

*Water Energy + Envir., No Pass 3/27*

1992

SENATE FILE 2209  
BY COMMITTEE ON ENVIRONMENT  
AND ENERGY UTILITIES  
(SUCCESSOR TO SSB 2097)

Passed Senate, Date 3/19/92 (p. 821) Passed House, Date 3/21/92 (p. 930)  
Vote: Ayes 45 Nays 0 Vote: Ayes 94 Nays 0  
Approved April 9, 1992 (p. 1323)

A BILL FOR

1 An Act relating to viable water systems.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

*SF 2209*

1 Section 1. Section 455B.171, Code Supplement 1991, is  
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 29. "Viable" means a disposal system or a  
4 public water supply system which is self-sufficient and has  
5 the financial, managerial, and technical capability to  
6 reliably meet standards of performance on a long-term basis,  
7 as required by state and federal law, including the federal  
8 Water Pollution Control Act and the federal Safe Drinking  
9 Water Act.

10 Sec. 2. Section 455B.173, Code Supplement 1991, is amended  
11 by adding the following new subsection:

12 NEW SUBSECTION. 11. Adopt, modify, or repeal rules  
13 relating to the business plan which disposal systems and  
14 public water supply systems must file with the department  
15 pursuant to section 455B.174, and adopt, modify, or repeal  
16 rules establishing a methodology and timetable by which  
17 nonviable systems shall take action to become viable or make  
18 alternative arrangements in providing treatment or water  
19 supply services.

20 Sec. 3. Section 455B.173, subsection 3, unnumbered  
21 paragraph 1, Code Supplement 1991, is amended to read as  
22 follows:

23 Establish, modify or repeal rules relating to the location,  
24 construction, operation, and maintenance of disposal systems  
25 and public water supply systems and specifying the conditions,  
26 including the viability of a system pursuant to section  
27 455B.174, under which the director shall issue, revoke,  
28 suspend, modify, or deny permits for the operation,  
29 installation, construction, addition to, or modification of  
30 any disposal system or public water supply system, or for the  
31 discharge of any pollutant or for the disposal of water wastes  
32 resulting from poultry and livestock operations. The rules  
33 specifying the conditions under which the director shall issue  
34 permits for the construction of an electric power generating  
35 facility subject to chapter 476A shall provide for issuing a

1 conditional permit upon the submission of engineering  
2 descriptions, flow diagrams and schematics that qualitatively  
3 and quantitatively identify effluent streams and alternative  
4 disposal systems that will provide compliance with effluent  
5 standards or limitations.

6 Sec. 4. Section 455B.174, subsection 4, Code 1991, is  
7 amended to read as follows:

8 4. a. Approve or disapprove the plans and specifications  
9 for the construction of disposal systems or public water  
10 supply systems except for those sewer extensions and water  
11 supply distribution system extensions which are reviewed by a  
12 city or county public works department as set forth in section  
13 455B.183. The director shall issue, revoke, suspend, modify,  
14 or deny permits for the operation, installation, construction,  
15 addition to, or modification of any disposal system or public  
16 water supply system except for sewer extensions and water  
17 supply distribution system extensions which are reviewed by a  
18 city or county public works department as set forth in section  
19 455B.183. The director shall also issue, revoke, suspend,  
20 modify, or deny permits for the discharge of any pollutant.  
21 The permits shall contain conditions and schedules of  
22 compliance as necessary to meet the requirements of this part  
23 of this division, and the federal Water Pollution Control Act  
24 and the federal Safe Drinking Water Act. The director shall  
25 not issue or renew a permit to a disposal system or a public  
26 water supply system which is not viable. If the director has  
27 reasonable grounds to believe that a disposal system or public  
28 water supply system is not viable, the department may require  
29 the system to submit a business plan as a means of determining  
30 viability. This plan shall include the following components:  
31 (1) A facilities plan which describes proposed new  
32 facilities and the condition of existing facilities,  
33 rehabilitation and replacement needs, and future needs to meet  
34 the requirements of the federal Water Pollution Control Act  
35 and the federal Safe Drinking Water Act.

1     (2) A management plan which consists of an administrative  
2 plan describing methods to assure performance of functions  
3 necessary to administer the system, including credentials of  
4 management personnel; and an operation and maintenance plan  
5 describing how all operating and maintenance duties necessary  
6 to the system's proper function will be accomplished.

