

Regular Session, 2012

HOUSE BILL NO. 907

BY REPRESENTATIVES KATRINA JACKSON AND HENRY BURNS

FORESTRY: Provides relative to forests and forestry

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AN ACT

To amend and reenact R.S. 3:2(D), 4274.1, 4276, 4279(A), 4292, 4325, and 4326 and to repeal R.S. 3:4271(B), 4274(6), 4274.2, 4279(B) and (C), 4280, 4284 through 4289, 4290, 4291, 4293 through 4295, and 4302, relative to forests and forestry; to provide for cooperative endeavors; to provide for the powers and duties of the state forester; to provide for the duties of forestry officers; to provide for the clearing of combustible material; to provide for the instruction of forestry on certain days; to provide for a parish board of forestry; to provide for a forestry program; to repeal certain provisions for the protection and reforestation of lands; to repeal certain provisions relative to forest tree seedling nurseries; to repeal the provisions of acreage tax on certain forest lands; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 3:2(D), 4274.1, 4276, 4279(A), 4292, 4325, and 4326 are hereby amended and reenacted to read as follows:

§2. Creation, powers, and duties of Department of Agriculture and Forestry and the commissioner of agriculture and forestry

* * *

D. The Department of Agriculture and Forestry, through the office of forestry, may participate in cooperative endeavors with the federal government and with local governments in this state relating to the Federal Excess Property Program and the Firefighter Property Program for rural fire defense.

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1 §4274.1. Appointment of forestry officers; duties and powers

2 A. To ~~secure the protection of~~ provide for the protection of the assets,
3 property, personnel, and interests relating to forest woodlands, the state forester may
4 appoint and commission forestry officers who shall enforce the laws, rules, and
5 regulations for the protection of interests relating to forest woodlands, may carry
6 weapons concealed or exposed while in the performance of their duties, shall take
7 such action as is authorized by law, rule, or regulation to protect interests relating to
8 forest woodlands, and shall be vested with the same authority and powers conferred
9 by law upon regular law enforcement officers of this state with respect to issuing
10 civil citations for littering and with respect to criminal and other offenses affecting
11 the protection of interests relating to forest woodlands or affecting the performance
12 of their duties.

13 B. All forestry officers shall be Peace Officers Standard Training (P.O.S.T.)
14 certified.

15 C. Additionally, while on special assignment during any riot, insurrection,
16 or any natural disaster or while in protection of real property of the commission and
17 the property, assets, and resources of the office of forestry or the department, any
18 commissioned forestry officer shall possess all the powers and authority of regular
19 law enforcement officers of this state.

20 D. Upon the request of any regular law enforcement agency of this state,
21 forestry officers shall prevent and detect crime, apprehend criminals, enforce the
22 criminal and traffic laws of the state, keep the peace and good order in the state in
23 the enforcement of the state's police powers, and perform any other related duties
24 imposed upon them by the legislature.

25 * * *

26 §4276. Powers and duties of state forester

27 The state forester shall:

28 (1) Have direction of all forest interests and all matters pertaining to forestry
29 within the jurisdiction of the state.

1 (2) ~~Select and employ the personnel of the office of forestry.~~ Determine
2 annual goals, objectives, and priorities and conduct annual reviews per established
3 department protocol.

4 (3) ~~Superintend the office of forestry.~~ Serve as lead department liaison
5 responsible for the detection and rapid suppression of all forest wildfires in the state
6 including all state-owned and private forest lands and non-forested open areas
7 threatening forest lands.

8 (4) ~~Serve as secretary of the commission and be custodian of books, records,~~
9 ~~and papers of the commission and office of forestry.~~ Work with state cooperators
10 that may offer assistance during wildfire suppression efforts.

11 (5) Take such action as is authorized by law to prevent and extinguish forest
12 fires.

13 (6) Enforce laws pertaining to forest woodlands and recommend
14 prosecutions for violations.

