

SENATE FILE 333
BY STURGEON

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

A BILL FOR

1 An Act relating to the establishment of a state environmental
2 policy and requiring certain activities by governmental units
3 regarding the state environmental policy and its
4 implementation, and providing an effective date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 455H.1 DEFINITIONS.

2 For the purposes of this chapter, unless the context
3 otherwise requires:

4 1. "Commission" means the environmental protection
5 commission established pursuant to section 455A.6.

6 2. "Environmental assessment worksheet" means a brief
7 document which is designed to set out the basic facts
8 necessary to determine whether an environmental impact
9 statement is required for a proposed governmental action.

10 3. "Governmental action" means activities, including
11 projects wholly or partially conducted, permitted, assisted,
12 financed, regulated, or approved by a governmental unit,
13 including the federal government.

14 4. "Governmental unit" means any state agency and any
15 general or special purpose unit of government in the state
16 including, but not limited to, counties, towns, cities,
17 housing authorities, and economic development authorities, but
18 not including courts, school districts, and regional
19 development commissions.

20 5. "Pollution, impairment, or destruction" means any of
21 the following:

22 a. Conduct by a person which violates or is likely to
23 violate an environmental quality standard, limitation, rule,
24 order, license, stipulation agreement, or permit of the state,
25 a state instrumentality, or political subdivision which was
26 issued prior to the date of the alleged or likely violation.

27 b. Conduct which naturally and adversely affects or is
28 likely to naturally and adversely affect the environment.

29 c. "Pollution, impairment, or destruction" does not mean
30 conduct which violates, or is likely to violate a standard,
31 limitation, rule, order, license, stipulation agreement, or
32 permit solely due to the introduction of an odor into the air.

33 Sec. 2. NEW SECTION. 455H.2 PURPOSE.

34 The purposes of this chapter are to establish a state
35 policy that will encourage productive and enjoyable harmony

1 between human beings and their environment, to promote efforts
2 that will prevent or eliminate damage to the environment and
3 biosphere and stimulate the health and welfare of human
4 beings, and to enrich the understanding of the ecological
5 systems and natural resources important to the state and the
6 nation.

7 Sec. 3. NEW SECTION. 455H.3 ESTABLISHMENT OF THE STATE
8 ENVIRONMENTAL POLICY.

9 1. The general assembly, recognizing the profound impact
10 of human activity on the interrelations of all components of
11 the natural environment, particularly the profound influences
12 of population growth, high density urbanization, industrial
13 expansion, resources exploitation, and new and expanding
14 technological advances, and recognizing further the critical
15 importance of restoring and maintaining environmental quality
16 to the overall welfare and development of human beings,
17 declares that it is the continuing policy of the state, in
18 cooperation with federal and local governments, and other
19 concerned public and private organizations, to use all
20 practicable means and measures, including financial and
21 technical assistance, in a manner calculated to foster and
22 promote the general welfare, to create and maintain conditions
23 under which human beings and nature can exist in productive
24 harmony, and fulfill the social, economic, and other
25 requirements of present and future generations of the state's
26 people.

27 2. In order to carry out the policy set forth in this
28 chapter, it is the continuing responsibility of this state to
29 use all practicable means, consistent with other essential
30 considerations of state policy, to improve and coordinate
31 state plans, functions, programs, and resources to the end
32 that the state may do all of the following:

33 a. Fulfill the responsibilities of each generation as
34 trustee of the environment for succeeding generations.

35 b. Assure for all people of the state safe, healthful,

- 1 productive, and aesthetically and culturally pleasing
- 2 surroundings.
- 3 c. Discourage ecologically unsound aspects of population,
- 4 economic, and technological growth, and develop and implement
- 5 a policy such that growth occurs only in an environmentally
- 6 acceptable manner.
- 7 d. Preserve important historic, cultural, and natural
- 8 aspects of our national heritage, and maintain, wherever
- 9 practicable, an environment that supports diversity, and
- 10 variety of individual choice.
- 11 e. Encourage, through education, a better understanding of
- 12 natural resources management principles that will develop
- 13 attitudes and styles of living that minimize environmental
- 14 degradation.
- 15 f. Develop and implement land use and environmental
- 16 policies, plans, and standards for the state as a whole and
- 17 for regions of the state through a coordinated program of
- 18 planning and land use control.
- 19 g. Define, designate, and protect environmentally
- 20 sensitive areas.
- 21 h. Establish and maintain statewide environmental in-
- 22 formation systems sufficient to gauge environmental condition.
- 23 i. Practice thrift in the use of energy and maximize the
- 24 use of energy efficient systems for the utilization of energy,
- 25 and minimize the environmental impact from energy production
- 26 and use.
- 27 j. Preserve important existing natural habitats of rare
- 28 and endangered species of plants, wildlife, and fish, and
- 29 provide for the wise use of remaining areas of natural
- 30 habitation, including necessary protective measures where
- 31 appropriate.
- 32 k. Reduce wasteful practices which generate solid waste.
- 33 l. Minimize wasteful and unnecessary depletion of
- 34 nonrenewable resources.
- 35 m. Conserve natural resources and minimize environmental

