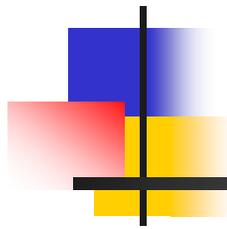


# Watershed Forum

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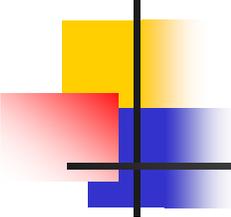
*Navigating the Pool of Legal  
Issues*



# Conservation District Act

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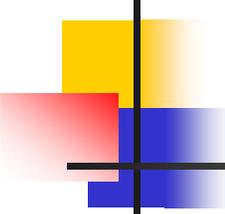
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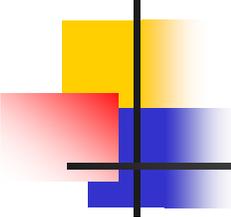
- Conservation District Act cited as 27A O.S. §§ 3-1-101 et.seq.



# Declaration of Policy

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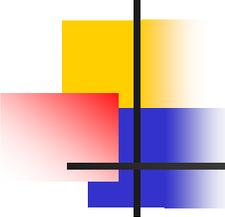
In recognition of the ever-increasing demands on the renewable natural resources of the state and of the need to preserve, protect and develop such resources at such a rate and at such levels of quality as will meet the needs of the people of the state, it is hereby declared to be the policy of the State of Oklahoma to provide for the conservation of the renewable natural resources of this state, and for the control and prevention of soil erosion, and for the prevention of floodwater and sediment damages, and for furthering the conservation, development, utilization and disposal of water, and thereby to preserve and develop natural resources, control floods, conserve and develop water resources and water quality, prevent impairment of dams and reservoirs, preserve wildlife, preserve natural beauty, promote recreational development, protect the tax base, protect public lands and protect and promote the health, safety and general welfare of the people of this state. It is further the policy of the Legislature to authorize conservation districts established under the Conservation District Act to serve as the primary local unit of government responsible for the conservation of the renewable natural resources of this state, and competent to administer, in close cooperation with landowners and occupiers, with local governmental units, and with agencies of the government of this state and of the United States, projects, programs and activities suitable for effectuating the policy of the Conservation District Act. Provided, however, in those areas included within the existing jurisdiction of planning commissions created pursuant to the provisions of Titles 11 and/or 19, of the Oklahoma Statutes or their successors, such districts shall serve as the collateral units of government so responsible.



# General Provisions

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- The entire territory of this state shall be included within conservation districts.
- All soil and water conservation districts organized on the date of the adoption of the Conservation District Act are perpetuated and shall continue to exist as conservation districts under the Conservation District Act.



# Oklahoma Conservation Commission

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There is hereby established, to serve as an agency of the state and to perform the functions conferred upon it in the Conservation District Act, the Oklahoma Conservation Commission, which commission shall succeed to all the powers, duties and property of the State Soil Conservation Board. The Commission shall consist of five (5) members whose qualifications and manner of appointment shall be hereinafter designated. The State of Oklahoma is hereby divided into five state areas for the purpose of selecting the members of the Oklahoma Conservation Commission. Each of the state areas shall be composed of the following counties:

State Area No. 1 comprising fifteen counties:

Cimarron Woodward Blaine Texas Dewey Alfalfa Beaver Canadian Grant Harper Woods Garfield Ellis Major Kingfisher

State Area No. 2 comprising fifteen counties:

Kay Oklahoma Love Noble Cleveland Seminole Logan McClain Garvin Payne Lincoln Murray Pawnee Pottawatomie Carter

State Area No. 3 comprising sixteen counties:

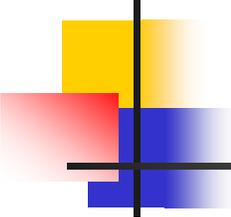
Osage Rogers Cherokee Creek Wagoner Sequoyah Washington Muskogee Adair Tulsa Craig Delaware Okmulgee Mayes Ottawa Nowata

State Area No. 4 comprising fifteen counties:

Roger Mills Custer Comanche Beckham Washita Cotton Greer Kiowa Grady Harmon Tillman Stephens Jackson Caddo Jefferson

State Area No. 5 comprising sixteen counties:

