

JOINT SUBCOMMITTEE ON WATER LAWS  
OF THE  
HOUSE AND SENATE COMMITTEES ON NATURAL RESOURCES

Report to the Legislative Council  
of the First Session of the Sixty-eighth General Assembly

State of Iowa  
1979

# F I N A L R E P O R T

## JOINT SUBCOMMITTEE ON WATER LAWS OF THE HOUSE AND SENATE COMMITTEES ON NATURAL RESOURCES

December, 1978

The membership of the Joint Subcommittee includes:

Senator Lowell Junkins, Co-chairperson  
Representative Jim Middleswart, Co-chairperson  
Senator Irwin Bergman  
Senator James Calhoon  
Senator Tom Slater  
Senator Dale Tieden  
Representative Ned Chiodo  
Representative Roger Halvorson  
Representative Carroll Perkins  
Representative Andrew Varley

The Joint Subcommittee was authorized to hold four meetings. The first meeting was held on September 26, 1978. The Joint Subcommittee received testimony from Mr. Merwin Dougal, Chairman, Iowa Natural Resources Council and members of that agency's staff regarding the Council's legislative priorities on the subjects of flood plain regulation and water use and supply. The Joint Subcommittee also received testimony from Mr. David Long, League of Iowa Municipalities, on the subject of water conservation and shortage planning; Mr. Harold Anderson, Iowa Farm Bureau Federation, on the subject of soil conservation; and Mr. Jack Soener, Iowa Manufacturers Association, on water withdrawal policy. The Joint Subcommittee directed the preparation of four bill drafts for penalties for unauthorized water withdrawal and flood plain construction, regulation of well drilling, on-site wastewater treatment, and the removal of some exemptions to the water withdrawal permit system.

The second meeting was held on November 29, 1978. The Joint Subcommittee discussed the four bill drafts with Mr. James Webb, Director, Iowa Natural Resources Council, and other members of his staff. The Joint Subcommittee approved four bill drafts; however, since the Joint Subcommittee had adopted rules requiring the concurrence of three members of each house to recommend a bill to the Legislative Council, and only one Senator was in attendance, the Joint Subcommittee was unable to recommend these drafts to the Legislative Council. The Legislative Service Bureau was directed to provide copies of these bill drafts to the Standing Committees on Natural Resources. These bill drafts are as follows:

1. A bill draft which phases out existing exemptions to the permit system for municipal and industrial water users and injection wells.

2. A bill draft establishing civil penalties for unauthorized flood plain construction and water withdrawal and extend the liability to contractors.

3. A bill draft establishing standards for water well construction and pump installation and creating a certification system for water well drillers and pump installers.

4. A bill to authorize the creation of special districts to regulate or operate on-site wastewater treatment systems such as septic tanks and cluster systems.

Copies of the bill drafts are attached.

No further meetings are scheduled.

PROPOSED HOUSE FILE \_\_\_\_\_

By (PROPOSED JOINT NATURAL  
RESOURCES SUBCOMMITTEE  
ON WATER LAWS BILL)

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

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

Approved \_\_\_\_\_

## A BILL FOR

1 An Act to eliminate the municipal and industrial exemptions  
2 for water withdrawal permits.

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

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1 Section 1. Section four hundred fifty-five A point one  
2 (455A.1), unnumbered paragraph eleven (11), Code 1979, is  
3 amended to read as follows:

4 "Nonregulated use" means the use of water for ordinary  
5 household purposes, use of water for poultry, livestock and  
6 domestic animals, any beneficial use of surface flow from  
7 rivers bordering the state of Iowa, ~~existing-beneficial-uses~~  
8 ~~of-water-within-the-territorial-boundaries-of-municipal~~  
9 ~~corporations-on-May-16,-1957,-except-that-industrial-users~~  
10 ~~of-water,-having-their-own-water-supply,-within-the-territorial~~  
11 ~~boundaries-of-municipal-corporations,-shall-be-regulated-when~~  
12 ~~such-water-use-exceeds-three-percent-more-than-the-highest~~  
13 ~~per-day-beneficial-use-prior-to-May-16,-1957,~~ and any other  
14 beneficial use of water by any person of less than five  
15 thousand gallons per day;

16 Sec. 2. Section four hundred fifty-five A point twenty-  
17 five (455A.25), subsections one (1), three (3) and four (4),  
18 Code 1979, are amended to read as follows:

19 1. Any A municipal corporation or person supplying a  
20 municipal corporation. However, a municipal corporation or  
21 person supplying a municipal corporation which increases has  
22 not increased its water use in excess of one hundred thousand  
23 gallons, or three percent, whichever is the greater, per day  
24 more than its highest per day beneficial use prior to May  
25 16, 1957 shall not be required to apply for a permit for that  
26 existing use until two years after the effective date of this  
27 Act, and the existing use may be continued during the pendency  
28 of an application for a permit. ~~Such-corporation-or-person~~  
29 ~~shall-make-reasonable-provision-for-the-storage-of-water-at~~  
30 ~~such-time-or-times-when-the-daily-use-of-such-water-by-such~~  
31 ~~corporation-or-person-is-less-than-the-amount-specified-herein.~~  
32 3. Any person who diverts water or any material from the  
33 surface directly into any underground watercourse or basin.  
34 ~~Provided,-however~~ However, ~~that-any~~ a diversion of water or  
35 material from the surface directly into any underground

1 watercourse or basin existing upon May 16, 1957, ~~shall not~~  
 2 ~~require a permit if said diversion~~ which does not create waste  
 3 or pollution may continue without a permit until five years  
 4 after the effective date of this Act and during the pendency  
 5 of an application for a permit. No A permit shall not be  
 6 issued under this subsection until the approval of the Iowa  
 7 water ~~pollution control~~ quality commission has been obtained.

8 4. Industrial users of water having their own water supply.  
 9 However, industrial users of water having their own water  
 10 supply, within the territorial boundaries of municipal  
 11 corporations, shall be regulated when such whose water use  
 12 exceeds does not exceed three percent more than the highest  
 13 per day beneficial use prior to May 16, 1957 shall not be  
 14 required to apply for a permit for that existing use until  
 15 four years after the effective date of this Act and the  
 16 existing use may be continued during the pendency of an  
 17 application for a permit.

18 Sec. 3. This Act is effective January first following  
 19 its enactment.

20 EXPLANATION

21 This bill phases out certain exemptions to the permit re-  
 22 quirement for water use. The exemption for municipal use  
 23 is terminated in two years. The exemption for injection wells  
 24 is terminated in five years. The exemption for industrial  
 25 use is terminated in four years.

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PROPOSED HOUSE FILE \_\_\_\_\_

By (PROPOSED JOINT NATURAL RE-  
SOURCES SUBCOMMITTEE ON  
WATER LAWS BILL)

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

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

Approved \_\_\_\_\_

## A BILL FOR

1 An Act to establish standards for water well construction  
2 and pumping equipment installation, by regulating contrac-  
3 tors involved in these fields, providing penalties and  
4 making an appropriation.

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

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1 Section 1. NEW SECTION. TITLE. This Act shall be known  
2 and may be cited as the "Iowa Water Well and Pump Installation  
3 Certification Act".

4 Sec. 2. NEW SECTION. DEFINITIONS. As used in this Act,  
5 unless the context otherwise requires:

6 1. "Abandoned well" means a well whose use has been  
7 permanently discontinued. A well shall be deemed abandoned  
8 when it is in such a state of disrepair that continued use  
9 for the purpose of obtaining ground water is impracticable.

10 2. "Board" means the ground water advisory and certifi-  
11 cation board established in section four (4) of this Act.

12 3. "Commissioner" means the commissioner of public health  
13 or the commissioner's designee.

14 4. "Construction" means the acts utilized in obtaining  
15 all ground water including, but not limited to, the location  
16 and excavation for the well.

17 5. "Department" means the state department of health.

18 6. "Modification" means a change or alteration of a water  
19 well.

20 7. "Pump installation" means the procedures employed in  
21 the placement and preparation for operation of equipment and  
22 materials utilized in withdrawing or obtaining water from  
23 a well for any use, including all construction involved in  
24 making entrance to the well and establishing seals and  
25 safeguards as necessary to protect water from contamination.

26 8. "Repair" means a change, replacement or alteration  
27 to a water well or water well pumping equipment which requires  
28 a breaking or opening of the well seal.

29 9. "Water well" means an excavation constructed when the  
30 intended use is for the location, diversion, artificial  
31 recharge, acquisition of or test for, ground water.

32 10. "Water well pumping equipment" means equipment or  
33 materials including seals and other safeguards to protect  
34 the water from contamination, used or intended for use in  
35 withdrawing or obtaining ground water.

1 11. "Well seal" means an approved arrangement or device  
2 used to cap a well or to establish and maintain a junction  
3 between the casing or curbing of a well and the piping or  
4 equipment installed, the purpose of which is to prevent  
5 contaminated water or other material from entering the well  
6 at the upper terminal.

