

FIRST REGULAR SESSION

HOUSE BILL NO. 1366

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE TAYLOR (48).

2918H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 252.300, 252.303, 252.306, 252.309, 252.312, 252.315, 252.318, 252.321, 252.324, 252.327, 252.330, 252.333, and 640.030, RSMo, and to enact in lieu thereof one new section relating to agroforestry.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 252.300, 252.303, 252.306, 252.309, 252.312, 252.315, 252.318, 252.321, 252.324, 252.327, 252.330, 252.333, and 640.030, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 640.030, to read as follows:

640.030. The department of natural resources and the department of conservation shall develop an interagency plan and execute an interagency agreement regarding the application and use of any portion of funds authorized for the respective departments by provisions of the Constitution, taking into consideration the purposes for which the voters approved the funds and the extent to which expenditures under the provisions of ~~[sections 252.300 to 252.333, or]~~ sections 620.552 to 620.574~~;~~ accomplish such purposes. Such interagency agreements shall not be subject to legislative review or oversight and are not rules within the meaning of any law providing for review by the general assembly or any committee thereof.

~~[252.300. 1. Sections 252.300 to 252.333 shall be known and may be cited as "The Missouri Economic Diversification and Afforestation Act of 1990".~~

~~2. It is the intent of sections 252.300 to 252.333 to address environmental, economic, and social programs with a long term, integrated strategy that will result in soil conservation, improved water and air quality,~~

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

7 ~~enhanced wildlife habitat, increased job opportunities, and reduced social~~
8 ~~problems, to the benefit of all citizens of the state of Missouri.]~~

2 ~~[252.303. The department may develop and implement, in cooperation~~
3 ~~with the University of Missouri college of agriculture, the University of~~
4 ~~Missouri center for agroforestry, the University of Missouri extension service,~~
5 ~~the Missouri department of natural resources, private industry councils and the~~
6 ~~Missouri department of agriculture, an agroforestry program. The program~~
7 ~~shall be designed to encourage the development of a state program of~~
8 ~~agroforestry, and shall encourage soil conservation and diversifications of the~~
9 ~~state's agricultural base through the use of trees planted in an agroforestry~~
10 ~~configuration to accommodate alley cropping, forested riparian buffers,~~
~~silvopasture and windbreaks.]~~

2 ~~[252.306. As used in sections 252.300 to 252.333, the following terms~~
3 ~~shall mean:~~

4 ~~(1) "Alley cropping", planting rows of trees at wide spacings and~~
5 ~~cropping the alleyways;~~

6 ~~(2) "Conservation reserve program", the conservation reserve program~~
7 ~~authorized by the Federal Food Security Act of 1985, as amended, (Title XII,~~
8 ~~P.L. 99-198), or its successor program;~~

9 ~~(3) "Department", the Missouri department of conservation;~~

10 ~~(4) "Director", the director of the Missouri department of~~
11 ~~conservation;~~

12 ~~(5) "Eligible land", agricultural land which is susceptible to soil~~
13 ~~erosion that has a recent cropping history, marginal pastureland, land~~
14 ~~surrounding livestock enclosures and riparian zones;~~

15 ~~(6) "Eligible practices", single or multiple rows of trees, alone or~~
16 ~~combined with other plants such as grass, conventional row crops or~~
17 ~~horticulture crops, and animals located at intervals of distance within or~~
18 ~~around fields, around livestock enclosures, and along streams and rivers,~~
19 ~~specifically designed to provide production and environmental enhancement~~
20 ~~benefits in accordance with the practices identified in section 252.303;~~

21 ~~(7) "Enhancement phase", the period of time, not to exceed ten years,~~
22 ~~immediately following the establishment phase, during which payments are~~
23 ~~made by the state of Missouri to landowners who use their eligible land for~~
24 ~~agroforestry purposes as required by the department;~~

25 ~~(8) "Establishment phase", the period of time during which eligible~~
26 ~~land is being prepared for planting trees and developing agroforestry practices,~~
27 ~~as determined by the director of the department;~~