1 impact by encouraging extension of product lifetime, by
2 reducing the number of unnecessary and wasteful materials
3 practices, and by recycling materials to conserve both
4 materials and energy.

5 n. Improve management of renewable resources in a manner
6 compatible with environmental protection.

7 o. Provide for reclamation of mined lands and assure that
8 any mining is accomplished in a manner compatible with
9 environmental protection.

10 p. Reduce the deleterious impact on air and water quality
11 from all sources, including the deleterious environmental
12 impact due to operation of vehicles with internal combustion
13 engines in urbanized areas.

14 q. Minimize noise, particularly in urban areas.

15 r. Prohibit, where appropriate, flood plain development in
16 urban and rural areas.

17 s. Encourage advanced waste treatment in abating water
18 pollution.

19 Sec. 4. NEW SECTION. 455H.4 ACTIONS BY GOVERNMENTAL
20 UNITS.

21 1. The general assembly directs that, to the fullest
22 extent practicable, the rules and laws of the state shall be
23 interpreted and administered in accordance with the policies
24 set forth in this chapter.

25 2. All governmental units shall:

26 a. On a continuous basis, seek to strengthen relationships
27 between state, regional, local, and federal-state
28 environmental planning, development, and management programs.

29 b. Utilize a systematic, interdisciplinary approach that
30 will ensure the integrated use of the natural and social
31 sciences and the environmental arts in planning and in
32 decision making which may have an impact on the environment.
33 As an aid in accomplishing this purpose, advisory councils or
34 other forums for consultation with persons in appropriate
35 fields of specialization shall be established so as to ensure

1 that the latest and most authoritative findings will be
2 considered in administrative and regulatory decision making as
3 quickly and as amply as possible.

4 c. Identify and develop methods and procedures that will
5 ensure that environmental amenities and values, whether
6 quantified or not, will be given at least equal consideration
7 in decision making, along with economic and technical
8 considerations.

9 d. Study, develop, and describe appropriate alternatives
10 to recommended courses of action in any proposal which
11 involves unresolved conflicts concerning alternative uses of
12 available resources.

13 e. Recognize the worldwide and long-range character of
14 environmental problems and, where consistent with the policy
15 of this state, lend appropriate support to initiatives,
16 resolutions, and programs designed to maximize interstate,
17 national, and international cooperation in anticipating and
18 preventing a decline in the quality of the world environment.

19 f. Make available to the federal government, counties,
20 municipalities, institutions, and individuals, information
21 useful in restoring, maintaining, and enhancing the quality of
22 the environment, and in meeting the policies of the state as
23 set forth in this chapter.

24 g. Initiate the gathering and utilization of ecological
25 information in the planning and development of resource-
26 oriented projects.

27 h. Undertake, contract for, or fund research as is needed
28 in order to determine and clarify effects by known or
29 suspected pollutants which may be detrimental to human health
30 or to the environment, as well as to evaluate the feasibility,
31 safety, and environmental effects of various methods of
32 dealing with pollutants.

33 Sec. 5. NEW SECTION. 455H.5 ENVIRONMENTAL IMPACT STATE-
34 MENTS.

35 1. If a potential exists for significant environmental

1 effects resulting from a major governmental action, the
2 governmental action shall be preceded by a detailed
3 environmental impact statement prepared by the responsible
4 governmental unit. The environmental impact statement shall
5 be an analytical rather than an encyclopedic document which
6 describes the proposed governmental action in detail, analyzes
7 its significant environmental impacts, discusses appropriate
8 alternatives to the proposed action and its impacts, and
9 explores methods by which adverse environmental impacts of the
10 action could be mitigated. The environmental impact statement
11 shall also analyze those economic, employment, and
12 sociological effects that cannot be avoided should the action
13 be implemented. To ensure its use in the decision-making
14 process, the environmental impact statement shall be prepared
15 as early as practical in the formulation of an action.

