

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 368
96TH GENERAL ASSEMBLY

Reported from the Committee on Agriculture, Food Production and Outdoor Resources, March 17, 2011, with recommendation that the Senate Committee Substitute do pass.

1702S.02C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 60.510, 60.530, 60.540, 60.550, 60.560, 60.580, 60.590, 60.595, 60.600, 60.610, 60.620, 60.653, 60.670, 261.023, and 640.010, RSMo, and to enact in lieu thereof fifteen new sections relating to the state land survey program, with existing penalty provisions.

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

Section A. Sections 60.510, 60.530, 60.540, 60.550, 60.560, 60.580, 60.590, 60.595, 60.600, 60.610, 60.620, 60.653, 60.670, 261.023, and 640.010, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 60.510, 60.530, 60.540, 60.550, 60.560, 60.580, 60.590, 60.595, 60.600, 60.610, 60.620, 60.653, 60.670, 261.023, and 640.010, to read as follows:

60.510. The functions, duties and responsibilities of the department of [natural resources] **agriculture** shall be as follows:

(1) To restore, maintain, and preserve the land survey monuments, section corners, and quarter section corners established by the United States public land survey within Missouri, together with all pertinent field notes, plats and documents; and also to restore, establish, maintain, and preserve other boundary markers considered by the department of [natural resources] **agriculture** to be of importance, or otherwise established by law;

(2) To design and cause to be placed at established public land survey corner sites, where practical, substantial monuments permanently indicating, with words and figures, the exact location involved, but if such monuments cannot be placed at the exact corner point, then witness corners of similar design shall be placed as near by as possible, with words and figures indicating the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 bearing and distance to the true corner;

15 (3) To establish, maintain, and provide safe storage facilities for a
16 comprehensive system of recordation of information respecting all monuments
17 established by the United States public land survey within this state, and such
18 records as may be pertinent to the department of [natural resources']
19 **agricultures'** establishment or maintenance of other land corners, Missouri state
20 coordinate system stations and accessories, and monuments in general;

21 (4) To extend throughout this state a triangulation and leveling net of
22 precision, whereby the Missouri state coordinate system, as established by section
23 60.400, may be made to cover to the necessary extent those areas of the state
24 which do not now have enough geodetic control stations to permit the general use
25 of the system by land surveyors and others;

26 (5) To collect and preserve information obtained from surveys made by
27 those authorized to establish land monuments or land boundaries, and to assist
28 in the proper recording of the same by the duly constituted county officials, or
29 otherwise;

30 (6) To furnish, upon reasonable request and tender of the required fees
31 therefor, certified copies of records created or maintained by the department of
32 [natural resources] **agriculture** which, when certified by the state land surveyor
33 or a designated assistant, shall be admissible in evidence in any court in this
34 state, as the original record;

35 (7) To prescribe, and disseminate to those engaged in the business of land
36 surveying, advisory regulations designed to assist in uniform and professional
37 surveying methods and standards in this state; and

38 (8) To select and appoint a state land surveyor, who shall be the chief
39 administrative officer of the [authority] **land survey program**, and who shall
40 hold office at the pleasure of the [authority] **director of the department of**
41 **agriculture**.

60.530. The state land surveyor shall, under guidance of the department
2 of [natural resources] **agriculture**, carry out the routine functions and duties of
3 the department of [natural resources] **agriculture**, as prescribed in sections
4 [60.500] **60.510** to 60.610. He shall, whenever practical, cause all land surveys,
5 except geodetic surveys, to be executed, under his direction by the registered
6 county surveyor or a local registered land surveyor when no registered county
7 surveyor exists. He shall perform such other work and acts as shall, in the
8 judgment of the department of [natural resources] **agriculture**, be necessary and

9 proper to carry out the objectives of sections [60.500] **60.510** to 60.610 and,
10 within the limits of appropriations made therefor and subject to the approval of
11 the department of [natural resources] **agriculture**, employ and fix the
12 compensation of such additional employees as may be necessary to carry out the
13 provisions of sections [60.500] **60.510** to 60.610.

