

## CHAPTER 375

## WATER POLLUTION CONTROL COMMISSION

## H. F. 412

AN ACT relating to water pollution control, to establish the Iowa water pollution control commission, and to make an appropriation therefor.

*Be It Enacted by the General Assembly of the State of Iowa:*

1     **SECTION 1. Statement of Policy.** Whereas the pollution of the  
2 waters of this state constitutes a menace to public health and welfare,  
3 creates public nuisances, is harmful to wildlife, fish and aquatic life,  
4 and impairs domestic, agricultural, industrial, recreational and other  
5 legitimate beneficial uses of water, and whereas the problem of water  
6 pollution in this state is closely related to the problem of water pollu-  
7 tion in adjoining states, it is hereby declared to be the public policy of  
8 this state to conserve the waters of the state and to protect, maintain  
9 and improve the quality thereof for public water supplies, for the  
10 propagation of wildlife, fish and aquatic life, and for domestic, agri-  
11 cultural, industrial, recreational and other legitimate (beneficial) uses;  
12 to provide that no waste be discharged into any waters of the state  
13 without first being given the degree of treatment necessary to protect  
14 the legitimate (beneficial) uses of such waters; to provide for the  
15 prevention, abatement and control of new, increasing, potential, or  
16 existing water pollution; and to cooperate with other agencies of the  
17 state, agencies of other states and the federal government in carrying  
18 out these objectives.

1     **SEC. 2.** When used in this Act:

- 2     1. "Sewage" means the water-carried waste products from resi-  
3 dences, public buildings, institutions, or other buildings, including the  
4 bodily discharges from human beings or animals together with such  
5 ground water infiltration and surface water as may be present.
- 6     2. "Industrial waste" means any liquid, gaseous or solid waste sub-  
7 stance resulting from any process of industry, manufacturing, trade  
8 or business or from the development of any natural resource.
- 9     3. "Other waste" means garbage, municipal refuse, lime, sand,  
10 ashes, offal, oil, tar, chemicals and all other substances which are not  
11 sewage or industrial waste which may pollute the waters of the state.
- 12     4. "Pollution" means the contamination of any waters of the state  
13 so as to create a nuisance or render such waters unclean, noxious or  
14 impure so as to be actually harmful, detrimental or injurious to public  
15 health, safety or welfare, to domestic, commercial, industrial, agri-  
16 cultural or recreational use or to livestock, wild animals, birds, fish or  
17 other aquatic life.
- 18     5. "Sewer system" means pipe lines or conduits, pumping stations,  
19 force mains and all other constructions, devices and appliances ap-  
20 pertenant thereto used for conducting sewage or industrial waste or  
21 other wastes to a point of ultimate disposal.
- 22     6. "Treatment works" means any plant, disposal field, lagoon, hold-  
23 ing or flow regulating basin, pumping station, or other works installed  
24 for the purpose of treating, stabilizing or disposing of sewage, indus-  
25 trial waste or other wastes.

26 7. "Disposal system" means a system for disposing of sewage, in-  
27 dustrial waste and other wastes and includes sewer systems, treatment  
28 works, and dispersal systems.

29 8. "Waters of the state" means all streams, lakes, ponds, marshes,  
30 watercourses, waterways, wells, springs, reservoirs, aquifers, irriga-  
31 tion systems, drainage systems, and all other bodies or accumulations  
32 of water, surface or underground, natural or artificial, public or pri-  
33 vate, which are contained within, flow through or border upon the  
34 state or any portion thereof.

35 9. "Person" means the state or any agency or institution thereof,  
36 any municipality, governmental subdivision, public or private corpora-  
37 tion, individual, partnership, or other entity and includes any officer  
38 or governing or managing body of any municipality, governmental  
39 subdivision or public or private corporation.

40 10. "Commission" means the Iowa water pollution control commis-  
41 sion.

1 SEC. 3. There is hereby created and established the Iowa water  
2 pollution control commission. The commission is established as an  
3 agency of the state government to prevent, abate, or control the pollu-  
4 tion of the waters of the state.