15 (7) ~~Carry on educational work in the interest of forest conservation.~~ Act as
16 lead department liaison to educate and train industry professionals and the public on
17 matters vital to the long-term stability and sustainability of Louisiana's forests. Lead
18 and support programs that educate the public on the importance of forest resources
19 and their contribution to the economic health of the state, and the social and
20 recreational benefits derived from vibrant, healthy, working forests and the dynamic
21 ecosystems they support.

22 (8) Cooperate with and encourage private timber owners in laying plans to
23 protection, management, and the replacement of forests, and in aiding them to form
24 protective associations.

25 (9) ~~Examine all timbered lands belonging to the state and report to the~~
26 ~~commission upon their timber condition and actual value, and also whether some of~~
27 ~~these lands should be held as state forests.~~ Provide wildfire suppression training to
28 the office of forestry employees to National Wildfire Coordinating Group standards.

1 (10) ~~Be responsible for protection and management of lands donated to or~~
2 ~~purchased by the state for forestry preserves and all lands reserved as state forests.~~

3 Provide certified burner training.

4 (11) ~~Conduct forest research.~~ Serve as the lead department liaison
5 responsible for wildfire prevention education and training.

6 (12) ~~Prepare a biennial report of progress and conditions of state work in~~
7 ~~forestry to the commission and therein recommend plans for improving the state~~
8 ~~system of forest protection, management, and replacement.~~ Serve as the state liaison
9 for forest inventory and maintain statistically reliable forest inventory data that is
10 publicly accessible, if appropriated in the budget.

11 (13) Serve as lead department liaison responsible for compliance monitoring
12 related to adherence to forest practices mandated by law and voluntary best
13 management practices for forestry as established by the state of Louisiana.

14 (14) Establish an ongoing monitoring protocol that is stable, consistently
15 implemented, and reported to stakeholders/public on a biennial basis.

16 (15) Direct landowner assistance to encourage reforestation and sustainable
17 land management and make recommendations based on understanding landowner
18 objectives.

19 (16) Administer the Forest Productivity Program which provides reforestation
20 assistance.

21 * * *

22 §4279. Railroad and other public utilities' ~~rights-of-way~~ rights-of-way; clearing of
23 combustible material; fire lines; penalty

24 A. All persons owning or operating railroads, electric transmission lines, or
25 oil or gas pipe lines through forest lands within this state shall keep their ~~rights-of~~
26 ~~way~~ rights-of-way reasonably cleared of all combustible material and safely dispose
27 of the same within the limits of the ~~rights-of-way~~ rights-of-way ~~between the fifteenth~~
28 ~~of November and the fifteenth of April.~~ ~~In addition, whenever in the judgment of the~~
29 ~~commission any of the rights of way are not of sufficient width to constitute, when~~

1 ~~cleared, an adequate fire line, the commission may require the owners or operators~~
2 ~~thereof to enter upon forest, waste, or cut-over lands adjacent to the rights of way,~~
3 ~~and at not more than two hundred feet from the outer rail on both sides of the track~~
4 ~~in the case of a railway right of way, and not more than two hundred feet from the~~
5 ~~center of the right of way of a person owning or operating electric transmission lines~~
6 ~~or oil or gas pipe lines, to plough a furrow not less than three nor more than six feet~~
7 ~~in width, and to clear the strip lying between the furrow and the right of way in the~~
8 ~~same manner as required in case of the right of way. This requirement does not~~
9 ~~apply in the case of temporary spurs or railroads and tramroads, nor shall in any case~~
10 ~~lands in actual cultivation be entered upon in carrying out these requirements. does~~
11 ~~it prohibit any railroad company from piling or keeping upon the right-of-way, cross~~
12 ~~ties or other materials necessary for operation or maintenance of the railroad.~~
13 ~~However, any person thus required to plough a furrow is relieved of any~~
14 ~~responsibility for damages which the owner of the land may claim as a result thereof.~~