7     (3) A financial plan which describes provisions for  
8 assuring that adequate revenues will be available to meet cash  
9 flow requirements, based on the full cost of providing the  
10 service, adequate initial capitalization, and access to  
11 additional capital for contingencies.

12     If, upon submission and review of the business plan, the  
13 department determines that the disposal system or public water  
14 supply system is not viable, the director may require the  
15 system to take actions to become viable within a time period  
16 established pursuant to section 455B.173, or to make  
17 alternative arrangements in providing treatment or water  
18 supply services as determined by rule.

19     b. A In addition to the requirements of paragraph "a", a  
20 permit shall not be issued to operate or discharge from any  
21 disposal system unless the conditions of the permit assure  
22 that any discharge from the disposal system meets or will meet  
23 all applicable state and federal water quality standards and  
24 effluent standards and the issuance of the permit is not  
25 otherwise prohibited by the federal Water Pollution Control  
26 Act. All applications for discharge permits are subject to  
27 public notice and opportunity for public participation  
28 including public hearing as the department may by rule  
29 require. The director shall promptly notify the applicant in  
30 writing of the director's action and, if the permit is denied,  
31 state the reasons for denial. The applicant may appeal to the  
32 department-of-inspections-and-appeals commission from the  
33 denial of a permit or from any condition in any permit if the  
34 applicant files notice of appeal with the director within  
35 thirty days of the notice of denial or issuance of the permit.

1 The director shall notify the applicant within thirty days of  
2 the time and place of the hearing.

3 c. Copies of all forms or other paper instruments required  
4 to be filed during on-site inspections or investigations shall  
5 be given to the owner or operator of the disposal system or  
6 public water supply system being investigated or inspected  
7 before the inspector or investigator leaves the site. Any  
8 other report, statement, or instrument shall not be filed with  
9 the department unless a copy is sent by ordinary mail to the  
10 owner or operator of the disposal system or public water  
11 supply system within ten working days of the filing. If an  
12 inspection or investigation is done in co-operation with  
13 another state department, the department involved and the  
14 areas inspected shall be stated.

15 d. The director shall also issue or deny conditional  
16 permits for the construction of disposal systems for electric  
17 power generating facilities subject to chapter 476A. All  
18 applications for conditional permits shall be subject to such  
19 notice and opportunity for public participation as may be  
20 required by the department and as may be consistent with  
21 chapter 476A and any agreement pursuant thereto under chapter  
22 28E. The applicant or an intervenor may appeal to the  
23 department from the denial of a conditional permit or any of  
24 its conditions. For the purposes of chapter 476A, the  
25 issuance or denial of a conditional permit by the director or  
26 the department upon appeal shall be a determination that the  
27 electric power generating facility does or does not meet the  
28 permit and licensing requirements of the department. The  
29 issuance of a conditional permit shall not relieve the  
30 applicant of the responsibility to submit final and detailed  
31 construction plans and drawing and an application for a  
32 construction permit for a disposal system that will meet the  
33 effluent limitations in the conditional permit.

34

EXPLANATION

35 This bill authorizes the department of natural resources to

1 deny permits to nonviable water supply and wastewater systems,  
2 as defined in the bill.

3

4

5

6

---

SENATE FILE 2209  
FISCAL NOTE

---

A fiscal note for Senate File 2209 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

---

Senate File 2209 requires the operators of a public water supply system or waste system, which the Department of Natural Resources (DNR) has determined may not be viable, to submit a business plan as a means of determining viability.

Background:

The majority of public water supply and waste systems required to submit a business plan would be non-governmental systems, such as golf courses, mobile home parks, and private associations. However, the DNR indicates that a small percentage (less than 5%) of the public systems operated by local governments may also have to submit business plans. Development of a plan may require the system to hire a consultant.

Fiscal Effect:

The number of local governments required to submit a business plan and the average cost for developing a plan cannot be determined. Much of the fiscal impact would be dictated by pending federal regulations and DNR rules promulgated to implement this legislation.

Source: Department of Natural Resources

(LSB 5648sv, JWR)

FILED MARCH 12, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

32

33

34

35

DELLNER, CH.

