

January 30, 1957.
Conservation, Drainage,
Flood Control.

House File 128

By HANSON, RIEHM, CHRISTIANSEN,
SWISHER, JOHNSON, VERMEER.
(Anderson, Watson, Weber, et al.)

Passed House, Date..... Passed Senate, Date.....
Vote: Ayes..... Nays..... Vote: Ayes..... Nays.....
Approved.....

A BILL FOR

An Act relating to the conservation, protection, development, use, and regulation of the water resources of Iowa.

WHEREAS, the use of water for municipal, industrial, agricultural, recreational and all other beneficial purposes is a matter of great public interest and affects the public welfare, health and safety; and

WHEREAS, the sustained yield of water, services and products of kinds dependent upon water from related soils, watersheds, and ground water basins is essential to the attainment and maintenance of a permanent, stable and fruitful economy in the state of Iowa; and

WHEREAS, the proper use and management of surface water facilities makes practicable the conservation of ground water and land in many areas; and

WHEREAS, the needs of the state of Iowa, in reference to the availability and use of water of good quality, are such that the public interest and welfare require that our limited water supplies be put to the highest beneficial use in due regard to the needs of the land to assure proper development, wise use, conservation and protection of water, as well as land, including the sustained yield of water from soils, watersheds and ground water basins making up water problem areas; and

WHEREAS, the public interest, health and welfare will be served by enactment of a water code supplying needed definitions in the area of water rights, classifying certain uses of water as regulated uses to be regulated and controlled by means of a permit system to make possible the greatest utilization of the water resources of the state of Iowa for beneficial use but at the same time to protect the public interest in areas where competing uses are involved, and otherwise providing for the conservation, development, protection, use and regulation of the water resources of the state of Iowa; now therefore,

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

- 1 Section 1. Section four hundred fifty-five A point one
- 2 (455A.1), Code 1954, is amended as follows:
- 3 1. By striking the words, "flood control" in line twenty-

4 four (24) of such section and inserting in lieu thereof the
5 words, "the subject matter of this chapter".

6 2. By adding to said section the following:

7 "Surface water" means the water occurring on the surface
8 of the ground;

9 "Ground water" means that water occurring beneath the
10 surface of the ground;

11 "Diffused waters" means waters arising by precipitation
12 and snowmelt, and not yet a part of any watercourse or basin
13 and shall include capillary soil water;

14 "Depleting use" means the storage, diversion, conveyance,
15 or use of any supply of water which impairs rights of lower or
16 surrounding users;

17 "Beneficial use" means the application of water to a
18 useful purpose that inures to the benefit of the water user and
19 subject to his dominion and control but does not include the
20 waste or pollution of water;

21 "Nonregulated use" means the use of water for ordinary
22 household purposes, use of water for poultry and domestic
23 animals, any beneficial use of surface flow from rivers border-
24 ing the state of Iowa, existing beneficial uses of water within
25 the territorial boundaries of municipal corporations on the
26 effective date of this Act, and any other beneficial use of
27 water by any person of less than twenty-five hundred (2,500)
28 gallons per day;

29 "Regulated use" means any depleting use except a use
30 specifically designated as a nonregulated use;

31 "Permit" means the written authorization issued by the
32 water commissioner or council to a permittee which shall be

33 limited as to quantity, time, place, and rate of diversion or
34 withdrawal in accordance with the declared policies and
35 principles of beneficial use set forth in this chapter;

36 "Permittee" means the person who obtains a permit from the
37 council authorizing such person to take possession by diversion
38 or otherwise and to use and apply an allotted quantity of water
39 for a designated beneficial use, and who makes actual use of
40 the water for such purpose;

41 "Waste" means (a) permitting ground water or surface water
42 to flow, taking it or using it in any manner so that it is not
43 put to its full beneficial use, (b) transporting ground water
44 from its source to its place of use in such a manner that there
45 is an excessive loss in transit, (c) permitting or causing the
46 pollution of a fresh water strata through any act which will
47 cause salt water, highly mineralized water, or otherwise
48 contaminated water to enter it;

49 "Watercourse" means any lake, river, creek, ditch or other
50 body of fresh water or channel having definite banks and bed
51 with visible evidence of the flow or occurrence of water,
52 except such lakes or ponds without outlet to which only one
53 landowner is riparian;

