

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 297

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

1 RELATING TO SOIL CONSERVATION DISTRICTS; AMENDING SECTION 22-2718, IDAHO
2 CODE, TO REVISE PROVISIONS REGARDING MEMBERSHIP OF THE IDAHO STATE SOIL
3 AND WATER CONSERVATION COMMISSION; REPEALING SECTION 22-2719, IDAHO
4 CODE, RELATING TO THE CREATION OF SOIL CONSERVATION DISTRICTS; AMENDING
5 SECTION 22-2721, IDAHO CODE, TO REVISE PROVISIONS REGARDING CHANGES TO
6 THE NUMBER OF DISTRICT SUPERVISORS; AMENDING SECTION 22-2717, IDAHO
7 CODE, TO REMOVE OBSOLETE LANGUAGE; AND AMENDING SECTION 22-2726, IDAHO
8 CODE, TO REMOVE A CODE REFERENCE.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Section 22-2718, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 22-2718. IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION. (1)
14 There is hereby established and created in the department of agriculture of
15 the state of Idaho the Idaho state soil and water conservation commission
16 which shall perform all functions conferred upon it by this chapter and shall
17 be a nonregulatory agency.

18 (a) The commission shall consist of five (5) members appointed by the
19 governor. In appointing commission members, the governor shall give
20 consideration to geographic representation. Commission members shall
21 be chosen with due regard to their demonstrated expertise including,
22 but not limited to, knowledge of and interest in water quality and other
23 natural resource issues, production agriculture, banking or other
24 similar financial experience or experience as a county commissioner.
25 The soil and water conservation districts may submit to the governor a
26 list of up to three (3) names for each vacancy on the commission and the
27 governor may, in his discretion, consider any such submission in the
28 appointment of commission members. The term of office of each commis-
29 sion member shall be five (5) years; except that upon July 1, 2010, the
30 governor shall appoint one (1) member for a term of one (1) year, one (1)
31 member for a term of two (2) years, one (1) member for a term of three
32 (3) years, one (1) member for a term of four (4) years and one (1) member
33 for a term of five (5) years. From and after the initial appointment the
34 governor shall appoint a member of the commission to serve in office for
35 a term of five (5) years commencing upon July 1 of that year. A vacancy
36 which occurs in an unexpired term shall be filled for its remainder by
37 the governor's appointment. Each vacancy on the commission shall be
38 filled by appointment by the governor. Such appointments shall be con-
39 firmed by the senate. Commission members shall serve at the pleasure of
40 the governor. from divisions of the Idaho association of soil conserva-
41 tion districts. Commission members shall be chosen with due regard to
42 their demonstrated expertise, including knowledge of conservation dis-

1 tricts and their functions, production agriculture, banking, or other
2 similar financial experience, or experience as a county commissioner.
3 The soil and water conservation districts shall submit a list of up to
4 three (3) names for each commission position, and the governor shall
5 appoint commission members from the list submitted. The governor shall
6 select and appoint five (5) commissioners with terms starting July 1,
7 2021, as follows: one (1) member from division 1 or 2 for a term of one
8 (1) year, one (1) member from division 3 for a term of two (2) years,
9 one (1) member from division 4 for a term of three (3) years, one (1)
10 member from division 5 for a term of four (4) years, and one (1) member
11 from division 6 for a term of five (5) years. From and after the initial
12 appointment, the governor shall appoint a member of the commission to
13 serve in office for a term of five (5) years commencing upon July 1 of
14 that year. From and after the initial appointment, any division with a
15 commission position that is expiring shall provide a list of three (3)
16 names to the governor to choose from starting July 1, 2022. A vacancy
17 that occurs in an unexpired term shall be filled for its remainder by
18 the governor's appointment pursuant to the division representation
19 selection process set forth in this paragraph. Appointments shall be
20 confirmed by the senate. Commission members shall serve at the pleasure
21 of the governor.

22 (b) The commission may invite the state conservationist of the United
23 States department of agriculture natural resources conservation ser-
24 vice, a representative from a district or districts and the dean of the
25 college of agriculture of the university of Idaho or his designated rep-
26 resentative, or any other person or entity as the commission deems ap-
27 propriate, to serve as nonvoting advisory members of the commission.

28 (c) The commission shall keep a record of its official actions, shall
29 adopt a seal, which seal shall be judicially noticed, and may perform
30 such acts, hold such public hearings and promulgate such rules as may be
31 necessary for the execution of its functions under this chapter.

