



Sen. Terry Link

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1 AMENDMENT TO SENATE BILL 172

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 172 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Soil and Water Conservation Districts Act  
5 is amended by changing Sections 26a, 26a.1, 26a.2, 26a.3, 28,  
6 29, and 30 as follows:

7 (70 ILCS 405/26a) (from Ch. 5, par. 131a)

8 Sec. 26a. Any 25 or more owners of lands lying within the  
9 boundaries of any district organized under the provisions of  
10 this Act may file, with the Department, a petition proposing  
11 the consolidation of such district with one or more adjoining  
12 soil conservation districts. Such petition shall set forth: (1)  
13 the names of the districts proposed to be consolidated, and (2)  
14 the proposed name of the consolidated district.

15 Within 30 days after such petition is filed the Department  
16 shall submit the proposal to the directors of each district

1 proposed to be consolidated. The Directors of each such  
2 district, shall within 30 days thereafter, adopt and forward to  
3 the Department a resolution approving or disapproving the  
4 proposed consolidation.

5 If the directors of all of the said districts approve the  
6 proposals to consolidate such districts, then the proposals  
7 shall be sent to the Department to determine if the  
8 consolidation is administratively practical and feasible. ~~it~~  
9 ~~shall be the duty of the Department to give 10 days notice of~~  
10 ~~the holding of a referendum by causing such notice to be~~  
11 ~~published at least once in one or more newspapers having~~  
12 ~~general circulation within the district and to hold a~~  
13 ~~referendum within each such district upon the proposition or~~  
14 ~~the proposed consolidation. Except as otherwise provided in~~  
15 ~~this Act, the proposition shall be submitted in accordance with~~  
16 ~~Section 28-3 of the Election Code.~~

17 ~~The question at such referendum shall be submitted upon~~  
18 ~~ballots in substantially the following form:~~

19 \_\_\_\_\_  
20 Place an X in the square opposite the proposition for which you  
21 desire to vote.

22 \_\_\_\_\_  
23 For approval of the proposed  
24 consolidation of (here insert names  
25 of districts to be consolidated)  
26 into one soil and water

1 ~~conservation district.~~

2 ~~\_\_\_\_\_~~  
3 ~~Against approval of the~~  
4 ~~proposed consolidation of (here~~  
5 ~~insert names of districts to be~~  
6 ~~consolidated) into one soil and~~  
7 ~~water conservation district.~~

8 ~~\_\_\_\_\_~~  
9 ~~Only owners or occupiers of land, or both, lying within the~~  
10 ~~districts are eligible to vote in such referendum and each~~  
11 ~~shall have one vote. Eligible voters may vote in person or by~~  
12 ~~absentee ballot.~~

13 ~~If a majority of the votes cast in the referendum in each~~  
14 ~~of such districts are cast in favor of the proposed~~  
15 ~~consolidation and if~~ the Department determines that such  
16 consolidation is administratively practicable and feasible,  
17 the Chairmen of the directors of the said districts shall  
18 present to the Secretary of State through the Department an  
19 application for a certificate of organization of the  
20 consolidated district. The application shall be signed and  
21 sworn to by all of the said chairmen, and shall set forth the  
22 names of the constituent districts, the proposed name of the  
23 consolidated district, and the location of the office of the  
24 consolidated district. The said application shall be  
25 accompanied by the statement from the Department which shall  
26 set forth (and such statement need contain no details other

1 than the mere recitals) that a petition for the consolidation  
2 of the said district was filed and, that the proposed  
3 consolidation was, by resolution, approved by the governing  
4 bodies of all of such districts, ~~that a referendum was held in~~  
5 ~~each of the said districts on the question of the proposed~~  
6 ~~consolidation, and that the result of such referendum showed a~~  
7 ~~majority of the votes cast in each district to be in favor of~~  
8 ~~the proposed consolidation.~~

9 The Secretary of State shall receive and file such  
10 application and statement and shall record them in an  
11 appropriate book of record in his or her office. When the  
12 application and statements have been made, filed, and recorded  
13 as herein provided, the consolidation of such districts shall  
14 be deemed affected and the consolidated district shall  
15 constitute a public body, corporate and politic, vested with  
16 all the power of soil and water conservation districts. The  
17 Secretary of State shall make and issue to the signers of the  
18 application a certificate, under the seal of the State, of the  
19 due organization of the said consolidated district, and shall  
20 record such certificate with the application and statement. A  
21 copy of the statement and certificate of organization, duly  
22 certified by the Secretary of State, shall be recorded with the  
23 recorder of the county in which the office of the consolidated  
24 district is located.