7 Sec. 3. NEW SECTION. APPLICATION. A water well shall  
8 not be located, constructed, modified or abandoned contrary  
9 to the provisions of this Act or the rules adopted pursuant  
10 to it. The provisions of this Act regarding construction  
11 and installation apply to any water well or water well pumping  
12 equipment which is not otherwise subject to regulation under  
13 the laws of this state. However, this Act does not apply  
14 to either of the following:

15 1. An individual who drills a water well or installs water  
16 well pumping equipment on land that is owned or leased by  
17 that person for farming purposes or as that person's place  
18 of residence if the work complies and conforms with other  
19 provisions of law and rules prescribed by the department  
20 relating to water well construction.

21 2. An individual who performs labor or services for a  
22 certified water well or pump installation contractor in connec-  
23 tion with the drilling of a water well or the installation  
24 of pumping equipment at the direction and under the personal  
25 supervision of a certified water well or pump installation  
26 contractor.

27 Sec. 4. NEW SECTION. DEPARTMENT POWERS AND DUTIES. The  
28 department has general supervision and authority over the  
29 location, construction, modification or abandonment of water  
30 wells, the installation of water well pumping equipment, and  
31 over the administration of this Act. The department shall  
32 establish in the department a ground water advisory and  
33 certification board which shall exercise the duties granted  
34 to it under this Act under the supervision of the department.  
35 The board shall be composed of nine members appointed by the

1 commissioner. Four of the members shall be representatives  
2 of the industry, two of which shall be water well contractors  
3 and the remaining two water well pump installation contractors;  
4 one member shall be a representative of the natural resources  
5 council; one member shall be a representative from the  
6 geological survey; one member shall be from the department  
7 of environmental quality; one member shall be from within  
8 the state department of health, and the remaining member shall  
9 be a citizen selected at large.

10 The members of the board shall serve for terms of four  
11 years. However, the industry representatives initially  
12 appointed to this board shall serve for terms of one, two,  
13 three and four years. In the case of a vacancy in the office  
14 of a member of the board, an appointment shall be made by  
15 the commissioner to fill the unexpired balance of the term.  
16 An appointee from the industry shall not serve consecutive  
17 four-year terms. In making appointments to the board, the  
18 commissioner shall consider recommendations submitted by the  
19 state's water well associations. The state shall be divided  
20 into four districts generally bounded by United States highway  
21 30 from east to west and interstate highway 35 from north  
22 to south. The four industry members shall be appointed to  
23 represent each of the four districts.

24 The members of the board who are not in the full-time  
25 employment of a public body shall be paid a forty dollar per  
26 diem for actual time devoted to their duties, when authorized  
27 by the department. In addition, each member of the board  
28 shall be reimbursed for traveling and other necessary expenses  
29 incurred in the performance of official duties, when authorized  
30 by the department.

31 Sec. 5. NEW SECTION. INSPECTION. The department may  
32 make inspections of the well site during construction and  
33 the installation of pumping equipment phases as frequently  
34 as necessary, and shall upon notification by the commissioner  
35 or upon the verified complaint in writing by any person

1 investigate the actions of a person holding or claiming to  
2 hold a certification to ascertain the facts in that case.

3     Sec. 6. NEW SECTION. POWERS DELEGATED TO LOCAL BOARDS.  
4 The department may delegate to local boards of health the  
5 duties of inspection and regulation of water well and pump  
6 installation contractors. The department shall establish  
7 a rate schedule to reimburse the local board of health for  
8 the exercise of the delegated duties.

9     Sec. 7. NEW SECTION. RULES. The department shall adopt  
10 rules which provide:

11     1. Criteria for the proper location, construction or  
12 abandonment of a water well.

13     2. Criteria for the proper installation of water well  
14 pumping equipment and materials.

15     3. Requirements for notification of water well  
16 construction, modification or abandonment, or the installation  
17 of water well pumping equipment.

18     Sec. 8. NEW SECTION. BOND. The department or a local  
19 board of health receiving delegation may require bonds in  
20 an amount deemed necessary to insure that the work will be  
21 corrected if not completed in accordance with this Act and  
22 rules adopted under it. An applicant may file a cash bond  
23 or instrument of credit in the same amount instead of the  
24 bond.

25     Sec. 9. NEW SECTION. CERTIFICATION. Subject to the pro-  
26 visions of section three (3) of this Act, a contractor shall  
27 not construct a water well or install water well pumping  
28 equipment without possessing a valid certification as a water  
29 well or pump installation contractor issued in accordance  
30 with this Act.

