

RET
11/1

WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE DEPARTMENT OF AGRICULTURE
State Soil Conservation Committee
Chapter 19-21A & 21B

GENERAL INDEX

FOR
SERIES XVIII

Title: State Soil Conservation Committee Regulations

Section 1. General

Section 2. Procedure for Appointing and Electing District Soil Conservation Supervisors

Section 3. Expenditure of Funds by the State Soil Conservation Committee for Watershed Programs.

Section 4. Procedures for Complying with Open Governmental Proceedings Law.

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE Oct 13, 1978
ADMINISTRATIVE LAW DIVISION

~~WEST VIRGINIA~~² LEGISLATIVE REGULATIONS
~~STATE DEPARTMENT OF AGRICULTURE~~^e
STATE SOIL CONSERVATION COMMITTEE
~~Chapter 19-21A & 21B~~^e
~~SERIES XVIII~~^{e 1}

TITLE: State Soil Conservation Committee Regulations

Section 1. General

1.1 Scope - These legislative regulations establish rules and procedures for the State Soil Conservation Committee and the State Soil Conservation Districts.

1.2 Authority - W. Va. Code 19-21A and 21B

1.3 Filing Date - October 13, 1978

1.4 Effective Date - October 13, 1978

Section 2. Procedure for Appointing and Electing District Soil Conservation Supervisors.

2.1 The governing body of a Soil Conservation District shall consist of the appointed and elected supervisors (19-21A-7)

2.1.1 The State Soil Conservation Committee shall appoint two supervisors (19-21A-5f) to represent the district. They must be persons who by training and experience are qualified to perform the specialized leadership services which will be required of them and must be legal residents and landowners of the district (19-21A-7).

2.1.1.1 These appointments shall be made by the State Soil Conservation Committee upon approval by the remainder of the Board of Supervisors, after consultation with the Committee's Field Agent, who, along with a representative of the governing body, has personally interviewed the proposed appointee. Final authority for all appointments shall rest with the State Soil Conservation Committee.

2.1.2 Landowners within each county in the district shall nominate and elect a supervisor to represent the county of the districts governing body (19-21A-6). However, when any county shall have in effect eight hundred or more signed agreements of cooperation with occupiers of land located within said county, then at the next regular election of supervisors, the land occupiers within said county are entitled to elect two supervisors to represent said county (19-21A-7).

- 2.1.2.1 Any person twenty-one years of age or over, firm or corporation who holds title to three or more acres of land lying within the boundaries of a district, or proposed district, shall be eligible to vote.
- 2.1.2.2 Any eligible voter residing within the boundaries of a county for which an election has been announced by the State Soil Conservation Committee may file a nominating petition which has been subscribed by twenty-five or more owners of land lying within the boundaries of the county in which the candidate resides; owners may sign more than one such petition (19-21A-6). The petitions shall be delivered to the State Soil Conservation Committee thirty days prior to the announced date of the election.
- 2.1.3 The State Soil Conservation Committee shall pay all election expenses for electing supervisors, shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such elections and the determination of the eligibility of voters therein and shall make public the results thereof (19-21A-6).
 - 2.1.3.1 Ballots shall be prepared by the State Soil Conservation Committee with the names of all qualified candidates appearing in alphabetical order of surnames with a square before each name and a direction to insert and X mark in the square before the name of the candidate of the voter's choice. All owners of land lying within the district shall be eligible to vote for one candidate from the county in which they reside, except when at least eight hundred cooperative agreements are in effect in the county, they shall be eligible to vote for two.
 - 2.1.3.2 The Field Agent of the State Committee will establish one or more polling places within the county and will designate the day and the hour that the polls will open. Such designation will be published in at least two newspapers circulated within the county at least 60 days before and again at least 7 days before the date of the proposed election.
 - 2.1.3.3 The Committee will appoint the district clerk of each respective district as polling superintendent to assist in the conduct of the election. The polling superintendent will be responsible for receiving application for absentee ballots from eligible voters from all counties within said district, and for the conduct of all absentee voting according to the guidelines established elsewhere in these regulations.
 - 2.1.3.4 The Field Agent will appoint one polling officer for each polling place and said officer will be in charge

of the voting at that polling place.

- 2.1.3.5 The Field Agent will deliver all supplies necessary for the conduct of the election to the polling officers at least three days prior to the date of the election.
- 2.1.3.6 A voter residing within the county may vote at the polling place most convenient.
- 2.1.3.7 The eligible voter will sign a poll list, giving his name, residence location and acreage of land and will then proceed to vote.
- 2.1.3.8 Write in votes are permissible.
- 2.1.3.9 The polling officer shall immediately upon the closing of the polls, enter the name of the last person voting on the appropriate form and offer his or her signature to the same. The polling officer will then place all election papers in safe keeping until the Field Agent arrives to assist the polling officer in the counting of the ballots. The unofficial results of the election are then posted at the polling place and the ballots and official forms of the election are delivered to the office of the State Soil Conservation Committee. The Executive Committee of the State Soil Conservation Committee then tabulates the results of all polling places within the county and certifies the winner or winners to the governing body of the District.
- 2.1.3.10 It shall be permissible to vote by absentee ballot if the eligible voter will not be in the county on the day of the election. A supply of ballots, applications and other appropriate forms for use in absentee balloting shall be delivered to the polling superintendent at least thirty days prior to the election. Said polling superintendent will receive applications for absentee ballots in person or in writing during the thirty days immediately preceding the election. The applicant shall state his name, residence, location and acreage of land owned within the county and the polling superintendent shall enter this information on a Roster of Absentee Voters. The polling superintendent, when satisfied that the applicant is an eligible voter, shall deliver in person or by mail, an absentee ballot and written instructions for marking and forwarding the ballot. All absentee ballots, to be validly cast, must be received by the polling superintendent at least one day prior to the date of the election. The polling superintendent will keep all absentee ballots in a safe place until the Field Agent picks them up and delivers them to the proper polling place within the county where they will be

counted and included in the election results of that polling place.