54 "Basin" means a specific subsurface water-bearing reservoir
55 having reasonably ascertainable boundaries;

56 "Established average minimum flow" means when reasonably
57 required for the purpose of this Act, the council shall determine
58 and establish the average minimum flow for a given watercourse
59 at a given point thereon. The "average minimum flow" for a
60 given watercourse as used in this Act shall be determined by
61 the following factors: (a) Average of minimum daily flows

62 occurring during each of the five (5) lowest years in the
63 period of the preceding twenty (20) consecutive years chosen
64 by the council as more nearly representative of changing
65 conditions and needs of a given drainage area at a particular
66 time; (b) minimum daily flows shown by experience to be the limit
67 at which further withdrawals would be harmful to the public
68 interest in any particular drainage area; and (c) those minimum
69 daily flows shown by established discharge records and
70 experiences to be definitely harmful to the public interest.
71 Such determination shall be based upon available flow data,
72 supplemented, when available data are incomplete, by whatever
73 evidence is available."

1 Sec. 2. Section four hundred fifty-five A point two
2 (455A.2), Code 1954, is amended as follows:

3 1. By inserting after the word "the" in line four (4) of
4 such section the words "orderly development, wise use,
5 protection and".

6 2. By inserting after the word "agency" in line eleven
7 (11) of such section the following: ", the Iowa natural
8 resources council,".

9 3. By striking all of such section after the word "state-
10 wide" in line thirteen (13) of such section and inserting in
11 lieu thereof the following: "program for the control,
12 utilization, and protection of the surface and ground water
13 resources of the state. It is hereby declared that the general
14 welfare of the people of the state of Iowa requires that the
15 water resources of the state be put to beneficial use to the
16 fullest extent of which they are capable, and that the waste
17 or unreasonable use, or unreasonable methods of use, of

18 water be prevented, and that the conservation of such water
19 be exercised with the view to the reasonable and beneficial
20 use thereof in the interest of the people, and that the public
21 and private funds for the promotion and expansion of the
22 beneficial use of water resources shall be invested to the end
23 that the best interests and welfare of the people is served.

24 Water occurring in any basin or in any watercourse, or
25 other natural body of water of the state, is hereby declared
26 to be public waters and public wealth of the people of the
27 state of Iowa and subject to use in accordance with the pro-
28 visions of this Act, and the control and development and use
29 of water for all beneficial purposes shall be in the state,
30 which, in the exercise of its police powers, shall take such
31 measures as shall effectuate full utilization and protection
32 of the water resources of the state of Iowa."

1 Sec. 3. Section four hundred fifty-five A point four
2 (455A.4), Code 1954, is hereby amended as follows :

3 1. By striking the word "seven" in line two (2) of such
4 section and inserting in lieu thereof the word "nine (9)".

5 2. By striking the word "and" in line six (6) after the
6 word "office".

7 3. By striking all of such section after the word "years."
8 in line eleven (11) of such section and inserting in lieu
9 thereof the following:

10 "The terms of three (3) members of the council shall expire
11 on July 1, of each odd numbered year. Within sixty (60) days
12 following the organization of each biennial regular session of
13 the general assembly, appointments shall be made of successors
14 to members of the council whose terms of office shall expire

15 on the first of July next thereafter and of members to fill the
16 unexpired portion of vacant terms.”

1 Sec. 4. Each incumbent member of the Iowa natural resources
2 council serving at the time of the enactment of this Act shall
3 continue in office until the expiration of the term of office
4 to which he was appointed. Short term appointments of such
5 additional members for periods of less than six (6) years as
6 is necessary to provide for the transition from seven (7)
7 members to nine (9) members, three (3) of whose terms expire
8 on July 1, of each odd numbered year, shall be made within
9 thirty (30) days after the effective date of this Act by the
10 governor with the consent of two-thirds ($\frac{2}{3}$) of the senate
11 in executive session, if the general assembly is then in
12 session.

1 Sec. 5. Section four hundred fifty-five A point seven
2 (455A 7), Code 1954, is hereby amended by striking the word
3 “one” in line seven (7) of such section and inserting in lieu
4 thereof the word “two (2)”.

