

Sec. 24. ETHANOL PROJECTS.

1. The office of renewable fuel, as provided in chapter 159A, shall administer or supervise the following projects:

a. A project administered by the office to demonstrate the effectiveness of producing ethanol by using biomass products derived from corn stalks and woody grasses. The project shall encourage the production of woody grasses on land dedicated to permanent grass and buffer zones as provided in section 467A.48. The soil conservation division of the department of agriculture and land stewardship together with the state soil conservation committee as provided in chapter 467A shall cooperate in encouraging the planting of such grasses which may be harvested for purposes of ethanol production.

b. A project administered by the office to encourage and support the conversion of engines in motor vehicles to operate on conventional unblended gasoline and neat ethanol.

c. A project administered by the university of Iowa to perform an economic analysis of direct and indirect costs incurred in this state by using petroleum-based fuels as compared to the projected costs incurred in the state by using ethanol blended or neat ethanol fuels. The analysis shall be performed on microeconomic and macroeconomic scales. The cost and analysis shall include short-term and long-term projections regarding cost relating to converting from petroleum to ethanol based fuels.

d. A project administered by the department of general services to test engines operating on neat ethanol fuel. The department shall purchase neat ethanol fuel for storage in at least one underground storage tank maintained by the department. The department shall convert at least five engines mounted in state-purchased vehicles to operate on neat ethanol fuel and conventional unblended gasoline. The motor vehicles shall be used by state employees. The department shall conduct a study relating to the performance and reliability of the engines. The study shall be conducted in cooperation with state employees operating the motor vehicles.

2. The office of renewable fuel may, to the extent practicable, allocate moneys to support the projects required pursuant to this section.

3. The soil conservation division, the university of Iowa, and the department of general services shall report the results of projects required to be administered under this section to the office of renewable fuel. The office shall submit the results in a report to the general assembly which shall be submitted by January 13, 1992, to the secretary of the senate, the chief clerk of the house of representatives, and to the chairpersons of the standing committees on agriculture in the senate and the house of representatives.

Approved June 10, 1991

CHAPTER 255**TOXICS POLLUTION PREVENTION PROGRAM**

H.F. 683

AN ACT relating to the establishment of a toxics pollution prevention program, establishing fees, and providing an effective date.

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

Section 1. FINDINGS. The general assembly finds:

1. That the state annually produces millions of pounds of pollution and expends millions of dollars controlling this pollution.

2. That there are significant opportunities for industry to reduce or prevent pollution at the source through cost-effective changes in production, operation, and raw material use. These

changes would afford industry substantial savings in raw materials, pollution control, and liability costs and would also reduce environmental harm and risks to worker health and safety.

3. That the opportunities for pollution prevention are often not realized, due to a focus upon treatment and disposal rather than pollution prevention, the lack of an emphasis on a multimedia management approach to pollution prevention, and the lack of necessary information and technical assistance available to businesses in adopting pollution prevention practices.

4. That pollution prevention is fundamentally different from and should be encouraged in preference to waste management or pollution control and that the state should address the lack of attention to pollution prevention.

Sec. 2. **POLLUTION PREVENTION GOAL AND POLICY.** The goal of the state is to encourage pollution prevention through the use of pollution prevention techniques in preference to waste management or pollution control, and through coordination and cooperation between federal, state, and local departments, agencies, and institutions in the development and administration of a pollution prevention program.

Sec. 3. **NEW SECTION. 455B.502 DEFINITIONS.**

As used in this part, unless the context otherwise requires:

1. "Authority" means the waste management authority created pursuant to section 455B.483.

2. "Commission" means the environmental protection commission established pursuant to section 455A.6.

3. "Department" means the department of natural resources created pursuant to section 455A.2.

4. "Emergency Planning and Community Right-to-know Act" or "EPCRA" means the federal Emergency Planning and Community Right-to-know Act as defined in section 30.1.

5. "Environmental waste" means a pollutant, waste, or release regardless of the type or existence of regulation and regardless of the media affected by the pollutant, waste, or release.

6. "Existing toxics user" means a toxics user installation or source constructed prior to July 1, 1991.

7. "Multimedia" means any combination of air, water, land, or workplace environments into which toxic substances or wastes are released.

8. "Release" means emission, discharge, or disposal into any environmental media including air, water, or land.

9. "Toxics pollution prevention" means employment of a practice which reduces the industrial use of toxic substances or reduces the environmental and health hazards associated with an environmental waste without diluting or concentrating the waste before the release, handling, storage, transport, treatment, or disposal of the waste. The term includes toxics pollution prevention techniques but does not include a practice which is applied to an environmental waste after the waste is generated or comes into existence on or after the waste exits a production or commercial operation.

