

FILED FEB 28 1994

SENATE FILE 2216
BY COMMITTEE ON ENVIRONMENT
AND ENERGY UTILITIES

(SUCCESSOR TO SSB 2045)

Passed Senate, ^(P.648) Date 3-14-94 Passed House, ^(P.1397) Date 4/12/94
Vote: Ayes 46 Nays 0 Vote: Ayes 94 Nays 0
Approved May 5, 1994

A BILL FOR

1 An Act allowing recovery of hazardous substances cleanup costs by
2 governmental subdivisions.

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

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SF 2216

1 Section 1. NEW SECTION. 455B.400 LIABILITY OF
2 GOVERNMENTAL SUBDIVISIONS.

3 Notwithstanding section 455B.392, a person having control
4 over a hazardous substance is strictly liable to any
5 governmental subdivision for cleanup costs. A governmental
6 subdivision shall include any governmental body that responds
7 to a hazardous condition at the request of any other
8 governmental body having jurisdiction over the hazardous
9 condition. A governmental subdivision does not include the
10 state.

11 The attorney general, at the request of a governmental sub-
12 division, shall institute proceedings necessary to assist a
13 governmental subdivision to recover costs under this section.

14 EXPLANATION

15 This bill imposes strict liability on a person having
16 control over a hazardous substance for the cleanup costs which
17 are incurred by any governmental subdivision. Cleanup costs
18 are defined in section 455B.381 to mean costs incurred in the
19 prevention or mitigation of damages from a hazardous condition
20 or the cleanup of a hazardous substance involved in a
21 hazardous condition. The term governmental subdivision
22 includes any governmental body which is requested by a
23 governmental body having jurisdiction over the hazardous
24 condition to assist with the cleanup process. This bill
25 allows the assisting governmental body to recover costs even
26 though the activity has occurred outside their jurisdiction
27 and is similar to existing provisions which allow the state to
28 recover its cleanup costs.

29 In addition, the bill requires the attorney general to
30 assist a governmental subdivision with collection of cleanup
31 costs at the request of the governmental subdivision.

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SENATE FILE 2216

S-5145

1 Amend Senate File 2216 as follows:

2 1. Page 1, by striking lines 1 through 13 and
3 inserting the following:

4 "Section 1. Section 455B.392, subsection 1,
5 paragraph a, Code Supplement 1993, is amended to read
6 as follows:

7 a. The reasonable cleanup costs incurred by the
8 state or its political subdivisions, by governmental
9 subdivisions, or by any other persons participating in
10 the prevention or mitigation of damages with the
11 approval of the director, as a result of the failure
12 of the person to clean up a hazardous substance
13 involved in a hazardous condition caused by that
14 person.

15 Sec. 2. Section 455B.392, subsection 5, Code
16 Supplement 1993, is amended to read as follows:

17 5. Money collected pursuant to this section shall
18 be deposited in the hazardous waste remedial fund
19 created in section 455B.423 and. Moneys shall be used
20 to reimburse governmental subdivisions requested to
21 assist in the cleanup for which the moneys were
22 collected. The remainder of the moneys shall be used
23 in the manner permitted for the fund."

24 2. By renumbering as necessary.

By MICHAEL E. GRONSTAL
RALPH ROSENBERG

S-5145 FILED MARCH 10, 1994

adopted 3-14-94 (p.648)

**SENATE FILE 2216
FISCAL NOTE**

A fiscal note for Senate File 2216 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 2216 allows local governments, including those responding to hazardous conditions in another jurisdiction, to recover costs incurred during cleanup or prevention of contamination. The Bill also requires the Attorney General to assist local governments with collection from responsible parties.

The Department of Justice (DOJ) estimates 250 hazardous conditions requiring expenditures by local governments occur annually. At a caseload of 50 cases per attorney, the DOJ estimates 5 attorneys, plus 2 support staff will be needed at an annual cost of \$300,000.

The ability to recover hazardous condition response costs from responsible parties would increase revenue to local governments. If the 250 predicted hazardous conditions resulted in an average response cost of \$2,000, local governments could recover as much as \$500,000 per year.

There is no fiscal impact on the Department of Natural Resources.

Source:

Department of Natural Resources
Department of Justice

(LSB 3357sv, JWR)

FILED MARCH 14, 1994

BY DENNIS PROUTY, FISCAL DIRECTOR

(P. 612) 3-15-94 House - Energy & Environment
(P. 900) 3-25-94 House - Amend/DO
Pass w/H-5707

SENATE FILE **2216**
BY COMMITTEE ON ENVIRONMENT
AND ENERGY UTILITIES

(SUCCESSOR TO SSB 2045)

(AS AMENDED AND PASSED BY THE SENATE MARCH 14, 1994)

ALL New Language by the Senate

Passed Senate, ^(P. 1253) Date 4/14/94 Passed House, ^(P. 1397) Date 4/12/94
Vote: Ayes 50 Nays 0 Vote: Ayes 94 Nays 0

Approved May 5, 1994
Passed 4-15-94
Vote 97-0 (P. 1679)

