorandum of understanding with the district or by the department. The commissioners shall make every reasonable effort to consult with the owner and, if appropriate, with the operator of that farm unit, and to prepare the plan in a form which is acceptable to that person or those persons. The plan shall be drawn up and completed without expense to the owner or operator of the farm unit, except that the owner or operator shall not be reimbursed for the value of the owner's or occupant's own time devoted to participation in the preparation of the plan. If the commissioners' plan is unacceptable to the owner or operator of the farm unit, that person or those persons may prepare an alternative farm unit soil conservation plan identifying permanent or temporary soil and water conservation practices which may be expected to achieve compliance with the soil loss limit or limits applicable to that farm unit, and submit that plan to the soil and water conservation district commissioners for their review.

3. Within one year after completion of a farm unit soil conservation plan for a particular farm unit which is acceptable both to the commissioners of the soil and water conservation district within which the farm unit is located and to the owner and, if appropriate, to the operator of that farm unit, the commissioners shall offer to enter into a soil conservation agreement with the owner, and also with the operator if appropriate, based on the mutually acceptable farm unit soil conservation plan.

Sec. 40. Section 467A.63, Code 1987, is amended to read as follows:

467A.63 RIGHT OF PURCHASER OF AGRICULTURAL LAND TO OBTAIN INFORMATION.

A prospective purchaser of an interest in agricultural land located in this state is entitled to obtain from the seller, or from the office of the soil and water conservation district in which the land is located, a copy of the most recently updated conservation folder and of any farm unit soil conservation plan, developed pursuant to section 467A.62, subsection 2, which are applicable to the agricultural land proposed to be purchased. A prospective purchaser of an interest in agricultural land located in this state ~~shall be~~ is entitled to obtain additional copies of either or both of the documents referred to in this subsection from the office of the soil and water conservation district in which the land is located, promptly upon request, at a fee not to exceed the cost of reproducing them. All persons who identify themselves to the commissioners or staff of a soil and water conservation district as prospective purchasers of agricultural land in the district shall be given information, prepared in accordance with rules of the department, which clearly explains the provisions of section 467A.65.

Sec. 41. Section 467A.64, subsections 2 and 4, Code 1987, are amended to read as follows:

2. Prior to initiating a land disturbing activity in a political subdivision which has not adopted sediment control ordinances as described in subsection 1, a person engaged in the land disturbing activity shall file a signed affidavit with the soil and water conservation district that the project will not exceed the soil loss limits. The affidavit shall be in a form prescribed by the department and made available by the district.

4. If the agency authorized under subsection 1 determines that a land disturbing activity is not being conducted in compliance with the soil loss limits, it shall file a written and signed complaint with the soil and water conservation district commissioners. The complaint shall have the same effect and validity as a complaint filed by an owner or occupant of land being damaged by sediment pursuant to section 467A.47. If the affidavit is filed with the district or the political subdivision, the commissioners may proceed on their own complaint. The soil and water conservation district commissioners may issue an administrative order as provided in that section to the person conducting the land disturbing activity.

Sec. 42. Section 467A.65, Code 1987, is amended to read as follows:

467A.65 COST SHARING FOR CERTAIN LANDS RESTRICTED.

1. It is the intent of this Act chapter that, effective January 1, 1981, each tract of agricultural land which has not been plowed or used for growing row crops at any time within fifteen years prior to that date, shall for purposes of this section be considered classified as agricultural land under conservation cover. If any a tract of land so classified is thereafter plowed or used for growing row crops, the commissioners of the soil and water conservation district in which the land is located shall not approve use of state cost-sharing funds for establishing permanent or temporary soil and water conservation practices on that tract of land in an amount greater than one-half the amount of cost-sharing funds which would be available for that land if it were not considered classified as agricultural land under conservation cover. The restriction imposed by this section shall apply applies even if an administrative order or court order has been issued requiring establishment of soil and water conservation practices on that land. The commissioners may waive the restriction imposed by this section if they determine in advance that the purpose of plowing or row cropping land classified as land under conservation cover is to revitalize permanent pasture and that the land will revert to permanent pasture within two years after it is plowed.

