

1970

EC70-786 Nebraska's New Natural Resource Districts

Ralph J. Fischer

Deon D. Axthelm

Richard Kennedy

Follow this and additional works at: <http://digitalcommons.unl.edu/extensionhist>

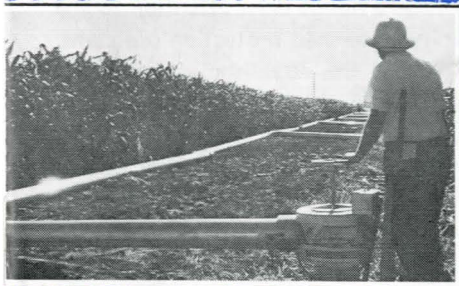
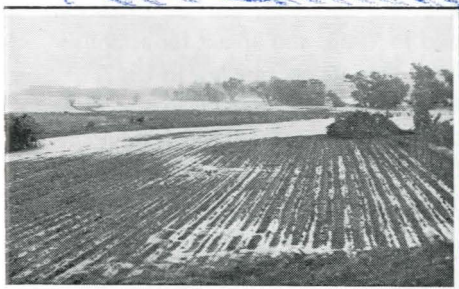
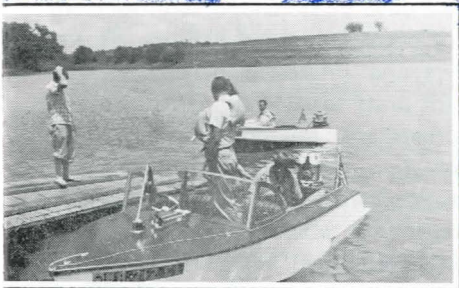
Fischer, Ralph J.; Axthelm, Deon D.; and Kennedy, Richard, "EC70-786 Nebraska's New Natural Resource Districts" (1970). *Historical Materials from University of Nebraska-Lincoln Extension*. 4448.
<http://digitalcommons.unl.edu/extensionhist/4448>

This Article is brought to you for free and open access by the Extension at DigitalCommons@University of Nebraska - Lincoln. It has been accepted for inclusion in Historical Materials from University of Nebraska-Lincoln Extension by an authorized administrator of DigitalCommons@University of Nebraska - Lincoln.

AGRI
35
E7
#70-786
C. Z

E. C. 70-786

NEBRASKA'S NEW NATURAL RESOURCES DISTRICTS



Cooperative Extension Service, University of Nebraska
College of Agriculture and Home Economics
and U.S. Department of Agriculture Cooperating
E. F. Frolik, Dean J. L. Adams, Director

NEBRASKA'S NEW NATURAL RESOURCES DISTRICTS

Ralph J. Fischer, Deon D. Axthelm, Richard Kennedy^{1/}

BACKGROUND AND SCOPE OF L.B. 1357

Nebraska laws authorizing establishment of government units responsible for resource development have resulted from needs expressed to the Legislature over the years.

In the earliest days of statehood counties were assigned duties of overseeing group drainage efforts. Later, landowners and interested persons wanted special government units to supervise larger projects of drainage improvement, soil conservation, water supply, flood protection, and land reclamation.

Irrigation development began in the 1860's. It was soon discovered that satisfactory irrigation projects could be carried out only if there were legislative provisions for group development of projects. A legislative act enabling establishment of irrigation districts was passed in 1895, and an act for establishment of reclamation districts became law in 1947.

Drainage problems became pressing in the early 1900's, and separate legislative acts authorizing drainage districts and projects were passed in 1881, 1905, 1907, and 1911. Serious problems of drought and wind erosion prompted the organization of soil and water conservation districts under a 1937 Nebraska law.

In the early 1950's floods drew attention to the need for community watershed protection programs. The Legislature enabled the establishment of watershed districts in 1953 and watershed conservancy districts in 1957.

The late 1950's brought increasing concern for conservation of ground water, which in turn induced enactment of the Ground Water Conservation District Act in 1959.

^{1/} Ralph J. Fischer, Legal Counsel, Nebraska Soil and Water Conservation Commission, Deon D. Axthelm, Assoc. Prof. and Water Resources Specialist, Ag. Eng. Dept., University of Nebraska, Richard Kennedy, Conservationist, Nebraska Soil and Water Conservation Commission.

In the 1960's Federal money became available for loans to construct central water supply systems for domestic use in areas where only localized supplies are available. To take advantage of this development, the Rural Water District Act was passed in 1967.

