

House Bill 397 (COMMITTEE SUBSTITUTE)

By: Representatives Knight of the 130th, Roberts of the 155th, Houston of the 170th, Nimmer of the 178th, McCall of the 33rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 6 of Title 2 of the Official Code of Georgia Annotated,
2 relating to soil and water conservation districts, so as to revise provisions relating to the State
3 Soil and Water Conservation Commission; to provide for administrative attachment; to
4 provide for appointment to the commission; to remove authority related to eminent domain;
5 to amend Chapter 7 of Title 12 of the Official Code of Georgia Annotated, relating to erosion
6 and sedimentation control, so as to provide for erosion manual publication oversight; to
7 provide for related matters; to provide for an effective date; to repeal conflicting laws; and
8 for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Article 2 of Chapter 6 of Title 2 of the Official Code of Georgia Annotated, relating to soil
12 and water conservation districts, is amended by revising Code Section 2-6-23, relating to
13 establishment of the State Soil and Water Conservation Commission, as follows:

14 "2-6-23.

15 (a) There is established, to serve as an agency of the state and to perform the functions
16 conferred upon it in this article, the State Soil and Water Conservation Commission. The
17 commission shall be assigned to the Department of Agriculture for administrative purposes
18 only, as prescribed in Code Section 50-4-3.

19 ~~(b) Five district soil and water conservation supervisors, who shall be appointed by the~~
20 ~~Governor as provided in this Code section, shall serve as members of the commission.~~
21 ~~Commencing with appointments for the year 1977, the Governor shall appoint to the~~
22 ~~commission one supervisor from each of the five Georgia Association of Conservation~~
23 ~~District Supervisors' groups. Commencing with appointments for the year 2015, the~~
24 Governor shall appoint one at-large member from each of the five soil and water
25 conservation district regions to serve on the commission. Such initial appointments ~~were~~
26 shall be for terms of office of one, two, three, four, and five years, respectively. Thereafter,

27 successors shall be appointed for terms of office of five years and until their successors are
28 duly appointed.

29 (c) The following persons shall serve ex officio in an advisory capacity to the State Soil
30 and Water Conservation Commission:

- 31 (1) The director of the Cooperative Extension Service;
- 32 (2) The commissioner of natural resources;
- 33 (3) The director of experiment stations of the College of Agricultural and Environmental
34 Sciences of the University of Georgia;
- 35 (4) The executive director of the Agricultural Stabilization Conservation Service;
- 36 (5) The Georgia state director of the Farmer's Home Administration;
- 37 (6) The director of the Southern Piedmont Conservation Research Center;
- 38 (7) The president of the Georgia Association of Conservation District Supervisors;
- 39 (8) The director of the State Forestry Commission;
- 40 (9) The Georgia supervisor of national forests of the U.S. Forestry Service;
- 41 (10) The state conservationist of the U.S. Soil Conservation Service;
- 42 (11) The dean of the College of Agricultural and Environmental Sciences of the
43 University of Georgia;
- 44 (12) The state supervisor of agricultural education in this state;
- 45 (13) The Commissioner of Agriculture; and
- 46 (14) Such other representatives of state or federal agencies as the commission deems
47 desirable.

48 (d) The commission shall adopt a seal, which shall be judicially noticed. It may perform
49 such acts, hold such public hearings, and promulgate such rules and regulations as may be
50 necessary for the execution of its functions under this article."

51 **SECTION 2.**

52 Said article is further amended by revising Code Section 2-6-27, relating to additional duties
53 and powers of the commission, as follows:

54 "2-6-27.

55 In addition to the duties and powers otherwise conferred upon the commission, it shall have
56 the following duties and powers:

- 57 (1) To offer such assistance as may be appropriate to the supervisors of the soil and
58 water conservation districts in the carrying out of any of their powers and programs;
- 59 (2) To keep the supervisors of each of the districts informed of the activities and
60 experiences of all the other districts and to facilitate an interchange of advice, experience,
61 and cooperation between such districts;

