

Opinion No. 63.

**Soil Conservation Districts—Funds of
Soil Conservation Districts, Use
of—Investment of Soil Con-
servation Districts'
Funds.**

HELD: Soil Conservation Districts are without authority to either loan money to private individuals or to invest in government bonds.

February 26, 1954.

Mr. Eugene Coombs
County Agent
Yellowstone County
Billings, Montana

Dear Mr. Coombs:

Your predecessor has requested my opinion as to the investment of funds of soil conservation districts, said funds having been built up through the use of dirt-moving equipment loaned to the district by the government, and also through a five per cent (5%) agreement with the local contractors. He inquires specifically as to whether or not these funds can be invested in loans to private individuals or in government bonds.

Chapter 72, Laws of 1939, (Sections 76-101 through 76-116, R. C. M., 1947), provides for the creation of a soil conservation committee and the establishment of soil conservation districts and sets forth the powers, duties, obligations and purposes of the state's soil conservation districts law. The Act was created to subserve a public purpose. Section 76-102, R. C. M., 1947, Sub-section D, reads:

"Declaration of Policy. It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and soil resources of this state, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state."

By the terms of the Act, the soil conservation committee and the soil conservation districts are made governmental subdivisions and agencies of the state. (Sections 76-103, 76-104, 76-108, R. C. M., 1947.) As such, the soil conservation districts are only possessed of such powers as are conferred upon them by the legislature. *Christman v. Wilson*, 187 Ky. 644, 221 S. W. 198; *State ex rel. Garrow v. Grayson*, 220 Ala. 12, 123 So. 573; *Harkins v. Smith*, 204 Ala. 417, 85 So. 312; *Board of Improvement v. Moreland*, 94 Ark. 380, 127 S. W. 469.

Section 76-108, R. C. M., 1947, vests in the soil conservation districts certain specific powers. Among those powers, Sub-section 5 provides:

"To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein, and all such property shall be exempt from taxation by the state or any political subdivision thereof, to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this Act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and provisions of this Act; * * *"

Section 76-115, R. C. M., 1947, with reference to moneys appropriated to said conservation district out of the state treasury by the legislature, provides, so far as is pertinent, as follows:

" . . . All moneys allocated to any district by the said committee shall be available to the supervisors of such district for **all administrative and other expenses of the district under this Act and for all administrative and other expenses of the board of adjustment established or to be established by said district.** * * *"
(Emphasis supplied.)

Whereas Section 76-108, R. C. M., 1947, provides that the districts may " . . . receive income from such properties . . . ", such language does not constitute authority to engage in the business of loaning money; engaging in the banking and investment business, is in no wise connected with the ends to be promoted by the activities of soil conservation districts. Such activities are far removed and unconnected with the authorized functions and purposes of soil conservation districts as enumerated by the Act. Soil conservation districts are created to provide for the conservation of the soil and soil resources of this state.

It is therefore my opinion that soil conservation districts are without authority to either loan money to private individuals or to invest in government bonds.