2.1.3.11 All supervisors shall remain in office until the Oath of Office of the successor or an official resignation has been received in the office of the State Soil Conservation Committee.

2.1.3.12 Whenever a vacancy occurs in the ranks of elected supervisors it shall be filled by appointment, utilizing the procedures used in appointing district supervisors as described elsewhere in these regulations, except that all appointments to fill vacancies in elected supervisor positions shall be limited to the remaining portion of the unexpired term.

Section 3. Expenditure of Funds by the State Soil Conservation Committee for Watershed Programs.

3.1 Guidelines - The following policies and guidelines shall govern the expenditures of funds by the State Soil Conservation Committee for watershed programs that have or may be made available to it by the State Legislature.

3.1.1 State watershed improvement program funds will only be used to aid legally constituted soil conservation districts or watershed improvement districts in meeting their obligation of facilitating the planning and operation phase of approved watershed protection and flood prevention programs.

3.1.2 State watershed improvement program funds will be made available only when other funds cannot be obtained and shall be considered supplementary to the capital resources of sponsoring soil conservation districts or watershed improvement districts in cooperative action with the Federal Government, local units of government and communities concerned with approved watershed programs.

3.2 Expenditures of State Watershed Improvement Program Funds - State watershed improvement program funds may be spent for the following purposes subject to the procedures outlined in Section 3.3.

3.2.1 Purchase land or easements on a negotiated price basis after certification by three freeholders, one representing the landowner, one the sponsoring soil conservation district and one the State Soil Conservation Committee, that the negotiated value does not exceed a fair market price.

3.2.2 Purchase land, easements, or other right-of-way at values resulting from condemnation actions.

3.2.3 Negotiate with proper officials on the relocation of roads, public utility lines, or similar obstructions.

- 3.2.4 Pay court costs, attorney fees, or similar expenses directly connected with any of the above actions.
- 3.2.5 Assist with expenses incurred by soil conservation districts or watershed improvement districts in the performance of work related to any watershed activities.

3.3 Operating Policies to Govern the Acquisition of Land Rights and the General Use of State Funds -

- 3.3.1 Each soil conservation district or watershed improvement district anticipating a need for supplementary state watershed improvement program funds shall prepare and submit to the State Soil Conservation Committee by June 1 of each year, for its action, a comprehensive plan of procedure and statement of intent relative to the acquisition of lands rights covering such points as:
 - 3.3.1.1 Estimated total fund needs for land rights;
 - 3.3.1.2 Estimated value of local contributions to this phase of the project;
 - 3.3.1.3 Probable recovery value from land sales; and
 - 3.3.1.4 A description of the (1) methods used, or to be used, to determine land values and (2) a realistic evaluation of the ability of local people to help themselves in the development and completion of a watershed improvement program.
- 3.3.2 Title to all property acquired shall be vested in the State Soil Conservation Committee.
- 3.3.3 Easement or other land rights shall be obtained either by the local soil conservation district or watershed improvement district. An up-to-date listing of all easements (state and district) is to be kept in the district office. Easements should be recorded in the county land records as soon as procured. The list should be checked against courthouse records biannually to ascertain if property has been sold. If sold, the new owner is to be contacted and made aware of the easement.
- 3.3.4 The sale of land purchased with State watershed funds must be approved in advance by the State Soil Conservation Committee
- 3.3.5 All land with state funds will be sold, subject to necessary easements, as soon as practical. Retention of the area in and above a given structure may be kept for public use development on approval of the State Soil Conservation Committee.
- 3.3.6 Prior to the selling of such land, an appraisal shall be made by three freeholders representing the local soil conservation

district or the watershed improvement district and the State Soil Conservation Committee. This appraisal must accompany all proposals to the State Soil Conservation Committee to sell lands acquired with State funds.

- 3.3.7 Before any property purchased with money from this fund is sold, notice of the sale must be given in three issues at least a week apart, in a newspaper of general circulations in the soil conservation district or watershed improvement district affected. The notices are to call for the bids with the property to be sold to the highest bidder. The State Soil Conservation Committee reserves the right to reject any and all bids. And, further, the provisions of this section shall not apply where acquired lands are being sold or disposed for a public use to the State of West Virginia or its political subdivisions. In lieu thereof, consideration other than the present commercial or market value of the property may be used as a basis for the sale or transfer.
- 3.3.8 Proceeds from the sale of land or products from such areas are to be immediately transmitted to the State Soil Conservation Committee by the soil conservation district or watershed improvement district.
- 3.3.9 Improvements other than items covered in watershed work plans are not to be made during the period of soil conservation district or watershed improvement ownership without specific approval of the State Soil Conservation Committee.

3.4 Representation of the State Soil Conservation Committee - The State Soil Conservation Committee may appoint and authorize a sub-committee, including its executive secretary, to act for the Committee in any matters related to this subject.

Section 4. Procedures for Complying With Open Governmental Proceedings Law

4.1 Filing in State Register - The time, date and place of all regularly scheduled meetings of the State Soil Conservation Committee shall be submitted to the office of the Secretary of State and by news release to the media and public at large at least thirty days prior to the convening of the meeting.

4.2 Special Meetings Filed in State Register - The time, date, place and purpose of all special meetings of the State Soil Conservation Committee shall be submitted to the office of the Secretary of State and by news release to the media and public at large as soon as possible, but no less than twenty-four hours in advance of such meeting.