1 Sec. 6. Section four hundred fifty-five A point nine
2 (455A.9), Code 1954, is hereby amended by inserting at the
3 beginning of such section the numeral “1”, and inserting
4 at the end of such section the following:

5 “2. The council shall choose a water commissioner who
6 shall not be a member of the council or a member of the staff
7 and shall fix the compensation of such commissioner, which
8 shall be payable out of the funds appropriated to the council.
9 The water commissioner shall be qualified by training and
10 experience. The term of office of the water commissioner
11 shall be during the pleasure of the council. The water

12 commissioner shall serve in a quasi-judicial capacity as the
13 trier of fact questions in the processing of all applications
14 for appropriation permits. He shall conduct hearings on any
15 applications for permits as provided by law and the rules and
16 regulations of the council, and he shall perform such other
17 duties as the council may prescribe.

18 3. The council may choose one or more deputy water com-
19 missioners who shall not be members of the council or members
20 of the staff. The council shall fix the compensation of such
21 deputy commissioners, which shall be payable out of the funds
22 appropriated to the council. The deputy commissioners shall
23 be qualified by training and experience. The term of office
24 of the deputy commissioners shall be during the pleasure of
25 the council. A deputy commissioner shall have all of the duties,
26 responsibilities, and powers of the water commissioner when
27 acting in his stead. The deputy commissioners shall be assigned
28 hearings on applications for permits by the water commissioner."

1 Sec. 7. Section four hundred fifty-five A point seventeen
2 (455A.17), Code 1954, is hereby amended by adding thereto the
3 following new sentence: "The council shall administer said
4 programs."

1 Sec. 8. Section four hundred fifty-five A point eighteen
2 (455A.18), Code 1954, is hereby amended by inserting after the
3 word, "protection" in line thirty-eight (38) of such section
4 the word "utilization," and by striking all of such section
5 after the word "state." in line thirty-nine (39) of such
6 section and inserting in lieu thereof the following:

7 "Upon application by any person for permission to divert,
8 pump, or otherwise take waters from any watercourse, underground

9 basin or watercourse, drainage ditch or settling basin within the
10 state of Iowa for any purpose other than a nonregulated use, the
11 council shall cause to be made an investigation of the effect of
12 such use upon the natural flow of such watercourse and also the
13 effect of any such use upon the owners of any land which might
14 be affected by such use and shall hold a hearing thereon."

1 Sec. 9. The procedure for securing a permit to divert or
2 withdraw waters shall be as follows:

3 1. The application for a permit shall be made in writing
4 to the council and shall set forth the designated beneficial use
5 for which the permit is sought, the specific limits as to
6 quantity, time, place, and rate of diversion or withdrawal of
7 waters.

8 2. Upon receipt of an application for a permit to appro-
9 priate, the water commissioner shall set a time and place for
10 hearing. The hearing shall be in the county where the permit
11 to appropriate is sought, but may be held at any other place
12 in the state unless objection is raised by the applicant. The
13 hearing shall be to the water commissioner.

14 3. The water commissioner shall cause notice of the hearing
15 to be published in a newspaper of general circulation in the
16 county in which the permit is sought, said notice shall be
17 published once each week for two consecutive weeks, with the
18 date of last publication not less than ten (10) nor more than
19 thirty (30) days prior to the date of hearing and said notice
20 shall be on a form provided by the council which shall specify
21 the date, time and place of hearing and shall include a concise
22 statement of the designated beneficial purposes for which
23 diversion is sought, the specific limits as to quality, time,

24 place, and rate of diversion or withdrawal of waters, the name
25 of the applicant and the description of the land upon which
26 waters are to be diverted or withdrawn. In addition to the
27 foregoing, the water commissioner shall cause a copy of the
28 notice to be sent to the director of the conservation commission,
29 commissioner of public health, the secretary of the soil
30 conservation committee, secretary of agriculture, director of
31 the Iowa geological survey, the director of the Iowa development
32 commission, and to any other person, who has filed a written
33 request for a notification of any hearings affecting a
34 designated area, by ordinary mail, prior to the date of last
35 publication.

36 4. Any interested person may appear and present evidence
37 at the hearing, and may be represented by counsel, who shall
38 have the right to question others who present evidence.

39 5. The applicant for a permit shall pay a fee to the
40 council in the amount of ten dollars (\$10.00) at the time of
41 filing his application which fee shall include the cost of
42 publishing notice and which publication shall then be paid
43 for by the council.

