

BOARD OF WATER AND SOIL RESOURCES

SWCD OPERATIONAL HANDBOOK

POLICY STATEMENTS AND DISTRICT LAW

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DISTRICT LAW (M.S. 103)

Minnesota's soil and water conservation districts (SWCDs) were created under Minnesota Statutes (M.S.), Chapter 40 in 1938. The statute was titled the Soil and Water Conservation District Law.

In 1990, the legislature "recodified" or updated and combined water related legislation from more than eight separate statutes. The combination of statutes became Chapter 103, the Minnesota Water Law. The Soil and Water District Law, Chapter 40, became Chapter [103C](#) of the Minnesota Water Law.

Parts of Chapters 103A, 103B, 103C, 103D, 103E, 103F, and 103G relate to activities of SWCDs.

- [103A](#) establishes state policies for waters of the state, their use and protection.
- [103B](#) establishes local water planning requirements and procedures and creates the Board of Water and Soil Resources (BWSR).
- [103C](#) establishes SWCDs and sets their responsibilities and powers.
- [103D](#) establishes watershed districts (WDs) and defines their responsibilities and powers.
- [103E](#) establishes drainage authorities and works of improvement.
- [103F](#) establishes the Reinvest in Minnesota (RIM) Reserve Program and soil erosion ordinance provisions.
- [103G](#) establishes the Wetland Conservation Act (WCA) requirements and procedures.

Other sections of state law which are encountered by SWCDs can be found in the Legal section of this handbook.

SOIL AND WATER CONSERVATION DISTRICTS

Powers and Duties

Minnesota Statutes [103C.331](#) establishes SWCDs as political subdivisions of the state of Minnesota with certain powers and duties. An SWCD:

- is a legal subdivision of the state and can exercise public powers.
- may conduct resource surveys and demonstration projects.
- may carry out soil and water conservation measures on any lands in the district with the consent of the landowner.
- may cooperate or enter into agreements with any governmental agency or individual landowner for the purpose of carrying on a program of erosion prevention and control.
- may purchase or accept property and income and provide equipment and supplies that will help to bring about conservation practices.
- may construct, install, improve, maintain, and operate such structures and works as may be necessary for proper performance of the district.
- may develop a comprehensive and annual plan for the conservation of soil and water resources. These plans are required for the district to receive state grant funds.
- may assume land by purchase, lease, or otherwise to improve, maintain, operate, and administer any soil and water conservation project undertaken by federal or state government.
- may sue or be sued.
- may require compensation or contributions for goods and services provided.
- may make application or enter into an agreement with a designated authority for federal assistance.
- may perform any other acts necessary to secure and use federal aid.

- may acquire land, easements, or rights-of-way needed in connection with works of improvement installed with federal assistance.
- shall present an annual budget to the board of county commissioners.
- may use necessary funds to provide membership in state and national associations that pertain to district operations and is authorized to participate and appropriate necessary funds to defray expenses of district representatives for meetings of such groups.
- may procure insurance directly or through the county in which the district is located.
- may publish any information relating to the activities of the district.
- may provide advice to or consult with county or municipal representatives.

Programs Administered by SWCDs

Local SWCD Programs

Many SWCDs earn money to support other district programs by:

- selling and planting trees for conservation projects.
- charging for services, such as staking tile.
- renting out conservation tillage implements and no-till drills.
- selling conservation construction material, such as seeding mulch or netting.
- selling grass seed and running a seeding program.
- signing grant agreements with other units of government.

BWSR Programs

These programs have been established by the state to assist districts in protecting their community's soil and water resources. Because these programs were developed in response to the needs expressed through SWCDs, many of them will fit in well with the resource needs of your district. Rather than tailoring your requests to fit these programs, it is important that you first evaluate your resource needs and then see how the programs can help.

General Services Grant: BWSR annually allocates funds to all Minnesota SWCDs for expenditures necessary to the operation of the district.

