

REPRINTED

FILED MAR 13 1997

SENATE FILE 473
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 241)

Passed Senate, Date ^(p.700) 3-19-97 Passed House, Date 4/23/97 ^(p.1513)
Vote: Ayes 49 Nays 0 Vote: Ayes 97 Nays 1
Approved May 29, 1997

A BILL FOR

1 An Act requiring owners of agricultural drainage wells to prevent
2 surface water intake into the wells, providing for the closure
3 of certain wells and the construction of alternative drainage
4 systems, providing state assistance for closing agricultural
5 drainage wells, prohibiting the construction and use of
6 certain structures located in agricultural drainage well
7 areas, providing for the assessment and collection of certain
8 drainage district expenses, providing penalties, and providing
9 an effective date.

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

11
12
13
14
15
16
17
18
19
20
21
22
23

S.F. 473

1 Section 1. Section 159.1, Code 1997, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 0A. "Agricultural drainage well" means
4 the same as defined in section 455H.1.

5 NEW SUBSECTION. 0B. "Agricultural drainage well area"
6 means the same as defined in section 455H.1.

7 NEW SUBSECTION. 1A. "Designated agricultural drainage
8 well area" means the same as defined in section 455H.1.

9 Sec. 2. NEW SECTION. 159.29A AGRICULTURAL DRAINAGE WELLS
10 -- ALTERNATIVE DRAINAGE SYSTEM ASSISTANCE FUND.

11 1. An alternative drainage system assistance fund is
12 created in the state treasury under the control of the soil
13 conservation division. The fund is composed of moneys
14 appropriated by the general assembly, and moneys available to
15 and obtained or accepted by the division or the state soil
16 conservation committee established pursuant to section 161A.4,
17 from the United States or private sources for placement in the
18 fund.

19 2. Moneys in the fund are subject to an annual audit by
20 the auditor of state. The fund is subject to warrants written
21 by the director of revenue and finance, drawn upon the written
22 requisition of the division.

23 3. The fund shall be used to support the alternative
24 drainage system assistance program as provided in section
25 159.29B. Moneys shall be used to provide financial incentives
26 under the program, and to defray expenses by the division in
27 administering the program. However, not more than one percent
28 of the money in the fund is available to defray administrative
29 expenses. The division may adopt rules pursuant to chapter
30 17A to administer this section.

31 4. The division shall not in any manner directly or
32 indirectly pledge the credit of the state.

33 5. Section 8.33 shall not apply to moneys in the fund.
34 Notwithstanding section 12C.7, moneys earned as income,
35 including as interest, from the fund shall remain in the fund

1 until expended as provided in this section.

2 Sec. 3. NEW SECTION. 159.29B AGRICULTURAL DRAINAGE WELLS
3 -- ALTERNATIVE DRAINAGE SYSTEM ASSISTANCE PROGRAM.

4 1. The soil conservation division shall establish an
5 alternative drainage system assistance program as provided by
6 rules which shall be adopted by the division pursuant to
7 chapter 17A. The program shall be supported from moneys
8 deposited in the alternative drainage system assistance fund
9 created pursuant to section 159.29A.

10 2. To the extent that moneys are available to support the
11 program, the division shall provide cost-share moneys to
12 persons closing agricultural drainage wells located within
13 designated agricultural drainage well areas, and constructing
14 alternative drainage systems which are part of a drainage
15 district in accordance with the priority system established
16 pursuant to section 159.29. The amount of moneys allocated in
17 cost-share payments to a person qualifying under the program
18 shall not exceed seventy-five percent of the estimated cost of
19 installing the alternative drainage system or seventy-five
20 percent of the actual cost of installing the alternative
21 drainage system, whichever is less.

22 3. a. A person owning land within a designated
23 agricultural drainage well area shall not be eligible to
24 participate in the program, if the person is classified as a
25 habitual violator for a violation of state law involving an
26 animal feeding operation as regulated by the department of
27 natural resources.

28 b. Noncrop acres located within a designated agricultural
29 drainage well area shall not be eligible to benefit from the
30 program.

31 The department of natural resources shall cooperate with
32 the division by providing information necessary to administer
33 this subsection.

34 Sec. 4. NEW SECTION. 455H.1 DEFINITIONS.

35 As used in this chapter, unless the context otherwise

1 requires:

2 1. "Agricultural drainage well" means a vertical opening
3 to an aquifer or permeable substratum which is constructed by
4 any means including but not limited to drilling, driving,
5 digging, boring, augering, jetting, washing, or coring, and
6 which is capable of intercepting or receiving surface or
7 subsurface drainage water from land directly or by a drainage
8 system.

