

1 **RESOURCE CONSERVATION AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Scott D. Sandall**

5 Senate Sponsor: David P. Hinkins

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to the Conservation Commission.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies the membership and duties of the Conservation Commission;
- 13 ▶ modifies the procedure for making a loan or a grant from the Agriculture Resource
- 14 Development Fund;
- 15 ▶ authorizes an advisory board of the Conservation Commission to approve loans
- 16 from the Agriculture Resource Development Fund;
- 17 ▶ modifies the duties of a conservation district to include responsibility for planning
- 18 watershed and flood control projects;
- 19 ▶ clarifies that a conservation district may not exercise taxing authority; and
- 20 ▶ makes technical changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **4-18-102**, as last amended by Laws of Utah 2017, Chapter 345

28 **4-18-104**, as last amended by Laws of Utah 2017, Chapter 345

29 **4-18-105**, as last amended by Laws of Utah 2017, Chapters 345 and 463

30 **4-18-106**, as last amended by Laws of Utah 2017, Chapter 345

31 **17D-3-103**, as enacted by Laws of Utah 2008, Chapter 360

32 **17D-3-105**, as last amended by Laws of Utah 2014, Chapter 189

33

34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **4-18-102** is amended to read:

36 **4-18-102. Purpose declaration.**

37 (1) The Legislature finds and declares that:

38 (a) the soil and water resources of this state constitute one of the state's basic assets;

39 and

40 (b) the preservation of soil and water resources requires planning and programs to

41 ensure:

42 (i) the development and utilization of soil and water resources; and

43 (ii) soil and water resources' protection from the adverse effects of wind and water

44 erosion, sediment, and sediment related pollutants.

45 (2) The Legislature finds that local production of food is essential for:

46 (a) the security of the state's food supply; and

47 (b) the self-sufficiency of the state's citizens.

48 (3) The Legislature finds that sustainable agriculture is critical to:

49 (a) the success of rural communities;

50 (b) the historical culture of the state;

51 (c) maintaining healthy farmland;

52 (d) maintaining high water quality;

53 (e) maintaining abundant wildlife;

54 (f) high-quality recreation for citizens of the state; and

55 (g) helping to stabilize the state economy.

56 (4) The Legislature finds that livestock grazing on public lands is important for the

57 proper management, maintenance, and health of public lands in the state.

58 (5) The Legislature encourages each agricultural producer in the state to operate in a
59 reasonable and responsible manner to maintain the integrity of [~~land,~~] soil, water, and air.

60 (6) The department shall administer the Utah Agriculture Certificate of Environmental
61 Stewardship Program, created in Section 4-18-107, to encourage each agricultural producer in
62 this state to operate in a reasonable and responsible manner to maintain the integrity of the
63 state's resources.

64 Section 2. Section 4-18-104 is amended to read:

65 **4-18-104. Conservation Commission created -- Composition -- Appointment --**
66 **Terms -- Compensation -- Attorney general to provide legal assistance.**

67 (1) There is created within the department the Conservation Commission to perform
68 the functions specified in this chapter.

69 (2) The Conservation Commission shall be composed of [~~15~~]:

70 (a) 11 voting members, including:

71 [~~(a)~~] (i) the director of the Extension Service at Utah State University or the director's
72 designee;

73 [~~(b)~~] the president of the Utah Association of Conservation Districts or the president's
74 designee;]

75 [~~(c)~~] the commissioner or the commissioner's designee;]

76 [~~(d)~~] (ii) the executive director of the Department of Natural Resources or the
77 executive director's designee;

78 [~~(e)~~] (iii) the executive director of the Department of Environmental Quality or the
79 executive director's designee;

80 [~~(f)~~] the chair, or the chair's designee, of the State Grazing Advisory Board, created in
81 Section 4-20-103;]

82 [~~(g)~~] (iv) the president of the County Weed Supervisors Association or the president's
83 designee; and

84 [~~(h)~~] (v) seven district supervisors who provide district representation on the
85 commission on a multicounty basis; and

86 (b) the commissioner or the commissioner's designee.

87 ~~[(i) the director of the School and Institutional Trust Lands Administration or the~~
88 ~~director's designee.]~~

89 (3) If a district supervisor is unable to attend a meeting, the district supervisor may
90 designate an alternate [may] to serve in the place of the district supervisor for that meeting.