Erosion, Sediment Control, and Water Quality Cost-Share Program (C-S Program): Provides up to 75 percent cost-sharing to landowners for installation of soil and water conservation practices. SWCDs may receive an annual allocation from the BWSR. In addition to the regular cost-share allocation, SWCDs may also apply to the BWSR for funds from the cost-share special project fund.

Reinvest in Minnesota (RIM) Reserve Program: A land retirement program that pays landowners to retire marginal agricultural land. It includes wetland restoration, riparian lands, and sensitive ground water area payment provisions, among others. The land must be retired under 20 year or permanent easements. The program is jointly administered by local SWCDs and the state BWSR.

Local Water Resources Protection and Management Program (LWRPMP), a.k.a. Comprehensive Local Water Planning (CLWP): Counties apply to the BWSR for base grants and competitive challenge grants for implementation of local water plan initiatives. SWCDs are often involved in plan development and implementation.

Wetlands Programs: During the 1991 legislative session, the Wetland Conservation Act (WCA) was passed to conserve wetlands and establish a no-net-loss of wetlands policy in Minnesota. The BWSR is the lead state agency in carrying out many of the administrative aspects of the act, the DNR plays a strong role in enforcement, and the local units of government implement the act. SWCD roles vary from county to county with main responsibilities of serving on technical evaluation panels, repository for resource maps and materials, and developing wetland restoration and replacement plans. Some counties have also delegated the total local implementation to the SWCD.

Nonpoint Technical Assistance Grant: Funds are allocated to groups or joint powers organizations of SWCDs to hire engineers and technicians for the purpose of assisting landowners in the installation of best management practices (BMPs). The initial purpose of these funds was to support the technical needs required for the State Revolving Fund loans; however, technical support for other programs dealing with BMPs is allowed.

Special Programs

Rural Rainfall Monitoring: This program is a cooperative effort between the BWSR, SWCDs, and the State Climatology Office to monitor precipitation in a statewide network. Individual observers spaced at 12-mile intervals (every other township corner) report monthly precipitation totals to the local SWCD, which forwards the information to the state climatologist.

Southern Minnesota River Basin Area II Program (Area II): Nine counties in southwestern Minnesota are involved in this cooperative effort with the BWSR. The BWSR provides 75 percent cost-share funds to local units of government for flood control projects.

Observation Well Program: The DNR provides funds to SWCDs to monitor water levels in selected wells. The objective is to increase the quantity of ground water data throughout Minnesota.

Insurance Needs

Insurance covering the district's property and actions is highly recommended. The types of coverage and amount needed will vary from district to district. Each district should analyze its insurance needs and procure the appropriate coverage.

The following is a list of types of coverage an SWCD should procure. It is not intended to identify all the insurance needs of a district but to identify the major areas of coverage a district needs to consider.

Liability Insurance: Protection against damages caused by the district's actions to people or property on or off premises. Guidelines for an SWCD to procure liability insurance are provided in M.S. Chapter [466.06](#). SWCD supervisors and employees may wish to purchase additional liability insurance.

Errors and Omissions Insurance: Protection against poor advice given or failure to advise by district supervisors and employees.

District Property Insurance: Coverage of property in and out of the office. This should cover office contents and field equipment owned and/or leased by the district.

Vehicle Insurance: For district-owned vehicles. The district needs to analyze its vehicle conditions and usage and procure the appropriate insurance.

Surety Bonds: A guarantee of a sum of money that was lost due to one's performance or character. Surety bonds should be secured for all employees and officers who are entrusted with district funds or property.

For the use of federal vehicles on SWCD (non-federal) business, additional insurance is needed. Contact the area office of the Natural Resources Conservation Service (NRCS) for details.

If personal vehicles are used on official SWCD business, people are encouraged to obtain a rider on their personal auto policy to cover such situations.

Upon request to the county board, insurance coverage may be included on the insurance coverage of the county in which the district is located. The district may decide to purchase its own insurance coverage.