"Toxics pollution prevention" does not include, promote, or require any of the following:

a. Waste burning in industrial furnaces, boilers, smelters, or cement kilns for the purpose of energy recovery.

b. The transfer of an environmental waste from one environmental medium to another environmental medium, the workplace environment, or a product.

c. Offsite waste recycling.

d. Any other method of end-of-pipe management of environmental wastes including waste exchange and the incorporation or embedding of regulated environmental wastes into products or by-products.

10. "Toxics pollution prevention techniques" means any of the following practices by a toxics user:

a. Input substitution, which refers to replacing a toxic substance or raw material used in a production process with a nontoxic or less toxic substance.

b. Product reformulation, which refers to substituting for an existing end product an end product which is nontoxic or less toxic upon use or release.

c. Production process redesign or modification, which refers to developing and using production processes of a different design other than those currently in use.

d. Production process modernization, which refers to upgrading or replacing existing production process equipment or methods with other equipment or methods based on the same production process.

e. Improved operation and maintenance of existing production process equipment and methods, which refers to modifying or adding to existing equipment or methods, including but not limited to, such techniques as improved housekeeping practices, system adjustments, product and process inspections, and production process control equipment or methods.

f. Recycling, reuse, or extended use of toxic substances by using equipment or methods which become an integral part of the production process.

11. "Toxic substance" means any chemical substance in a gaseous, liquid, or solid state which is identified as a reportable substance under the federal Resource Conservation and Recovery Act, EPCRA, or defined as a hazardous air pollutant under the Clean Air Act of 1990. However, "toxic substance" does not include a chemical substance present in the article; used as a structural component of a facility; present in a product used for routine janitorial or facility grounds maintenance; present in foods, drugs, cosmetics, or other personal items used by employees or other persons at a toxics user facility; present in process water or noncontact cooling water as drawn from the environment or from municipal sources; present in air used either as compressed air or as part of combustion; present in a pesticide or herbicide when used in agricultural applications; or present in crude, fuel, or lube oils for direct wholesale or retail sale.

12. "Toxics" means toxic substances.

13. "Toxics user" means a large quantity generator as defined pursuant to the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. or a person required to report pursuant to Title III of the federal Superfund Amendments and Reauthorization Act of 1986.

14. "Waste exchange" means a method of end-of-pipe management of environmental wastes that involves the transfer of environmental wastes between businesses or facilities owned or operated by the same business for recovery or to serve a productive purpose.

Sec. 4. NEW SECTION. 455B.503 DUTIES OF THE AUTHORITY.

The waste management authority shall do all of the following:

1. Establish the criteria for the development of the toxics pollution prevention program.
2. Develop and implement a toxics pollution prevention program.
3. Assist toxics users in the completion of toxics pollution prevention plans and inventories, and provide technical assistance as requested by the toxics user.

4. a. Seek, receive, and accept funds in the form of appropriations, grants, awards, wills, bequests, endowments, and gifts for the uses designated pursuant to section 455B.133B. The authority shall also coordinate existing resources and oversee the disbursement of federal grant moneys to provide consistency in achieving the toxics pollution prevention goal of the state.

b. Provide, through the use of moneys collected pursuant to section 455B.133A, the state matching funds for grants under the federal Pollution Prevention Act of 1990, Pub. L. No. 101-508, § 6604 and 6605.

5. Develop and implement guidelines regarding assistance to toxics users to ensure that the plans are multimedia in approach and are not duplicated by the department or other agencies of the state.

6. Identify obstacles to the promotion, within the toxics user community, of toxics pollution prevention techniques and practices.

7. Compile an assessment inventory, through solicitation of recommendations of toxics users and owners and operators of air contaminant sources, of the informational and technical assistance needs of toxics users and air contaminant sources.

8. Function as a repository of research, data, and information regarding toxics pollution prevention activities throughout the state.

9. Provide a forum for public discussion and deliberation regarding toxic substances and toxics pollution prevention.

10. Promote increased coordination between the department, the Iowa waste reduction center at the university of northern Iowa, and other departments, agencies, and institutions with responsibilities relating to toxic substances.

11. Coordinate state and federal efforts of clearinghouses established to provide access to toxics reduction and management data for the use of toxics users.

12. Make recommendations to the general assembly by January 1, 1992, regarding a funding structure for the long-term implementation and continuation of a toxics pollution prevention program.

