

**REPRINT**  
**SUBSTITUTE FOR**  
**HOUSE BILL NO. 5793**  
(As passed the House, June 25, 1998)

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 9301, 9302, 9303, 9304, 9305, 9307, 9308,  
9310, 9312, and 9313 (MCL 324.9301, 324.9302, 324.9303, 324.9304,  
324.9305, 324.9307, 324.9308, 324.9310, 324.9312, and 324.9313),  
as added by 1995 PA 60, and by adding section 9304a; and to  
repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 9301. As used in this part:

2       (a) "Agency of this state" includes the government of this  
3 state and any subdivision, agency, or instrumentality, corporate  
4 or otherwise, of the government of this state.

5       (B) "BOARD" OR "CONSERVATION DISTRICT BOARD" MEANS THE  
6 GOVERNING BODY OF A CONSERVATION DISTRICT.

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

2

1       (C) ~~(b) "Committee" or "state soil conservation committee"~~  
2 ~~means the advisory body created within the department of~~  
3 ~~agriculture in section 9304.~~ "COMPLIANCE ASSISTANCE AGENT" MEANS  
4 AN INDIVIDUAL WHO PROVIDES TECHNICAL ASSISTANCE TO INDIVIDUALS,  
5 ORGANIZATIONS, AGENCIES, OR OTHERS TO AID THEM IN COMPLYING WITH  
6 FEDERAL AND STATE LAWS AND LOCAL CONSERVATION ORDINANCES.

7       (D) "CONSERVATION SPECIES" MEANS THOSE PLANT SPECIES BENEFI-  
8 CIAL FOR CONSERVATION PRACTICES AS AUTHORIZED BY THE CONSERVATION  
9 SPECIES ADVISORY PANEL.

10       (E) "CONSERVATION SPECIES ADVISORY PANEL" MEANS THE CONSER-  
11 VATION SPECIES ADVISORY PANEL CREATED IN SECTION 9304A.

12       (F) ~~(c)~~ "Department" means the department of agriculture.

13       (G) ~~(d)~~ "Director" means 1 of the members of the  
14 ~~governing body of a district~~ CONSERVATION DISTRICT BOARD,  
15 elected or appointed in accordance with this part.

16       (H) ~~(e)~~ "District" or ~~"soil"~~ "conservation district"  
17 means a governmental subdivision of this state, and a public body  
18 corporate and politic, organized in accordance with this part,  
19 for the purposes, with the powers, and subject to the restric-  
20 tions set forth in this part.

21       ~~(f) "Due notice" means notice published at least twice,~~  
22 ~~with an interval of at least 7 days between the 2 publication~~  
23 ~~dates, in a newspaper or other publication of general circulation~~  
24 ~~within the appropriate area or, if no publication of general cir-~~  
25 ~~culation is available, notice posted at a reasonable number of~~  
26 ~~conspicuous places within the appropriate area, such posting to~~  
27 ~~include, if possible, posting at public places where it may be~~

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

3

1 ~~customary to post notices concerning county or municipal affairs~~  
2 ~~generally. At any hearing held pursuant to the notice, at the~~  
3 ~~time and place designated in the notice, adjournment may be made~~  
4 ~~from time to time without the necessity of renewing the notice~~  
5 ~~for the adjourned dates.~~

6 (I) ~~-(g)-~~ "Government" or "governmental" includes the gov-  
7 ernment of this state, the government of the United States, and  
8 any subdivision, agency, or instrumentality, corporate or other-  
9 wise, of either of them.

10 ~~-(h)- "Land occupier" or "occupier of land" includes any~~  
11 ~~person who holds title to, or is in possession of, any land 3~~  
12 ~~acres or more in extent lying within a district organized under~~  
13 ~~this part or former Act No. 297 of the Public Acts of 1937,~~  
14 ~~whether as owner, lessee, renter, tenant, or otherwise. An indi-~~  
15 ~~vidual shall be of legal age to qualify as an occupier of land.~~

16 (J) ~~-(i)-~~ "Landowner" includes any person who holds title to  
17 or has contracted to purchase any land lying within a district  
18 organized under this part or former ~~Act No. 297 of the Public~~  
19 ~~Acts of 1937~~ 1937 PA 297.

20 ~~-(j)- "Nominating petition" means a petition filed under sec-~~  
21 ~~tion 9306 to nominate candidates for the office of director of a~~  
22 ~~soil conservation district.~~

23 (k) "Person" means an individual, partnership, or  
24 corporation.

25 (l) ~~-"Petition" means a petition filed under section 9305(1)~~  
26 ~~for the creation of a district.~~ "PLANT RESCUE" MEANS TO  
27 PHYSICALLY MOVE NATIVE CONSERVATION SPECIES OF PLANTS FROM 1

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793 as amended December 8, 1998

4

1 LOCATION IN MICHIGAN TO ANOTHER LOCATION IN MICHIGAN FOR THE  
2 PURPOSE OF REESTABLISHING THE NATIVE CONSERVATION SPECIES.  
3 RESIDENT MEANS A PERSON WHO IS OF LEGAL AGE TO VOTE AND CAN  
4 DEMONSTRATE RESIDENCY IN THE DISTRICT VIA 1 PIECE OF IDENTIFICATION.

5 (m) "State" means this state.

6 (n) "United States" or "agencies of the United States"

7 includes the United States of America, the ~~soil~~ NATURAL  
8 RESOURCES conservation service of the United States department of  
9 agriculture, and any other agency or instrumentality, corporate  
10 or otherwise, of the United States of America.

11 Sec. 9302. It is the policy of the legislature to provide  
12 for the conservation of the NATURAL RESOURCES OF THE STATE,  
13 INCLUDING soil, ~~and~~ water, FARMLAND, AND OTHER NATURAL  
14 resources, ~~of this state~~ and TO PROVIDE for the control and  
15 prevention of soil erosion, and thereby to conserve the natural  
16 resources of this state, control floods, prevent impairment of  
17 dams and reservoirs, assist in maintaining the navigability of  
18 rivers and harbors, preserve wildlife, protect the tax base, pro-  
19 tect public lands, and protect and promote the health, safety,  
20 and general welfare of the people of this state.