60.540. The department of [natural resources] **agriculture** may acquire,
2 in the name of the state of Missouri, lands or interests therein, where necessary,
3 to establish permanent control stations; and may lease or purchase or acquire by
4 negotiation or condemnation, where necessary, land for the establishment of an
5 office of the department of [natural resources] **agriculture**. If condemnation is
6 necessary, the attorney general shall bring the suit in the name of the state in
7 the same manner as authorized by law for the acquisition of lands by the state
8 transportation department.

60.550. The custody and ownership of the original United States public
2 land survey corners and accessories, including all restoration and replacements
3 thereof and all accessories, belonging to the state of Missouri is hereby
4 transferred to the department of [natural resources] **agriculture**. The
5 department of [natural resources] **agriculture** shall see that the markers are
6 maintained, and the alteration, removal, disfiguration or destruction of any of the
7 corners or accessories, without specific permission of the department of [natural
8 resources] **agriculture**, is an act of destruction of state property and is a
9 misdemeanor. Any person convicted thereof shall be punished as provided by
10 law. Each of the several prosecuting attorneys is specifically directed to
11 prosecute for the violation of this section for any act of destruction which occurs
12 in his **or her** county.

60.560. Upon request, the state attorney general shall advise the
2 department of [natural resources] **agriculture** or the state land surveyor with
3 respect to any legal matter, and shall represent the department of [natural
4 resources] **agriculture or state land surveyor** in any proceeding in any court
5 of the state in which the [authority] **department or state land surveyor** shall
6 be a party.

60.580. The state land surveyor or any and all employees of the
2 department of [natural resources] **agriculture** have the right to enter upon
3 private property for the purpose of making surveys, or for searching for, locating,
4 relocating, or remonumenting land monuments, leveling stations, or section
5 corners. Should any of these persons necessarily damage property of the owner

6 in making the surveys or searches or remonumentations, the department of
7 [natural resources] **agriculture** may make reasonable payment for the damage
8 from funds available for that purpose. However, department of [natural
9 resources] **agriculture** employees are personally liable for any damage caused
10 by their wantonness, willfulness, or negligence. All department of [natural
11 resources] **agriculture** employees are immune from arrest for trespass in
12 performing their legal duties as stated in sections [60.500] **60.510** to 60.610.

60.590. 1. On request of the department of [natural resources]
2 **agriculture** or the state land surveyor, all city and county recorders of deeds,
3 together with all departments, boards or agencies of state government, county, or
4 city government, shall furnish to the department of [natural resources]
5 **agriculture** or the state land surveyor certified copies of desired records which
6 are in their custody. This service shall be free of cost when possible; otherwise,
7 it shall be at actual cost of reproduction of the records. On the same basis of cost,
8 the department of [natural resources] **agriculture** shall furnish records within
9 its custody to other agencies or departments of state, county or city, certifying
10 them.

11 2. The department of [natural resources] **agriculture** may produce,
12 reproduce and sell maps, plats, reports, studies, and records, and shall fix the
13 charge therefor. All income received shall be promptly deposited in the state
14 treasury to the credit of the department of [natural resources document]
15 **agriculture revolving** services fund.

60.595. 1. The "Department of [Natural Resources] **Agriculture**
2 Revolving Services Fund" is hereby created. All funds received by the department
3 of [natural resources] **agriculture** from the delivery of services and the sale or
4 resale of maps, plats, reports, studies, records and other publications and
5 documents by the department shall be credited to the fund. The director of the
6 department shall administer the fund. The state treasurer is the custodian of the
7 fund and [shall] **may** approve disbursements from the fund requested by the
8 director of the department. When appropriated, moneys in the fund shall be used
9 to purchase goods or services that will ultimately be used to reprint maps,
10 publications or other documents requested by governmental agencies or members
11 of the general public; to publish the maps, publications or other documents or to
12 purchase maps, publications or other documents for resale; and to pay shipping
13 charges, laboratory services, core library fees, workshops, conferences,
14 interdivisional cooperative agreements, but for no other purpose.