91 (4) None of the members described in Subsection (2)(a)(v) or (3) may serve on an
92 association that represents a conservation district.

93 (5) (a) The commissioner or the commissioner's designee shall serve as chair of the
94 Conservation Commission.

95 (b) The commissioner or the commissioner's designee may not vote except in the event
96 of a tie, in which case the commissioner or the commissioner's designee shall cast the deciding
97 vote.

98 ~~[(4)] (6)~~ The members of the commission specified in Subsection (2)~~[(4)](c)~~ shall:

99 (a) be recommended by the commission to the governor; and

100 (b) be appointed by the governor with the consent of the Senate.

101 ~~[(5)] (7)~~ (a) Except as required by Subsection ~~[(5)] (7)~~(b), as terms of current
102 commission members expire, the governor shall appoint each new member or reappointed
103 member to a four-year term.

104 (b) Notwithstanding the requirements of Subsection ~~[(5)] (7)~~(a), the governor shall, at
105 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
106 commission members are staggered so that approximately half of the commission is appointed
107 every two years.

108 (c) A commission member may not be appointed to more than two consecutive terms.

109 ~~[(6)] (8)~~ When a vacancy occurs in the membership for any reason, the replacement
110 shall be appointed for the unexpired term.

111 ~~[(7) The commissioner is chair of the commission.]~~

112 ~~[(8)] (9)~~ Attendance of ~~[a majority]~~ six voting members of the commission ~~[members]~~
113 at a meeting constitutes a quorum.

114 ~~[(9)]~~ (10) A member may not receive compensation or benefits for the member's
115 service, but may receive per diem and travel expenses in accordance with:

116 (a) Section 63A-3-106;

117 (b) Section 63A-3-107; and

118 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
119 63A-3-107.

120 ~~[(10)]~~ (11) The commission shall keep a record of the commission's actions.

121 ~~[(11)]~~ (12) The attorney general shall provide legal services to the commission upon
122 request.

123 Section 3. Section **4-18-105** is amended to read:

124 **4-18-105. Conservation Commission -- Functions and duties.**

125 (1) The commission shall:

126 (a) facilitate the development and implementation of the strategies and programs
127 necessary to:

128 (i) protect, conserve, utilize, and develop the soil, ~~[air, and]~~ water, and air resources of
129 the state; and

130 (ii) promote the protection, integrity, and restoration of land for agricultural and other
131 beneficial purposes;

132 (b) disseminate information regarding districts' activities and programs;

133 (c) supervise the formation, reorganization, or dissolution of districts according to the
134 requirements of Title 17D, Chapter 3, Conservation District Act;

135 (d) prescribe uniform accounting and recordkeeping procedures for districts and
136 require each district to submit annually ~~[an audit of the district's funds to the commission]~~ the
137 information required in Section 17D-3-103;

138 (e) approve and make loans for agricultural purposes, through the loan advisory ~~[board]~~
139 subcommittee described in Section 4-18-106, from the Agriculture Resource Development
140 Fund~~[, for:];~~

141 ~~[(i) rangeland improvement and management projects;]~~

- 142 ~~[(ii) watershed protection and flood prevention projects;]~~
143 ~~[(iii) agricultural cropland soil and water conservation projects;]~~
144 ~~[(iv) programs designed to promote energy efficient farming practices; and]~~
145 ~~[(v) programs or improvements for agriculture product storage or protections of a crop~~
146 ~~or animal resource;]~~
- 147 (f) seek to obtain and administer federal or state funds~~[- including loan funds under this~~
148 ~~chapter;]~~ in accordance with applicable federal or state guidelines and make loans or grants
149 from those funds to ~~[land occupiers]~~ an eligible entity, as defined by the department by rule
150 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for[:] the
151 preservation of soil, water, and air resources;
- 152 ~~[(i) conservation of soil or water resources;]~~
153 ~~[(ii) maintenance of rangeland improvement projects;]~~
154 ~~[(iii) development and implementation of coordinated resource management plans, as~~
155 ~~defined in Section 4-18-103, with conservation districts, as defined in Section 17D-3-102; and]~~
156 ~~[(iv) control or eradication of noxious weeds and invasive plant species;]~~
157 ~~[(A) in cooperation and coordination with local weed boards; and]~~
158 ~~[(B) in accordance with Section 4-17-114;]~~
- 159 (g) seek to coordinate soil and water protection, conservation, and development
160 activities and programs of state agencies, local governmental units, other states, special interest
161 groups, and federal agencies; and
- 162 ~~[(h) plan watershed and flood control projects in cooperation with appropriate local,~~
163 ~~state, and federal authorities, and coordinate flood control projects in the state;]~~
- 164 ~~[(i) assist other state agencies with conservation standards for agriculture when~~
165 ~~requested; and]~~
- 166 ~~[(j)]~~ (h) when assigned by the governor, when required by contract with the
167 Department of Environmental Quality, or when required by contract with the United States
168 Environmental Protection Agency:
- 169 (i) develop programs for the prevention, control, or abatement of new or existing

