

CONSERVATION DISTRICTS

A. INTRODUCTION

Conservation districts are political subdivisions of the State of Arkansas. They are a creation of popular vote of resident landowners for the purpose of conserving our land and water resources as authorized by Act No. 197 of the General Assembly of 1937; the nation's first conservation district law.

District boundaries generally coincide with county lines resulting in a total of 75 conservation districts in the state.

Conservation districts are local governments at work and their specific responsibility is management of our soil and water resources. The idea behind their formation is to keep decision making on soil and water conservation matters at the local level. Each district is governed by a board of five directors who serve without pay. Two directors are appointed by the Arkansas Soil and Water Conservation Commission and three are elected by resident landowners.

Commission functions and responsibilities are explained in greater detail in Chapter 3. Generally speaking, in addition to conservation district director appointments, the Commission supports districts administratively through the formation and discontinuance process of individual districts, by overseeing district elections and by removal of any director for neglect of duty or malfeasance. It also supports districts financially..."for the purpose of aiding the development and general operation"... of districts. However, to qualify for state funds, conservation districts must comply with certain Commission rules and policies.

Act No. 197 of 1937, as amended, created an Arkansas Soil and Water Conservation Committee (predecessor to the present Commission) for the purpose of developing..."a program for Soil Conservation which shall be recognized as the state's policy on soil conservation...". As you can see, your conservation district and the Commission derive their authority from the same legislation to compliment each other for their mutual purpose.

B. DISTRICT POWERS

Conservation districts are given the following specific authorities by Act No. 197, as amended:

1. To carry out preventive and control measures for better utilization of soil and water resources.
2. To enter into agreements and furnish financial or other aid to any private or public agency or land user within the district for better utilization of soil and water resources and for removal of excess water as the directors deem necessary.
3. To obtain by purchase, gift or otherwise, any real or personal property to accomplish the goals of the district.
4. To make available to land users any equipment and materials needed to carry

out soil and water conservation programs.

5. To construct, improve, operate and maintain works of improvement as needed.

6. To develop comprehensive plans for soil and water management in the district and bring this information to the attention of land users.

7. To accept contributions in money, service or materials from any source for use in carrying out the district program.

8. To sue and be sued in the name of the district; to have an official seal; to have perpetual succession unless terminated as provided in Act No. 197, as amended; to make and execute contracts; to borrow money, issue notes and bonds, and mortgage property; levy taxes based on specific benefits; and to make and amend regulations as needed.

9. As a condition to extending benefits on private lands, the district may require contributions in money, services, or materials, except that the district may not charge for technical services provided by NRCS or other agencies providing technical assistance. Technical assistance provided by the district may be supported by a reasonable fee or charge.

10. To develop land use regulations within the district when needed to conserve soil and water resources, as provided in Act No. 197, as amended.

11. To cooperate with other districts in the exercise of any of these powers.

12. To discontinue a district after five years by petition to the Arkansas Soil and Water Conservation Commission, as provided in Act No. 197, as amended.

13. To organize an irrigation, drainage or watershed development district to install, operate and maintain works of improvement such as dams, levees, ditches and pumping stations, as provided in Act. No. 197, as amended.

14. To form improvement project areas to assume local obligations in installing, operating and maintaining structural measures in watershed projects and Resource Conservation and Development measures, as provided in Act. No. 197, as amended.

15. The conservation district has the power of eminent domain (Condemnation) defined as a parallel to that power entrusted to other improvement districts, levee and drainage districts and local governmental entities. The procedure for condemnation is defined by Act 177 of 1945. The use of condemnation powers must be defined by the specific conservation purposes of Act 197 of 1937, as amended. Any condemnation procedure will require, by Arkansas law, an assessment and compensation for damages resulting from the action.

Act 469 of 1989 authorizes the ASWCC to delegate its power to conservation districts to allocate surface water during times of shortage.

C. DISTRICT RESPONSIBILITIES

I. **LEGALITY.** Act No. 197 of 1937, as amended, charges districts with the responsibilities for:

- a. control and prevention of soil erosion, prevention of damage from flood water and sediment, utilization and disposal of water, wise guidance in present and future use of state's land resources;
- b. maintenance of active roles in water management for irrigation, drainage, flood control, recreation, pollution abatement and fish and wildlife development;
- c. soil surveys, erosion control practices, soil fertility and condition, needs to preserve agricultural land;
- d. land and water management, landscape beautification, education and involvement of citizens in conservation programs.

2. **METHODOLOGY.** Districts discharge their responsibilities by:

a. District Board Organization. Districts furnish effective local leadership in the form of an organized governing body. Boards should reorganize annually although, officers may succeed themselves an indefinite number of times. This reorganization should be done at the first regular meeting of each calendar year with the election of a chairman, a vice-chairman and a secretary-treasurer. The Commission and appropriate cooperating agencies should be notified of results of officer elections. **(Recommendation)**

The chairman should be selected on the basis of leadership ability, enthusiasm for conservation work and time available to devote to duties. Length of service should not be a major consideration in this decision. **(Recommendation)**

b. District Board Meetings. Districts hold regular and special meetings to determine community needs for conservation and resource development and to plan their work. At least one regular meeting should be scheduled each month and special meetings should be held as needed. **(Recommendation)**

One regular meeting may be held in conjunction with the annual area meeting and one in conjunction with the annual state meeting. **(Recommendation)**

Business may be discussed when less than a quorum (three directors) is present but the district board cannot legally conduct government business by vote. Such business includes the approval of bills for payment. **(State Law)**

The Freedom of Information Act requires that all board meetings be open to the public. The public and news media must be notified of the meeting. The board may go into executive session and exclude the public only when personnel matters are to be discussed. Even in the case of executive session, a public announcement of the intent and purpose of the meeting must be made. **(State Law)**

c. Planning. As a basic element for effective work and a condition for receiving assistance from USDA and NRCS, each district prepares a long range program. The long range program should recognize the interest and needs of all of the people of the

district and should be revised as needed to ensure that it addresses the most important current concerns.

USDA will enter into a memorandum of understanding with a district after the district prepares its long range program. (Basic Memorandum of Understanding.) The basic Memorandum of Understanding establishes an enduring basis for cooperation and for assistance to the district by USDA. **(Memorandum of Understanding, see MOU - Exhibit A)**

After USDA and the district sign a Memorandum of Understanding the district may request the assistance of the Natural Resources Conservation Service (NRCS). The request for assistance is documented in a supplemental Memorandum of Understanding (Supplemental Memorandum of Understanding). The signed request by the district and NRCS serves as the basis for NRCS assistance to the district. **(Memorandum of Understanding, see MOU - Exhibit 13)**

Districts must also develop an annual work plan to serve as a guide in carrying out the long range program. This must be the district's plan and not an agency plan. Many federal and state agencies can make valuable contributions toward developing the plan and should be asked to do so. **(Memorandum of Understanding)**

The local NRCS staff is required to make its own annual plan of operations which should spell out how NRCS technicians will help the district board of directors carry out the district's annual plan. **(Memorandum of Understanding)**

It is NRCS policy to review the basic and supplemental memorandum of understanding with the district governing body of each year, preferably before the district's annual plan of operations is developed. **(Memorandum of Understanding)**

d. Financial Management. Districts must develop an annual budget as set forth by state law and Commission regulations which reflects financial requirements of carrying out the annual work plan. Districts also manage funds, facilities and equipment belonging to the district. **(Commission Rule)**

NRCS employees are forbidden to engage in district financial activities which must be handled by district directors or by district employees. **(Federal Law)**

Districts are empowered to obtain and provide funds, services and facilities to carry out district activities. Districts should enlist needed assistance from whatever source is available. An example is the soliciting of financial assistance from city and county governments or in obtaining adequate state funding to carry out district programs. **(Recommendations)**

e. Technical Assistance. Districts determine services and priorities regarding the kinds and amount of work to be done in carrying out items in the long-range program and annual work plan. Districts should actively pursue and encourage all landowners and operators to become cooperators of the district. **(Memorandum of Understanding)**

District employees may be under the technical guidance of NRCS. The agency then assigns duties and hours of work within guidelines set by the district. **(Memorandum of Understanding and Commission Rules)**

f. Reporting. The district must prepare an annual report of work accomplishments which reflects the district's success in carrying out the annual work plan.

(Memorandum of Understanding)

Districts are required to keep adequate financial records. **(State Law)**

The district should report to the public on resource conservation needs and the work of the district. This can be accomplished through such means as news releases, public notices and public meetings. **(Recommendation)**

Districts are encouraged to create an education program to explain district responsibilities and policies to local units of government, businessmen, civic clubs, professional groups, churches, schools and educators, farm owners and operators. **(Recommendation)**

Districts should promote natural resource management through contests, exhibits, tours, meetings, service clubs, special demonstration projects, etc. **(Recommendation)**

g. Intergovernmental Cooperation. The district should cooperate with other districts and governmental bodies in matters of mutual concern. **(Recommendation)**

Districts should consult with and make recommendations to all agencies of state and federal government with conservation responsibilities regarding conservation needs and programs to carry out conservation activities in their district. **(Recommendation)**

Districts should provide information assistance to educational institutions and other organizations on subjects related to soil and water conservation. **(Recommendation)**

District should enter into Memorandums of Understanding or working agreements with agencies and organizations as necessary. **(Recommendation)**

Districts should become an active member of various planning organizations and agencies and, through the district's representation, experience and knowledge, help guide these groups toward good resource management practices. **(Recommendations)**

Districts should also maintain appropriate program records and make them available for use in statewide conservation planning. **(Recommendation)**

h. Equal Opportunity. As units of government and cooperators with agencies of the federal government, conservation districts have responsibilities in equal opportunity for both programs and employment. **(State and Federal Law)**

Boards should use every opportunity to ensure program accessibility by the minority community. An equal opportunity statement should accompany both program and employment advertisements and meeting notices. **(Recommendation)**

The Arkansas Association of Conservation Districts and the Arkansas Soil and Water Conservation Commission both have policy statements strongly supporting broader minority and women's involvement in the programs of conservation districts. District boards can do much to foster an atmosphere of confidence and support by actively promoting conservation programs through the minority community. Directors should give strong consideration to maintaining an up to date file documenting the district's "Affirmative Action" program. **(Recommendation)**

D . DISTRICT FINANCES

1. **USE OF DISTRICT FUNDS.** All district funds are public funds, regardless of the source, and are subject to public funding regulations. All funds must be used for public benefit in furthering the soil and water conservation program for which the district is established. No funds may be spent for individual benefit.