32 (2) The state soil and water conservation commission shall appoint
33 the administrator of the state soil and water conservation commission. The
34 state soil and water conservation commission may employ such technical ex-
35 perts and such other agents and employees, permanent and temporary, as it
36 may require, and shall determine their qualifications, duties and compen-
37 sation. The commission may call upon the attorney general of the state for
38 such legal services as it may require. It shall have authority to delegate to
39 its chairman, to one (1) or more of its members, or to one (1) or more agents
40 or employees, such powers and duties as it may deem proper. The commission
41 may establish offices, incur expenses, enter into contracts and acquire
42 services and personal property as may be reasonable for the proper adminis-
43 tration and enforcement of this chapter. Upon request of the commission, for
44 the purpose of carrying out any of its functions, the supervising officer of
45 any state agency, or of any state institution of learning, shall insofar as
46 may be possible under available appropriation, and having due regard to the
47 needs of the agency to which the request is directed, assign or detail to the
48 commission members of the staff or personnel of such agency or institution of
49 learning, and make such special reports, surveys or studies as the commis-
50 sion may request.

1 (3) The commission shall designate its chairman, and may from time to
2 time, change such designation. A majority of the commission shall consti-
3 tute a quorum and the concurrency of a majority in any matter within their
4 duties shall be required for its determination. The chairman and members of
5 the commission shall be compensated as provided by section 59-509(h), Idaho
6 Code. The commission shall provide for the execution of surety bonds for
7 all employees and officers who shall be entrusted with funds or property;
8 shall provide for the keeping of a full and accurate record of all proceed-
9 ings and of all resolutions, and orders issued or adopted; and shall provide
10 for a periodic management review of the accounts of receipts and disburse-
11 ments as determined by the legislative auditor pursuant to section 67-702,
12 Idaho Code.

13 (4) In addition to the duties and powers hereinafter conferred upon the
14 state soil and water conservation commission, it shall have the following
15 responsibilities:

16 (a) To offer such assistance as may be appropriate to the supervisors of
17 soil conservation districts in the carrying out of any of their powers
18 and programs.

19 (b) To keep the supervisors of each of the several soil conservation
20 districts informed of the activities and experience of all other soil
21 conservation districts and to facilitate an interchange of advice and
22 experience between such districts and cooperation between them.

23 (c) To coordinate the progress of the several soil conservation dis-
24 tricts so far as this may be done by advice and consultation.

25 (d) To secure the cooperation and assistance of the United States and
26 any of its agencies, and of agencies of this state, in the work of such
27 districts.

28 (e) To disseminate information throughout the state concerning the ac-
29 tivities and programs of the soil conservation districts in areas where
30 their organization is desirable.

31 (f) To provide for the establishment and encouragement of the "Idaho
32 OnePlan" as a primary computer-based conservation planning process for
33 all natural resource concerns. Establishment and encouragement will
34 be accomplished through an executive group and steering committee both
35 containing private, state and federal representation. The information
36 provided by those using the "Idaho OnePlan" shall be deemed to be trade
37 secrets, production records or other proprietary information and shall
38 be kept confidential and shall be exempt from disclosure pursuant to
39 section 74-107, Idaho Code.

40 (5) In addition to other powers, functions and duties of soil conserva-
41 tion districts and the state soil and water conservation commission provided
42 in this chapter, the commission shall have the following additional powers,
43 functions and duties:

44 (a) The commission shall conduct, in cooperation with appropriate fed-
45 eral and state agencies and the owners and operators of privately owned
46 forest lands, rangelands and agricultural lands in this state, conser-
47 vation improvements on or in respect to these lands for the purposes of
48 implementing conservation systems to conserve and improve natural re-
49 source conditions;

1 (b) The commission shall assist and advise soil conservation districts
2 and other entities in implementing the conservation improvements,
3 projects and the water quality program for agriculture. To the extent
4 that there are available general funds, the commission shall provide
5 for grants and cost-share opportunities and, as legislatively desig-
6 nated, utilize the resource conservation and rangeland development
7 fund for loans for conservation improvements. Provided however, that
8 the commission shall determine whether general or resource conserva-
9 tion and rangeland development funds are available before approving any
10 conservation improvements, projects and cost-share opportunities and,
11 after having made such determination, shall enter into the necessary
12 contracts for implementation;

13 (c) The commission shall be the agency responsible for the administra-
14 tion of funds accruing to the resource conservation and rangeland de-
15 velopment fund and for all general funds appropriated as a separate and
16 distinct action of the legislature to implement the powers, functions
17 and duties of soil conservation districts and the commission;

18 (d) On or before March 1 of each year, the commission shall report to the
19 senate agricultural affairs committee and the house agricultural af-
20 fairs committee; and

21 (e) The commission shall promulgate such rules as are necessary to
22 carry out the purposes of this chapter.