15 2. An unencumbered balance in the fund at the end of the fiscal year not
16 exceeding one million dollars is exempt from the provisions of section 33.080
17 relating to the transfer of unexpended balances to the general revenue fund.

18 3. The department of [natural resources] **agriculture** shall report all
19 income to and expenditures from such fund on a quarterly basis to the house
20 budget committee and the senate appropriations committee.

 60.600. Every employee of the department of [natural resources]
2 **agriculture** who is engaged in work required by law to be done by a registered
3 land surveyor [will] **shall** be so registered. No employee of the department of
4 [natural resources] **agriculture** shall engage in private land surveying or
5 consultation while employed by the department of [natural resources]
6 **agriculture**.

 60.610. Whenever the department of [natural resources] **agriculture**
2 deems it expedient, and when funds appropriated permit, the department of
3 [natural resources] **agriculture** may enter into any contract with agencies of the
4 United States, with agencies of other states, or with private persons, registered
5 land surveyors or professional engineers, in order to plan and execute desired
6 land surveys or geodetic surveys, or to plan and execute other projects which are
7 within the scope and purpose of sections [60.500] **60.510** to 60.610.

 60.620. 1. There is hereby created the "Land Survey Advisory
2 Committee", within the department of [natural resources] **agriculture**. The
3 committee shall consist of five members appointed by the director of the
4 department of [natural resources] **agriculture**. Members of the committee shall
5 hold office for terms of three years, but of the original appointments, two
6 members shall serve for one year, two members shall serve for two years, and one
7 member shall serve for three years.

8 2. The advisory committee shall consist of persons who reside in this state
9 and are not employed by the department of [natural resources]
10 **agriculture**. Three members shall be registered land surveyors, one of which
11 shall be a county surveyor. One member shall represent the real estate or land
12 title industry.

13 3. The advisory committee shall elect a chairman annually. The
14 committee shall meet semiannually and at other such times as called by the
15 chairman of the committee and shall have a quorum when at least three members
16 are present.

17 4. The advisory committee members shall serve without compensation but

18 shall be reimbursed for actual and necessary expenses incurred in the
19 performance of their official duties.

20 5. The advisory committee shall provide the director of the department of
21 [natural resources] **agriculture** with advice and counsel on the planning and
22 prioritization of the program and the design of regulations needed to carry out the
23 functions, duties, and responsibilities of the department of [natural resources]
24 **agriculture**.

25 6. The committee shall, at least annually, prepare a report, which shall
26 be available to the general public, of the review by the committee of the land
27 survey program, stating its findings, conclusions, and recommendations to the
28 director.

 60.653. 1. It shall be the duty of the recorder of deeds to maintain a copy
2 of all survey plats delivered to his custody in an appropriate file medium capable
3 of reproduction.

4 2. Survey plats shall be placed in the plat books or such other record
5 books as have been previously established.

6 3. A duplicate of the recorded survey plat shall be provided to the land
7 survey [division] **program** of the department of [natural resources] **agriculture**
8 at an amount not to exceed the actual cost of the duplicate.

9 4. The recorder shall maintain an index of all survey plats, subdivision
10 plats, and condominium plats by section, township, and range and by subdivision
11 or condominium name.

12 5. Copies of survey plats shall be evidence in all courts of justice when
13 properly certified under the hand and official seal of the recorder.