2. **SOURCE OF DISTRICT FUNDS.** Act No. 197 of 1937, as amended, empowers districts... "To accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from the State or any of its agencies, or from any other source, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations...". Appropriate sources include county and city appropriations, local contributions, interest on reserve funds, rental income, income from sales or service and state appropriations.

3. **DISTRICT BOOKKEEPING.** A bookkeeping system must be maintained to record all receipts and disbursements with a voucher file to support each transaction. All check stubs, cancelled checks and bank statements should be kept for audit review. All expenditures must be approved by the district board and reflected in the minutes.

4. **SURETY BOND.** Act No. 197 of 1937, as amended, states that: "The directors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property..."

Under present Commission Policy, the Commission withholds funds from the conservation district's line item appropriation to fund coverage for two positions on each conservation district. These two positions may be for directors or district employees who are entrusted with public and have check signing authority. These positions are the option of the board of directors. There is no need to notify the Commission nor the bonding company when a change of responsibility occurs.

Should a district choose to have additional positions covered under the Surety Bond Program, an additional ten dollars (\$10) would need to be sent to the Commission for each position.

If your district also serves as the sponsor of a watershed improvement district, drainage district, etc., and wishes to carry Surety Bond coverage on the entity, you may have the additional coverage at additional cost for each individual to be bonded at the rates of: (\$10.00 for 2,500 or \$18.00 for \$5,000).

5. **REIMBURSEMENT OF DISTRICT DIRECTORS.** Act No. 197 of 1937, as amended, states that a director may receive ... "reimbursement for his attendance at any scheduled meeting of the district. A director may receive a sum not to exceed fifteen dollars (\$15.00) plus mileage allowance at the same rate authorized by law or

state travel regulations for state employees, per mile traveled from his home to the place of meeting and return and he may be reimbursed for his actual expenses, including traveling expenses, necessarily incurred in the discharge of his other duties."

The board must vote to pay all reimbursements. The board must also vote to set policy on the rate of reimbursement.

If a board elects to pay for a meal served at the meeting, the cost of the meal must be deducted from per diem paid for the meeting.

For attendance at area, state, regional or national meetings or for performance of other district duties approved by the board, directors may be reimbursed for actual expenses incurred.

6. TAX STATUS OF DISTRICTS.

a. Income Tax: Districts are not required to pay federal or state income tax because they are sub-divisions of the State of Arkansas. However, districts are required to withhold both federal and state income tax from employee salaries.

b. Real Estate Tax: Districts are not required to pay tax on real estate used by governmental or charitable organizations when all proceeds from the real estate are used exclusively for district purposes.

c. Personal Property: District owned equipment used exclusively for purposes authorized by the district law is not subject to personal property tax.

d. Sales Tax: Districts are required to pay state sales tax on purchases and to collect sales tax on items sold.

7. ANNUAL BUDGET. An annual budget is essential for sound financial management and is required to justify the district's annual request to the Commission for state appropriated funds.

a. First, estimate how much money will be available. Include:

(1) bank balance at beginning of the year,

(2) county appropriation,

(3) other local contributions,

(4) interest on or withdrawal from reserve funds,

(5) rental income,

(6) income from sales or service,

(7) state appropriation funds provided by the Commission through one or more of its funding categories,

- (8) other sources of income.
- b. next, allocate funds for expected expenditures such as:
 - (1) salaries and fringe benefits,
 - (2) state and federal income tax,
 - (3) purchase, operation and maintenance of equipment,
 - (4) Under present Commission Policy, the Commission withholds funds from the conservation district's line item appropriation to fund annual AACD and NACD dues. Area AACD, RC&D dues etc., are the responsibility of individual districts.
 - (5) tours, demonstrations and exhibits,
 - (6) conservation education and public information programs,
 - (7) contests, workshops and awards,
 - (8) election expenses,
 - (9) expenses for meetings, audits, printing, advertising,
 - (10) unemployment tax,
 - (11) other expenses.

c. Finally, if projected expenditures exceed anticipated income and reserves are not adequate to cover the deficit, it is necessary to assign priorities and adjust the budget accordingly. Further adjustments may be required based on actual income and actual expenses.

8. STATE FUNDING OF DISTRICTS. Application for state funds must be made on the standard form provided by the Commission. The application form will serve as a financial expression of the conservation district director's expectations for their district's program. Directors should take advantage of this opportunity to indicate the importance of state funding to their district's program. Districts must comply with all Commission Rules and Regulations to be eligible for state funds. State funding of district operations is contingent on legislative appropriation.

By Commission Rules and Policy, districts are eligible for funding by the following priorities:

- a. Matching Funds: Refer to Rules Governing Conservation Districts. SUBTITLE XVIII. DISTRICT OPERATIONS-STATE FUNDING.
 - b. Program Funds: Refer to Rules Governing Conservation Districts. SUBTITLE XVIII. Section 218.2. SPECIAL PROJECT FUND REQUESTS.
9. FINANCIAL REPORTS. Refer to Rules Governing Conservation Districts. SUBTITLE XIX. DISTRICT OPERATIONS- FINANCIAL.

10. RESERVE FUNDS. Reserve funds include money other than that held in regular checking accounts such as savings accounts or certificates of deposit. Reserve funds should be established only for specific purposes such as specific program development, the replacement of equipment, purchase of office space, etc. The district's financial statement should explain the purpose of reserve funds. A statement that reserve funds "will be used to carry out the district program" is not adequate. When reserve funds are determined to be excessive, the Commission may reduce allocations of state appropriated funds accordingly.

E. DISTRICT RELATIONS

1. CONSERVATION AGREEMENTS. The major functions of each conservation district are to provide leadership, direction and technical assistance in conservation practices. In dealing with local citizens, it is advisable to formalize relations between the district and its "cooperators" so that both parties know and understand the duties of the other. One way to do this is by signing a Conservation Agreement.

The agreement does not have to be lengthy but it must include the names of both parties, the acreage to which a conservation plan is to be applied, the location of the land and a brief description of the problems which need to be addressed.

Both the cooperator and the district should keep a copy of the agreement for their records.

2. MEMORANDUM OF UNDERSTANDING. A Memorandum of Understanding (MOU) is an agreement, usually between the conservation districts and a governmental body or agency. All districts have a Memorandum of Understanding with the United States Department of Agriculture and a Supplemental Memorandum of Understanding with the USDA Natural Resources Conservation Service to provide technical assistance to the district to carry out the conservation district's plan of work. Conservation districts may enter into as many agreements (MOUs) with as many agencies or organizations as is necessary for implementation of its conservation programs.

Working relationships are established with a MOU and its purpose is to outline the common goal for which each party agrees and to specify individual and mutual obligation of each. It is a step in establishing the district as a vital unit of local government or as an active participant in local efforts to protect our most vital natural resources.

F. DISTRICT EMPLOYEES

District employees are a valuable asset to their conservation district because they work directly for the district and serve to implement the programs of the conservation district board of directors. Therefore, district directors must take an active part in recruiting, hiring, maintaining and promoting qualified employees. In fact, district directors cannot divest themselves from their responsibility for district employees.

The directors, as employers, are responsible for developing a personnel policy that guarantees success of district programs and administration. This policy would include basic components of personnel policies of most types of employers. These basic components include: job descriptions and qualifications, classes of employment,

employee compensation, employee relations, performance evaluations and employee training. The Commission supports the district's cooperating agencies, AACDE and AACD in the development of a recommended personnel policy.

The Commission also encourages conservation districts to enter into appropriate inter-agency working agreements dealing specifically with district personnel management in order to clarify and formalize the relationship between district employees and the employees of those agencies that provide assistance to the district. The agreement should be useful as a guide for better and more productive working relations.

CONSERVATION DISTRICT DIRECTORS

A. INTRODUCTION

Act No. 197, as amended, provides for a five-member board of directors to govern the affairs of a conservation district. This board of directors is the official governing body which administers the Conservation Districts Law and implements the district's program(s). They are public officials who represent the people within their district. Two members are appointed by the Arkansas Soil and Water Conservation Commission and three are elected by resident landowners.

B. APPOINTED DIRECTORS

An appointed director is an individual who must own land within the conservation district, but may live elsewhere, and whose knowledge, interest and experience of soil and water conservation within the district is vital to that district's sound conservation practices and programs. In addition to their normal duties, the two appointed directors are also designated by the Commission as district committeemen and are responsible for holding elections. These directors are appointed for a three-year term which begins on the first day of the month following the appointment. District law, however, provides that a director whose term has expired will continue to serve until replaced or re-appointed.

To qualify for appointment, refer to Rules Governing Conservation Districts, SUBTITLE X. APPOINTMENT AND RE-APPOINTMENT OF DISTRICT DIRECTOR.

In making appointments, the Commission will consider all recommendations made to the Commission.

When an appointed director's term nears its expiration date or when the office becomes vacant, the remaining directors should submit the name of one or more qualified persons to the Commission. Recommendations should include the person's name, address, phone number and background information such as training or experience that qualifies that person for the office. The board must also certify that each person recommended owns land in the district. For example, ownership of a city lot is sufficient to meet this requirement.

C. ELECTED DIRECTORS

Three directors are elected in each conservation district. Only landowners who live in the district and are registered to vote are eligible to run for office or to vote in district elections.

The term of office is for three years and it begins on the first day of the month following the election. If a vacancy occurs before the expiration of an elected director's term, the Commission will appoint a director to fill the unexpired portion of the term. Remaining board members should recommend one or more qualified persons for each vacant position. Recommendations should include the person's name, address, phone number and background information such as training or experience that qualifies the person to serve. The board must also certify that each person recommended is a resident landowner and is registered to vote.

D. COMMISSION POLICY

1. Oath of Office For Qualification For Appointment/Re-appointment And/Or Elected/Re- Elected

The term of office begins on the first day of the month following the appointment, re-appointment or director election. The Oath of Office form will be sent to the individual immediately following Commission approval. If at the end of a thirty-day period an executed Oath of Office is not received at the Commission office, another form will be sent to the individual by registered mail. If no response is made after fourteen days, the Commission may declare the office vacant and at its next meeting select another individual to that office. A new director cannot assume duties, be paid mileage or per diem until the Oath of Office is recorded in the office of the Secretary of State.

