

NYS Soil & Water Conservation District Law

Training Module 10



Abbreviated Overview

Soil & Water Conservation District Law

- ➔ This abbreviated overview of the law is provided as a service of the NY State Soil & Water Conservation Committee
- ➔ Staff are available to make detailed presentations to a District or several Districts by request



Formation of District Law

Soil & Water Conservation District Law

- ▶ April 23, 1940 - NY passes SWCD Law
- ▶ July 31, 1940 – 1st SWCD established in Schoharie County
- ▶ April 1964 – “Water” added to law changing name to Soil and Water Conservation Districts



Section 2

Section 3

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Section 2

Declaration of Policy

- ▶ It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and water resources of this state, and for...

Section 2 – Declaration of Policy

- Preservation of soil and water resources
- Improve Water Quality
- Control and Prevent Soil Erosion
- Prevent Floodwater and Sediment damages
- Furthering the conservation, development, utilization, and disposal of water
- Preserve natural resources
- Control and Abate nonpoint sources of pollution
- Assist in the control of floods
- Assist in the drainage and irrigation of agricultural lands
- Prevent impairment of dams and reservoirs
- Maintain the navigability of rivers and harbors
- Preserve wildlife
- Protect tax base
- Protect public lands
- Protect and promote the health, safety, and general welfare of people of this state
- Encourage use of agricultural land for recreational uses

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Section 3

Definitions

- ➔ *District or Soil & Water Conservation District (SWCD):* a county whose board of supervisors has by resolution declared said county to be a SWCD
- ➔ *Director:* member of the governing body of a District, appointed in accordance with the provisions of SWCD law

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Section 4 - SWCC

Soil & Water Conservation Committee

- ▶ Mission is to advance comprehensive natural resources management through the support of local Soil and Water Conservation Districts

Soil & Water Conservation Committee

Voting members of the State Committee are “five interested and qualified citizens appointed by the Governor”

- ➔ NY State Grange
- ➔ NY Farm Bureau
- ➔ NY Association of Conservation Districts
- ➔ At Large Representative – Farm Interests
- ➔ At Large Representative – Urban, Suburban, and Rural Non-Farm Landowner Interest

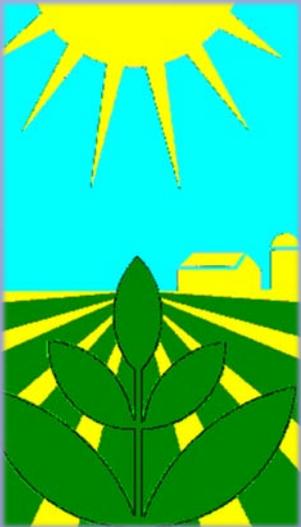
SWCC Advisory Members

Representatives of 9 organizations serve as advisory members:

- NYS Department of Agriculture & Markets
- NYS Department of Environmental Conservation
- NYS Department of Health
- NYS Department of State
- USDA Natural Resources Conservation Service
- Cornell Cooperative Extension
- College of Agriculture & Life Sciences at Cornell University
- State University of NY College of Environmental Science & Forestry
- NYS Conservation District Employees' Association

SWCC Powers & Duties

- Adopt policies in carrying out of District programs
- Inform all District Directors of the activities and experience of other Districts and facilitate cooperation between Districts
- Approve and coordinate programs of the Districts
- Secure cooperation of the State and Federal governments
- Disseminate information regarding activities and programs of Districts and encourage the formation of Districts
- Accept contributions from any source
- Develop and maintain principles, standards and procedures for participating in AEM and assessing the AEM Program for effectiveness
- Coordinate and approve the participation of Districts in AEM



Soil & Water Conservation Committee

Historical Information

- ➔ Transfer of functions and matters related to the SWCC were moved from Cornell University to the Dept. of Ag & Markets in 1981

Notes of Decisions

- ➔ Attorney General has issued both formal & informal opinions regarding the interpretation and applicability of the law

Section 2

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Section 5

Creation of Conservation Districts

- ▶ Board of Supervisors of any county has authority to establish a Soil & Water Conservation District by resolution
- ▶ Mayor of NYC has authority to establish a SWCD encompassing the 5 counties of the city (1991)

Section 2

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Section 6

Designation of District Directors

- ▶ Five member board of directors shall be appointed by county board
- ▶ Special provisions for appointing directors in Westchester, Nassau, Rockland, and New York City