Okfuskee Atoka Latimer Hughes Bryan Pushmataha Pontotoc Pittsburg Choctaw Johnston McIntosh Le Flore Marshall Haskell McCurtain Coal

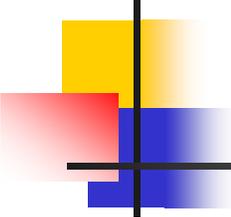


# Powers and Duties

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Oklahoma Conservation Commission shall have the power and duty to:

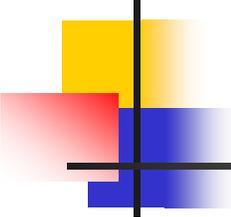
- Offer the assistance as may be appropriate to the directors of conservation districts in the carrying out of any of their powers and programs and to:
  - assist and guide districts in the preparation and carrying out of programs and review district programs,
  - coordinate the programs of the several districts and resolve any conflicts in programs, and
  - facilitate, promote, assist, harmonize, coordinate and guide the resource conservation programs and activities of districts as they relate to other special purpose districts, counties and other public agencies;
- Keep the directors of each of the several districts informed of the activities;
- Review agreements, or forms of agreements, proposed to be entered into by districts;
- Secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of the districts and to accept donations, grants, gifts and contributions in money, services or otherwise in order to carry out the purposes of the Act;
- Disseminate information throughout the state concerning the activities and programs of the conservation districts and to make available information concerning the needs and the work of the conservation districts and Commission to the Governor and the Legislature;
- Serve along with conservation districts as the official state agencies for cooperating with the NRCS;



# Powers and Duties

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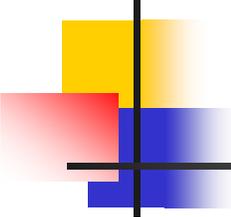
- Cooperate with and give assistance as it deems necessary and proper to conservancy districts for the purpose of cooperating with the United States pursuant to the Federal Watershed Protection and Flood Prevention Act;
- Recommend the inclusion in annual and longer term budgets and appropriation legislation of the State of Oklahoma of funds necessary for appropriation by the Legislature to finance the activities of the Commission and the conservation districts and to:
  - administer the provisions of the Conservation District Act appropriating funds for expenditure in connection with the activities of conservation districts,
  - distribute to conservation districts funds, equipment, supplies and services received by the Commission for that purpose from any source, subject to any agreed conditions,
  - issue rules establishing guidelines and suitable controls to govern the use by conservation districts of funds, property and services, and
  - review all budgets, administrative procedures and operations of districts and advise the districts concerning their conformance with applicable laws and regulations;
- Enlist the cooperation and collaboration of other governmental entities and private agencies with the conservation districts and to facilitate arrangements under which the conservation districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation of renewable natural resources;
- Pursuant to procedures developed mutually by the Commission and federal, state and local agencies that are authorized to plan or administer activities significantly affecting the conservation of renewable natural resources, receive from these agencies for review and comment suitable descriptions of their plans, programs and activities for purposes of coordination with district conservation programs and to arrange for and participate in conferences necessary to avoid conflict among plans and programs, to call attention to omissions and to avoid duplication of effort;
- Compile information and make studies, summaries, and analyses of district programs in relation to each other and to other resource conservation programs on a statewide basis;
- Carry out the policies of this state in programs at the state level for the conservation of the renewable natural resources of this state and represent the state in matters affecting our resources;
- Assist conservation districts in obtaining legal services from state and local legal officers;
- Require annual reports from conservation districts;



# Powers and Duties

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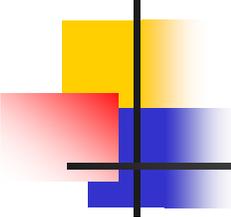
- Establish by rules, adequate and reasonably uniform accounting and auditing procedures which shall be used by conservation districts;
- Conduct workshops for district directors to instruct them on the subjects of district finances, the Conservation District Law and related laws, and their duties and responsibilities as directors;
- Assist and supervise districts in carrying out their responsibilities in accordance with the Oklahoma laws;
- Have power, by administrative order, upon the written request of the board of directors of the conservation district or districts involved, with a showing that a request has been approved by a majority vote of the members of each of the boards involved, to:
  - transfer lands from one district established under the provisions of the Conservation District Act to another,
  - divide a single district into two or more districts, each of which shall thereafter operate as a separate district under the provisions of the Conservation District Act, and
  - consolidate two or more districts established under the provisions of the Conservation District Act, which consolidated area shall operate thereafter as a single district under the provisions of the Conservation District Act;
- Act as the management agency having jurisdiction over and responsibility for directing nonpoint source pollution prevention programs outside the jurisdiction or control of cities or towns in Oklahoma. The Commission, otherwise, shall be responsible for all identified nonpoint source categories except silviculture, urban storm water runoff and industrial runoff;
- Administer cost-share programs for the purpose of carrying out conservation or best management practices on the land to benefit the public through the prevention or reduction of soil erosion and nonpoint source pollution and through general resource management. The Commission is NOT authorized to implement mandatory compliance with management practices, except as otherwise provided by law, to abate agricultural nonpoint source pollution;



