

**Effective 7/1/2022**

**Chapter 46**  
**Conservation Coordination Act**

**Part 1**  
**General Provisions**

**4-46-101 Policy.**

It is the policy of this state that land conservation should be promoted to protect the state's agricultural industry and natural resources.

Enacted by Chapter 68, 2022 General Session

**4-46-102 Definitions.**

As used in this chapter:

- (1) "Agricultural land" means "land in agricultural use," as defined in Section 59-2-502.
- (2) "Board" means the Land Conservation Board established in Section 4-46-201.
- (3) "Conservation commission" means the Conservation Commission created in Section 4-18-104.
- (4) "Conservation district" means a limited purpose local government entity created under Title 17D, Chapter 3, Conservation District Act.
- (5) "Director" means the director of the Division of Conservation.
- (6) "Division" means the Division of Conservation created in Section 4-46-401.
- (7) "Fund" means the LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.
- (8) "Land use authority" means:
  - (a) a land use authority, as defined in Section 10-9a-103, of a municipality; or
  - (b) a land use authority, as defined in Section 17-27a-103, of a county.
- (9) "Local entity" means a county, city, or town.
- (10)
  - (a) "Open land" means land that is:
    - (i) preserved in or restored to a predominantly natural, open, and undeveloped condition; and
    - (ii) used for:
      - (A) wildlife habitat;
      - (B) cultural or recreational use;
      - (C) watershed protection; or
      - (D) another use consistent with the preservation of the land in, or restoration of the land to, a predominantly natural, open, and undeveloped condition.
  - (b) "Open land" includes land described in Subsection (10)(a) that contains facilities, including trails, waterways, and grassy areas, that:
    - (i) enhance the natural, scenic, or aesthetic qualities of the land; or
    - (ii) facilitate the public's access to or use of the land for the enjoyment of the land's natural, scenic, or aesthetic qualities and for compatible recreational activities.
  - (c) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activities.
- (11)
  - (a) "State conservation efforts" includes:

- (i) efforts to optimize and preserve the uses of land for the benefit of the state's agricultural industry and natural resources; and
  - (ii) conservation of working landscapes that if conserved, preserves the state's agricultural industry and natural resources, such as working agricultural land.
  - (b) "State conservation efforts" does not include the purpose of opening private property to public access without the consent of the owner of the private property.
- (12)
- (a) "Working agricultural land" means agricultural land for which an owner or producer engages in the activity of producing for commercial purposes crops, orchards, livestock, poultry, aquaculture, livestock products, or poultry products and the facilities, equipment, and property used to facilitate the activity.
  - (b) "Working agricultural land" includes an agricultural protection area established under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas.

Amended by Chapter 180, 2023 General Session

#### **4-46-103 Application of chapter to wildlife issues.**

This chapter may not be construed or applied to supersede or interfere with the powers and duties of the Division of Wildlife Resources or the Wildlife Board under Title 23A, Wildlife Resources Act, over:

- (1) conservation and management of protected wildlife within the state;
- (2) a program or initiative to restore and conserve habitat for fish and wildlife; or
- (3) acquisition, ownership, management, and control of real property or a real property interest, including a leasehold estate, an easement, a right-of-way, or a conservation easement.

Amended by Chapter 34, 2023 General Session

#### **4-46-104 Transition.**

- (1) A grant that is entered into or issued by the Quality Growth Commission on or before July 1, 2022, remains in effect, except that:
  - (a) the agency administering the grant shall be transferred to the board in the same manner as the statutory responsibility is transferred under Laws of Utah 2022, Chapter 68; and
  - (b) the grant is subject to the terms of the grant and may be terminated under the terms of the grant.
- (2) In accordance with Laws of Utah 2022, Chapter 68, the department assumes the policymaking functions, regulatory, and enforcement powers, rights, and duties of the Quality Growth Commission existing on June 30, 2022.

Revisor instructions Chapter 68, 2022 General Session

Enacted by Chapter 68, 2022 General Session

## **Part 2 Land Conservation Board**

#### **4-46-201 Land Conservation Board.**

- (1) There is created a Land Conservation Board consisting of:

- (a) the director of the Division of Conservation or the director's designee;
  - (b) the commissioner of the Department of Agriculture and Food or the commissioner's designee;
  - (c) the executive director of the Governor's Office of Planning and Budget, or the executive director's designee;
  - (d) four elected officials at the local government level, two of whom may not be residents of a county of the first or second class; and
  - (e) seven persons from the profit and nonprofit private sector:
    - (i) two of whom may not be residents of a county of the first or second class;
    - (ii) one of whom shall be from the residential construction industry, nominated by an association representing Utah home builders;
    - (iii) one of whom shall be from the real estate industry, nominated by an association representing Utah realtors;
    - (iv) one representative of an association representing farmers, selected from a list of nominees submitted by at least one association representing farmers;
    - (v) one representative of an association representing cattlemen, selected from a list of nominees submitted by at least one association representing cattlemen;
    - (vi) one representative of an association representing wool growers, selected from a list of nominees submitted by at least one association representing wool growers;
    - (vii) one representative of land trusts; and
    - (viii) one representative of an association representing conservation districts created under Title 17D, Chapter 3, Conservation District Act, selected from a list of nominees submitted by at least one association representing conservation districts.
- (2)
- (a) The governor shall appoint a board member under Subsection (1)(d) or (e) with the advice and consent of the Senate.
  - (b) The governor shall select:
    - (i) two of the four members under Subsection (1)(d) from a list of names provided by the Utah League of Cities and Towns; and
    - (ii) two of the four members under Subsection (1)(d) from a list of names provided by the Utah Association of Counties.
- (3)
- (a) The term of office of a member appointed under Subsection (1)(d) or (e) is four years.
  - (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
  - (c) A member of the board appointed under Subsection (1)(d) or (e) may not serve more than two consecutive four-year terms.
- (4) A mid-term vacancy shall be filled for the unexpired term in the same manner as an appointment under Subsection (2).
- (5)
- (a) Subject to Subsection (5)(b), board members shall elect a chair from their number and establish rules for the organization and operation of the board.
  - (b) The board member who is chair may not vote during the board member's tenure as chair, except the chair may vote if there is a tie vote of board members.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and

- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7) A member is not required to give bond for the performance of official duties.
- (8) Staff services to the board shall be provided by the Division of Conservation.

Enacted by Chapter 68, 2022 General Session

**4-46-202 Board duties and powers -- No regulatory authority -- Criteria.**

- (1) The board shall:
  - (a) administer the fund as provided in this chapter; and
  - (b) fulfill other responsibilities imposed on the board by the Legislature.
- (2) The board may not exercise any regulatory authority.
- (3) In carrying out the board's powers and duties under this chapter, the board shall adopt ranking criteria that is substantially similar to the ranking criteria used by the Agriculture Conservation Easement Program and Agriculture Land Easement as determined by the Natural Resources Conservation Service under the United States Department of Agriculture.

Amended by Chapter 180, 2023 General Session

**Part 3**  
**LeRay McAllister Working Farm and Ranch Fund**

**4-46-301 LeRay McAllister Working Farm and Ranch Fund.**

- (1) There is created a restricted account within the General Fund entitled the " LeRay McAllister Working Farm and Ranch Fund."
- (2) The restricted account shall consist of:
  - (a) appropriations by the Legislature;
  - (b) grants from federal or private sources; and
  - (c) interest and earnings from the account.
- (3) The Land Conservation Board created in Section 4-46-201 may use appropriations from the fund in accordance with Section 4-46-302.

Amended by Chapter 180, 2023 General Session

**4-46-302 Use of money in fund -- Criteria -- Administration.**

- (1) Subject to Subsection (2), the board may authorize the use of money in the fund, by grant, to:
  - (a) a local entity;
  - (b) the Department of Natural Resources created under Section 79-2-201;
  - (c) an entity within the department; or
  - (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code.
- (2)
  - (a) The money in the fund shall be used for preserving or restoring open land and agricultural land.
  - (b) Except as provided in Subsection (2)(c), money from the fund:
    - (i) may be used to:

- (A) establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act; or
- (B) fund similar methods to preserve open land or agricultural land; and
- (ii) may not be used to:
  - (A) purchase a fee interest in real property to preserve open land or agricultural land; or
  - (B) purchase additional property for the purpose of tax deferral.
- (c) Money from the fund may be used to purchase a fee interest in real property to preserve open land or agricultural land if:
  - (i) the property to be purchased is no more than 20 acres in size; and
  - (ii) with respect to a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is contemporaneously transferred to private ownership from the governmental entity that purchased the fee interest in real property.
- (d) Eminent domain may not be used or threatened in connection with any purchase using money from the fund.
- (e) A parcel of land larger than 20 acres in size may not be divided to create one or more parcels that are smaller than 20 acres in order to comply with Subsection (2)(c)(i).
- (f) A local entity, department, or organization under Subsection (1) may not receive money from the fund unless the local entity, department, or organization provides matching funds equal to or greater than the amount of money received from the fund.
- (g) In granting money from the fund, the board may impose conditions on the recipient as to how the money is to be spent.
- (h) The board shall give priority to:
  - (i) working agricultural land; and
  - (ii) after giving priority to working agricultural land under Subsection (2)(h)(i), requests from the Department of Natural Resources for up to 20% of each annual increase in the amount of money in the fund if the money is used for the protection of wildlife or watershed.
- (i)
  - (i) The board may not make a grant from the fund that exceeds \$1,000,000 until after making a report to the Legislative Management Committee about the grant.
  - (ii) The Legislative Management Committee may make a recommendation to the board concerning the intended grant, but the recommendation is not binding on the board.
- (3) In determining the amount and type of financial assistance to provide a local entity, department, or organization under Subsection (1) and subject to Subsection (2)(i), the board shall consider:
  - (a) the nature and amount of open land and agricultural land proposed to be preserved or restored;
  - (b) the qualities of the open land and agricultural land proposed to be preserved or restored;
  - (c) the cost effectiveness of the project to preserve or restore open land or agricultural land;
  - (d) the funds available;
  - (e) the number of actual and potential applications for financial assistance and the amount of money sought by those applications;
  - (f) the open land preservation plan of the local entity where the project is located and the priority placed on the project by that local entity;
  - (g) the effects on housing affordability and diversity; and
  - (h) whether the project protects against the loss of private property ownership.
- (4) If a local entity, department, or organization under Subsection (1) seeks money from the fund for a project whose purpose is to protect critical watershed, the board shall require that the needs and quality of that project be verified by the state engineer.