2. Director Waiver Request For Re-appointment And/Or Re-Election

The Conservation Districts Law, Act 197 of 1937, as amended, states in Paragraph seven (7), Part "A" Section seven (7): ..."A director shall not qualify for re-appointment or re-election unless he shall have attended at least sixty-five percent (65%) of the scheduled district meetings and at least three (3) state and/or area meetings during the previous three year term of office; provided however, upon a showing of good cause this condition may be waived by resolution duly adopted by the Commission". (NOTE: The 65% ruling applies to the total number of district meetings for the three year period. Also, directors are permitted to attend area meetings other than their own.)

Since April 19, 1989, the Soil and Water Conservation Commission considers district director waiver requests as set forth in the following policy:

If a Conservation District Director submits a waiver request for reappointment or to qualify as a candidate for re-election, the Director for whom the request is made will submit a signed written statement to the Commission to explain why he/she was unable to meet the requirements during the term of office in question.

If the first waiver is granted, the name of the District Director granted the waiver is affixed to a list of Directors being granted waivers. Should a waiver be requested to

qualify a Director for the next consecutive term, the Commission may require the individual to appear before the Commission to show cause why he/she could not meet the meeting attendance requirements during the term of office for which the waiver is requested.

E. RESIGNATIONS

To resign from a conservation district board, the director should submit a formal letter of resignation to the board. The secretary/treasurer then needs to notify the Commission of the resignation as soon as possible.

F. LIABILITY OF DIRECTORS

Conservation District's Law provides that a district may sue or be sued in the name of the district. This duty is similar to that of other political corporations of the state (i.e cities, school districts) but in contrast to the State of Arkansas which is constitutionally immune for suit. While the outcome of a lawsuit is based upon an interpretation of the law and in light of the facts of the situation, the following general conclusions as to conservation districts and district directors can be drawn.

I. LIABILITY

a. Contract Liability.

A district can sue or be sued for breach of contract, including money damages or specific performance, for failure to perform a contract.

The district is a separate person under the law that acts through its directors. A director is not personally liable for contractual agreements he makes for the district. In signing a contract on behalf of the district, a director should make sure that it is clear on the written document that the director is signing in his capacity as a director and not personally.

Oral contracts for most things are binding but a written contract is much preferred. Authorization to enter into all contracts should be approved by motion and included in the districts minutes.

b. Tort Liability.

A tort is a wrongful act or injury resulting from breach of a duty imposed by society regarding interpersonal relationships.

Political corporations in Arkansas have statutory immunity from tort suits except for motor vehicles where the immunity has been waived to the amount of insurance required by law.

Under the current tort immunity law, a public official has immunity when acting within his official duties. When the public official's actions are those in common with all other people, then the official is not immune. For example, a director would have immunity in making decisions as to the use of district resources and technical assistance but would not have immunity if he were involved in an auto accident on the way to the meeting.

The immunity for official's acts applies when directors are acting in good faith and does not apply to willful and wanton acts of the director.

The district's separate person status (corporate) would allow protection of director's assets for any judgment against the district.

It should be noted that district and corporate status immunity will bar recovery, but is not a bar to a lawsuit.

c. Duties Imposed by General Statutes.

There is no immunity for districts for duties imposed by law. Districts must comply with laws covering such areas as worker's compensation, wage and hour, federal state tax laws, social security and federal anti-discrimination laws.

d. Duties Imposed Specifically On Districts By Law:

(1) District Law. The district and its directors are open for suit to compel the district to take actions that its statutes require it to do. These suits are called writ of mandamus suits. They do not involve any type of money damages and are to compel officials "to do their job". The only personal exposure would be for willful and wanton conduct.

(2) Project Improvement Area. The district law is quite specific as to duties of districts when undertaking improvement area projects. If your district is to undertake such a project it would be advisable to employ an attorney.

(3) Federal Statutes. Some federal statutes place responsibilities upon districts. Generally, these statutes have administrative appeals that take the decision back within the federal government for a final decision. Under the legal concept of ripeness, before a law suit can be brought, all administrative appeals must be exhausted. The final decision maker is within the federal agency and any lawsuits would be against the federal agency.

e. Liability Minimization. There are several actions districts may take to reduce your exposure to claims:

(1) Know Your Job. The first thing a director can do is to know what is expected of me. Your duties can be found in the Conservation District Law.

(2) Act in Good Faith. As a director, the law does not require you to make "perfect" decisions. It does require you to act in good faith. Good faith means an honest and sincere intention to fulfill one's obligation; a total absence of any intention to seek or give an unfair advantage. The primary measure of good faith is consistency. If you read the law and know your duties and responsibilities as directors and apply the law consistently toward all people equally, then you have acted in good faith.

(3) Be Consistent by Adopting Policies. The board can be more consistent in making its decisions by adopting written policies. An example would be if the district provided technical services to persons in the district. A policy statement would contain such things as:

(a) Purposes for which assistance is given;

(b) The method for a person to qualify for the assistance;

- (c) A set of priorities as to what order assistance is given.

Policies are made by the board to benefit the public in general. Exceptions are made to benefit individuals and may cause problems.

(4) Records. The district should keep a complete record of its meetings in the form of minutes. Minutes should be approved and maintained permanently in the records of the district. Other district records should be maintained in an appropriate manner. With certain very limited exceptions, all district records are open to the public for inspection. The exceptions include files which, if disclosed would give advantage to competitors or bidders and personnel records to the extent that disclosure would constitute a clearly unwarranted invasion of personal privacy.

2. INSURANCE

Except for motor vehicles, districts are not required to have liability insurance but acquisition of this type of insurance is an allowable use of district funds. The purchase of insurance would allow recovery by the injured party up to the limits of the policy but the district, its directors and employees would still be immune for any amounts above the amount that insurance pays.

The district may wish to or be required by contract to have property and casualty insurance. This would certainly be an acceptable district operation expense.

3. LEGAL ASSISTANCE

The district can request legal assistance from the Commission or the Office of the Attorney General.

G. DUTIES OF A CONSERVATION DISTRICT DIRECTOR

As an appointed or elected government official, the conservation district director assumes a solemn obligation to the public on taking the Oath of Office.

Basically, the director's job is to furnish leadership for the local soil and water conservation program. A director must think, plan, recognize problems, examine alternative courses of action, make decisions and set priorities for conservation work.

Effective district directors do the following:

1. ADMINISTRATION

a. Become familiar with the provisions of Act No. 197, as amended, so as to understand the legal basis for district responsibilities and powers. There should be a current file copy of the Act in the district office.

b. Maintain and be knowledgeable of the contents of the district director handbook and attachments.

c. Attend board meetings on a regular basis and take an active part in discussions.

d. Assist in developing the agenda for board meetings by informing the chairman

of items to be included. The chairman is responsible for the agenda.

e. Cooperate with other board members in establishing district policies such as: district personnel, priority of technical assistance, etc.

f. Participate in developing district conservation needs and setting district priorities in relation to the district's long range program and in keeping that program current.

g. Take an active role in developing the district's annual work plan and compiling the annual report.

h. Actively solicit support for the district.

11. Maintain contact with appropriate local, state and national public officials. Do this by face-to-face contact, telephone and by mail. Keep officials informed of district programs, problems, needs and accomplishments.

j. Annually review all working agreements and enter into additional working agreements with agencies as appropriate.

k. Understand the legal and financial relationship between districts, the Arkansas Soil and Water Conservation Commission and the Natural Resources Conservation Service.

1. Know what is in the Memorandum of Understanding with the USDA and the role of both the district and USDA.

m. Understand that technical assistance is available at the district's request to help the directors carry out the technical phase of the district's program.

n. Invite others to participate in district meetings such as agency representatives, public officials, special interest groups and the public in general.

o. Remember the director's obligations as a public official. Any director who finds it impossible to fulfill these obligations because of health, personal conflicts, lack of time, or any other reason should resign from office and make way for an individual who can perform effectively.

2. FINANCE

a. Cooperate with other board members in securing adequate operating funds for the district.

b. Cooperate with other board members in establishing sound business procedures required for adequate accounting and management of public funds.

c. Cooperate with other board members in developing an annual budget and financial report.

d. Promote efficient and judicious use of district funds for purposes required by law.

3. LEADERSHIP

- a. Attend and participate in area and state meetings.
- b. Keep in touch with local public opinion regarding soil and water conservation needs.
- c. Actively encourage land users to become district cooperators.
- d. Cooperate with other districts and governmental bodies in matters of mutual concern.
- e. Become an active member of various planning organizations and agencies and through the district's representation, experience and knowledge, help guide these groups toward good resource management practices.
- f. Wisely manage funds, facilities and equipment belonging to the district.
- g. Cooperate with other board members to enlist needed assistance from whatever sources available.
- h. Consult with and make recommendations to the proper agencies regarding conservation needs and programs of the district.
- i. Know the functions of other agencies that operate in your district.
- j. Work jointly with other board members to establish a communication system that functions to address problems and opportunities as they arise. Formalize a process of communicating outside of the regular board meeting.

4. EDUCATION

- a. Create an education program to explain the district's responsibilities and policies to local units of government, businessmen, civic clubs, professional groups, churches, schools and educators, farm owners and operators.
- b. Promote natural resource management through contests, exhibits, tours, meetings, service clubs, special demonstration projects, etc.
- c. Cooperate with other board members to provide conservation materials to libraries, public schools and other educational institutions.
- d. Participate in district Soil Stewardship observances by providing educational materials for ministers in relation to Soil Stewardship Week.,

H. RESPONSIBILITIES OF THE DISTRICT OFFICERS

At the first meeting of the year the district board should elect its chairman, vice--chairman and secretary/treasurer. Any director can be an officer. To utilize the talents of all directors, districts should consider rotating their officers every one or two years.

1. DUTIES OF THE CHAIRMAN

- a. Preside at all meetings or arrange for the vice-chairman to preside.
- b. Call special meetings when necessary.
- c. Plan order of business or agenda with input from district board members, district employees and technical staff well in advance of the meeting.
- d. Insure that the district secretary sends tentative agenda to board members one week in advance of the meeting.
- e. Through consultation with other board members, establish meeting dates.
- f. Extend invitations to all individuals and the media who should attend meetings and/or take part in discussions.
- g. Insure notification of the news media of meeting time, date, and place in accordance with the Freedom of Information Act.
- h. Call meeting to order on time. Announce the order of business. Distribute a typed agenda. Recognize visitors and others present.
- l. Handle discussions in an orderly manner.
 - (1) Give everyone a chance to speak -- one at a time.
 - (2) Tactfully keep all speakers to rules of order and the subject at hand.
 - (3) Give for and against directors equal opportunities to speak.
 - (4) Encourage all directors to participate in the discussion.
 - (5) Enter into the discussion to give additional facts or information.
 - (6) Insure ample opportunity for non-board members to participate in the discussions.
- j. State each motion before it is discussed and before it is voted upon. Put all motions to a vote and announce the outcome.
- k. Suggest motions but do not make them.
- l. Avoid expressing your own opinion too soon and talk no more than necessary while presiding.
- m. Review the objectives of the District's Long-Range Plan and the District's Annual Plan regularly to make sure that all planned activities and assignments are carried-out.
- n. Appoint committees, assign their responsibilities and ask for their reports when due.
- o. Insure that the board does not "rubber stamp" the actions and recommendations of cooperating agencies.