A BILL FOR

1 An Act allowing recovery of hazardous substances cleanup costs by
2 governmental subdivisions.

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

4 Senate Conf Comm. ^(P. 1200) 4-13-94
5 *Jink*
6 *Delaney*
7 *Brennan*
8 *Kerston*
9 *Hedge*

House Conf Comm. 4/13/94
Rantz
Rafferty
Greiner
Myers
Henderson

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S.F. 2216

1 Section 1. Section 455B.392, subsection 1, paragraph a,
2 Code Supplement 1993, is amended to read as follows:

3 a. The reasonable cleanup costs incurred by the state or
4 its political subdivisions, by governmental subdivisions, or
5 by any other persons participating in the prevention or
6 mitigation of damages with the approval of the director, as a
7 result of the failure of the person to clean up a hazardous
8 substance involved in a hazardous condition caused by that
9 person.

10 Sec. 2. Section 455B.392, subsection 5, Code Supplement
11 1993, is amended to read as follows:

12 5. Money collected pursuant to this section shall be
13 deposited in the hazardous waste remedial fund created in
14 section 455B.423 and. Moneys shall be used to reimburse
15 governmental subdivisions requested to assist in the cleanup
16 for which the moneys were collected. The remainder of the
17 moneys shall be used in the manner permitted for the fund.

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HOUSE AMENDMENT TO
SENATE FILE 2216

S-5578

- 1 Amend Senate File 2216, as amended, passed, and
2 reprinted by the Senate as follows:
3 1. Page 1, by inserting after line 17 the
4 following:
5 "Sec. ____ . Section 455B.392, Code Supplement 1993,
6 is amended by adding the following new subsection:
7 NEW SUBSECTION. 8. The director shall request the
8 attorney general to recover any reasonable cleanup
9 costs that are incurred pursuant to subsection 1,
10 paragraph "a".
11 2. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-5578 FILED APRIL 12, 1994
LOST

House Inserts (P 1501)
4/13/94

SENATE FILE 2216

H-5707

- 1 Amend Senate File 2216, as amended, passed, and
2 reprinted by the Senate as follows:
3 1. Page 1, by inserting after line 17 the
4 following:
5 "Sec. ____ . Section 455B.392, Code Supplement 1993,
6 is amended by adding the following new subsection:
7 NEW SUBSECTION. 8. The director shall request the
8 attorney general to recover any reasonable cleanup
9 costs that are incurred pursuant to subsection 1,
10 paragraph "a".
11 2. By renumbering as necessary.

By COMMITTEE ON ENERGY AND
ENVIRONMENTAL PROTECTION
RAFFERTY of Scott, Chairperson

Adopted 4-12-94
(P 1396)
H-5707 FILED MARCH 25, 1994

REPORT OF THE CONFERENCE COMMITTEE
ON SENATE FILE 2216

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to resolve the differences between the Senate and the House of Representatives on Senate File 2216, a bill for an Act allowing recovery of hazardous substances cleanup costs by governmental subdivisions, respectfully make the following report:

- 1. That the House recedes from its amendment, S-5578.

ON THE PART OF THE SENATE:

BILL FINK, Chairperson
PATRICK J. DELUHERY
H. KAY HEDGE
JAMES B. KERSTEN
ALBERT G. SORENSON

ON THE PART OF THE HOUSE:

CHRISTOPHER RANTS, Chairperson
SANDRA H. GREINER
MARK HENDERSON
RICHARD MYERS
ROBERT L. RAFFERTY

CCS-2216 FILED APRIL 14, 1994

ADOPTED

4-14-94
(P. ~~1239~~
1253)

adopted
4-15-94
(P. 1679)

Fink. Chair
Sorensen
Hedge

SSB - 2045
Environment & Energy
Utilities

SENATE FILE 2216
BY (PROPOSED COMMITTEE ON
ENVIRONMENT AND ENERGY
UTILITIES BILL BY
CHAIRPERSON ROSENBERG)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

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SENATE FILE 2216

AN ACT
ALLOWING RECOVERY OF HAZARDOUS SUBSTANCES CLEANUP COSTS BY
GOVERNMENTAL SUBDIVISIONS.

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

Section 1. Section 455B.392, subsection 1, paragraph a, Code Supplement 1993, is amended to read as follows:

a. The reasonable cleanup costs incurred by the state or its political subdivisions, by governmental subdivisions, or by any other persons participating in the prevention or mitigation of damages with the approval of the director, as a result of the failure of the person to clean up a hazardous substance involved in a hazardous condition caused by that person.

Sec. 2. Section 455B.392, subsection 5, Code Supplement 1993, is amended to read as follows:

5. Money collected pursuant to this section shall be deposited in the hazardous waste remedial fund created in section 455B.423 and, Moneys shall be used to reimburse governmental subdivisions requested to assist in the cleanup

LEONARD L. BOSWELL
President of the Senate

HAROLD VAN MAANEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2216, Seventy-fifth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 5, 1994

TERRY E. BRANSTAD
Governor