9 2. "Agricultural drainage well area" means an area of land
10 where surface or subsurface water drains into an agricultural
11 drainage well directly or through a drainage system connecting
12 to the agricultural drainage well.

13 3. "Alternative drainage system" means a drainage system
14 constructed as part of a drainage district in order to drain
15 surface or subsurface water from land due to the closing of an
16 agricultural drainage well.

17 4. "Department" means the department of natural resources.

18 5. "Designated agricultural drainage well area" means an
19 agricultural drainage well area in which there is located an
20 earthen storage structure.

21 6. "Division" means the soil conservation division of the
22 department of agriculture and land stewardship.

23 7. "Drainage district" means a drainage district
24 established pursuant to chapter 468.

25 8. "Drainage system" means tile lines, laterals, surface
26 inlets, or other improvements which are constructed to
27 facilitate the drainage of land.

28 9. "Earthen storage structure" means an earthen cavity,
29 either covered or uncovered, including but not limited to an
30 anaerobic lagoon or earthen manure storage basin which is used
31 to store manure, sewage, wastewater, industrial waste, or
32 other waste as regulated by the department of natural
33 resources, if stored in a liquid or semi-liquid state.

34 10. "Land" means land which is used or which is suitable
35 for use for any purpose, if the land is located within an

1 agricultural drainage well area which includes land used or
2 suitable for use in farming.

3 11. "Surface water" means water occurring on the surface
4 of the ground.

5 12. "Surface water intake" means an artificial opening to
6 a drain tile line which drains into an agricultural drainage
7 well, if the artificial opening allows surface water to enter
8 the drain tile line without filtration through the soil
9 profile.

10 Sec. 5. NEW SECTION. 455H.2 PREVENTING SURFACE WATER
11 DRAINAGE INTO AGRICULTURAL DRAINAGE WELLS -- PENALTY.

12 Not later than December 31, 1998, all of the following
13 shall apply:

14 1. An owner of land on which an agricultural drainage well
15 is located shall prevent surface water from draining into the
16 agricultural drainage well. The landowner shall comply with
17 rules, which shall be adopted by the department, in
18 consultation with the division, required to carry out this
19 section. The landowner shall do all of the following:

20 a. If the land has a surface water intake emptying into an
21 agricultural drainage well, including a surface water intake
22 located in a road ditch, the landowner shall remove the
23 surface water intake.

24 b. If the land has a cistern connecting to an agricultural
25 drainage well, the landowner shall construct and maintain
26 sidewalls surrounding the cistern in order to prevent surface
27 water runoff directly emptying into the agricultural drainage
28 well.

29 c. If the land has an agricultural drainage well, the
30 landowner shall ensure that the agricultural drainage well and
31 related drainage system are adequately ventilated in a manner
32 that does not allow surface water to directly drain into the
33 agricultural drainage well.

34 d. The landowner shall install a locked cover over the
35 agricultural drainage well or its cistern in order to prevent

1 unauthorized access to the agricultural drainage well or its
2 cistern.

3 This subsection does not require a person to remove a tile
4 line that drains into an agricultural drainage well if the
5 tile line does not have a surface water intake. This
6 subsection also does not prohibit a person from installing a
7 tile line, if the installed tile line does not increase an
8 agricultural drainage well area.

9 2. An agricultural drainage well shall be inspected to
10 ensure compliance with this section, as follows:

11 a. If the agricultural drainage well is not located within
12 a drainage district as provided in chapter 468, the inspection
13 shall be made as required by the county board of supervisors
14 in the county in which the agricultural drainage well is
15 located.

16 b. If the agricultural drainage well is located on land
17 within a drainage district as provided in chapter 468, the
18 inspection shall be made as required by the board of the
19 drainage district, unless the county and the district
20 determine that inspection will be made by the county.

21 3. The department shall adopt guidelines as necessary to
22 assist counties and drainage districts in performing
23 inspections as provided in this section.

24 Sec. 6. NEW SECTION. 455H.3 CLOSING OF AGRICULTURAL
25 DRAINAGE WELLS AND CONSTRUCTION OF ALTERNATIVE DRAINAGE
26 SYSTEMS.