Sec 6 – Designation of District Directors

Soil & Water Conservation District Board
makeup (5 members):

- ➔ County Board – 2 members
- ➔ County Grange (practical farmer) – 1 member
- ➔ County Farm Bureau (practical farmer) – 1 member
- ➔ Urban, Suburban, and Rural Non-Farm Landowner Interest Representative – 1 member

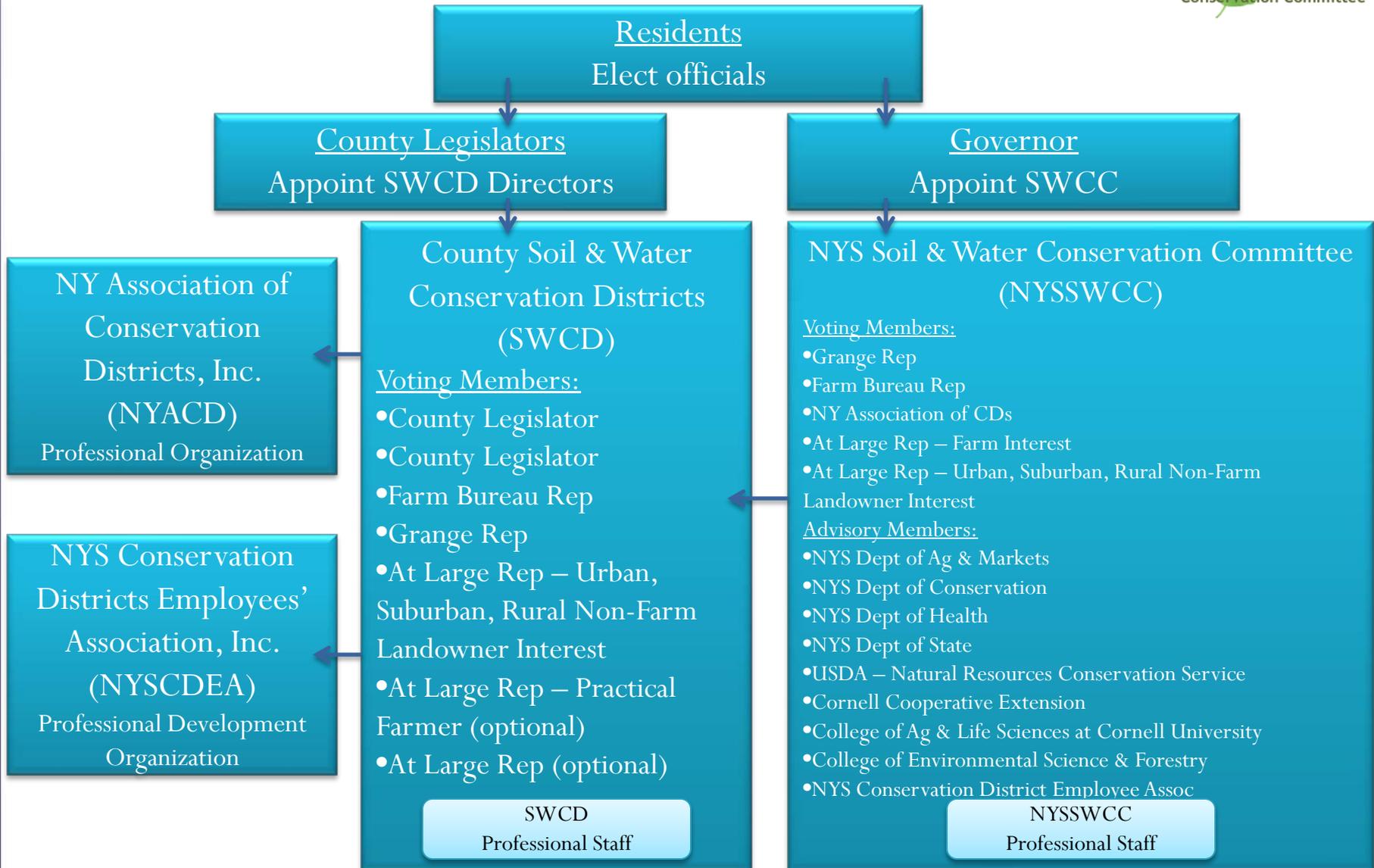


Sec 6 – Designation of District Directors

County Legislative Body may option to expand SWCD Board to 7 members:

- ➔ **Must reside in county**
- ➔ **One shall be a Practical Farmer**
- ➔ **No more than 2 directors shall be from the County Board**

Who's Who in Soil & Water Conservation



Residents
Elect officials

County Legislators
Appoint SWCD Directors

Governor
Appoint SWCC

NY Association of Conservation Districts, Inc. (NYACD)
Professional Organization

County Soil & Water Conservation Districts (SWCD)

Voting Members:

- County Legislator
- County Legislator
- Farm Bureau Rep
- Grange Rep
- At Large Rep – Urban, Suburban, Rural Non-Farm Landowner Interest
- At Large Rep – Practical Farmer (optional)
- At Large Rep (optional)

SWCD
Professional Staff

NYS Conservation Districts Employees' Association, Inc. (NYSCDEA)
Professional Development Organization

NYS Soil & Water Conservation Committee (NYSSWCC)

Voting Members:

- Grange Rep
- Farm Bureau Rep
- NY Association of CDs
- At Large Rep – Farm Interest
- At Large Rep – Urban, Suburban, Rural Non-Farm Landowner Interest

Advisory Members:

- NYS Dept of Ag & Markets
- NYS Dept of Conservation
- NYS Dept of Health
- NYS Dept of State
- USDA – Natural Resources Conservation Service
- Cornell Cooperative Extension
- College of Ag & Life Sciences at Cornell University
- College of Environmental Science & Forestry
- NYS Conservation District Employee Assoc

NYSSWCC
Professional Staff

Section 7

Section 8

Section 9

Section 10

Section 11

Section 7

Appointments, qualifications,
compensation, & tenure of Directors

- ➔ County reps are appointed *annually*
- ➔ All other members serve for *3 yr terms*
- ➔ Directors may be removed by county board or state committee



Section 7

Compensation of Directors

- ▶ Compensation of the members of the “Governing Body” of the District for performing services as directors of the district shall be fixed by the county board

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Section 8

Organization of Directors

- ▶ Directors of the District are the Governing Body
- ▶ Board shall designate:
 - ▶ Chairperson
 - ▶ Secretary (doesn't have to be Director)
 - ▶ Treasurer (doesn't have to be Director)



Section 8 – Organization of Directors

Directors shall:

- ➔ Provide for the execution of surety bonds for its members and employees entrusted with funds and property
- ➔ Keep full and accurate records of all proceedings etc.
- ➔ Provide for an annual audit of accounts

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Section 9

Powers of Districts & Directors

- ➔ Conservation District function is to gather available technical, financial, & educational resources, whatever their sources
- ➔ Focus or coordinate them to meet the needs of the local land user



Sec 9 – Powers of District Directors

Program/Project related powers:

- ➔ Conduct surveys, investigations, and research relating to the character of soil erosion, floodwater, sediment damages, nonpoint source water pollution, and the preventive and control measures needed, and to publish the results
- ➔ Disseminate information concerning preventive and control measures

Sec 9 – Powers of District Directors

Program/Project related powers:

- ➔ Carry out preventive and control measures within the District including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in land use and drainage, irrigation and other agricultural water management operations and measures for the prevention of floodwater and sediment damages, or for control and abatement of nonpoint sources of water pollution, with the consent and cooperation of the landowner (private or public)

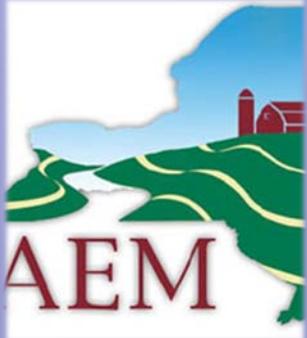




Sec 9 – Powers of District Directors

Program/Project related powers:

- ➔ Make available on terms that the directors prescribe to land occupiers Ag and engineering machinery and equipment, fertilizer, seeds, seedlings, and other similar material and equipment for protecting and preserving soil and water resources
- ➔ Develop plans to promote recreational programs for privately owned lands and waters (1996)



Sec 9 – Powers of District Directors

Program/Project related powers:

- ➔ Develop and update plans for conservation of soil and water resources, control and prevention of soil erosion, floodwater and sediment damage prevention, control and abatement of nonpoint sources of pollution, and agricultural water management within the District
- ➔ Assist in the administration of the AEM Program

Sec 9 – Powers of District Directors

Program/Project related powers:

- ▶ Act as an agent for the federal or state government in connection with acquiring, constructing, operating, maintaining or administering any soil conservation, erosion control and prevention, Ag water management, flood prevention, sediment damage prevention, or nonpoint source pollution control and abatement project and to accept money, services and materials from these entities or any other source



Sec 9 – Powers of District Directors

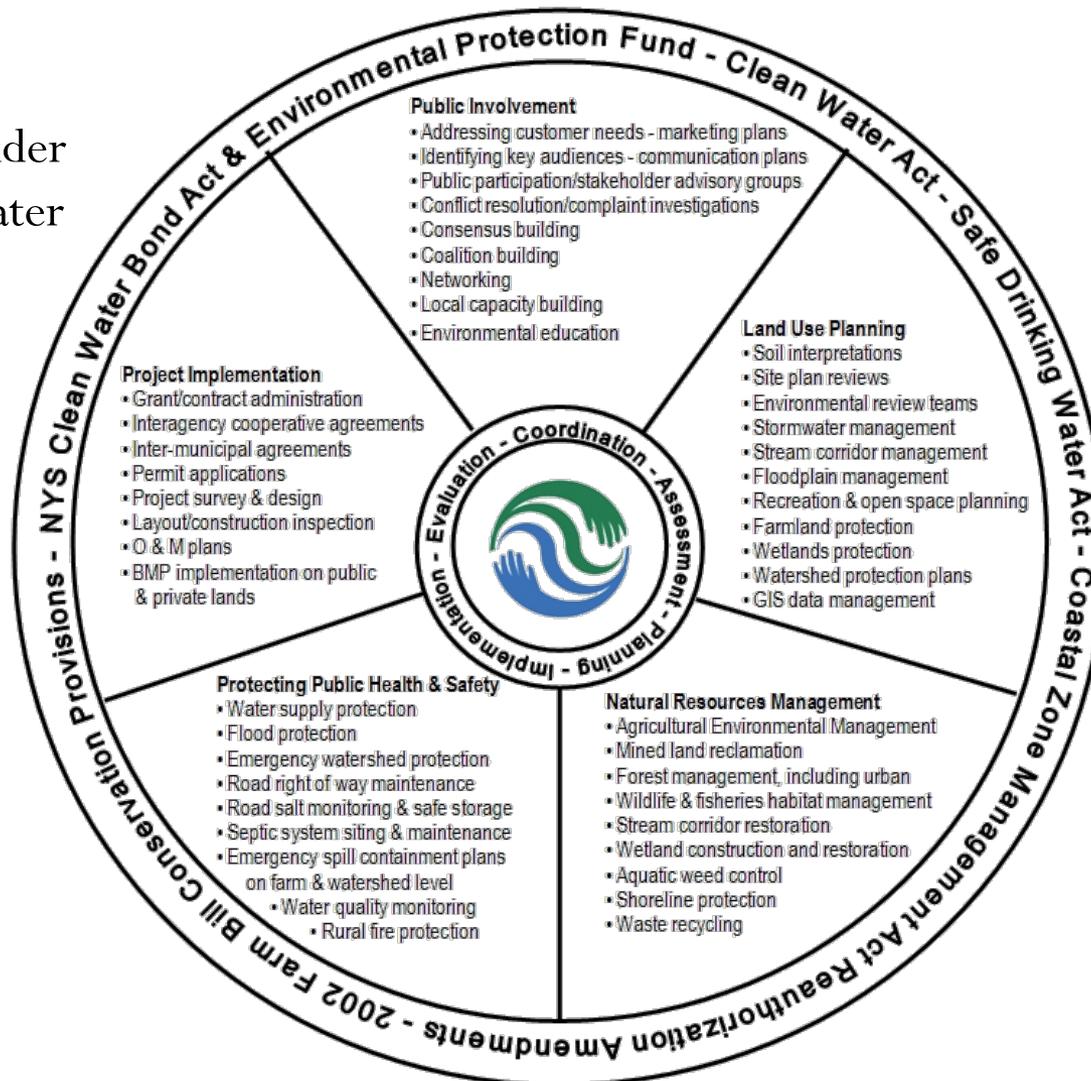
Program/Project related powers:

- ➔ Require contributions in money, service materials, and otherwise to operations conferring benefits and require agreements from the land owners regarding long-term use of the land
- ➔ Use public owned machinery on private lands (at a state established rate – not free)
- ➔ Use county or town equipment or funds for work relating to soil and water conservation on public property
- ➔ Construct, improve, maintain structures relating to soil and water conservation



Technical Assistance Districts Provide to Communities

Authorized under
NYS Soil & Water
Conservation
District Law



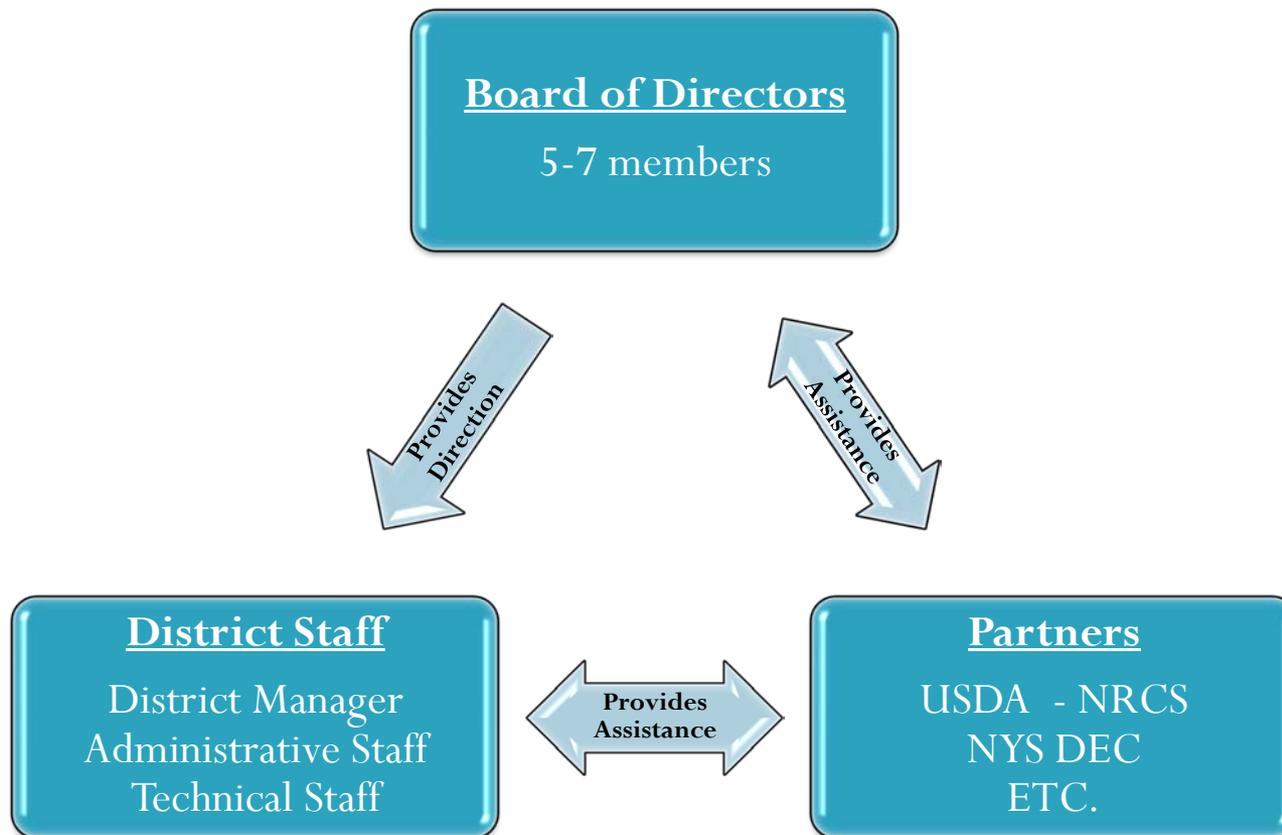
Sec 9 – Powers of District Directors

Operational Powers:

- ➔ Authorize officers and employees to perform such duties as are necessary for the operation of the District
- ➔ Establish and abolish positions of employment and to fix the compensation and time of payment (consistent with Civil Service Law)



Section 8 – Organizational Flow Chart



Sec 9 – Powers of District Directors

Fiduciary Powers:

- ➔ Authorize the treasurer to establish and maintain a petty cash fund (up to \$250) for specific District purposes
- ➔ Authorize the treasurer to establish revolving fund accounts for specific administrative and operational accounts, and to temporarily deposit and invest monies not required for immediate expenditure
- ➔ Pay dues to the State Association of Districts