- p. Insure that all directors are properly informed of and understand their duties.
- q. Encourage and plan for annual director involvement in leadership skills training.
- r. Set a good example by observing proper parliamentary procedure. REMEMBER, all official actions REQUIRE a motion and a vote.
- s. Allow time before or after the "official board meeting" for socializing.
- t. Close meeting on time. Encourage regular attendance. Follow-up on absentees.

2. DUTIES OF VICE CHAIRMAN

- a. Officiate in the absence of the chairman; assume other duties at the chairman's request.
- b. Be familiar with the duties of the chairman.
- c. Consult with and advise chairman on matters of program and policy.
- d. Serve as a chairman for special programs.
- e. Succeed the chairman in the event of resignation or other conditions precluding continued service by the chairman.

3. DUTIES OF THE SECRETARY/TREASURER

- a. Notify members of each meeting. Mail announcements of meeting with agenda to each director one week prior to the meeting.
- b. Provide the chairman with a list of business items that should be placed on the agenda.
- c. Maintain complete minutes of all proceedings and furnish a copy to the following as soon as possible but no later than 30 days after the meeting:
 - (1) Arkansas Soil and Water Conservation Commission
 - (2) State and Area Conservationist, Natural Resources Conservation Service
 - (3) County Judge
 - (4) Quorum Court members
 - (5) Representatives of cooperating agencies such as: NRCS, Extension Service, etc.
 - (6) State Legislators for your District

(7) Arkansas Association of Conservation Districts

d. The minutes should include the following minimum information:

(1) Name of district, kind of meeting (regular, annual or special).

(2) Name of presiding officer, date, hour and place.

(3) Attendance (directors, agency representatives and guests). If a large group appears, list the organization and the spokesman.

(4) Those directors not in attendance should also be listed.

(5) Reports made at the meetings. (Reports may be summarized--ask agency representatives and committees to provide written reports when necessary).

(6) All motions, indicating the person making the motion, seconding the motion and the action that was taken on the motion. (A motion that was withdrawn should not be recorded.)

(7) All important statements should be recorded even though action was not taken.

(8) Time, date and place of the next regular meeting

e. Record each motion in full and read the motion before action is taken.

f. Insist that action be completed on each item of business so that a record can be made of all business conducted.

g. Keep a record of all committees, both standing and special. Notify committee members of their appointment if they were not present when the appointment was made.

h. Keep the Arkansas Soil and Water Conservation Commission informed concerning board membership by furnishing copies of all letters of resignation as well as names of district officers and address changes.

i. Initiate correspondence on behalf of the board as the need arises.

j. In consultation with the board, prepare and maintain district budget for the yearly operation.

k. Maintain complete and accurate records of receipts and expenditures.

l. Insure preparation of a monthly financial report for the board. The district employees can often provide assistance with the items to be included in the report.

m. Pay only the bills approved by official action of the board and issue receipts for incoming funds.

n. Maintain separate accounting of funds as needed.

- o. Arrange for an annual audit of district financial records. Refer to Rules Governing Conservation Districts, SUBTITLE XIX. DISTRICT OPERATIONS FINANCIAL.
- p. Submit annual audit to the Commission.

1. DISTRICT ELECTION PROCEDURES

Elections of three district directors occur every three years. The activities involved in holding an election include:

1. DECEMBER.

On or about December 1, preceding the year in which a district is scheduled to hold an election, the Commission will mail the following to the district:

- | | | |
|----|---|----------|
| a. | Letter of Explanation (Form EL- 10) | 1 Copy |
| b. | TV-Radio Spot: Petitions (For EL-1 1) | 1 Copy |
| c. | Nominating Petitions (Form EL-12) | 5 Copies |
| d. | Certification of Attendance Requirements (Form EL-13) | 3 Copies |
| e. | Polling Place List/Number of Ballots (Form EL-14) | 1 Copy |
| f. | Notice of Petition Availability (Form EL-15) | 1 Copy |
| g. | Certification of Petition Availability (Form EL-16) | 1 Copy |
| h. | Notice of Election of Directors (Form EL-17) | 1 Copy |
| i. | Certification of Notice of Election (Form EL-18) | 1 Copy |
| j. | TV - Radio Spot, Election (Form EL-19) | 1 Copy |

To earn a place on the ballot, each candidate must submit a petition(s) bearing signatures of at least 25 resident landowners who are registered to vote. Directors may circulate petitions but district and NRCS employees may not.

Only one candidate's name may be listed on a petition but more than one petition form may be circulated for each candidate. Signed petitions must be mailed to the Commission office before February 1, preceding the election being held on the first Tuesday of March.

2. JANUARY

No later than January 1, of the election year, districts should begin giving notice to the general public of the availability of petitions by doing the following'.

- a. Publish the "Notice of Petition Availability" (Form EL-15) in a newspaper of general circulation within the district
- b. Post copies of the "Notice of Petition Availability" at a reasonable number of conspicuous places throughout the district. Include public places where it is customary

to post notices of county and municipal affairs; e.g., courthouse, public library, post office, city hall, etc. Notices should be posted for at least 20 consecutive days during the first part of January.

c. Circulate the "TV-Radio Spot: Petitions" (Form EL-1 1).

To qualify for re-election, a director must have attended at least 65 percent of the scheduled district meetings and at least three (3) state and/or area meetings during the previous three year term of office. The district board chairman should complete a "Certification of Attendance Requirements" (Form EL-13) for each director running for re-election. If the chairman is one of the candidates, the vice-chairman should complete the certification of attendance for the chairman.

The following items must be returned to the Commission's office by February 1;

All "Nominating Petitions" received by the district (Form EL-1 2)

All completed "Certification of Attendance requirements" (Form EL-13)

A completed "Polling Place List/Number of Ballots" (Form EL-14)

A completed "Notice of Petition Availability" (Form EL-15)

A completed "Certification of Petition Availability" (Form EL-16)

3. FEBRUARY

No later than February 1 of the election year, districts should be giving notice to the general public of the election. The two appointed district directors automatically serve as district committeemen and provide due notice of the election by doing either or both of the following:

a. Publish the "Notice of Election of Directors" (Form EL-17) at least twice (with an interval of at least 7 days between publishing dates) in a newspaper of general circulation within the district.

b. Post copies of the notice at a reasonable number of conspicuous places throughout the district. Include public places where it is customary to post notices of county and municipal affairs; for example, courthouse, public libraries, city halls, post offices, etc.

At its February meeting, the Commission will certify the names of the candidates to appear on the ballot of the district election.

Following its February meeting the Commission will send to the district an election kit consisting of:

Instructions to District Committee
(Form EL-20) (1 copy)

Instructions to Polling Place Committee
(Form EL-21) (3/Poll)

Ballots (Form EL-22)	(# requested)
Registration of Voters (Form EL-23)	(5/Poll)
Certificate of Returns: Polling Place Committee (Form EL-24)	(3/Poll)
Certificate of Returns: District Committee (Form EL-25)	(2 Copies)
Notice of Result of Election (Form EL-26)	 (1 copy)

Elections will be held at designated polling places with the number and location determined by the district. There will be no write-in candidates in this election.

4. MARCH

The two appointed district directors automatically serve as district committeemen. They are required to:

a. Designate three polling place committeemen to conduct the election at each voting place. Candidates cannot serve as committeemen.

b. Deliver an appropriate number of ballots and election materials (furnished by the Commission) to a member of each polling place committee and obtain a receipt for them. Along with the ballots (Form EL-22), furnish each committee three copies each of: "Certificate of Returns: Polling Place Committee" (Form EL-24), "Instructions to Polling Place Committees" (Form EL-21), and "Registration of Voters" (Form EL-23).

c. Provide ballots to absentee voters. These ballots will be obtainable from the conservation district office through the day preceding election day. Ballots are to be completed and cast at the district office.

d. Keep polling places open between 8:00 a.m. and 4:30 p.m.

e. Keep ballot and landowner certificate separate with no number or signature on the ballot.

f. Receive ballots, including absentees, from polling place committeemen on election day after the polls close.

g. Consolidate returns for the entire district and certify results on "Certificate of Returns: District Committee" (Form EL-25).

h. Send to the Commission one completed copy of each of the following:

(1) "Certificate of Returns: District Committee" (Form EL-25).

(2) "Registration of Voters" (Form EL-23) from each polling place committee, .

(3) "Certificate of Returns: Polling Place Committee" (Form EL-24)

- (4) "Notice of Election of Directors" (Form EL-17).
- (5) "Certification of Notice of Election of Directors" (Form EL-18).
- (6) "Notice of Results of Election of Directors", (Form EL-26).
- i. Maintain the following election records in district files:
 - (1) All ballots cast.
 - (2) One copy for each polling place "Certificate of Returns: Polling Place Committee" (Form EL-24).
 - (3) One copy of "Notice of Results of Election of Directors" (Form EL-26).
- j. Post "Notice of Results of Election of Directors" (Form EL-26) at places where it is customary to post notices concerning state, county and community affairs. While not an election requirement, suitable press releases should be made to all district media outlets.