- (5) An interest in real property purchased with money from the fund shall be held and administered by the state or a local entity.
- (6)
- (a) The board may not authorize the use of money under this section for a project unless the land use authority for the land in which the project is located consents to the project.
  - (b) To obtain consent to a project, the person who is seeking money from the fund shall submit a request for consent to a project with the applicable land use authority. The land use authority may grant or deny consent. If the land use authority does not take action within 60 days from the day on which the request for consent is filed with the land use authority under this Subsection (6), the board shall treat the project as having the consent of the land use authority.
  - (c) An action of a land use authority under this Subsection (6) is not a land use decision subject to:
    - (i) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or
    - (ii) Title 17, Chapter 27a, County Land Use, Development, and Management Act.

Amended by Chapter 180, 2023 General Session

**4-46-303 Board to report annually.**

The board shall submit an annual report to the Infrastructure and General Government and Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittees:

- (1) specifying the amount of each disbursement from the fund;
- (2) identifying the recipient of each disbursement and describing the project for which money was disbursed; and
- (3) detailing the conditions, if any, placed by the board on disbursements from the fund.

Amended by Chapter 180, 2023 General Session

**4-46-304 Agriculture Conservation Easement Account.**

- (1) There is created within the General Fund a restricted account known as the Agriculture Conservation Easement Account.
- (2) The Agriculture Conservation Easement Account consists of:
  - (a) conservation easement stewardship fees;
  - (b) grants from private foundations;
  - (c) grants from local governments, the state, or the federal government;
  - (d) grants from the Land Conservation Board created under Section 4-46-201;
  - (e) donations from landowners for monitoring and enforcing compliance with conservation easements;
  - (f) donations from any other person; and
  - (g) interest on account money.
- (3) Upon appropriation by the Legislature, the department shall use money from the account to monitor and enforce compliance with conservation easements held by the department.
- (4) The department may not receive or expend donations from the account to acquire conservation easements.

Enacted by Chapter 528, 2023 General Session

**Part 4**  
**Division of Conservation**

**4-46-401 Division of Conservation created -- Director.**

- (1) Within the department there is created the Division of Conservation.
- (2)
  - (a) The director is the executive and administrative head of the division.
  - (b) The director shall administer this part subject to the administration and general supervision of the commissioner.
- (3) The division shall coordinate state conservation efforts by:
  - (a) staffing the board created in Section 4-46-201;
  - (b) coordinating with a conservation district in accordance with Section 4-46-402;
  - (c) coordinating with an agency or division within the department, the Department of Natural Resources, other state agencies, counties, cities, towns, local land trust entities, and federal agencies;
  - (d) facilitating obtaining federal funds in addition to state funds used for state conservation efforts;
  - (e) monitoring and providing for the management of conservation easements on state lands, including coordination with the Division of Wildlife Resources in the Division of Wildlife Resources' administration of Section 23A-3-204; and
  - (f) implementing rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 4-46-403.
- (4) The division may cooperate with, or enter into agreements with, other agencies of this state and federal agencies in the administration and enforcement of this chapter.

Amended by Chapter 34, 2023 General Session

**4-46-402 Training -- Coordination with conservation districts.**

- (1) The division shall provide training to the conservation commission concerning:
  - (a) funding state conservation efforts; and
  - (b) coordinating state conservation efforts.
- (2) The division shall work with the conservation commission in coordinating with a conservation district.

Enacted by Chapter 68, 2022 General Session

**4-46-403 Conservation rules.**

The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- (1) establish requirements for the training described in Section 4-46-402; and
- (2) establish the procedures the division shall follow in coordinating state conservation efforts.

Enacted by Chapter 68, 2022 General Session