- 62 (3) To coordinate the programs of the districts so far as this may be done by advice and
 63 consultation;
- 64 (4) To secure the cooperation and assistance of the United States and any of its agencies
 65 and of the agencies and counties of this state in the work of such districts;
- 66 (5) To disseminate information throughout this state concerning the activities and
 67 programs of the districts and to encourage the formation of such districts in areas where
 68 their organization is desirable;
- 69 (6) To receive gifts, appropriations, materials, equipment, land, and facilities and to
 70 manage, operate, and disperse the same;
- 71 (7) To formulate such rules and regulations, to exercise such powers, and to perform
 72 such duties as are necessary to implement the administration of the federal Watershed
 73 Protection and Flood Prevention Act;
- 74 (7.1) To formulate such rules and regulations in consultation with the Environmental
 75 Protection Division of the Department of Natural Resources, to exercise such powers, and
 76 to perform such duties as are necessary to implement the administration of the education
 77 and training program established under Code Section 12-7-19;
- 78 (7.2) To formulate such rules and regulations and to exercise such powers as are
 79 necessary to perform its duties under subsection (m.1) of Code Section 12-5-31 and
 80 subsection (b.1) of Code Section 12-5-105;
- 81 (8) To enter into contracts and agreements with the districts, municipalities, and counties
 82 of this state, other agencies of this state, the United States and any agencies thereof, any
 83 association, any landowner or land occupier, or any person in order to carry out the
 84 purposes of this article; and
- 85 (9) To receive grants from any agency of the United States government or any agency
 86 of this state, and to make grants to districts, municipalities, or counties in this state, or
 87 other state agencies in order to:
- 88 (A) Fund up to 20 percent of the cost of obtaining permits for and constructing
 89 improvements to any dam that was originally constructed or financially assisted by the
 90 Natural Resources Conservation Service, formerly known as the Soil Conservation
 91 Service, of the United States Department of Agriculture; or
- 92 ~~(B) Fund up to 40 percent of the cost of obtaining a permit under Section 404 of the~~
 93 ~~federal Clean Water Act, 33 U.S.C. Section 1344, for the construction of any new~~
 94 ~~public water supply reservoir. In awarding any grants under this subparagraph, the~~
 95 ~~commission shall consider regional effects and water supply yield of the proposed~~
 96 ~~reservoir, anticipated population growth, and local government funding commitment;~~
 97 ~~or~~
- 98 ~~(C) Carry out other purposes of this article."~~

99

SECTION 3.

100 Chapter 7 of Title 12 of the Official Code of Georgia Annotated, relating to erosion and
 101 sedimentation control, is amended in Code Section 12-7-3, relating to definitions, by
 102 redesignating paragraph (10.1) as paragraph (10.2) and by adding a new paragraph to read
 103 as follows:

104 "(10.1) 'Manual for Erosion and Sediment Control in Georgia' or 'manual' means the
 105 published guidance of the commission governing the design and practices to be utilized
 106 in the protection of this state's natural resources from erosion and sedimentation which
 107 shall be based foremost upon sound engineering principles and repeatable bench and field
 108 testing of structural and vegetative best management practices and which shall have the
 109 annual approval of the Erosion and Sediment Control Overview Council established
 110 pursuant to Code Section 12-7-7.1."

111

SECTION 4.

112 Said chapter is further amended in Code Section 12-7-7.1, relating to erosion and sediment
 113 control plan preparation, completion, and implementation, by revising subsection (f) as
 114 follows:

115 "(f)(1) There shall be an Erosion and Sediment Control Overview Council which shall
 116 approve the Manual for Erosion and Sediment Control in Georgia prior to publication by
 117 the commission. In addition, the council shall provide guidance on the best management
 118 practices for implementing any erosion and sediment control plan for purposes of this
 119 Code section. The council shall be composed of nine members, including one member
 120 of the House of Representatives who shall be appointed by the Speaker of the House of
 121 Representatives and serve at the pleasure thereof; one member of the Senate who shall
 122 be appointed by the Lieutenant Governor and serve at the pleasure thereof; and seven
 123 members who shall be appointed by the Governor and serve at the pleasure thereof,
 124 including one employee each from the Department of Transportation, the Environmental
 125 Protection Division of the Department of Natural Resources, and the ~~Georgia Regional~~
 126 ~~Transportation~~ State Road and Tollway Authority, a professional engineer licensed to
 127 practice in this state from a private engineering consulting firm practicing environmental
 128 engineering, two representatives of the highway contracting industry certified by the
 129 Department of Transportation, and a chairperson. The council shall meet prior to
 130 December 1, 2015, to approve the most current version of the manual and at all other
 131 times as necessary to approve any subsequent changes or updates to the manual prior to
 132 its implementation. Such meetings shall be held at the call of the chairperson. Each
 133 councilmember shall receive a daily allowance in the amount specified in subsection (b)
 134 of Code Section 45-7-21; provided, however, that any full-time state employee serving

135 on the council shall draw no compensation but shall receive necessary expenses. The
136 commissioner is authorized to pay such compensation and expenses from department
137 funds.

138 (2) The council may develop recommendations governing the preparation of plans and
139 the installation and maintenance of best management practices. If a dispute concerning
140 the requirements of this Code section should arise, the Erosion and Sediment Control
141 Overview Council shall mediate the dispute."

142 **SECTION 5.**

143 This Act shall become effective upon its approval by the Governor or upon its becoming law
144 without such approval.

145 **SECTION 6.**

146 All laws and parts of laws in conflict with this Act are repealed.