

Senate File 2088

H-8097

1 Amend the amendment, H-8045, to Senate File 2088,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 11, after line 41 by inserting:  
5 < \_\_\_\_. Page 118, after line 8 by inserting:

6 <DIVISION  
7 DEPARTMENT OF NATURAL  
8 RESOURCES RULEMAKING

9 Sec. \_\_\_\_\_. Section 455A.4, subsection 1, unnumbered  
10 paragraph 1, Code Supplement 2009, is amended to read  
11 as follows:

12 Except as otherwise provided by law and ~~subject to~~  
13 ~~rules adopted by the natural resource commission and~~  
14 ~~the environmental protection commission~~, the director  
15 shall:

16 Sec. \_\_\_\_\_. Section 455A.4, subsection 1, paragraph  
17 i, Code Supplement 2009, is amended to read as follows:

18 *i.* Adopt rules in accordance with chapter 17A  
19 as necessary or desirable ~~for the organization or~~  
20 ~~reorganization of the department to provide for the~~  
21 administration of chapter 321G, 321I, 455B, 455C,  
22 456A, 456B, 457A, 459, 459A, 461A, 462A, 462B, 464A,  
23 465C, 481A, 481B, 483A, 484A, or 484B. Rulemaking  
24 authority held by the natural resource commission or  
25 the environmental protection commission is vested in  
26 the director upon the effective date of this division  
27 of this Act. Rules adopted by the natural resource  
28 commission or the environmental protection commission  
29 prior to the effective date of this division of this  
30 Act, shall remain effective until modified or rescinded  
31 by action of the director in accordance with the  
32 provisions of chapter 17A.

33 Sec. \_\_\_\_\_. Section 455A.5, subsection 6, paragraph  
34 a, Code 2009, is amended to read as follows:

35 *a.* ~~Establish Recommend policy and adopt rules,~~  
36 ~~pursuant to chapter 17A, necessary to provide for the~~  
37 effective administration of chapter 321G, 321I, 456A,  
38 456B, 457A, 461A, 462A, 462B, 464A, 465C, 481A, 481B,  
39 483A, 484A, or 484B.

40 Sec. \_\_\_\_\_. Section 455A.5, subsection 6, paragraph  
41 e, Code 2009, is amended by striking the paragraph.

42 Sec. \_\_\_\_\_. NEW SECTION. 455A.5A Schedule of fees  
43 — rules.

44 1. The director shall adopt, by rule, a schedule  
45 of fees for permits issued by the natural resource  
46 commission, including conditional permits, and a  
47 schedule of fees for administration of the permits.  
48 The fees shall be collected by the department and used  
49 to offset costs incurred in administering a program  
50 for which the issuance of the permit is made or under

1 which enforcement is carried out.

2 2. In determining the fee schedule, the director  
3 shall consider all of the following:

4 a. The reasonable costs associated with reviewing  
5 applications, issuing permits, and monitoring  
6 compliance with the terms of issued permits.

7 b. The relative benefits to the applicant and to  
8 the public of a permit review, permit issuance, and  
9 monitoring compliance with the terms of the permit.

10 c. The typical costs associated with a type of  
11 project or activity for which a permit is required.  
12 However, a fee shall not exceed the actual costs  
13 incurred by the department.

14 Sec. \_\_\_\_\_. Section 455A.6, subsection 6, paragraph  
15 a, Code 2009, is amended to read as follows:

16 a. ~~Establish~~ Recommend policy for the department  
17 ~~and adopt rules, pursuant to chapter 17A,~~ necessary to  
18 provide for the effective administration of chapter  
19 455B, 455C, or 459.

20 Sec. \_\_\_\_\_. Section 455B.103, subsections 1 and  
21 2, Code Supplement 2009, are amended by striking  
22 the subsections and inserting in lieu thereof the  
23 following:

24 1. Adopt, modify, or repeal rules necessary to  
25 implement this chapter, chapter 455C, chapter 459,  
26 and chapter 459A, only to the extent that the rules  
27 are consistent with the provisions of these chapters.  
28 Any rulemaking authority held by the commission is  
29 vested in the director upon the effective date of this  
30 division of this Act. Rules adopted by the commission  
31 prior to the effective date of this division of this  
32 Act shall remain in effect until modified or rescinded  
33 by action of the director in accordance with the  
34 provisions of chapter 17A.