# Powers and Duties

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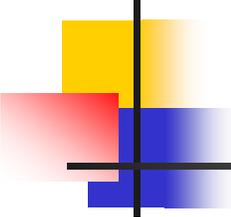
- Plan watershed-based nonpoint source pollution control activities;
- Provide assistance to the Oklahoma Water Resources Board on lake projects through stream and river monitoring, assessing watershed activities impacting lake water quality and assisting in the development of a watershed management plan;
- Maintain the activities of the state's nonpoint source working group;
- Prepare, revise and review Oklahoma's nonpoint source management program and nonpoint source assessment report in coordination with other state environmental agencies and compile a comprehensive assessment for the state every five (5) years.;
- Under the direction of the Office of the Secretary of the Environment, develop and implement the state's nonpoint source water quality monitoring strategy in coordination with other environmental agencies;
- Monitor, evaluate and assess waters of the state to determine the condition of streams and rivers impacted by nonpoint source pollution. In carrying out this area of responsibility, the Conservation Commission shall serve as the technical lead agency for nonpoint source pollution categories as defined in Section 319 of the Federal Clean Water Act or other subsequent federal or state nonpoint source programs;
- Administer the Blue Thumb Program;
- Cooperate with the federal government, or any agency thereof, to participate in and coordinate with federal programs that will yield additional federal funds to the state for programs within the jurisdiction of the Conservation Commission. 32. Implement pilot projects and programs, subject to the availability of funds, that will demonstrate the latest technologies and applications in conservation programs that may provide direct or residual benefits to conservation practices in the state; and
- **Promulgate rules necessary, expedient, or appropriate to carry out the purposes, objectives, or provisions or appropriate to the performance of the Conservation District Act and the Oklahoma Carbon Sequestration Enhancement Act and:**
  - **may establish and collect fees for services provided pursuant to the Conservation District Act and the Oklahoma Carbon Sequestration Enhancement Act.**
  - **shall promulgate all rules establishing fees in accordance with the Administrative Procedures Act, which fees shall be fair and equitable to all parties concerned.**



# Districts

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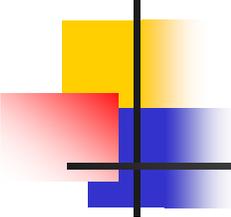
A district perpetuated by the provisions of the Conservation District Act shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers.



# Boards

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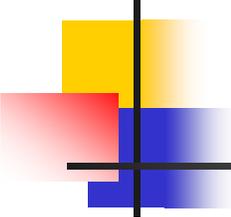
- At the first meeting following each annual election, the 5 members of the board of directors shall organize and shall select and designate a chair, vice-chair and a treasurer.
- A majority of the directors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. (Quorum issues)
- Leaving a board



# Powers and Duties - Directors

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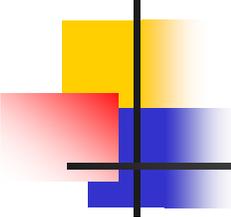
- The directors of a district may employ a secretary, technical experts and other employees as necessary and determine their duties and compensation. Employees of a conservation district are at-will employees.
- ***The district attorney within whose jurisdiction a majority of the area of the district is situated shall act as legal advisor for the board of directors and shall afford the board like representation as is now provided for other county officers. The directors may call upon the Attorney General of the state for such legal services as they may require, or may employ their own counsel. (template letters)***
- The directors may delegate, to their chair, to one or more directors, or to one or more agents or employees powers and duties as they may deem proper.
- The directors shall furnish to the commission copies of ordinances, rules, regulations, orders, contracts, forms and other documents as they shall adopt or employ, and other information concerning their activities as it may require in the performance of its duties under the Conservation District Act.



