



2022 South Dakota Legislature

House Bill 1316

Introduced by: **Representative** Jamie Smith

1 **An Act to revise provisions regarding soil health in resource conservation and**
 2 **forestry and conservation districts.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 38-7-1 be AMENDED:**

5 **38-7-1.** It is hereby ~~declared to be~~ the policy of this state and ~~within the scope~~
 6 purpose of this chapter and chapter 38-8 to provide for the conservation of the soil and
 7 soil resources of this state, ~~and for~~ the control and prevention of soil erosion, the
 8 restoration of soil and improvement of soil health and watershed health, and ~~for the~~
 9 prevention of floodwater and sediment damages, and ~~for furthering to further~~ the
 10 conservation, development, utilization, and disposal of water, and thereby to preserve
 11 natural resources, control floods, prevent impairment of dams and reservoirs, assist in
 12 maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base,
 13 protect public lands, and protect and promote the health, safety, and general welfare of
 14 the people of this state.

15 **Section 2. That § 38-7-2 be AMENDED:**

16 **38-7-2.** Terms used in this chapter or chapter 38-8 mean:
 17 (1) "Agency of this state," the government of this state and any subdivision, agency,
 18 or instrumentality, corporate or otherwise, of the government of this state;
 19 (2) "Commission," the State Conservation Commission;
 20 (3) "District" or "conservation district," a governmental subdivision of this state, and a
 21 public body, corporate and politic, organized ~~in accordance with the provisions of~~
 22 ~~chapter 38-8,~~ for the purpose, with the powers, and subject to the restrictions set
 23 forth in chapter 38-8;
 24 (4) "Division," the Division of Resource Conservation and Forestry;

- 1 (5) "Due notice," a notice published at least twice, with an interval of at least seven
 2 days between the publication dates, in a legal newspaper within the district or by
 3 posting copies of the notice in three of the most public places within the district for
 4 ~~a period of~~ at least ten days immediately preceding the date specified in the notice.
 5 At any hearing held pursuant to the notice, at the time and place designated in the
 6 notice, the adjournment may be made from time--to--time without the necessity
 7 of renewing the notice for adjourned dates;
- 8 ~~(6) "Government" or "governmental," the government of this state, the government of~~
 9 ~~the United States, and any subdivision, agency, or instrumentality, corporate or~~
 10 ~~otherwise, of either of them;~~
- 11 ~~(7)(6)~~ "Land occupier" or "occupier of land," any person, firm, or corporation who holds
 12 title to, or ~~is in possession of~~ owns any agricultural, grazing, or forest lands lying
 13 within a conservation district, whether as owner, lessee, renter, tenant, or
 14 otherwise;
- 15 ~~(8)(7)~~ "Nominating petition," a petition filed under the provisions of chapter 38-8 to
 16 nominate candidates for the office of supervisor of a conservation district;
- 17 ~~(9)(8)~~ "Petition," a petition filed under the provisions of chapter 38-8 for the creation of
 18 a conservation district;
- 19 (9) "Soil health," the overall composition of the soil, including the amount of organic
 20 matter in and water holding capacity of the soil, and the continued capacity of soil
 21 to function as a vital ecosystem that sustains plants, animals, and humans;
- 22 ~~(10)(10)~~ "Supervisor," one of the members of the governing body of a district, elected
 23 or appointed in accordance with the provisions of chapter 38-8;
- 24 ~~(11) "United States" or "agencies of the United States," the United States of America,~~
 25 ~~the Natural Resources Conservation Service of the United States Department of~~
 26 ~~Agriculture, and any other agency or instrumentality, corporate or otherwise, of~~
 27 ~~the United States of America.~~
- 28 (11) "Watershed health," the continued capacity of surface water and groundwater
 29 ecosystem to function as a vital living ecosystem that is resilient to drought and
 30 storm events and that sustains plants, animals, and humans.

31 **Section 3. That § 38-8-13 be AMENDED:**

32 **38-8-13.** ~~In determining whether~~ To determine if the operation of a proposed
 33 district is administratively practicable and feasible, the ~~State Conservation~~
 34 ~~Commission~~ commission shall give due regard and weight to the attitudes of the occupiers

1 of land lying within the defined boundaries; ~~the probable expense~~ and benefits of carrying
2 on erosion control; soil restoration, soil health, and watershed health operations within
3 the district; and other relevant economic and social factors pursuant to ~~the legislative~~
4 ~~policy set forth in § 38-7-1.~~

5 **Section 4. That § 38-8-50 be AMENDED:**

6 **38-8-50.** A conservation district, and ~~the its~~ supervisors thereof, ~~shall have the~~
7 ~~power, in addition to others granted in other sections of this chapter, to~~ may develop
8 annual and long-range ten-year comprehensive plans, ~~which.~~ The plans may be prepared
9 with the cooperation and assistance of the State Planning Commission and other state and
10 federal agencies, for the conservation of all renewable natural resources and ~~for~~ the
11 control and prevention of soil erosion, restoration of soil, improvement of soil health and
12 watershed health, flood prevention, or the conservation and development, utilization, and
13 disposal of soil and water within the district, including ~~but not limited to~~, the specification
14 of engineering operations, methods of cultivation, pollution abatement, cropping systems,
15 and changes in the use of land for all purposes. ~~Such~~ The plans ~~shall~~ must be developed
16 and modified each year to maintain a ten-year projection.