31     Sec. 10. NEW SECTION. BOARD OF EXAMINERS FOR WATER WELL  
32 AND PUMP INSTALLATION CONTRACTORS. The ground water advisory  
33 and certification board shall act as a board of examiners  
34 for the certification of water well and pump installation  
35 contractors. The board of examiners shall aid the commissioner

1 and the department by:

2 1. Preparing subject matter for examination to test the  
3 knowledge and skills of applicants for certification in the  
4 construction and modification of water wells, installation  
5 and repair of water well pumps, water pressure storage tanks,  
6 connected piping and related appurtenances, including the  
7 proper sealing of abandoned wells, as well as the rules prom-  
8 ulgated by the department under section seven (7) of this  
9 Act.

10 2. Establishing rules to govern examinations, hearings  
11 for suspension or revocation, or refusal to issue, renew or  
12 reinstate a certification.

13 3. Holding hearings for the suspension or revocation of,  
14 or refusal to issue, renew or reinstate a certification.

15 4. Conducting the examination for applicants for certifi-  
16 cation at least once a year.

17 5. Submitting recommendations to the commissioner from  
18 time to time for the efficient administration of this Act.

19 6. Grading all tests and examinations for certification  
20 and promptly reporting the results to the commissioner.

21 7. Performing other related duties as prescribed by the  
22 commissioner.

23 Sec. 11. NEW SECTION. DEPARTMENT--POWERS AND DUTIES.

24 The department shall:

25 1. Fix and announce dates for examination.

26 2. Provide application forms for the appropriate cer-  
27 tification.

28 3. Prepare and issue certifications to those entitled  
29 to them.

30 4. Prescribe rules for hearings to suspend, revoke, or  
31 refuse to issue, renew or reinstate certifications as provided  
32 for in this Act.

33 5. Maintain a permanent record the contents of which shall  
34 contain the following information:

35 a. The names and addresses of persons certified under

1 this Act.

2 b. The date of issuance of certifications.

3 c. The date and substance of charges set forth in a  
4 complaint for suspension or revocation of a certification.

5 d. The date and substance of petitions to issue, renew  
6 or reinstate a certification.

7 e. The final order on such complaints or petitions.

8 Upon written request the department may make the information  
9 available to a registrant under this Act.

10 Sec. 12. NEW SECTION. CERTIFICATION--QUALIFICATIONS--  
11 ISSUANCE. Applications for certification or its renewal shall  
12 be made to the department in writing, under oath or affirma-  
13 tion, upon forms prescribed and furnished by the department.  
14 Applications shall contain information the department deems  
15 necessary in order to carry out the provisions of this Act.

16 The department shall issue a water well contractor's  
17 certification, a water well pump installation contractor's  
18 certification, or a water well and pump installation  
19 contractor's certification to an applicant who meets all of  
20 the following criteria:

21 1. Is at least eighteen years of age.

22 2. Is a citizen of the United States or has declared an  
23 intention to become a citizen of the United States.

24 3. Has worked for a minimum period of two years under  
25 the supervision of a certified water well or pump installa-  
26 tion contractor if the person is an applicant for a water  
27 well or pump installation contractor's certification. For  
28 those applicants who gained their experience prior to July  
29 1, 1978 it is sufficient for them to show that they worked  
30 under the supervision of a contractor engaged in one or both  
31 fields for the required time period.

32 4. Has made a satisfactory grade on the appropriate  
33 examination.

34 5. Has paid the fee required by rule.

35 The certification shall be serially numbered, signed by

1 the commissioner and issued under the seal of the depart-  
2 ment. An applicant failing to receive a passing grade on  
3 the examination may apply for reexamination within ninety  
4 days.

5 Sec. 13. NEW SECTION. PERSONS ENGAGED IN OCCUPATION PRIOR  
6 TO ACT--CERTIFICATION. A person who has been engaged in the  
7 occupation, trade or business as a water well contractor or  
8 water well pump installation contractor or both within the  
9 state prior to July 1, 1979, shall, upon application within  
10 one year of the effective date of this Act and upon payment  
11 of the required certification fee, be issued the appropriate  
12 certification without examination. The commissioner may  
13 require the applicant to submit satisfactory proof that the  
14 person was so engaged prior to such time.

15 Sec. 14. NEW SECTION. CERTIFICATION--EXPIRATION--RENEWAL.  
16 Certifications issued under this Act shall expire on the last  
17 day of December next following the date of issue. A cer-  
18 tification may be renewed by making application and paying  
19 the prescribed fee at least thirty days prior to the expiration  
20 date of the current certification. The application shall  
21 extend the period of validity of the current certification  
22 until a new certification is received or denied by the  
23 department.