SCHEDULE OF ELECTIONS

Districts in Group 1... 1994 and each 3rd year thereafter
 Districts in Group 2 ... 1995 and each 3rd year thereafter
 Districts in Group 3...1996 and each 3rd year thereafter

Group 1

Boone County CD Buffalo CD (Searcy) Carroll County CD Clark County CD Clay CD Cleburne County CD Cleveland County CD) Columbia County CD Conway County CD Crawford County CD Cross County CD Fulton County CD Greene County CD	Jefferson County CD Little River CD Logan County CD Lonoke County CD Poinsett CD Poteau River CD (Scott) Rich Mountain CD (Polk) Saline County CD St. Francis County CD White County CD Woodruff County S&WCD Yell County CD
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Group 2

Baxter County CD
Calhoun County CD
Cossatot CD (Sevier)
Craighead CD
Dallas County S&WCD
Faulkner County CD
Garland County CD
Hempstead County S&WCD
Monroe County S&WCD
Nevada County CD
Newton County S&WCD
S&WCD
Ouachita CD
S&WCD
Perry County CD

Phillips County CD
Pike County CD
Pope County CD
Prairie County CD
Pulaski CD
Randolph County CD
Sebastian County CD
Sharp County CD
Stone County CD
Union County CD
Van Buren County

Washington County

Group 3

Arkansas County CD
Ashley County CD
Benton County CD
(Bradley)
Chicot County CD
Crittenden CD
Crooked Creek S&WCD (Marion)
Desha County CD
Drew County CD
Franklin County S&WCD
Grant County CD
(Howard)
Hot Spring County CD
Independence County CD
Izard County CD

Jackson County S&WCD
Johnson County CD
L'Aigle Creek CD

Lafayette CD
Lawrence County CD
Lee County CD
Lincoln County CD
Madison County S&WCD
Miller County CD
Mine Creek S&WCD

Mississippi County CD
Montgomery County CD

ARKANSAS SOIL AND WATER CONSERVATION COMMISSION

A. HISTORY

The Arkansas Soil and Water Conservation Commission (ASWCC), as it presently exists, was created in 1963 by Act No. 14 of the General Assembly. The act abolished the Arkansas Water Conservation Commission and the Water Compact Commission and transferred their functions, powers and duties to the newly created Commission. It also transferred all functions, powers and duties of the Arkansas Geological and Conservation Commission in relation to soil conservation and flood control to the ASWCC.

The organization of state agencies involved with soil and water conservation has changed both prior and subsequent to Act No. 14 of 1963 but the relationship between conservation districts and a state soil and water conservation committee (Commission) has existed since the enactment of Act No. 197 of 1937.

The original purpose of a soil and water conservation committee (Commission) as it relates to conservation districts has never changed. That purpose is to support conservation districts in the following ways:

- * Guide state policy in soil and water conservation.
- * Assist conservation districts in exercising their powers and carrying out their programs.
- * Make director appointments and assist in conducting district elections.
- * Coordinate district programs by advice and consultation.
- * Secure assistance for districts from federal and state agencies.
- * Prepare budget requests for state appropriations to support district programs.
- * Disburse funds to districts and review district expenditures.
- * Keep districts informed and facilitate the exchange of information and experiences among districts.
- * Disseminate statewide information on programs and activities of districts.

B. COMMISSION RESPONSIBILITIES

The Commission establishes policy and makes funding and regulatory decisions relative to soil conservation, water rights, dam safety, floodplain management and water resource planning and development.

C. COMMISSION MEMBERS

The Commission's affairs are overseen by nine commissioners who are appointed by the governor to seven-year terms. Terms of office are staggered so that at least one term expires each year. Each of Arkansas' four Congressional Districts are represented by two commissioners with the ninth commissioner holding an at-large position. Members of the Commission are, like district directors, public officials responsible for administering soil and water conservation programs and policies. In fact, some commissioners are also district directors. Therefore, district directors should feel free to take advantage of the long-standing productive relationship between conservation districts, the Commission members and its staff for communicating directly with their nearby commissioners about their district's particular needs, desires or problems.

D . COMMISSION STAFF

The Commission employs an office staff which is managed by an executive director. The executive director reports to the Governor in matters concerning budget, personnel and related management but reports to the Commission in matters related to policy and financial assistance commitments. The Commission staff is divided into five sections: Administration, Soil and Water Conservation, Water Resource Management, Dam Safety/ Flood-plain Management, and Water Resource Development. Field representatives are assigned to work directly with districts in carrying out effective programs.

SOIL AND WATER CONSERVATION

A. CONSERVATION DISTRICT PROGRAMS

Act 197 of 1937, as amended, established a basis through which the 75 Conservation Districts and the Commission can provide for the control and prevention of soil erosion, floodwater and sediment dangers, preservation of natural resources, disposal of water, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect public lands and the tax base.

1. STATE SOIL CONSERVATION PLAN. The Arkansas Conservation Plan (ACP), adopted in 1981, gives a statewide view of the nature, extent and priority of conservation related problems. It is based on information gathered at public hearings and the Conservation Districts' long range plans. The technical and financial resources needed to adequately address these problems are listed in the ACP.

2. DISTRICT LONG RANGE PLANS. The 75 Conservation Districts, by agreement with the USDA and NRCS, maintain long range plans and annual plans detailing the nature, extent and priority of conservation related problems within each district. These plans indicate the assistance, both technical and financial, needed by each district to meet its needs.

3. WATER QUALITY MANAGEMENT. The Federal Water Pollution Control Act sets forth requirements for the establishment of comprehensive statewide water quality planning programs. Section 208 of P.L. 92-500 addresses non-point sources of pollution. The Arkansas Water Quality Management Plan (AWQMP) was developed to address the various sources of non-point pollution. The AWQMP designates the Commission as the management agency for agricultural non-point pollution.

3. RESOURCE CONSERVATION ACT (RCA). This act set up a USDA program that appraises the current status and condition of the resource base (soil, water and related resources) on the nation's non-federal lands. The Commission uses the RCA data to: (a) continuously update the Arkansas Conservation Plan, (b) provide technical, administrative, and financial assistance to conservation districts to develop effective long range plans based on RCA appraisal data, and (c) administer federal RCA funds transferred to the Commission for use by conservation districts to implement and utilize RCA program data and information.

B. WATER CONSERVATION

1. TAX CREDITS FOR WATER RESOURCE CONSERVATION AND DEVELOPMENT. Act 417 of 1985, as amended, allows for either of two tax credits available to tax payers in Arkansas: (1) Taxpayers may claim a credit against their Arkansas Income Tax liability an amount equal to fifty percent, not to exceed \$3,000/year for 11 years, of the cost of construction and installation or restoration of water impoundments or water control structures of twenty acre-feet or more for an approved purpose; (2) Taxpayers may receive a tax credit against their Arkansas Income Tax Liability an amount equal to ten percent, claimed over a three year period, of the cost incurred by the taxpayer in abandoning or reducing the extraction of the groundwater and utilizing surface water in lieu of groundwater, or (3) The applicant shall be assessed a fee in an amount equal to three percent (3%) of the total tax credit authorized by the Commission. A minimum assessment shall be one hundred and fifty dollars (\$150.00).

2. WATERSHED PLANNING. The Watershed Protection and Flood Prevention Act (PL 83-566) allows the SCS and a local sponsor a means for protecting, managing, improving and developing the water and related land resources of a watershed up to 250,000 acres through a project-type undertaking.

The Commission is responsible for: (a) reviewing project applications, (b) holding public information meetings for the projects and, (c) recommending to NRCS the priority for planning and implementing the projects within the state.

3. CONSERVATION PROJECTS. There are unique problems that reflect a need for conservation practices that go beyond the general scope of conservation programs. These problems are related to excessive soil erosion, degradation of water quality and quantity, etc. The Commission budget includes funds for conservation districts where these problems occur. An example is the Eastern Arkansas Water Conservation Project (EAWCP). This project covers a twenty-six county study area to determine groundwater depletion recharge, pumping and irrigation efficiency.

4. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM (RC&D). This program provides local groups technical and financial assistance in conserving and developing their natural resources. The Commission provides: (a) technical assistance to local sponsors of RC&D projects in evaluating the feasibility of the projects, (b) technical review of all proposed RC&D projects, and (c) monitoring of the implementation status of all RC&D Projects.

WATER RESOURCE MANAGEMENT

A. PLANNING

The vision of Arkansas' Water Plan is that every individual in the state will have all of the water they need for any beneficial purpose. We must have a progressive, dynamic strategy to use, protect and enhance our water resources. This strategy will involve a continuing comprehensive planning process to identify and remedy water resource problems before they become unmanageable.

The Arkansas Soil and Water Conservation Commission was authorized by Act 217 of 1969 to begin work on the first Arkansas Water Plan. This act made the Commission responsible for water resources planning at the state level and for the creation of a master plan to serve as the primary water policy document.

In response to Act 1051 of 1985, the Commission has completed a major revision of the 1975 Water Plan. The updated plan includes six (6) regional reports covering the eight (8) major basins in the state and an Executive Summary. The Arkansas Water Plan includes determination of excess surface water availability, delineation of critical problem areas, specific recommendations for addressing identified problems and rules governing use of surface water on non-riparian lands.

1. STATE WATER POLICY: Under Act 217 of 1969, as amended, the "Arkansas Water Plan" serves as the state water policy for the development of water and land resources. All studies, reports, etc. must take the state water plan into account and future water development projects must be in compliance with the plan.

2. ARKANSAS WATER PLAN: The water plan contains an inventory of available water, determination of current and future needs, identifies major problems and offers solutions and recommendations. The issues addressed include groundwater and surface water depletion, water quality, water management, legal and institutional aspects of compliance and enforcement, financial assistance needs for water development, drinking water-supply deficiencies, impaired drainage and floodwater damages, environmental and recreational considerations and public awareness of resource problems. Recommended actions include educating the public about the importance of resource management and its inherent problems, adoption of pertinent legislation dealing with funding and local authority and adoption of adequate rules and regulations for utilization of surface water and groundwater use reporting.

The Commission functions as a partner with federal agencies in cost-shared feasibility studies such as the Eastern Arkansas Regional Comprehensive Study and Arkansas River Basin Arkansas and Oklahoma Study.

3. TECHNICAL REVIEW: Act 469 of 1989, requires that, with certain exceptions, no political subdivision of the state or state agency shall spend any state funds on, or engage in any water development project until a preliminary survey and report is filed with the Commission and is approved by the Commission to be in compliance with the Water Plan. These project reviews include: (a) PL83-566 watershed projects; (b) dam permit requests; (c) regional water distribution districts; (d) drainage districts; (e) financial aid requests of the Water Development Fund, the Water, Sewer and Solid Waste Fund, the Water Resources Development General Obligation Bond Program and the Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program; (f) levee districts; (g) flood and drainage projects for funding under AIDC's Arkansas Community and Economic Development Program; and (h) applications for assistance from RDA for community water and sewer projects.

4. REGIONAL WATER DISTRIBUTION DISTRICTS: Act 114 of 1957, as amended, permits local interests to contract with the U.S. Army Corps of Engineers or NRCS to pay for storage space in a reservoir for water supply purposes. The Commission is responsible for representing various groups who may request additional water supplies from these impoundments. The Commission must also review petitions for formation of districts and report to the Chancery Court regarding the approval of district formation.