13. Work with the Iowa waste reduction center at the university of northern Iowa to assist small business toxics users with plan preparation and technical assistance.

Sec. 5. NEW SECTION. 455B.504 TOXICS POLLUTION PREVENTION PLANS.

1. A toxics user required to report under section 313 of EPCRA, 42 U.S.C. § 11023, or a large quantity generator, as defined pursuant to the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., shall be encouraged to develop a facility-wide multimedia toxics pollution prevention plan, as described pursuant to this section.

2. The authority shall adopt criteria for the information required in a multimedia toxics pollution prevention plan. To the extent possible, the plans shall coordinate reporting requirements in order to minimize unnecessary duplication. The plans shall include, but are not limited to, all of the following:

a. A policy statement which articulates upper management and corporate support for the toxics pollution prevention plan and its implementation.

b. The identification and quantities of toxic substances used and released by groups of related production processes or by processes used in producing an identifiable product.

c. An assessment of the applicability of the approaches designated as toxic pollution prevention techniques including the following: input substitution; production reformulation; production process redesign or modification; production process modernization; improved operation and maintenance of existing production process equipment and methods; and recycling, reuse, or extended use of toxic substances, to the toxic users production processes as identified in paragraph "b".

d. A description of current and previous techniques used to reduce or eliminate toxics used or released.

e. An economic analysis of the proposed toxics pollution prevention plan. The economic analysis shall also include an evaluation of the impact upon the toxics user's existing labor force by division or department, and the projected impact upon future expansion of the toxics user's labor force.

f. A clear statement listing specific reduction objectives.

g. A method for employees of a toxics user to provide input and to be involved in the development of the plans. If the employees are represented by a labor union, organization, or association, a representative of the union, organization, or association shall be included in the development of the plans.

3. The plans developed under this section shall not promote the use of pollution control or waste management approaches that address waste or pollution after the creation of the waste or pollution.

4. A toxics pollution prevention plan developed under this section shall be reviewed by the authority for completeness, adequacy, and accuracy.

5. A toxics user shall maintain a copy of the plan on the premises, and shall submit a summary of the plan to the department.

Sec. 6. Section 30.7, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The department of employment services shall compile data or information from the emergency and hazardous chemical inventory forms required to be submitted to the commission under section 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022, by county, and shall make the compiled reports available, annually, to each county in the state by providing the report to at least one public library in the named county.

Sec. 7. Section 30.8, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The department of natural resources shall compile the data collected pursuant to section 313 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11023, and shall make the compiled data available to the public upon request.

Sec. 8. Section 455B.133, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Adopt rules consistent with the federal Clean Air Act of 1990, Pub. L. No. 101-549, which require the owner or operator of an air contaminant source to obtain an operating permit prior to operation of the source. The rules shall specify the information required to be submitted with the application for a permit and the conditions under which a permit may be granted, modified, suspended, terminated, revoked, reissued, or denied. The commission may impose fees, including fees upon regulated pollutants emitted from an air contaminant source, in an amount sufficient to cover all reasonable costs, direct and indirect, required to develop and administer the permit program in conformance with the federal Clean Air Act of 1990, Pub. L. No. 101-549. In the case of affected sources and affected units regulated under Title IV of the federal Clean Air Act of 1990, Pub. L. No. 101-549, such fees shall be collected only as provided in and upon submission of an application pursuant to section 408 of the federal Act. The fees collected pursuant to this subsection shall be deposited in the air contaminant source fund created pursuant to section 455B.133B, and shall be utilized solely to cover all reasonable costs required to develop and administer the programs required by Title V of the federal Clean Air Act of 1990, Pub. L. No. 101-549, including the permit program pursuant to section 502 of the federal Act and the small business stationary source technical and environmental assistance program pursuant to section 507 of the federal Act.

Sec. 9. **NEW SECTION.** 455B.133A TEMPORARY AIR TOXICS FEE IMPOSED.

1. Beginning July 1, 1991, and thereafter until such time as the operating permit fee is established by rule of the commission, and approved by the United States environmental protection agency under section 502(b) of the federal Clean Air Act of 1990, an annual fee of twenty-five dollars per ton of the hazardous air pollutants included in Title III of the federal Clean Air Act of 1990 shall be paid by the affected sources. The fee paid shall be based upon the air emissions of such pollutants as reported or estimated by the source in the previous calendar year.

A source required to report hazardous air pollutant emissions under section 313 of EPCRA shall pay a fee based upon the most recently reported emissions. A person shall pay the established fee for hazardous air pollutants which are not included in section 313 of EPCRA, but which are included in Title III of the federal Clean Air Act of 1990, based upon the facility's estimates of emissions as required by section 313 of EPCRA including threshold determinations and de minimus exclusions.