16 a. The commission shall establish by rule categories of
17 actions for which environmental impact statements and for
18 which environmental assessment worksheets shall be prepared as
19 well as categories of actions for which no environmental
20 review is required under this section.

21 b. The responsible governmental unit shall promptly
22 publish notice of the completion of an environmental
23 assessment worksheet in a manner to be determined by the
24 commission and shall provide copies of the environmental
25 assessment worksheet to the commission. Comments on the need
26 for an environmental impact statement may be submitted to the
27 responsible governmental unit during a thirty-day period
28 following publication of the notice that an environmental
29 assessment worksheet has been completed. The responsible
30 governmental unit's decision on the need for an environmental
31 impact statement shall be based on the environmental
32 assessment worksheet and the comments received during the
33 comment period, and shall be made within fifteen days after
34 the close of the comment period. The commission may extend
35 the fifteen-day period by not more than fifteen additional

1 days upon the request of the responsible governmental unit.

2 c. An environmental assessment worksheet shall also be
3 prepared for a proposed action if material evidence
4 accompanying a petition by not less than twenty-five persons,
5 submitted before the proposed project has received final
6 approval by the appropriate governmental units, demonstrates
7 that, because of the nature or location of a proposed
8 governmental action, a potential for significant environmental
9 effects may exist. Petitions requesting the preparation of an
10 environmental assessment worksheet shall be submitted to the
11 commission. The commission shall determine the appropriate
12 responsible governmental unit and forward the petition to it.
13 A decision on the need for an environmental assessment work-
14 sheet shall be made by the responsible governmental unit
15 within fifteen days after the petition is received by the
16 responsible governmental unit. The commission may extend the
17 fifteen-day period by not more than fifteen additional days
18 upon request of the responsible governmental unit.

19 d. The commission may, prior to final approval of a
20 proposed project, require preparation of an environmental
21 assessment worksheet by a responsible governmental unit
22 selected by the commission for any action where environmental
23 review under this section has not been specifically provided
24 for by rule or otherwise initiated.

25 e. An early and open process shall be utilized to limit
26 the scope of the environmental impact statement to a
27 discussion of those impacts which, because of the nature or
28 location of the project, have the potential for significant
29 environmental effects. The process shall be utilized to
30 determine the form, content, and level of detail of the
31 statement as well as the alternatives which are appropriate
32 for consideration in the statement. In addition, the permits
33 which will be required for the proposed action shall be
34 identified during the process. The process shall identify
35 those permits for which information will be developed

1 concurrently with the environmental impact statement. The
2 commission shall provide in its rules for the expeditious
3 completion of the process. The determinations reached in the
4 process shall be incorporated into the order requiring the
5 preparation of an environmental impact statement.

6 f. If practical, information needed by a governmental unit
7 for making final decisions on permits or other actions
8 required for a proposed project shall be developed in
9 conjunction with the preparation of an environmental impact
10 statement.

11 g. An environmental impact statement shall be prepared and
12 its adequacy determined within two hundred eighty days after
13 notice of its preparation unless the time is extended by
14 consent of the parties or by the governor for good cause. The
15 responsible governmental unit shall determine the adequacy of
16 an environmental impact statement, unless within sixty days
17 after notice is published that an environmental impact
18 statement will be prepared, the commission chooses to
19 determine the adequacy of an environmental impact statement.
20 If an environmental impact statement is found to be
21 inadequate, the responsible governmental unit shall have sixty
22 days to prepare an adequate environmental impact statement.

23 2. If an environmental assessment worksheet or an
24 environmental impact statement is required for a governmental
25 action under subsection 1, a project shall not be started and
26 a final governmental decision shall not be made to grant a
27 permit, approve a project, or begin a project, until one of
28 the following occurs:

29 a. A petition for an environmental assessment worksheet is
30 dismissed.

31 b. A negative declaration has been issued on the need for
32 an environmental impact statement.

33 c. The environmental impact statement has been approved as
34 adequate.

35 d. A variance has been granted from making an

1 environmental impact statement by the commission.

2 3. Within ninety days after final approval of an
3 environmental impact statement, final decisions shall be made
4 by the appropriate governmental units on those permits which
5 were identified as required and for which information was
6 developed concurrently with the preparation of the
7 environmental impact statement. Provided, however, that the
8 ninety-day period may be extended if a longer period is
9 required by federal law or state statute or is consented to by
10 the permit applicant. The permit decision shall include the
11 reasons for the decision, including any conditions under which
12 the permit is issued, together with a final order granting or
13 denying the permit.