25 Upon a consolidation of districts, the directors of all  
26 such districts shall continue to hold office and serve as a

1 temporary governing body of the consolidated district until the  
2 members of a permanent governing body have been elected and  
3 have qualified. The provisions of Sections 19, 20 and 21 of  
4 this Act that relate to the number, and to the nomination,  
5 election and organization of members of the governing bodies of  
6 soil and water conservation districts shall govern the  
7 selection of the members of the permanent governing body of a  
8 consolidated district.

9 Upon the issuance, by the Secretary of State, of a  
10 certificate of organization to a consolidated district,  
11 property belonging to the constituent district shall become the  
12 property of the consolidated district. All contracts  
13 theretofore entered into, to which the constituent districts  
14 are parties, shall remain in force and effect for the period  
15 provided in such contracts. The consolidated districts shall be  
16 substituted for each constituent district as party to such  
17 contracts, and shall be entitled to all benefits and subject to  
18 all liabilities under such contracts and shall have the same  
19 right and liability to perform, to require performance, to sue  
20 and to be sued thereon, and to modify or terminate such  
21 contracts by mutual consent or otherwise, as the constituent  
22 district would have had. Any indebtedness, claim, demand or  
23 right owing or belonging to any of the constituent districts  
24 shall vest in and become due to the consolidated district,  
25 which shall have the right to demand, sue for, recover and  
26 enforce the same in its own name. Upon a consolidation of

1 districts, all land-use regulations theretofore adopted and in  
2 force and effect within any of the constituent districts shall  
3 remain in force and effect throughout the territory for which  
4 they were originally adopted, until repealed, amended,  
5 supplemented, or superseded by action of the consolidated  
6 district.

7 (Source: P.A. 83-358.)

8 (70 ILCS 405/26a.1) (from Ch. 5, par. 131a-1)

9 Sec. 26a.1. Division of districts. Any 25 or more owners of  
10 lands lying within the boundaries of any district organized  
11 under this Act which lies in more than one county may file with  
12 the Department a petition proposing the division of the  
13 district into 2 or more districts along county lines. Such  
14 petition shall set forth:

15 (1) The name of the district proposed to be divided. 7

16 (2) The proposed names of the districts to be formed  
17 from it.

18 (3) The proposed boundaries of each of the districts to  
19 be formed.

20 The petition shall be accompanied by an inventory of the  
21 property belonging to the district and of its liabilities and a  
22 proposed plan for a division of these assets and liabilities  
23 between or among the districts proposed to be formed.

24 Within 30 days after such a petition is filed, the  
25 Department shall submit the proposal to the directors of the

1 district proposed to be divided. The directors shall within 30  
2 days thereafter adopt and submit to the Department a resolution  
3 approving or disapproving the proposed division.

4 If the directors disapprove the proposed division, the  
5 petition shall be denied. ~~If the directors favor the proposed~~  
6 ~~division, the Department shall give 10 days notice of the~~  
7 ~~holding of a referendum by causing such notice to be published~~  
8 ~~at least once in one or more newspapers having general~~  
9 ~~circulation within the district and hold a referendum within~~  
10 ~~the district upon the question of the proposed division. Except~~  
11 ~~as otherwise provided in this Act, the proposition shall be~~  
12 ~~submitted in accordance with Section 28-3 of the Election Code.~~  
13 ~~The proposition shall be submitted upon ballots in~~  
14 ~~substantially the following form:~~

15 \_\_\_\_\_

16 Place an X in the square opposite the  
17 proposition for which you wish to vote.

18 \_\_\_\_\_

19 ~~For the division of the ....~~  
20 ~~Soil and Water Conservation District~~  
21 ~~into the .... and .... Soil and Water~~  
22 ~~Conservation Districts with the~~  
23 ~~boundaries described below.~~

24 \_\_\_\_\_

25 ~~Against the division of the ....~~  
26 ~~Soil and Water Conservation District~~

1 ~~into the .... and .... Soil and Water~~  
2 ~~Conservation Districts with the~~  
3 ~~boundaries described below.~~

4 \_\_\_\_\_  
5 ~~(Here insert descriptions of proposed new districts.)~~  
6 \_\_\_\_\_

7 ~~Only owners or occupiers of land, or both, lying within the~~  
8 ~~district are eligible to vote in the referendum. Such vote may~~  
9 ~~be cast in person or by absentee ballot.~~

10 (Source: Laws 1961, p. 530.)