27 1. Not later than December 31, 1999, the owner of land
28 which is within a designated agricultural drainage well area
29 shall close each agricultural drainage well located on the
30 land. The owner shall close the agricultural drainage well in
31 a manner using materials and according to specifications
32 required by rules which shall be adopted by the department in
33 consultation with the division. The department may provide
34 different closing requirements based on classifications
35 established by the department. However, the department's

1 requirements shall ensure that an agricultural drainage well
2 is closed by using sealing materials such as bentonite to
3 permanently seal the agricultural drainage well from
4 contamination by surface or subsurface water drainage.

5 2. A person owning land affected by the closing of an
6 agricultural drainage well as required pursuant to subsection
7 1 may construct an alternative drainage system as part of an
8 established or new drainage district as provided in chapter
9 468. The alternative drainage system shall ensure that
10 surface or subsurface water does not drain into an
11 agricultural drainage well. A professional engineer licensed
12 pursuant to chapter 542B shall certify that work related to
13 closing the agricultural drainage well and that constructing
14 an alternative drainage system meets all applicable
15 engineering standards. If the site is within an established
16 drainage district, the engineer shall be the district's
17 engineer appointed pursuant to section 468.10 or an engineer
18 approved by the district's engineer.

19 Sec. 7. NEW SECTION. 455H.4 NOTICE.

20 1. The department shall provide information regarding
21 landowners registering agricultural drainage wells pursuant to
22 section 159.29 to each county board of supervisors and each
23 drainage district organized pursuant to chapter 468, in which
24 an agricultural drainage well is registered.

25 2. The department shall notify landowners of land on which
26 an agricultural drainage well is located of the deadline for
27 complying with this chapter. The notice shall be provided by
28 print, electronic media, or other notification process.

29 a. If the agricultural drainage well is not located on
30 land within a drainage district as provided in chapter 468,
31 the department shall provide the notice in cooperation with
32 the county board of supervisors in the county where the
33 agricultural drainage well is located.

34 b. If the agricultural drainage well is located on land
35 within a drainage district as provided in chapter 468, the

1 department shall provide the notice in cooperation with the
2 board of the drainage district, unless the county and the
3 district where the agricultural drainage well is located
4 determine that inspection of the agricultural drainage wells
5 will be provided by the county.

6 3. The department shall mail a special notice to owners of
7 land registering agricultural drainage wells pursuant to
8 section 159.29.

9 Sec. 8. NEW SECTION. 455H.5 PROHIBITION AGAINST
10 CONSTRUCTING EARTHEN STORAGE STRUCTURES.

11 A person shall not construct or expand an earthen storage
12 structure within an agricultural drainage well area. Each day
13 that a person operates an earthen storage structure which is
14 constructed in violation of this section constitutes a
15 separate violation.

16 Sec. 9. NEW SECTION. 455H.6 PENALTIES.

17 1. A person who violates sections 455H.2 or 455H.3 is
18 subject to a civil penalty of not more than one thousand
19 dollars. However, if a person is found to have violated a
20 section and again violates the section by not taking action
21 necessary to correct a previous violation within sixty days
22 after the person was found to have committed the previous
23 violation, the person is subject to a civil penalty not to
24 exceed five thousand dollars. If a person is convicted of
25 violating a section two or more times and again violates that
26 section by not taking action necessary to correct a previous
27 violation within sixty days after the person was found to have
28 committed the last previous violation, the person is subject
29 to a civil penalty not to exceed fifteen thousand dollars.

30 2. A person who violates section 455H.5 is subject to a
31 civil penalty not to exceed five thousand dollars.

32 Sec. 10. NEW SECTION. 455H.7 REIMBURSEMENT OF EXPENSES.

33 The expenses incurred by a county in carrying out this
34 chapter shall be prorated among the landowners in the county
35 who own land on which an agricultural drainage well is

1 located. The amount shall be placed upon the tax books, and
2 collected with interest and penalties after due, in the same
3 manner as other unpaid property taxes. If expenses are
4 incurred by a drainage district, the board shall levy an
5 assessment on the lands in the district where an agricultural
6 drainage well is located as provided in section 468.50.

7 Sec. 11. NEW SECTION. 468.189 CLOSING AGRICULTURAL
8 DRAINAGE WELLS -- ASSESSMENT OF COSTS WITHIN A DRAINAGE
9 DISTRICT.