2. When receiving an application for state cost-sharing funds to pay a part of the cost of establishing a permanent or temporary soil and water conservation practice, the commissioners of the soil and water conservation district to which the application is submitted shall require the applicant to state in writing whether, to the best of the applicant's knowledge, the land on which the proposed practice will be established is land considered to be classified as agricultural land under conservation cover, as defined in subsection 1. An applicant who knowingly makes a false statement of material facts or who falsely denies knowledge of material facts in completing the written statement required by this subsection commits a simple misdemeanor and, in addition to the penalty prescribed therefor by law, shall be required to repay to the department any cost-sharing funds made available to the applicant in reliance on the false statement or false denial.

Sec. 43. Section 467A.66, Code 1987, is amended to read as follows:

467A.66 PROCEDURE WHEN COMMISSIONER IS COMPLAINANT.

A soil and water conservation district commissioner who is an owner or occupant of land being damaged by sediment has the same right as any other person in like circumstances to file a complaint under section 467A.47, however a commissioner who is the complainant shall not vote on the question whether, on the basis of the inspection made pursuant to the complaint, the commissioners shall issue an administrative order under section 467A.47.

Sec. 44. Section 467A.71, subsection 1, Code 1987, is amended to read as follows:

1. The division may establish a conservation practices revolving loan fund composed of any money appropriated by the general assembly for that purpose, and of any other moneys available to and obtained or accepted by the committee from the federal government or private sources for placement in that fund. Except as otherwise provided by subsection 3, the assets of the conservation practices revolving loan fund shall be used only to make loans directly to owners of land in this state for the purpose of establishing on that land any new permanent soil and water conservation practice which the commissioners of the soil and water conservation district in which the land is located have found is necessary or advisable to meet the soil loss limits established for that land. A loan shall not be made for establishing a permanent soil and water conservation practice on land that is subject to the restriction on state cost-sharing funds of section 467A.65. Revolving loan funds and public cost-sharing funds shall not be used in combination for funding a particular soil and water conservation practice. Each loan made under this section shall be for a period not to exceed ten years, shall bear no interest, and shall be repayable to the conservation practices revolving loan fund in equal yearly installments due March 1 of each year the loan is in effect. The interest rate upon loans for which

payment is delinquent shall accelerate immediately to the current legal usury limit. Applicants are eligible for no more than ten thousand dollars in loans outstanding at any time under this program. "Permanent soil and water conservation practices" has the same meaning as defined in section 467A.42 and those established under this program are subject to the requirements of section 467A.7, subsection 16. Loans made under this program shall come due for payment upon sale of the land on which those practices are established.

Sec. 45. Section 467B.1, Code 1987, is amended to read as follows:
467B.1 AUTHORITY OF BOARD.

~~Whenever any~~ If a county, soil and water conservation district, subdistrict of a soil and water conservation district, water resource district, political subdivision of the state, or other local agency ~~shall engage engages or participate participates in any a~~ project for flood or erosion control, flood prevention, or the conservation, development, utilization, and disposal of water, in co-operation with the federal government, or any department or agency thereof ~~of the federal government, the counties in which said the project shall be is~~ carried on ~~shall have the jurisdiction, power, and authority may,~~ through the board of supervisors, ~~to~~ construct, operate, and maintain ~~said the project~~ on lands under the control or jurisdiction of the county ~~whenever~~ dedicated to county use, or ~~to~~ furnish financial and other assistance in connection with ~~said the projects~~. ~~Such flood Flood,~~ soil erosion control, and watershed improvement projects ~~shall be are~~ presumed to be for the protection of the tax base of the county, for the protection of public roads and lands, and for the protection of the public health, sanitation, safety, and general welfare.

Sec. 46. Section 467B.2, Code 1987, is amended to read as follows:
467B.2 FEDERAL AID.

