

House Amendment to  
Senate File 455

S-5058

1 Amend Senate File 455, as amended, passed, and reprinted by  
2 the Senate, as follows:

3 1. By striking everything after the enacting clause and  
4 inserting:

5 <Section 1. Section 331.301, Code 2024, is amended by adding  
6 the following new subsection:

7 NEW SUBSECTION. 23. *a.* For purposes of this subsection:

8 (1) "*Construction site*" means the same as used in a storm  
9 water general permit adopted by rule pursuant to section  
10 455B.103A.

11 (2) "*Topsoil*" means the same as used in a storm water  
12 general permit adopted by rule pursuant to section 455B.103A.

13 *b.* A county shall not adopt or enforce an ordinance,  
14 motion, resolution, or amendment relating to the preservation,  
15 compaction, placement, or depth of topsoil at a construction  
16 site that is more restrictive than those requirements provided  
17 in the national pollutant discharge elimination system general  
18 permit no. 2 as issued by the department of natural resources.  
19 A county may develop standards to evaluate topsoil quantities  
20 before and after construction and ensure compliance with  
21 general permit no. 2. A county may request that the department  
22 of natural resources review the soil of a construction site to  
23 verify that the national pollutant discharge elimination system  
24 general permit no. 2 as issued by the department of natural  
25 resources is proper for the construction site.

26 *c.* (1) A county may adopt or enforce an ordinance, motion,  
27 resolution, or amendment that regulates storm water runoff at a  
28 construction site only to the extent that such regulation for  
29 rainfall events having a return frequency ranging from five  
30 through one hundred years does not require a post-construction  
31 storm water flow rate that is more restrictive than the  
32 existing flow rate of a rainfall event having a return  
33 frequency of five years, with all such runoff rates based on  
34 the actual existing condition of the site at the time the  
35 construction commences.

1 (2) A county may adopt or enforce an ordinance, motion,  
2 resolution, or amendment that regulates storm water runoff  
3 from upstream properties adjacent to a construction site to  
4 the extent that storm water runoff shall be allowed to pass  
5 through downstream storm water basins at the same flow rates as  
6 off-site storm water runoff entering the construction site.

7 (3) A county may impose a storm water runoff requirement  
8 that is more restrictive than what is allowed or required by  
9 this paragraph at the construction site if the county meets all  
10 of the following conditions:

11 (a) The county pays for all study, design, and engineering  
12 costs for implementing the more restrictive storm water  
13 runoff requirement that includes an analysis by a licensed  
14 professional engineer of the difference in costs between the  
15 requirements of this paragraph and the more restrictive county  
16 storm water runoff requirement.

17 (b) The county pays for the difference of costs between  
18 the requirements of this paragraph and the more restrictive  
19 requirement imposed by the county for installation of equipment  
20 or practices required for a property owner to comply with the  
21 storm water runoff requirement.

22 (c) If the storm water runoff requirement results in the  
23 county using a person's private property, whether by easement  
24 or otherwise taking an interest in the property, the county  
25 pays the property owner the fair market value of the property  
26 taken for any additional land required beyond the requirements  
27 of this paragraph.

28 (d) A county shall not impose a special assessment or  
29 otherwise recover the costs from the property owner for the  
30 portion of the costs attributable to the county.

31 (e) The costs attributable to the county shall only apply  
32 to the storm water management practices addressed in this  
33 paragraph.

34 Sec. 2. Section 364.3, Code 2024, is amended by adding the  
35 following new subsection:

1     NEW SUBSECTION. 18. a. For purposes of this subsection:

2     (1) "*Construction site*" means the same as used in a storm  
3 water general permit adopted by rule pursuant to section  
4 455B.103A.

5     (2) "*Topsoil*" means the same as used in a storm water  
6 general permit adopted by rule pursuant to section 455B.103A.

7     b. A city shall not adopt or enforce an ordinance, motion,  
8 resolution, or amendment relating to the preservation,  
9 compaction, placement, or depth of topsoil at a construction  
10 site that is more restrictive than those requirements provided  
11 in the national pollutant discharge elimination system general  
12 permit no. 2 as issued by the department of natural resources.  
13 A city may develop standards to evaluate topsoil quantities  
14 before and after construction and ensure compliance with  
15 general permit no. 2. A city may request that the department  
16 of natural resources review the soil of a construction site to  
17 verify that the national pollutant discharge elimination system  
18 general permit no. 2 as issued by the department of natural  
19 resources is proper for the construction site.

20     c. (1) A city may adopt or enforce an ordinance, motion,  
21 resolution, or amendment that regulates storm water runoff at a  
22 construction site only to the extent that such regulation for  
23 rainfall events having a return frequency ranging from five  
24 through one hundred years does not require a post-construction  
25 storm water flow rate that is more restrictive than the  
26 existing flow rate of a rainfall event having a return  
27 frequency of five years, with all such runoff rates based on  
28 the actual existing condition of the site at the time the  
29 construction commences.

30     (2) A city may adopt or enforce an ordinance, motion,  
31 resolution, or amendment that regulates storm water runoff from  
32 upstream properties adjacent to a construction site only to the  
33 extent that storm water runoff shall be allowed to pass through  
34 downstream storm water basins at the same flow rate as off-site  
35 storm water runoff entering the construction site.

1 (3) A city may impose a storm water runoff requirement that  
2 is more restrictive than what is allowed or required by this  
3 paragraph at the construction site if the city meets all of the  
4 following conditions:

5 (a) The city pays for all study, design, and engineering  
6 costs for implementing the storm water runoff requirement that  
7 includes an analysis by a licensed professional engineer of the  
8 difference in costs between the requirements of this paragraph  
9 and the more restrictive city storm water runoff requirement.

10 (b) The city pays for the difference of costs between  
11 the requirements of this paragraph and the more restrictive  
12 requirement imposed by the city for installation of equipment  
13 or practices required for a property owner to comply with the  
14 storm water runoff requirement.

15 (c) If the storm water runoff requirement results in the  
16 city using a person's private property, whether by easement or  
17 otherwise taking an interest in the property, the city pays the  
18 property owner the fair market value of the property taken for  
19 any additional land required beyond the requirements of this  
20 paragraph.

21 (d) A city shall not impose a special assessment or  
22 otherwise recover the costs from the property owner for the  
23 portion of the costs attributable to the city.

24 (e) The costs attributable to the city shall only apply  
25 to the storm water management practices addressed in this  
26 paragraph.>