10 The costs of closing an agricultural drainage well and
11 constructing an alternative drainage system as part of a
12 drainage district shall be assessed as a special assessment by
13 the board as provided in this chapter.

14 Sec. 12. DEPARTMENTAL RULES. The department of
15 agriculture and land stewardship and the department of natural
16 resources shall adopt all rules required to carry out this Act
17 by December 31, 1997.

18 Sec. 13. EFFECTIVE DATE. This Act, being deemed of
19 immediate importance, takes effect upon enactment.

20 EXPLANATION

21 This bill relates to agricultural drainage wells and
22 agricultural drainage well areas which drain into the
23 agricultural drainage wells. The bill provides for preventing
24 surface water from draining into agricultural drainage wells
25 and for closing certain wells where an earthen storage
26 structure is used to store waste. The bill creates a program
27 to assist persons in establishing alternative drainage systems
28 based on a cost-share approach. The bill prohibits the
29 construction of earthen storage structures within agricultural
30 drainage well areas and the operation of those structures.
31 The bill authorizes counties and drainage districts required
32 to perform inspections to levy taxes in order to pay for
33 related costs. It also provides for civil penalties for
34 violations of the bill's provisions.

35 The bill takes effect upon enactment.

1 This bill may create a state mandate as provided in Code
2 chapter 25B.

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

S-3169

1 Amend Senate File 473 as follows:
 2 1. Page 4, by inserting after line 2 the
 3 following:
 4 "____". "Sinkhole" means any unconstructed
 5 depression caused by the dissolution or collapse of
 6 subterranean materials in a carbonate formation,
 7 gypsum, or rock salt deposits through which water may
 8 be drained into groundwater. The depression is not
 9 required to be open to the land's surface, and may
 10 hold water forming a pond.
 11 _____. "Sinkhole drainage area" means an area of
 12 land where surface or subsurface water drains into a
 13 sinkhole."
 14 2. Page 7, line 12, by inserting after the word
 15 "area" the following: "or sinkhole drainage area".
 By JAMES BLACK

S-3169 FILED MARCH 19, 1997
 RULED OUT OF ORDER 3-19-97

SENATE FILE 473

S-3170

1 Amend Senate File 473 as follows:
 2 1. Page 4, line 12, by striking the figure "1998"
 3 and inserting the following: "1999".
 By JAMES BLACK

S-3170 FILED MARCH 19, 1997
 LOST 3-19-97

SENATE FILE 473

S-3171

1 Amend Senate File 473 as follows:
 2 1. Page 5, line 23, by inserting after the word
 3 "section." the following: "The guidelines shall not
 4 affect the authority of a county or drainage district
 5 to designate a person to perform inspections."
 By JAMES BLACK

S-3171 FILED MARCH 19, 1997
 ADOPTED 3-19-97

SENATE FILE 473

S-3143

- 1 Amend Senate File 473 as follows:
2 1. Page 2, by striking lines 22 through 24 and
3 inserting the following:
4 "3. a. A person who owns an interest in land
5 within a designated agricultural drainage well area
6 shall not be eligible to participate in the program,
7 if the person is any of the following:
8 (1) A party to a pending legal or administrative
9 action, including a contested case proceeding under
10 chapter 17A, relating to an alleged violation
11 involving an animal feeding operation as regulated by
12 the department of natural resources, regardless of
13 whether the pending action is brought by the
14 department or the attorney general.
15 (2) Is classified as a".

By STEWART IVERSON, Jr.

S-3143 FILED MARCH 17, 1997
adopted 3-19-97 (p.699)

SENATE FILE 473

S-3144

- 1 Amend Senate File 473 as follows:
2 1. Page 3, by striking line 20 and inserting the
3 following: "anaerobic lagoon or earthen manure
4 storage basin required to obtain a construction permit
5 by the department of natural resources."

By WILMER RENSINK

S-3144 FILED MARCH 17, 1997

adopted
3-19-97 (p.700)

1 Section 1. Section 159.1, Code 1997, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 0A. "Agricultural drainage well" means
4 the same as defined in section 455H.1.

