

CHAPTER 77

(HB 130)

AN ACT relating to soil and water conservation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS 262.700 TO 262.795 IS CREATED TO READ AS FOLLOWS:

- (1) *If the board of a watershed conservancy district fails to meet over the course of one (1) year or longer or if it fails to prepare and fund a budget as required by subsection (1) of Section 6 of this Act, any soil and water conservation district or fiscal court in which any part of the watershed conservancy district lies may initiate proceedings to discontinue the watershed conservancy district board under subsection (2) of this section. Periods of inaction by boards of watershed conservancy districts that began prior to the effective date of this Act shall be included in the determination of whether a watershed conservancy district board may be discontinued under this section.*
- (2) *To initiate the discontinuance of a watershed conservancy district board, the soil and water conservation district board or fiscal court shall send a notice of intent to discontinue the watershed conservancy district board to all directors who are still serving terms on the board and shall publish the same notice in a newspaper of general circulation in the area served by the watershed conservancy district pursuant to the requirements of KRS Chapter 424. The notice shall include information on how a landowner who pays any tax imposed by the watershed conservancy district may request a public hearing on its discontinuance within thirty (30) days of the first publication of the notice.*
- (3) *If a public hearing on the proposed discontinuance is requested, the soil and water conservation district board or fiscal court proposing the discontinuance shall hold the public hearing within thirty (30) days of the request. At the public hearing, public comments may be made on the reasons for and consequences of the proposed discontinuance. The public hearing may be part of a regularly scheduled meeting of the soil and water conservation district board or the fiscal court proposing the discontinuance.*
- (4)
 - (a) *Within thirty (30) days after a public hearing is held pursuant to subsection (3) of this section, the soil and water conservation district board or the members of the fiscal court proposing the discontinuance shall vote on whether the watershed conservancy district board should be discontinued. If no public hearing was requested, the proposing entity shall hold the discontinuance vote within thirty (30) days after the expiration of the time period to request a public hearing under subsection (2) of this section.*
 - (b) *If the result of the vote held under paragraph (a) of this subsection is in favor of discontinuance, then within thirty (30) days of the vote, all other soil and water conservation district boards and fiscal courts where any portion of the watershed conservancy district lies shall hold votes on discontinuing the watershed conservancy district board. The watershed conservancy district board shall be discontinued if all voting entities concur to discontinue it. Any voting entity that fails to hold a vote within the thirty (30) days following the initial vote shall be deemed to have voted in favor of discontinuance. If any of the voting entities vote to not discontinue the watershed conservancy district board, it shall not be discontinued for at least one (1) year.*
- (5) *If a watershed conservancy district board is discontinued under this section, the boundaries of the watershed conservancy district previously governed by that board shall remain intact, and the landowners within the boundaries of the watershed conservancy district shall continue to contribute revenue to the soil and water conservation district or districts in which the watershed conservancy district lies pursuant to Section 7 of this Act.*
- (6) *Upon the effective date of the discontinuance of a board of a watershed conservancy district, the board of the soil and water conservation district in which the watershed conservancy district lies shall assume all of the former watershed conservancy board's rights and responsibilities established in KRS 262.700 to 262.795. If the watershed conservancy district lies in more than one (1) soil and water conservation district, then the boards of all of those soil and water conservation districts shall assume all rights and responsibilities of the former watershed conservancy board jointly.*

- (7) ***Nothing in this section shall be construed to prevent a discontinued watershed conservancy district board from being reestablished and reassuming its rights and responsibilities pursuant to the requirements of KRS 262.700 to 262.795.***

➔Section 2. KRS 147A.029 is amended to read as follows:

- (1) The commissioner of the Department for Local Government shall administer and determine the disbursement of funds for the Local Match Participation Program.
- (2) Funds appropriated for the Local Match Participation Program may be used as matching funds by local governments, ***soil and water conservation districts established under KRS 262.010 to 262.660, or watershed conservancy districts established under KRS 262.700 to 262.795*** for flood-related projects and straight sewage pipe removal projects with:
 - (a) The United States Army Corps of Engineers;
 - (b) The Federal Emergency Management Agency (FEMA);~~and~~
 - (c) ***The United States Department of Agriculture Natural Resources Conservation Service; and***
 - (d) Other federal government grant and loan programs requiring local matching funds.
- (3) Any general fund appropriations made for the Local Match Participation Program may be used for flood control planning and mitigation activities and straight sewage pipe removal and mitigation activities.