# Powers and Duties

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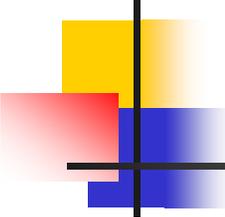
- Obtain information as may be necessary to the proper carrying out of duties and powers prescribed in the Conservation District Act, by making surveys and investigations relating to the conservation of renewable natural resources, and the preventive and control measures and works of improvement needed; provided, however, that such surveys and investigations are undertaken in cooperation with the Commission or with the state or any of its agencies, or with the United States or any of its agencies;
- Conduct operations for the conservation of renewable natural resources within the district on lands owned or controlled by this state, with the cooperation of the agency administering and having jurisdiction, and on any other lands within the district upon obtaining the consent of the owner of the lands or the necessary rights or interests in the lands, in order to demonstrate by example the means, methods, and measures by which the conservation of renewable natural resources may be carried out;
- Carry out preventive and control measures and works of improvement for the conservation of renewable natural resources within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation and changes in use of land on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction, and on any other lands within the district upon obtaining the consent of the owner of the lands or the necessary rights or interests in the lands;
- Cooperate or enter into agreements with, and, within the limits of appropriations, to furnish financial or other aid to any agency, governmental or otherwise, or any owner or occupier of lands within the district, subject to conditions as the directors may deem necessary to advance the purposes of the Conservation District Act;
- Obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer and improve any properties acquired; and to:
  - receive income from the properties and to expend such income in carrying out the purposes and provisions of the Conservation District Act, and
  - **sell, lease or otherwise dispose of any of its property or interests therein, all in furtherance of the purposes and provisions of the Conservation District Act; provided that in all cases when lands or interests therein are deemed by the directors to be necessary for upstream flood control purposes to carry out the purposes of the Conservation District Act and which cannot otherwise be acquired, the district shall be vested with the power of eminent domain and may condemn and acquire such lands as provided by the laws of this state governing the acquisition of lands by railroad corporations;**



# Powers and Duties

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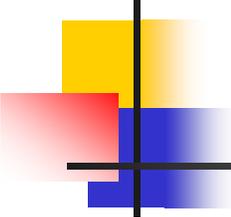
- Make available to landowners and occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and other material or equipment as will assist landowners and occupiers to carry on operations upon their lands for the conservation of renewable natural resources;
- Construct, improve, repair, operate and maintain structures as may be necessary or convenient for the performance of any of the operations or activities authorized in the Conservation District Act;
- Develop resource conservation programs and annual work plans as provided in the Conservation District Act;
- Acquire by purchase, lease or otherwise, and to administer any project or program concerned with the conservation of renewable natural resources located within its boundaries undertaken by any federal, state or other public agency; and to:
  - accept donations, gifts and contributions, in money, services, materials or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, or from any other source, and
  - use or expend such moneys, services, materials or other contributions in carrying out the purposes of the Conservation District Act, and
  - enter into contracts and negotiate with any agency of the United States or the State of Oklahoma in any plan related to the conservation of renewable natural resources;
- Sue and be sued in the name of the district; and to:
  - have a seal, which seal shall be judicially noticed,
  - make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and
  - make, and from time to time amend and repeal, rules and regulations not inconsistent with the Conservation District Act to carry into effect its purposes and powers; and



# Powers and Duties

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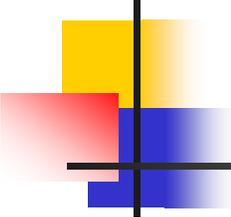
- Carry workers' compensation insurance, in its discretion, on any or all its employees, regardless of the nature of the work in which the employee or employees are engaged, the insurance to be carried with the State Insurance Fund, and to be paid for by each district out of the funds of the district.
- As a condition to the extending of any benefits under the Conservation District Act to or the performance of work upon any lands not owned or controlled by this state or any of its agencies, the directors may require contributions in money, services, materials or otherwise to any operations conferring such benefits and may require land occupiers to enter into and perform agreements or covenants as to the use of the lands as may be consistent with the purposes of the Conservation District Act.
- No provisions with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to a district unless the Legislature shall specifically so state.
- District directors have the authority to accept appointment to serve as members of local, municipal, county, regional and state planning agencies, boards, commissions and authorities and districts may participate in the funding and performance of works and projects.



