

Sec. 12. DUTY OF DIRECTOR OF REVENUE. Upon receipt of estimated tax payments from corporations and as soon as practical after the close of each calendar quarter, the director shall certify to the treasurer of state the amount collected.

Sec. 13. USE OF FUND. Moneys credited to the special reserve fund shall be used to pay claims approved by the director of revenue for refunds of income tax paid by corporations which claims are based upon the income allocation formula provided in section four hundred twenty-two point thirty-three (422.33) of the Code. Moneys credited to the special reserve fund shall be exempt from the provisions of section eight point thirty-nine (8.39) of the Code.

Sec. 14. TRANSFER OF FUNDS. When the governor determines that the need for the special reserve fund no longer exists, he shall direct the transfer of the moneys in the special reserve fund to the general fund.

Sec. 15. The provisions of section one (1) of this Act are retroactive to January 1, 1977 for tax years beginning on or after January 1, 1977 and to this extent the provisions of section one (1) of this Act are retroactive.

Sec. 16. The provisions of this Act, except the provisions of section one (1) of this Act, shall be effective for tax years beginning on or after July 1, 1977.

Sec. 17. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in *The Marion Sentinel*, a newspaper published in Marion, Iowa, and in the *Farmer-Labor Press*, a newspaper published in Council Bluffs, Iowa.

Approved June 17, 1977

I hereby certify that the foregoing Act, Senate File 140, was published in *The Marion Sentinel*, Marion, Iowa on June 30, 1977, and in the *Farmer-Labor Press*, Council Bluffs, Iowa on June 23, 1977.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 123

NATURAL RESOURCES COUNCIL

H. F. 277

AN ACT relating to the authority of the Iowa natural resources council.

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

Section 1. Section four hundred fifty-five A point eight (455A.8), Code 1977, is amended to read as follows:

455A.8 ORGANIZATION, MEETINGS AND RULES. The council shall organize by the election of a chairman and shall meet at the seat of government on the first Monday in the months of January, April, July and October, and at such other times and places as it may deem necessary. The chairman shall be elected annually at the meeting of the council in July. Meetings may be called by the chairman and shall be called by the chairman on the request of four members of the council. The majority of the council shall constitute a quorum and the concurrence of a majority of the council in any matter within their duties shall be required for its determination, provided that the public hearing on any matter within council duties may be conducted by less than a majority of the council or by an employee so designated by the council. The council shall adopt such rules pursuant to chapter seventeen A (17A) of the Code as it may deem necessary to transact its business and for the administration and exercise of its powers and duties. The council may further establish, modify or repeal rules specifying the conditions under which the water commissioner may authorize specific nonrecurring minor uses of water for periods not to exceed one year through registration.

Sec. 2. Section four hundred fifty-five A point fourteen (455A.14), Code 1977, is amended to read as follows:

455A.14 DEPARTMENTAL COOPERATION--INVESTIGATIONS.

1. The council may request and receive from any department, division, board, bureau, commission, public body, or agency of the state, or of any political subdivision thereof, or from any organization, incorporated or unincorporated, which has for its object the control or use of any of the water resources of the state, such assistance and data as will enable the council to properly carry out its activities and effectuate its purposes hereunder. The council shall reimburse such agencies for special expense resulting from expenditures not normally a part of the operating expenses of any such agency.

2. a. The With the written consent of the owner or occupant, the council, its agents and other employees may enter upon any lands or waters in the state for the purpose of making any investigation, examination, or survey contemplated by this chapter.

Sec. 3. Section four hundred fifty-five A point fourteen (455A.14), subsection two (2), Code 1977, is amended by adding the following new paragraphs:

NEW PARAGRAPH. If the owner or occupant of any property refuses admittance, or if prior to such refusal the director demonstrates the necessity for a warrant, the director may make application under oath to the district court of the county in which the property is located for the issuance of a search warrant.

NEW PARAGRAPH. In the application the director shall state that an inspection or survey of the premises designated in the application may result in evidence tending to reveal the existence of violations of the provisions of this chapter, any rule, order or permit issued by the council. The application shall describe the area or premises to be inspected or surveyed, give the date of the last inspection if known, give the date and time of the proposed inspection or survey, declare the need for such inspection or survey, recite that notice of desire to make an inspection or survey has been given to affected persons and that admission was refused if that be the fact, and state that the inspection or survey has no purpose other than to carry out the purpose of the statute or rule pursuant to which inspection or survey is to be made.

NEW PARAGRAPH. The court may issue a search warrant, after examination of the applicant and any witnesses, if the court is satisfied that there is probable cause to believe the existence of the allegations contained in the application.

NEW PARAGRAPH. In making investigations, examinations or surveys pursuant to the authority of this subsection, the director must execute the warrant in a reasonable manner within ten days after its date of issuance.

