

SECOND REGULAR SESSION

# HOUSE BILL NO. 2833

101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WEBER.

5690H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 278.070, 278.080, and 278.120, RSMo, and to enact in lieu thereof three new sections relating to Missouri healthy soils.

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

Section A. Sections 278.070, 278.080, and 278.120, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 278.070, 278.080, and 278.120,  
3 to read as follows:

278.070. As used in sections 278.060 to 278.300, the following words and terms  
2 mean:

3 (1) "Board of soil and water district supervisors" or "soil and water supervisors", the  
4 local governing body of a soil and water district, elected or appointed in accordance with the  
5 provisions of this law;

6 (2) "Healthy soils practices", agricultural practices that:

7 (a) Improve the health of soils including, but not limited to, consideration of  
8 depth of topsoil horizons, water infiltration rate, water holding capacity, organic matter  
9 content, biologically accessible nutrient content, bulk density, biological activity, and  
10 biological and microbiological diversity;

11 (b) Follow the principles of:

12 a. Keeping soil covered;

13 b. Minimizing soil disturbance and external inputs;

14 c. Maximizing biodiversity;

15 d. Maximizing presence of living roots;

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.

16 e. **Integrating animals into land management including, but not limited to,**  
17 **grazing animals, birds, or beneficial insects or keystone species such as earthworms;**  
18 **and**

19 f. **Incorporating the context of local conditions in decision-making such as soil**  
20 **type, topography, and time of year;**

21 (c) **Are achieved through conservation tillage or no-till, cover-cropping,**  
22 **perennialization of highly erodible land, precision nitrogen and phosphorous**  
23 **application, managed grazing, integrated crop-livestock systems, silvopasture,**  
24 **agroforestry, perennial crops, integrated pest management, or nutrient best**  
25 **management practices; and**

26 (d) **Are recommended by the United States Department of Agriculture Natural**  
27 **Resources Conservation Service Field Office Technical Guide that are supported by the**  
28 **department of natural resources;**

29 (3) "Land representative", the owner or representative authorized by power of  
30 attorney of any farm lying within any area proposed to be established, and subsequently  
31 established, as a soil and water district under the provisions of ~~[this law]~~ **sections 278.060 to**  
32 **278.155**, and for the purposes of sections 278.060 to 278.155 each such farm shall be entitled  
33 to representation by a land representative; provided, however, that any land representative  
34 must be a taxpayer of the county within which the soil and water district is located;

35 ~~[(3)]~~ (4) "Landowner", any person, firm or corporation who holds title to any lands  
36 lying within a district organized or to be organized under the provisions of this chapter. Any  
37 landowner may be represented by notarized proxy not more than one year old;

38 ~~[(4)]~~ (5) "Soil and water conservation cost-share program", a state-funded incentive  
39 program designed for the purpose of saving, **protecting, and restoring** the soil and  
40 ~~[protecting the]~~ water ~~[resources]~~ **and improving soil health and watershed health** of the  
41 state to preserve **and enhance** the productive power of Missouri agricultural land;

42 ~~[(5)]~~ (6) "Soil and water conservation district" or "soil and water district", a county or  
43 one or more of its townships wherein a project for saving the soil and water **or improving**  
44 **soil health and watershed health** has been established with the authority and duty and  
45 subject to the restrictions herein set forth; and in establishing a soil and water district, if the  
46 proposed area is less than the area of the county which contains it, but greater than the area of  
47 one township, the additional township or townships to be included in such soil and water  
48 district need not be contiguous with the first township or with one another, but there shall be  
49 only one soil and water district within the boundaries of the same county; and any farm  
50 intersected by a soil and water district boundary shall be considered as lying within that  
51 district for purposes of soil and water conservation by that district, except that the soil and  
52 water conservation of a farm which lies partly within one soil and water district and partly

53 within another shall be considered the duty of the soil and water district in which the home  
54 buildings of such farm are located;

55 (7) **"Soil health", the overall composition of the soil, including the amount of**  
56 **organic matter in and water holding capacity of the soil and the continued capacity of**  
57 **soil to function as a vital living ecosystem that sustains plants, animals, and humans;**