* * *

16 §4292. Instruction on forestry in public schools; Arbor Day

17 The Department of Education and the parish school boards shall ~~provide for~~
18 ~~proper courses of instruction by textbooks or lectures on the general subject of~~
19 ~~forestry in all public schools. They shall encourage the observance of Arbor Day by~~
20 ~~all public schools. and encourage participation in natural resource education~~
21 ~~programs such as Forestry Awareness, Forestry Skills, 4-H, FFA, and Project~~
22 ~~Learning Tree to promote learning about the natural environment and the~~
23 ~~opportunities and benefits it provides for all students.~~

* * *

25 §4325. Parish board of forestry; appointment and term; compensation

26 Upon approval by the commission and the state forester, the governing
27 authority of each parish cooperating ~~shall~~ may appoint a parish board of forestry. It
28 shall consist of one member of the governing authority of the parish, one
29 representative of the commission, two representatives of the forest products

1 industries presently in a managerial or executive capacity, and one representative of
2 the parish landowners. The last three named members shall serve for terms of three
3 years after the initial terms, of one, two, and three years. Appointments to fill
4 vacancies shall be for the unexpired term. The parish board serves without
5 compensation or per diem.

6 §4326. Supervision of forestry program; detailed plan

7 The state forester with the approval of the forestry commission ~~shall~~ may
8 administer and supervise the forestry program ~~within~~ in each parish. ~~It shall where~~
9 such programs may be established. ~~submit a detailed forestry program to the parish~~
10 ~~board for approval prior to instituting such a program. The detailed plan shall~~
11 ~~include the budget of proposed expenditures for forestry work in the parish affected.~~

12 * * *

13 Section 2. R.S. 3:4271(B), 4274(6), 4274.2, 4279(B) and (C), 4280, 4284 through
14 4289, 4290, 4291, 4293 through 4295, and 4302 are hereby repealed in their entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Katrina Jackson

HB No. 907

Abstract: Revises and repeals certain provisions relative forests and forestry.

Present law allows the office of forestry to participate in cooperative endeavors with federal and local government relating to the Federal Excess Property Program.

Proposed law adds the Firefighter Property Program as a possible partner in cooperative endeavors which the office of forestry may participate. Otherwise retains present law.

Present law provides for the state forester to appoint forestry officers to enforce laws, rules, and regulations for the protection of interests relating to forest woodlands. Further provides for the forestry officers to carry concealed or exposed weapons and be vested with the same authority and powers of regular law enforcement officers in the protection of forest woodlands.

Proposed law adds the protection of assets, property, and personnel to the duties of appointed and commissioned forest officers. Otherwise retains present law.

Present law provides for the powers and duties of the state forester.

Proposed law revises certain powers and duties in present law as follows:

The state forester shall:

- (1) Determine annual goals, objectives, and priorities and conduct annual reviews.
- (2) Serve as lead LDAF liaison responsible for the detection and rapid suppression of all forest wildfires on state-owned and private forest lands.
- (3) Work with state cooperators that may offer assistance during wildfire suppression.
- (4) Act a lead LDAF liaison to educate and train industry professionals and the public on matters vital to the long-term stability and sustainability of La. forests and the importance of forest resources to the economic health of the state.
- (5) Provide wildfire suppression training to office of forestry employees.
- (6) Provide certified burner training.
- (7) Serve as LDAF liaison responsible for wildfire prevention education and training.
- (8) Serve as state liaison for forest inventory and maintain statistical data.
- (9) Serve as lead LDAF liaison responsible for compliance monitoring related to adherence to forest practices mandated by law and voluntary best management practices for forestry.
- (10) Establish ongoing monitoring protocol that is stable, consistently implemented, and reported to stakeholders on a biennial basis.
- (11) Direct landowner assistance to encourage reforestation and sustainable land management and make recommendations based on landowner objectives.
- (12) Administer the Forest Productivity Program.