21 Sec. 9303. (1) The business that ~~the soil conservation~~  
22 ~~committee or the~~ A CONSERVATION DISTRICT board ~~of directors of~~  
23 ~~a soil conservation district or consolidated district~~ may per-  
24 form shall be conducted at a public meeting of the ~~committee or~~  
25 board held in compliance with the open meetings act, ~~Act No. 267~~  
26 ~~of the Public Acts of 1976, being sections 15.261 to 15.275 of~~  
27 ~~the Michigan Compiled Laws 1976 PA 267, MCL 15.261 TO 15.275.~~  
Public notice of the time, date, and place of the meeting shall  
be given in the manner required by ~~Act No. 267 of the Public~~

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

5

1 ~~Acts of 1976~~ THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO  
2 15.275, in addition to any other notice prescribed in this part.

3 (2) A writing prepared, owned, used, in the possession of,  
4 or retained by ~~the soil conservation committee or the~~ A CONSER-  
5 VATION DISTRICT board ~~of directors of a soil conservation dis-~~  
6 ~~trict or consolidated district~~ in the performance of an official  
7 function shall be made available to the public in compliance with  
8 the freedom of information act, ~~Act No. 442 of the Public Acts~~  
9 ~~of 1976, being sections 15.231 to 15.246 of the Michigan Compiled~~  
10 ~~Laws~~ 1976 PA 442, MCL 15.231 TO 15.246.

11 Sec. 9304. ~~(1) There is established, to serve as an~~  
12 ~~advisory body and to perform the functions conferred upon it by~~  
13 ~~the director of the department of agriculture, the state soil~~  
14 ~~conservation committee. The committee shall consist of 7~~  
15 ~~members. The following shall serve as members of the committee:~~  
16 ~~the dean of agriculture and natural resources of Michigan state~~  
17 ~~university; the director of the department of agriculture; the~~  
18 ~~director of the department of natural resources; and 4 practical~~  
19 ~~farmers, who shall be appointed by the governor from among the~~  
20 ~~directors of the several districts, for terms of 4 years, to~~  
21 ~~begin July 1 of the odd year. The department may invite the~~  
22 ~~United States secretary of agriculture to appoint 1 person to~~  
23 ~~serve with the other members as a member of the committee. The~~  
24 ~~department shall keep a record of the committee's official~~  
25 ~~actions, shall adopt a seal, which seal shall be judicially~~  
26 ~~noticed, and may perform acts, hold public hearings, and~~

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

6

~~1 promulgate rules as may be necessary for the execution of its  
2 functions under this part.~~

~~3       (2) The department may employ an administrative officer,  
4 technical experts, and other agents and employees, permanent and  
5 temporary, as it may require, and shall determine their qualifi-  
6 cations and duties. The department may call upon the attorney  
7 general of the state for legal services as it may require. The  
8 committee shall be supplied with necessary supplies and  
9 equipment. Upon request of the department for the purpose of  
10 carrying out any of its functions, the supervising officer of any  
11 state agency or of any state institution of learning shall, to  
12 the extent possible under available appropriations and having due  
13 regard to the needs of the agency or institution of learning to  
14 which the request is directed, assign or detail to the department  
15 members of the staff or personnel of the agency or institution of  
16 learning and make such special reports, surveys, or studies as  
17 the committee may request.~~

~~18       (3) The committee shall designate its chairperson annually.  
19 The 4 farmer members shall hold office for 4 years or until a  
20 successor is appointed and qualified. The nonfarmer members  
21 shall hold office as long as they retain the office by virtue of  
22 which they serve on the committee. A majority of the committee  
23 constitutes a quorum, and the concurrence of a majority in any  
24 matter within their duties is required for its determination.  
25 The farmer members of the committee shall receive compensation  
26 for their services when attending committee meetings and are  
27 entitled to expenses, including traveling expenses, necessarily~~

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

7

1 ~~incurred in the discharge of their duties on the committee. The~~  
2 ~~nonfarmer members shall not receive compensation for their serv-~~  
3 ~~ices on the committee. The department shall provide for the~~  
4 ~~keeping of a full and accurate record of all proceedings of the~~  
5 ~~committee and of all resolutions and recommendations issued or~~  
6 ~~adopted by the committee. The department shall provide for an~~  
7 ~~annual audit of the accounts of receipts and disbursements of the~~  
8 ~~committee. (4) In addition to the OTHER duties and powers con-~~  
9 ~~ferred upon the department under this part, the department has~~  
10 the following duties and powers:

11 (a) To offer such assistance as may be appropriate to the  
12 directors of ~~soil~~ conservation districts ~~, organized as pro-~~  
13 ~~vided in this part,~~ in implementing any of their ~~powers and~~  
14 ~~programs~~ RESPONSIBILITIES UNDER THIS PART AND AS OTHERWISE PRO-  
15 VIDED BY LAW.

16 (b) To keep the directors of each of the districts  
17 ~~organized under this part~~ informed of the activities and  
18 experience of all other districts ~~organized under this part,~~  
19 and to facilitate an interchange of advice and experience between  
20 the districts and cooperation between them.

21 (c) To approve and coordinate the programs of all ~~soil~~  
22 conservation districts. ~~organized under this part.~~

23 (d) To secure the cooperation and assistance of the United  
24 States and any of its agencies, and the state and any of its  
25 agencies, in the work of the districts, and to formulate policies  
26 and procedures as the department considers necessary for the

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

8

1 extension of aid in any form from federal or state agencies to  
2 the districts.

3 (e) To disseminate information throughout the state concern-  
4 ing the activities and programs of the ~~soil~~ conservation dis-  
5 tricts ~~organized under this part,~~ and to encourage the forma-  
6 tion of districts in areas where their organization is  
7 desirable.