58 ~~[(6)]~~ (8) "State soil and water districts commission" or "soil and water commission",  
59 the agency created by section 278.080 for the administration of the soil and water  
60 conservation districts provided for by sections 278.060 to 278.155;

61 ~~[(7)]~~ (9) "Subdistrict", "watershed", or "watershed district", as used in sections  
62 278.160 to 278.300, a watershed district, with the exception of section 278.160, whereby  
63 subdistrict is specifically used to describe the relationship to an established soil and water  
64 conservation district or districts that may be established as a watershed district;

65 ~~[(8)]~~ (10) "Township", municipal township and not congressional or survey township;

66 (11) **"Watershed health", the continued capacity of surface and groundwater**  
67 **ecosystem to function as a vital living ecosystem that is resilient to drought and storm**  
68 **events and that sustains plants, animals, and humans.**

278.080. 1. There is hereby established "The State Soil and Water Districts  
2 Commission" to administer for this state the soil and water conservation districts provided for  
3 by sections 278.060 to 278.300. The state soil and water districts commission shall formulate  
4 policies and general programs for the saving of Missouri soil and water **and improving soil**  
5 **and watershed health** by the soil and water conservation districts, and shall give  
6 consideration to the districts' needs based on their character~~[; and]~~. **The commission** shall  
7 receive and allocate or otherwise expend for the use or benefit of the soil and water  
8 conservation districts any funds appropriated by the general assembly for the use or benefit of  
9 such districts, including a soil and water conservation cost-share program~~[; and]~~. **The**  
10 **commission** shall receive and properly convey to the soil and water conservation districts any  
11 other form of aid extended to such districts by any other agency of this state, except that any  
12 money or other form of aid raised or provided within a soil and water district for the use or  
13 benefit of that soil and water district shall be received and administered by the governing  
14 body of that soil and water district~~[; and]~~. **The commission** shall exercise other authority  
15 conferred upon it and perform other duties assigned to it by sections 278.060 to 278.300~~[; and~~  
16 ~~and]~~. **The commission** shall be the administrative agency to represent this state in these and all  
17 other matters arising from the provisions of sections 278.060 to 278.300.

18 2. The state soil and water districts commission shall be composed of four ex officio  
19 members and six farmer members. The six farmer members shall be appointed by the  
20 governor of Missouri with the advice and consent of the senate. Three of the farmer members  
21 shall reside in the portion of this state which is north of the Missouri River and three of the

22 farmer members shall reside in the portion of this state which is south of the Missouri River.  
23 **At least three of the farmer members shall demonstrate competency in healthy soils**  
24 **practices.** The membership shall be geographically dispersed with no more than one of the  
25 farmer members appointed from a state senatorial district. Not more than four of the farmer  
26 members shall be from the same political party. The ex officio members shall be the director  
27 of the department of natural resources, the director of the department of agriculture, the  
28 director of the department of conservation, and the dean of the college of agriculture of the  
29 University of Missouri. Each of the six farmer members shall be holding legal title to a farm,  
30 and shall be earning at least the principal part of the member's livelihood from a farm, all at  
31 the time of appointment to the commission. The farmer members shall each be appointed for  
32 a period of three years. ~~[All members of the commission serving as of June 27, 2000, may~~  
33 ~~continue to serve the unexpired portion of the member's current term.]~~ There is no limitation  
34 on the number of terms that any of the farmer members appointed by the governor may serve.  
35 If any farmer member vacates ~~[his or her]~~ **such member's** term for any reason prior to the  
36 expiration of such term, the governor may appoint a farmer member to serve for the  
37 remainder of the unexpired term. Each member of the commission shall continue to serve  
38 until the member's successor has been duly appointed and qualified.

39 3. The state soil and water districts commission may call upon the attorney general of  
40 the state for such legal services as it may require.