5 NEW SUBSECTION. 0B. "Agricultural drainage well area"
6 means the same as defined in section 455H.1.

7 NEW SUBSECTION. 1A. "Designated agricultural drainage
8 well area" means the same as defined in section 455H.1.

9 Sec. 2. NEW SECTION. 159.29A AGRICULTURAL DRAINAGE WELLS
10 -- ALTERNATIVE DRAINAGE SYSTEM ASSISTANCE FUND.

11 1. An alternative drainage system assistance fund is
12 created in the state treasury under the control of the soil
13 conservation division. The fund is composed of moneys
14 appropriated by the general assembly, and moneys available to
15 and obtained or accepted by the division or the state soil
16 conservation committee established pursuant to section 161A.4,
17 from the United States or private sources for placement in the
18 fund.

19 2. Moneys in the fund are subject to an annual audit by
20 the auditor of state. The fund is subject to warrants written
21 by the director of revenue and finance, drawn upon the written
22 requisition of the division.

23 3. The fund shall be used to support the alternative
24 drainage system assistance program as provided in section
25 159.29B. Moneys shall be used to provide financial incentives
26 under the program, and to defray expenses by the division in
27 administering the program. However, not more than one percent
28 of the money in the fund is available to defray administrative
29 expenses. The division may adopt rules pursuant to chapter
30 17A to administer this section.

31 4. The division shall not in any manner directly or
32 indirectly pledge the credit of the state.

33 5. Section 8.33 shall not apply to moneys in the fund.
34 Notwithstanding section 12C.7, moneys earned as income,
35 including as interest, from the fund shall remain in the fund

1 until expended as provided in this section.

2 Sec. 3. NEW SECTION. 159.29B AGRICULTURAL DRAINAGE WELLS
3 -- ALTERNATIVE DRAINAGE SYSTEM ASSISTANCE PROGRAM.

4 1. The soil conservation division shall establish an
5 alternative drainage system assistance program as provided by
6 rules which shall be adopted by the division pursuant to
7 chapter 17A. The program shall be supported from moneys
8 deposited in the alternative drainage system assistance fund
9 created pursuant to section 159.29A.

10 2. To the extent that moneys are available to support the
11 program, the division shall provide cost-share moneys to
12 persons closing agricultural drainage wells located within
13 designated agricultural drainage well areas, and constructing
14 alternative drainage systems which are part of a drainage
15 district in accordance with the priority system established
16 pursuant to section 159.29. The amount of moneys allocated in
17 cost-share payments to a person qualifying under the program
18 shall not exceed seventy-five percent of the estimated cost of
19 installing the alternative drainage system or seventy-five
20 percent of the actual cost of installing the alternative
21 drainage system, whichever is less.

22 3. a. A person who owns an interest in land within a
23 designated agricultural drainage well area shall not be
24 eligible to participate in the program, if the person is any
25 of the following:

26 (1) A party to a pending legal or administrative action,
27 including a contested case proceeding under chapter 17A,
28 relating to an alleged violation involving an animal feeding
29 operation as regulated by the department of natural resources,
30 regardless of whether the pending action is brought by the
31 department or the attorney general.

32 (2) Is classified as a habitual violator for a violation
33 of state law involving an animal feeding operation as
34 regulated by the department of natural resources.

35 b. Noncrop acres located within a designated agricultural

1 drainage well area shall not be eligible to benefit from the
2 program.

3 The department of natural resources shall cooperate with
4 the division by providing information necessary to administer
5 this subsection.

6 Sec. 4. NEW SECTION. 455H.1 DEFINITIONS.

7 As used in this chapter, unless the context otherwise
8 requires:

9 1. "Agricultural drainage well" means a vertical opening
10 to an aquifer or permeable substratum which is constructed by
11 any means including but not limited to drilling, driving,
12 digging, boring, augering, jetting, washing, or coring, and
13 which is capable of intercepting or receiving surface or
14 subsurface drainage water from land directly or by a drainage
15 system.

16 2. "Agricultural drainage well area" means an area of land
17 where surface or subsurface water drains into an agricultural
18 drainage well directly or through a drainage system connecting
19 to the agricultural drainage well.

20 3. "Alternative drainage system" means a drainage system
21 constructed as part of a drainage district in order to drain
22 surface or subsurface water from land due to the closing of an
23 agricultural drainage well.

24 4. "Department" means the department of natural resources.

25 5. "Designated agricultural drainage well area" means an
26 agricultural drainage well area in which there is located an
27 anaerobic lagoon or earthen manure storage basin required to
28 obtain a construction permit by the department of natural
29 resources.

30 6. "Division" means the soil conservation division of the
31 department of agriculture and land stewardship.

32 7. "Drainage district" means a drainage district
33 established pursuant to chapter 468.