170 pollution to the soil, water, or air of the state;

171 (ii) advise, consult, and cooperate with affected parties to further the purpose of this

172 chapter;

173 (iii) conduct studies, investigations, research, and demonstrations relating to

174 agricultural pollution issues;

175 (iv) give reasonable consideration in the exercise of its powers and duties to the

176 economic impact on sustainable agriculture;

177 (v) meet the requirements of federal law related to water and air pollution in the

178 exercise of the commission's powers and duties; and

179 (vi) establish administrative penalties relating to agricultural discharges as defined in

180 Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm.

181 (2) The commission may:

182 (a) employ, with the approval of the department, an administrator and necessary

183 technical experts and employees;

184 (b) execute contracts or other instruments necessary to exercise its powers;

185 (c) take necessary action to promote and enforce the purpose and findings of Section

186 4-18-102;

187 (d) sue and be sued; and

188 (e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative

189 Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and

190 Subsections (2)(b) and (c).

191 Section 4. Section 4-18-106 is amended to read:

192 **4-18-106. Agriculture Resource Development Fund -- Contents -- Use of fund**

193 **money -- Authority board.**

194 (1) There is created a revolving loan fund known as the Agriculture Resource

195 Development Fund.

196 (2) The Agriculture Resource Development Fund shall consist of:

197 (a) money appropriated to it by the Legislature;

198 (b) sales and use tax receipts transferred to the fund in accordance with Section
199 [59-12-103](#);

200 (c) money received for the repayment of loans made from the fund;

201 (d) money made available to the state for agriculture resource development from any
202 source; and

203 (e) interest earned on the fund.

204 (3) The commission shall make loans from the Agriculture Resource Development
205 Fund ~~[as provided by Subsections [4-18-105](#)(1)(c)(i) through (iv):]~~ for a:

206 (a) rangeland improvement and management project;

207 (b) watershed protection or flood prevention project;

208 (c) soil and water conservation project;

209 (d) program designed to promote energy efficient farming practices;

210 (e) improvement program for agriculture product storage or program designed to
211 protect a crop or animal resource; or

212 (f) hydroponic or aquaponic system.

213 (4) The commission may appoint an advisory board that shall:

214 (a) oversee the award process for loans, as described in this section;

215 (b) ~~[make recommendations to the commission regarding]~~ approve loans; and

216 (c) recommend policies and procedures for the Agriculture Resource Development
217 Fund that are consistent with statute.

218 (5) The commission may make a grant from the Agriculture Resource Development
219 Fund to an eligible entity, as defined by the department by rule made in accordance with Title
220 63G, Chapter 3, Utah Administrative Rulemaking Act, that has the legal right to occupy land
221 for:

222 (a) the development or implementation of a coordinated resource management plan
223 with a conservation district, as defined in Section [17D-3-102](#); and

224 (b) control or eradication of noxious weeds and invasive plant species in cooperation
225 and coordination with a local weed board.

226 Section 5. Section **17D-3-103** is amended to read:

227 **17D-3-103. Conservation district status, authority, and duties.**

228 (1) A conservation district created under this chapter:

229 (a) is a body corporate and politic;

230 (b) is a political subdivision of the state; and

231 (c) may sue and be sued.