24 A certification which has expired may be reinstated upon  
25 payment of a reinstatement fee unless more than three years  
26 have elapsed since the date of expiration. In instances where  
27 more than three years have elapsed since the date of  
28 expiration, a certification may be reinstated by payment of  
29 the reinstatement fee and upon submission of satisfactory  
30 evidence to the department of the current qualifications  
31 and fitness of the applicant.

32 Sec. 15. NEW SECTION. CERTIFICATION FEES. The fee to  
33 be paid by an applicant for an examination to receive a  
34 certification shall be established in the department's rules.

35 Sec. 16. NEW SECTION. CERTIFICATION--DISPLAY. The

1 certification shall be conspicuously posted at the contractor's  
2 principal place of business.

3 Sec. 17. NEW SECTION. GROUNDS FOR SUSPENSION, REVOCATION  
4 OR REFUSAL TO ISSUE, RENEW OR REINSTATE A CERTIFICATION.

5 The department may suspend, revoke or refuse to issue, renew  
6 or reinstate a certification to anyone on one or more of the  
7 following grounds:

8 1. Material misstatement in the application for  
9 certification.

10 2. Failure to have or maintain the qualifications required  
11 under section twelve (12) of this Act.

12 3. Willful disregard or violation of this Act or a rule  
13 promulgated by the department under this Act.

14 4. Willfully aiding or abetting another in the violation  
15 of this Act or a rule promulgated by the department under  
16 this Act.

17 5. Incompetence in the performance of the person's work  
18 as a water well or pump installation contractor.

19 6. Allowing the use of a certification by someone other  
20 than the person in whose name it was issued.

21 7. Conviction of any crime an essential element of which  
22 is misstatement, fraud or dishonesty; conviction in this or  
23 any other state of a crime which is defined as a felony under  
24 state or federal laws.

25 8. Making substantial misrepresentations or false promises  
26 of a character likely to induce, persuade or influence in  
27 connection with the occupation of a water well or pump  
28 installation contractor.

29 Sec. 18. NEW SECTION. SUSPENSION, DENIAL OR REVOCATION  
30 OF CERTIFICATION. The department may investigate the actions  
31 of a person holding or claiming to hold a certification upon  
32 its own motion, notification from the commissioner, or a  
33 verified complaint alleging facts which would constitute  
34 grounds for denial, suspension or revocation of certification  
35 under this Act. The department may deny, suspend, or revoke

1 certification after notice and an opportunity for evidentiary  
2 hearing as provided in chapter seventeen A (17A) of the Code.

3 Sec. 19. NEW SECTION. SURRENDER OF CERTIFICATION. Upon  
4 revocation or suspension of a certification, the holder shall  
5 surrender the certification to the department and if the  
6 holder fails to do so, the department may seize the  
7 certification.

8 Sec. 20. NEW SECTION. VIOLATIONS--INJUNCTIONS--CONTEMPT.  
9 If a person has violated or is violating this Act, the com-  
10 missioner may through the attorney general or a county attorney  
11 apply to the district court for an order enjoining the  
12 violation or for an order enforcing compliance with this Act.  
13 Upon the filing of a verified petition in the district court,  
14 the court, if satisfied by affidavit or otherwise that the  
15 person has violated this Act, may issue a temporary injunction,  
16 without notice or bond, enjoining the violation. The  
17 proceedings shall subsequently be conducted as in other civil  
18 cases. If it is established that the person has violated  
19 or is violating this Act, the court may enter a decree  
20 permanently enjoining the violation or enforcing compliance  
21 with this Act. Proceedings under this section shall be in  
22 addition to other remedies and penalties provided by this  
23 Act.

24 Sec. 21. NEW SECTION. PENALTIES. Whoever violates a  
25 provision of this Act or a rule adopted under this Act is  
26 guilty of a simple misdemeanor. Each additional day of neglect  
27 or failure to correct a condition constitutes a separate  
28 offense.

29 Sec. 22. NEW SECTION. APPROPRIATION. There is appro-  
30 priated from the general fund of the state to the state depart-  
31 ment of health for the fiscal year beginning July 1, 1979  
32 and ending June 30, 1980, the sum of eighty thousand five  
33 hundred twenty-five (80,525) dollars, or so much thereof as  
34 may be necessary, and for the fiscal year beginning July 1,  
35 1980 and ending June 30, 1981, the sum of seventy-seven

1 thousand six hundred eighty-four (77,684) dollars or so much  
2 thereof as may be necessary, to be used by the state department  
3 of health for the implementation of this Act.