28 ~~(9) "Forested riparian buffers", a combination of trees and other~~
29 ~~vegetation established parallel to streams and rivers;~~

30 ~~(10) "Silvopasture", combining trees with forage and livestock;~~

31 ~~(11) "Windbreaks", planting single or multiple rows of trees for~~
~~protection and enhanced production of crops and animals.]~~

2 ~~[252.309. 1. The director may enter into agreements with individual~~
~~landowners to make incentive payments during the enhancement phase to~~

3 landowners. Recipients of such payments shall utilize the land for which such
4 payment is made for agroforestry purposes as required by the director pursuant
5 to sections 252.300 to 252.333.

6 2. The amount of state incentive payment made to a landowner per
7 acre of eligible land shall be an amount which, when added to any cash or in-
8 kind net income produced by crops raised on the land, is substantially equal to
9 the amount per acre previously paid or which would have been paid to the
10 landowner under the federal conservation reserve program.

11 3. If an application made pursuant to section 252.315 is approved by
12 the director, the director shall develop a schedule of annual payments to be
13 made by the state.

14 4. The state shall not make any payment to a landowner to maintain
15 the use of eligible land during the enhancement phase for agroforestry
16 purposes after ten years have elapsed since the first such incentive payment is
17 made.]

2 [252.312. The state payments provided for in sections 252.309,
3 252.330, and 252.333 may be made from funds available to the department of
4 conservation, soil conservation funds made available by the department of
5 natural resources from the tax imposed by Sections 47(a), 47(b) and 47(c) of
6 Article IV of the Constitution of Missouri, funds appropriated by the general
7 assembly for that purpose, grants, bequests or gifts, or any combination
thereof.]

2 [252.315. 1. To participate in the program, the landowner shall make
3 application to the director in writing. The written application shall show the
4 number of acres to be placed in the program and that the land which is to be
5 placed in the agroforestry program meets the eligibility requirements of this
6 section. The application shall also contain a detailed plan of the landowner's
7 proposal to meet the requirements of sections 252.300 to 252.333, including
8 the type and number of trees to be planted, established, or managed, the type
9 of compatible grass, other crops and such other information as may be deemed
10 necessary. The number of trees required to satisfy eligibility may vary with
11 agroforestry practice, but in each case shall be a sufficient number to guarantee
12 the success of the practice and shall be consistent with standards established
for each practice.

13 2. The director shall review each application. In reviewing the
14 application the director shall determine the type or types of soil located in the
15 area of the land proposed to be included in the agroforestry program and shall
16 apply the land capability classification system to determine the potential or
17 limitations of the land for inclusion in the program. Before the director acts
18 upon the application, an on-site inspection shall be made by a representative of
19 the department of conservation or its approved agent. The inspecting
20 representative shall attest to the efficacy of the agroforestry plan to be used,
21 the number of acres to be placed under agroforestry management, the species
22 and number of trees to be planted, established, or managed, and other crop
23 components of the proposed program. After the report of the on-site inspector
24 and the review by the director, the director shall determine the landowner's

25 eligibility to participate in the agroforestry program and shall determine the
 26 amount of cost sharing, including in kind and labor components, for the
 27 landowner. If the director fails to approve an application, the aggrieved
 28 landowner may request a hearing before the conservation commission or its
 29 authorized representative within thirty days of notice to the landowner of the
 30 failure of the conservation department to approve the application, or the
 31 landowner may proceed under the provisions of section 536.150 as if the act of
 32 the conservation department was one not subject to administrative review. If
 33 an action is brought pursuant to section 536.150, venue shall be in Cole
 34 County.]

2 [252.318. 1. All land participating in the agroforestry program shall
 3 be inspected annually by a representative of the director, to ensure that the land
 4 continues to comply with the requirements of sections 252.300 to 252.333 and
 5 that practice specifications are being maintained in accordance with applicable
 6 rules and regulations.