1 SEC. 4. The commission shall consist of nine (9) members as fol-  
2 lows:

3 1. The commissioner of public health.

4 2. The director of the state conservation commission.

5 3. The director of the Iowa natural resources council.

6 4. A member from the staff of one of the universities or colleges of  
7 the state who has technical background, training and knowledge in the  
8 field of water pollution.

9 5. The secretary of agriculture.

10 6. Four (4) electors of the state who shall be selected from the state  
11 at large solely with regard to their qualifications and fitness to dis-  
12 charge the duties of office without regard to their political affiliation.  
13 Of these four (4), one (1) shall represent industry, one (1) shall  
14 represent municipal government, one (1) shall be an owner-operator  
15 farmer, and one (1) shall represent the public at large.

1 SEC. 5. The members of the commission not holding public office  
2 shall be appointed by the governor for overlapping terms of six (6)  
3 years. The members of the first commission not holding public office  
4 shall be appointed for the following terms: two (2) electors for a  
5 term to expire July 1, 1967; two (2) electors for a term to expire  
6 July 1, 1969; and a member of one (1) of the state universities for a  
7 term to expire July 1, 1971. Said terms shall begin immediately upon  
8 the appointment. Thereafter the term of each member of the commis-  
9 sion shall be six (6) years.

1 SEC. 6. Any vacancy or vacancies on the commission which may  
2 occur shall be filled by appointment by the governor for the unexpired  
3 portion of the regular term.

4 The governor may remove any member of the commission for mal-  
5 feasance in office or for any cause that renders him ineligible for

6 membership or incapable or unfit to discharge the duties of his office  
7 and his removal when so made shall be final.

1 SEC. 7. Each member of the commission, not otherwise in the full-  
2 time employment of any public body, shall receive the sum of twenty-  
3 five (25) dollars for each day actually and necessarily employed in the  
4 discharge of official duties and each member of the commission shall  
5 be entitled to receive the amount of his traveling and other necessary  
6 expenses actually incurred while engaged in the performance of any  
7 official duties when so authorized by the commission. No member of  
8 the commission shall have any direct financial interest in any of the  
9 operations of the commission, nor may any member participate in  
10 making any decision in which he may have a personal interest.

1 SEC. 8. The commission shall organize by the election of a chair-  
2 man and other officers deemed necessary and the state department of  
3 health shall provide the services of a technical secretary to the com-  
4 mission and shall hold quarterly regular meetings each calendar year  
5 on the last Monday of each quarter and at such other times and places  
6 as it may deem necessary. The chairman and other officers shall be  
7 elected annually. Meetings may be called by the chairman at any time  
8 and shall be called as soon as possible by the chairman on the written  
9 request of four (4) members of the commission. The majority of the  
10 commission shall constitute a quorum and the concurrence of a major-  
11 ity of the commission in any matter within its duties shall be required  
12 for its determination.

1 SEC. 9. The commission is hereby given and charged with the fol-  
2 lowing powers and duties:

3 1. The commission through the state department of health shall  
4 have general supervision over administration and enforcement of all  
5 laws relating to the pollution of any water of the state, except as pro-  
6 vided in section one hundred thirty-five point eleven (135.11) of the  
7 Code.

8 2. To develop comprehensive plans and programs for the preven-  
9 tion, control and abatement of new, increasing, potential, or existing  
10 pollution of the waters of the state.

11 3. The commission may cause the state department of health to con-  
12 duct investigations upon the written petition of:

- 13 a. The governing body of any city or town.  
14 b. The local board of health.  
15 c. The supervisors of any county.  
16 d. Twenty-five (25) residents of the state.  
17 e. Any state agency or agencies.

18 4. To adopt, modify, or repeal such reasonable quality standards for  
19 any waters of the state in relation to the public use to which they are  
20 or may be put as it shall deem necessary for the purposes of this Act.

21 Provided that where the quality of water is inter-related to the  
22 quantity of water the concurrence of the Iowa natural resources coun-  
23 cil shall be secured for the adoption, modification or repeal of such  
24 standards, prior to the effective date thereof.

