

## **Title 37 - Public Lands**

### **CHAPTER 6 - NATURAL RESOURCE CONSERVATION DISTRICTS**

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#### **Article 1 - General Provisions**

##### **37-1001. Declaration of policy**

It is declared the policy of the legislature to provide for the restoration and conservation of lands and soil resources of the state, the preservation of water rights and the control and prevention of soil erosion, and thereby to conserve natural resources, conserve wildlife, protect the tax base, protect public lands and protect and restore this state's rivers and streams and associated riparian habitats, including fish and wildlife resources

that are dependent on those habitats, and in such manner to protect and promote the public health, safety and general welfare of the people.

### **37-1002. Definitions**

In this chapter, unless the context otherwise requires:

1. "Agency of the state" includes the government of the state and any subdivision, agency or instrumentality, corporate or otherwise, of the state government.
2. "Agricultural lands" means irrigated farm lands or dry farm lands devoted to the purpose of agriculture.
3. "Commissioner" or "state natural resource conservation commissioner" means the state land commissioner.
4. "Department" means the state land department.
5. "District" means a natural resource conservation district organized in accordance with the provisions of this chapter.
6. "District cooperator" means any person who has entered into a cooperative agreement with a natural resource conservation district for the purpose of protecting, conserving and practicing wise use of the natural resources under his control.
7. "Due notice" means notice published at least twice with an interval of at least six days between the two publication dates, in a newspaper of general circulation within the area affected, or if there is no newspaper of general circulation within the area affected, in a newspaper of general circulation in the county in which the area is located.
8. "Government" or "governmental" includes the government of the state, the government of the United States, and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.
9. "Irrigation district" means an irrigation district, drainage district, water conservation district, agricultural improvement district, and, in addition thereto, includes any district, political subdivision, government agency, canal company, association, corporation or instrumentality of the state, having territorial boundaries and created or organized for the purpose of furnishing irrigation water for lands in the state.
10. "Landowner" or "owner of land" means any person, firm or corporation, including the state, holding title to any land lying within a district organized or proposed to be organized under the provisions of this chapter, and includes a buyer on contract who is the occupant of land. For the purposes of this chapter, a holder of a certificate of purchase or lease from the state shall be considered the "landowner" or "owner of land".

11. "Nominating petition" means a petition to nominate candidates for the office of supervisor.
12. "Petition" means a petition for the creation or for the dissolution of a district.
13. "Qualified elector" means a person who is a district cooperater and a qualified elector of the state.
14. "Range lands" means lands other than agricultural lands and devoted principally to the purpose of grazing livestock.
15. "Supervisor" means a member of the governing body of a district, elected or appointed in accordance with the provisions of this chapter.
16. "United States" or "agencies of the United States" includes the United States, the United States department of agriculture and any other agency or instrumentality, corporate or otherwise, of the United States.

## **Article 2 - Division of Natural Resource Conservation**

### **37-1011. Division of natural resource conservation**

For the purpose of administering this chapter there shall be a division of the state land department which shall be known as the division of natural resource conservation under the authority and direction of the state natural resource conservation commissioner.

### **37-1012. State natural resource conservation commissioner**

A. The state land commissioner shall be state natural resource conservation commissioner. He shall serve as such without additional compensation.

B. The commissioner may appoint an administrative officer of the division of natural resource conservation, a secretary and such other assistants as may be required, assign their duties, define their powers and determine the amount of bond required of any assistant entrusted with funds or property. The compensation of all such assistants shall be as determined pursuant to section 38-611.

C. The commissioner shall adopt a seal, which shall be judicially noticed, and shall hold such public hearings, provide for the keeping of a record of all proceedings and annual records of district operations, promulgate such orders, rules and regulations and perform such other acts as are necessary to carry out the provisions of this chapter.