VARN

SOORHOLTZ

2/4/92

SSB 2097

ENVIRONMENT & ENERGY  
UTILITIES

SENATE FILE 2209

BY (PROPOSED COMMITTEE ON  
ENVIRONMENT AND ENERGY  
UTILITIES BILL BY CHAIR-  
PERSON ROSENBERG)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to viable water systems.

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

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

1 Section 1. Section 455B.171, Code Supplement 1991, is  
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 29. "Viable" means a disposal system or a  
4 public water supply system which is self-sufficient and has  
5 the financial, managerial, and technical capability to  
6 reliably meet standards of performance on a long-term basis,  
7 as required by state and federal law, including the federal  
8 Water Pollution Control Act and the federal Safe Drinking  
9 Water Act.

10 Sec. 2. Section 455B.173, Code Supplement 1991, is amended  
11 by adding the following new subsection:

12 NEW SUBSECTION. 11. Adopt, modify, or repeal rules  
13 relating to the business plan which disposal systems and  
14 public water supply systems must file with the department  
15 pursuant to section 455B.174, and adopt, modify, or repeal  
16 rules establishing a methodology and timetable by which  
17 nonviable systems shall take action to become viable or make  
18 alternative arrangements in providing treatment or water  
19 supply services.

20 Sec. 3. Section 455B.173, subsection 3, unnumbered  
21 paragraph 1, Code Supplement 1991, is amended to read as  
22 follows:

23 Establish, modify or repeal rules relating to the location,  
24 construction, operation, and maintenance of disposal systems  
25 and public water supply systems and specifying the conditions,  
26 including the viability of a system pursuant to section  
27 455B.174, under which the director shall issue, revoke,  
28 suspend, modify, or deny permits for the operation,  
29 installation, construction, addition to, or modification of  
30 any disposal system or public water supply system, or for the  
31 discharge of any pollutant or for the disposal of water wastes  
32 resulting from poultry and livestock operations. The rules  
33 specifying the conditions under which the director shall issue  
34 permits for the construction of an electric power generating  
35 facility subject to chapter 476A shall provide for issuing a

1 conditional permit upon the submission of engineering  
2 descriptions, flow diagrams and schematics that qualitatively  
3 and quantitatively identify effluent streams and alternative  
4 disposal systems that will provide compliance with effluent  
5 standards or limitations.

6 Sec. 4. Section 455B.174, subsection 4, Code 1991, is  
7 amended to read as follows:

8 4. a. Approve or disapprove the plans and specifications  
9 for the construction of disposal systems or public water  
10 supply systems except for those sewer extensions and water  
11 supply distribution system extensions which are reviewed by a  
12 city or county public works department as set forth in section  
13 455B.183. The director shall issue, revoke, suspend, modify,  
14 or deny permits for the operation, installation, construction,  
15 addition to, or modification of any disposal system or public  
16 water supply system except for sewer extensions and water  
17 supply distribution system extensions which are reviewed by a  
18 city or county public works department as set forth in section  
19 455B.183. The director shall also issue, revoke, suspend,  
20 modify, or deny permits for the discharge of any pollutant.  
21 The permits shall contain conditions and schedules of  
22 compliance as necessary to meet the requirements of this part  
23 of this division, and the federal Water Pollution Control Act  
24 and the federal Safe Drinking Water Act. The director shall  
25 not issue or renew a permit to a disposal system or a public  
26 water supply system which is not viable. To determine the  
27 viability of a disposal system or public water supply, the  
28 department shall require, as part of the permit application,  
29 submittal of a business plan. This plan shall include the  
30 following components:

31 (1) A facilities plan which describes proposed new  
32 facilities and the condition of existing facilities,  
33 rehabilitation and replacement needs, and future needs to meet  
34 the requirements of the federal Water Pollution Control Act  
35 and the federal Safe Drinking Water Act.

1     (2) A management plan which consists of an administrative  
2 plan describing methods to assure performance of functions  
3 necessary to administer the system, including credentials of  
4 management personnel; and an operation and maintenance plan  
5 describing how all operating and maintenance duties necessary  
6 to the system's proper function will be accomplished.

7     (3) A financial plan which describes provisions for  
8 assuring that adequate revenues will be available to meet cash  
9 flow requirements, based on the full cost of providing the  
10 service, adequate initial capitalization, and access to  
11 additional capital for contingencies.