25 5. To require plans and specifications for disposal systems or any

26 part thereof to be submitted to them for approval or disapproval by  
27 the state department of health.

28 6. To direct the state department of health to issue, revoke, modify,  
29 or deny permits, under such conditions as it may prescribe for the  
30 prevention or abatement of pollution, for the discharge of sewage,  
31 industrial waste or other wastes or for the installation or operation  
32 of disposal systems or parts thereof.

33 7. Existing permits shall be recognized by the commission for the  
34 continuance of every disposal system now operating under legal au-  
35 thority. However, the commission may modify or revoke such permit  
36 in the same manner as other permits.

37 8. To prescribe rules and regulations for the conduct of the commis-  
38 sion and other matters within the scope of the powers granted to and  
39 imposed upon it.

40 9. The commission shall cooperate with other state or interstate  
41 water pollution control agencies in establishing standards, objectives  
42 or criteria for quality of interstate waters originating or flowing  
43 through this state.

44 10. To hold such hearings as it may deem advisable and necessary  
45 for the discharge of its duties and to authorize any member, employee  
46 or agent to hold such hearings.

1 SEC. 10. The state department of health shall conduct such inves-  
2 tigations as may be necessary to carry out the provisions of this Act.

1 SEC. 11. The state department of health in accordance with the  
2 direction and policies of the commission may issue, modify, or revoke  
3 such orders as may be required for the prevention or discontinuance  
4 of the discharge of sewage, industrial waste or other wastes in any  
5 waters of the state resulting in pollution in excess of the applicable  
6 quality standard established by the commission.

1 SEC. 12. Whenever an investigation is made, it shall be full and  
2 complete and may include such engineering studies, bacteriological,  
3 biological, and chemical analyses of the water and location and char-  
4 acter of the source or sources of contamination as may be necessary.  
5 If pollution is found to exist, taking into consideration the criteria set  
6 forth in section thirteen (13) of this Act, the commission shall first  
7 notify the alleged offender and by informal negotiation attempt to  
8 resolve the problem and failing to do so within fourteen (14) days,  
9 up to and during which time neither the commission, nor any member  
10 of the commission, nor its staff or employees shall make any public  
11 statement regarding the firm or individual as an alleged offender, shall  
12 then make an order fixing the time and place of hearing which shall  
13 be not later than twenty (20) days thereafter. Such hearing shall be  
14 public and shall be conducted so far as possible in the same manner as  
15 a court hearing and every alleged offender shall have the right to  
16 appear, be represented by counsel, present testimony and examine  
17 witnesses.

1 SEC. 13. In adopting, modifying, or repealing quality standards  
2 for any waters of the state, the commission shall give consideration to:

3 1. The protection of the public health;

- 4 2. The size, depth, surface area covered, volume, direction and rate  
5 of flow, stream gradient, and temperature of the water;
- 6 3. The character and uses of the land area bordering said waters;
- 7 4. The uses which have been made, are being made, or may be made  
8 of said waters for public, private, or domestic water supplies, irriga-  
9 tion; livestock watering; propagation of wildlife, fish, and other  
10 aquatic life; bathing, swimming, boating, or other recreational activ-  
11 ity; transportation; and disposal of sewage and wastes;
- 12 5. The extent of contamination resulting from natural causes in-  
13 cluding the mineral and chemical characteristics;
- 14 6. The extent to which floatable or settleable solids may be per-  
15 mitted;
- 16 7. The extent to which suspended solids, colloids, or a combination  
17 of solids with other suspended substances may be permitted;
- 18 8. The extent to which bacteria and other biological organisms may  
19 be permitted;
- 20 9. The amount of dissolved oxygen that is to be present and the  
21 extent of the oxygen demanding substances which may be permitted;
- 22 10. The extent to which toxic substances, chemicals or deleterious  
23 conditions may be permitted;
- 24 11. The need for standards for effluents from disposal systems.

