



## Ohio Revised Code

### Section 940.06 Supervisors of soil and water conservation district; additional powers.

Effective: April 12, 2021

Legislation: House Bill 340, House Bill 166, House Bill 7

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The board of supervisors of a soil and water conservation district have the following powers in addition to its other powers:

- (A) To conduct surveys, investigations, and research relating to the character of soil erosion, floodwater and sediment damages, and the preventive and control measures and works of improvement for flood prevention and the conservation, development, utilization, and disposal of water needed within the district, and to publish the results of those surveys, investigations, or research, provided that no district shall initiate any research program except in cooperation or after consultation with the Ohio agricultural research and development center;
- (B) To develop plans for the conservation of soil resources, for the control and prevention of soil erosion, and for works of improvement for flood prevention and the conservation, development, utilization, and disposal of water within the district, and to publish those plans and information;
- (C) To implement, construct, repair, maintain, and operate preventive and control measures and other works of improvement for natural resource conservation and development and flood prevention, and the conservation, development, utilization, and disposal of water within the district on lands owned or controlled by this state or any of its agencies and on any other lands within the district, which works may include any facilities authorized under state or federal programs, and to acquire, by purchase or gift, to hold, encumber, or dispose of, and to lease real and personal property or interests in such property for those purposes;
- (D) To cooperate or enter into agreements with any occupier of lands within the district in the carrying on of natural resource conservation operations and works of improvement for flood prevention and the conservation, development, utilization, and management of natural resources within the district, subject to such conditions as the supervisors consider necessary;



(E) To accept donations, gifts, grants, and contributions in money, service, materials, or otherwise, and to use or expend them according to their terms;

(F) To adopt, amend, and rescind rules to carry into effect the purposes and powers of the district;

(G) To sue and plead in the name of the district, and be sued and impleaded in the name of the district, with respect to its contracts and, as indicated in section 940.07 of the Revised Code, certain torts of its officers, employees, or agents acting within the scope of their employment or official responsibilities, or with respect to the enforcement of its obligations and covenants made under this chapter;

(H) To make and enter into all contracts, leases, and agreements and execute all instruments necessary or incidental to the performance of the duties and the execution of the powers of the district under this chapter, provided that all of the following apply:

(1) Except as provided in section 307.86 of the Revised Code regarding expenditures by boards of county commissioners, when the cost under any such contract, lease, or agreement, other than compensation for personal services or rental of office space, involves an expenditure of more than the amount established in that section regarding expenditures by boards of county commissioners, the board shall make a written contract with the lowest and best bidder after advertisement, for not less than two nor more than four consecutive weeks preceding the day of the opening of bids, in a newspaper of general circulation within the district or as provided in section 7.16 of the Revised Code and in such other publications as the supervisors determine. The notice shall state the general character of the work and materials to be furnished, the place where plans and specifications may be examined, and the time and place of receiving bids.

(2) Each bid for a contract shall contain the full name of every person interested in it.

(3) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall meet the requirements of section 153.54 of the Revised Code.

(4) Each bid for a contract, other than a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, at the discretion of the board, may be accompanied by a bond or



certified check on a solvent bank in an amount not to exceed five per cent of the bid, conditioned that, if the bid is accepted, a contract shall be entered into.

(5) The board may reject any and all bids.

(I) To charge, alter, and collect rentals and other charges for the use or services of any works of the district;

(J) To enter, either in person or by designated representatives, upon lands, private or public, in the necessary discharge of their duties;

(K) To enter into agreements or contracts with the department of agriculture for the determination, implementation, inspection, and funding of agricultural pollution abatement measures whereby landowners, operators, managers, and developers may meet adopted state standards for a quality environment, except that failure of a board to negotiate an agreement or contract with the department authorizes the department to implement the required program;

(L) To conduct demonstrations and provide information to the public regarding practices and methods for natural resource conservation, development, and utilization;

(M) To enter into contracts or agreements with, and seek technical guidance and program support from, the director of environmental protection in furtherance of actions to abate urban sediment and storm water runoff pollution;