 60.670. 1. As used in this section, the following terms shall mean:

2 (1) "Cadastral parcel mapping", an accurately delineated identification of
3 all real property parcels. The cadastral map is based upon the USPLSS. For
4 cadastral parcel maps the position of the legal framework is derived from the
5 USPLSS, existing tax maps, and tax database legal descriptions, recorded deeds,
6 recorded surveys, and recorded subdivision plats;

7 (2) "Digital cadastral parcel mapping", encompasses the concepts of
8 automated mapping, graphic display and output, data analysis, and database
9 management as pertains to cadastral parcel mapping. Digital cadastral parcel
10 mapping systems consist of hardware, software, data, people, organizations, and
11 institutional arrangements for collecting, storing, analyzing, and disseminating
12 information about the location and areas of parcels and the USPLSS;

13 (3) "USPLSS" or "United States Public Land Survey System", a survey
14 executed under the authority of the United States government as recorded on the
15 official plats and field notes of the United States public land survey maintained
16 by the land survey program of the department of [natural resources]
17 **agriculture**;

18 (4) "Tax map", a document or map for taxation purposes representing the
19 location, dimensions, and other relevant information pertaining to a parcel of
20 land subject to property taxes.

21 2. The office of the state land surveyor established within the department
22 of [natural resources] **agriculture** shall promulgate rules and regulations
23 establishing minimum standards for digital cadastral parcel mapping. Any rule
24 or portion of a rule, as that term is defined in section 536.010, that is created
25 under the authority delegated in this section shall become effective only if it
26 complies with and is subject to all of the provisions of chapter 536 and, if
27 applicable, section 536.028. This section and chapter 536 are nonseverable and
28 if any of the powers vested with the general assembly pursuant to chapter 536 to
29 review, to delay the effective date, or to disapprove and annul a rule are
30 subsequently held unconstitutional, then the grant of rulemaking authority and
31 any rule proposed or adopted after August 28, 2010, shall be invalid and void.

32 3. Any map designed and used to reflect legal property descriptions or
33 boundaries for use in a digital cadastral mapping system shall comply with the
34 rules promulgated under this section, unless the party requesting the map
35 specifies otherwise in writing, the map was designed and in use prior to the
36 promulgation of the rules, or the parties requesting and designing the map have
37 already agreed to the terms of their contract on the effective date of the rules
38 promulgation.

261.023. 1. There is hereby created a department of agriculture to be
2 headed by a director of the department of agriculture to be appointed by the
3 governor, by and with the advice and consent of the senate. The director shall
4 possess the qualifications presently provided by law for the position of
5 commissioner of agriculture.

6 2. All powers, duties and functions now vested by law to the commissioner
7 of the department of agriculture and the department of agriculture, chapter 261
8 and others, are transferred by type I transfer to the director of the department
9 of agriculture and to the department of agriculture herein created.

10 3. The state horticultural society created by sections 262.010 and 262.020

11 is transferred by type I transfer to the department of agriculture.

12 4. All the powers, duties, and functions vested in the state milk board,
13 chapter 196, are transferred to the department of agriculture by type III
14 transfer. The appointed members of the board shall be nominated by the
15 department director, and appointed by the governor with the advice and consent
16 of the senate. The department of health and senior services shall retain the
17 powers, duties and functions assigned by chapter 196.

18 5. All the powers, duties, functions and properties of the state fruit
19 experiment station, chapter 262, are transferred by type I transfer to the
20 Southwest Missouri State University and fruit experiment station board of
21 trustees is abolished.

22 6. All the powers, duties and functions of the department of revenue
23 relating to the inspection of motor fuel and special fuel distributors, chapters 323
24 and 414, are transferred by type I transfer to the department of agriculture and
25 to the director of that department. The collection of the taxes provided in
26 chapters 142 and 136, however, shall be made by the department of revenue.

27 **7. All the powers, duties, and functions of the land survey**
28 **program of the department of natural resources are transferred to the**
29 **department of agriculture by type I transfer. In no case shall any cost**
30 **allocation plan charged to the land survey program be greater than the**
31 **cost allocation plan charged to any other program within the**
32 **department of agriculture.**

640.010. 1. There is hereby created a department of natural resources in
2 charge of a director appointed by the governor, by and with the advice and
3 consent of the senate. The director shall administer the programs assigned to the
4 department relating to environmental control and the conservation and
5 management of natural resources. The director shall coordinate and supervise
6 all staff and other personnel assigned to the department. He shall faithfully
7 cause to be executed all policies established by the boards and commissions
8 assigned to the department, be subject to their decisions as to all substantive and
9 procedural rules and his decisions shall be subject to appeal to the board or
10 commission on request of the board or commission or by affected parties. The
11 director shall recommend policies to the various boards and commissions assigned
12 to the department to achieve effective and coordinated environmental control and
13 natural resource conservation policies.