# Policy of Cooperation

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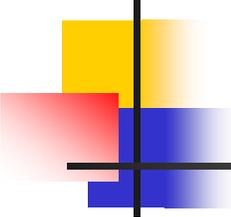
It is policy of the Legislature to require mutual cooperation and assistance among the governing officers of the counties, cities, other municipalities, conservation districts, other special purpose districts and other political subdivisions of the state in all activities directly affecting the conservation of the renewable natural resources of this state, within the broad definition of these terms given in the Conservation District Act.



# District to District

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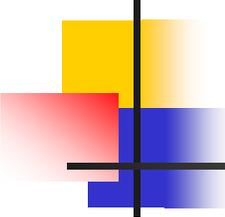
- Any two or more districts organized under the provisions of the Conservation District Act may cooperate with one another in the exercise of any or all powers conferred in the Conservation District Act, and expend locally earned district funds in furtherance of such cooperation.
- Any two or more districts may engage in joint activities by agreement between or among them in planning, financing, constructing, operating, maintaining and administering any program or project concerned with the conservation of renewable natural resources. The districts concerned may make available for purposes of the agreement any funds, property, personnel, equipment or services available to them under the Conservation District Act.
- Any district may enter into such agreements with a district or districts in adjoining states to carry out such purposes if the law in such other states permits the districts in such states to enter into such agreements.
- The Commission shall have authority to propose, guide and facilitate the establishment and carrying out of any such agreements.



# Procedure

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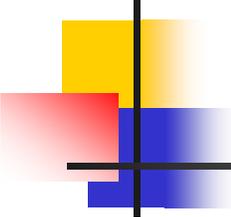
- The districts shall invite the appropriate counties, municipalities and special purpose districts or other governmental units to designate liaison representatives for consultation on each other's programs and plans for resource conservation.
- The districts shall consult and cooperate with state, regional, interstate and federal agencies to promote harmony and the avoidance of conflict in the programs and plans for resource conservation developed and carried out by any of them. The districts, other local agencies and the agencies of the government of this state shall provide for liaison and consultation among them for all programs that have direct impact on natural resources, including plans for public land acquisition and management, schools, dams and reservoirs, and other water management structures, highway locations, public utilities and subdivisions. Districts shall hold similar consultations with public and private agencies planning, constructing or operating transportation or communication facilities.
- State agencies, the districts and other local agencies are authorized to make available to each other maps, reports and data in their possession that are useful in the preparation of their respective programs and plans for resource conservation. The districts shall keep the state and local agencies fully informed concerning the status and progress of the preparation of their resource conservation programs and plans.
- **The districts shall hold public hearings at appropriate times in connection with the preparation of programs and plans, shall give careful consideration to the views expressed and problems revealed in hearings, and shall keep the public informed concerning their programs, plans and activities. Agencies and individuals shall be invited to submit proposals for consideration at the hearings. The districts may supplement the hearings with meetings, referenda and other suitable means to determine the wishes of interested parties and the general public in regard to current and proposed plans and programs of a district. They shall confer with public and private agencies, individually and in groups, to give and obtain information and understanding of the impact of district operations upon agriculture, forestry, water supply and quality, flood control, particular industries, commercial concerns and other public and private interests, both rural and urban.**



# The Power to Get Things Done

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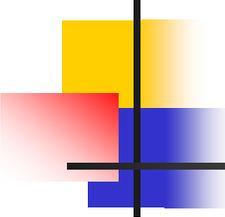
- The board of directors shall appoint advisory committees as may be needed to assure the availability of appropriate channels of communication to the board, to persons affected by district operations, and to local, regional, state and interstate special purpose districts and agencies responsible for community planning, zoning or other resource development activities.
- The district shall keep the committees informed of its work, and the advisory committees shall submit recommendations from time to time to the board of directors.



# Proof of District Validity

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- In any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding or action of a district, the district shall be deemed to have been established in accordance with the provisions of the Conservation District Act upon proof of the issuance of a certificate of organization by the Secretary of State.
- A copy of the certificate duly certified by the Secretary of State shall be admissible in evidence in any suit, action or proceeding and shall be proof of the filing and contents.