2. Moneys collected shall be deposited in the air contaminant source fund created pursuant to section 455B.133B. Notwithstanding section 8.33, any unexpended balance remaining in the fund, which was generated pursuant to this section, shall remain in the fund for the purposes designated under section 455B.133, subsection 8. Notwithstanding section 453.7, any interest and earnings on investments from moneys in the fund shall be used for the purposes of the fund.

Sec. 10. **NEW SECTION.** 455B.133B AIR CONTAMINANT SOURCE FUND CREATED.

1. An air contaminant source fund is created in the office of the treasurer of state under the control of the department. Moneys received from the fees assessed pursuant to sections

455B.133A and 455B.133, subsection 8, shall be deposited in the fund. Moneys collected pursuant to section 455B.133, subsection 8, shall be used solely to defray the costs related to the permit, monitoring, and inspection program, including the small business stationary source technical and environmental compliance assistance program required pursuant to the federal Clean Air Act of 1990, sections 502 and 507, Pub. L. No. 101-549. Notwithstanding section 8.33, any unexpended balance in the fund at the end of each fiscal year shall be retained in the fund. Notwithstanding section 453.7, any interest and earnings on investments from money in the fund shall be credited to the fund.

2. Moneys collected pursuant to section 455B.133A shall be used by the department for the following:

a. To prepare, submit, and obtain approval of the permit program plan required by section 502(d) of the federal Clean Air Act of 1990.

b. To provide technical and other assistance to toxics users, relating to toxics pollution prevention and to provide funding for the costs of compiling data pursuant to section 30.7, subsection 5, and section 30.8, subsection 4.

Sec. 11. Section 455B.134, subsection 3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Grant, modify, suspend, terminate, revoke, reissue or deny permits for the construction or operation of new, or modified, or existing air contaminant sources and for related control equipment, and conditional permits for electric power generating facilities subject to chapter 476A and other major stationary sources, subject to the rules adopted by the commission. The department shall furnish necessary application forms for such permits.

Sec. 12. Section 455B.134, subsection 3, Code 1991, is amended by adding the following new paragraph e, and relettering the subsequent paragraph:

NEW PARAGRAPH. e. A regulated air contaminant source for which a construction permit or conditional permit has been issued shall not be operated unless an operating permit also has been issued for the source. However, if the facility was in compliance with permit conditions prior to the requirement for an operating permit and has made timely application for an operating permit, the facility may continue operation until the operating permit is issued or denied. Operating permits shall contain the requisite conditions and compliance schedules to ensure conformance with state and federal requirements. If construction of a new air contaminant source is proposed, the department may issue an operating permit concurrently with the construction permit, if possible and appropriate.

Sec. 13. Section 455B.134, subsection 9, Code 1991, is amended to read as follows:

9. Issue orders consistent with rules to cause the abatement or control of air pollution, or to secure compliance with permit conditions. In making the orders, the director shall consider the facts and circumstances bearing upon the reasonableness of the emissions involved, including but not limited to, the character and degree of injury to, or interference with, the protection of health and the physical property of the public, the practicability of reducing or limiting the emissions from the air pollution source, and the suitability or unsuitability of the air pollution source to the area where it is located. An order may include advisory recommendations for the control of emissions from an air contaminant source and the reduction of the emission of air contaminants.

Sec. 14. Section 455B.141, Code 1991, is amended to read as follows:

455B.141 LEGAL ACTION.

If action to prevent, control, or abate air pollution is not taken in accordance with the rules established, or orders or permits issued by the department, or if the director has evidence that an emergency exists by reason of air pollution which requires immediate action to protect the public health or property, the attorney general, at the request of the director, shall commence legal action, in the name of the state, for an injunction to prevent any further or continued violation of such rule or order.

Sec. 15. Section 455D.19, subsection 6, paragraph a, Code 1991, is amended to read as follows:

a. Packaging or packaging components with a code indicating a date of manufacture prior to July 1, 1990, and packaging or packaging components used by the alcoholic beverage industry prior to July 1, 1992.

Sec. 16. CODIFICATION. The Code editor shall codify sections 455B.502 through 455B.504, as enacted in this Act, as a new part of division VII of chapter 455B.