44 6. The council shall prescribe the rules of procedure
45 for the conduct of the hearings.

46 7. The determination of the water commissioner on any
47 application before him shall be in writing, filed with the
48 council and shall set forth his findings. A copy of the
49 determination shall be mailed to the applicant and to any
50 person appearing who in writing requests a copy of the deter-
51 mination.

52 8. Any party aggrieved by the determination of the water

53 commissioner, may within thirty (30) days from the date such
54 determination is filed, appeal therefrom to the council setting
55 forth in general terms the determination appealed from and the
56 grounds of the appeal. The director shall set a time and place
57 for hearing before the council and shall then send a notice by
58 ordinary mail to all persons who appeared at the hearing before
59 the water commissioner.

60 9. The council shall adopt rules and regulations for the
61 conduct of the hearing on appeal and shall file a determination
62 in writing, setting forth findings. A copy of the determination
63 shall be mailed to the applicant or to any person appearing who
64 in writing requests a copy of the determination.

65 10. The water commissioner or the council at any hearing
66 or other proceeding authorized by this act, shall have the
67 power to administer oaths; take testimony; issue subpoenas and
68 compel the attendance of witnesses, the subpoenas shall be
69 served in the same manner as subpoenas issued by the courts of
70 the state, and to order the taking of depositions in the same
71 manner as depositions are taken under the Iowa Rules of Civil
72 Procedure.

1 Sec. 10. If the water commissioner at the first hearing or
2 the council at the hearing on appeal shall determine after due
3 investigation that such diversion or withdrawal will not be
4 detrimental to the public interests, including drainage and
5 levee districts, or to the interests of property owners with
6 prior or superior rights who might be affected, the water
7 commissioner following the first hearing, or the council follow-
8 ing the hearing on appeal shall grant a permit for such
9 diversion or withdrawal. Any person or public body aggrieved

10 by the granting of such permit may appeal as provided by section
11 four hundred fifty-five A point twenty-three (455A.23). Permits
12 may be granted for any period of time but not to exceed ten (10)
13 years. Permits may be granted which provide for less diversion
14 or withdrawal of waters than set forth in the application.
15 Permits may be extended by the water commissioner beyond the
16 period for which granted without hearing if no objection is
17 raised, but if objection is raised by any person a hearing shall
18 be held thereon. Any permit granted shall remain as an
19 appurtenance of the land described in the application unless
20 disposed of otherwise.

1 Sec. 11. In the consideration of applications for permits,
2 priority will be given to persons in the order applications are
3 received. Persons who have made diversion or withdrawal of
4 water for a beneficial use prior to the effective date of
5 this Act will be accorded priority according to the actual
6 date of said diversion or withdrawal. The water commissioner
7 or the council on appeal shall exercise their judgment on the
8 quantity of water for which a permit may be granted.
9 Nonregulated uses shall have priority over regulated uses.
10 Nothing in this chapter shall impair the vested right of any
11 person.

1 Sec. 12. The water commissioner and the council shall have
2 the authority to issue a permit for beneficial use of water in
3 a watercourse but not in excess of the established average
4 minimum flow.

1 Sec. 13. No use of water shall be authorized that will
2 impair the effect of pollution control laws of this state.

1 Sec. 14. No permit shall be issued or continued that will

2 impair the navigability of any navigable watercourse.

1 Sec. 15. For the purpose of administering this Act, a
2 permit as herein provided shall be required for the following:

3 1. Any municipal corporation which increases the capacity
4 of its water supply system to provide for increased use in excess
5 of one hundred thousand (100,000) gallons per day more than its
6 highest per day beneficial use prior to the effective date of
7 this Act.

8 2. Any person using in excess of twenty-five hundred
9 (2,500) gallons of water per day, diverted or withdrawn from
10 any source of supply except a municipal water system or any
11 other source specifically exempted under the provisions of
12 this Act.

13 3. Any person who diverts water or any material from the
14 surface directly into any underground watercourse or basin.

1 Sec. 16. No person shall take water from any natural water-
2 course, underground basin or watercourse, drainage ditch, or
3 settling basin within the state of Iowa for any purpose other
4 than a nonregulated use except upon compliance with the
5 provisions of this Act.