11 (70 ILCS 405/26a.2) (from Ch. 5, par. 131a-2)

12 Sec. 26a.2. If the directors of the district favor the  
13 proposed division ~~a majority of the votes cast in the~~  
14 ~~referendum under Section 26a.1 are cast in favor of the~~  
15 ~~proposed division~~ and ~~if~~ the Department determines that such  
16 division is administratively practicable and feasible, the  
17 Department shall also determine the boundaries of the proposed  
18 new districts, record these determinations and proceed with the  
19 division of the district in the manner hereinafter provided. If  
20 ~~less than a majority of the votes cast in the referendum are~~  
21 ~~east in favor of the proposed division or if~~ the Department  
22 determines that such division is not administratively  
23 practicable and feasible, it shall record such determination  
24 and deny the petition.

25 After the Department has determined that the proposed



1 division is administratively practicable and feasible, it  
2 shall consider the proposed division of the district's assets  
3 and liabilities. If the plan suggested in the petition appears  
4 to be fair and equitable, the Department shall approve it and  
5 the assets and liabilities shall be distributed and assumed in  
6 accordance therewith. The Department may, however, make  
7 whatever modifications in the plan of distribution it deems  
8 necessary to make the scheme fair and equitable.

9 (Source: Laws 1959, p. 2249.)

10 (70 ILCS 405/26a.3) (from Ch. 5, par. 131a-3)

11 Sec. 26a.3. After the Department has made and recorded a  
12 determination that division of the district is  
13 administratively practicable and feasible, the directors of  
14 the district shall present to the Secretary of State through  
15 the Department an application for the discontinuance of the  
16 district and for a certificate of organization for each of the  
17 new districts. The application shall be signed and sworn to by  
18 the directors and shall set forth the name of the district  
19 being divided, the proposed names of the districts being formed  
20 and the location of the offices of each of the new districts.  
21 The application shall be accompanied by a statement from the  
22 Department setting forth (and such statement need contain no  
23 details other than the mere recitals) that a petition for the  
24 division of the district was filed and, that the proposed  
25 division was, by resolution, approved by the governing body of

1 the district, ~~that a referendum was held in the district on the~~  
2 ~~question of the proposed division, and that the result of such~~  
3 ~~referendum showed a majority of the votes cast to be in favor~~  
4 ~~of the proposed division.~~

5 The Secretary of State shall receive and file the  
6 application and statement and shall record them in an  
7 appropriate book of record in his or her office. When the  
8 application and statement had been made, filed and recorded,  
9 the division of the district shall be deemed effected and each  
10 of the new districts shall constitute a public body, corporate  
11 and politic, vested with all the powers of soil and water  
12 conservation districts. The Secretary of State shall issue to  
13 the signers of the application a separate certificate, under  
14 the seal of the State, of the due organization of each of the  
15 new districts, and shall record the certificates with the  
16 application and statement. A copy of the statement, along with  
17 the appropriate certificate of organization, shall be recorded  
18 with the recorder of the county in which each new district has  
19 its office.

20 (Source: P.A. 83-358.)

21 (70 ILCS 405/28) (from Ch. 5, par. 133)

22 Sec. 28. Discontinuance of district. At any time after 3  
23 years after the organization of a district, under the  
24 provisions of this Act, any 25 or more owners of land within  
25 the limits of such district who own at least 10% of the land,

1 by area, within such district may file a petition with the  
2 Department praying that the operations of the district be  
3 terminated and the existence of the district discontinued. The  
4 Department may conduct such public meetings and public hearings  
5 upon such petition as may be necessary to assist it in the  
6 consideration thereof.

7 ~~Within 60 days after such a petition has been received by~~  
8 ~~the Department it shall give due notice of the holding of a~~  
9 ~~referendum, and shall supervise such referendum, and issue~~  
10 ~~appropriate regulations governing the conduct thereof, the~~  
11 ~~question to be submitted by ballots upon which the words "For~~  
12 ~~terminating the existence of the ....(name of the soil and~~  
13 ~~water conservation district to be here inserted)" and "Against~~  
14 ~~terminating the existence of the ....(name of the soil and~~  
15 ~~water conservation district to be here inserted)" shall appear~~  
16 ~~with a square before each proposition and a direction to insert~~  
17 ~~an X mark in the square before one or the other of said~~  
18 ~~propositions. Only owners of land lying within the boundaries~~  
19 ~~of the district shall be eligible to vote in such referendum~~  
20 ~~and each shall have one vote. Owners of land may vote in person~~  
21 ~~or by absentee ballot. No informalities in the conduct of such~~  
22 ~~referendum or in any matters relating thereto shall invalidate~~  
23 ~~said referendum or the result thereof if notice thereof shall~~  
24 ~~have been given substantially as herein provided and said~~  
25 ~~referendum shall have been fairly conducted.~~

26 (Source: Laws 1961, p. 530.)