41 4. At its first meeting in each calendar year, the state soil and water districts  
42 commission shall select from its current members a ~~[chairman]~~ **chair** and a vice ~~[chairman]~~  
43 **chair.** The ex officio members shall not have the power to vote on any matter before the  
44 commission. A quorum shall consist of four farmer members. For the determination of any  
45 matter within the commission's authority, at a meeting comprised of four farmer members, a  
46 concurrence of three shall be required. No business of the commission shall be executed in  
47 absence of a quorum. Each farmer member of the soil and water commission shall be entitled  
48 to expenses, including travel expenses, necessarily incurred in the discharge of ~~[his or her]~~  
49 **such member's** duties as a member of this commission. The state soil and water districts  
50 commission shall provide for the execution of surety bonds for all of its employees and  
51 officers who shall be entrusted with funds or property; shall provide for the keeping of a full  
52 and accurate record of all its proceedings and of all its resolutions, regulations, and orders  
53 issued or adopted; and shall provide for an annual audit of all its accounts of receipts and  
54 disbursements.

55 5. In addition to the authority and duty herein assigned to the state soil and water  
56 districts commission, it shall have the following authority and duty:

57 (1) To encourage the formation of soil and water conservation districts in areas where  
58 their establishment seems necessary and their administration seems feasible;

59 (2) To formulate and fix the rules and procedures for fair and impartial referendums  
60 on the establishing or disestablishment of soil and water districts and for fair and impartial  
61 selection of soil and water district supervisors;

62 (3) To receive petitions for the establishing of soil and water conservation districts as  
63 provided in section 278.100; to determine the validity of these petitions; to conduct hearings  
64 upon the subject of these petitions; to determine whether the establishment of a soil and water  
65 district as petitioned would be effective in the saving of soil and water within the proposed  
66 area, and whether a soil and water district if established could be feasibly administered; and,  
67 upon reaching a favorable conclusion on these matters, to call for a referendum on the  
68 establishing of the soil and water district as petitioned;

69 (4) To advise any soil and water conservation district in developing its program for  
70 saving the soil and water **and improving soil and watershed health, water quality,**  
71 **groundwater supply, storm water mitigation, flood control, drought resilience, and crop**  
72 **security** in order that such district may become eligible for any form of aid from state or  
73 federal sources;

74 (5) Subject to district allocations by the commission and other resources, to provide  
75 training, programs and other assistance to soil and water conservation districts to identify  
76 programs that respond to the character of the districts' needs;

77 (6) To obtain or accept the cooperation and financial, technical or material assistance  
78 of the United States or any of its agencies, and of this state or any of its agencies, for the work  
79 of such soil and water districts;

80 (7) To enter into agreements with the United States or any of its agencies on policies  
81 and general programs for the saving of Missouri soil and water **and improving soil and**  
82 **watershed health, water quality, groundwater supply, storm water mitigation, flood**  
83 **control, drought resilience, and crop security** by the extension of federal aid to any soil and  
84 water conservation district; to advise any soil and water conservation district; to advise any  
85 soil and water conservation district on the amount or kind of federal aid needed for the  
86 effective saving of soil and water in that district; to determine within the limits of available  
87 funds or other resources the amount or kind of state aid to be used for saving of soil and water  
88 **and improving soil and watershed health, water quality, groundwater supply, storm**  
89 **water mitigation, flood control, drought resilience, and crop security** in any soil and  
90 water conservation district; and to determine the withholding of state aid of any amount or  
91 kind from any soil and water conservation district that has failed to follow the policies of the  
92 state soil and water districts commission in any matter under the provisions of sections  
93 278.060 to 278.300;

94 (8) To give such other proper assistance as the soil and water commission may judge  
95 to be useful to any soil and water district in the saving of soil and water **and improving soil**

96 **and watershed health, water quality, groundwater supply, storm water mitigation, flood**  
97 **control, drought resilience, and crop security** in that district;

98 (9) To promulgate such rules and regulations as may be necessary to effectively  
99 administer a state-funded soil and water conservation cost-share program. Any rule or  
100 portion of a rule promulgated under the authority of sections 278.060 to 278.300 shall become  
101 effective only if it has been promulgated pursuant to the provisions of chapter 536.