4 Sec. 23. NEW SECTION. EFFECTIVE DATES. The effective  
5 date of sections one (1) through seven (7) of this Act is  
6 July 1, 1979. The effective date of sections eight (8) through  
7 twenty-two (22) of this Act is July 1, 1980.

8 EXPLANATION

9 This bill provides for the regulation and certification  
10 of water well construction and pumping equipment installation  
11 contractors to further insure their expertise.

12 The commissioner of public health is responsible for the  
13 administration of this Act and is assisted by a ground water  
14 advisory and certification board. This board, consisting  
15 of nine members, is appointed by the commissioner of public  
16 health.

17 Provisions for hearings in accordance with the Iowa Admin-  
18 istrative Procedure Act as well as judicial review are afforded  
19 to further protect principals and interested persons.

20 Violations are punishable as simple misdemeanors.

21 An appropriation to the state department of health for  
22 implementation of the Act is included.

23 Sections 1 through 7 will be effective on July 1, 1979,  
24 and sections 8 through 22 on July 1, 1980.

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PROPOSED HOUSE FILE \_\_\_\_\_

By (PROPOSED JOINT NATURAL  
RESOURCES SUBCOMMITTEE ON  
WATER LAWS BILL)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act to authorize the creation of on-site wastewater  
2 management districts.

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

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1 Section 1. NEW SECTION. DEFINITIONS. For the purposes  
2 of this Act unless the context requires otherwise:

3 1. "On-site wastewater treatment system" means any works  
4 or facilities used to collect, treat, reclaim or dispose of  
5 wastewater from individual dwellings or buildings or from  
6 a common sewer collection system serving two or more dwellings  
7 or buildings referred to in this Act as a cluster system.

8 2. "District" means an on-site wastewater management  
9 treatment district created by the county pursuant to this  
10 Act to regulate or manage on-site wastewater treatment systems.

11 Sec. 2. NEW SECTION. INITIATION OF A DISTRICT.

12 1. Formation of a district may be initiated by the adoption  
13 of a resolution by the county board of supervisors or by the  
14 filing of a petition with the county auditor by ten percent  
15 of the property owners in the proposed district or by the  
16 county board of health, soil conservation district, or  
17 conservation board.

18 2. The resolution or petition shall state the following:

19 a. The proposed boundaries of the district.

20 b. The number of existing and potential residential and  
21 commercial users in the proposed district.

22 c. The proposed means of financing the water quality  
23 management program.

24 d. The public benefit to be derived from the creation  
25 of the district.

26 3. Upon adoption of the resolution or filing of the  
27 petition the board of supervisors shall set a time and place  
28 for a hearing on whether a district shall be created. The  
29 hearing shall be not less than thirty nor more than sixty  
30 days from the adoption of the resolution or filing of the  
31 petition. Notice of the hearing and copy of the resolution  
32 or petition shall be published in a newspaper of general  
33 circulation in the county. Notice of the hearing shall be  
34 transmitted to the county board of health, the Iowa department  
35 of environmental quality, the state department of health,

1 and all of the property owners of record in the proposed  
2 district.

3     Sec. 4. NEW SECTION. REPORT BY COUNTY BOARD OF HEALTH.  
4 Prior to the hearing, the county board of health shall submit  
5 to the board of supervisors a general plan for the operation  
6 of the proposed district. The plan shall include the  
7 following:

- 8     1. The number of individual and cluster systems operating  
9 in the proposed district.
- 10    2. The potential rural residential and commercial growth  
11 patterns in the proposed district.
- 12    3. Alternative types of on-site wastewater treatment  
13 systems applicable in the proposed district.
- 14    4. A time schedule to prepare and implement a detailed  
15 water quality control and management program if the district  
16 is formed.

17     Sec. 5. NEW SECTION. HEARING.

18     1. At the hearing the board of supervisors shall receive  
19 the report of the board of health, statements by interested  
20 persons and public agencies, written objections by persons  
21 in the proposed district to the creation of or their inclusion  
22 in the proposed district, and written requests for inclusion  
23 by persons outside the proposed district.

24     2. The board of supervisors may include additional  
25 territory upon request of those landowners or exclude any  
26 territory if the board finds that the territory included or  
27 excluded will or will not be benefited by being a part of  
28 the proposed district.

29     3. Within ten days of the hearing's conclusion, the board  
30 of supervisors, after modifying the proposed district as  
31 authorized in subsection two (2) of this section, shall

32     a. Establish the district if less than thirty-five percent  
33 of the landowners in the proposed district have filed  
34 objections to the creation of the district.

35     b. Not establish the district if fifty percent or more

1 of the landowners in the proposed district have filed  
2 objections to the creation of the district.

