

CHAPTER 10

(HB 130)

AN ACT relating to soil and water conservation.

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

➔Section 1. KRS 262.330 is amended to read as follows:

- (1) The board may make available or lease, on such terms as it prescribes, to landowners and occupiers within the district, agricultural and engineering machinery and equipment, ***including heavy or specialized equipment acquired pursuant to Section 2 of this Act***, fertilizer, seeds, seedlings, and such other material or equipment as will assist the landowners and occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion. ***Any heavy or specialized equipment acquired pursuant to Section 2 of this Act that the board makes available, rents, or leases may be used on the lessee's or renter's land or on the lands of others for the purposes of conserving soil resources, the prevention and control of soil erosion, and the conservation and protection of water resources related to those purposes.***
- (2) As a condition to the extending of any benefits under this chapter to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the board may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and require landowners and occupiers to enter into and perform such agreements or covenants as to the permanent use of their lands as will tend to prevent or control erosion.

➔Section 2. KRS 262.610 is amended to read as follows:

- (1)
 - (a) ***Heavy or specialized equipment purchased or made available in accordance with Section 1 of this Act and KRS 262.610 to 262.660 shall be used for the purposes of conserving soil resources, the prevention and control of soil erosion, and the conservation and protection of water resources related to those purposes. The heavy or specialized equipment described in this paragraph may be used on the renter's or lessee's land or on the lands of others, pursuant to the usage proportions established in the administrative regulations promulgated under subsection (2)(d) of Section 5 of this Act.***
 - (b) The Soil and Water Conservation Commission as referred to in KRS Chapter 146, subject to the supervision of the commissioner of the Department for Natural Resources, to the restrictions provided in KRS 262.330 and KRS 262.610 to 262.660, and to the requirements of KRS Chapters 42 and 45A, is hereby authorized to acquire and to make available, or to assist in acquiring or making available to ***persons and*** soil and water conservation districts, heavy or specialized equipment or infrastructure which ~~they~~~~[an individual district]~~ cannot~~[itself]~~ economically obtain.
 - (c) ***A district may submit a request to the commission for the acquisition of heavy or specialized equipment jointly with a person residing within the district to whom the district has agreed to lease the equipment in the event that it is acquired or made available. The district and the person shall submit all information with their joint request for heavy or specialized equipment as may be required by the commission in the administrative regulations promulgated under Section 5 of this Act.***
 - (d) ***The commission shall not approve an application made jointly by a person and any district to acquire infrastructure or to have infrastructure made available to them.***
- (2) When the commission acquires or makes available ***heavy or specialized***~~[to any district the]~~ equipment ***to any district, or district applying jointly with a person,*** or infrastructure~~[above referred]~~ ***to any district,*** it shall require said district to fully amortize, in the form of rentals or payments, to the Division of Conservation, as referred to in KRS Chapter 146, any amount so expended by the commission for such assistance. The amount and method of amortization for each piece of heavy ***or specialized*** equipment or infrastructure shall be determined by the commission, subject to approval of the commissioner of the Department for Natural Resources. The amount and method of amortization for each piece of heavy or specialized equipment shall be determined on the basis of the lease or a rental fee to be charged by the district to the lessee or other user of equipment sufficient to:
 - (a) Fully amortize to the division the capital outlay for the machinery itself over the period of its reasonably anticipated full usefulness;

- (b) Cover the cost of operation, maintenance, and repairs;
 - (c) Pay the usual cost of providing an operator; and
 - (d) Compensate the district for the usual costs of transportation from one (1) job to another.
- (3) In giving effect to all of the foregoing, the commission shall estimate the amount of time such *heavy or specialized* equipment would ordinarily be idle.