7 2. If the annual inspection determines that the land is no longer in
 8 compliance with the provisions of sections 252.300 to 252.333 or with the
 9 rules and regulations promulgated pursuant to the provisions of sections
 10 252.300 to 252.333, the director shall notify the landowner of that fact and
 11 shall detail the specifics in which the land fails to meet the requirements. The
 12 landowner may respond to the notice within thirty days of receipt, either by
 13 contesting the inspection report or by providing the director with a proposal to
 14 correct the problems which form the basis of the notice. If the landowner
 15 contests the findings of the annual inspection, the aggrieved landowner may
 16 request a hearing before the conservation commission or its authorized
 17 representative or the landowner may proceed under the provisions of section
 18 536.150, as if the act of the conservation department was one not subject to
 19 administrative review. If an action is brought pursuant to section 536.150,
 20 venue shall be in Cole County. If the landowner provides the director with a
 21 proposal to correct the problems which form the basis of the notice, the
 22 director shall review the proposal and, if the director finds such proposal
 23 acceptable, shall allow the landowner to implement the proposal to correct the
 24 alleged problems and shall not suspend the annual payment to the landowner
 25 under the provisions of sections 252.300 to 252.333. If the landowner is
 26 unable or unwilling to correct the alleged problems in a manner acceptable to
 27 the director, the landowner shall not receive the subsequent payments due
 under the provisions of sections 252.300 to 252.333.]

2 [252.321. The University of Missouri center for agroforestry and
 3 extension service, in consultation with the director, shall establish agroforestry
 4 demonstration areas, and develop and deliver the educational components of
 sections 252.300 to 252.333.]

2 [252.324. 1. The director may promulgate rules and regulations
 3 necessary to carry out the provisions of sections 252.300 to 252.333. Before
 4 promulgating any such rule, the director shall seek the advice and comments of
 the University of Missouri college of agriculture, the University of Missouri

5 center for agroforestry, the University of Missouri extension service, the
 6 Missouri department of natural resources, private industry councils, the
 7 Missouri department of economic development and the Missouri department
 8 of agriculture. The director may seek advice and comments before
 9 promulgating rules and regulations from the United States Department of
 10 Agriculture and any other entities deemed advisable by the director. No rule or
 11 portion of a rule promulgated under the authority of this chapter shall become
 12 effective unless it has been promulgated pursuant to the provisions of chapter
 13 536.

14 2. The Missouri department of conservation may contract with the
 15 division of soil and water conservation of the Missouri department of natural
 16 resources for any administrative functions required under the provisions of
 17 sections 252.300 to 252.333.]

2 [252.327. 1. The department of conservation and the department of
 3 economic development and the University of Missouri college of agriculture
 4 shall, by each of the dates specified in subsection 2 of this section, jointly
 5 produce a report on the agroforestry program which:

6 (1) Provides a status report on the afforestation aspects of the
 7 agroforestry program by presenting a forecast of anticipated economic
 8 developments from the afforestation in the state as a result of the
 9 agroforestry program;

10 (2) Suggests public or private sector initiatives that will potentially
 11 serve to maximize the economic benefits for related new development and
 12 expansion of existing businesses resulting from the agroforestry program;

13 (3) Suggests methods to promote the development of wood and other
 14 forestry related products;

15 (4) Suggests public or private sector initiatives or methods which will
 16 result in significant increases in job opportunities and employment.

17 2. The report shall be submitted to the governor and to the general
 18 assembly by January thirty-first of each of the following years: 1996, 2001,
 2006, 2011, 2016, 2021, and 2026.]

2 [252.330. During the establishment phase, the director may pay for the
 3 planting of trees on eligible land which is used for agroforestry pursuant to
 4 sections 252.300 to 252.333. Such payment shall be limited to expenses which
 5 are determined to be reasonable and necessary by the director, but shall not
 exceed seventy five percent of the cost of establishment.]

2 [252.333. The director may make incentive payments for agroforestry
 3 purposes of land enrolled in this program. The duration of such payments
 4 shall not exceed ten years. The director may also expend funds to plant trees
 5 on such land. Such expenditures may include both planting and associated
 practices as determined by the director.]