35 a. The director shall include in the preamble of a  
36 rule, a statement referencing the authority delegated  
37 to the director pursuant to which the rule is adopted.  
38 The preamble for the rule shall indicate when the  
39 director is implementing a federal rule by reference  
40 and include a financial impact statement detailing the  
41 general impact of the rule upon the regulated parties.

42 b. When proposing or adopting rules to implement a  
43 specific federal environmental program, the director  
44 shall not impose requirements more restrictive than the  
45 requirements of the federal program being implemented.

46 c. When proposing or adopting rules, the director  
47 shall include departmental policy relating to the  
48 disclosure of information concerning a violation or  
49 alleged violation of the rules, standards, permits, or  
50 orders issued by the department and the confidentiality

1 of information obtained by the department in the  
2 administration and enforcement of this chapter, chapter  
3 455C, chapter 459, and chapter 459A.

4 Sec. \_\_\_\_\_. Section 455B.105, subsections 3 and  
5 11, Code Supplement 2009, are amended by striking the  
6 subsections.

7 Sec. \_\_\_\_\_. NEW SECTION. **455B.106 Schedule of fees**  
8 **— rules.**

9 1. The director shall adopt, by rule, procedures  
10 and forms necessary to implement the provisions of this  
11 chapter and chapters 459 and 459A relating to permits,  
12 conditional permits, and general permits.

13 2. The director may also adopt, by rule, a schedule  
14 of fees for permit and conditional permit applications  
15 and a schedule of fees which may be periodically  
16 assessed for administration of permits and conditional  
17 permits. In determining the fee schedules, the  
18 director shall consider:

19 a. The state's reasonable cost of reviewing  
20 applications, issuing permits and conditional permits,  
21 and checking compliance with the terms of the permits.

22 b. The relative benefits to the applicant and to  
23 the public of permit and conditional permit review,  
24 issuance, and monitoring compliance. It is the  
25 intention of the general assembly that permit fees  
26 shall not cover any costs connected with correcting  
27 violation of the terms of any permit and shall not  
28 impose unreasonable costs on any municipality.

29 c. The typical costs of the particular types of  
30 projects or activities for which permits or conditional  
31 permits are required, provided that in no circumstances  
32 shall fees be in excess of the actual costs to the  
33 department.

34 3. Except as otherwise provided in this chapter and  
35 chapter 459, fees collected by the department under  
36 this subsection shall be remitted to the treasurer of  
37 state and credited to the general fund of the state.

38 4. The director shall adopt rules for applications  
39 or permits related to the national pollutant discharge  
40 elimination system (NPDES) coverage as described in  
41 section 455B.197, including fees, only to the extent  
42 that the rules are consistent with that section.

43 Sec. \_\_\_\_\_. INTENT. It is the intent of the  
44 general assembly that upon the effective date of this  
45 division of this Act, the director of the department  
46 of natural resources shall have the powers and duties  
47 and shall assume the sole responsibility for proposing  
48 and adopting rules as necessary for the effective  
49 administration of the duties of the department of  
50 natural resources. All references in statute or

1 rules to the rulemaking authority of the natural  
2 resource commission or the environmental protection  
3 commission of the department of natural resources  
4 shall upon the effective date of this division of this  
5 Act be construed to refer only to the director of the  
6 department of natural resources.

7 Sec. \_\_\_\_\_. APPLICABILITY. This division of this  
8 Act applies to all rules noticed or adopted after  
9 the effective date of this division of this Act. If  
10 a rule with an effective date prior to the effective  
11 date of this division of this Act is amended after the  
12 effective date of this division of this Act, then the  
13 provisions of this division of this Act are applicable  
14 to the entire rule being amended and not only to the  
15 precise portion of the rules that is being amended.  
16 For purposes of applying the provisions of this  
17 division, the effective date of the amendment to a rule  
18 shall be the new effective date of the rule as a whole.

19 Sec. \_\_\_\_\_. EFFECTIVE UPON ENACTMENT. This division  
20 of this Act, being deemed of immediate importance,  
21 takes effect upon enactment.>>

22 2. By renumbering as necessary.

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SWEENEY of Hardin