### **37-1013. Powers and duties of commissioner**

A. The state natural resource conservation commissioner shall:

1. Offer appropriate assistance to the supervisors of districts in carrying out their powers and programs.
2. Keep the supervisors of each district informed of the activities and experiences of other districts, and facilitate cooperation and interchange of advice and experience between districts.
3. Coordinate the programs of the several districts insofar as possible by advice and consultation.
4. Require the supervisors of each district to file with him annually any audits and the records of the operations of the district for the preceding year in such form and detail as he prescribes.
5. Secure the cooperation and assistance of the United States, its agencies, and agencies of this state, in the work of districts, as he deems for the best interest of the state.
6. Disseminate information throughout the state concerning the activities and program of districts.
7. Provide staff support to the Arizona water protection fund commission established by title 45, chapter 12 and provide administrative assistance to natural resource conservation districts for compliance with the duties for districts pursuant to title 45, chapter 12.

B. The commissioner may remove a district supervisor from such office if the commissioner determines, after reasonable notice and an impartial hearing, that the supervisor is guilty of misfeasance, malfeasance or nonfeasance in office. For purposes of this subsection, "nonfeasance" includes the failure to attend three consecutive meetings of district supervisors without reasonable excuse.

#### **37-1014. State financial assistance; application; criteria**

A. The commissioner shall include in the biennial state land department budget request a sum of not to exceed thirty thousand dollars for each district and sixty thousand dollars for each education center for distribution by the commissioner to those natural resource conservation districts which have applied for, have met the criteria for and have been approved for receiving state financial assistance, as provided in this section.

B. Any district or education center desiring to receive state financial assistance for the next ensuing fiscal year shall apply to the commissioner not later than June 20, on a form supplied by the division of natural resource conservation. Each application shall include, but not be limited to:

1. The number of acres of land lying within the district.
2. The extent of conservation programs or education center programs proposed to be undertaken during the fiscal year for which the financial assistance is being requested.

3. Any audits that are requested by the commissioner.

C. Upon receipt of the application, the commissioner shall determine whether or not such funds for the district or education center will be included in the budget request for the state land department and shall promptly notify the district of his determination.

### **37-1015. Environmental special plate fund; distribution**

A. An environmental special plate fund is established and is administered by the commissioner consisting of monies received pursuant to section 28-2413.

B. Subject to legislative appropriation, the department shall distribute five thousand dollars annually to each natural resource conservation district with an established education center for the purpose of developing and implementing an environmental education program that is conducted in a balanced manner, that is based on current scientific information and that includes a discussion of economic and social implications.

C. Subject to legislative appropriation, the department shall distribute grants as directed pursuant to section 41-2252.

D. The fund established in this section is exempt from the provisions of section 35-190 relating to lapsing of appropriations. On notice from the commissioner, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

E. The appropriated monies shall only be used for the designated purposes specified in statute.

## **Article 3 - Formation, Change in Boundaries and Dissolution**

### **37-1031. Petition for creation of district**

Twenty-five or more owners of land, but not less than twenty per cent of the owners of land lying within the limits of a proposed district, or if there are fewer than twenty-five owners of land in the proposed district, not less than twenty-five per cent of all such owners, may petition the commissioner requesting that a district be organized. The petition shall contain:

1. The proposed name of the district.
2. A declaration that there is need, in the interest of preservation of property, health, safety and public welfare, for a district in the territory described.
3. A description of the exterior boundaries of the territory proposed to be organized.
4. A request that the commissioner:
  - (a) Determine that the district be created.
  - (b) Define the boundaries of the proposed district.
  - (c) Direct that a referendum be held within the territory so defined on the question of the

creation of a district.

### **37-1032. Hearing on petition; notice**

A. Within ninety days after a petition has been accepted by the commissioner, notice shall be given by publication in at least two issues, at intervals of not less than six days, of a newspaper of general circulation within the area affected, or if there is no such newspaper, a newspaper of general circulation within the county, of a hearing upon:

1. The desirability and necessity, in the interest of preservation of property, health, safety and public welfare, of the creation of such district.
2. The appropriate boundaries to be assigned to the district.
3. The propriety of the petition and other proceedings taken.
4. All related questions.

B. All owners of land within the limits of the territory described in the petition and of lands within any territory considered for addition to the described territory, and all other interested parties, may attend and be heard at such hearing.

C. If it appears on the hearing that it is desirable to include within the proposed district territory outside the area described in the petition, the hearing shall be adjourned and notice of further hearing given, in the manner provided by this section, in the entire area considered for inclusion in the district.