1 SEC. 14. The commission, its agents, and employees of the state  
2 department of health may enter upon any lands or waters in the state  
3 and bordering on the state, for the purpose of making any investiga-  
4 tion, examination, survey, or study concerning the quality or pollution  
5 of such waters.

1 SEC. 15. When the commission or state department of health con-  
2 ducts any hearing or investigation, any member of the commission or  
3 any employee or agent authorized in writing by the commission or  
4 employee of the state department of health may administer oaths,  
5 examine witnesses and issue, in the name of the commission, sub-  
6 poenas requiring the attendance and testimony of witnesses and the  
7 production of evidence relevant to any matter involved in such hear-  
8 ing or investigation. Witnesses shall receive the same fees and mile-  
9 age as in civil actions.

1 SEC. 16. If any person refuses to obey a subpoena issued under  
2 this Act, the district court of the county where the proceeding is pend-  
3 ing shall have jurisdiction, upon application of the commission or its  
4 authorized member, employee, or agent, to issue to such person an  
5 order requiring him to appear and testify or produce evidence and any  
6 failure to obey such order of the court may be punished by said court  
7 as a contempt thereof.

1 SEC. 17. 1. Notice of the time and place of hearing shall be served  
2 upon each alleged offender at least ten (10) days before said hearing.  
3 Such notice shall be in the manner required for the service of notice  
4 of the commencement of an ordinary action in a court of record.

5 2. Notwithstanding the provisions of subsection one (1) the com-  
6 mission or state department of health, when it has first been deter-  
7 mined that an emergency exists respecting any matter affecting or  
8 likely to affect the public health, may make a temporary order without

9 notice and without hearing. A copy of such temporary order shall be  
10 served as provided in subsection one (1). Any such temporary order  
11 entered by the commission or the state department of health, shall be  
12 binding and effective immediately until such order is reviewed by a  
13 hearing or is modified or reversed by the court.

14 3. After such hearing the commission may, if it finds the alleged  
15 offender is guilty of the charges, enter an order directing such person  
16 to desist in the practice found to be the cause of such pollution, taking  
17 into account the use to which the water is being or may be put or the  
18 commission upon the recommendation of the state department of  
19 health may order a change in the method of discharging sewage, in-  
20 dustrial wastes and other wastes into the water so that the same will  
21 not result in pollution and the method shall be in compliance with the  
22 effluent or water quality standards adopted by the commission.

23 4. If any such change is ordered, unless such practice is rendering  
24 such water dangerous to the public health, a reasonable time shall be  
25 granted to the offender in which to put in use the method ordered.

26 5. The commission shall keep a complete record of such proceedings,  
27 including all the evidence taken, and such record shall be open to public  
28 inspection. However, it shall be unlfwful\* for any person in connection  
29 with his duties or employment by the commission, to make public or  
30 give any information relating to secret processes or methods of manu-  
31 facture or production at any public hearing or otherwise, and all such  
32 information shall be kept strictly confidential.

1 SEC. 18. An appeal may be taken by any aggrieved party from any  
2 order entered in such proceedings to the district court of the county  
3 in which the alleged offense was committed or such final order was  
4 entered. Such appeal shall be perfected by serving a written notice on  
5 the chairman of the commission within thirty (30) days of the entry  
6 of such order. The hearing on appeal shall be tried as a suit in equity  
7 and shall be de novo. The court may receive additional testimony and  
8 may affirm, modify or reverse the order of the commission. The setting  
9 aside of such order by the court shall not preclude the commission  
10 from again instituting proceedings against the same person if the  
11 commission feels that the public health is endangered.

1 SEC. 19. Within thirty (30) days after an application for an ap-  
2 peal is filed with the commission, it shall make, certify and file in the  
3 office of the clerk of the court to which an appeal is taken a full and  
4 complete transcript of all documents and papers relating to the case  
5 including a copy of the order, rule, regulation or decision appealed  
6 from and a copy of any findings of fact, rulings or conclusions of law  
7 made by the commission in the matter.