Sec. 17. USES OF AIR CONTAMINANT SOURCE FUND – REASSESSMENT. For the fiscal year beginning July 1, 1991, and ending June 30, 1992, if five hundred thousand dollars or less is deposited in the air contaminant source fund created in section 455B.133B, fifty thousand dollars of the moneys shall be used for the purpose designated pursuant to section 455B.133B, subsection 2, paragraph “b”, and the remainder of the moneys shall be used for the purposes designated pursuant to section 455B.133B, subsection 2, paragraph “a”. Of the amount allocated for the purposes of paragraph “b”, two thousand dollars shall be used by the department of employment services to compile data as required pursuant to section 30.7, subsection 5. For the fiscal year beginning July 1, 1991, and ending June 30, 1992, if more than five hundred thousand dollars is deposited in the air contaminant source fund, however, not more than ninety percent of the moneys shall be used for the purpose designated pursuant to section 455B.133B, subsection 2, paragraph “a”, and not more than ten percent of the moneys shall be used for the purposes designated pursuant to section 455B.133B, subsection 2, paragraph “b”, with two thousand dollars of this portion being allocated to the department of employment services to compile data as required pursuant to section 30.7, subsection 5. Notwithstanding any limitations on division or department full-time equivalent positions in any enacted legislation, the moneys deposited in the air contaminant source fund may be expended to employ additional staff as necessary to carry out the provisions of this Act.

For the fiscal year beginning July 1, 1991, and ending June 30, 1992, a person required to pay the fee imposed pursuant to section 455B.133A shall pay the fee assessed to the department by November 1, 1991, but no later than November 30, 1991. A person who does not pay the fee by November 30, 1991, shall be assessed a penalty of ten percent of the assessed fees due. The department shall report to the general assembly no later than February 15, 1992, as to the total amount of fees collected and deposited in the air contaminant source fund, with the amount needed to satisfy the difference between the fees collected and five hundred thousand dollars.

Sec. 18. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 10, 1991

CHAPTER 256

ALTERNATIVE FORMS OF LOCAL GOVERNMENT

H.F. 693

AN ACT relating to alternative forms of local government and creating a new alternative form of local government for cities known as a consolidated metropolitan corporation, with provisions relating to its charter process, legislative body, tax collection, and service delivery, and to a new alternative form of county government.

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

Section 1. **NEW SECTION. 28E.40 REGIONAL METROPOLITAN SERVICE AREA.**

Two or more contiguous counties, cities, or cities and counties may establish a regional metropolitan service area to provide for the joint delivery of services by an agreement under this chapter, subject to the limitations and requirements of sections 331.232, 331.260, 331.261, and 331.262, subsection 2.

Sec. 2. Section 331.231, Code 1991, is amended by adding the following new subsection: **NEW SUBSECTION. 7.** Community commonwealth form as provided in sections 331.260 through 331.263.

Sec. 3. Section 331.231, subsection 6, Code 1991, is amended to read as follows:

6. ~~County-county~~ **Multicounty** consolidated form as provided in section 331.253.

Sec. 4. Section 331.232, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. The council of any city wishing to participate in a city-county consolidation charter commission must notify the board by resolution within thirty days of the creation of the commission pursuant to subsection 1. A city's participation in a city-county consolidation charter commission may be proposed by the city council adopting a resolution in favor of participation or by eligible electors of the city equal in number to at least twenty-five percent of the persons who voted at the last regular city election petitioning the council to adopt a resolution in favor of participation. The council shall within ten days of the filing of a valid petition adopt such a resolution.

Sec. 5. Section 331.233, subsection 1, Code 1991, is amended to read as follows:

1. ~~Within The members of a commission created to study the alternative forms of county government under division II, part 1, and sections 331.239, 331.241, 331.246, and 331.253, shall be appointed within forty-five days after the adoption of the resolution creating the commission; the members of the commission shall be appointed as follows:~~

Sec. 6. Section 331.233, subsection 2, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

2. Only eligible electors of the county not holding a city, county, or state office shall be members of the commission. In counties having multiple state legislative districts, the districts shall be represented as equally as possible. The membership shall be bipartisan and gender balanced and each appointing authority under subsection 1 shall provide for representation of various age groups, racial minorities, economic groups, and representatives of identifiable geographically defined populations, all in reasonable relationship to the proportions in which these groups are present in the population of the commission area. A vacancy on the commission shall be filled by appointment in the same manner as the original appointment. The county auditor shall notify the appropriate appointing authority of a vacancy.

The legislative appointing authorities shall be considered one appointing authority for the purpose of complying with this subsection. The senior legislative appointing authority in terms of length of legislative service shall convene the legislative appointing authorities to consult for the purpose of complying with this subsection.