### **37-1033. Determination by commissioner**

A. If, after final hearing upon a petition, the commissioner determines upon the facts presented and other relevant information that a district within the territory considered is in the public interest, he shall record such determination and define the boundaries of the district. In defining the boundaries, he shall consider:

1. The topography of the area.
2. The character of soils.
3. The distribution of erosion.
4. Prevailing land use practices.
5. The desirability and necessity of including within the boundaries of the district the particular lands under consideration and the benefits to be received by such inclusion.
6. The relation of the proposed area to existing watersheds and agricultural regions, and to other districts already organized or proposed for organization.
7. Such other physical, geographical and economic factors as are relevant.

B. In defining the boundaries of the district, the commissioner shall not include therein any area, land or property of any person or persons who do not desire to have such area, land, or property included in such district. Notwithstanding any provision of this chapter to the contrary, lands held under certificate of purchase or lease from the state shall not be included in any district if the holder or holders of certificates of purchase or the leases

therefore do not desire such lands included.

C. If the commissioner determines that it is not in the public interest for a district to function in the territory considered, he shall record such determination and deny the petition.

D. After expiration of eighteen months from the date of entry of a determination by the commissioner that operation of a proposed district is not administratively and economically feasible, and denial of a petition pursuant to that determination, petitions may again be filed and action taken in accordance with the provisions of this chapter.

### **37-1034. Referendum; election of supervisors**

A. Within a reasonable time after the commissioner has recorded his determination that it is in the public interest that a district be organized, and has defined the boundaries thereof, he shall hold a referendum within the proposed district upon the question of the creation of the district, and an election to elect three supervisors. He shall adopt rules for the conduct of such referendum and election and prescribe a procedure for the determination of persons eligible to vote. The referendum and election of supervisors shall be conducted by separate ballots.

B. The ballot for the referendum shall:

1. Describe the boundaries of the proposed district as determined by the commissioner.
2. Contain the propositions: "For the creation of a district" and "against the creation of a district", with a square after each proposition.
3. An instruction to mark an X in the square after the proposition for which the voter wishes to vote.

C. Only owners of land lying within the boundaries of the territory described shall be eligible to vote on the referendum, but any such owner who is not a qualified elector of the district, or any owner who is a qualified elector but is unable because of illness or absence from the district to appear at the polls, may appoint in writing, on a form prescribed by the commissioner, a qualified elector of the district as his agent or proxy. The appointment of agent or proxy shall be presented to the board of election, and if it is found to be bona fide and in proper form, the holder thereof shall be allowed to vote in behalf of the owner executing the appointment on the question of creation of the district only. The appointment shall be filed with the ballots and other election returns.

D. Candidates for supervisor shall file nomination petitions with the commissioner in the manner prescribed by the commissioner. Any qualified elector of the proposed district may sign the petitions of not more than three candidates. The names of candidates shall appear on the election ballot in alphabetical order by surnames, with a square opposite each name, and an instruction to mark an X in the squares opposite the names of not more than three candidates for whom the voter wishes to vote.

E. No informality in the conduct of any referendum or election held under the provisions of this chapter, or in any matter relating thereto, shall invalidate the result thereof if notice has been given substantially as prescribed in section 37-1032, and the referendum and election have been fairly conducted. All expenses of a referendum and election shall be paid by the commissioner.

**37-1035. Proclamation of result of referendum and election; terms of supervisors**

A. If not less than sixty-five per cent of the landowners voting at the referendum and the owners of not less than fifty per cent of the land, other than publicly owned, lying within the proposed district vote in favor of the creation thereof, the commissioner shall declare the district organized. Otherwise he shall declare the proposal defeated.

B. The three candidates receiving the highest number of votes at the election for supervisors shall be declared elected. Their terms shall begin upon the date of filing the oath of office with the secretary of state. The term of the candidate receiving the largest number of votes shall terminate on May 31 of the third even-numbered year, of the candidate receiving the next largest number of votes on May 31 of the second even-numbered year, and of the candidate receiving the next largest number of votes on May 31 of the first even-numbered year following the election.