232 (2) (a) A conservation district may:

233 (i) survey, investigate, and research soil erosion, floodwater, nonpoint source water
234 pollution, flood control, water pollution, sediment damage, and watershed development;

235 (ii) subject to Subsection (2)(b), devise and implement on state or private land a
236 measure to prevent soil erosion, floodwater or sediment damage, nonpoint source water
237 pollution, or other degradation of a watershed or of property affecting a watershed;

238 (iii) subject to Subsection (2)(b), devise and implement a measure to conserve,
239 develop, utilize, or dispose of water on state or private land;

240 (iv) construct, improve, operate, and maintain a structure that the board of supervisors
241 considers necessary or convenient for the conservation district to carry out its purposes under
242 this chapter;

243 (v) acquire property, real or personal, by purchase or otherwise, and maintain, improve,
244 and administer that property consistent with the purposes of this chapter;

245 (vi) enter into a contract in the name of the conservation district;

246 (vii) receive money from:

247 (A) a federal or state agency;

248 (B) a county, municipality, or other political subdivision of the state; or

249 (C) a private source;

250 (viii) subject to Subsection (2)(c), make recommendations governing land use within
251 the conservation district, including:

252 (A) the observance of particular methods of cultivation;

253 (B) the use of specific crop programs and tillage practices;

254 (C) the avoidance of tilling and cultivating highly erosive areas where erosion may not
255 be adequately controlled if cultivated;

256 (D) the construction of terraces, terrace outlets, check dams, dikes, ponds, or other
257 structures; and

258 (E) the development or restoration, or both, of range or forest lands or other natural
259 resources, whether in private, state, or federal ownership;

260 (ix) plan watershed and flood control projects in cooperation with local, state, and
261 federal authorities, and coordinate flood control projects in the state;

262 [~~(ix)~~] (x) make recommendations for county and municipal land use authorities within
263 the conservation district to consider with respect to land use applications and other
264 development proposals;

265 [~~(x)~~] (xi) employ clerical and other staff personnel, including legal staff, subject to
266 available funds; and

267 [~~(xi)~~] (xii) perform any other act that the board of supervisors considers necessary or
268 convenient for the efficient and effective administration of the conservation district.

269 (b) A conservation district's authority under Subsections (2)(a)(ii) and (iii) is subject to
270 the consent of:

271 (i) the land occupier; and

272 (ii) in the case of school and institutional trust lands, as defined in Section 53C-1-103,
273 the director of the School and Institutional Trust Lands Administration, in accordance with
274 Sections 53C-1-102 and 53C-1-303.

275 (c) (i) Each recommendation under Subsection (2)(a)(viii) shall be uniform throughout
276 the conservation district or, if the board of supervisors classifies land under Subsection
277 (2)(c)(ii), throughout each land classification.

278 (ii) The board of supervisors may uniformly classify land within the conservation
279 district with respect to soil type, degree of slope, degree of threatened or existing erosion,
280 cropping and tillage practices in use, or other relevant factors.

281 (3) (a) Each conservation district shall annually submit to the commission, no later

282 than the date that the commission prescribes:

- 283 (i) a copy of the minutes of each conservation district meeting;
 - 284 (ii) a copy of the conservation district's annual work plan; and
 - 285 (iii) an accounting of the conservation district's financial affairs, as provided in
- 286 Subsection (3)(b).

287 (b) The accounting required under Subsection (3)(a)(iii) shall:

- 288 (i) be prepared by a disinterested person; and
 - 289 (ii) show the conservation district's debits and credits, including accounts payable and
- 290 accounts receivable, the purpose of each debit, the source of each credit, and the actual cash
- 291 balance on hand.

292 Section 6. Section **17D-3-105** is amended to read:

293 **17D-3-105. Conservation districts subject to other provisions.**

294 (1) ~~[A]~~ Subject to Subsection (3), a conservation district is, to the same extent as if it

295 were a local district, subject to and governed by:

- 296 (a) Sections [17B-1-105](#), [17B-1-107](#), [17B-1-108](#), [17B-1-110](#), [17B-1-112](#), [17B-1-113](#),
- 297 [17B-1-116](#), [17B-1-121](#), [17B-1-307](#), [17B-1-311](#), [17B-1-313](#), and [17B-1-314](#);
- 298 (b) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;
- 299 (c) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;
- 300 (d) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and
- 301 (e) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

302 (2) For purposes of applying the provisions listed in Subsection (1) to a conservation

303 district, each reference in those provisions to the local district board of trustees means the

304 board of supervisors described in Section [17D-3-301](#).

305 (3) A conservation district may not exercise taxing authority.