➔Section 3. KRS 262.240 is amended to read as follows:

- (1) A supervisor's term begins on January 1 following his or her election. Supervisors shall be elected for four (4) years as their terms expire. Nominating petitions for supervisors shall be filed with the county clerk not later than the last date prescribed by the election law generally for filing certificates and petitions of nomination. No such nominating petition shall be accepted by the clerk unless it is signed by twenty-five (25) or more qualified resident voters of the district. Qualified resident voters may sign more than one (1) nominating petition to nominate more than one (1) candidate for supervisor. In the event nominating petitions for only the number of supervisors to be elected are filed, the commission shall declare the nominees elected without holding an election. The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.
- (2) A supervisor shall hold office until his or her successor has been elected and has qualified. Vacancies shall be filled for the unexpired term by appointment by the commission.
- (3) A supervisor may be reimbursed for expenses necessarily incurred in the discharge of his or her duties and may be paid a per diem for attending meetings or otherwise discharging the obligations of his or her office.
- (4) A supervisor shall be at least eighteen (18) years of age, a resident of the county or district in which he or she serves as a supervisor, and upon moving from the county or district, the supervisor shall be ineligible to serve as a supervisor and his or her office shall be vacant.
- (5) A supervisor who has been declared elected without an election pursuant to subsection (1) of this section may be removed from office by the commission in the same manner as provided by KRS 65.007 for removal of an appointed member of the governing body of a special district.
- (6) ***A supervisor serving on the board of a district shall be immune from personal liability in any civil or criminal action which is based upon any official act or acts performed reasonably and in good faith by the supervisor.***

➔Section 4. KRS 262.740 is amended to read as follows:

- (1) Within thirty (30) days after a watershed conservancy district is created, nominating petitions may be filed with the board of supervisors for the election of a board of directors consisting of five (5) members, who shall hold office for a term of four (4) years, or until a successor is qualified. Such board of directors shall, under the supervision of the board of supervisors, be the governing body of the watershed conservancy district. The board of supervisors shall give due notice of the election of directors and shall, as nearly as practicable, conduct the election in the manner prescribed by KRS 262.220.
- (2) If the territory embraced within a watershed conservancy district lies within more than one (1) soil and water conservation district, each of said additional districts with minority of the land involved in the watershed shall be entitled to elect three (3) additional directors.

- (3) The board of directors shall annually elect from its membership a chairman, secretary, and treasurer. The treasurer shall execute an official bond for the faithful performance of the duties of his *or her* office to be approved by the board of directors. Such bond shall be executed with at least three (3) solvent personal sureties whose solvency must exceed the amount of the bond, or by a surety company authorized to do business in this state, and shall be in an amount determined by the board of directors. If the treasurer is required to execute a surety company bond, the premium on the bond shall be paid by the board of directors.
- (4) Each person desiring to be a director of a watershed conservancy district shall file a nominating petition with the board of supervisors of the county in which he *or she* is a landowner and legal resident, signed by twenty-five (25) or more landowners within the watershed conservancy district of the county involved, or, if less than fifty (50) landowners are involved a majority of such landowners. Nominating petitions for the election of any director following the first election of members of the board after creation of the district shall be filed with the board of supervisors not less than forty-five (45) days prior to the day of the regular election. If the candidates nominated do not exceed the positions available, they shall be declared elected. No person shall be eligible to be a director of a watershed conservancy district who is not a landowner within the watershed and resident of the county in which the watershed is located.
- (5) A director who has been declared elected without an election pursuant to subsection (4) of this section may be removed from office by the board of supervisors as provided by KRS 65.007 for removal of an appointed member of the governing body of a special district.
- (6) ***A director serving on the board of a watershed conservancy district shall be immune from personal liability in any civil or criminal action which is based upon any official act or acts performed reasonably and in good faith by the director.***