(N) To enter into contracts or agreements with the director of natural resources for partnership on state programs to assist with local needs relating to the management of wildlife, forestry, waterways, and other natural resources programs;

(O) To develop operation and management plans as necessary;

(P) To determine whether operation and management plans developed under division (A) of section 939.03 of the Revised Code comply with the standards established under division (E)(1) of section 939.02 of the Revised Code and to approve or disapprove the plans, based on such compliance. If an



operation and management plan is disapproved, the board shall provide a written explanation to the person who submitted the plan. The person may appeal the plan disapproval to the director of agriculture or the director's designee, who shall afford the person a hearing. Following the hearing, the director or the director's designee shall uphold the plan disapproval or reverse it. If the director or the director's designee reverses the plan disapproval, the plan shall be deemed approved under this division. In the event that any person operating or owning agricultural land or an animal feeding operation in accordance with an approved operation and management plan who, in good faith, is following that plan, causes agricultural pollution, the plan shall be revised in a fashion necessary to mitigate the agricultural pollution, as determined and approved by the board.

(Q) To develop timber harvest plans;

(R) To determine whether timber harvest plans developed under division (A) of section 1503.52 of the Revised Code comply with the standards established under division (A)(1) of section 1503.51 of the Revised Code and to approve or disapprove the plans based on such compliance. If a timber harvest plan is disapproved, the board shall provide a written explanation to the person who submitted the plan. The person may appeal the plan disapproval to the chief of the division of forestry or the chief's designee, who shall afford the person a hearing. Following the hearing, the chief or the chief's designee shall uphold the plan disapproval or reverse it. If the chief or the chief's designee reverses the plan disapproval, the plan shall be deemed approved under this division.

(S) With regard to composting conducted in conjunction with agricultural operations, to do all of the following:

(1) Upon request or upon their own initiative, inspect composting at any such operation to determine whether the composting is being conducted in accordance with section 939.04 of the Revised Code;

(2) If the board determines that composting is not being so conducted, request the director to take corrective actions under section 939.07 of the Revised Code that require the person who is conducting the composting to prepare a composting plan in accordance with rules adopted under division (E)(5)(a) of section 939.02 of the Revised Code and to operate in accordance with that plan or to operate in accordance with a previously prepared plan, as applicable;



(3) In accordance with rules adopted under division (E)(5)(b) of section 939.02 of the Revised Code, review and approve or disapprove any such composting plan. If a plan is disapproved, the board shall provide a written explanation to the person who submitted the plan.

As used in division (S) of this section, "composting" has the same meaning as in section 939.01 of the Revised Code.

(T) With regard to conservation activities that are conducted in conjunction with agricultural operations, to assist the county auditor, upon request, in determining whether a conservation activity is a conservation practice for purposes of Chapter 929. or sections 5713.30 to 5713.37 and 5715.01 of the Revised Code.

As used in this division, "conservation practice" has the same meaning as in section 5713.30 of the Revised Code.

(U) To develop and approve or disapprove voluntary nutrient management plans in accordance with section 905.323 of the Revised Code;

(V) To consult and work with the watershed planning and management coordinator assigned to the watershed region in which the soil and water conservation district is located under section 940.41 of the Revised Code;

(W) To do all acts necessary or proper to carry out the powers granted in this chapter.

The director of agriculture shall make recommendations to reduce the adverse environmental effects of each project that a soil and water conservation district plans to undertake under division (A), (B), (C), or (D) of this section and that will be funded in whole or in part by moneys authorized under section 940.17 of the Revised Code and shall disapprove any such project that the director finds will adversely affect the environment without equal or greater benefit to the public. The director's disapproval or recommendations, upon the request of the district filed in accordance with rules adopted by the Ohio soil and water conservation commission, shall be reviewed by the commission, which may confirm the director's decision, modify it, or add recommendations to or approve a project the director has disapproved.



Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

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*The Legislative Service Commission presents the text of this section as a composite of the section as amended by multiple acts of the General Assembly. This presentation recognizes the principle stated in R.C. 1.52(B) that amendments are to be harmonized if reasonably capable of simultaneous operation.*