23 SECTION 2. That Section [22-2719](#), Idaho Code, be, and the same is hereby
24 repealed.

25 SECTION 3. That Section 22-2721, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPER-
28 VISORS. (1) The governing body of the district shall consist of five (5)
29 supervisors, elected or appointed as provided in this chapter. Elections
30 shall be conducted pursuant to the provisions of this section and the uniform
31 district election law, chapter 14, title 34, Idaho Code. If at any time the
32 supervisors of a district deem it necessary, ~~they may request permission~~
33 ~~from the state soil and water conservation commission to increase the num-~~
34 ~~ber of supervisors to seven (7). Upon receipt of such a request in writing,~~
35 ~~signed by all five (5) supervisors, stating a valid reason for such need,~~
36 ~~the commission shall grant permission.~~ upon majority vote of the district
37 board, they may increase the number of supervisors to seven (7) or decrease
38 the number of supervisors to five (5). If increased, tThe additional super-
39 visors shall then be appointed as outlined in this section until such time
40 as regular district elections are held for two (2) supervisors in each dis-
41 trict. At that time those districts having seven (7) supervisors shall then
42 elect four (4) supervisors for four (4) year terms. The two (2) supervisors
43 appointed by the district shall be persons who are by training and experience
44 qualified to perform the specialized services which will be required of them
45 in the performance of their duties. All supervisors shall be landowners
46 or farmers of the district where they are elected or appointed and shall be
47 registered to vote in the state of Idaho.

1 (2) Within thirty (30) days after the date of issuance by the secretary
2 of state of a certificate of organization of a soil conservation district,
3 nominating petitions may be filed with the state soil and water conservation
4 commission to nominate candidates for supervisors of each district. The
5 county clerk shall conduct the election for the district in compliance with
6 chapter 14, title 34, Idaho Code, and shall be the election official for the
7 district. The election official shall have authority to extend the time
8 within which nominating petitions may be filed. Nominating petitions shall
9 be filed with the secretary of the district, and no such nominating petition
10 shall be accepted by the election official unless it shall be subscribed
11 by not less than five (5) persons who are qualified electors owning land or
12 residing within the boundaries of the district. The election official shall
13 give due notice of an election to be held, subject to the provisions of sec-
14 tion 34-106, Idaho Code, for the election of three (3) supervisors for the
15 district. The names of all nominees on behalf of whom such nominating pe-
16 titions have been filed within the time herein designated shall appear upon
17 ballots, with directions to choose three (3) names to indicate the voter's
18 preference. The three (3) candidates who shall receive the largest number,
19 respectively, of the votes cast in such election shall be the elected super-
20 visors for such district.

21 (3) All elections in districts shall be conducted by the county clerk.
22 Such election shall be held on the first Tuesday succeeding the first Monday
23 of November in each even-numbered year. Such elections shall be in compli-
24 ance with the provisions of chapter 14, title 34, Idaho Code, and shall be
25 supervised and conducted by the county clerk. The cost of conducting such
26 elections shall be borne by the county that conducted the election. The
27 county clerk shall certify to the soil and water conservation district the
28 names of the elected supervisors. The soil and water conservation district
29 shall issue certificates of election to each elected supervisor so certi-
30 fied. The county clerk or county clerks of the county or counties in which
31 the district is located shall conduct the election for the soil conservation
32 district, and the county clerk must provide a ballot for the district elec-
33 tion and must provide a process that allows only qualified electors of the
34 district to vote in that district's election.

35 (4) In any election for supervisor, if after the deadline for filing
36 a declaration of intent as a write-in candidate, it appears that the num-
37 ber of qualified candidates who have been nominated is equal to the number
38 of supervisors to be elected, it shall not be necessary for the candidates to
39 stand for election, and the board of supervisors shall declare such candi-
40 dates elected as supervisors, and the soil and water conservation district
41 shall immediately make and deliver to such persons certificates of election.

42 (5) The supervisors shall designate a chairman and may, from time to
43 time, change such designation. The term of office of each supervisor shall
44 be four (4) years commencing on the first day of January next following elec-
45 tion, except that the two (2) supervisors who are first appointed shall be
46 designated to serve for terms of two (2) years. A supervisor shall hold of-
47 fice until a qualified successor has been elected or appointed. Vacancies
48 shall be filled for the unexpired term. The selection of successors to fill
49 an unexpired term, or for a full term shall be made by a vote of the majority
50 of the supervisors duly qualified and acting at the time the vacancy shall

1 arise and the supervisors shall certify the name of the appointed supervisor
2 to the state soil and water conservation commission. The soil conservation
3 district shall issue a certificate of such appointment.

