

SECOND REGULAR SESSION

HOUSE BILL NO. 2267

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE TAYLOR (48).

4540H.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252.306, 252.309, 252.312, 252.315, 252.318, 252.321, 252.324, 252.327, 252.330, 252.333, and 640.030, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 640.030, to read as follows: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
shall mean:

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

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

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

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

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

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

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

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

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

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

30 (11) "Windbreaks", planting single or multiple rows of trees for
31 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.]