34 8. "Drainage system" means tile lines, laterals, surface
35 inlets, or other improvements which are constructed to

1 facilitate the drainage of land.

2 9. "Earthen storage structure" means an earthen cavity,
3 either covered or uncovered, including but not limited to an
4 anaerobic lagoon or earthen manure storage basin which is used
5 to store manure, sewage, wastewater, industrial waste, or
6 other waste as regulated by the department of natural
7 resources, if stored in a liquid or semi-liquid state.

8 10. "Land" means land which is used or which is suitable
9 for use for any purpose, if the land is located within an
10 agricultural drainage well area which includes land used or
11 suitable for use in farming.

12 11. "Surface water" means water occurring on the surface
13 of the ground.

14 12. "Surface water intake" means an artificial opening to
15 a drain tile line which drains into an agricultural drainage
16 well, if the artificial opening allows surface water to enter
17 the drain tile line without filtration through the soil
18 profile.

19 Sec. 5. NEW SECTION. 455H.2 PREVENTING SURFACE WATER
20 DRAINAGE INTO AGRICULTURAL DRAINAGE WELLS -- PENALTY.

21 Not later than December 31, 1998, all of the following
22 shall apply:

23 1. An owner of land on which an agricultural drainage well
24 is located shall prevent surface water from draining into the
25 agricultural drainage well. The landowner shall comply with
26 rules, which shall be adopted by the department, in
27 consultation with the division, required to carry out this
28 section. The landowner shall do all of the following:

29 a. If the land has a surface water intake emptying into an
30 agricultural drainage well, including a surface water intake
31 located in a road ditch, the landowner shall remove the
32 surface water intake.

33 b. If the land has a cistern connecting to an agricultural
34 drainage well, the landowner shall construct and maintain
35 sidewalls surrounding the cistern in order to prevent surface

1 water runoff directly emptying into the agricultural drainage
2 well.

3 c. If the land has an agricultural drainage well, the
4 landowner shall ensure that the agricultural drainage well and
5 related drainage system are adequately ventilated in a manner
6 that does not allow surface water to directly drain into the
7 agricultural drainage well.

8 d. The landowner shall install a locked cover over the
9 agricultural drainage well or its cistern in order to prevent
10 unauthorized access to the agricultural drainage well or its
11 cistern.

12 This subsection does not require a person to remove a tile
13 line that drains into an agricultural drainage well if the
14 tile line does not have a surface water intake. This
15 subsection also does not prohibit a person from installing a
16 tile line, if the installed tile line does not increase an
17 agricultural drainage well area.

18 2. An agricultural drainage well shall be inspected to
19 ensure compliance with this section, as follows:

20 a. If the agricultural drainage well is not located within
21 a drainage district as provided in chapter 468, the inspection
22 shall be made as required by the county board of supervisors
23 in the county in which the agricultural drainage well is
24 located.

25 b. If the agricultural drainage well is located on land
26 within a drainage district as provided in chapter 468, the
27 inspection shall be made as required by the board of the
28 drainage district, unless the county and the district
29 determine that inspection will be made by the county.

30 3. The department shall adopt guidelines as necessary to
31 assist counties and drainage districts in performing
32 inspections as provided in this section. The guidelines shall
33 not affect the authority of a county or drainage district to
34 designate a person to perform inspections.

35 Sec. 6. NEW SECTION. 455H.3 CLOSING OF AGRICULTURAL

1 DRAINAGE WELLS AND CONSTRUCTION OF ALTERNATIVE DRAINAGE
2 SYSTEMS.

3 1. Not later than December 31, 1999, the owner of land
4 which is within a designated agricultural drainage well area
5 shall close each agricultural drainage well located on the
6 land. The owner shall close the agricultural drainage well in
7 a manner using materials and according to specifications
8 required by rules which shall be adopted by the department in
9 consultation with the division. The department may provide
10 different closing requirements based on classifications
11 established by the department. However, the department's
12 requirements shall ensure that an agricultural drainage well
13 is closed by using sealing materials such as bentonite to
14 permanently seal the agricultural drainage well from
15 contamination by surface or subsurface water drainage.