14 2. The director shall appoint directors of staff to service each of the policy

15 making boards or commissions assigned to the department. Each director of staff
16 shall be qualified by education, training and experience in the technical matters
17 of the board to which he is assigned and his appointment shall be approved by
18 the board to which he is assigned and he shall be removed or reassigned on their
19 request in writing to the director of the department. All other employees of the
20 department and of each board and commission assigned to the department shall
21 be appointed by the director of the department in accord with chapter 36, and
22 shall be assigned and may be reassigned as required by the director of the
23 department in such a manner as to provide optimum service, efficiency and
24 economy.

25 3. The air conservation commission, chapter 203 and others, the clean
26 water commission, chapter 204 and others, are transferred by type II transfer to
27 the department of natural resources. The governor shall appoint the members of
28 these bodies in accord with the laws establishing them, with the advice and
29 consent of the senate. The bodies hereby transferred shall retain all rulemaking
30 and hearing powers allotted by law, as well as those of any bodies transferred to
31 their jurisdiction. All the powers, duties and functions of the state environmental
32 improvement authority, chapter 260 and others, are transferred by type III
33 transfer to the air conservation commission. All the powers, duties and functions
34 of the water resources board, chapter 256 and others, are transferred by type I
35 transfer to the clean water commission and the board is abolished. No member
36 of the clean water commission shall receive or shall have received, during the
37 previous two years from the date of his appointment, a significant portion of his
38 income directly or indirectly from permit holders or applicants for a permit under
39 the jurisdiction of the clean water commission. The state park board, chapter
40 253, is transferred to the department of natural resources by type I transfer.

41 4. All the powers, duties and functions of the state soil and water districts
42 commission, chapter 278 and others, are transferred by a type II transfer to the
43 department.

44 5. All the powers, duties and functions of the state geologist, chapter 256
45 and others, are transferred by type I transfer to the department of natural
46 resources. [All the powers, duties and functions of the state land survey
47 authority, chapter 60, are transferred to the department of natural resources by
48 type I transfer and the authority is abolished.] All the powers, duties and
49 functions of the state oil and gas council, chapter 259 and others are transferred
50 to the department of natural resources by type II transfer. The director of the

51 department shall appoint a state geologist who shall have the duties to supervise
52 and coordinate the work formerly done by the departments or authorities
53 abolished by this subsection, and shall provide staff services for the state oil and
54 gas council.

55 6. All the powers, duties and functions of the land reclamation
56 commission, chapter 444 and others, are transferred to the department of natural
57 resources by type II transfer. All necessary personnel required by the commission
58 shall be selected, employed and discharged by the commission. The director of
59 the department shall not have the authority to abolish positions.

60 7. The functions performed by the division of health in relation to the
61 maintenance of a safe quality of water dispensed to the public, sections 640.100
62 to 640.115, and others, and for licensing and regulating solid waste management
63 systems and plans are transferred by type I transfer to the department of natural
64 resources.

65 8. (1) The state interagency council for outdoor recreation, chapter 258,
66 is transferred to the department of natural resources by type II transfer. The
67 council shall consist of representatives of the following state agencies:
68 department of agriculture; department of conservation; office of administration;
69 department of natural resources; department of economic development;
70 department of social services; department of transportation; and the University
71 of Missouri.

72 (2) The council shall function as provided in chapter 258, except that the
73 department of natural resources shall provide all staff services as required by the
74 council notwithstanding the provisions of sections 258.030 and 258.040, and all
75 personnel and property of the council are hereby transferred by type I transfer
76 to the department of natural resources and the office of executive secretary to the
77 council is abolished.

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