AN ACT concerning agriculture; relating to soil erosion caused by wind;
duties of county commissioners, conservations districts; amending
K.S.A. 2-2004 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2-2004 is hereby amended to read as follows: 2-
2004. (a) Further to administer, carry out and make effective the purposes
of this act section, the board of county commissioners of each county,
upon knowing, receiving a complaint or being advised that dust, any plant
or weed is blowing from any particular land in the county, are hereby
authorized and directed immediately to inspect such land. If it is
determined the soil, any plant or weed is blowing therefrom in sufficient
quantity to be injurious to the land because of erosion thereof, to nearby
land because of dirt blown thereon, to nearby land because of any plant or
weed blown thereon or to the public health because of dust therefrom
blown into the air, they shall determine what, if anything, can be done to
prevent or materially lessen the soil, any plant or weed blowing from such
land, and if in their judgment that can be accomplished by prompt
cultivation of the soil in some manner, they are authorized and directed to
order work to be done and the time when and the type of work to be done.
The board of county commissioners may order that the land be disced,
listed, chiseled, cultivated, chopped or worked by any other method of
control approved by the board. If the board of county commissioners
determines a sustained, dust-laden wind is occurring which poses an
extreme and immediate physical danger to public safety or irreparable
damage to such land unless immediate corrective action is taken, such
board of county commissioners shall order the owner of the land at issue
to take immediate corrective action, including, but not limited to, discing,
listing, chiseling, cultivating, chopping or any other recognized method of
dust control. If such board of county commissioners receive a complaint
and determine no sustained, dust-laden wind posing an extreme and
immediate physical danger to public safety or irreparable damage to such
land is occurring, the board of county commissioners shall direct the
complaining citizen to present such complaint to the local conservation
district with jurisdiction over the land at issue.

(b) If a complaint is referred by the board of county commissioners to
the local conservation district, and if the complaining party wishes to proceed with such complaint, the board of county commissioners shall request that such local conservation district schedule the complaint for a hearing at such local conservation district's next regularly scheduled meeting.

(1) The board of county commissioners shall advise the owner and any tenant of the land at issue, no less than 10 calendar days prior to such meeting, of the date and time the complaining party will appear before the local conservation district.

(2) The local conservation district shall have authority to hear such complaint and any response from the owner or tenant of the land at issue at such scheduled meeting. At such meeting, the local conservation district may, upon receiving permission from the owner of the land at issue, view the land, either as a group or by individual board members and with or without the presence of either the complaining party, the owner or the tenant of the land at issue. Such local conservation district may also continue the matter to a different date or take such other reasonable steps as in the discretion of such local conservation district which allows such conservation district to make a recommendation to the board of county commissioners regarding such complaint.

(3) The local conservation district shall act only in an advisory capacity and shall have authority only to make a written recommendation to the board of county commissioners regarding the complaint referred to such local conservation district. The local conservation district shall recommend specific corrective action to the board of county commissioners or recommend no corrective action.

(c) For the purpose of making a recommendation, the local conservation district:

(1) May request technical assistance from the natural resources conservation service of the United States department of agriculture. It shall be within the sole discretion of the natural resources conservation service whether or not to provide such technical assistance; and

(2) shall consider the applicable field office technical guide of the natural resources conservation service. Any corrective action recommended by the local conservation district shall be based upon one or more terms of the field office technical guide and the local conservation district's written recommendation shall identify the specific term or terms of the field office technical guide upon which the recommendation is based.

(d) In formulating a recommendation, the local conservation district shall rely entirely upon the voluntary cooperation of the complaining party and the owner or tenant of the land at issue. If the complaining party, owner or tenant of the land at issue did not cooperate with the local
conservation district regarding such complaint, the local conservation
district shall advise the board of county commissioners of this fact in such
recommendation. If the local conservation district recommends no
corrective action, such local conservation district shall explain why no
corrective action was recommended.

(e) Upon receipt of the written recommendation of the local
conservation district, the board of county commissioners shall schedule
such recommendation for review by the board of county commissioners at
a regularly scheduled meeting. The complaining party, owner of the land
at issue and any tenant shall be notified in writing of such meeting no less
than 10 calendar days prior to such meeting. At such meeting, the board of
county commissioners may accept, reject or modify the recommendations
of the local district in the sole discretion of the board of county
commissioners. The board of county commissioners at all times shall
retain the authority to order any corrective action allowed by this section.
The board of county commissioners may take into consideration, when
developing any remedy or refusing to impose a remedy, the cooperation or
lack of cooperation that the parties of the complaint have extended to the
local conservation district, the natural resources conservation service or
to any other person or agency assisting the local conservation district in
the matter.

(f) If a complaint has been referred to a local conservation district,
but the board of county commissioners later determines immediate
corrective action is appropriate, such board of county commissioners shall
have the authority to order such immediate corrective action before the
local conservation district has issued a recommendation.

(g) In all cases where the board of county commissioners orders
corrective action, where it can be done reasonably, the board of county
commissioners shall confer with the owner of the land before determining
or ordering work to be done thereon, and advise the owner of their
conclusions and give the owner an opportunity to do the work they
conclude should be done, but if the owner cannot be consulted without
unreasonable delay, or cannot or will not do the work in the manner and
within the time it should be done, the board of county commissioners may
do the work, or employ someone to do it, and issue its warrants to pay the
actual cost thereof, and pay such warrants from the fund hereinafter
provided, without regard to any other statute pertaining to the issuing or
paying of county warrants.

Sec. 2. K.S.A. 2-2004 is hereby repealed.
Sec. 3. This act shall take effect and be in force from and after its
publication in the statute book.