**37-1036. Proceedings to organize district; certificate of organization**

A. A district shall be organized and shall be a body corporate upon taking the following steps:

1. The supervisors elected as provided in section 37-1035 shall present to the secretary of state an application, signed and acknowledged by each supervisor, setting forth:

(a) That a petition for the creation of the district was approved by the commissioner pursuant to the provisions of this chapter.

(b) The name and official residence of each supervisor, and a certified copy of their notification of election.

(c) The name proposed for the district.

(d) The location of the proposed office of the supervisors of the district.

2. The application shall be accompanied by a certificate of the commissioner which shall set forth:

(a) The boundaries of the district as determined by him.

(b) That a petition was filed, notice issued and a hearing held as prescribed by law.

(c) That for a district to function in the proposed territory was determined by the commissioner to be in the public interest.

(d) That notice was given and a referendum on the question of the creation of the district and an election of supervisors were held.

(e) That the results of the referendum showed not less than sixty-five per cent of the votes cast, representing not less than fifty per cent of the owners of land, to be in favor of the creation of the district.

(f) That the supervisors signing the application are the duly elected supervisors of the

district.

3. The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with or so similar to that of any other district as to lead to confusion, he shall record them. If the name proposed is identical with or so similar to another district as to lead to confusion, he shall certify that fact to the commissioner, who shall submit another name. Upon receipt of a new name, free from defects, the secretary of state shall record the application and statement.

B. The secretary of state shall issue to the supervisors a certificate, under the seal of the state, certifying the organization of the district, and record the certificate with the application and statement. The district shall include the territory as determined by the commissioner, but it shall not include any area within the boundaries of another district, nor shall it include any area, land or property of or lands held under certificate of purchase or lease from the state by any person or persons, which area, land, property or leaseholds lie within the geographical limits of such district but the owners or holders of certificates of purchase or lessees of which do not desire to come within the district.

C. In any action or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding or action of the district, the district shall be deemed to have been established in accordance with the provisions of this chapter upon proof of the issuance of the certificate of organization by the secretary of state. A copy of the certificate certified by the secretary of state shall be admissible in evidence in any action or proceeding, and shall be proof of the filing and contents thereof. In like manner, any district combined, and consolidated with an adjacent district or districts, and reorganized and renamed prior to the date of this section shall be deemed to have been established upon proof of certifications and official maps filed with the secretary of state by the division of natural resource conservation of the state land department.

D. The commissioner shall appoint two supervisors from a panel of candidates compiled by the elected supervisors and presented by the temporary chairman of the elected supervisors. Candidates for the office of appointed supervisors shall be qualified electors of the state. Appointed supervisors shall continue to serve until May 31 of the next even-numbered year or until their successors are otherwise appointed.

### **37-1037. Addition of territory**

A. Territory adjacent to an organized district may be included therein upon a petition signed by seventy-five per cent of the owners of land, other than publicly owned land, within the territory proposed for addition filed with the district supervisors, requesting the inclusion of their lands in the district.

B. The supervisors shall hold a public hearing upon the advisability and feasibility of including the additional territory, notice of which shall be given by posting at least two weeks prior to the date of the hearing in the office of the supervisors and such other public notice as the supervisors may deem proper. If, after such hearing, the supervisors recommend and the commissioner, upon a review of the findings of the supervisors,

approves, the additional land shall become a part of the district. The commissioner shall certify the action to the secretary of state, and the certificate shall be filed with the original certificate of organization of the district.

C. No area, land, property of or lands held by any person under lease or certificate of purchase from the state shall be included in any territory added to any district if the owner or owners of such area, lands, property, certificate of purchase or leaseholds do not desire them to be included in such district.

### **37-1038. Dissolution of district**

A. At any time after five years following the organization of a district, any twenty-five owners of land or not less than twenty per cent of the owners of land lying within the boundaries of the district may file a petition with the commissioner praying that the operations of the district be terminated and its existence discontinued. The commissioner shall conduct such public meetings and hearings upon the petition as may be necessary to assist in the consideration thereof.