Sec. 4. Section four hundred fifty-five A point twenty (455A.20), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

If the water commissioner at the first hearing or the council at the hearing on appeal shall determine after due investigation that such diversion, storage or withdrawal will not be detrimental to the public interests, including drainage and levee districts, or to the interests of property owners with prior or superior rights who might be affected, the water commissioner following the first hearing, or the council following the hearing on appeal shall grant a permit for such

diversion, storage or withdrawal. Judicial review of such action is available in accordance with the terms of the Iowa administrative procedure Act and section 455A.37. Permits may be granted for any period of time but not to exceed ten years except for the storage of water which may be granted for the life of the structure unless withdrawn for good cause. Permits may be granted which provide for less diversion, storage, or withdrawal of waters than set forth in the application. Permits may be extended by the water commissioner for a period of not more than ninety days during the pendency of an application for renewal. Any permit granted shall remain as an appurtenance of the land described therein through the date specified in such permit and any extension thereof or such earlier date as the permit or any extension thereof is revoked or canceled under the provisions of section 455A.28.

Sec. 5. Section four hundred fifty-five A point twenty-one (455A.21), Code 1977, is amended to read as follows:

455A.21 PRIORITY OF PERMITS. In the consideration of applications for permits, priority will be given to persons in the order applications are received. However, persons who have made diversion or withdrawal of water for a beneficial use prior to May 16, 1957, will be accorded priority according to the actual date of said diversion or withdrawal. The water commissioner or the council on appeal shall exercise their judgment on the duration and frequency of withdrawal and the quantity of water for which a permit may be granted. The use of water for ordinary household purposes, for poultry, livestock and domestic animals shall have priority over other uses. Any person with an existing irrigation system in use prior to May 16, 1957, shall be issued a permit to continue, unless by the use thereof some other riparian user is damaged. In the consideration of applications for permits by regulated users, the declared policies and principles of beneficial use, as set forth in this chapter, shall be the standard for the determination of the disposition of the applications for said permits. Nothing in this chapter shall impair the vested right of any person. Prior orders of the council shall not be invalidated by the provisions of sections 455A.19 to 455A.32.

Sec. 6. Section four hundred fifty-five A point thirty-three (455A.33), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. The council may require, as a condition

of an approval order or permit granted pursuant to this chapter or chapter four hundred sixty-nine (469) of the Code, the furnishing of a performance bond with good and sufficient surety, conditioned upon the full compliance with the provisions of such order or permit and the rules of the council. In determining the need for and amount of bond, the council shall give consideration to the hazard posed by the construction and maintenance of the approved works and the protection of the health, safety and welfare of the people of the state. This subsection shall not apply to orders or permits granted to a governmental entity.

Sec. 7. The natural resources council and the Iowa geological survey may jointly determine by resolution that special irrigation permits may be issued for withdrawal of water from the alluvial aquifers of the flood plains of that portion of streams bordering the state of Iowa. The council may determine by rule special limitations and observation and monitoring requirements for each special permit.

Sec. 8. APPLICATION FOR SPECIAL PERMITS. Application and payment of the fee for special permits shall be in accordance with the provisions of sections four hundred fifty-five A point nineteen (455A.19), subsection one (1), and four hundred fifty-five A point nineteen (455A.19), subsection five (5) of the Code, respectively. Upon receipt of the application and fee, the commissioner shall cause notice of the application to be published in a newspaper of general circulation in the county where the permit is sought. The special permit shall be issued by the commissioner two weeks from the date of publication, unless written objection to the application is filed with the commissioner before that date, in which case the hearing procedures of section four hundred fifty-five A point nineteen (455A.19) of the Code, shall be followed. Special permits shall be issued for a period not to exceed one year.

Sec. 9. Section four hundred fifty-five A point twenty (455A.20), Code 1977, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Until the council adopts a statewide water plan, all new water permits issued for irrigation purposes shall not exceed one year and all renewals thereof shall also be limited to one year. The preceding limitation shall not apply to the renewal or extension of any valid water permit granted prior to the effective date

of this Act. If it is determined, through monitoring of the permitted withdrawal, that it will endanger the present or future availability of groundwater said permits may be modified or canceled under the provisions of section four hundred fifty-five A point twenty-eight (455A.28) of the Code.

NEW UNNUMBERED PARAGRAPH. When permits are modified or canceled, priority for permits shall be given to applicants or permit holders who utilize such water for agriculture research. Nothing in this paragraph shall give priority to such applicants or permit holders in preference to those classes granted priority under section four hundred fifty-five A point twenty-one (455A.21) of the Code.

Sec. 10. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Coon Rapids Enterprise, a newspaper published in Coon Rapids, Iowa, and in the Evening Democrat, a newspaper published in Fort Madison, Iowa.

Approved April 29, 1977

I hereby certify that the foregoing Act, House File 277, was published in the Coon Rapids Enterprise, Coon Rapids, Iowa on May 5, 1977, and in the Evening Democrat, Fort Madison, Iowa on May 5, 1977.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 124

ELECTRIC POWER GENERATING

H. F. 569

AN ACT providing for the issuance by the department of environmental quality of conditional permits for certain electric power generating facilities.

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

Section 1. Section four hundred fifty-five B point twelve (455B.12), subsection ten (10), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

Require, by rules, notice of the construction or the installation of any equipment which may cause or contribute to air pollution, and the submission of plans and specifications to the department, or such other information deemed necessary, for the installation of equipment from which air contaminants may be emitted to the atmosphere and related control equipment. The rules relating to a conditional permit for an electric power generating facility subject to chapter