4 (6) A majority of the supervisors shall constitute a quorum and the
5 concurrence of a majority in any matter within their duties shall be required
6 for its determination. A supervisor shall be entitled to expenses, in-
7 cluding travel expense, necessarily incurred in the discharge of duties. A
8 supervisor shall receive no compensation for services from regular district
9 funds, county funds authorized in section 22-2726, Idaho Code, or state
10 funds authorized in section 22-2727, Idaho Code.

11 (7) In the event the district has a special project, approved by the
12 state soil and water conservation commission, making project funds avail-
13 able from federal or other sources, a supervisor may receive compensation
14 not to exceed thirty-five dollars (\$35.00) per day plus actual and necessary
15 expenses from project funds for services directly related to the project.

16 (8) The supervisors may employ a secretary, technical experts, and such
17 other officers, agents, and employees, permanent and temporary as they may
18 require, and shall determine their qualifications, duties and compensation.
19 The supervisors may call upon the attorney general of the state for such le-
20 gal services as they may require or may employ their own counsel and legal
21 staff. The supervisors may delegate to their chairman, to one (1) or more
22 supervisors, or to one (1) or more agents, or employees, such powers and du-
23 ties as they may deem proper. The supervisors shall furnish to the state soil
24 and water conservation commission, upon request, copies of such ordinances,
25 rules, orders, contracts, forms and other documents as they shall adopt or
26 employ, and such other information concerning the supervisors' activities
27 as the commission may require in the performance of the commission's duties
28 under this chapter.

29 (9) The supervisors shall provide for the execution of surety bonds for
30 all employees and officers who shall be entrusted with funds or property;
31 they shall provide for the keeping of a full and accurate record of all pro-
32 ceedings and of all resolutions, and orders issued or adopted; and shall pro-
33 vide for independent financial audits in accordance with the provisions of
34 section 67-450B, Idaho Code. Supervisors shall be subject to recall in ac-
35 cordance with the provisions of chapter 17, title 34, Idaho Code.

36 (10) The supervisors may invite the legislative body of a municipality
37 or county located near the territory comprised within the district to desig-
38 nate a representative to advise and consult with the supervisors of the dis-
39 trict on all questions of program and policy which may affect the property,
40 water supply, or other interests of such municipality or county.

41 SECTION 4. That Section 22-2717, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 22-2717. DEFINITIONS. Whenever used or referred to in this chapter,
44 unless a different meaning clearly appears from the context:

45 (1) "Administrator" means the administrator for the Idaho state soil
46 and water conservation commission.

47 (2) "Agency" includes the government of this state and any subdivision,
48 agency, or instrumentality, corporate or otherwise, of the government of
49 this state.

1 (3) "Agricultural pollution abatement plan" or "ag plan" means the
2 document developed by the state soil and water conservation commission and
3 approved by the commission and the department of environmental quality,
4 that provides appropriate technical, programmatic, informational and ed-
5 ucational processes, guidelines and policies for addressing agricultural
6 pollution.

7 (4) "Best management practices" or "BMPs" means practices, techniques,
8 or measures developed or identified by the designated agency and identified
9 in the state water quality management plan which are determined to be a cost-
10 effective and practicable means of preventing or reducing pollutants gener-
11 ated from nonpoint sources to a level compatible with water quality goals.

12 (5) "Commission" or "state soil and water conservation commission"
13 means the agency created in section 22-2718, Idaho Code.

14 (6) "Conservation plan" means a description of identified natural re-
15 source issues and a specific schedule of implementation of component prac-
16 tices necessary to resolve those specific resource issues as agreed upon by
17 the landowner.

18 (7) "Designated agency" is as defined in section 39-3602, Idaho Code.

19 (8) "District," "conservation district," "soil conservation dis-
20 trict," or "soil and water conservation district" means a governmental
21 subdivision(s) of this state, and a public body corporate and politic, orga-
22 nized in accordance with the provisions of this chapter, for the purposes,
23 with the powers and subject to the restrictions hereinafter set forth.