3 c. Order that an election be held on whether to establish  
4 the district if thirty-five percent but less than fifty percent  
5 of the landowners have filed objections to the creation of  
6 the district.

7 4. Notwithstanding subsection three (3) of this section,  
8 if the county board of health, the state board of health and  
9 the Iowa department of environmental quality all notify the  
10 board of supervisors that the actual or potential pollution  
11 imperils the public health or endangers the water quality  
12 of surface or groundwaters in the proposed district, the board  
13 of supervisors shall establish the district.

14 5. If the board of supervisors does not establish the  
15 district pursuant to subsection three (3) of this section,  
16 a petition shall not be filed or a resolution adopted for  
17 the creation of a district for that territory for one year.

18 6. The costs of giving notice and of conducting the  
19 elections shall be borne by the initiating party; however,  
20 if the district is established, the district shall assume  
21 the costs.

22 Sec. 6. NEW SECTION. ADMINISTRATION. Upon the  
23 establishment of a district, the county board of health may  
24 assume the power to administer the district and have the  
25 powers and duties provided for the board of trustees. If  
26 the county board of health declines to administer the district,  
27 another public agency may assume the power to administer the  
28 district with the approval of the board of supervisors. If  
29 a public agency does not assume the administration of the  
30 district, the board of supervisors shall call for the election  
31 of a board of trustees for the district. The election of  
32 trustees shall be conducted in conjunction with the election,  
33 if any, on the question of creating the district.

34 The election of whether to create a district, the election  
35 of the trustees, their terms and vacancies shall be conducted

1 as provided in sections three hundred fifty-eight point five  
2 (358.5), three hundred fifty-eight point six (358.6), three  
3 hundred fifty-eight point seven (358.7) and three hundred  
4 fifty-eight point nine (358.9), except unnumbered paragraph  
5 three (3), of the Code, for sanitary districts as applicable.

6 Where the county owns at least one hundred acres of lakes  
7 and parks in the district, the county conservation board shall  
8 appoint two additional members to the board of trustees for  
9 terms of three years.

10 Sec. 7. NEW SECTION. MANAGEMENT PROGRAM. The board of  
11 trustees shall adopt a detailed management program for the  
12 district. Prior to its adoption, the board shall submit the  
13 program for approval to the state department of health to  
14 assure that the public health in the district is being  
15 protected and to the department of environmental quality to  
16 assure the water quality objectives of the state are being  
17 met.

18 Sec. 8. NEW SECTION. POWERS AND DUTIES. The board of  
19 trustees may:

20 1. Collect, treat, reclaim, and dispose of wastewater  
21 without degrading water quality within or outside of the  
22 district.

23 2. Acquire, design, own, construct, install, operate,  
24 monitor, inspect, and maintain on-site wastewater treatment  
25 systems within a district in a manner which will protect  
26 public health, promote water quality, prevent pollution, and  
27 abate nuisances.

28 3. Conduct investigations, make analyses, and monitor  
29 conditions regarding water quality within the district.

30 4. Adopt and enforce reasonable rules necessary to  
31 implement the purposes of the district. The rules and  
32 regulations may be adopted only after the board conducts a  
33 public hearing after giving public notice.

34 5. Employ and discharge those employees necessary to  
35 operate and maintain the detailed management program.

1 Supervising employees operating water pollution control  
2 facilities which require certified operators shall comply  
3 with certification requirements of chapter four hundred fifty-  
4 five B (455B) of the Code.

5 6. Inspect and monitor private well construction and pump  
6 installation to protect the public health and the water quality  
7 of groundwater resources in the district.

8 Sec. 9. NEW SECTION. INSPECTIONS. The board of trustees  
9 may authorize its representatives to apply for warrants to  
10 enter any premises in the district on which a water pollution,  
11 waste or contamination source is located for the purpose of  
12 inspecting the source, securing samples and records.

13 Sec. 10. NEW SECTION. COSTS.

14 1. The board of trustees shall establish a service fee  
15 schedule to recover the operating costs of the district.  
16 The costs of operating facilities serving particular properties  
17 shall be paid by the owners of those properties benefitted.  
18 Failure to pay a service fee when due shall create a lien  
19 against the property when filed with the county recorder.

20 2. Costs incurred for the acquisition, construction,  
21 reconstruction or design of an on-site wastewater treatment  
22 facility shall be paid by a special assessment of the property  
23 benefitted by the facility. The special assessment shall  
24 be imposed in the manner provided in section three hundred  
25 fifty-eight point twenty-two (358.22) of the Code for special  
26 assessments by sanitary districts.