1 SEC. 20. Action of the commission shall not be stayed by an appeal  
2 except by order of the court for good cause shown by the appellant.  
3 The granting of a stay may be conditioned upon the furnishing by the  
4 appellant of such reasonable security as the court may direct. A stay  
5 may be vacated on application of the commission or any other party  
6 after hearing by the court.

\*According to enrolled Act.

1 SEC. 21. If no appeal is taken from an order, rule, regulation, or  
2 other decision of the commission as provided by this Act, or if the  
3 action of the commission is affirmed on appeal, the action of the com-  
4 mission in the matter involved shall be deemed conclusive and the  
5 validity and reasonableness thereof shall not be raised in any other  
6 action or proceeding, but this shall not preclude the commission from  
7 modifying or rescinding its action.

1 SEC. 22. The first term after appeal is taken shall be the trial term.

1 SEC. 23. Any person, firm, corporation, municipality, or any officer  
2 or agent thereof causing pollution as defined in section two (2) of this  
3 Act of any waters of the state or placing or causing to be placed any  
4 sewage, industrial waste, or other wastes in a location where they will  
5 probably cause pollution of any waters of the state may be enjoined  
6 from continuing such action.

7 It shall be the duty of the attorney general, only upon the request of  
8 the commission, to bring an action for an injunction against any  
9 person, firm, corporation, municipality, or agent thereof violating the  
10 provisions of this section. In any such action, any previous findings of  
11 the commission after due notice and hearing shall be prima-facie evi-  
12 dence of the fact or facts found therein.

1 SEC. 24. Failure to obey any order issued under the provisions of  
2 this Act made by the commission with reference to matters pertaining  
3 to the pollution of waters of the state shall constitute prima-facie evi-  
4 dence of contempt. In such event the commission may certify to the  
5 district court of the county in which such alleged disobedience occurred  
6 the fact of such failure. The district court after notice, as prescribed  
7 by the court, to the parties in interest shall then proceed to hear the  
8 matter and if it finds that the order was lawful and reasonable it shall  
9 order the party to comply with the order. If the person fails to comply  
10 with the court order, he shall be punished for contempt.

11 Any person, firm, corporation, or any officer or agent thereof found  
12 guilty of contempt under this section shall be fined in a sum not to  
13 exceed one hundred (100) dollars for each offense. The penalties pro-  
14 vided in this section shall be considered as additional to any penalty  
15 which may be imposed under the law relative to nuisances or any other  
16 statute relating to the pollution of waters of the state and a conviction  
17 under this section shall not be a bar to prosecution under any other  
18 penal statute.

1 SEC. 25. 1. It shall be unlawful to carry on any of the following  
2 activities without first securing a written permit from the state de-  
3 partment of health as may be required by the commission for the dis-  
4 posal of all sewage, industrial waste, or other wastes which are or may  
5 be discharged into the waters of the state.

6 a. The construction, installation or modification of any disposal sys-  
7 tem or part thereof or any extension or addition thereto.

8 b. The construction or use of any new outlet for the discharge of  
9 any sewage or wastes directly into the waters of the state. However,  
10 no permit shall be required for any new disposal system or extension  
11 or addition to any existing disposal system that receives only domestic

12 or sanitary sewage from a building, housing or occupied by fifteen  
13 (15) persons or less.

14 2. Plans and specifications for any waste disposal system covered by  
15 subsection one (1) of this section shall be submitted to the commission  
16 before a written permit may be issued and the construction of any such  
17 waste disposal system shall be in accordance with plans and specifica-  
18 tions as approved by the state department of public health. If it is  
19 necessary or desirable to make material changes in such plans or speci-  
20 fications, revised plans or specifications together with reasons for the  
21 proposed changes must be submitted to the commission for a supple-  
22 mental written permit.

23 Any person convicted of violating this section shall be fined in a sum  
24 not to exceed one thousand (1,000) dollars.

1 SEC. 26. The commission may require the owner of a waste dis-  
2 posal system, discharging sewage or wastes into any of the waters of  
3 the state to file with it complete plans of the whole or any part of  
4 such system and any other information and records concerning the  
5 installation and operation of such system.