8 ~~(5) Members of the committee shall not accept any position~~  
9 ~~created by the committee for which a salary is paid or engage in~~  
10 ~~any business that is promoted by the committee as part of or that~~  
11 ~~contributes to the soil conservation program.~~

12 SEC. 9304A. (1) THE CONSERVATION SPECIES ADVISORY PANEL IS  
13 CREATED WITHIN THE DEPARTMENT. THE CONSERVATION SPECIES ADVISORY  
14 PANEL SHALL CONSIST OF THE FOLLOWING MEMBERS SELECTED BY THE  
15 DIRECTOR OF THE DEPARTMENT AND APPROVED BY THE COMMISSION OF  
16 AGRICULTURE:

17 (A) TWO REPRESENTATIVES OF THE DEPARTMENT AS FOLLOWS:

18 (i) ONE INDIVIDUAL FROM THE PESTICIDE AND PLANT MANAGEMENT  
19 DIVISION OR ITS SUCCESSOR AGENCY.

20 (ii) ONE INDIVIDUAL FROM THE ENVIRONMENTAL DIVISION OR ITS  
21 SUCCESSOR AGENCY.

22 (B) ONE INDIVIDUAL REPRESENTING THE DEPARTMENT OF NATURAL  
23 RESOURCES.

24 (C) ONE INDIVIDUAL REPRESENTING THE NATURAL RESOURCE CONSER-  
25 VATION SERVICE.

26 (D) TWO REPRESENTATIVES FROM MICHIGAN STATE UNIVERSITY AS  
27 FOLLOWS:



1           *i*) ONE INDIVIDUAL FROM THE DEPARTMENT OF HORTICULTURE OR  
ITS SUCCESSOR DEPARTMENT.

3           *ii*) ONE INDIVIDUAL FROM THE DEPARTMENT OF FORESTRY OR ITS  
SUCCESSOR DEPARTMENT.

5  
6           (F) ONE INDIVIDUAL FROM A STATEWIDE ORGANIZATION REPRESENT-  
ING NURSERY AND LANDSCAPING INTERESTS IN THE STATE.

8  
9           ING SEEDLING GROWERS' INTERESTS IN THE STATE.

(2) BY DECEMBER 1 OF EACH YEAR, THE CONSERVATION SPECIES

11  
12 THE FOLLOWING CALENDAR YEAR THAT MAY BE PROPAGATED, PLANTED, HAR-  
13 VESTED, SOLD, OR RESCUED AS PART OF A PLANT RESCUE OPERATION.

14 HOWEVER, CONSERVATION SPECIES ON THIS LIST THAT ARE PROPAGATED,  
15 PLANTED, OR RESCUED DURING THAT CALENDAR YEAR MAY BE SOLD,  
16 REMOVED, OR REESTABLISHED IN SUBSEQUENT YEARS EVEN IF THE SPECIES  
17 IS REMOVED FROM THE LIST IN A SUBSEQUENT YEAR.

18           Sec. 9305. ~~-(1) Any 25 occupiers of land lying within the~~  
19 ~~limits of the territory proposed to be organized into a district~~  
20 ~~may file a petition with the department asking that a soil con-~~  
21 ~~servation district be organized to function in the territory~~  
22 ~~described in the petition. The petition shall set forth:~~

23           ~~(a) The proposed name of the district.~~

24           ~~(b) That there is need, in the interest of the public~~  
25 ~~health, safety, and welfare, for a soil conservation district to~~  
26 ~~function in the territory described in the petition.~~

1 \_\_\_\_\_  
2 ~~as a district. The description is not required to be given by~~  
3 ~~metes and bounds or by legal subdivisions, but is sufficient if~~  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 ~~the district; that a referendum be held within the territory so~~  
7 ~~defined on the question of the creation of a soil conservation~~  
8 \_\_\_\_\_  
9 ~~a district be created. If more than 1 petition is filed covering~~  
10 ~~parts of the same territory, the department may consolidate all~~  
11 ~~or any of the petitions.~~  
12       ~~(2) Within 30 days after a petition has been filed with the~~  
13 ~~department, the department shall give notice of a proposed hear-~~  
14 ~~ing upon the question of the desirability and necessity, in the~~  
15 ~~interest of the public health, safety, and welfare, of the cre-~~  
16 ~~ation of the district; upon the question of the appropriate~~  
17 ~~boundaries to be assigned to the district; upon the propriety of~~  
18 ~~the petition and other proceedings taken under this part; and~~  
19 ~~upon all questions relevant to those issues. All occupiers of~~  
20 ~~land within the limits of the territory described in the peti-~~  
21 ~~tion, and of land within a territory considered for addition to~~  
22 ~~the described territory, and all other interested parties, have~~  
23 ~~the right to attend the hearings and to be heard. If it appears~~  
24 ~~at the hearing that it may be desirable to include within the~~  
25 ~~proposed district territory outside of the area within which~~  
26 ~~notice of the hearing has been given, the hearing shall be~~  
27 ~~adjourned, notice of further hearing shall be given throughout~~

1 ~~the entire area considered for inclusion in the district, and a~~  
2 ~~further hearing shall be held. After the hearing, if the depart-~~  
3 ~~\_\_\_\_\_~~  
4 ~~other relevant facts and information as may be available, that~~  
5 ~~there is need, in the interest of the public health, safety, and~~  
6 ~~\_\_\_\_\_~~  
7 ~~territory considered at the hearing, it shall make and record its~~  
8 ~~determination and shall define, by metes and bounds or by legal~~  
9 ~~subdivisions, the boundaries of the district. In making the~~  
10 ~~determination and in defining the boundaries, the department~~  
11 ~~shall give due weight and consideration to the topography of the~~  
12 ~~area considered, the composition of soils, the distribution of~~  
13 ~~erosion, the prevailing land-use practices, the desirability and~~  
14 ~~necessity of including within the boundaries the particular lands~~  
15 ~~under consideration and the benefits the lands may receive from~~  
16 ~~being included within the boundaries, the relation of the pro-~~  
17 ~~posed area to existing watersheds and agricultural regions and to~~  
18 ~~other soil conservation districts already organized or proposed~~  
19 ~~for organization under this part, and other relevant physical,~~  
20 ~~geographical, and economic factors. The territory to be included~~  
21 ~~within the boundaries need not be contiguous. If the department~~  
22 ~~determines after the hearing and after due consideration of the~~  
23 ~~relevant facts that there is no need for a soil conservation dis-~~  
24 ~~trict to function in the territory considered at the hearing, it~~  
25 ~~shall make and record its determination and deny the petition.~~  
26 ~~After 6 months have expired from the date of the denial of any~~  
27 ~~petition, subsequent petitions covering the same or substantially~~