Present law requires owners or operators of railroads, electric transmission lines, or oil or gas pipe lines through state forests to keep their rights-of-way cleared of all combustible materials and dispose of the materials between November 15 and April 15. Further provides that the forestry commission may require owners or operators to plough and clear a furrow if the rights-of-way are not sufficient to constitute a fire line. Additionally releases any person required to plough a furrow from responsibility for damages which the owner of the land may claim.

Proposed law deletes the five-month time frame for the clearing of combustible material from rights-of-way by owners or operators of railroads, electric transmission lines, or oil or gas pipe lines. Allows any railroad company to keep upon the right-of-way cross ties or other materials necessary for operation or maintenance of the railroad. Also deletes the relief of responsibility for damages which a landowner may claim against a person required to plough a furrow. Otherwise retains present law.

Present law requires the Dept. of Education and parish school boards to provide for courses of instruction on the subject of forestry in all public schools. Further requires the department and school boards to encourage the observance of Arbor Day by all public schools.

Proposed law deletes the requirement that the Dept. of Education and parish school board provide for courses of instruction on the subject of forestry in all public schools. Additionally requires the department and school boards to encourage participation in certain natural resource education programs. Otherwise retains present law.

Present law provides that for every tree, 10 inches in diameter breast height or greater, that is cut down on public land or rights-of-way or under authority of a state agency, a minimum of two trees will be planted if there is adequate space and the trees were not removed for safety reasons. Further provides for the forestry commission to promulgate rules and regulations.

Proposed law repeals present law.

Present law provides for the powers and duties of the forestry commission to include preparing plans for executing laws relating to forestry, employing a state forester, directing the state forester in the work of the commission, budget preparation, cooperating with the federal government, making all expenditures in executing the forestry laws with commission approval, and maintaining the domiciled office in East Baton Rouge Parish.

Proposed law repeals the provision for making all expenditures in executing the forestry laws with approval of the commission. Otherwise retains present law.

Present law provides that any rules and regulations promulgated by the forestry commission for the collection of mayhaw berries in state forests shall be subject to legislative oversight. Further provides that the collection of mayhaw berries is not subject to public bid laws. Also provides that no person shall be charged a fee for or limited in quantity of mayhaw berries that can be collected.

Proposed law repeals present law.

Present law prohibits railroad employees from leaving a deposit of fire or live coals on its rights-of-way in the vicinity of woodland or lands subject to being overrun by fire. Further provides for immediate notification by railroad employees who discover material along rights-of-way that are burning. Additionally provides for such owners of railroads, transmissions lines or oil or gas lines to provide employees with instructions on fire prevention, prompt extinguishment, and placement of warning placards.

Proposed law repeals present law.

Present law prohibits any person from operating a locomotive or logging, portable or stationary engine which burns wood, coke, or coal within 200 feet of any grass, brush, or forest land unless the engine is equipped with an approved spark arrester and ask pan. Further allows the forestry commission to promulgate rules and regulations as necessary for the enforcement of present law. Additionally allows the commission to enter private premises in the enforcement of present law.

Proposed law repeals present law.

Present law allows the forestry commission to contract with any forest landowner who will agree to grow suitable and useful timber trees under the supervision of the commission.

Proposed law repeals present law.

Present law provides for any landowner to apply to the forestry commission to contract for reforestation of forest lands denuded of timber of which said application shall include certain specific information regarding quality of the land, location, and proper description, market cash, as well as assessed value of the land and plat. Further provides for duplicate application filing within the parish and submission of plan for planting of seedlings.

Proposed law repeals present law.

Present law provides for the inspection and valuation of certain lands for application purposes by the state forester and a designee of the parish governing authority to ascertain

value and suitability for timber growing, production, and culture; such written inspection report submitted to the forestry commission and parish governing authority. Further provides that no contract shall exist until such inspection is performed and cash value of land has been fixed by proper resolution of the parish governing authority as part of its permanent records. Additionally provides that the fixed value of the lands be accepted by the tax commission and parish assessor, which land shall be assessed yearly.