102 6. Unless prohibited by any federal or state law, the commission may grant individual  
103 variances to any rule or regulation promulgated thereto, upon presentation of adequate proof,  
104 that compliance with sections 278.070 to 278.300, or any rule or regulation, standard,  
105 requirement, limitation or order of the commission will have an arbitrary and unreasonable  
106 impact on landowners participating in soil and water conservation eligible **and healthy soils**  
107 practices. The commission shall promulgate such rules, regulations and administrative  
108 guidelines as necessary to effectively administer this section.

278.120. 1. Any soil and water district organized under the provisions of ~~[this law]~~  
2 **sections 278.060 to 278.155** shall be a body corporate and shall possess only such powers as  
3 herein provided, but any such powers possessed by said body corporate shall be particularly  
4 limited by the following provisos: provided, that the private property of any land  
5 representative or owner of property in such soil and water district shall be exempt from  
6 execution for the debts of the body corporate or soil and water district and no land  
7 representative or owner of property within said soil and water district shall be liable or  
8 responsible for any debts of the body corporate or soil and water district, and provided  
9 further, that no property of any character, title to which is not vested in said soil and water  
10 district, or a soil and water district, as the case may be, shall ever be subject to any lien for  
11 any claim or judgment of or against said district, or a soil and water district as the case may  
12 be. Any soil and water district so organized shall be officially known and titled "The Soil and  
13 Water District of \_\_\_\_\_ County", and shall be so designated by the county commission by  
14 order of record, and in that name shall be capable of suing and being sued and of contracting  
15 and being contracted with.

16 2. A soil and water district through the board of soil and water district supervisors  
17 thereof shall have the following authority and duty in addition to other authority and duty  
18 granted in other sections of this law:

19 (1) To promote all reasonable measures for the saving of the soil and water **and**  
20 **improving soil and watershed health, water quality, groundwater supply, storm water**  
21 **mitigation, flood control, drought resilience, and crop security** within that soil and water  
22 district; and all such measures shall be in general agreement with those currently advocated  
23 by the college of agriculture of the University of Missouri for saving the productive power of  
24 Missouri farm land;

25 (2) To cooperate or enter into agreements with, and to aid within the limits of  
26 appropriations duly made available to it by law, any agency, government or otherwise, or any  
27 land representative within that soil and water district, in the saving of the soil and water **and**  
28 **improving soil and watershed health, water quality, groundwater supply, storm water**  
29 **mitigation, flood control, drought resilience, and crop security** within that district; and all  
30 such cooperations or agreements shall be in accord with the policies of the state soil and water  
31 districts commission; and any land representative of farm land within that soil and water  
32 district shall be eligible to enter into such cooperations or agreements with the soil and water  
33 supervisors; and no program or procedure of soil and water conservation shall be ordered or  
34 executed by the soil and water supervisors on any farm without the full consent and  
35 agreement of the land representative of that farm;

36 (3) To make available to any land representative within that soil and water district,  
37 through existing agencies if agreements with them seem feasible, or by such other feasible  
38 means as the supervisors shall prescribe, such services, materials, and equipment as will assist  
39 such land representatives to carry on operations for the saving of the soil and water;

40 (4) To accept grants, gifts, and contributions in money, services, or materials from the  
41 United States or any of its agencies, and to use or expend such grants, gifts or contributions in  
42 carrying on the soil and water district operations; and such use or expenditure shall be in  
43 accord with the policies of the state soil and water districts commission;

44 (5) To make and execute contracts and other legal instruments, necessary for the  
45 saving of the soil and water in that district, subject to approval by the state soil and water  
46 districts commission;

47 (6) To accept for the purpose of saving soil and water **and improving soil and**  
48 **watershed health, water quality, groundwater supply, storm water mitigation, flood**  
49 **control, drought resilience, and crop security** in that district, contributions in money,  
50 services or materials from any source not otherwise provided for herein, and to enter into such  
51 agreements with land representatives as will tend to prevent future wastage of the soil and  
52 water **and tend to ensure future improvement of the soil and watershed health, water**  
53 **quality, groundwater supply, storm water mitigation, flood control, drought resilience,**  
54 **and crop security** presently benefitted by these contributions.

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