~~the same territory may be filed and new hearings held and determinations made based on those hearings.~~

~~(3) After the department has made and recorded a determina-~~

~~safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries of the district,~~

~~those boundaries with the powers conferred upon soil conservation districts in this part is administratively practicable and~~

~~administrative practicability and feasibility, the department, within a reasonable time after entry of the finding that there is~~

~~mination of the boundaries of the district, shall hold a referendum within the proposed district upon the proposition of the cre-~~

~~The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands below~~

~~and "Against creation of a soil conservation district of the lands below described and lying in the county of ..... and~~

~~before each proposition and a direction to insert an X mark in the square before 1 or the other of the propositions as the voter~~

~~set forth the boundaries of the proposed district as determined by the department. All occupiers of lands lying within the~~

1 ~~boundaries of the territory, as determined by the department,~~  
2 ~~shall be eligible to vote in the referendum.~~

3       ~~(4) The department shall pay all expenses for the issuance~~  
4 ~~of the notices and the conduct of the hearings and referenda and~~  
5 ~~shall supervise the conduct of the hearings and referenda. The~~  
6 ~~department shall issue appropriate rules governing the conduct of~~  
7 ~~the hearings and referenda and providing for the registration of~~  
8 ~~all eligible voters or prescribing some other appropriate proce-~~  
9 ~~dure for the determination of those eligible as voters in the~~  
10 ~~referendum. Informalities in the conduct of the referendum or in~~  
11 ~~any matters relating to the referendum shall not invalidate the~~  
12 ~~referendum or the result of the referendum if notice has been~~  
13 ~~given substantially as provided in this section and the referen-~~  
14 ~~dum was fairly conducted.~~

15       ~~(5) The department shall publish the result of the referen-~~  
16 ~~dum and thereafter consider and determine whether the operation~~  
17 ~~of the district within the defined boundaries is administratively~~  
18 ~~practicable and feasible. If the department determines that the~~  
19 ~~operation of the district is not administratively practicable and~~  
20 ~~feasible, it shall record its determination and deny the~~  
21 ~~petition. If the department determines that the operation of the~~  
22 ~~district is administratively practicable and feasible, it shall~~  
23 ~~record its determination and proceed with the organization of the~~  
24 ~~district. In making its determination, the department shall give~~  
25 ~~due regard and weight to the attitudes of the occupiers of lands~~  
26 ~~lying within the defined boundaries, the number of land occupiers~~  
27 ~~eligible to vote in the referendum who have voted, the proportion~~

1 of the votes cast in the referendum in favor of the creation of  
2 the district to the total number of votes cast, the probable  
3 expense of conducting erosion control operations within the dis-  
4 trict, and other economic and social factors that are relevant to  
5 the determination. The department shall not determine that the  
6 operation of the proposed district within the defined boundaries  
7 is administratively practicable and feasible unless at least a  
8 majority of the votes cast in the referendum upon the proposition  
9 of creation of the district were cast in favor of the creation of  
10 the district.

11       ~~(6) If the department determines that the operation of the~~  
12 ~~proposed district within the defined boundaries is administra-~~  
13 ~~tively practicable and feasible, it shall appoint 2 directors to~~  
14 ~~act, with the 3 directors elected as provided in section 9306, as~~  
15 ~~the governing body of the district. The district shall be a gov-~~  
16 ~~ernmental subdivision of this state and a public body corporate~~  
17 ~~and politic, after the following requirements have been met:~~

18       ~~(a) The directors shall present to the secretary of state an~~  
19 ~~application signed by them that sets forth the following:~~

20       ~~(i) That a petition for the creation of the district was~~  
21 ~~filed with the department pursuant to this part, and that the~~  
22 ~~proceedings specified in this part were taken pursuant to the~~  
23 ~~petition; that the application is being filed in order to com-~~  
24 ~~plete the organization of the district as a governmental subdivi-~~  
25 ~~sion and a public body, corporate and politic; and that they are~~  
26 ~~the directors.~~

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

15

~~( ) The name and official residence of each of the~~

2

3 ~~to office.~~

~~( ) The term of office of each of the directors.~~

5

~~(iv )~~

6

~~v) The location of the principal office of the directors of  
the district.~~

8

~~(b) The application described in subdivision (a) shall be~~

9 ~~subscribed and sworn to by each of the directors before an offi-~~

10 ~~cer authorized by the laws of this state to take and certify~~

11 ~~oaths, who shall certify upon the application that he or she per-~~

12 ~~sonally knows the directors and knows them to be the officers as~~

13 ~~affirmed in the application, and that each has subscribed to the~~

14 ~~application in the officer's presence. The application shall be~~

15 ~~accompanied by a statement by the department that certifies all~~

16 ~~of the following:~~

17 ~~(i) That a petition was filed, notice issued, and hearing~~

18 ~~held.~~

19 ~~(ii) That the department did determine that there is need,~~

20 ~~in the interest of the public health, safety, and welfare, for a~~

21 ~~soil conservation district to function in the proposed territory~~

22 ~~and did define the boundaries of the district.~~

23 ~~(iii) That notice was given and a referendum held on the~~

24 ~~question of the creation of the district.~~

25 ~~(iv) That the result of the referendum showed a majority of~~

26 ~~the votes cast to be in favor of the creation of the district.~~

1       ~~v) That the department did determine that the operation of~~  
the proposed district is administratively practicable and

3 \_\_\_\_\_

4       ~~vi) The boundaries of the district as they have been~~  
defined by the department.