14 4. The commission shall by rule identify alternative forms
15 of environmental review which address the same issues and
16 utilize similar procedures as an environmental impact
17 statement in a more timely or more efficient manner to be
18 utilized in lieu of an environmental impact statement.

19 5. The commission shall adopt rules to establish the
20 following:

21 a. The governmental unit which is responsible for
22 environmental review of a proposed governmental action.

23 b. The form and content of environmental assessment
24 worksheets.

25 c. The process described in subsection 2.

26 d. A procedure for identifying, during the process
27 described in subsection 2, the permits necessary for a
28 proposed governmental action and a process for coordinating
29 review of appropriate permits with the preparation of the
30 environmental impact statement.

31 e. A standard format for environmental impact statements.

32 f. Standards for determining the alternatives to be
33 discussed in an environmental impact statement.

34 g. Alternative forms of environmental review which are
35 acceptable pursuant to subsection 4.

1 h. A model ordinance which may be adopted and implemented
2 by local governmental units in lieu of the environmental
3 impact statement process required by this section, providing
4 for an alternative form of environmental review in which an
5 action does not require a state agency permit and is
6 consistent with an applicable comprehensive plan. The model
7 ordinance shall provide for adequate consideration of
8 appropriate alternatives, and shall ensure that decisions are
9 made in accordance with the policies and purposes of this
10 chapter.

11 i. Procedures to reduce paperwork and delay through
12 intergovernmental cooperation and the elimination of
13 unnecessary duplication of environmental reviews.

14 j. Procedures for expediting the selection of consultants
15 by the governmental unit responsible for the preparation of an
16 environmental impact statement.

17 k. Any additional rules which are necessary to carry out
18 the requirements of this section.

19 6. State action significantly affecting the quality of the
20 environment shall not be allowed and a permit for natural
21 resources management and development shall not be granted if
22 such action or permit has caused or is likely to cause
23 pollution, impairment, or destruction of natural resources
24 located within the state, provided a feasible and prudent
25 alternative exists which is consistent with the reasonable
26 requirements of the public health, safety, and welfare and the
27 state's paramount concern for the protection of its natural
28 resources from pollution, impairment, or destruction.
29 Economic considerations alone shall not justify such conduct.

30 7. Prior to the preparation of a final environmental
31 impact statement, the governmental unit responsible for the
32 statement shall consult with and request the comments of every
33 governmental unit which has jurisdiction by law or special
34 expertise with respect to any environmental effect involved.
35 Copies of the drafts of such statements and the comments and

1 views of the appropriate governmental units shall be made
2 available to the public. The final detailed environmental
3 impact statement and the comments received shall precede final
4 decisions on the proposed governmental action and shall
5 accompany the proposal through an administrative review
6 process.

7 8. Regardless of whether a detailed written environmental
8 impact statement is required by the commission to accompany an
9 application for a permit for natural resources management and
10 development, or a recommendation, project, or program for
11 governmental action, officials responsible for issuance of
12 permits or for other activities described in this chapter
13 shall give due consideration to the provisions of this
14 chapter, in the execution of their duties.

15 9. In order to facilitate coordination of environmental
16 decision making and the timely review of agency decisions, the
17 commission shall establish by rule a procedure for early
18 notice to the commission and the public of natural resources
19 management and development permit applications and other
20 impending state actions having significant environmental
21 effects.

22 10. Prior to the final decision upon a governmental action
23 significantly affecting the environment or for which an
24 environmental impact statement is required, or within ten days
25 after the final decision, the commission may delay
26 implementation of the governmental action or project by notice
27 to the agency or department and to interested parties. Within
28 forty-five days of such notice, the commission may reverse or
29 modify the decision or proposal if it finds, upon notice and
30 hearing, that the action or project is inconsistent with the
31 policy and standards of this chapter. Any aggrieved party may
32 seek judicial review pursuant to chapter 17A.

33 11. This chapter may be enforced by injunction, action to
34 compel performance, or other appropriate action in the
35 district court of the county where the violation takes place.

1 Upon request of the commission, the attorney general may bring
2 an action.

3 Sec. 6. NEW SECTION. 455H.6 ENVIRONMENTAL IMPACT
4 STATEMENTS -- COSTS.

5 1. The commission shall adopt rules to assess the proposer
6 of a specific governmental action for reasonable costs of
7 preparing and distributing an environmental impact statement
8 on that action required pursuant to section 455H.5. The costs
9 shall be determined by the responsible governmental unit
10 pursuant to the rules adopted by the commission.

11 2. If a disagreement occurs between the proposer of the
12 governmental action and the responsible governmental unit over
13 the cost of an environmental impact statement, the responsible
14 governmental unit shall consult with the commission, which may
15 modify the cost or determine that the cost assessed by the
16 responsible governmental unit is reasonable.