1 Sec. 17. Nothing in this Act shall operate to deprive any
2 person of the right to use diffused waters or to construct an
3 impoundment on said person's property or across a stream that
4 originates on said person's property so long as provision is
5 made for safe construction and for continued established average
6 minimum flow, if and when such flow is required to protect the
7 rights of water users below.

1 Sec. 18. Every permit issued hereunder shall be
2 irrevocable for the term therefor, and for any extension of

3 such term except as follows:

4 1. A permit may be modified or cancelled by the water
5 commissioner, with the consent of the permittee, upon such
6 conditions as the water commissioner deems necessary for
7 protection of the public interests.

8 2. Subject to appeal in the manner provided by section
9 nine (9), subsection eight (8), of this Act, a permit may be
10 modified or cancelled by the water commissioner in case of
11 any breach of the terms or conditions thereof or in case of
12 any violation of the law pertaining thereto by the permittee,
13 his agents or servants, in case of non-use as provided herein-
14 after, or in case the water commissioner finds such modification
15 or cancellation necessary to protect the public health or safety
16 or to protect the public interests in lands or waters, or to
17 prevent substantial injury to persons or property in any manner,
18 upon at least thirty (30) days written notice mailed to the
19 permittee at his last known address, stating the grounds of
20 the proposed modification or cancellation and giving the
21 permittee an opportunity to be heard thereon.

22 3. By written order to the permittee, the water commis-
23 sioner may forthwith suspend operations under a permit if he
24 finds it necessary in an emergency to protect the public health
25 or safety or to protect the public interests in lands or
26 waters against imminent danger of substantial injury in any
27 manner or to any extent not expressly authorized by the permit,
28 or to protect persons or property against such danger, may
29 require the permittee to take any measures necessary to prevent
30 or remedy such injury; provided, that no such order shall be
31 in effect for more than thirty (30) days from the date thereof.

32 without giving the permittee at least ten (10) days written
33 notice of such order and an opportunity to be heard thereon.

1 Sec. 19. The right of the permittee and his successors
2 to the use of water shall terminate when he ceases for three
3 (3) consecutive years to use it for the specific beneficial
4 purpose authorized in his permit; provided, however, that upon
5 his written application prior to the expiration of said
6 three-year period for extension of said permit, the council may
7 grant such extension without loss of priority.

1 Sec. 20. A permittee may sell, transfer, or assign his
2 permit by conveying, leasing, or otherwise transferring the
3 ownership of the land described in the permit, but such permit
4 shall not constitute ownership or absolute rights of use of
5 such waters, but such waters shall remain subject to the
6 principle of beneficial use and the orders of the council.

1 Sec. 21. The state of Iowa, any subdivision thereof,
2 municipal corporation, or the state conservation commission,
3 for the purpose of carrying out any permission granted, as
4 hereinbefore provided, shall have and exercise the power of
5 eminent domain.

1 Sec. 22. Section four hundred fifty-five A point nineteen
2 (455A.19), Code 1954, is hereby amended as follows:

3 1. By inserting after the word "erected" in line three
4 (3) of such section the words, ", used, or maintained".

5 2. By striking from line seventeen (17) of such section
6 the words ", make, use or maintain" and insert in lieu thereof
7 the words "or make".

8 3. By striking from lines twenty-two (22) to twenty-five
9 (25) inclusive, of such section the words, "and it is uncertain

10 as to whether it will adversely affect the efficiency of or
11 unduly restrict the capacity of the floodway.”.

12 4. By striking the word “may” in line twenty-five (25) of
13 such section and inserting in lieu thereof the word “shall”.

14 5. By inserting after the word “same.” in line thirty
15 (30) of such section the following new paragraph:

16 “The council shall have the authority to maintain an action
17 in equity to enjoin any such person from erecting or making or
18 suffering or permitting to be made any structure, dam,
19 obstruction, deposit, or excavation other than a dam constructed
20 and operated under the authority of chapter four hundred sixty-
21 nine (469) of the Code, for which a permit has not been granted.”

1 Sec. 23. Section four hundred fifty-five A point twenty-
2 three (455A.23), Code 1954, is hereby amended by striking from
3 lines eighteen (18) to twenty-two (22) inclusive, the following:
4 “At such trial the burden of proof that any acts and orders of
5 the council from which appeal is taken are reasonable and
6 necessary shall be upon the council.”