~~Any A~~ county may, in accordance with ~~provisions of this chapter, accept federal funds for aid in any a~~ project for flood or soil erosion control, flood prevention, or the conservation, development, utilization, and disposal of water, and may co-operate with the federal government or ~~any a~~ department or agency thereof ~~of the federal government, a soil and water conservation districts district, subdistrict of a soil and water conservation district, water resource district, political subdivision of the state, or other local agency, and the county may assume such a proportion of the cost of the project as deemed appropriate, and may assume the maintenance cost of the same project on lands under the control or jurisdiction of the county as which will not be discharged by federal aid or grant.~~

Sec. 47. Section 467B.3, Code 1987, is amended to read as follows:
467B.3 CO-OPERATION.

The counties, and soil and water conservation districts, subdistricts of soil and water conservation districts concerned, and water resource districts, shall advise and consult with each other, upon the request of any of them or any affected landowners, and ~~shall be authorized to may~~ co-operate with each other or with other state subdivisions, or instrumentalities, and affected landowners, as well as with the federal government or ~~any a~~ department or agency thereof ~~of the federal government, to construct, operate, and maintain suitable projects for flood or soil erosion control, flood prevention, or the conservation, development, utilization, and disposal of water on public roads or other public lands or other land granted county use.~~

Sec. 48. Section 467B.5, Code 1987, is amended to read as follows:
467B.5 MAINTENANCE COST.

~~Where~~ If construction of projects has been completed by the soil and water conservation district, subdistricts of soil and water conservation districts, water resource districts, political subdivisions of the state, or other local agencies, or the federal government, or any department or agency thereof ~~of the federal government, on private lands under the easement granted to the county, only the cost of maintenance may be assumed by the county.~~

Sec. 49. Section 467B.10, Code 1987, is amended to read as follows:

467B.10 ASSUMPTION OF OBLIGATIONS.

This chapter contemplates that actual direction of the project, or projects, and the actual work done in connection ~~therewith~~ with them, will be assumed by the soil and water conservation district, subdistrict of a soil and water conservation district, water resource district, or ~~by~~ the federal government and that the county or other state subdivisions or instrumentalities jointly will meet the obligation required for federal co-operation and may make proper commitment for the care and maintenance of the project after its completion for the general welfare of the public and residents of the respective counties.

Sec. 50. Section 467C.5, Code 1987, is amended to read as follows:

467C.5 APPROVAL OF COMMISSIONERS.

A district shall not be established by ~~any~~ a board of supervisors under this chapter unless the organization of the district is approved by the commissioners of ~~any~~ a soil and water conservation district established under ~~the provisions of~~ chapter 467A and which is included all or in part within the district, nor shall ~~any such~~ a district be established without the approval of the state conservation commission and the department of ~~water, air and waste management~~ natural resources.

Sec. 51. Section 467D.17, Code 1987, is amended to read as follows:

467D.17 PLAN PRESENTED TO DIVISION, DEPARTMENT OF NATURAL RESOURCES, AND SOIL AND WATER CONSERVATION DISTRICTS.

The board shall tentatively adopt the plan by resolution and shall present the plan to the division and the department of natural resources for review. The department of natural resources shall within ninety days review the plan as presented and make recommendations it deems necessary to bring the water resource district's plan into conformity with the comprehensive water allocation plan established pursuant to section 455B.263. The recommendations of the department of natural resources shall be submitted to the board for incorporation into the plan. The plan shall then be submitted to the soil and water conservation districts located entirely or partially within the water resource district. The soil and water conservation districts shall review, comment, and record a vote within ninety days indicating their support of or opposition to the plan in the same manner provided in section 467D.5, subsection 1. The division shall inform the soil and water conservation districts of the votes of the districts within the water resource district. The division shall review the plan as presented, give consideration to the comments and votes of the soil and water conservation districts, give final approval or disapproval of the plan within ninety days, and provide a written statement detailing the basis of its decision.

A subsequent major change in the plan, as determined by the water resource board, is not effective until approved by the process provided in this section for approval of the original plan.

Sec. 52. Section 467D.22, subsections 1 and 2, Code 1987, are amended to read as follows:

1. ~~Consultation and co-operation with, and appropriate assistance to, the commissioners of any a soil and water conservation district in the state.~~

2. ~~Securing the establishment of, or repair or maintenance within, a subdistrict of a soil and water conservation district, a soil conservation and flood control district, a drainage district, a levee district, a sanitary district, or other appropriate special district, in the manner prescribed by law.~~

Sec. 53. Section 467D.23, Code 1987, is amended to read as follows:

467D.23 EROSION AS NUISANCE — INJUNCTION.