Act 469 of 1989, enables the Commission to delegate the power to allocate water to conservation districts and regional water districts. (See Water Rights, page 36.) Act 618 of 1989 granted regional water, irrigation and drainage improvement districts the power to regulate, define and control the rate and location of any withdrawal or transfer of water which is owned, acquired or developed by the district.

5. FLOOD CONTROL: Act 14 of 1963, as amended, designated the ASWCC as the agency to put into effect and carry out the responsibilities of the State Flood Control Commission. The original enacting legislation empowered the "Commission" to determine a sound policy with respect to flood control. Act 14 designated the "Commission" to mean the ASWCC. Although empowered to construct and operate flood retarding structures and alter the flow of rivers and streams, the state has chosen to use this act to cooperate with federal programs to achieve the same goals.

The Commission cooperates with local organizations and districts organized under Act 329 of 1949, as amended, and with the federal agencies which assist in carrying out the provisions of the act. The provisions cover construction, operation and maintenance of works of improvement for the purposes of preventing erosion, floodwater and sediment damages and for the conservation, development, utilization and disposal of water.

B. WATER RIGHTS

Act 81 of 1957, as amended, empowers the Commission to make allocations among persons taking water from streams during periods of water shortage and to register all water diverted from streams, lakes or ponds. Act 1051 of 1985, requires groundwater users to register all groundwater use with the Commission. Act 408 of 1989 establishes a fee for late registration of surface water diversions and late reporting of groundwater use.

1. WATER USE REGISTRATION: The Commission utilizes both surface water and groundwater registration for the allocation of surface water and as a basis for determining overall water usage and water needs for inclusion in the Arkansas Water Plan.

a. Registration of Surface Water Use: Act 81 of 1957, as amended, requires all diverters of water from streams, lakes or ponds to register their diversion of surface water by quantity, location, type of use and name of user on an annual basis with the Commission.

b. Registration of Groundwater Use: Act 1051 of 1985, requires all users of groundwater, excluding domestic use to register their withdrawal of groundwater by quantity, location, type of use and name of user on an annual basis with the Commission.

2. NONRIPARIAN WATER RIGHT: Act 1051 of 1985 gives the Commission authority to "authorize the transportation of excess surface water to nonriparians." This transportation authority is granted to water users for inter-basin as well as intra-basin transfer by following certain procedures. Prior to this legislation, riparian landowners (those whose land is adjacent to the stream) could take their "reasonable share" of stream flow but nonriparians (those whose land does not touch the stream) had no legal claim to the water.

3. ADJUDICATION OF WATER RIGHTS: Act 81 of 1957, as amended, gives the Commission the power to make allocations among lawful water users and to establish and enforce minimum streamflows during periods of water shortage and/or pursuant to authorization of non-riparian water right. Allocation may be done by request to or on the initiative of the Commission. The allocation process includes investigating and evaluating legal and appropriate water use and/or holding public hearings. Allocations can be appealed to the Commission or challenged in a court of law.

According to Act 469 of 1989, the Commission may delegate the power to allocate water to conservation districts and regional water distribution districts. The districts so delegated shall have all the powers and be governed by the same procedures as the Commission for water allocation. The Commission shall provide technical assistance and establish guidelines which shall be followed by the delegated districts. The Commission shall have the power to determine disputes, approve or disapprove regulations of and hear appeals from decisions of districts to which the Commission has delegated powers. The Commission may reserve any or all power in itself and may withdraw its delegation of power at any time.

4. INTERSTATE COMPACTS: The Commission may enter into negotiations with adjoining states relating to the protection and use of interstate water and may enter into written contracts as needed. These compacts promote interstate comity, provide an equitable apportionment of water among the states and provide a means of conservation, development and pollution abatement of common waters.

a. Arkansas-Oklahoma Arkansas River Compact Commission

Act 16 of 1971 approved the Arkansas-Oklahoma Compact on the Arkansas River water apportionment between the two states. The executive director of the ASWCC is a member of this commission.

b. Red River Compact Commission

Act 201 of 1979 approved the Red River Compact on the Red River water apportionment among the states of Arkansas, Texas, Oklahoma and Louisiana. The executive director of the ASWCC is a member of this commission.

WATER RESOURCE DEVELOPMENT

The Commission provides assistance for resource development in two ways;
(1) through direct loans and/or grants to local and regional entities of government and
(2) through development of state owned facilities.

1. THE WATER DEVELOPMENT FUND: Act 217 of 1969, as amended, established the Water Development Fund which would be administered by the Commission. The act provides for "a comprehensive water and related land resources program" and enables the Commission to assist local and regional entities with development of urgently needed water projects.

According to Act 217 of 1969, as amended, the term "Water Development Project" means: "the construction, acquisition, ownership, replacement, operation and maintenance of facilities, including land, easements and works of improvement, for the protection, conservation, preservation, development, utilization and proper disposal of

the State's water and related land resources." Such projects provide adequate supplies of quality water for all beneficial purposes such as municipal, industrial, agricultural, recreational, navigation, flood control, drainage, hydroelectric, erosion control and streambank stabilization.

2. THE WATER, SEWER AND SOLID WASTE REVOLVING FUND: Act 274 of 1975, as amended, authorized the Department of Local Services to assist cities, towns, and counties in financing the construction of facilities for water, sewer, and solid waste management systems; to authorize the Department to make loans and/or grants toward the financing of such systems; to establish eligibility requirements and provide for application procedures; to create a local government water, sewer and solid waste management system revolving fund and for other purposes.

Act 755 of 1981 assigned the administration of the Water, Sewer and Solid Waste Fund to the Commission.

This program provides matching or supplemental funding. Eligible applicants must furnish the Commission with proof that a federal grant or loan was received, exhaustion of all other funding sources and that a deficiency exists in the amount of local funds needed for the proposed project.

3. WATER RESOURCES DEVELOPMENT GENERAL OBLIGATION BOND PROGRAM: Act 496 of 1981, authorized the Commission to issue general obligation bonds not to exceed \$100 million for water resources development projects. The act authorized the Commission to construct and own the facilities financed with bond program funds. Once constructed, the Commission enters into a lease-purchase agreement with the local entities. Funds received under the terms of LPA(S) are used to retire the bonds.

4. THE ARKANSAS WASTE DISPOSAL AND POLLUTION ABATEMENT FACILITIES GENERAL OBLIGATION BOND PROGRAM: Act 686 of 1987, authorized the Commission to issue general obligation bonds for waste disposal and pollution abatement facilities, up to an amount not to exceed \$250 million. The amount of bonds to be issued during any fiscal biennium is not to exceed \$50 million.

DAM SAFETY/FLOODPLAIN MANAGEMENT

A. DAM SAFETY

Act 81 of 1957, as amended, empowers the Commission to issue permits for the construction of dams and to inspect the operation and maintenance of those dams.

1. CONSTRUCTION PERMITS: Act 81 of 1957, as amended, requires the permitting of all dams unless they meet both of the following exemptions: (a) the dam impounds less than fifty acre feet of water; and (b) the dam is less than 25 feet in height. Construction permits require that the dams be designed and constructed in such a manner as to preserve the integrity of the dam and reservoir and to adequately protect the lives and property of those downstream.

2. OPERATION AND MAINTENANCE INSPECTION: A periodic on-site inspection is conducted for each permitted dam to compile a history of the dam's condition and to ensure that the dam is properly maintained.

B. FLOODPLAIN MANAGEMENT.

Act 629 of 1969, as amended, authorizes cities, towns, and counties, where necessary, to enact and enforce land use measures which will prevent and alleviate flood hazards and losses in flood prone areas of the state.

The Commission's Floodplain Management Program is based on a non-structural approach.

1. National Flood Insurance Program: The Commission is the designated state agency to coordinate this program for Arkansas. General responsibility under this program is to assist the state's 412 communities, identified as having special flood hazards areas, in effectively managing their flood-prone areas through an administrative and technical process.

2. Community Assistance Program, State Support Service Elements: This program is a federally funded program to assist the state of Arkansas in implementing its floodplain management responsibilities as the state coordinating agency for the NFIP. The program is intended to provide technical assistance to and evaluation of local and state floodplain management activities and to foster the development of a comprehensive and unified statewide flood plain management program

COMMITTEE AND COMMISSION RESPONSIBILITIES

Due to its technical expertise in soil and water resources matters, the Commission's executive director or his designee has been designated by law or by executive order to serve on various commissions and committees or to act as advisors to these commissions and committees.

A. ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

Act 472 of 1949, as amended, designated a representative of the ASWCC as a member of the Arkansas Pollution Control and Ecology Commission. This commission regulates and manages efforts to correct and prevent pollution of air and water. The ASWCC has delegated this responsibility to its executive director.

B. ARKANSAS WATER WELL CONSTRUCTION COMMISSION

Act 641 of 1969 created the Arkansas Commission on Water Well Construction. The executive director of the ASWCC is a member of this commission, whose purpose is regulation of and licensing of water well drilling contractors and pump installers to insure compliance with state laws on waterwell construction.

C. DEPARTMENT OF FINANCE AND ADMINISTRATION NATURAL RESOURCES COMMITTEE

Act 524 of 1975 created the Natural Resources Committee for the purpose of issuing leases or permits for removal of sand and gravel, minerals or timber from state owned land. The act designated the executive director of the ASWCC to serve on this committee.

D. ARKANSAS NATURAL AND SCENIC RIVERS COMMISSION

Act 257 of 1979 created the Natural and Scenic Rivers Commission in order to identify high water quality streams and to develop and execute protective measures. Act 257 designated the executive director of the ASWCC to this commission's advisory council.

E. RED RIVER COMMISSION

Act 264 of 1973 created the Red River Commission to develop improvement districts adjacent to the Red River to cooperate with federal authorities in the construction of the Red River Navigation System. The ASWCC provides technical advice, funding and other support as necessary.

F. GOVERNOR'S TECHNICAL REVIEW COMMITTEE ON NATURAL RESOURCES

This committee is a group of fourteen state agencies whose purpose is to formulate a state position on various proposed projects, applications, environmental impact statements, permits and related proposals submitted to agencies of the State of Arkansas. The ASWCC, as the chair-agency, will compile the member agency comments into a state position and forward this position to the Arkansas State Clearinghouse. The clearinghouse then sends the state position to the originating state/federal agency. The clearinghouse, under the project notification and review system, is designated as the single point of contact for the processing of these reviews.

G. SOIL CLASSIFIERS REGISTRATION BOARD

Act 460 of 1975 created the Soil Classifiers Registration Board to test and license applicants to *the profession of soil classifier. The ASWCC is charged with providing administrative support for the board.