Relationships

SWCDs work with a wide variety of other organizations, including counties, watershed districts (WDs), watershed management organizations (WMOs), the BWSR, and the NRCS. It is important that these partnerships work smoothly to ensure the efficient operation of the SWCD.

SWCDs and Counties

Although SWCDs are independent local units of government as established by M.S. [103C](#), they have very close ties to county government. Since SWCDs do not have taxing authority, they must rely on county government to supplement their operating expenses. SWCDs must submit an annual budget to the county board. Most county boards treat their SWCD like other county departments and fund it on a relative scale with other county departments. It is essential that the district supervisors understand the local relationship between your SWCD and the county board. The level of county support depends on the strength of the relationship between the two boards.

Many SWCDs are insured for errors and omissions under the county policy. The county attorney acts as the attorney for the SWCD. When questions arise with legal implications, the board should consult the county attorney.

Most SWCD boundaries follow county boundaries in Minnesota. From a planning standpoint and a resource protection standpoint, it makes sense that the SWCDs and counties work closely toward common goals. By using the county's taxing authority and ordinance functions, the SWCD is able to accomplish some things it would be unable to do alone.

BOARD OF WATER AND SOIL RESOURCES

The BWSR is the state administrative agency for SWCDs, WDs, and, in some cases, counties. As such, the BWSR is the district's direct line to state government. The BWSR coordinates the water and soil resource planning activities of SWCDs, WDs, counties, and also WMOs.

Board Membership

Seventeen voting members serve on the Board. The Board is composed of twelve members appointed by the Governor and five agency representatives. The Governor appoints three county commissioners, three soil and water conservation district supervisors, three watershed district or watershed management organization representatives, and three members of the public to staggered four-year terms. The chair is appointed by the Governor from the above twelve members. Five additional members represent the Department of Natural Resources, the Pollution Control Agency, the Department of Health, the Department of Agriculture, and the University of Minnesota.

Board Staff

The Board employs an executive director who serves as the head of agency operations. The central office in St. Paul houses nearly one-half of the staff who work in one of four sections: engineering and technical services, land and water, communications or business management. Field offices are located in Bemidji, Brainerd, Duluth, Fergus Falls, Mankato, Marshall, New Ulm, Rochester and St. Paul.

The BWSR performs the following functions and services:

- administers a variety of resource management programs such as the RIM Reserve Program and the Erosion, Sediment Control, and Water Quality Cost-Share Program (also called the Cost-Share Program). The programs are implemented at the local level by SWCDs. BWSR staff oversees local program administration to ensure consistency with program rules and state laws.
- is service-oriented and responds to the needs of SWCDs, WDs, and counties by maintaining handbooks, assisting in program planning and evaluation, providing training opportunities, and troubleshooting.
- provides financial support to SWCDs through general service allocations and other grants. The BWSR also provides funds to counties for base and challenge grants for development and implementation of water plans.

- responds to concerns and needs raised by local units of government throughout Minnesota and works to transfer those concerns into programs, staff, funding, or whatever is required to wisely manage soil and water resources.
- facilitates communication among state agencies and between state and local units of government to make the expertise and resources of state agencies more readily available to local units of government.
- develops information and education programs to increase the awareness of local water and soil resource problems and opportunities.
- is responsible for hearing and resolving disputes, appeals, and interventions related to comprehensive local water plans, appeals of watershed district decisions, and metropolitan water management organization projects.
- develops rules, guidelines, and allocation formulas for its various grants to local units of government. The BWSR staff conducts regular compliance audits of local administration of BWSR grant funds.
- hears petitions to establish, enlarge, or terminate SWCDs, WDs, and WMOs. The BWSR also has final approval authority for SWCD comprehensive and annual plans, county water plans (110B plans), and metropolitan water management plans (509 plans).
- develops statewide soil and water conservation policies and implements conservation programs to carry out the policies.