24 (9) "Due notice" means notice published at least twice, with an inter-
25 val of at least seven (7) days between the two (2) publication dates, in a
26 newspaper or other publication of general circulation within the appropri-
27 ate area, or if no such publication of general circulation be available, by
28 posting at a reasonable number of conspicuous places within the appropri-
29 ate area, such posting to include, where possible, posting at public places
30 where it may be customary to post notices concerning county or municipal af-
31 fairs generally. At any hearing held pursuant to such notice, at the time and
32 place designated in such notice, adjournment may be made from time to time
33 without the necessity of renewing such notice for such adjournment dates.

34 (10) "Eligible applicant" means an individual agricultural owner, op-
35 erator, partnership, corporation, conservation district, irrigation dis-
36 trict, canal company or other agricultural or grazing interest.

37 (11) "Government" or "governmental" includes the government of this
38 state, the government of the United States, and any subdivisions, agency, or
39 instrumentality, corporate or otherwise, of either of them.

40 (12) "Idaho OnePlan" means a computer-based system for improving effi-
41 ciency and effectiveness of natural resource planning by landowners and land
42 users.

43 (13) "Landowner" or "owner" includes any person, firm, or corporation
44 who shall hold title to any lands lying within a district organized under the
45 provisions of this chapter. A buyer on contract, who is the occupier of land,
46 shall be construed as landowner.

47 (14) "Land user" means any entity with a lease, permit or similar busi-
48 ness agreement with a landowner to implement, manage or utilize such land for
49 activities related to use of the land.

1 (15) "Natural resources conservation service" or "NRCS" means the
2 agency governed by the provisions of 16 U.S.C. sections 590a through 590d and
3 590f.

4 (16) "Nominating petition" means a petition filed under the provisions
5 of section 22-2721, Idaho Code, to nominate candidates for the office of su-
6 pervisor of a soil conservation district.

7 (17) "Participant" means an individual agricultural owner, operator,
8 partnership, private corporation, conservation district, irrigation dis-
9 trict, canal company, or other agricultural or grazing interest approved by
10 the commission or an individual agricultural owner, operator, partnership,
11 or private corporation approved for implementation of conservation improve-
12 ments, projects, or the water quality program for agriculture.

13 (18) "~~Petition~~" means ~~a petition filed under the provisions of subsec-~~
14 ~~tion (1) of section 22-2719, Idaho Code, for the creation of a district.~~

15 ~~(19)~~ "Project sponsor" means a conservation district, irrigation
16 district, canal company, or other agricultural or grazing interest, as
17 determined appropriate by the commission, that enters into a conservation
18 improvement or water quality project agreement with the commission.

19 ~~(2019)~~ "Qualified elector" means any person who is qualified to vote
20 pursuant to the requirements of section 34-104, Idaho Code.

21 ~~(210)~~ "Riparian land" means the beds of streams, the adjacent vegeta-
22 tion communities and the land thereunder, which are predominately influ-
23 enced by their association with water and are privately owned.

24 ~~(221)~~ "Specifications" means the materials, operations and procedures
25 necessary to obtain the desired standards of construction and installation.

26 ~~(232)~~ "Standards" means the minimum limits of technical excellence of a
27 component practice for its planning, design and construction.

28 ~~(243)~~ "State" means the state of Idaho.

29 ~~(254)~~ "Supervisor" means one (1) of the members of the governing body
30 of a district elected or appointed in accordance with the provisions of this
31 chapter.

32 ~~(265)~~ "Total maximum daily load" is as defined in section 39-3602, Idaho
33 Code.

34 ~~(276)~~ "United States" or "agencies of the United States" includes the
35 United States of America, the natural resources conservation service of the
36 United States department of agriculture, and any other agency or instrumen-
37 tality, corporate or otherwise, of the United States of America.

38 SECTION 5. That Section 22-2726, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 22-2726. FUNDS OR ASSISTANCE PROVIDED BY COUNTY FROM COUNTY GENERAL
41 FUND. In those counties of Idaho wherein all or a substantial part of the
42 county has been created and is operating as a soil conservation district or
43 districts under the provisions of chapter 27, title 22, ~~section 22-2719,~~
44 Idaho Code, or any amendment thereto, the board of county commissioners may,
45 from time to time, at their discretion and upon request of the supervisors
46 of such soil conservation districts provide in their budget a sufficient
47 amount of money from the county general fund for allocation to the districts
48 to be used by the districts for any purposes authorized by law, or in lieu
49 of such allocation the county commissioners at their discretion may assign

1 or hire an employee or employees of the county to assist the supervisors in
2 the performance of the work of their office. The duties of such employee or
3 employees shall be under the direct supervision of the supervisors of each
4 soil conservation district.