Sec 9 – Powers of District Directors

Fiduciary Powers:

- ➔ Furnish financial or other aid to any public or private landowner subject to the conditions set by the directors
- ➔ Own or lease real or personal property and maintain, administer, and improve for income; sell or lease any of its property
- ➔ Follow state purchasing and procurement policies



Sec 9 – Powers of District Directors

Related Powers for Legal Issues:

- ➔ Sue and be sued in the name of the District
- ➔ Make and execute contracts
- ➔ Establish rules and regulations
- ➔ Call upon the county attorney for legal services





Sec 9 – Powers of District Directors

New Powers (not all in SWCD Law):

- ➔ (4-A) Ability for Conservation Districts to hold Conservation Easements (2012)
- ➔ AML Article 25-AAA – Districts eligible to be funded through the Farmland Protection Program (AFPP) (2013)
- ➔ GML Article 5-G – Authorizes municipalities to cooperate with SWCD through inter-municipal agreements (2013)

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Cooperation Between Districts

- ▶ Directors of two or more Districts may cooperate with one another in the exercise of any or all powers

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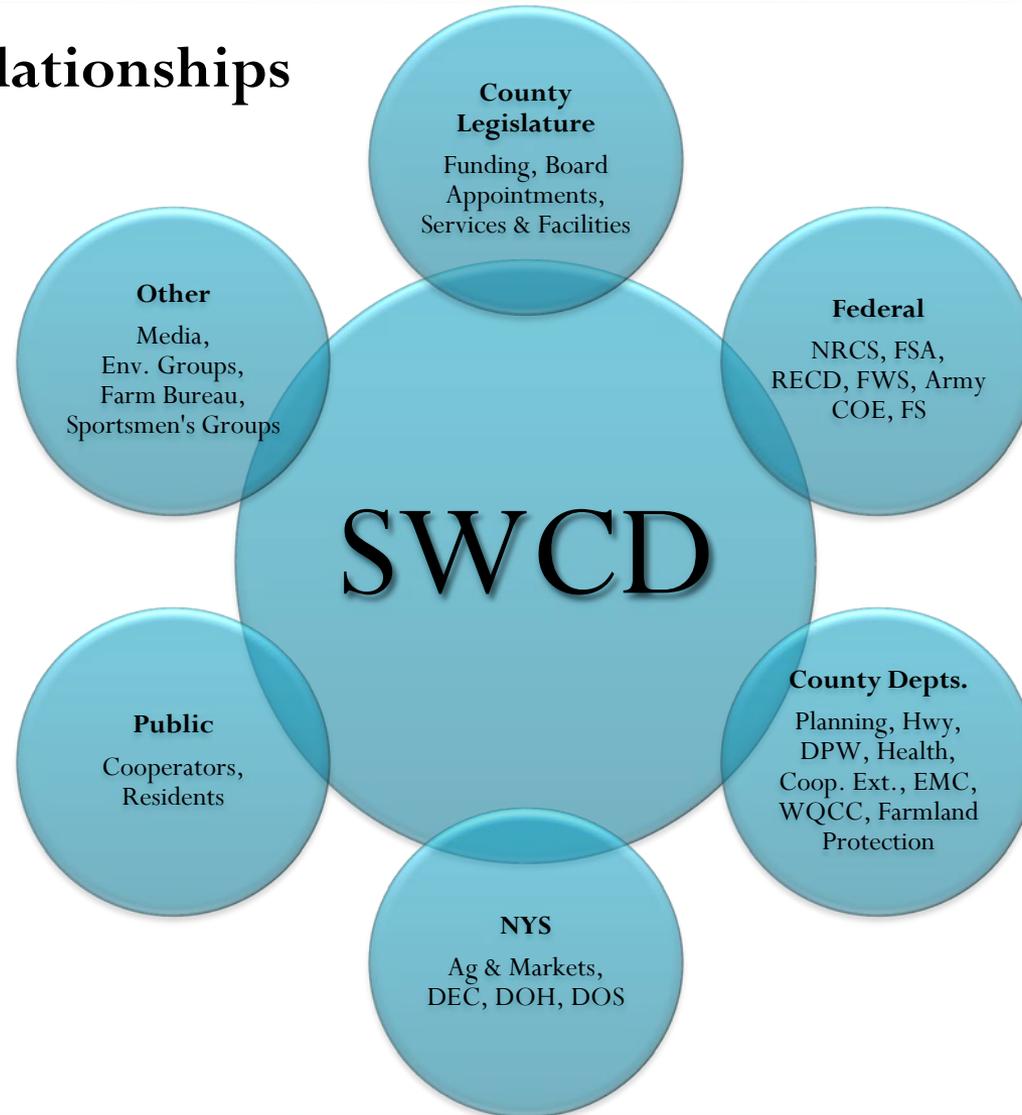
Section 11