1 (70 ILCS 405/29) (from Ch. 5, par. 134)

2 Sec. 29. Determination for discontinuance. Within 60 days  
3 after the Department receives a petition for the discontinuance  
4 of a district, the The Department shall ~~publish the result of~~  
5 ~~such referendum and shall thereafter~~ consider and determine  
6 whether the continued operation of the district is  
7 administratively practicable and feasible. If ~~at least a~~  
8 ~~majority of the owners of land within the district shall vote~~  
9 ~~in the referendum on the question of discontinuance, and if a~~  
10 ~~majority of the votes cast in such referendum were in favor of~~  
11 ~~discontinuance or if a majority of the votes cast in such~~  
12 ~~referendum were for continuance or if~~ the Department determines  
13 that the attitude of the owners of lands lying within the  
14 district, ~~the approximate wealth and income of the land~~  
15 ~~occupiers of the district,~~ the probable expense of carrying on  
16 erosion control operations within the district, and other  
17 economic and social factors as may be relevant are such that  
18 the continued operation of the district is not otherwise  
19 practicable and feasible, the Department shall record such  
20 determination and shall certify such determination to the  
21 directors of the district.

22 (Source: Laws 1951, p. 428.)

23 (70 ILCS 405/30) (from Ch. 5, par. 135)

24 Sec. 30. Winding up district affairs. Upon receipt from the

1 Department of a certification that the Department has  
2 determined that the continued operation of the district is not  
3 administratively practicable and feasible, the directors shall  
4 forthwith proceed to terminate the affairs of the district. The  
5 directors shall dispose of all property belonging to the  
6 district at public auction and, after settlement of all legal  
7 obligations against the district, shall pay over the proceeds  
8 of such sale into the State treasury. Before dissolution of the  
9 district, the district must return any unspent funds received  
10 from the State to the State treasury. All contracts entered  
11 into or legal proceedings, to which the district is a party,  
12 must also be fulfilled, settled, or terminated before the  
13 district is dissolved.

14 The directors shall thereupon file an application, duly  
15 verified, with the Secretary of State for the discontinuance of  
16 such district, and shall transmit with such application the  
17 certificate of the Department setting forth the determination  
18 of the Department that the continued operation of such district  
19 is not administratively practicable and feasible and that all  
20 debts of the district have been paid. The application shall  
21 recite that the property of the district has been disposed of  
22 and the proceeds paid over as in this Section ~~section~~ provided,  
23 and shall set forth a full accounting of such properties and  
24 proceeds of the sale. The Secretary of State shall issue to the  
25 directors a certificate of dissolution and shall record such  
26 certificate in an appropriate book of record in his or her

1 office. A copy of such certificate of dissolution issued by the  
2 Secretary of State shall be recorded with the recorder of the  
3 county in which the office of such district is located.

4 Upon issuance of a certificate of dissolution under the  
5 provisions of this Section ~~section~~, all ordinances and  
6 regulations theretofore adopted and in force within such  
7 districts shall be of no further force and effect. ~~All~~  
8 ~~contracts theretofore entered into, to which the district is a~~  
9 ~~party, shall remain in force and effect for the period provided~~  
10 ~~in such contracts. The Department shall be substituted for the~~  
11 ~~district as party to such contracts. The Department shall be~~  
12 ~~entitled to all benefits and subject to all liabilities under~~  
13 ~~such contracts and shall have the same right and liability to~~  
14 ~~perform, to require performance, to sue and be sued thereon,~~  
15 ~~and to modify or terminate such contracts by mutual consent or~~  
16 ~~otherwise, as the directors of the district would have had.~~  
17 ~~Such dissolution shall not affect the lien of any judgment~~  
18 ~~entered under the provisions of Section 25 of this Act, nor the~~  
19 ~~pendency of any action instituted under the provisions of such~~  
20 ~~section, and the Department shall succeed to all the rights and~~  
21 ~~obligations of the district as to such liens and actions.~~

22 The Department shall not be required to entertain petitions  
23 for the discontinuance of any district nor conduct referenda  
24 upon such petitions nor make determinations pursuant to such  
25 petitions in accordance with the provisions of this Act, more  
26 often than once in 3 years.

1 (Source: P.A. 83-358.)

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law."