B. Within sixty days after filing of the petition, the commissioner shall give notice of the holding of a referendum, and shall supervise the referendum and issue appropriate regulations governing the conduct thereof. The question shall be submitted by ballots upon which the propositions, "For terminating the existence of the (name of district)" and "against terminating the existence of the (name of district)," shall be printed, with a square after each proposition and an instruction to mark an X in the square following the proposition for which the voter desires to vote. Only owners of lands lying within the boundaries of the district shall be eligible to vote on the referendum. No informality in the conduct of the referendum or in any matter relating thereto shall invalidate the referendum or the result thereof, if due notice thereof has been given substantially as provided in this chapter and the referendum has been fairly conducted.

C. If sixty-five per cent of the landowners voting thereon vote to terminate the existence of a district, the commissioner shall advise the supervisors to conclude the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall transmit the proceeds of the sale to the state treasurer for deposit, pursuant to sections 35-146 and 35-147.

D. The supervisors shall thereupon file a verified application with the secretary of state for discontinuance of the district, together with the certificate of the commissioner setting forth the determination of the commissioner that the continued operation of the district is not administratively feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as provided in this section, and shall include a full accounting of the properties and the proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution, and shall record the certificate in his office.

E. The commissioner shall not entertain a petition for the discontinuance of any district,

nor conduct a referendum thereon, nor make any determination pursuant thereto, more than once in five years.

### **37-1039. Status following dissolution**

Upon the issuance of a certificate of dissolution as provided in section 37-1038, the ordinances and regulations theretofore in force within the district shall be of no further effect. Any contract theretofore entered into to which the district or supervisors are parties shall remain in force for the period provided therein, and the commissioner shall be substituted for the district or supervisors as a party thereto. The commissioner shall be entitled to all benefits and subject to all liabilities under any such contract and shall have the same right and liability to perform, require performance, sue and be sued thereon, and to modify or terminate the contract by mutual consent or otherwise, as the supervisors of the district would have had. Dissolution shall not affect the lien of any judgment entered under the provisions of this chapter, nor the pendency of any action instituted there under, and the commissioner shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

### **37-1040. Change in boundaries; combination or division of districts; change in name of districts**

A. Petitions for a change in the boundaries of existing districts, or the combination of two or more existing districts may be filed with the commissioner by a majority of supervisors of the board or boards of supervisors of the district or districts to be affected. In the case of a proposed combination of two or more existing districts, the petition shall state the proposed boundaries of the new combined district, the proposed name, and shall propose a method, which has been mutually agreed upon by all boards of supervisors of affected districts, as to the future terms of office of existing district supervisors, and how such terms will be determined. The commissioner may require such hearings as he deems appropriate to enable him to make a determination as to the desirability of the proposed changes. If the commissioner makes a determination in favor of the changes, he shall certify the fact of such change to the secretary of state and shall notify the board of supervisors of the district, or districts, setting out in such notice the new boundaries and the name of the district and confirmation of terms of the supervisors. The secretary of state shall make and issue a corrected certificate of organization upon receipt of such certification from the commissioner.

B. The board of supervisors of any one or more districts organized under the provisions of this section may submit to the commissioner a petition signed by a majority of the members of the board of supervisors of each district affected requesting a division of a district, a combination of two or more districts, or a transfer of land from one district to another. The commissioner shall make a determination as to the practicability and feasibility of the proposed change, giving due regard to the same considerations as provided in this section for changes in district boundaries by other methods. If the commissioner determines that the proposed change of district boundaries is not administratively practicable and feasible, he shall record such determination and deny the

petition. If the commissioner determines that the proposed change is administratively practicable and feasible, he shall record such determination and proceed with the reorganization of the district or districts affected in the same manner as provided in this section for changes in district boundaries by other methods.

C. Petitions for a change in the name of a district may be submitted to the commissioner by a majority of supervisors of the board of supervisors of a district. If the commissioner approves the change of name, he shall certify the fact of such change of name to the secretary of state and shall notify the board of supervisors of the district of such change, setting out in such notice the new name of the district. The secretary of state shall make and issue a corrected certificate of organization upon receipt of such certification from the commissioner.

#### **Article 4 - Administration**

##### **37-1051. District supervisors; term of office; biennial election**

A. The governing body of a district shall consist of five supervisors, three of whom are to be elected and two appointed by the commissioner. Except as to the first supervisors, whose election and terms are prescribed in section 37-1035, the term of each elected supervisor shall be six years, beginning on June 1 following his election. As prescribed in section 37-1036, the terms of the two supervisors appointed by the commissioner shall be until May 31 of the next even-numbered year, or until their successors are otherwise appointed.