1 Sec. 24. Section four hundred fifty-five A point twenty-
2 five (455A.25), Code 1954, is hereby repealed.

1 Sec. 25. Unauthorized depleting uses. In the event that
2 any person shall file a complaint with the council that any
3 other person is making a depleting use of water not expressly
4 exempted as a nonregulated use under the provisions of this
5 chapter and without a permit to do so, the council shall cause
6 an investigation to be made and if the facts stated in the
7 complaint are verified the council shall order the discontinuance
8 of the use.

1 Sec. 26. Section four hundred fifty-five A point twenty-

2 six (455A.26), Code 1954, is hereby amended by inserting after
3 the word "chapter," in line three (3) of such section the
4 words, "or whoever diverts or withdraws water in violation of
5 the provisions of this chapter, upon conviction,".

1 Sec. 27. Saving clause. If any provision of this chapter
2 or the application of such provision to any person or circumstance
3 shall be held invalid, the remainder of this Act or the
4 application of such provision to persons or circumstances
5 other than those to which it is held invalid, shall not be
6 affected thereby.

1 Sec. 28. This Act being deemed of immediate importance
2 shall be in full force and effect upon its publication in the
3 Storm Lake Pilot-Tribune, a newspaper published at Storm Lake,
4 Iowa, and in the Daily Iowegian and Citizen, published at
5 Centerville, Iowa.

EXPLANATION OF HOUSE FILE 128

The Iowa Study Committee on Water Rights and Drainage Laws, created by the 56th General Assembly, as a result of its study drafted and has submitted this bill to the General Assembly. During its study, the committee found that the use and demand for water for municipal, irrigation, agricultural, industrial and other purposes is rapidly increasing at an accelerating rate. Competing uses between different interests for the same water supply are cropping up with increasing frequency. Irrigation is increasing in Iowa. The experiences of other states where irrigation is widespread indicates wise steps must be taken in the early stages of irrigation to protect both public and private interests.

The present water law in Iowa is both indefinite and inadequate. We have few statutes regulating the use of water. The rights of individuals and governmental agencies to use water for some purposes are subject to question. The decisions of our courts do not lay down sufficient guide posts for a wise water policy. This bill sets up a permanent system administered by the natural resources council whereby persons desiring to divert water from any surface or underground source of water must first secure a permit from the natural resources council. This requirement of a permit does not, however, apply to persons diverting water for ordinary household purposes, the use of poultry or domestic animals or any other beneficial use of water in amounts less than 2,500 gallons per day on water taken from rivers bordering the state. Municipal corporations are also exempt unless such corporation increases the capacity of its water supply in an amount exceeding 100,000 gallons per day more than its highest per day use prior to the effective date of this Act.

Priority in the issuance of permits shall be given in the order applications for permits are received. Persons who have diverted water prior to this act also are entitled to priority for a permit to continue their use of water. Permits may not be granted for more than 10 years and are transferable.

The bill provides for public hearings on applications for permits. All parties interested in the permit or protesting against its issuance have the right to appear, present evidence, be represented by counsel, and if aggrieved by the decision, to appeal. Provisions are made for the appeal of decisions to the natural resources council or its hearing officers to the courts.

The diversion of water in violation of the provisions of the act is made a criminal offense, punishable by a fine not exceeding \$100 or imprisonment of not more than 30 days.