At present there are about 500 individual water or soil resource development districts and boards created under legislative acts. These individual districts sometimes cover the same land area and provide similar powers and responsibilities.

In 1939 there were about 170 resources districts; however, the large number of small government units of all types was already recognized as a pressing problem by the Nebraska Legislative Council. A report said:

"... since some of the units are dead or dying, and others have insufficient population and wealth to enable them to operate satisfactorily without imposing an unreasonable tax burden, . . . the desirability of maintaining all the present areas may be questioned." (Nebraska Legislative Council Report No. 5, 1939)

Serious attempts to develop a legislative program for restructuring and modernizing district governments related to natural resources began in 1967 when the Nebraska Soil and Water Conservation Commission added a study of the subject as a special work item of the Nebraska Water Plan.

Reorganization efforts were encouraged by the State Association of Soil and Water Conservation Districts in specific resolutions in 1966, 1967, and 1968 and supported by the "Nebraska Management Analysis Study" of 1968, commonly known as the "Little Hoover Commission," in their report on state government; also, by a report called "Reorganization of Water and Land Resource Agencies of the State of Nebraska," submitted to Governor Norbert T. Tiemann by Frank J. Trelease, Dean of the Wyoming College of Law in January, 1969; and by the Report of the Nebraska Legislative Council Committee on Ground and Surface Water, Report No. 165, November, 1968.

Legislative Bill 1357, now called the Natural Resources Districts Law, was passed in the 1969 session to accomplish this reorganization of existing districts, having limited individual responsibilities, into larger districts of more comprehensive scope.

This new law provides for the establishment of natural resources districts to cover all areas of Nebraska. These districts will have an array of project authorities which are available for local people to apply in solving local resource problems. These project authorities include:

1. Erosion prevention and control.
2. Prevention of damages from flood water and sediment.
3. Flood prevention and control.
4. Soil conservation.
5. Water supply for any beneficial uses.
6. Development, management, utilization and conservation of ground water and surface water.
7. Pollution control.
8. Solid waste disposal and sanitary drainage.
9. Drainage improvement and channel rectification.
10. Development and management of fish and wildlife habitat.
11. Development and management of recreational and park facilities.
12. Forestry and range management.
13. Mosquito abatement.

Each natural resources district will be incorporated from existing watershed conservancy districts, soil and water conservation districts, watershed districts, watershed advisory boards and watershed planning boards, with the new districts having consolidated powers and programs, some additional authorities, and new boundaries more relevant to comprehensive natural resources development problems.

There are presently 150 districts of the types which will be reorganized. Legislation directs that there are to be between 25 and 50 natural resources districts—a reduction of 100 to 125 districts. This restructuring of districts will provide local areas with administrative tools and management opportunities to accomplish more abundant development.

The law also states that no *new* ground water conservation districts, rural water districts, or drainage districts may be organized after January 1, 1972. Existing districts of these types are not affected.

The law also provides that in areas of Nebraska where there is now a public power and irrigation district of a set size of operation and which covers an area which is acceptable for boundaries of a natural resources district, that a natural resources *division* of the public power and irrigation district may be established in lieu of a district. In most respects, a natural resources division would be the same as a district.

Here are questions and answers about the new natural resources districts. These questions are listed under the headings of Establishment, Programs, and Administration and Powers. This circular attempts to answer a few major questions.

ESTABLISHMENT

These questions pertain to formation of new natural resources districts.

1. Q. When will the natural resources districts begin functioning?

A. Districts are to begin operations on or before January 1, 1972.

2. Q. What procedures will be used to establish boundaries for the natural resources districts?

A. Representatives of local, state, and federal governments and agencies with experience and knowledge in the field of resource development will recommend tentative boundaries to the Nebraska Soil and Water Conservation Commission. The Commission will then adopt a plan of proposed boundaries. A series of public hearings will be held to present the proposals to Nebraska citizens and to provide an opportunity for the public to express themselves concerning boundary location. The Commission must then establish the boundaries before September 1, 1970.

3. Q. What are the guidelines and criteria to be used for setting boundaries of the natural resources districts?

A. The law provides extensive criteria and explicit directives concerning the number, size, and boundaries of districts. There must be at least 25 but not more than 50 districts, and each district is to

contain at least 500 square miles but not more than 7,000 square miles. The law specifies that the most important objective of choosing the locations for boundaries is to provide effective coordination, planning, development, and general management of "common problem areas." Examples of "common problem areas" would include contiguous areas of lowering ground water tables, surface drainage in a common watershed, land treatment, and similar concerns. Other criteria are also given.