17 **Section 5. That § 38-8-51 be AMENDED:**

18 **38-8-51.** The supervisors of a conservation district may invite the governing body
19 of any political subdivision of this state located near or within the territory comprising the
20 district to designate a representative to advise and consult with the board on all questions
21 of program and policy ~~which~~ that may affect the property, water supply, soil health,
22 watershed health, or otherwise be of interest to ~~such~~ the subdivisions.

23 **Section 6. That § 38-8-61 be AMENDED:**

24 **38-8-61.** A conservation district, and ~~the its~~ supervisors thereof, ~~shall have the~~
25 ~~power, in addition to others granted in other sections of this chapter, to~~ may carry out soil
26 erosion ~~preventive~~ prevention and control measures, soil restoration measures, soil health
27 and watershed health measures, and works of improvement for flood prevention ~~or~~ for
28 the conservation, development, utilization, and disposal of water within the districts on
29 ~~lands~~ land owned or controlled by this state or any of its agencies, with the cooperation
30 of the agency administering and having jurisdiction thereof, and on any other ~~lands~~ land

1 within the district upon ~~obtaining~~ the consent of the occupier of ~~such lands~~the land or the
2 necessary rights or interest in ~~such lands~~the land.

3 **Section 7. That § 38-8-62 be AMENDED:**

4 **38-8-62.** A conservation district and its supervisors may:

- 5 (1) Take over, by purchase, lease, or otherwise, and administer any natural resources
6 conservation, flood prevention, and agricultural water management, erosion
7 control, ~~or erosion prevention,~~ soil restoration, soil health, or watershed health
8 project located within its boundaries undertaken by the United States or any of its
9 agencies, or of this state or any of its agencies;
- 10 (2) Manage, as agent of the United States or any of its agencies, or of this state or any
11 of its agencies, any natural resources conservation, flood prevention, and
12 agricultural water management, erosion control, ~~or erosion prevention,~~ soil
13 restoration, soil health, or watershed health project, or combinations thereof,
14 within its boundaries;
- 15 (3) Act as agent for the United States or any of its agencies, or ~~for~~ this state or any of
16 its agencies, in connection with the acquisition, construction, operation, or
17 administration of any natural resources conservation, flood prevention, and
18 agricultural water management, erosion control, ~~or erosion prevention,~~ soil
19 restoration, soil health, or watershed health project, or combinations thereof,
20 within its boundaries; and
- 21 (4) Accept donations, gifts, and contributions in money, services, materials, or
22 otherwise, ~~from the United States or any of its agencies, or from this state, or any~~
23 ~~of its agencies, or from any other~~ source, and to use or expend such money,
24 services, materials, or other contributions in carrying on its operation.

25 **Section 8. That § 38-8-63 be AMENDED:**

26 **38-8-63.** A conservation district, and ~~the its~~ supervisors thereof, ~~shall have the~~
27 ~~power, in addition to others granted in other sections of this chapter, to~~ may cooperate,
28 or enter into agreements with, and within the limits of appropriations duly made available
29 to it by law, ~~to~~ furnish financial or other aid to any agency, governmental or otherwise, or
30 any occupier of ~~lands~~ land within the district, in the carrying on of erosion control and
31 prevention operations, soil restoration operations, soil health and watershed health
32 operations, and works of improvement for flood prevention for the conservation,
33 development, utilization, and disposal of water within the district, subject to ~~such any~~

1 conditions as the supervisors may deem necessary to advance the purposes of this
2 chapter.

3 **Section 9. That § 38-8-64 be AMENDED:**

4 **38-8-64.** A conservation district and its supervisors may make available, on terms
5 as it prescribes, to any land owners-landowner within the district, equipment, material, or
6 supplies as may be available to assist the ~~land owners-landowner~~ to carry on operations
7 for the conservation of natural resources and for the prevention and control of soil erosion,
8 soil restoration, soil health, watershed health, and flood prevention ~~of for~~ the conservation,
9 development, utilization, and disposal of water.

10 **Section 10. That § 38-8-65 be AMENDED:**

11 **38-8-65.** As a condition to ~~the extending of~~extend any benefits under the
12 provisions of this chapter to, or the performance of work upon, any ~~lands-land~~ not owned
13 or controlled by this state or any of its agencies, the supervisors of a conservation district
14 may require contributions in money, services, materials, or otherwise, to any operations
15 conferring ~~such any~~ benefits, and may require a land occupiers-occupier to enter into and
16 perform ~~such agreements or covenants~~ any agreement or covenant as to the permanent
17 use of ~~such lands~~the land as will ~~tend to~~ prevent or control erosion, restore soil, improve
18 soil health and watershed health, and prevent floodwater and sediment damages thereon.