16 2. A person owning land affected by the closing of an
17 agricultural drainage well as required pursuant to subsection
18 1 may construct an alternative drainage system as part of an
19 established or new drainage district as provided in chapter
20 468. The alternative drainage system shall ensure that
21 surface or subsurface water does not drain into an
22 agricultural drainage well. A professional engineer licensed
23 pursuant to chapter 542B shall certify that work related to
24 closing the agricultural drainage well and that constructing
25 an alternative drainage system meets all applicable
26 engineering standards. If the site is within an established
27 drainage district, the engineer shall be the district's
28 engineer appointed pursuant to section 468.10 or an engineer
29 approved by the district's engineer.

30 Sec. 7. NEW SECTION. 455H.4 NOTICE.

31 1. The department shall provide information regarding
32 landowners registering agricultural drainage wells pursuant to
33 section 159.29 to each county board of supervisors and each
34 drainage district organized pursuant to chapter 468, in which
35 an agricultural drainage well is registered.

1 2. The department shall notify landowners of land on which
2 an agricultural drainage well is located of the deadline for
3 complying with this chapter. The notice shall be provided by
4 print, electronic media, or other notification process.

5 a. If the agricultural drainage well is not located on
6 land within a drainage district as provided in chapter 468,
7 the department shall provide the notice in cooperation with
8 the county board of supervisors in the county where the
9 agricultural drainage well is located.

10 b. If the agricultural drainage well is located on land
11 within a drainage district as provided in chapter 468, the
12 department shall provide the notice in cooperation with the
13 board of the drainage district, unless the county and the
14 district where the agricultural drainage well is located
15 determine that inspection of the agricultural drainage wells
16 will be provided by the county.

17 3. The department shall mail a special notice to owners of
18 land registering agricultural drainage wells pursuant to
19 section 159.29.

20 Sec. 8. NEW SECTION. 455H.5 PROHIBITION AGAINST
21 CONSTRUCTING EARTHEN STORAGE STRUCTURES.

22 A person shall not construct or expand an earthen storage
23 structure within an agricultural drainage well area. Each day
24 that a person operates an earthen storage structure which is
25 constructed in violation of this section constitutes a
26 separate violation.

27 Sec. 9. NEW SECTION. 455H.6 PENALTIES.

28 1. A person who violates sections 455H.2 or 455H.3 is
29 subject to a civil penalty of not more than one thousand
30 dollars. However, if a person is found to have violated a
31 section and again violates the section by not taking action
32 necessary to correct a previous violation within sixty days
33 after the person was found to have committed the previous
34 violation, the person is subject to a civil penalty not to
35 exceed five thousand dollars. If a person is convicted of

1 violating a section two or more times and again violates that
2 section by not taking action necessary to correct a previous
3 violation within sixty days after the person was found to have
4 committed the last previous violation, the person is subject
5 to a civil penalty not to exceed fifteen thousand dollars.

6 2. A person who violates section 455H.5 is subject to a
7 civil penalty not to exceed five thousand dollars.

8 Sec. 10. NEW SECTION. 455H.7 REIMBURSEMENT OF EXPENSES.

9 The expenses incurred by a county in carrying out this
10 chapter shall be prorated among the landowners in the county
11 who own land on which an agricultural drainage well is
12 located. The amount shall be placed upon the tax books, and
13 collected with interest and penalties after due, in the same
14 manner as other unpaid property taxes. If expenses are
15 incurred by a drainage district, the board shall levy an
16 assessment on the lands in the district where an agricultural
17 drainage well is located as provided in section 468.50.

18 Sec. 11. NEW SECTION. 468.189 CLOSING AGRICULTURAL
19 DRAINAGE WELLS -- ASSESSMENT OF COSTS WITHIN A DRAINAGE
20 DISTRICT.

21 The costs of closing an agricultural drainage well and
22 constructing an alternative drainage system as part of a
23 drainage district shall be assessed as a special assessment by
24 the board as provided in this chapter.

25 Sec. 12. DEPARTMENTAL RULES. The department of
26 agriculture and land stewardship and the department of natural
27 resources shall adopt all rules required to carry out this Act
28 by December 31, 1997.

29 Sec. 13. EFFECTIVE DATE. This Act, being deemed of
30 immediate importance, takes effect upon enactment.

31
32
33
34
35

**SENATE FILE 473
FISCAL NOTE**

A fiscal note for Senate File 473, as passed by the Senate, 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 473, as passed by the Senate, reduces the opportunity for groundwater contamination by closing designated Agriculture Drainage Wells (ADW)s through the development of an Alternative Drainage System Assistance Program (ADSAP). The program will be implemented under the guidance of the Division of Soil Conservation in the Department of Agriculture and Land Stewardship and in cooperation with the Department of Natural Resources. This legislation creates an Alternative Drainage System Assistance Fund (ADWAF) that provides cost share funding to cover up to 75.0% of the landowner's expense for closing an ADW. The Bill gives counties and drainage districts the authority to levy taxes to pay for the cost of performing ADW site inspections.