6       ~~(c) The secretary of state shall examine the application and~~

7 \_\_\_\_\_

8 \_\_\_\_\_

9 \_\_\_\_\_

10 \_\_\_\_\_

11 \_\_\_\_\_

12 \_\_\_\_\_

13 \_\_\_\_\_

14 \_\_\_\_\_

15 \_\_\_\_\_

16 \_\_\_\_\_

17 \_\_\_\_\_

18 \_\_\_\_\_

19 \_\_\_\_\_

20 \_\_\_\_\_

21 \_\_\_\_\_

22 \_\_\_\_\_

23 \_\_\_\_\_

24 \_\_\_\_\_

25 \_\_\_\_\_

26 \_\_\_\_\_

27 \_\_\_\_\_



**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

17

1 ~~territory as determined by the department but shall not include~~  
2 ~~any area included within the boundaries of another soil conserva-~~  
3 ~~tion district organized under this part or former Act No. 297 of~~  
4 ~~the Public Acts of 1937.~~

5       ~~(7) After 6 months have expired from the date of entry of a~~  
6 ~~determination by the department that operation of a proposed dis-~~  
7 ~~trict is not administratively practicable and feasible and denial~~  
8 ~~of a petition pursuant to that determination, subsequent peti-~~  
9 ~~tions may be filed and action taken in accordance with this~~  
10 ~~part.~~

11       ~~(8) Petitions for including additional territory within an~~  
12 ~~existing district may be filed with the department, and the pro-~~  
13 ~~ceedings provided for in the case of petitions to organize a dis-~~  
14 ~~trict shall be observed in the case of petitions for inclusion.~~  
15 ~~The department shall prescribe the form for the petitions, which~~  
16 ~~shall be as nearly as possible in the form prescribed for peti-~~  
17 ~~tions to organize a district. If the total number of land occu-~~  
18 ~~piers in the area proposed for inclusion is less than 25, the~~  
19 ~~petition may be filed when signed by a majority of the land occu-~~  
20 ~~piers of the area, in which case a referendum need not be held.~~  
21 ~~In a referendum upon a petition for inclusion, all occupiers of~~  
22 ~~land lying within the proposed additional area are eligible to~~  
23 ~~vote.~~

24       ~~(9) In any suit, action, or proceeding involving the valid-~~  
25 ~~ity or enforcement of, or relating to, any contract, proceeding,~~  
26 ~~or action of the district, the district shall be considered to~~  
27 ~~have been established in accordance with this part upon proof of~~

1 ~~the issuance of the certificate by the secretary of state. A~~  
2 ~~copy of the certificate certified by the secretary of state is~~  
3 ~~admissible in evidence in any action or proceeding and is proof~~  
4 ~~of the filing and contents of the certificate.~~

5       ~~(10) Petitions signed by a majority of the members of each~~  
6 ~~of the governing bodies of adjoining soil conservation districts~~  
7 ~~may be filed with the department asking that the boundary line~~  
8 ~~between the districts be changed. The department shall prescribe~~  
9 ~~the form of the petitions, which shall set out the existing~~  
10 ~~boundary line between the districts and the proposed new~~  
11 ~~boundary. Within 30 days after a petition has been filed with~~  
12 ~~the department, it shall give notice of a public hearing upon the~~  
13 ~~question of the proposed change of boundary. All occupiers of~~  
14 ~~land lying within the districts and all other interested persons~~  
15 ~~may attend the hearings and be heard. After the hearing, the~~  
16 ~~department shall determine, upon the facts presented at the hear-~~  
17 ~~ing and upon other available facts and information, whether the~~  
18 ~~operation of the districts within the proposed new boundaries~~  
19 ~~would be administratively practicable and feasible. In making~~  
20 ~~its determination, the department shall give consideration to the~~  
21 ~~declaration of policy and to the standards provided in this sec-~~  
22 ~~tion, relative to the organization of districts. If after the~~  
23 ~~hearing the department determines that the operation of the dis-~~  
24 ~~tricts within the proposed new boundaries will be administra-~~  
25 ~~tively practicable and feasible, it shall record its determina-~~  
26 ~~tion and notify the chairpersons of the governing bodies of the~~  
27 ~~districts of its determination. The chairpersons shall present~~

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

19

~~to the secretary of state an application, signed by them, for a~~

2

~~shall be accompanied by a statement by the department certifying  
that the boundary between the districts has been changed in~~

5

~~setting forth the new boundary line. When the application and  
statement have been filed with the secretary of state, the change~~

8

9

10

11

~~-(11)-~~

~~soil~~

~~that~~

~~exclude~~

13

~~are extended to include these municipalities.~~

~~Landowners and land occupiers of cities and incorporated villages  
have the same rights and privileges as accorded other landowners  
and land occupiers under this part.~~

(2) \_\_\_\_\_ A conservation

~~district~~

19

20

21

22

23

24

25

~~The first governing body of the~~

26

27

~~The 2 directors~~

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793 as amended December 8, 1998

20

1 ~~appointed by the department shall be persons who are by training~~  
2 ~~and experience qualified to perform the specialized skilled serv-~~  
3 ~~ices that will be required of them in the performance of their~~  
4 ~~duties under this part.~~ The directors shall designate a chair-  
5 person annually.

6 (2) The term of office of each director shall be ~~3~~ 4  
7 years. ~~, except that the director first appointed shall serve~~  
8 ~~for 2 years, the second director appointed shall serve for 1~~  
9 ~~year, and the directors first elected at the time of the referen-~~  
10 ~~dum shall serve as follows: the director receiving the highest~~  
11 ~~number of votes shall serve for 3 years, the director receiving~~  
12 ~~the second highest number of votes shall serve for 2 years, and~~  
13 ~~the director receiving the third highest number of votes shall~~  
14 ~~serve for 1 year. Thereafter, all~~ ALL directors shall be  
15 elected at an annual meeting ~~of the land occupiers~~ BY RESIDENTS  
16 of the district.

