

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

444A0423

HOUSE ENGROSSED NO. **HB1108** - 2/12/97

Introduced by: Representatives Wetz, Cerny, Crisp, Diedrich, Fischer-Clemens, Johnson (Doug), Madden, McNenny, and Napoli and Senators Symens, Drake, Dunn (Jim), Hutmacher, and Johnson (William)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to soil erosion and
2 sediment damage control.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 38-8A-1 be amended to read as follows:

5 38-8A-1. Terms as used in this chapter, ~~unless the context otherwise requires,~~ mean:

- 6 (1) "Commission," the State Conservation Commission established by § 38-7-3;
- 7 (2) "Conservation standards" or "standards," soil loss tolerance limits as developed
8 pursuant to this chapter;
- 9 (3) "Districts," conservation districts established pursuant to chapter 38-8;
- 10 (4) "Person," a person as that term is defined by ~~subdivision 2-14-2 (18)~~ § 2-14-2 and
11 also any public agency or political subdivision of this state, any interstate body, or any
12 other legal entity;
- 13 (5) "Guidelines," recommendations of the commission to the conservation districts not
14 possessing the force or effect of rules, ~~regulations or standards~~ or statute;
- 15 (6) "Permit-issuing authority," a municipality or other political subdivision normally

1 responsible for granting or issuing zoning ~~or, subdivision,~~ building, or drainage
2 permits;

3 (7) "Silviculture," the science and art of managing forest resources for the timber,
4 protection, recreation, wildlife, water, and aesthetic purposes.

5 Section 2. That § 38-8A-2 be amended to read as follows:

6 38-8A-2. ~~Land-disturbing~~ The term, land-disturbing activity, as used in this chapter, unless
7 ~~the context otherwise requires,~~ means any land alteration clearing, tilling, grazing, grading,
8 excavating, transporting and filling of land, and the implementation of silviculture activities
9 resulting in soil erosion from water or wind and the movement of sediments:

10 ~~—(1)—~~ Into into any and all waters, public or private, on the surface of the ground, which are
11 contained within, flow through or border lands in the state; or

12 ~~—(2)—~~ Onto onto lands in the state, including, but not limited to, clearing, tilling, grading,
13 excavating and transporting and filling of land. Land disturbing activities specifically
14 regulated by other state agencies and that are subject to regulation under chapter 45-
15 6B, chapter 34A-6, or chapter 34A-13, or which otherwise require plans for soil
16 erosion and sediment damage control are exempt from the provisions of this Act.

17 Section 3. That § 38-8A-7 be repealed.

18 ~~—38-8A-7. The State Conservation Commission may, in carrying out its responsibilities~~
19 ~~under this chapter, grant a variance to a conservation district to allow it~~
20 ~~additional time to carry out its responsibilities pursuant to this chapter.~~

21 Section 4. That § 38-8A-12.2 be amended to read as follows:

22 38-8A-12.2. An election under the provisions of §§ 38-8A-12 and 38-8A-12.1 shall ~~generally~~
23 ~~follow the procedures provided in chapter 7-18A. Wherever those procedures are not applicable,~~
24 ~~the district supervisors shall establish procedures for voting as closely to the procedures in~~
25 ~~chapter 7-18A as practicable~~ be conducted at the next general election within the counties

1 comprising the territory of the conservation district. Unless otherwise provided for in this
2 chapter, the conduct of any election held under §§ 38-8A-12 and 38-8A-12.1 shall be governed
3 by the general election laws of South Dakota. The results of the election shall be certified to the
4 conservation district by the county commissioner of each county in which the election is
5 conducted.

6 Section 5. That § 38-8A-17 be amended to read as follows:

7 38-8A-17. ~~Any~~ No person engaging in ~~agricultural~~ land-disturbing activities ~~and minor~~
8 ~~land-disturbing activities, such as individual resident landscaping and home gardening by an~~
9 ~~owner, operator or tenant~~, is not required to prepare a plan, file an application or otherwise
10 report these activities to the conservation district, except as provided for in § 38-8A-18. The
11 district may require a conservation plan preceding the conversion to cropland of any land which
12 has been designated "fragile land" as provided by § 38-8A-6.

13 Section 6. That § 38-8A-18 be amended to read as follows:

14 38-8A-18. Upon the determination by the conservation district ~~that an agricultural~~, pursuant
15 to § 38-8A-20, that a land-disturbing activity ~~and minor land-disturbing activities, such as~~
16 ~~individual resident landscaping and home gardening by the owner, operator or tenant~~ is violating
17 adopted standards, the land disturber shall be required to prepare an erosion and sediment
18 control plan within six months, and have ~~such~~ the plan approved by the local conservation
19 district. Upon approval of the plan by the conservation district, the land disturber shall be
20 allowed six months to implement ~~such~~ the plan.

21 Section 7. That chapter 38-8A be amended by adding thereto a NEW SECTION to read as
22 follows:

23 The conservation districts shall file with the conservation commission an itemized annual
24 report noting the number and nature of violations of this chapter. The report shall be filed within
25 sixty days after the end of the conservation district's fiscal year.

1 **BILL HISTORY**

2 1/28/97 First read in House and referred to Agriculture & Natural Resources. H.J. 166

3 2/6/97 Scheduled for Committee hearing on this date.

4 2/6/97 Agriculture & Natural Resources Do Pass Amended, AYES 11, NAYS 0. H.J. 334

5 2/6/97 Agriculture & Natural Resources Place on Consent Calendar. H.J. 334

6 2/11/97 Motion to Amend.

7 2/11/97 House of Representatives Do Pass Amended, AYES 65, NAYS 2. H.J. 418