HOUSE FILE 128

- 1 Amend House File 128 as follows:
 - 2 1. Amend section one (1), line 15, by striking the word
 - 3 "impairs" and inserting in lieu thereof the words "might
 - 4 impair".
 - 5 2. Further amend section one (1), line 16, by striking
 - 6 the period and adding the words ", or might impair the natural
 - 7 resources of the state or might injure the public welfare if
 - 8 not controlled."
 - 9 3. Further amend section one (1), line 22, by inserting
 - 10 after the word "poultry" the word ", livestock".
 - 11 4. Further amend section one (1), line 24, by inserting
 - 12 after the word "Iowa," the words "or use of ground water on
 - 13 islands or former islands situated in such rivers,".
 - 14 5. Further amend section one (1), line 27, by striking
 - 15 the words and figures "twenty-five hundred (2,500)" and
 - 16 inserting in lieu thereof the words and figures "five thousand
 - 17 (5,000)".
 - 18 6. Further amend section one (1), line 33, by inserting
 - 19 after the word "diversion" the following: ", storage".
 - 20 7. Further amend section one (1) by striking lines 62
 - 21 and 63 and inserting in lieu thereof the following: "occurring
 - 22 during the preceding years chosen".
 - 23 8. Amend section six (6), line 6, by striking the words
 - 24 "or a member of the staff".
 - 25 9. Further amend section six (6), lines 19 and 20, by
 - 26 striking the words "or members of the staff." and by inserting
 - 27 a period after the word "council" in line 19.
 - 28 10. Amend section nine (9), line 1, by inserting after
 - 29 the word "divert" the following: ", store"
 - 30 11. Further amend section nine (9), subsection one (1),
 - 31 line 6, by inserting after the word "diversion" the following:
 - 32 ", storage".
 - 33 12. Further amend section nine (9), subsection two (2),
 - 34 by striking from lines 8 and 9 the words "to appropriate"
 - 35 and by striking from line 11 the words "to appropriate".
 - 36 13. Further amend section nine (9), subsection three (3),
 - 37 line 24, by inserting after the word "diversion" the following:
 - 38 ", storage", and by inserting in line 26 after the word
 - 39 "diverted" the following: ", stored".
 - 40 14. Amend section ten (10), lines 3 and 9, by inserting
 - 41 after the word "diversion" in each line the following:
 - 42 ", storage,".
 - 43 15. Further amend section ten (10), line 13, by inserting
 - 44 after the word "diversion" the following: ", storage,".
 - 45 16. Amend section eleven (11), line 3, by striking the
 - 46 word "Persons" and inserting in lieu thereof the words
 - 47 "However, persons".
 - 48 17. Further amend section eleven (11), line 9, by striking
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49 the sentence "Nonregulated uses shall have priority over
50 regulated uses." and inserting in lieu thereof the sentence:
51 "The use of water for ordinary household purposes, for poultry,
52 livestock and domestic animals shall have priority over other
53 uses. In the consideration of applications for permits by
54 regulated users, the declared policies and principles of
55 beneficial use, as set forth in this chapter, shall be the
56 standard for the determination of the disposition of the appli-
57 cations for said permits."

58 18. Further amend section eleven (11), line 11, by adding
59 after the period the following sentence: "Prior orders of
60 the council shall not be invalidated by the provisions of this
61 act."

62 19. Amend section twelve (12), lines 3 and 4, by striking
63 the words "but not in excess of the established average
64 minimum flow" and inserting in lieu thereof the words "provided
65 the established average minimum flow is preserved."

66 20. Amend section fifteen (15) by striking subsection
67 one (1) and inserting in lieu thereof the following: "1. Any
68 municipal corporation or person supplying a municipal corporation
69 which increases its water use in excess of one hundred thousand
70 (100,000) gallons per day more than its highest per day
71 beneficial use prior to the effective date of this Act."

72 21. Amend section fifteen (15) by striking all of subsection
73 two (2) and inserting in lieu thereof the following:

74 "2. Except for a nonregulated use, any person using in
75 excess of five thousand (5,000) gallons of water per day,
76 diverted, stored, or withdrawn from any source of supply except
77 a municipal water system or any other source specifically
78 exempted under the provisions of this Act."

79 22. Amend section sixteen (16), line 5, by changing the
80 period to a comma and adding the following: "provided that
81 existing uses may be continued during the period of the
82 pendency of an application for a permit."

83 23. Amend section seventeen (17), line 2, by inserting
84 a comma after the word "waters" and adding the words "or to
85 drain land by use of tile, open ditch or surface drainage,".

86 24. Further amend House File 128 by adding the following
87 as a new section.

88 "Section four hundred fifty-five A point twenty-three
89 (455A.23), Code 1954, is hereby amended by inserting in line
90 eighteen (18) after the word "de novo" the following "All
91 pertinent scientific information in the custody of the council
92 shall be made available to any party litigant pursuant to a
93 subpoena duces tecum."

94 25. Further amend by renumbering the remaining sections.

Filed
March 18, 1957

COMMITTEE ON CONSERVATION, DRAINAGE
AND FLOOD CONTROL