H. STATE LAND RECLAMATION COMMITTEE

Act 236 of 1971 made the ASWCC a member of the Technical Advisory group to the Land Reclamation Committee. This committee inspects reclaimed surface mines and determines if reclamation efforts are adequate.

PERSONNEL MANAGEMENT RESPONSIBILITIES OF DISTRICT DIRECTORS

A. INTRODUCTION

Conservation districts, as public entities and district directors as public officials, are responsible for administering district programs in the most effective way. As is true in many cases, choice of personnel will either make or break a program. Whether the district has one part-time clerk or a large staff makes little difference. District directors still bear the responsibility and accountability for personnel management policies and decisions needed to make that staff effective and productive. It is vital that district directors take an active role in formulating and implementing personnel policies. Don't assume that someone else will make the decisions for you.

B. MAJOR RESPONSIBILITIES

1. DISTRICT DIRECTORS

The major responsibility for personnel management rests with district directors. This responsibility should not be transferred to others. District directors should:

- a. Develop written personnel policies.
- b. Insure that personnel policies and decisions are based on merit principles.
- c. Insure that personnel management is conducted according to written policy.

2. THE ARKANSAS SOIL AND WATER CONSERVATION COMMISSION (ASWCC)

By law, the ASWCC is responsible for providing administrative support to districts. The support includes personnel management advice and counsel. Conservation districts should look to the ASWCC as the primary source of assistance in personnel matters and should coordinate its personnel management activities through the ASWCC in order to comply with applicable state laws and regulations.

C. MERIT PRINCIPLES

Quality personnel systems are based on merit principles. Generally accepted merit principles are as follows:

1. Recruitment, selection and advancement of employees will be based on ability, knowledge and skills, including open consideration of qualified applicants for initial employment.
2. Compensation for initial employment will be equitable and adequate.
3. Employees will be trained as needed to insure high quality performance.
4. Employees will be retained based on the adequacy of their performance. Provision will be made for correcting inadequate performance and for separating employees whose inadequate performance cannot be corrected.
5. Applicants and employees will be treated fairly in all aspects of personnel administration without regard to race, color, religion, sex, national origin, political affiliation, age, handicap, or other non-merit factors and with proper regard for their privacy and constitutional rights.
6. Employees will be protected against coercion for partisan political purposes and will be prohibited from using their official authority for the purpose of interfering with or affecting the end result of an election or a nomination for office.

D. OPERATION OF THE PROGRAM

Personnel administration is the expressed responsibility of the conservation district board. The board or a personnel committee empowered by the board should:

1. Insure the adequacy of personnel policy statements.
2. Review policy statements annually.
3. Insure adherence to policy statements.
4. Conduct annual compensation reviews.
5. Provide administrative supervision of district managers and/or other district employees.

If these five actions are done by a personnel committee, the district board must formally accept, reject or revise the committee's findings.

E . EMPLOYEE SUPERVISION

District personnel are accountable to the conservation district board of directors and, depending on each district's situation, supervised by the board or its designee. District board supervision is especially advantageous if a district employs a district manager. The district manager is directly responsible to the district board and not to any federal or state employee. Day to day supervision is normally not practical nor necessary, however, the district board chairman or committee should periodically review the performance of the district manager. This performance review will provide the employee with insight as to the direction the board wishes taken in managing the district program.

In some instances, district employees are assigned to work directly with employees of the district's cooperating agencies. The cooperating agencies should provide technical guidance of the district's employee to insure quality control of assistance rendered to the public in relation to the cooperating agencies' programs. The district will maintain administrative control over the district employee. This administrative control will insure that district priorities are given proper consideration,

F. ESTABLISHING WORKING ARRANGEMENTS

Conservation districts should take the lead in establishing working arrangements where district employees work closely with employees of the district's cooperating agencies. This initiative can minimize problems of conflicting work assignments and supervision of employees. An example of one such working arrangement is included at the end of this chapter.

G. WORKLOAD STAFFING NEEDS

Determining a district's workload and how many and what kinds of people are needed to accomplish a district's objectives is the first step in establishing a sound personnel management system. The accurate determination of staffing needs is indispensable to a progressive district program.

An analysis of workload and staffing needs should be part of each district's annual work plan. Each update of a district's long-range plan should include a consideration of anticipated staffing needs.

All annual plans, objectives and staffing decisions should be coordinated with those of the agencies that provide employees or services to the district. Staffing a district office with adequate personnel is always difficult for the district and its assisting agencies. Continued coordination is essential to minimize the problems that may be encountered,

An analysis of workload and staffing needs should be a joint effort by the district board, district employees, agencies serving the district and others that might provide information. The district board, following consideration of information and counsel provided by district and cooperating agency employees, should establish priorities.

All current, anticipated and projected activities of a district should be analyzed in terms of required staff days. After the workload analysis has been completed, the number of staff days available to the district should be determined.

A staffing needs analysis may reveal that there is more work to be done than resources to do it. It is at this point that a district must set priorities.

A properly completed workload analysis will help in determining those areas of work on which to concentrate money and people.

Setting priorities will help to determine what positions the district should try to fill. Further analysis of progress reports, time reports, existing job descriptions and available funds may help provide the final answers.

H. RECRUITMENT

Recruitment is the active search for the best qualified applicants to fill jobs. Any recruitment effort should be preceded by a thorough analysis of their personnel needs of the district, plus a determination of the appropriate qualification standards for all positions. Once the decision has been made to hire a particular type of employee and the qualification standards have been set, the next step is to identify recruitment sources that will supply the best candidates. A vigorous recruitment effort should be undertaken, even to fill one position, in order to locate the best possible candidates.

1. EMPLOYMENT OF RELATIVES

The hiring practices of government and industry are criticized if people in authority hire or influence others to hire members of their family (nepotism). Districts should avoid the favoritism or the appearance of favoritism which is associated with employing members of the immediate family of district officials, district employees, or agency personnel having close working relationships with districts. This recommendation is not intended to deprive any citizen of an equal chance for a district job. It is made solely to eliminate the appearance of preferential treatment of the relatives of district personnel, district officials, and cooperating agency personnel.

J. EQUAL EMPLOYMENT OPPORTUNITY

In passing the Civil Rights Act of 1964, Congress established as a compelling national priority that discrimination in employment be eliminated. As a public employer, districts are responsible for insuring that discrimination on the basis of race, color, national origin, age, religion, or sex does not occur in any aspect of employment

including advertising, recruitment, referrals, testing, hiring, assignment, transfer, promotion, training, apprenticeship, disciplinary action, layoff and recall, termination, compensation, benefits and all other terms, conditions, and privileges of employment.

A handbook for state, county and municipal governments regarding their responsibilities in the area of equal employment opportunity is available from (by writing) the U.S. Equal Employment Opportunity Commission, 2401 E. Street, NW, Washington, DC 20506.

K. WRITTEN POLICY

Numerous personnel management problems can be avoided if conservation districts establish written personnel policies. Once a district board has formulated personnel rules and procedures, these policies should be established in writing and provided to all employees. Where district employees are governed by the rules and regulations of other jurisdictions, copies of those regulations should be secured for the employees. Having written policies will simplify the delegation of responsibility for the day-to-day operation of a personnel system. The following checklist contains items that are basic to any policy statement. Other items can be added as necessary.

When developing a written policy, study other existing policies. Look over copies of county, city, and private industry policy statements. If possible, secure the services of a personnel specialist in developing the policy statement.

Personnel Policy Checklist

1. EMPLOYMENT
 - a. Classification
 - b. Probational Period
 - C. Orientation
 - d. Statement of Nondiscrimination
 - e. Authorization to Work in U.S.
 - f. Qualifications for Employees
 9. Job Descriptions
 - h. Authority to Hire and Set Salaries
 - i. Working Hours
2. EMPLOYEE COMPENSATION
 - a. Method of Salary Progression
 - b. Benefits
3. EMPLOYEE RELATIONS
 - a. Communication
 - b. Grievances
 - C. Standards of Conduct and Ethics
 - d. Administrative Discipline
 - e. Sexual Harassment
 - f. Coverage Under the FOI Act
4. Performance Evaluation

5. Employee Training
6. Employee Records

1. EMPLOYMENT

- a. Classification

The perceived importance of a task and the length of time required to accomplish that task are two major considerations that are necessary for making a decision on the employment classification of the person involved with that task. Conservation district directors should designate the classification of their employee(s). Typical classifications include:

Permanent full-time - a continuing position requiring a minimum of 40 hours per week with entitlement to all fringe benefits.

Permanent part-time - a continuing position requiring less than 40 hours per week on a regular and recurring schedule with fringe benefit entitlement on a pro-rated basis.

Temporary - a position of limited duration that is paid an hourly wage for hours actually worked and receives no fringe benefits.

- b. Probational Period

A test period of employment of some duration where the employee is observed by the board or its designee in actual work situations should determine whether the district wishes to retain the employee. All districts should have the same probational period.

- c. Orientation

An appropriate introduction to the new job and to the district can improve performance. An informative atmosphere in the beginning can prevent misunderstandings, confusion and dissatisfaction.

The type of orientation will depend on the needs of the particular district but completeness and clarity are two of the more important aspects of orientation.

An orientation session should be part of the overall district training effort and should be the first step in providing all employees with the training necessary to do their jobs.

- d. Statement of Nondiscrimination

All the conservation districts should make a uniform statement of their policy regarding recruitment, selection, retention or dismissal and advancement of district employees. A prospective, as well as a current district employee, should be assured that the conservation district to which he or she is applying or is employed will treat him or her fairly in all aspects of personnel administration. This fair treatment would be administered by the district board of directors without regard to race, color, religion, sex,

national origin, political affiliation, age, handicap or other non-merit factors and with proper regard for applicant or employee privacy and constitutional rights.

e. Authorization to Work in U.S.