17 3. The responsible governmental unit shall assess the
18 project proposer for reasonable costs in preparing and
19 distributing the environmental impact statement and the
20 proposer shall pay the assessed cost to the responsible
21 governmental unit. Moneys received pursuant to this section
22 shall be deposited in the general fund of the state. However,
23 moneys received under this section by a responsible
24 governmental unit that is not a state agency may be retained
25 by the governmental unit.

26 4. A responsible governmental unit shall not commence the
27 preparation of an environmental impact statement until at
28 least one-half of the assessed cost of the environmental
29 impact statement is paid pursuant to subsection 3. Other laws
30 notwithstanding, a state agency shall not issue a permit for
31 the construction or operation of a project for which an
32 environmental impact statement is prepared until the assessed
33 cost for the environmental impact statement has been paid in
34 full.

35 Sec. 7. NEW SECTION. 455H.7 EFFECT OF EXISTING

1 OBLIGATIONS.

2 Nothing in this chapter shall affect the statutory
3 obligations of a governmental unit to comply with criteria or
4 standards of environmental quality, coordinate or consult with
5 a state or federal agency, or act or refrain from acting
6 contingent upon the recommendations or certification of a
7 state or federal agency.

8 Sec. 8. NEW SECTION. 455H.8 GOVERNOR'S REPORT REQUIRED.

9 The governor shall annually by January 15 submit an
10 environmental quality report to the general assembly. The
11 report shall include all of the following:

12 1. The status and condition of the environment of the
13 state including but not limited to the air, the aquatic, and
14 the terrestrial environment including but not limited to the
15 forest, dryland, wetland, range, urban, suburban, and rural
16 environment.

17 2. Current and foreseeable trends in the quality,
18 management, and utilization of the environments and the
19 effects of those trends on the social, economic, and other
20 requirements of the state.

21 3. The adequacy of available natural resources for
22 fulfilling human and economic requirements of the state in the
23 light of expected population pressures.

24 4. A review of the programs and activities, including
25 regulatory activities, of the federal government in the state,
26 the state and local governments, and nongovernmental entities
27 or individuals with particular reference to their effect on
28 the environment and on the conservation, development, and
29 utilization of natural resources.

30 5. A program for remedying the deficiencies of existing
31 programs and activities, together with recommendations for
32 legislation.

33 6. A review of identified, potentially feasible programs
34 and projects for solving existing and future natural resources
35 problems.

1 7. Measures which may be necessary to bring state
2 government statutory authority, administrative rules, and
3 current policies into conformity with the intent, purposes,
4 and procedures set forth in this chapter.

5 8. The status of statewide natural resources plans.

6 9. A statewide inventory of natural resources projects
7 consisting of a description of all existing and proposed
8 public natural resources works or improvements to be
9 undertaken in the coming year by governmental units or with
10 state funds; an annual tabulation of initial investment costs
11 and operation and maintenance costs for both existing and
12 proposed projects; an analysis of the relationship of existing
13 state projects to all existing public natural resources works
14 of improvement undertaken by local, regional, state-federal,
15 and federal agencies with funds other than state funds; and an
16 analysis of the relationship of proposed state projects to
17 local, regional, state-federal, and federal plans.

18 The purpose of this environmental quality report by the
19 governor is to provide the information necessary for the
20 general assembly to assess the existing and possible future
21 economic impact on state government of capital investments in
22 and maintenance costs of natural resources works of
23 improvement.

24 Sec. 9. This Act, being deemed of immediate importance,
25 takes effect upon enactment.

26 EXPLANATION

27 This bill establishes a state environmental policy to
28 prevent damage to the environment and protect the health and
29 welfare of Iowans. The bill specifies measures which the
30 governmental units are to take in carrying out the policy.
31 The bill also directs state agencies and departments to comply
32 with the provisions of the state environmental policy;
33 requires environmental assessment worksheets and environmental
34 impact statements in certain circumstances prior to a
35 governmental action which has the potential for significant

1 environmental effects; requires the environmental protection
2 commission to adopt rules to implement the chapter; provides
3 for judicial review relative to the rejection of an
4 environmental impact statement by the commission; provides for
5 payment of costs incurred through preparation and distribution
6 of environmental impact statements; and requires an annual
7 environmental report to be submitted to the general assembly
8 by the governor. The bill takes effect upon enactment.

9 This bill may establish a state mandate as defined pursuant
10 to section 25B.3.

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