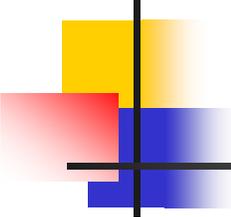


# County Filing Fees

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A conservation district **shall not be liable for any fees or charges in connection with the filing, recording or indexing, in the office of the county clerk of any county of this state**, of any instrument in favor of such district, or in connection with the certification, by such county clerk, of any copy of any instrument on file or of record in the office of such county clerk, desired by such district, but all such instruments presented by such district or the directors thereof for filing or recording shall be filed, recorded and indexed without charge, and such copies of instruments necessary by such district or the directors thereof shall be certified free of charge.

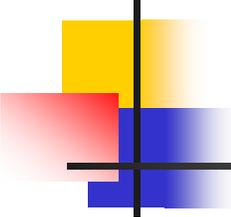
27A O. S. §3-3-403



# Operation and Maintenance

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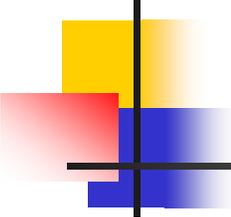
- Oklahoma has a large number of preventive and control measures and works of improvement that are operated and maintained by conservation districts and their assigns throughout the state. These preventive and control measures and works of improvement include, but are not limited to, flood control dams, erosion control practices, and channels constructed with the assistance of the United States Department of Agriculture (USDA) through USDA's watershed programs.
- Pursuant to the Conservation District Act, the phrase "operation and maintenance" or "operate and maintain" as used in a variety of contractual documents, easements, statutes, rules, and other legal authority by the conservation districts and their assigns shall be interpreted to:
  - Encompass the terms repair, modification, alteration, rehabilitation, upkeep, upgrade, improvement, construction, reconstruction, decommission, and inspection; and
  - Benefit the state and conservation districts.



# Water Quality Clarification

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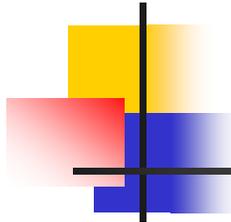
Except as otherwise provided by state or federal law, a conservation district's responsibility for the operation and maintenance of any structure for the purpose of flood control pursuant to any contractual, statutory, regulatory or other legal authority or obligation, shall not be deemed to include maintaining, protecting or improving the quality of any soil, air, groundwater or surface water or biota affected by, near or comprising any part of the structure, including any water, soil or sediment pooled, impounded or diverted by the structure, including but not limited to, monitoring, limiting, or abating or otherwise controlling or eliminating any point source or nonpoint source pollution or any other biological, chemical, radiological or physical contamination by any source or mechanism.



# Health and Dental Insurance

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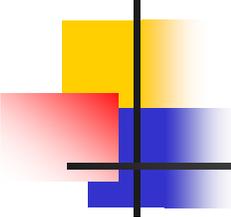
Directors of a conservation district may elect to participate in the health or dental insurance plan offered by the conservation district to its employees as provided for in the State and Education Employees Group Insurance Act. The conservation district director shall pay the full cost of the insurance premium for the coverage at the rate prescribed by and pursuant to the terms and conditions of the health or dental plan.



# Transfers

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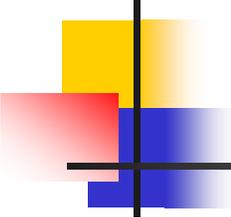
A conservation district employee who transfers to a state agency shall not lose the service time the employee has accrued for the purposes of calculating longevity benefits and leave benefits.



# Municipal Infrastructure

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- The Oklahoma Conservation Commission is hereby authorized to establish and administer the Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Program as funds become available and otherwise appropriated. The Oklahoma Conservation Commission Municipal Infrastructure Cost-Share Program shall provide monies to eligible communities and rural water districts for the purpose of implementing conservation or best management practices on such eligible land pursuant to priority watershed work or Conservation Reserve Enhancement Program (CREP) work, or watershed rehabilitation or watershed operation and maintenance work in accordance to rules promulgated by the Commission.
- The Commission shall promulgate rules as necessary to implement the provisions of this act.



# Summary of Points

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- Role of OCC
- Districts Roles and Duties for Impoundments
  - Political Entity
  - Cooperation
  - Preventive and control measures and works of improvement for the conservation of renewable natural resources and prevent and reduce flooding
  - Powers to acquire land and easements
  - Eminent domain
  - Contract (municipalities)
  - Filing fees
  - Operation and maintenance
  - Power to sue and be sued
  - Water quality



The End

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