➔Section 5. KRS 262.742 is amended to read as follows:

- (1) ***Within thirty (30) days of the effective date of any vacancy on a board of directors of a watershed conservancy district, the board of the soil and water conservation district where the vacancy occurs shall publish a notice of the vacancy in a newspaper of general circulation in the area served by the watershed conservancy district pursuant to the requirements of KRS Chapter 424. The notice shall include information on the nominating petition process to fill the vacancy established in Section 4 of this Act. The board of the soil and water conservation district filling the vacancy shall also advertise the vacancy on any website or social media account it may control.***
- (2) A vacancy on the board of directors of a watershed conservancy district shall be filled by the board of supervisors ***of the soil and water conservation district where the vacancy occurs.***

➔Section 6. KRS 262.760 is amended to read as follows:

- (1) Within the first quarter of each calendar year, the board of directors ***of a watershed conservancy district*** shall prepare an itemized budget of the funds needed for administration, construction, operation, and maintenance of works of improvement. After approval of such budget by the board ***or boards*** of supervisors ***of the soil and water conservation district or districts within which the watershed conservancy district lies,*** the board of directors ***of the watershed conservancy district*** shall, by order or resolution, levy a tax sufficient to meet such budget, either by millage rate or per acre rate. A copy of such budget and order or resolution shall be certified to the county clerk of the county or counties involved, and shall be submitted to the Department for Local Government as provided in KRS 65A.020.
- (2) ***If the board of directors of a watershed conservancy district fails to prepare a budget and levy a tax sufficient to fund the budget within the first quarter of a calendar year as required by subsection (1) of this section, the board or boards of supervisors of the soil and water conservation district or districts where the watershed conservancy lies may prepare and approve a budget for the watershed conservancy district and levy a tax to fund the approved budget in the same manner as authorized in subsection (1) of this section.***

➔Section 7. KRS 262.793 is amended to read as follows:

- (1) Where a watershed conservancy district ***board*** has been discontinued as provided in ***Section 1 of this Act*** ~~KRS 262.791 and all obligations of the district have been met~~, any funds or assets of the district shall be transferred to the soil and water conservation district ***where the watershed conservancy district lies*** to be used solely for the ***same purposes as they were used prior to the discontinuance and only within the boundaries of the watershed conservancy district*** ~~development and maintenance of soil and water conservation practices in the area~~ from which the tax was collected. In the event that the area of the discontinued watershed conservancy

district encompassed two (2) or more soil and water conservation districts, any funds or assets to be handed over shall be prorated among the soil and water conservation districts according to the percentage of revenue contributed by the landowners within each such soil and water conservation district.

- (2) Where a watershed conservancy district *board* is discontinued, the *board or boards of the soil and water* conservation district or districts to which its funds are transferred shall have the authority to collect revenue from within the boundaries of and in the same manner as the discontinued watershed conservancy district, *including making periodic adjustments to the revenue amounts collected*. The funds collected shall be expended by the *board or boards of the soil and water* conservation district *or districts* for the maintenance of works of improvement done by the discontinued watershed conservancy district *board, even if the works of improvement are located outside of the soil and water conservation district collecting the revenue*, and for no other purpose.

➔Section 8. The following KRS section is repealed:

262.791 District discontinued, when -- Hearing referendum.

➔Section 9. Whereas the timely discontinuance of inactive watershed conservation district boards is critical to the operation, maintenance, and rehabilitation of structures that contribute to water resource conservation and flood control, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 4, 2024.