17 THE  
18 ELECTION SHALL BE NONPARTISAN AND THE DIRECTORS SHALL BE ELECTED  
19 BY THE RESIDENTS OF THE DISTRICT AT LARGE. AT LEAST 60 DAYS PRIOR TO  
THE ANNUAL MEETING, A CANDIDATE FOR CONSERVATION DISTRICT DIRECTOR  
MUST FILE AT THE CONSERVATION DISTRICT OFFICE, A PETITION SIGNED BY  
5 RESIDENTS OF THE DISTRICT. A CANDIDATE MUST BE A RESIDENT OF THE  
DISTRICT. The annual meeting  
20 shall be held within 30 days following the close of the fiscal  
21 year of the district. The fiscal year of the district shall be  
22 determined by the board of directors of the district. NOTICE OF  
23 THE ANNUAL MEETING SHALL BE PUBLISHED IN THE OFFICIAL NEWSPAPER  
24 OF RECORD FOR THE AREA IN WHICH THE DISTRICT IS LOCATED AT LEAST  
25 45 DAYS PRIOR TO THE DATE OF THE ANNUAL MEETING. THIS NOTICE  
26 SHALL INCLUDE THE DATE, TIME, AND LOCATION OF THE ANNUAL MEETING,  
27 AN AGENDA OF ITEMS TO BE CONSIDERED AT THE MEETING, AND A LIST OF

1 ALL CANDIDATES FOR DIRECTORS OF THE CONSERVATION DISTRICT. A  
2 RESIDENT OF A DISTRICT WHO IS UNABLE TO ATTEND THE ANNUAL MEETING  
3 MAY VOTE FOR THE DIRECTORS OF THE CONSERVATION DISTRICT BY ABSEN-  
4 TEE BALLOT AT THE CONSERVATION DISTRICT OFFICE DURING REGULAR  
5 BUSINESS HOURS OF THE CONSERVATION DISTRICT OFFICE AT ANY TIME  
6 AFTER PUBLICATION OF THE NOTICE AND PRIOR TO THE ANNUAL MEETING.  
7 DIRECTOR ELECTIONS SHALL BE CERTIFIED BY THE DEPARTMENT.  
8 A director shall hold office until a successor has been elected  
9 and qualified. Vacancies shall be filled by appointment by the  
10 board ~~of directors~~ until the next annual meeting. ~~—, at which~~  
11 ~~time a director shall be elected to fill the unexpired or full~~  
12 ~~term. The department shall promulgate rules governing the con-~~  
13 ~~duct of elections at annual meetings.~~

14 (3) A majority of the directors constitutes a quorum, and  
15 the concurrence of a majority in any matter within their duties  
16 is required for its determination. A director is entitled to  
17 expenses, including traveling expenses ~~—~~, necessarily incurred  
18 in the discharge of his or her duties. A DIRECTOR MAY BE PAID A  
19 PER DIEM FOR TIME SPENT UNDERTAKING HIS OR HER DUTIES AS A DIREC-  
20 TOR IN AN AMOUNT NOT TO EXCEED THE PER DIEM PAID TO A MEMBER OF  
21 THE COMMISSION OF AGRICULTURE.

22 (4) The directors may employ a secretary, technical experts,  
23 and such other officers, agents, and employees, permanent and  
24 temporary, as they may require, and shall determine their quali-  
25 fications, duties, and compensation. The directors may call upon  
26 the attorney general of the state for legal services as they may  
27 require. The directors may delegate to their chairperson, to 1  
or more directors, or to 1 or more agents or employees any powers

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

22

1 and duties that they consider proper. The directors shall  
2 furnish to the department, upon request, copies of ordinances,  
3 rules, regulations, orders, contracts, forms, and other documents  
4 that they adopt or employ, and any other information concerning  
5 their activities that the department may require in the per-  
6 formance of its duties under this part.

7       (5) The directors shall provide for the execution of surety  
8 bonds for all employees and officers who are entrusted with funds  
9 or property; shall provide for the keeping of a full and accurate  
10 record of all proceedings and of all resolutions, regulations,  
11 and orders issued or adopted; shall provide for an annual audit  
12 of the accounts of receipts and disbursements; and shall maintain  
13 accurate financial records of receipts and disbursements of state  
14 funds, which records shall be made available to the department.  
15 Any director may be removed by the department upon notice and  
16 hearing for neglect of duty or malfeasance in office, but for no  
17 other reason.

18       (6) The directors may invite the legislative body of any  
19 municipality or county located near the territory comprised  
20 within the district to designate a representative to advise and  
21 consult with the directors of the district on all questions of  
22 program and policy that may affect the property, water supply, or  
23 other interests of the municipality or county.

24       Sec. 9308. (1) A ~~soil~~ conservation district organized  
25 under this part constitutes a governmental subdivision of this  
26 state and a public body corporate and politic, exercising public  
27 powers, and a ~~soil~~ conservation district and the ~~directors of~~

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

23

1 ~~a district have~~ CONSERVATION DISTRICT'S BOARD HAS all of the  
2 following powers, in addition to powers otherwise granted in this  
3 part:

4 (a) To conduct surveys, investigations, and research relat-  
5 ing to ~~the character of soil erosion and the preventive and con-~~  
6 ~~trol measures needed~~ THE CONSERVATION OF FARMLAND AND NATURAL  
7 RESOURCES, to publish the results of the surveys, investigations,  
8 or research, and to disseminate THAT information ~~concerning~~  
9 ~~these preventive and control measures~~ UPON OBTAINING THE CONSENT  
10 OF THE LANDOWNER OR THE NECESSARY RIGHTS OR INTEREST IN THE  
11 LANDS. In order to avoid duplication of research activities, a  
12 district shall not initiate any research program except in coop-  
13 eration with the government of this state or any of its agencies  
14 or with the United States or any of its agencies.

15 (b) To conduct demonstrational projects within the district  
16 on lands owned or controlled by this state or any of its agen-  
17 cies, with the cooperation of the agency administering and having  
18 jurisdiction of the lands, and on any other lands within the dis-  
19 trict upon obtaining the consent of the owner of the lands or the  
20 necessary rights or interest in the lands, in order to demon-  
21 strate by example the means, methods, and measures by which ~~soil~~  
22 ~~and soil~~ FARMLAND AND NATURAL resources may be conserved and  
23 soil erosion in the form of soil blowing and soil washing may be  
24 prevented and controlled.