➔Section 3. KRS 262.620 is amended to read as follows:

The Division of Conservation shall retain title to each piece of heavy or specialized equipment or any infrastructure purchased and made available to any soil and water conservation district *pursuant to Section 2 of this Act* until such time as the soil and water conservation districts fully amortize the commission's investment in the equipment or the infrastructure. If the soil and water conservation district purchases infrastructure with use of funds made available by the Division of Conservation for that purpose, then the Division of Conservation shall be listed on the deed to the property jointly with the district. After the commission's investment in the *heavy or specialized* equipment or infrastructure has been fully amortized, it is authorized and empowered to transfer the title thereto to the district. If the district has purchased infrastructure with funds made available by the Division of Conservation, the district shall consult with the division prior to the dispossession of the property.

➔Section 4. KRS 262.630 is amended to read as follows:

- (1) Each soil and water conservation district which receives, *leases, rents,* or uses the *heavy or specialized* equipment referred to in KRS 262.610 shall maintain its public records to show for each piece of equipment:
 - (a) The hours same has worked on each job in each district;
 - (b) The amounts collected from each job in each district;
 - (c) The expense of repairing, moving, manning and other usual costs of operation; and
 - (d) The amount paid by each district for the purpose of amortizing the commission's investment in the equipment.
- (2) Each soil and water conservation district which leases or otherwise obtains a right of use of the infrastructure with the support of the Division of Conservation pursuant to KRS 262.610 shall maintain in public records a copy of the lease or other contract which provides the district a right of use of the infrastructure; and
 - (a) In the case of a purchase, the amount paid by each district for the purpose of amortizing the commission's investment in the infrastructure; or
 - (b) In the case of lease without right of purchase or some other contractual arrangement or agreement, the payments made to the Division of Conservation for the right of use of the infrastructure.
- (3) Each of the soil and water conservation districts shall send a duplicate copy of the records to the commission, who shall retain same in its files for public inspection.
- (4) In addition thereto, the commission shall at all times maintain an account showing each piece of *heavy or specialized* equipment, the title to which is vested in it, and any infrastructure, the title of which may be vested solely in the commission or jointly with the district, and the amount paid thereon by any soil and water conservation district, and the amount remaining to be amortized.

➔Section 5. KRS 262.660 is amended to read as follows:

- (1) The commission, with the approval of the commissioner of the Department for Natural Resources, is hereby authorized to promulgate such other rules and regulations or methods of accounting as may be necessary or expedient to give effect to the purposes expressed in KRS 262.610 to 262.650.
- (2) *On or before January 1, 2024, the commission, with the approval of the commissioner of the Department for Natural Resources, shall promulgate administrative regulations pursuant to KRS Chapter 13A that shall at a minimum set forth:*
 - (a) *The form and manner in which a person and a district may jointly request the acquisition of heavy or specialized equipment pursuant to subsection (1)(c) of Section 2 of this Act, including but not limited to any financial or other disclosures the commission may require;*
 - (b) *The terms, conditions, and repayment of loans for heavy or specialized equipment that the commission makes available to districts for rent or lease to persons within those districts;*

- (c) *The terms and conditions for rental or lease agreements between districts and persons for the use of acquired heavy or specialized equipment, including but not limited to permissible uses of the equipment, care and maintenance of the equipment, liability assumptions for property damage or bodily injury caused by the equipment, insurance requirements, availability of the equipment for use by others in the district, and the keeping of public records regarding the use of the equipment. Notwithstanding any provision of this chapter or KRS Chapter 42 or 45A to the contrary, lease agreements shall allow lessees to use acquired heavy or specialized equipment outside of their own lands, and with prior approval of the board for the leasing district, on lands outside of their districts; and*
- (d) *The proportion of time that lessees or renters shall use the acquired heavy or specialized equipment on their own lands and the proportion of time that the heavy or specialized equipment shall be used on the lands of others.*

➔Section 6. KRS 146.090 is amended to read as follows:

- (1) The secretary of the Energy and Environment Cabinet, with the approval of the Soil and Water Conservation Commission shall divide the state into nine (9) soil and water conservation areas which shall contain as nearly as practicable, an equal number of soil and water conservation districts;
- (2) The Soil and Water Conservation Commission shall consist of nine (9) members, not more than five (5) of whom shall be of the same political party, to be appointed by the secretary of the Energy and Environment Cabinet with the approval of the Governor;
- (3) One (1) member shall be appointed from each of the areas from a list of two (2) names submitted from each area by the *Kentucky Association of Conservation Districts* ~~[supervisors of the soil and water conservation districts that have their principal offices therein]~~. All members *of the commission* shall be supervisors of soil and water conservation districts;
- (4) The term of office of each member shall be four (4) years; provided that, whenever a member of the commission ceases to hold the office of district supervisor by virtue of which he *or she* is serving on the commission, his *or her* term of office as a member of the commission shall be terminated. In the case of any vacancy other than the one (1) caused by the expiration of a term, the secretary of the Energy and Environment Cabinet, with the approval of the Governor, shall appoint the successor from a list of two (2) names submitted by the *Kentucky Association of Conservation Districts from the* ~~[supervisors of the soil and water conservation]~~ area which was represented by the former member. The successor shall also be a supervisor of a soil and water conservation district;
- (5) The members of the commission shall designate a chairman from among their members and may from time to time change such designation. The commission shall keep a record of its official actions. A majority of the commission shall constitute a quorum. The commission may call upon the Attorney General for legal services as it may require. It may delegate to its chairman, any of its members, the director of the division, or any officer, employee, or agent, powers and duties as it deems proper. Members of the commission shall receive no compensation for their services, but shall be entitled to expenses, including traveling expenses, necessarily incurred in discharging their duties;
- (6) The following persons are advisory members of the commission by virtue of their offices: the secretary of the Energy and Environment Cabinet, the Commissioner of Agriculture, the director of the agricultural experiment station, the director of vocational education, and the state conservationist of the United States Department of Agriculture.

➔Section 7. KRS 262.210 is amended to read as follows:

Nominating petitions shall be filed with the clerk of the county in which the district lies to nominate candidates for supervisors of the district. Such petitions shall be filed by at least the last date prescribed by the election law generally for filing certificates of nomination prior to a general election. Such petitions shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed. Each nominating petition shall be subscribed by twenty-five (25) or more qualified voters who are residents of the territory to be encompassed by the district. Resident qualified voters may join in nominating by petition more than one (1) candidate for supervisor. The nominating petition shall state the residence and post office address of each candidate, that he *or she* is legally qualified to hold the office, ~~[and]~~ that the subscribers desire, and are legally qualified, to vote for the candidate, *and for candidates who have not taken office prior to the effective date of this Act, that the*

candidate is at least eighteen (18) years of age. The county clerk shall certify the nomination and election of supervisors to the commission.

➔Section 8. KRS 262.240 is amended to read as follows:

- (1) A supervisor's term begins on January 1 following his *or her* election. ~~{The two (2) supervisors elected in the general election of 1974 shall be elected for a term of two (2) years. In 1976 a general election shall be conducted for seven (7) supervisors. The four (4) supervisors elected with the highest number of votes in the general election of 1976 shall serve for four (4) years; the other three (3) supervisors elected in 1976 shall serve for two (2) years. In the event only seven (7) nominating petitions for supervisors are filed, the commission shall declare the nominees elected without an election, and shall name four (4) of the nominees to serve terms of four (4) years, and three (3) to serve terms of two (2) years. Thereafter }~~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.

➔Section 9. Whereas the Kentucky Association of Conservation Districts represents the 121 soil conservation districts throughout our great Commonwealth, and its mission is to conserve and develop all renewable natural resources within each district, it is imperative that the continuity of the conservation district's board of supervisors remain as established upon the effective date of this Act. Therefore, it is the intent of the General Assembly that each supervisor of the district shall serve his or her term as elected by the residents of the district which the supervisor represents and shall not be replaced until his or her successor has been elected and has qualified. Furthermore, it is the intent of the General Assembly that, upon the effective date of this Act, candidates for supervisor of a conservation district shall be at least 18 years of age.

Signed by Governor March 17, 2023.