Soil erosion resulting in or contributing to damage by siltation to any internal improvement of a water resource district, or resulting in or contributing to damage to property not owned by the owner or occupant of the land on which ~~such~~ the erosion is occurring, is ~~hereby declared to be~~ a nuisance. The board of the water resource district whose internal improvement is so damaged, the commissioners of the soil and water conservation district within which ~~such~~ the

erosion is occurring, or the owner or owners of any property so damaged, may bring action to enjoin and abate any such nuisance as provided by chapter 657. It ~~shall be~~ is an adequate defense to ~~such an~~ the action that ~~any a~~ defendant, prior to the time the cause of action arose, had submitted application for public cost-sharing funds pursuant to section 467A.48, or had established or maintained soil and water conservation practices or erosion control practices approved by the commissioners of the soil and water conservation district in which the erosion complained of occurred, or had taken other reasonable and prudent measures to prevent excessive soil erosion, and that the erosion complained of was an isolated occurrence caused by a single prolonged or unusually heavy rainfall, unusually rapid melting of accumulated snow, severe windstorm, or other similar event beyond the control of the defendant. The remedy for ~~any~~ soil erosion which constitutes a nuisance under this section ~~shall be~~ is limited to requiring that the owner or occupant of the land on which the erosion is occurring take ~~such~~ measures as ~~are~~ necessary to comply with the regulations of the soil and water conservation district in which the land is located, and the fine and jail sentence provided by section 657.3 ~~shall~~ does not apply in ~~any an~~ an action arising under this section.

Sec. 54. Section 467D.24, Code 1987, is amended to read as follows:
467D.24 SURVEYS — SOUNDINGS — DRILLINGS.

The board, the commissioners of a soil and water conservation district, or an engineer or any other authorized person employed by the board or commissioners, may after thirty days' written notice by restricted certified mail addressed to the owner and also to the occupant, enter upon private land for the purpose of making surveys, soundings, drillings, appraisals, and examinations as deemed appropriate or necessary to determine the advisability or practicability of locating an internal improvement on ~~said the~~ the land or part thereof of it, or to determine whether soil erosion is occurring ~~thereon~~ on the land which constitutes a nuisance under section 467D.23 or is in violation of the soil and water conservation district's regulations; provided, no soundings or drillings shall be made within twenty rods of the dwelling house or buildings on ~~said the~~ the land without the written consent of the owner. ~~Such entry~~ Entry, after notice, ~~shall is~~ not be deemed a trespass, and the board or commissioners may be aided by injunction to insure peaceful entry. The board shall pay actual damages caused by ~~such the~~ the entry, surveys, soundings, drillings, appraisals, or examinations. The amount of such damages, if any, shall be determined by agreement or in the manner provided for the award of damages in condemnation of land for water resource district purposes.

Sec. 55. Section 471.4, subsection 5, Code 1987, is amended to read as follows:

5. Subdistricts of soil and water conservation districts. Upon a subdistrict of a soil and water conservation district for ~~such~~ the land or rights or interests ~~therein~~ in the land as ~~are~~ reasonable and necessary to carry out the purposes of the subdistrict.

Sec. 56. Section 479.47, unnumbered paragraph 1, Code 1987, is amended to read as follows:

All additional costs of new tile construction caused by an existing pipeline shall be paid by the pipeline company. The additional costs shall be paid by the pipeline company upon presentation of an invoice, verified by the county engineer or soil and water conservation district conservationist and specifically showing the added costs caused by the presence of the pipeline. A copy of the county engineer's or district conservationist's verification of additional costs shall accompany the invoice to the pipeline company.

Sec. 57. Section 613A.1, subsection 1, Code 1987, is amended to read as follows:

1. "Municipality" means city, county, township, school district, and any other unit of local government except soil and water conservation districts as defined in section 467A.3, subsection 1 and water resource districts as defined in section 467D.2, subsection 1.