25 (c) To carry out preventive and control measures within the  
26 district including, but not limited to, engineering operations,  
27 methods of cultivation, the growing of vegetation, changes in use

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

24

1 of land, and other measures to achieve purposes listed in  
2 declaration of policy, on lands owned or controlled by this state  
3 or any of its agencies, with the cooperation of the agency admin-  
4 istering and having jurisdiction of the lands, and on any other  
5 lands within the district upon obtaining the consent of the  
6 ~~owner of the lands~~ LANDOWNERS or the necessary rights or inter-  
7 ests in the lands.

8 (d) To cooperate or enter into agreements with and, within  
9 the limits of appropriations made available to it by law, to fur-  
10 nish financial or other aid to any agency, governmental or other-  
11 wise, or any landowner ~~of land~~ within the district or his or  
12 her designated representative, in the conducting of  
13 erosion-control and prevention operations within the district,  
14 subject to conditions as the directors consider necessary to  
15 advance the purposes of this part.

16 (e) To obtain options upon and to acquire, by purchase,  
17 exchange, lease, gift, grant, bequest, devise, or otherwise, any  
18 property, real or personal, or rights or interests in that prop-  
19 erty; to maintain, administer, and improve any properties  
20 acquired, to receive income from the properties, and to expend  
21 income in carrying out the purposes and provisions of this part;  
22 and to sell, lease, or otherwise dispose of any of its property  
23 or interests in property in furtherance of the purposes and pro-  
24 visions of this part.

25 (f) To make available, on the terms it prescribes, to land-  
26 owners or their designated representatives within the district  
27 AND TO OTHER CONSERVATION DISTRICTS IN MICHIGAN, agricultural and



**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

25

1 engineering machinery and equipment, fertilizer, seeds, and  
2 seedlings, and other material or equipment as will assist ~~the~~  
3 landowners or their designated representatives to carry on opera-  
4 tions upon their lands for the conservation of ~~soil~~ FARMLAND  
5 AND NATURAL resources and for the prevention and control of soil  
6 erosion.

7 (G) TO ENGAGE IN PLANT RESCUE OPERATIONS AND TO PROPAGATE,  
8 PLANT, HARVEST, AND, SUBJECT TO SECTION 9304A, SELL ONLY CONSER-  
9 VATION SPECIES ON THE LIST ESTABLISHED IN SECTION 9304A. A CON-  
10 SERVATION DISTRICT THAT VIOLATES THIS SUBDIVISION IS SUBJECT TO A  
11 CIVIL FINE OF NOT MORE THAN \$100.00 PER DAY OF VIOLATION. AN  
12 ACTION TO ENFORCE THIS SUBDIVISION MAY BE BROUGHT BY THE STATE OR  
13 A COUNTY IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE CONSER-  
14 VATION DISTRICT IS LOCATED OR IN WHICH THE VIOLATION OCCURRED.

15 (H) TO PROVIDE TECHNICAL ASSISTANCE TO OTHER CONSERVATION  
16 DISTRICTS.

17 (I) ~~(g)~~ To construct, improve, and maintain structures as  
18 may be necessary or convenient for the performance of any of the  
19 operations authorized in this part.

20 (J) ~~(h)~~ To develop comprehensive plans for the conserva-  
21 tion of ~~soil~~ FARMLAND AND NATURAL resources and for the control  
22 and prevention of soil erosion within the district OR OTHER CON-  
23 SERVATION DISTRICTS. The plans shall specify, in such detail as  
24 is possible, the acts, procedures, performances, and avoidances  
25 that are necessary or desirable for the effectuation of the  
26 plans, including the specification of engineering operations,  
27 methods of cultivation, the growing of vegetation, cropping

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

26

1 programs, tillage practices, and changes in use of land; and to  
2 publish the plans and information described in this subdivision  
3 and bring them to the attention of ~~occupiers of lands within~~  
4 RESIDENTS OF the district.

5       (K) ~~(i)~~ To take over, by purchase, lease, or otherwise,  
6 and to administer any ~~soil-conservation, erosion-control, or~~  
7 ~~erosion-prevention~~ FARMLAND AND NATURAL RESOURCE CONSERVATION  
8 project located within its boundaries undertaken by the United  
9 States or any of its agencies or by this state or any of its  
10 agencies; to manage, as agent of the United States or any of its  
11 agencies or of this state or any of its agencies, any  
12 ~~soil-conservation, erosion-control, or erosion-prevention~~  
13 FARMLAND AND NATURAL RESOURCE CONSERVATION project within its  
14 boundaries; to act as agent for the United States or any of its  
15 agencies or for this state or any of its agencies in connection  
16 with the acquisition, construction, operation, or administration  
17 of any ~~soil-conservation, erosion-control, or~~  
18 ~~erosion-prevention~~ FARMLAND AND NATURAL RESOURCE CONSERVATION  
19 project within its boundaries; to accept donations, gifts, and  
20 contributions in money, services, materials, or otherwise, from  
21 the United States or any of its agencies or from this state or  
22 any of its agencies, and to use or expend the money, services,  
23 materials, or other contributions in carrying on its operations;  
24 ~~subject to the policies and procedures adopted by the state soil~~  
25 ~~conservation committee;~~ and to accept money, gifts, and dona-  
26 tions from any other source not specified in this subdivision.

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

27

1       (1) ~~-(j)-~~ To sue and be sued in the name of the district; to  
2 have a seal that is judicially noticed; to have perpetual  
3 succession unless terminated as provided in this part; to make  
4 and execute contracts and other instruments necessary or conven-  
5 ient to the exercise of its powers; and to make, and from time to  
6 time amend and repeal, rules and regulations in a manner that is  
7 not inconsistent with this part to carry into effect its purposes  
8 and powers.

9       (M) TO BORROW MONEY FOR FACILITIES OR EQUIPMENT FOR CONSER-  
10 VATION PURPOSES AND PLEDGE THE ASSETS OF THE DISTRICT AS COLLAT-  
11 ERAL AGAINST LOANS. ANY MONEY BORROWED SHALL BE SOLELY THE OBLI-  
12 GATION OF THE CONSERVATION DISTRICT AND NOT THE OBLIGATION OF THE  
13 STATE OR ANY OTHER PUBLIC ENTITY IN THE STATE.