12     If, upon submission and review of the business plan, the  
13 department determines that the disposal system or public water  
14 supply is not viable, the director may require the system to  
15 take actions to become viable within a time period established  
16 pursuant to section 455B.173, or to make alternative  
17 arrangements in providing treatment or water supply services  
18 as determined by rule.

19     b. A In addition to the requirements of paragraph "a", a  
20 permit shall not be issued to operate or discharge from any  
21 disposal system unless the conditions of the permit assure  
22 that any discharge from the disposal system meets or will meet  
23 all applicable state and federal water quality standards and  
24 effluent standards and the issuance of the permit is not  
25 otherwise prohibited by the federal Water Pollution Control  
26 Act. All applications for discharge permits are subject to  
27 public notice and opportunity for public participation  
28 including public hearing as the department may by rule  
29 require. The director shall promptly notify the applicant in  
30 writing of the director's action and, if the permit is denied,  
31 state the reasons for denial. The applicant may appeal to the  
32 department-of-inspections-and-appeals commission from the  
33 denial of a permit or from any condition in any permit if the  
34 applicant files notice of appeal with the director within  
35 thirty days of the notice of denial or issuance of the permit.

1 The director shall notify the applicant within thirty days of  
2 the time and place of the hearing.

3 c. Copies of all forms or other paper instruments required  
4 to be filed during on-site inspections or investigations shall  
5 be given to the owner or operator of the disposal system or  
6 public water supply system being investigated or inspected  
7 before the inspector or investigator leaves the site. Any  
8 other report, statement, or instrument shall not be filed with  
9 the department unless a copy is sent by ordinary mail to the  
10 owner or operator of the disposal system or public water  
11 supply system within ten working days of the filing. If an  
12 inspection or investigation is done in co-operation with  
13 another state department, the department involved and the  
14 areas inspected shall be stated.

15 d. The director shall also issue or deny conditional  
16 permits for the construction of disposal systems for electric  
17 power generating facilities subject to chapter 476A. All  
18 applications for conditional permits shall be subject to such  
19 notice and opportunity for public participation as may be  
20 required by the department and as may be consistent with  
21 chapter 476A and any agreement pursuant thereto under chapter  
22 28E. The applicant or an intervenor may appeal to the  
23 department from the denial of a conditional permit or any of  
24 its conditions. For the purposes of chapter 476A, the  
25 issuance or denial of a conditional permit by the director or  
26 the department upon appeal shall be a determination that the  
27 electric power generating facility does or does not meet the  
28 permit and licensing requirements of the department. The  
29 issuance of a conditional permit shall not relieve the  
30 applicant of the responsibility to submit final and detailed  
31 construction plans and drawing and an application for a  
32 construction permit for a disposal system that will meet the  
33 effluent limitations in the conditional permit.

34

EXPLANATION

35 This bill authorizes the department of natural resources to

1 deny permits to nonviable water supply and wastewater systems,  
2 as defined in the bill.

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

SENATE FILE 2209

AN ACT

RELATING TO VIABLE WATER SYSTEMS.

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

Section 1. Section 455B.171, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 29. "Viable" means a disposal system or a public water supply system which is self-sufficient and has the financial, managerial, and technical capability to reliably meet standards of performance on a long-term basis, as required by state and federal law, including the federal Water Pollution Control Act and the federal Safe Drinking Water Act.

Sec. 2. Section 455B.173, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 11. Adopt, modify, or repeal rules relating to the business plan which disposal systems and public water supply systems must file with the department pursuant to section 455B.174, and adopt, modify, or repeal rules establishing a methodology and timetable by which nonviable systems shall take action to become viable or make alternative arrangements in providing treatment or water supply services.

Sec. 3. Section 455B.173, subsection 3, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

Establish, modify or repeal rules relating to the location, construction, operation, and maintenance of disposal systems and public water supply systems and specifying the conditions, including the viability of a system pursuant to section 455B.174, under which the director shall issue, revoke, suspend, modify, or deny permits for the operation,

installation, construction, addition to, or modification of any disposal system or public water supply system, or for the discharge of any pollutant or for the disposal of water wastes resulting from poultry and livestock operations. The rules specifying the conditions under which the director shall issue permits for the construction of an electric power generating facility subject to chapter 476A shall provide for issuing a conditional permit upon the submission of engineering descriptions, flow diagrams and schematics that qualitatively and quantitatively identify effluent streams and alternative disposal systems that will provide compliance with effluent standards or limitations.