1 SEC. 27. The commission and the state department of health may  
2 request and receive from any department, division, board, bureau,  
3 commission, public body, or agency of the state, or of any political  
4 subdivision thereof, or from any organization, incorporated or unin-  
5 corporated, which has for its object the control or use of any of the  
6 water resources of the state, such assistance and data as will enable  
7 the commission or department to properly carry out its activities and  
8 effectuate its purposes under the provisions of this Act. The commis-  
9 sion or department shall reimburse such agencies for special expense  
10 resulting from expenditures not normally a part of the operating ex-  
11 penses of any such agency.

1 SEC. 28. No sewage, industrial waste or other wastes whether  
2 treated or untreated shall be discharged directly into any state-owned  
3 natural or artificial lake but this section shall not be construed to pro-  
4 hibit the discharge of adequately treated sewage or industrial wastes  
5 into a stream tributary to a lake upon the written permission of the  
6 commission.

1 SEC. 29. Sections one hundred thirty-five point eighteen (135.18),  
2 one hundred thirty-five point nineteen (135.19), one hundred thirty-  
3 five point twenty (135.20), one hundred thirty-five point twenty-one  
4 (135.21), one hundred thirty-five point twenty-two (135.22), one hun-  
5 dred thirty-five point twenty-three (135.23), one hundred thirty-five  
6 point twenty-four (135.24), one hundred thirty-five point twenty-five  
7 (135.25), one hundred thirty-five point twenty-six (135.26), one hun-  
8 dred thirty-five point twenty-seven (135.27), one hundred thirty-five  
9 point twenty-eight (135.28), and one hundred thirty-five point twenty-  
10 nine (135.29), Code 1962, are hereby repealed.

1 SEC. 30. Section four hundred sixty-nine point six (469.6), Code  
2 1962, is hereby amended by striking from lines five (5) and six (6)  
3 the words "state department of health" and inserting in lieu thereof  
4 the words "Iowa water pollution control commission".



1 SEC. 31. Section four hundred sixty-nine point seven (469.7), Code  
 2 1962, is hereby amended by striking from line five (5) the words  
 3 "department of health" and inserting in lieu thereof the words "Iowa  
 4 water pollution control commission".

1 SEC. 32. Section four hundred sixty-nine point eight (469.8), Code  
 2 1962, is hereby amended by striking from lines one (1) and two (2)  
 3 the words "department of health" and inserting in lieu thereof the  
 4 words "Iowa water pollution control commission".

1 SEC. 33. Section two hundred sixty-three point eight (263.8), Code  
 2 1962, is hereby amended by striking from line twelve (12) the comma  
 3 (,) and inserting in lieu thereof the words "or the Iowa water pollu-  
 4 tion control commission".

1 SEC. 34. Section four hundred fifty-five A point twenty-five  
 2 (455A.25), Code 1962, is hereby amended by adding to subsection  
 3 three (3) of such section the following:

4 "No permit shall be issued under this subsection until the approval  
 5 of the Iowa water pollution control commission has been obtained."

1 SEC. 35. There is hereby appropriated from the general fund of  
 2 the state to the Iowa water pollution control commission the sum of  
 3 five thousand (5,000) dollars for each year of the biennium beginning  
 4 July 1, 1965 and ending June 30, 1967, for the purpose of paying all  
 5 expenses authorized and incurred by commission members necessary  
 6 in administering and enforcing the provisions of this Act. Chapter  
 7 eight (8) of the Code shall apply to this section.

Approved June 2, 1965.

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## CHAPTER 376

### SOIL CONSERVATION COMMITTEE

H. F. 243

AN ACT relating to per diem received by members of the state soil conservation committee.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section four hundred sixty-seven A point four  
 2 (467A.4), Code 1962, is hereby amended by striking from line twenty-  
 3 six (26) of subsection three (3) of such section the word "ten" and  
 4 inserting in lieu thereof the word "twenty (20)".

Approved May 17, 1965.