Section 11

State Agencies to Cooperate

- ➔ Agencies of the state or local government which have jurisdiction over any lands within the county may cooperate with the District in the effectuation of programs and operations

SWCD Relationships



Section 11a

Section 11-a

State Aid to Districts

- ▶ Establishes framework for funding Conservation Districts
- ▶ Available funding established by State
- ▶ Budget adopted annually in April

Section 11b

Section 12

Section 13

Section 14



Section 11-a (Part A)

State Reimbursement

- ➔ State of New York can reimburse a District 50% of eligible expenditures up to \$60,000 (\$300,000 for NYC)
- ➔ Reimbursement limited to expenditures for employment of District manager & field technicians and the purchase of supplies and equipment related to these positions



Section 11-a (Part B)

Conservation Project Financial Assistance

- ▶ Districts shall be eligible, within amounts available, for up to \$6,000 (\$30,000 for NYC) annually for the purposes of carrying out projects
- ▶ Added in 2006 to advance local conservation projects

Section 11-a Part B Project List

- Conserve, restore, and enhance the soil and water resources of the state
- Assist in the implementation of agricultural best management practices
- Prevent and reduce agricultural and non-Ag NPS water pollution
- Assist in the control of floods and mitigate flood damage
- Protect and restore streams and wetlands
- Protect and restore wildlife and aquatic habitat
- Assist in the drainage of agricultural lands
- Prevent impairment of dams and reservoirs
- Control stormwater run-off, including from construction sites
- Assist in maintaining the navigability of rivers and harbors
- Reduce agriculturally-generated air pollution
- Assist the agricultural production of green energy
- Protect open spaces
- Collect and dispose of pesticides
- Manage public lands
- Protect and manage rural and urban forests



Section 11-a (Part C)

Performance Based Conservation Financial Assistance

- ➔ Districts shall be eligible annually on a competitive basis, within available funding, for financial assistance for the purposes of carrying out projects for the conservation of the soil and water resources of the State and for listed activities
- ➔ Added in 2006 to advance local conservation activities and establish District operational standards

Section 11-a Part C Project List

- Improvement of water quality
- Control & prevention of soil erosion & for the prevention of floodwater & sediment damages
- For furthering the conservation, development, utilization, & disposal of water
- Preserve natural resources
- Control & abate NPS of water pollution
- Assist in the control of floods
- Assist in the drainage & irrigation of agricultural lands
- Prevent impairment of dams & reservoirs
- Assist in maintaining the navigability of rivers & harbors
- Preserve wildlife
- Protect the tax base
- Protect public lands
- Protect & promote the health, safety, & general welfare of the people of NYS

Section 11a

Section 11b

Section 12

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Section 11-b

Ag Nonpoint Source Abatement & Control Projects (Ag NPS)

- ➔ Establishes the state grant program for planning and implementation of Best Management Practices on privately owned agricultural lands (added in 1989)

Section 11a

Section 11b

Section 12

Section 13

Section 14

Section 12

Discontinuance of Districts

- ➔ Outlines how a Soil & Water Conservation District is discontinued
- ➔ *This has never been used*

Section 11a

Section 11b

Section 12

Section 13

Section 14

Section 13

Separability Clause

- ▶ If portions of this law are held to be invalid the remainder of the law shall not be affected

Section 11a

Section 11b

Section 12

Section 13

Section 14

Section 14

Inconsistency with other Acts

- ▶ Insofar as any of the provisions of this chapter are inconsistent with the provisions of any other law, the provisions of this chapter shall be controlling

Additional Resources

Resource Available	Where to Find It
Soil & Water Conservation District Law	<u>SWCC Website</u>
NYS Consolidated Laws – SWC Law	<u>NY State Assembly</u>
Soil and Water Conservation District Office Manual	Located in each Conservation District office.