

MEMORANDUM

To: THOMAS O. MILLER
Attorney General

By: GLENN A. WILLIAMS
Assistant Attorney General

QUESTION NO. 1. Under the State Soil Conservation Laws, can two legally organized Soil Conservation Districts be joined into one District?

ANSWER: Yes, see body of opinion.

QUESTION NO. 2. If Question number one is answered in the affirmative, what procedure must be followed to accomplish this objective?

ANSWER: See body of opinion.

Section 34-14-6, W.C. S. 1945, sets forth the procedure to be followed in organizing a Soil Conservation District. Paragraph "C" of this Section reads in part as follows:

Referendum and Manner of Conducting Election.

To assist the committee in the determination of such administrative practicability and feasibility, it shall be the duty of the committee within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of such referendum to be given...

Paragraph "H", 34-1406, Inclusion of Additional Land, reads in part as follows:

Petitions for including additional territory within an existing district may be filed with the State Soil Conservation Committee, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in acting upon petitions for such inclusions.

Section 34-1416, W.C.S. 1945, reads in part as follows:

Discontinuance of district -- Petition -- Referendum -- Procedure for dissolution. Any time after five (5) years after the organization of a district under the provisions of this Act (Sections 34-1401/34-1417). and ten (10) owners and/or occupiers of land lying within the boundaries of such district may file a petition with the State Soil Conservation Committee praying that the operations of the district be discontinued and the existence of the district terminated. The committee may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such a petition has been received by the committee

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it shall give due notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof,....

Thus we see that such districts are organized and enlarged and dissolved by the proposition being submitted to the landowners by popular vote.

Soil Conservation Districts are organized and function by virtue of legislative action. Being a creature of statute, said districts can exercise no powers other than those given to it by the legislature.

There is no specific statutory authority which permits one district to join, or consolidate with another. However, Section 34-1416, paragraph "H", supra, authorizes one district to include additional land within its district, and sets forth the procedure to follow.

In the present case we are dealing with two organized districts. As such, they cannot avail themselves of any statutory provisions permitting them to join. However, it is the opinion of this office, that if one district would dissolve, under the provisions of Section 34-1416, W.C.S. 1945, it could then file its Petition to be included as additional land to the other district, under the provisions of Section 34-1407, Paragraph "H", supra.

A word of caution is offered before the above outlined procedure is followed. Since the organization, dissolution and inclusion of additional land to the districts is a matter of popular vote by the interested parties, care should be exercised to make certain there will be no dissenting votes that might defect the proposed venture, and leave an undesirable situation.

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