According to the Immigration Reform and Control Act (P.L. 99-603) of 1986, every person hired after November 6, 1986 must be authorized to work in the United States. Regulations require the employer to verify work authorization using an Immigration and Naturalization Service form. To verify working authority, the employer must examine documents that attest to the identity of the employee or prospective employee as well as his or her eligibility to work in this country. The employer must keep the authorization form for a certain period of time.

f. Qualifications for Employees

The district board, as developer of the district program, is best suited for discerning the qualifications of its employees for various employment positions. However, as more districts become employers having various employment positions to fill, the situation becomes obvious that statewide uniformity of employee qualifications for these positions should be set. Qualifications usually take into account such attributes as knowledge, experience, skills, abilities, and other requirements that are established for each position based upon the job demands of the position. To be valid, these standards must be job related. Conservation districts should develop and maintain a high standard of qualification for their employees.

g. Job Descriptions

The conservation district board of directors should have the best idea of the problems that need addressing in their district regarding soil and water conservation matters. Therefore, the job description necessary for the employees to accomplish the goals set by the board can be best determined by the board. Conservation districts should develop and maintain high standards of accomplishment through the use of district employees.

h. Authority to Hire and Set Salaries

The conservation district board of directors has the sole responsibility to hire and set salaries, terminate employment and/or otherwise affect the working, relationship of district employees.

i. Working Hours

The district board is responsible for determining full-time, part-time or temporary employment status according to workload, funding or program need and for determining normal working hours.

2. EMPLOYEE COMPENSATION

Compensation is one of the areas of greatest interest to employees. Regardless of other factors, such as job satisfaction and good working relationships with fellow workers, employees are primarily concerned with their own welfare and that of their

families. For this reason, pay and fringe benefits must be competitive if districts are to attract and retain high caliber personnel.

An employee compensation package consists of both salary and benefits. For comparability purposes, the value of benefits should be included with the salary when discussing compensation. In designing a compensation package, the employer should make every effort to provide employees with a fair and equitable return for their work.

Districts should make a continuing effort to assess the pay and benefits prevalent in their communities. This should be done on a yearly basis. One way of determining comparable compensation for district employees is by a salary and benefit survey of the area or employment market. The survey can be conducted by personal visit, by phone or by mailed questionnaire.

The objective of establishing salaries is comparability. A reasonable day's pay for a reasonable day's work is the goal. Districts should insure that the pay of their workers is fair and equitable. Pay should neither be so high as to make the cost of district administration unnecessarily expensive nor so low as not to be competitive or to place district employees in a substandard employment category.

a. Method of Salary Progression

The district board, as employer, has the duty and authority for setting salary and making adjustments in pay as needed. District directors should include in their personnel policy a pay scale and a provision for an annual pay review and/or orderly salary increases based on the quantity and quality of work performed, the responsibility and difficulty accorded to the position, the merit of the individual in that position and the finances available to the district.

b. Employee Benefits

Employee benefits include all compensation received by the employee in excess of the base salary. Benefits are available in a broad range from which districts may pick and choose. In deciding what benefits to provide, custom and competition should be considered.

Few employees realize the advantage of these benefits. Therefore, these factors should be stressed when hiring or when discussing compensation with employees.

(1) State Employee Group Health Insurance

District employees have the option to enroll in this program if the employee works at least 20 hours per week. The Commission pay the employer's share of the insurance, the employee pays the employee share. There is no cost to the district.

(2) Worker's Compensation Insurance

This insurance program is available to the district through a Commission sponsored plan. Law requires a conservation district to have this insurance if the district hires three or more employees. It is advantageous for districts to carry this insurance on their employees for obvious reasons. Under present policy, the

Commission withholds funds from the district's line item appropriation to pay the workers compensation insurance premium on district employees.

(3) Retirement Plan

State law requires conservation districts to participate in the Arkansas Public Employee Retirement System if their employee(s) work 80 or more hours per month (20 or more hours per week). There is no cost to the employee if enrolled after January 1, 1978. Longer tenured employees may be participating in the contributory system. The district's share is the same in both instances.

(4) Social Security

Some conservation districts do not participate in the Social Security Program (FICA). District directors need to be aware of the fact that their employee(s) may or may not have this coverage. Initial participation in the program is optional with the district but once enrolled, the district must remain in the program.

(5) Leave

A leave policy is a vital element of an employee's working arrangement. The Commission has suggested a policy based on the state employees' leave policy but any policy that a district adopts pertaining to leave should be fair and equitable to all parties involved in the arrangement.

(6) Unemployment Insurance

Conservation districts, as employers, are liable for Unemployment Insurance tax under the Arkansas Employment Security Law. In order for district employees to be eligible for unemployment insurance benefits, the unemployed worker must meet certain requirements. Districts may obtain assistance with Arkansas' Unemployment Insurance program by contacting their local office of the Arkansas Employment Security Division.

3. EMPLOYEE RELATIONS

a. Communication

The district director/district employee working relationship is a most important aspect of the function of a conservation district. Communication between the board and its employee(s) is a must. As is the case for most employers, proper communication between employer and employee can help avoid many of the problems associated with this type of relationship. This communication can greatly enhance the administration of district programs and provide assistance to both the board and the employee in developing annual and long range plans and annual reports. Also, informing district employees about the actions of their board of directors makes good sense. There is no better way to seek employee/employer interaction regarding district affairs than to require district employees to attend board meetings.

b. Grievance Procedure

The conservation district would be well served to adopt a policy that its employee shall be treated fairly and equitably in all respects. If there should be a reason for an

employee to believe that he or she has not been so treated, that employee should have the right to present the grievance(s) to the district board or an outside impartial body in their own behalf or to be represented by another person of their choice. There should be a system that will permit employees to present formal and informal complaints. The filing of a grievance should not be considered as reflecting unfavorably on an employee's performance or loyalty. Every effort should be made by the employer and employee to resolve the grievance(s) within a reasonable time-frame to the satisfaction of both parties.

C. Standards of Conduct and Ethics

A district program cannot be effective unless it is carried out by a district staff which, in addition to being technically competent, demonstrates professional integrity in its conduct. All district employees have a responsibility to perform their assigned duties, to support their supervisors and district board and to uphold the public trust in soil and water conservation districts. One of the best ways of maintaining these standards is by the examples set by district officials.

All employees should be expected to maintain high standards of ethics and personal conduct.

d. Administration of Discipline

The conservation district board should have a provision in their personnel policy that applies to correction of unsatisfactory employee behavior. District employees are expected to perform and to conduct themselves in a creditable manner. However, in some cases it may be necessary to correct an employee who has not observed some standard of performance or conduct. Generally, correction is accomplished through constructive recommendation or verbal admonishment but occasionally an employee does not respond to verbal correction and a more serious and impressive form of administrative action is needed.

A personnel system based on merit provides the right of management to take necessary disciplinary action. The philosophy of merit also requires that there be "just cause" for administering the discipline. Discipline, if administered in just, prompt and consistent manner, can actually be a morale booster. Although the major purpose of discipline is to create better habits and standards of work among employees, separation is at times, required in the interest of service to the public.

Simple justice requires that employees who are to be disciplined be given advance notice of such action and be given the opportunity to reply in advance of the imposition of the penalty. It is a principle of good management that employees clearly understand the reason for discipline. This understanding can best be accomplished by a written notice of disciplinary action. The district board should initiate or have full knowledge of all disciplinary actions that are taken.

e. Sexual Harassment

Conservation district directors need to be aware of the fact that under federal guidelines of the Civil Rights Act of 1964, as amended, provisions exist to safeguard employees against the human abuse of sexual harassment. According to the Arkansas Human Resource Management System, all state agencies/institutions shall develop and

implement a policy concerning sexual harassment and the resolution of such complaints. Although criteria for determining sexual harassment is specified by federal guidelines, actions that may be defined as sexual harassment are not limited to the supervisor/employee situation but may include actions of co-workers, actions of the same or opposite sex and actions of individuals external to the "agency" but who have contact with the employees in the work environment.

f. Coverage under the FOI Act

Conservation district directors should be aware of their employer responsibilities according to the Arkansas Freedom of Information Act. Certain employee records are not open to the public. For instance, personnel records are not available to the public to the extent that disclosure would constitute a clearly unwarranted invasion of personal privacy. Also, performance evaluation records are not open to the public except when there is a compelling public interest in their disclosure. Districts should designate a custodian of employee records that understands the responsibility of the duty and the consequence of negligent action regarding custodial duties.

4. PERFORMANCE EVALUATION

All employees want and have the right to know what is expected of them in their jobs and how well they are performing. A system of performance evaluation based on objective criteria should help achieve peak performance from employees. Evaluating the performance of subordinates can be very rewarding and enjoyable but also very trying. It is perhaps the most important job a supervisor has to do.

The standards by which an employee must perform each duty should be communicated to the employee in terms of quantity and quality. Any evaluation of performance should in turn be based on these objective, job related criteria. Objectivity is the basic and most essential element in setting these standards.

Overemphasizing objective or measurable elements, however, can lead to problems. If an effort is made to quantify all elements of performance, there is a danger of developing a cookbook approach to evaluation so that it ends up being little more than a checklist.

Each duty that is developed for a position should have a corresponding standard by which it should be performed. This standard should be stated in terms of quantity and quality.

Most supervisors are aware of the quality of an employee's performance but this awareness is not enough. There should be a time when supervisor and employee get together for the specific purpose of reviewing performance. This periodic, formal review is essential in maintaining a high standard of employee performance.

An employee's performance should be evaluated by the person who is most familiar with the employee's work and who is involved in setting the performance standards.

5. EMPLOYEE TRAINING

The value of a conservation district's employee(s) to the district can be greatly enhanced by proper training. The district board should make provisions for training their employee(s) according to tenure, workload, expertise of the employee(s), projects and changes in programs. A training plan should be developed for specific positions held by their employees (clerk, secretary, manager, technician, engineer, etc.). This plan could include basic orientation to the conservation district for new employees, an introduction to the job, basic general training, basic specific training and guidelines for specific training for special projects. The board of directors should allow for training to be provided by the best available source(s).

6. EMPLOYEE TRAINING

Districts will find it necessary to maintain certain kinds of personnel records to meet legal requirements and to promote the efficiency of district operations. Any system that is established should be coordinated to avoid duplication and unnecessary collection of data. Some basic personnel records and suggested minimum retention periods are:

Record	Retention Period
Application for Employment	3 years and current
Report of Accident or Occupational disease	6 years and current
Retirement Records	Permanent
Payroll vouchers	Permanent
Employee Records of Earnings	Until termination
Employee W-2 Forms	6 years and current
Quarterly Report of Wages Paid	6 years and current
Position descriptions	3 years and current
Performance evaluations	3 years and current
Records of disciplinary actions	3 years and current
Records of training	3 years and current
Records of Leave (annual & sick)	3 years and current
Employment eligibility verification	Permanent
Official Board Meeting Minutes	Permanent
Annual Plans, Annual Reports & Financial Requests	3 years
Financial Reports, (audits)	7 years
Certificate of Origin	Permanent
Director Appointments by Commission	Results.... Permanent
Ballots from District Elections	90 days from date of election however, results of election should be filed as permanent record Years

