

NATURAL RESOURCE CONSERVATION DISTRICTS (NRCDS)

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NRCDS Are Not Part Of The Land Department; They Are Independent Political Subdivisions Of The State

- While the ASLD Commissioner has oversight over the NRCDS, coordinates their elections and passes through state and federal monies to them by way of grants, the Arizona Attorney General's office has concluded based upon the plain language of the NRCDS statutes that each NRCDS is a political subdivision of the State. NRCDS are treated like municipalities, improvement districts and school districts, *i.e.* the State has certain legislative authority oversight over them, but they are independent legal entities with specific powers granted them under A.R.S. § 37-1054. They, amongst a myriad of other powers, have the authority to hire agents, engineers, attorneys and employees. They can sue and be sued, they can purchase and sell personal and real property and engage in a host of educational and conservation activities. The Attorney General's office does not have the "manpower", funding or expertise to run 30 independent districts. NRCDS are not State agencies.

Relationship Between Natural Resource Conservation Districts And Environmental Education Centers

- Pursuant to A.R.S. § 37-1054(11), each NRCD is empowered to “organize and establish an education center to increase the knowledge of natural resources in this state. . .” The Attorney General’s office treats all NRCDs as political subdivisions of the state and that their education centers are under the management of the NRCDs irrespective of whether they are incorporated as 501(c)(3) corporations. The NRCDs and their education centers would be considered as non-profits under the Internal Revenue Code, 26 U.S.C.A. § 170 as they are political subdivisions of the state performing a public purpose regardless of whether they have applied for 501(c)(3) status.

Relationship Between Natural Resource Conservation Districts And Environmental Education Centers (*continued*)

- Both the NRCDs and their education centers are authorized to receive charitable donations pursuant to A.R.S. § 37-1054, with the assumption that the education center is organized and established by the NRCD.
- A.R.S. § 37-1014 authorizes that any NRCD or education center may apply to the Arizona State Land Commissioner (the “Commissioner”) for funding of their conservation and education programs and are subject to audits as may be requested by the Commissioner.

All NRCDs And Their Education Centers Must Comply With Open Meeting And Public Record Law

- All NRCDs are political subdivisions of the state and they and their education centers are required to comply with the Public Meetings and Proceedings Law, A.R.S. §§ 38-431 *et seq.* and the Public Records Law, A.R.S. §§ 39-101 *et seq.* A.R.S. § 37-1013 requires each NRCD to “file with the Commissioner annually any audits and records of the operation of the district [NRCD] for the preceding year in the form and detail as the commissioner prescribes.” This would include an annual audit of the operations and records of the NRCD’s education center.

Election Procedures Pursuant To A.R.S. § 37-1051

- Held on First Saturday in May in even numbered years.
- Candidates must file with the Commissioner a nominating petition at least ten (10) days before the election containing the signatures of not less than twenty-five (25) qualified electors.
- No person is eligible to run or vote unless they are a qualified elector of the district.
- A.R.S. § 37-1002 defines a “qualified elector” as a person who is a district cooperator and a qualified elector of the state.
- “District Cooperator” is any person who has entered into a cooperative agreement with an NRCD for purposes of protecting, conserving and practicing wise use of resources under his or her control.

Election Procedures Pursuant To A.R.S. § 37-1051 (*continued*)

- Statute written in 1941. Cooperator may not be a partnership, LLC or corporation but must be a person. Arguably, a general partner, managing member or shareholder who is a qualified elector of the district may run for office and/or vote.
- Board of the district may provide mail ballot to qualified elector if said elector has provided a first class mailing address with the Board at least thirty (30) days before an election.
- Names of candidates must be listed on ballot in alphabetical order by surname. Write-in candidates are technically not allowed.¹

¹Instructions on where both types of nominations need to be filed. Nominating papers must be filed ten (10) days and Write-in papers filed forty (40) days prior to the scheduled date of election at the following location: NRC Manager, Arizona State Land Department, 1616 W. Adams, Phoenix, AZ 85007.

Additional Election Requirements

- A.R.S. Title 16, the election statutes do not technically apply to NRCD elections but can provide us with some guidance in conducting elections. Realizing it is not practical for districts to publish calls for election or notices of upcoming elections in a local newspaper, at a minimum, districts should post the notice on its website and/or post it at the place of its meetings at least ninety (90) days prior to the election. Mailing such notice to all cooperators in the district is also recommended.

Additional Election Requirements

(continued)

- The call of election or notice should contain the following information:
 - The name of the district soliciting petitions for candidate nomination.
 - The date of the election.
 - The location / locations of the polling place.
 - The time period during which the polling place is open.

Additional Election Requirements

(continued)

- Candidate qualification and eligibility requirements:
 - Must be 18 years of age.
 - A registered voter in the State of Arizona
 - A land owner or lessee of land in the district in which the election is being held.
 - Have a current Cooperative Agreement with the district in question.

- Location at which nomination papers and write-in papers may be obtained.

Questions