

FIRST REGULAR SESSION

# HOUSE BILL NO. 797

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES KORMAN (Sponsor) AND CAUTHORN (Co-sponsor).

1950L.011

D. ADAM CRUMBLISS, Chief Clerk

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### 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.

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*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60.550, 60.560, 60.580, 60.590, 60.595, 2 60.600, 60.610, 60.620, 60.653, 60.670, 261.023, and 640.010, RSMo, are repealed and fifteen 3 new sections enacted in lieu thereof, to be known as sections 60.510, 60.530, 60.540, 60.550, 4 60.560, 60.580, 60.590, 60.595, 60.600, 60.610, 60.620, 60.653, 60.670, 261.023, and 640.010, 5 to read as follows:

60.510. The functions, duties and responsibilities of the department of [natural 2 resources] **agriculture** shall be as follows:

3 (1) To restore, maintain, and preserve the land survey monuments, section corners, and 4 quarter section corners established by the United States public land survey within Missouri, 5 together with all pertinent field notes, plats and documents; and also to restore, establish, 6 maintain, and preserve other boundary markers considered by the department of [natural 7 resources] **agriculture** to be of importance, or otherwise established by law;

8 (2) To design and cause to be placed at established public land survey corner sites, where 9 practical, substantial monuments permanently indicating, with words and figures, the exact 10 location involved, but if such monuments cannot be placed at the exact corner point, then witness 11 corners of similar design shall be placed as near by as possible, with words and figures indicating 12 the bearing and distance to the true corner;

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.

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

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

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

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

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

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

60.530. The state land surveyor shall, under guidance of the department of [natural  
2 resources] **agriculture**, carry out the routine functions and duties of the department of [natural  
3 resources] **agriculture**, as prescribed in sections [60.500] **60.510** to 60.610. He shall, whenever  
4 practical, cause all land surveys, except geodetic surveys, to be executed, under his direction by  
5 the registered county surveyor or a local registered land surveyor when no registered county  
6 surveyor exists. He shall perform such other work and acts as shall, in the judgment of the  
7 department of [natural resources] **agriculture**, be necessary and proper to carry out the objectives  
8 of sections [60.500] **60.510** to 60.610 and, within the limits of appropriations made therefor and  
9 subject to the approval of the department of [natural resources] **agriculture**, employ and fix the  
10 compensation of such additional employees as may be necessary to carry out the provisions of  
11 sections [60.500] **60.510** to 60.610.

60.540. The department of [natural resources] **agriculture** may acquire, in the name of  
2 the state of Missouri, lands or interests therein, where necessary, to establish permanent control  
3 stations; and may lease or purchase or acquire by negotiation or condemnation, where necessary,

4 land for the establishment of an office of the department of [natural resources] **agriculture**. If  
5 condemnation is necessary, the attorney general shall bring the suit in the name of the state in  
6 the same manner as authorized by law for the acquisition of lands by the state transportation  
7 department.

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

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

60.580. The state land surveyor or any and all employees of the department of [natural  
2 resources] **agriculture** have the right to enter upon private property for the purpose of making  
3 surveys, or for searching for, locating, relocating, or remonumenting land monuments, leveling  
4 stations, or section corners. Should any of these persons necessarily damage property of the  
5 owner in making the surveys or searches or remonumentations, the department of [natural  
6 resources] **agriculture** may make reasonable payment for the damage from funds available for  
7 that purpose. However, department of [natural resources] **agriculture** employees are personally  
8 liable for any damage caused by their wantonness, willfulness, or negligence. All department  
9 of [natural resources] **agriculture** employees are immune from arrest for trespass in performing  
10 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] **agriculture** or the state  
2 land surveyor, all city and county recorders of deeds, together with all departments, boards or  
3 agencies of state government, county, or city government, shall furnish to the department of  
4 [natural resources] **agriculture** or the state land surveyor certified copies of desired records  
5 which are in their custody. This service shall be free of cost when possible; otherwise, it shall  
6 be at actual cost of reproduction of the records. On the same basis of cost, the department of

7 [natural resources] **agriculture** shall furnish records within its custody to other agencies or  
8 departments of state, county or city, certifying them.

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

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

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

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

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

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

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

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

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

4. The advisory committee members shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

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

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

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

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

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

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

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

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

(1) "Cadastral parcel mapping", an accurately delineated identification of all real property parcels. The cadastral map is based upon the USPLSS. For cadastral parcel maps the

4 position of the legal framework is derived from the USPLSS, existing tax maps, and tax database  
5 legal descriptions, recorded deeds, recorded surveys, and recorded subdivision plats;

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

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

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

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

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

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

5 2. All powers, duties and functions now vested by law to the commissioner of the  
6 department of agriculture and the department of agriculture, chapter 261 and others, are

7 transferred by type I transfer to the director of the department of agriculture and to the  
8 department of agriculture herein created.

9           3. The state horticultural society created by sections 262.010 and 262.020 is transferred  
10 by type I transfer to the department of agriculture.

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

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

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

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

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

12           2. The director shall appoint directors of staff to service each of the policy making  
13 boards or commissions assigned to the department. Each director of staff shall be qualified by  
14 education, training and experience in the technical matters of the board to which he is assigned

15 and his appointment shall be approved by the board to which he is assigned and he shall be  
16 removed or reassigned on their request in writing to the director of the department. All other  
17 employees of the department and of each board and commission assigned to the department shall  
18 be appointed by the director of the department in accord with chapter 36, and shall be assigned  
19 and may be reassigned as required by the director of the department in such a manner as to  
20 provide optimum service, efficiency and economy.

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

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

37 5. All the powers, duties and functions of the state geologist, chapter 256 and others, are  
38 transferred by type I transfer to the department of natural resources. [All the powers, duties and  
39 functions of the state land survey authority, chapter 60, are transferred to the department of  
40 natural resources by type I transfer and the authority is abolished.] All the powers, duties and  
41 functions of the state oil and gas council, chapter 259 and others are transferred to the department  
42 of natural resources by type II transfer. The director of the department shall appoint a state  
43 geologist who shall have the duties to supervise and coordinate the work formerly done by the  
44 departments or authorities abolished by this subsection, and shall provide staff services for the  
45 state oil and gas council.

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

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

55           8. (1) The state interagency council for outdoor recreation, chapter 258, is transferred  
56 to the department of natural resources by type II transfer. The council shall consist of  
57 representatives of the following state agencies: department of agriculture; department of  
58 conservation; office of administration; department of natural resources; department of economic  
59 development; department of social services; department of transportation; and the University of  
60 Missouri.

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

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