14       (N) ~~-(k)-~~ As a condition to the extension of any benefit  
15 under this part to, or the performance of work upon, any lands  
16 not owned or controlled by this state or any of its agencies, the  
17 directors may require contributions in money, services, materi-  
18 als, or otherwise to any operation conferring the benefits, and  
19 may require ~~land occupiers~~ LANDOWNERS to enter into and perform  
20 agreements or covenants as to the permanent use of the lands that  
21 will tend to prevent or control erosion on those lands.

22       (O) TO ACT AS A COMPLIANCE ASSISTANCE AGENT FOR OTHER FEDER-  
23 AL, STATE, AND COUNTY LAWS.

24       (P) ~~-(l)-~~ To act as the enforcing agency for a county if  
25 designated under section 9105.

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

28

1       (2) UNLESS AUTHORIZED BY THE COUNTY BOARD OF COMMISSIONERS  
2 OF EACH COUNTY IN WHICH A CONSERVATION DISTRICT IS LOCATED, A  
3 CONSERVATION DISTRICT SHALL NOT ENFORCE STATE OR FEDERAL LAWS.

4       (3) ~~-(2)- Unless the legislature~~ OTHERWISE specifically  
5 ~~states otherwise~~ PROVIDED BY LAW, provisions with respect to  
6 the acquisition, operation, or disposition of property by other  
7 public bodies are not applicable to a district organized under  
8 this part.

9       Sec. 9310. (1) Agencies of this state that have jurisdic-  
10 tion over, or are charged with the administration of, any state  
11 owned lands, and agencies of any county or other governmental  
12 subdivision of the state that have jurisdiction over, or are  
13 charged with the administration of, any county owned or other  
14 publicly owned lands, lying within the boundaries of any dis-  
15 trict, shall cooperate to the fullest extent with the directors  
16 of the districts in the effectuation of programs and operations  
17 undertaken by ~~the directors~~ CONSERVATION DISTRICTS under this  
18 part. The directors of the districts shall be given free access  
19 to enter and perform work upon such publicly owned lands.

20       (2) The board ~~of directors~~ of a ~~soil~~ conservation dis-  
21 trict may cooperate with and enter into ~~agreement~~ AGREEMENTS  
22 with a county, township, municipality, or other subdivision of  
23 state government in implementing soil, water, and related  
24 land-use projects. A county, township, municipality, or other  
25 subdivision of state government through its governing body may  
26 cooperate with and enter into agreement with ~~soil~~ conservation  
27 districts in carrying out this part and may assist districts by

**HB 5793, As Passed Senate, December 8, 1998**

House Bill No. 5793

29

1 providing them with such materials, equipment, money, personnel,  
2 and other services as the governmental unit considers advisable.

3       Sec. 9312. (1) ~~Two or more soil~~ ONE OR MORE conservation  
4 districts ~~organized pursuant to this part~~ may petition the  
5 department for ~~consolidation of the districts into a single~~  
6 ~~district~~ A REVISION IN THE BOUNDARIES OF 1 OR MORE CONSERVATION  
7 DISTRICTS. The department shall not take action on the petition  
8 unless it is signed by a majority of the directors of each of the  
9 districts involved IN THE PROPOSED REVISION. Within 30 days  
10 after receipt of a proper petition, the department shall cause  
11 notice of hearing to be given to the ~~occupiers of land~~  
12 RESIDENTS in the area ~~proposed to be included in the consoli-~~  
13 ~~dated district~~ OR AREAS AFFECTED BY THE PROPOSED REVISION AS  
14 IDENTIFIED BY THE DIRECTORS OF A DISTRICT AND WITHIN 60 DAYS HOLD  
15 A HEARING TO RECEIVE COMMENTS RELATIVE TO THE PROPOSED CHANGE.

16       (2) The department shall determine if ~~consolidation~~ THE  
17 PROPOSED REVISION as petitioned for is desirable. If it finds in  
18 the affirmative, the department shall issue an order that states  
19 that the BOUNDARIES OF THE districts are to be MOVED, MERGED,  
20 consolidated, OR SEPARATED at a date specified in the order and  
21 includes the name and the REVISION OF THE boundaries of the  
22 ~~consolidated~~ REVISED district OR DISTRICTS.

23       (3) Upon transmission of the order to the secretary of  
24 state, a certificate of due organization under seal of the state  
25 shall issue, IF NECESSARY, to the directors of the district as  
26 provided in this part. The ~~consolidated~~ REVISED district OR

1 DISTRICTS shall have the same powers, duties, and functions as  
2 other districts organized under this part.

3 (4) The department shall appoint the first board of direc-  
4 tors of the ~~consolidated~~ REVISED district, 1 of whom shall be  
5 appointed for a term of 1 year, 2 for a term of 2 years, and 2  
6 for a term of 3 years. Thereafter, directors shall be elected as  
7 provided in section 9307.

8 (5) All assets, liabilities, records, documents, writings,  
9 or other property of whatever kind of the districts of which the  
10 consolidated district is composed shall become the property of  
11 the consolidated district, and all agreements made by, and obli-  
12 gations of, the former districts shall be binding upon and  
13 enforceable by the consolidated district. At the date specified  
14 in the department's order, the districts of which the consoli-  
15 dated district is composed shall cease to exist, and their powers  
16 and duties shall cease after that date. The consolidated dis-  
17 trict shall be governed by this part.

18 Sec. 9313. The necessary expenses of ~~the state soil con-~~  
19 ~~servation committee and~~ any ~~soil~~ conservation districts shall  
20 be made from appropriations made for those purposes.

21 Enacting section 1. Sections 9306 and 9311 of the natural  
22 resources and environmental protection act, 1994 PA 451,  
23 MCL 324.9306 and 324.9311, are repealed.

Enacting section 2. Section 9307(1) and (2) take effect June  
1, 1999.