Proposed law repeals present law.

Present law provides that no written contract under the provisions for reforestation shall exceed 40 years. Further provides that no contract shall exist with any landowner where the average cash value per acre, exclusive of timber, is in excess of \$8. Provides that no contract shall exist with any landowner with a fixed cash value of land less than \$3 per acre.

Proposed law repeals present law.

Present law provides that a reforestation contract shall obligate the landowner to plant suitable and useful timber trees, to protect the land from fires, and to protect and maintain the trees in growing condition for duration of said contract. Further provides for an annual inspection at the landowners request. Additionally provides for restoration to the tax rolls of which timber will continue to be subject to severance taxes under provisions of present law.

Proposed law repeals present law.

Present law provides for cancellation of a reforestation contract should the landowner fail to maintain the land in accordance with provisions of said contract, at which time the land and any timbers shall be restored to assessment rolls and taxed the same as similar lands and timber. Further requires the landowner to pay the state and parish a certain sum equivalent to the difference between actual taxes paid and taxes which would have been levied upon non-contracted land, plus 6% interest.

Proposed law repeals present law.

Present law provides for an amendment to any existing reforestation contract between a landowner and the forestry commission by written agreement of both parties fixing the contract period not to exceed 40 years; pending the adoption of a resolution by the parish governing authority agreeing to the valuation of the contracted lands or jointly with the forestry commission by resolution fix the then cash value of said lands.

Proposed law repeals present law.

Present law prohibits any electric lighting or power company from attaching wires to any tree along any municipal street or any tree along any public highway of the state. Provides for a fine of not less than \$25 nor more than \$100 for each violation.

Proposed law repeals present law.

Present law allows the forestry commission to purchase La. land suitable for forest culture and for state forests for not more than an average of \$10 per acre. Provides that any surplus money for such purpose be credited to the forestry commission.

Proposed law repeals present law.

Present law requires landowners who sever or bleed forest lands for turpentine to leave standing and unbled an average of two seed trees per acre for every 10-acre plot of which seed tree is not less than 10 inches in diameter, four and a half feet from ground.

Proposed law repeals present law.

Present law provides that a violation of any prohibition relative to the protection and reforestation provisions, where a penalty has not otherwise been provided, shall be a fine of not less than \$25 and nor more than \$100, or imprisonment for not less than 30 days, or both.

Proposed law repeals present law.

Present law provides for rules and regulations for protection against fire applying to locomotives and other like machines. Further provides for certain spark arresters for coal burning and wood burning equipment, fireboxes, inspection recordkeeping, railroad employee duties, and ash pans.

Proposed law repeals present law.

Present law requires the forestry commission to furnish any landowner engaged in forest activities, seedlings at a fixed price from the commission's nurseries. Further provides for the revenue from seedling sales be retained by the commission for development and operation of nurseries for forestry research and experimentation, land acquisition, and general operations.

Proposed law repeals present law.

(Amends R.S. 3:2(D), 4274.1, 4276, 4279(A), 4292, 4325, and 4326; Repeals R.S. 3:4271(B), 4274(6), 4274.2, 4279(B) and (C), 4280, 4284-4289, 4290, 4291, 4293-4295, and 4302)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Agriculture, Forestry, Aquaculture, and Rural Development to the original bill.

1. Revised powers and duties of the state forester.
2. Allowed any railroad company to keep upon the right-of-way cross ties or other materials necessary for the operation or maintenance of the railroad.
3. Required the Dept. of Education and parish school boards to encourage participation in certain natural resource education programs.
4. Allowed the governing authority of each parish to appoint a parish board of forestry upon approval by the La. Forestry Commission and the state forester.
5. Allowed the state forester to administer and supervise a parish forestry program where established.