

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

444A0423      **SENATE AGRICULTURE & NATURAL RESOURCES**  
**COMMITTEE ENGROSSED NO. HB1108 -**  
**2/21/97**

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;

1 (6) "Permit-issuing authority," a municipality or other political subdivision normally  
 2 responsible for granting or issuing zoning ~~or, subdivision, building, or drainage~~  
 3 permits;

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

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

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

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

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

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 That § 38-8A-7 be repealed.

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

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

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

1 ~~chapter 7-18A as practicable~~ be conducted at the next general election within the counties  
2 comprising the territory of the conservation district. Unless otherwise provided for in this  
3 chapter, the conduct of any election held under §§ 38-8A-12 and 38-8A-12.1 shall be governed  
4 by the general election laws of South Dakota. The results of the election shall be certified to the  
5 conservation district by the county commission of each county in which the election is  
6 conducted.

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

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

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

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

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

24 The conservation districts shall file with the conservation commission an itemized annual  
25 report noting the number and nature of violations of this chapter. The report shall be filed within

1 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, Passed, AYES 11, NAYS 0.

5 H.J. 334

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

7 2/11/97 Motion to Amend, Passed. H.J. 418

8 2/11/97 House of Representatives Do Pass Amended, Passed, AYES 65, NAYS 2. H.J. 418

9 2/12/97 First read in Senate and referred to Agriculture & Natural Resources. S.J. 416

10 2/20/97 Scheduled for Committee hearing on this date.

11 2/20/97 Agriculture & Natural Resources Do Pass Amended, Passed, AYES 9, NAYS 0.

12 S.J. 570

13 2/20/97 Agriculture & Natural Resources Place on Consent Calendar. S.J. 570