B. An election shall be held on the first Saturday in May of each even-numbered year, at which one supervisor of the district shall be elected. Any person desiring to be a candidate shall file with the commissioner a nomination petition in such form as the commissioner prescribes, at least ten days prior to the election, containing the signatures of not less than twenty-five qualified electors of the district. No person shall be eligible to be a candidate for supervisor unless he is a qualified elector of the district. The names of candidates shall appear on the ballot in alphabetical order by surnames, with a square after each name and an instruction to mark an X in the square after the name of the voter's choice. The governing body of a district may provide a mail ballot to a qualified district elector for which the district governing body has a first class mailing address. Qualified electors of a district who wish to vote by mail ballot shall file a first class mailing address with the district governing body at least thirty days prior to the date of the election. Qualified district electors who receive ballots in proper form from the district governing body may cast their votes by mail. Mail ballots, to be counted, shall be received at the place designated, and within the time prescribed by the district supervisors and clearly specified in the notice of election. Only qualified electors of the district shall have the right to vote. The district governing body shall provide at least one polling place in the district for qualified voters who wish to vote in person. If two or more candidates receive the same number of votes, the successful candidate shall be determined by lot.

##### **37-1052. Organization of supervisors; vacancies**

A. At the first meeting of the supervisors following an election, they shall organize by electing a chairman and a vice chairman and such other officers as are deemed necessary from among their number to serve for the ensuing two years.

B. If a vacancy occurs in the office of an elected supervisor otherwise than by expiration of term, the commissioner may appoint a qualified elector of the district to serve until June 1 of the next even-numbered year, when a successor shall be elected for the remainder of the term.

C. District supervisors may employ a secretary and such other agents, employees and technical or professional experts as they may from time to time require, and may determine qualifications, compensation and duties applicable to any agent, employee or expert engaged.

### **37-1053. Powers and duties of supervisors**

A. The supervisors shall:

1. Provide for the keeping of a record of all proceedings, resolutions, regulations and orders issued or adopted.
2. Furnish to the commissioner copies of such ordinances, rules, regulations, orders, contracts, forms or other documents adopted or employed, audits of the district or education center and such information concerning their activities as the commissioner requests.

B. The supervisors may appoint additional advisory members to the district governing body and delegate to the chairman or any member, or to any agent or employee, such powers and duties as they deem proper.

C. District supervisors shall require and provide for the execution of a corporate surety bond in suitable penal sum for, and to cover, any person entrusted with the care or disposition of district funds or property.

D. The compensation of the district supervisors shall be determined by the supervisors meeting as the governing body of the district but shall not exceed the compensation prescribed by section 38-611, plus actual and necessary expenses of attending district meetings, and a per diem subsistence allowance and actual and necessary expenses while engaged in official business by order of the supervisors.

### **37-1054. Powers of district**

A. A district is empowered to:

1. Conduct surveys, investigations and research relating to the character of the soil, soil erosion prevention within a farm or ranch, methods of cultivation, farm and range practices, seeding, eradication of noxious growths and such other measures as will aid

farm and range operations, disseminate information pertaining thereto, and carry on research programs with or without the cooperation of the state, the United States or agencies thereof.

2. Conduct demonstration projects within the district on lands owned or controlled by the state or any of its agencies with the consent and cooperation of the agency having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner thereof or the necessary rights or interests therein, in order to demonstrate by example the means, methods and measures by which water, soil and soil resources may be conserved, and soil erosion and soil washing prevented and controlled.

3. Cooperate and enter into agreements with a landowner, an operator or any agency or subdivision of the state or federal government to carry on programs of watershed improvement, soil erosion prevention, methods of cultivation, cropping practices, land leveling and improvement on agricultural lands, and programs limited to methods of proper range use, reseeding and the eradication of noxious growth on grazing lands, all within the limits of an individual farm or ranch and subject to such conditions as the supervisors deem necessary.

4. Acquire, by purchase, exchange, lease or otherwise, any property, real or personal, or rights or interest therein, maintain, administer and improve any properties acquired, receive income there from and expend it in carrying out the purposes of this chapter, and sell, lease or otherwise dispose of any property or interest therein in furtherance of the purposes of this chapter.