27 Sec. 11. NEW SECTION. ENFORCEMENT. A violation of a  
28 rule adopted pursuant to section eight (8) of this Act shall  
29 constitute a public nuisance. The board of trustees may  
30 commence any appropriate action in the name of the district  
31 to enjoin or abate a public nuisance in violation of its  
32 rules.

33 Sec. 12. NEW SECTION. ADDITIONAL PROVISIONS.

34 1. All or a portion of a county may be included in a  
35 district. All of the district need not be contiguous to the

1 rest of the district.

2 2. A property shall not be included in more than one  
3 district.

4 3. A municipality may establish a district within its  
5 boundaries. In doing so the city council shall act as the  
6 board of supervisors and the city clerk as the county auditor.

7 4. A sanitary district organized under chapter three  
8 hundred fifty-eight (358) of the Code may exercise the powers  
9 of a district organized under this chapter within its  
10 boundaries.

11 Sec. 13. This Act is effective January first following  
12 its enactment.

13 EXPLANATION

14 This bill authorizes the creation of on-site wastewater  
15 treatment districts. The county board of supervisors, the  
16 landowners, or certain public agencies may initiate the  
17 formulation of a district. The district would be authorized  
18 to regulate, operate, and own on-site wastewater treatment  
19 systems. These systems include septic tanks and systems  
20 serving more than one dwelling. The district is managed by  
21 a board of trustees if the county board of health or other  
22 public agency will not accept its administration. The district  
23 is financed through service fees and special assessments.  
24 The district is authorized to obtain search warrants and to  
25 abate as public nuisances any violations of its rules.

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PROPOSED HOUSE FILE \_\_\_\_\_

By (PROPOSED JOINT NATURAL  
RESOURCES SUBCOMMITTEE  
ON WATER LAWS BILL)

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

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

Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the penalties for violations of the laws  
2 under the jurisdiction of the Iowa natural resources  
3 council.

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

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1 Section 1. Section four hundred fifty-five A point thirty-  
2 three (455A.33), unnumbered paragraph one (1), Code 1979,  
3 is amended to read as follows:

4 ~~It shall be unlawful to suffer or permit any structure,~~  
5 ~~dam, obstruction, deposit or excavation to be erected, used,~~  
6 ~~or maintained~~ A person shall not erect, make suffer, or permit  
7 any structure, dam, obstruction, deposit or excavation in  
8 or on any floodway or flood plains, which will adversely  
9 affect the efficiency of or unduly restrict the capacity of  
10 the floodway, adversely affect the control, development,  
11 protection, allocation, or utilization of the water resources  
12 of the state, or adversely affect or interfere with the state  
13 comprehensive plan for water resources, or an approved local  
14 water resources plan, and the same are declared to be and  
15 to constitute public nuisances, ~~provided,~~ however, that this  
16 provision shall not apply to dams constructed and operated  
17 under the authority of chapter 469 as amended.

18 Sec. 2. Section four hundred fifty-five A point thirty-  
19 nine (455A.39), Code 1979, is amended to read as follows:

20 455A.39 PENALTIES--CRIMINAL AND CIVIL.

21 1. Whoever is convicted of erecting, causing or continuing  
22 a common or public nuisance, as provided in this chapter,  
23 or whoever diverts or withdraws water in violation of the  
24 provisions of this chapter, upon conviction, shall be guilty  
25 of a simple misdemeanor and each day that such violation  
26 continues after conviction ~~conviction~~ notice that a violation is being  
27 committed shall be considered a separate offense.

28 2. a. A person required by law to have a permit who  
29 withdraws water without a permit or in violation of a permit  
30 condition and who does not take corrective measures as required  
31 by the council or its designee after written notice delivered  
32 by personal service or restricted mail that a violation is  
33 being committed, is subject to a civil penalty of not more  
34 than one thousand dollars for the violation and an additional  
35 penalty of not more than one hundred dollars for each day



1 violations of the laws, rules, permits and orders of the Iowa  
2 natural resources council. The civil penalty is limited to  
3 one thousand dollars with an additional penalty of up to one  
4 hundred dollars for each day that the violation continues.  
5 Liability for the civil penalty does not commence until after  
6 the time fixed by the council for the taking of corrective  
7 action. Contractors doing the unauthorized work are made  
8 jointly liable to the civil penalty. The civil and criminal  
9 penalties are made mutually exclusive remedies.

10 The bill also changes the time for computation of separate  
11 offenses for the criminal penalty. Provisions in the bill  
12 will become effective on January first following enactment.

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