4. Q. Will local residents have an opportunity to express their views on boundaries?

A. Yes, on two separate occasions. First, at meetings of an informal nature which will be held at various places in the state before the Soil and Water Conservation Commission formulates proposed boundaries. Second, after boundaries are proposed a series of public hearings will be held at which all interested persons may express opinions on placement of boundaries.

5. Q. Can district boundaries be changed after they are initially established?

A. Yes. The law provides methods to raise the question of changing boundaries and the procedure to accomplish changes.

6. Q. When will the restructuring of the soil and water conservation districts, watershed districts, watershed conservancy districts, watershed advisory boards, and watershed planning boards into natural resources districts take place?

A. Between September 1, 1970 and January 1, 1972, the Nebraska Soil and Water Conservation Commission and the governing boards of the existing districts must transfer the assets and liabilities of the existing districts to the natural resources districts in the same area, establish a workable administrative system for the new board, and accomplish other tasks necessary to form the new districts.

7. Q. Does the law provide that other kinds of water districts may merge with the new districts?

A. Yes. Rural water districts, ground water conservation districts, drainage districts, reclamation districts, and irrigation districts are encouraged by a section of the law to merge with the natural resources

district in their area where it appears to be appropriate.

8. Q. How will the location of the district headquarters be determined?

A. The law does not specify how or by whom the district headquarters will be chosen. This would probably be one of the first matters to be decided by the initial board of directors of individual districts.

PROGRAMS

These questions concern problems of development and management of new district programs.

9. Q. What programs are districts authorized to develop?

A. The law provides districts with program authorities in the fields of erosion control, flood control, soil conservation, conservation, development and management of water supplies, pollution control, drainage, fish and wildlife habitat development, forestry and range management, and development and management of recreational and park facilities and mosquito abatement.

10. Q. Is each district required to carry out all programs listed?

A. No. The resource development problems, needs and opportunities of individual districts, as determined through the boards of directors, could produce district endeavors in only a few of the possible types of programs. However, it is the intent of the bill that the district should be responsible to see that the resource needs and problems are met as far as is possible. The needs, however, will vary from one district to another.

11. Q. Who will review and comment on plans and programs of the natural resources districts?

A. The State Planning Office will review district plans to assure no conflict with legislative policies. If there is a Nebraska planning and development district and a planning board within the affected area, such plans of the natural resources districts are not to conflict with the plans of the planning board. The Nebraska Soil and Water Conservation Commission reviews district plans for conformance to the Nebras-

ka Water Plan. The Game and Parks Commission will review plans which relate to its Fish and Wildlife Plan and Outdoor Recreation Plan to assure conformance with these statewide plans.

12. Q. How can a group within a district promote and help steer to completion a project of particular interest or benefit to only a small segment or area of the district?

A. The law provides a means for local groups to petition the board to hold a hearing on the merits, plans, and financial possibilities for a proposed project of less than district-wide importance. For such projects the law provides that the board of directors may appoint advisory groups. Such groups could be used to help the board keep contact with those most interested in smaller scale projects. Existing small watershed development and protection programs are covered by a provision of the law which appoints the boards of watershed conservancy district or watershed district as a standing watershed advisory committee to advise and assist the natural resources district within which the project lies, and to facilitate the completion of existing work plans.

13. Q. Will Federal programs such as the A.C.P., Great Plains, P.L. 566 Watershed and similar programs be changed by the new districts?

A. State legislation cannot direct Federal activity. The Federal agencies responsible for the above and other programs would remain responsible for working with existing state and local organizations. Where the Federal agency has in the past worked through a type of district being merged into natural resources districts, some adjustments may be made because of the new administrative relationship. However, the services and aid would remain available according to the direction of each Federal agency.

14. Q. How will local technical responsibilities, such as tree and grass planting or obtaining easements and rights-of-way, be handled?

A. The board of directors of natural resources districts will have the combined powers and responsibilities of the boards of supervisors or directors of the merging districts, and they will work with, or assign someone in the district to work with, state and federal representatives in much the same way as these

other boards have done.

15. Q. Will tax funds in possession of each watershed conservancy district or watershed district at the time of the merger and which were levied for development of a watershed work plan, be used by the new natural resources district for that purpose?