Sec. 4. Section 455B.174, subsection 4, Code 1991, is amended to read as follows:

4. a. Approve or disapprove the plans and specifications for the construction of disposal systems or public water supply systems except for those sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.183. The director shall issue, revoke, suspend, modify, or deny permits for the operation, installation, construction, addition to, or modification of any disposal system or public water supply system except for sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.183. The director shall also issue, revoke, suspend, modify, or deny permits for the discharge of any pollutant. The permits shall contain conditions and schedules of compliance as necessary to meet the requirements of this part of this division, and the federal Water Pollution Control Act and the federal Safe Drinking Water Act. The director shall not issue or renew a permit to a disposal system or a public water supply system which is not viable. If the director has reasonable grounds to believe that a disposal system or public water supply system is not viable, the department may require

the system to submit a business plan as a means of determining viability. This plan shall include the following components:

(1) A facilities plan which describes proposed new facilities and the condition of existing facilities, rehabilitation and replacement needs, and future needs to meet the requirements of the federal Water Pollution Control Act and the federal Safe Drinking Water Act.

(2) A management plan which consists of an administrative plan describing methods to assure performance of functions necessary to administer the system, including credentials of management personnel; and an operation and maintenance plan describing how all operating and maintenance duties necessary to the system's proper function will be accomplished.

(3) A financial plan which describes provisions for assuring that adequate revenues will be available to meet cash flow requirements, based on the full cost of providing the service, adequate initial capitalization, and access to additional capital for contingencies.

If, upon submission and review of the business plan, the department determines that the disposal system or public water supply system is not viable, the director may require the system to take actions to become viable within a time period established pursuant to section 455B.173, or to make alternative arrangements in providing treatment or water supply services as determined by rule.

b. A In addition to the requirements of paragraph "a", a permit shall not be issued to operate or discharge from any disposal system unless the conditions of the permit assure that any discharge from the disposal system meets or will meet all applicable state and federal water quality standards and effluent standards and the issuance of the permit is not otherwise prohibited by the federal Water Pollution Control Act. All applications for discharge permits are subject to public notice and opportunity for public participation including public hearing as the department may by rule

require. The director shall promptly notify the applicant in writing of the director's action and, if the permit is denied, state the reasons for denial. The applicant may appeal to the department-of-inspections-and-appeals commission from the denial of a permit or from any condition in any permit if the applicant files notice of appeal with the director within thirty days of the notice of denial or issuance of the permit. The director shall notify the applicant within thirty days of the time and place of the hearing.

c. Copies of all forms or other paper instruments required to be filed during on-site inspections or investigations shall be given to the owner or operator of the disposal system or public water supply system being investigated or inspected before the inspector or investigator leaves the site. Any other report, statement, or instrument shall not be filed with the department unless a copy is sent by ordinary mail to the owner or operator of the disposal system or public water supply system within ten working days of the filing. If an inspection or investigation is done in co-operation with another state department, the department involved and the areas inspected shall be stated.

d. The director shall also issue or deny conditional permits for the construction of disposal systems for electric power generating facilities subject to chapter 476A. All applications for conditional permits shall be subject to such notice and opportunity for public participation as may be required by the department and as may be consistent with chapter 476A and any agreement pursuant thereto under chapter 28E. The applicant or an intervenor may appeal to the department from the denial of a conditional permit or any of its conditions. For the purposes of chapter 476A, the issuance or denial of a conditional permit by the director or the department upon appeal shall be a determination that the electric power generating facility does or does not meet the permit and licensing requirements of the department. The

issuance of a conditional permit shall not relieve the applicant of the responsibility to submit final and detailed construction plans and drawing and an application for a construction permit for a disposal system that will meet the effluent limitations in the conditional permit.

---

MICHAEL E. GRONSTAL  
President of the Senate

---

ROBERT C. ARNOULD  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2209, Seventy-fourth General Assembly.

---

JOHN F. DWYER  
Secretary of the Senate

Approved April 9, 1992

---

TERRY E. BRANSTAD  
Governor

SF 2209