

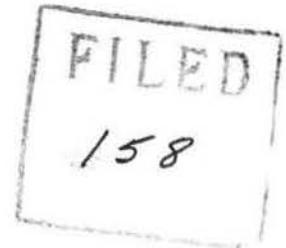
SOIL AND WATER DISTRICTS COMMISSION:
REORGANIZATION ACT:
GOVERNOR:
DEPARTMENT OF NATURAL RESOURCES:

Members of State Soil and
Water Districts Commission
are to be appointed pursuant
to Section 10.4 of Reorgani-
zation Act.

December 3, 1981

OPINION NO. 158

Fred A. Lafser
Director
Department of Natural Resources
1915 Southridge Drive
Jefferson City, Missouri 65101



Dear Mr. Lafser:

This opinion is in response to your question asking whether the appointment of the members of the State Soil and Water Districts Commission is governed by the provisions of Section 10.4, Appendix B, of the Omnibus State Reorganization Act of 1974, or by the provisions of subsection 2 of Section 278.080, RSMo, as enacted by Senate Bill No. 612 of the 80th General Assembly.

Prior to the enactment of the Omnibus State Reorganization Act, Section 278.080.2, RSMo, provided for the appointment of the members of the State Soil and Water Districts Commission. Such provisions were included in the Revised Statutes of 1978 with no change since the last amendment to that section in 1961, as follows:

The state soil and water districts commission shall be composed of two ex officio members and three farmer members, the latter three to be appointed by the governor of Missouri with the advice and consent of the senate, in the manner herein provided and the vote and authority of each member of this commission shall be equal to the vote and authority of each other member. The two ex officio members shall be the director of the agricultural experiment station of the university of Missouri and the director of the agricultural extension service of the

Fred A. Lafser

university of Missouri; and each ex officio member may hold office so long as he shall retain the office from which he shall be serving on the soil and water commission. Each of the three farmer members shall be holding legal title to a farm, and shall be earning at least the principal part of his livelihood from a farm, all at the time of his appointment to the soil and water commission. The farmer members shall each be appointed for a period of three years; except that the first three appointed shall serve terms of one, two and three years respectively, as designated by the governor. All members of the soil and water commission shall be resident taxpayers of Missouri for a period of ten years next preceding their appointment, but no partisan political consideration shall determine their qualifications for appointment to this commission.

Senate Bill No. 612 of the 80th General Assembly repealed Sections 278.070, 278.080 and 278.110, RSMo, relating to soil and water conservation, and enacted three new sections in lieu thereof. Subsection 2 of Section 278.080, as enacted by Senate Bill No. 612, was a verbatim reenactment of subsection 2 of Section 278.080, RSMo 1978.

However, the Omnibus State Reorganization Act which became effective May 2, 1974, provided in Section 10.4:

All the powers, duties and functions of the state soil and water districts commission, chapter 278, RSMo, and others, are transferred by a type II transfer to the department. The state soil and water district commission shall be composed of seven members; five shall be farmers appointed by the director of the department, one shall be the dean of the college of agriculture of the university of Missouri or such successor office as may be designated by the president of the university of Missouri; and one shall be the director of the department of natural resources or his designee.

In our view the question presented here is resolved by the same principles and authorities set forth in our Opinion No. 96, 1981, a copy of which is enclosed.

Fred A. Lafser

Section 10.4 of the Reorganization Act repealed by implication the contrary provisions of subsection 2 of Section 278.080. As we have indicated, there were no changes in subsection 2 of Section 278.080, as enacted by Senate Bill No. 612, and its reenactment by that bill is merely a repeat of the law as it existed prior to the changes made by the Reorganization Act. We are, therefore, of the view that since Section 10.4 of the Reorganization Act superseded subsection 2 of Section 278.080, the mere mechanical inclusion of such subsection in Senate Bill No. 612 without any indication that such provisions were intended to replace the provisions of Section 10.4 of the Reorganization Act leads us to the conclusion that the provisions of the Reorganization Act control.

CONCLUSION

It is the opinion of this office that appointments to the State Soil and Water Districts Commission are to be made pursuant to the provisions of Section 10.4 of the Omnibus State Reorganization Act of 1974 and not under the provisions of subsection 2 of Section 278.080, as enacted by Senate Bill No. 612 of the 80th General Assembly.

The foregoing opinion, which I hereby approve, was prepared by my assistant, John C. Klaffenbach.

Very truly yours,



JOHN ASHCROFT
Attorney General

Enc: Opinion No. 96 (1981)