A. Yes. According to a section of the law, this tax money will be put in a special fund of the natural resources district or districts receiving the assets of such watershed district or watershed conservancy district and these funds will be expended within the boundaries of such watershed district or watershed conservancy district for projects begun or planned by these districts.

ADMINISTRATION AND POWERS

These questions relate to general operations of the natural resources districts and to the make-up, activity, and powers of the boards of directors.

16. Q. How is membership to be determined for the first board of directors of the natural resources districts?

A. The first board of directors will be composed of all directors or supervisors of soil and water conservation districts, watershed conservancy districts, watershed districts, watershed advisory boards, watershed planning boards, and mosquito abatement districts as of January 1, 1972. In those instances where one of the above types of merging districts overlaps into more than one natural resources district, the directors or supervisors will serve on the board of the natural resources district within which they reside.

17. Q. Where first boards are large and unwieldy, what can be done to facilitate board activity?

A. When the first board of directors of a natural resources district has more than 39 members, the board may choose an executive committee of 21 or less members which may be empowered by the board to act for it either on all matters or only on specified assignments.

18. Q. What is the date and means of replacing the first board?

A. Directors will be elected at the state's general election in 1974. They will replace the first board in January, 1975. Members of the first board may be candidates for the elected board. The number of board members after 1975 may vary from 5 to 21. There must be an odd number of directors. The Nebraska Soil and Water Commission shall determine the number of directors after considering recommendations submitted by the first board, and the characteristics of the district.

19. Q. What other nonvoting members will be included on the board?

A. When the land area of an irrigation district, reclamation district, or public power and irrigation district lies at least partly within a natural resources district, a nonvoting member shall represent such a district on the board of the natural resources district.

20. Q. What are provisions for election of board members within the district?

A. Directors will be elected to four-year terms at the general election. Candidates will be nominated from either the district at-large or from nomination subdistricts within the district, if the board of directors adopts such a plan. In either case, each eligible voter will be able to cast votes for filling all vacancies.

21. Q. What are the provisions for existing boards when they are merged with public power and irrigation districts?

A. If there is an instance where a natural resources division of a public power and irrigation district is to be established rather than a natural resources district, then the first board will serve until January, 1975, at which time the board of the public power and irrigation district would assume governing responsibilities. Elections would be held for directors of the public power and irrigation district, not for separate directors of the natural resources division.

22. Q. What does the law require for board meetings and other meetings?

A. Board meetings are subject to Nebraska's open meeting law. Some public notice will be given for

each meeting, and any formal official action will be taken only by roll call vote in an open meeting. Meetings of the board will be held monthly, and records and minutes will be retained and kept open to the public.

23. Q. What source of revenue will the district have?

A. For some purposes the districts may obtain grants from the state, federal, and other governmental units. Self-sustaining revenue will be available from the following possible sources: a tax levy of not to exceed two mills on taxable property for projects of general benefit in the district; revenue and general obligation bonds; special assessments from owners of property receiving benefits of local special benefit projects; investment of surplus funds; and borrowing.

24. Q. Can the district hire employees and what are the limitations?

A. Yes. One of the specific powers granted the district is to employ such persons as are necessary to carry out the purposes of the act. Standard job qualifications and salary schedules will be provided by the Nebraska Soil and Water Conservation Commission to promote uniformity among the districts.

25. Q. Will the district be able to contract for facilities with Federal agencies, state agencies, or independent firms?

A. Yes. The district is given the power and authority to contract generally for the construction of any facilities designed to accomplish programs for which the district is responsible.

26. Q. What other powers does the law give to the district?

A. The district is given the power to (1) acquire and dispose of water rights; (2) act as fiscal agent for the United States; (3) cooperate with and furnish financial aid when it would advance the purposes of the district; (4) construct facilities necessary to carry out the purposes of the district; (5) store, transport and supply water to users in the district; (6) make studies, surveys, and investigations and to conduct demonstration projects which advance district purposes; (7) acquire property by eminent domain; (8) promulgate and enforce land use regulations and

ground water regulations; and (9) invest surplus funds.

27. Q. What effect will the power to acquire water rights have on existing surface water appropriations of irrigation districts, public power and irrigation districts and others?

A. The natural resources districts would obtain any water rights in the same manner as other users now do. L.B. 1357 does not provide any new methods to acquire water rights and therefore vested water rights remain protected and administered through the Nebraska Department of Water Resources as outlined in Article 46, Section 2 of the Nebraska Statutes.