5. Make available, on such terms as it prescribes to landowners within the district, agricultural and engineering machinery and equipment, fertilizer, seed and such other material or equipment as will assist the landowners to carry on operations upon their lands for the purposes and programs authorized by this chapter.

6. Develop, publish and bring to the attention of owners of lands within the district comprehensive plans for the conservation of soil and water resources within the district which shall specify in such detail as may be feasible the acts, procedures, performances and avoidances necessary or desirable for the effectuation of the plans.

7. Apply for, receive, and spend monies from the Arizona water protection fund pursuant to title 45, chapter 12 to be used in individual districts or in cooperation with other districts, persons, cities, towns, counties, special districts and Indian communities for projects consistent with the provisions of title 45, chapter 12.

8. Employ agents, engineers, attorneys or other employees not readily available from existing state agencies.

9. Sue and be sued in the name of the district, have a seal, which shall be judicially noticed, have perpetual succession unless terminated as provided in this chapter, make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and make, amend and repeal rules not inconsistent with this chapter to carry into effect its purposes and powers.

10. Accept donations, gifts and contributions in money, services, materials or otherwise, and use or expend them in carrying on its operations.

11. Organize and establish an education center.

B. No provision of law with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to a district organized under this

chapter unless specifically stated therein.

C. After the formation of any district under the provisions of this chapter, all participation there under shall be voluntary, notwithstanding any provision of this chapter to the contrary.

D. A district may send to the Arizona water protection fund commission established pursuant to title 45, chapter 12 written recommendations for geographic areas to be emphasized, issues of concern and measures to implement title 45, chapter 12. A district that sends written recommendations to the commission shall request information from at least the following:

1. The director of the department of water resources and the state land commissioner.
2. The federal and state fish, wildlife, recreation and natural resource agencies.
3. County and municipal entities.
4. The public.

E. The district shall develop procedures to assure adequate participation in the public involvement process prescribed by subsection D.

### **37-1055. Limitation of powers**

A. Nothing in this chapter shall affect existing water rights or in any manner contravene the provisions of this title.

B. No district or public body shall undertake or cooperate in the planning, construction, improvement or maintenance of any structure, dike or channel for the storage, spreading, diversion or conveyance of water resulting in the consumptive use of water, on any watershed or drainage area which supplies or contributes water for the irrigation of lands within any irrigation district or for the irrigation of other lands having established rights in such water, without first submitting the plans therefor to the governing body of such irrigation district or districts. Such governing body shall within forty-five days after receipt of such plans either approve or reject them. The approval may be given for rangeland soil conservation practices by agreement on an annual or continuing basis between the governing bodies of the affected irrigation districts and the supervisors of such natural resource conservation districts. If the governing body fails to approve or reject the plans within forty-five days, it shall be deemed to have approved them. If the governing body rejects the plans, the district or public body proposing such plans may appeal to the commissioner. The appeal shall be taken within forty-five days after such decision. The commissioner shall review the decision, and may approve the plans only if after an investigation and hearing he finds that the work proposed to be done will not result in the consumptive use of water. An appeal from the decision of the commissioner may be taken by either party pursuant to the provisions of section 37-215. The provisions of this subsection shall not preclude the use of any other legal remedy otherwise available to any person or interested party.

C. The diversion, application or use of water by means of any improvement constructed, maintained or operated under the provisions of this chapter shall not be construed to be an appropriation of or vest any right to the use of public water.

**37-1056. Cooperation between districts**

The supervisors of any two or more districts organized under the provisions of this chapter may cooperate in the exercise of any power conferred in this chapter.

**37-1057. Cooperation by state agencies**

Agencies of this state which have jurisdiction over or are charged with the administration of any state-owned lands, and of any county or other governmental subdivision of the state which have jurisdiction over, or are charged with the administration of, any county owned or other publicly owned lands lying within the boundaries of any natural resource conservation district, may cooperate fully with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this chapter. The supervisors of any district organized under the provisions of this chapter may cooperate with any municipality within the boundaries of the district on matters relating to soil conservation or land use planning.