ASSUMPTIONS

ADSAP requires closing all ADWs that are located near earthen manure storage structures in Wright County. The landowner has the option to close the ADW and develop an alternative drainage system or to return the land to a wetland reserve status.

The ADWAF cost share incentives are not available to all ADW landowners. Those ineligible include:

1. Landowners with pending legal or administrative action.
2. Habitual violators of the State law regarding animal feeding operations.
3. Landowners with an ADW not registered with the Department of Natural Resources.
4. ADW landowners with non-crop acres.

The program's first deadline applies to all landowners in Iowa. The deadline date of December 31, 1998, prevents surface water from draining into an ADW. This deadline requires:

1. The removal of surface water intakes that empty into an ADW.
2. Construction of sidewalls that will surround a cistern connection.
3. Adequate ventilation for an ADW.
4. Locked covers for an ADW or cistern connection to prevent access.

Inspections by the County Board of Supervisors or the Drainage District Board will ensure compliance of this deadline.

The program's second deadline of December 31, 1999, requires the closing of the ADWs in the designated area and the construction of alternative drainage

-2-

systems. This deadline requires:

1. Closing ADWs using materials and specifications recommended by the Department of Natural Resources.
2. Construction of an alternative drainage system that is certified by a licensed engineer.

Penalties for violating the deadline dates include:

1. A civil penalty up to \$1,000 for the first violation.
2. A civil penalty up to \$5,000 for the second violation.
3. A civil penalty up to \$15,000 for the third violation.

The Department of Natural Resources will provide ADW information as follows:

1. Provide ADW registration information to the appropriate County Board of Supervisors or Drainage District Board.
2. Notify ADW landowners of the deadline dates using various types of media.
3. Notify all registered ADW owners through the mail.

This legislation prevents the construction of earthen manure storage structures within an ADW area. The violation is a civil penalty up to \$5,000.

County expenses for enforcing this law will be prorated among the county's ADW landowners and collected in the same manner as property tax. Penalties and interest will be collected when payment is past due. The Drainage District Board will levy an assessment on ADW land to cover the expense of enforcing this law.

FISCAL IMPACT

The Division of Soil Conservation in the Department of Agriculture and Land Stewardship estimates the cost of closing the 20 to 25 ADWs in the designated area is \$2.0 million. The major expense is construction of alternative drainage systems and development of Drainage Districts. Federal funding through the Environmental Quality Incentives Program (EQIP) as outlined in the 1996 Farm Bill may be available to landowners.

SOURCE

Department of Agriculture and Land Stewardship

(LSB 2302sv, DFK)

FILED MARCH 25, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 473

H-1689

- 1 Amend Senate File 473, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 5, by striking lines 19 through 29 and
4 inserting the following: "ensure compliance with this
5 section, as required by the county board of
6 supervisors in the county in which the agricultural
7 drainage well is located."
8 2. Page 5, line 31, by striking the words "and
9 drainage districts".
10 3. Page 5, line 33, by striking the words "or
11 drainage district".
12 4. Page 6, by striking lines 22 through 29 and
13 inserting the following: "agricultural drainage
14 well."
15 5. Page 6, by striking lines 33 and 34 and
16 inserting the following: "section 159.29 to each
17 county board of supervisors in which".
18 6. Page 7, by striking lines 5 through 16 and
19 inserting the following: "The department shall
20 provide the notice in cooperation with the county
21 board of supervisors in the county where the
22 agricultural drainage well is located."
23 7. By renumbering as necessary.

By MERTZ of Kossuth

H-1689 FILED APRIL 10, 1997

Adopted 4/23/97 (p. 15/2)

SENATE FILE 473

H-1688

- 1 Amend Senate File 473, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 4, line 21, by striking the figure "1998"
4 and inserting the following: "2001".

By MERTZ of Kossuth

H-1688 FILED APRIL 10, 1997

Last 4/23/97 (p. 15/2)

SENATE FILE 473

H-1564

1 Amend Senate File 473, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 7, line 28, by inserting after the figure
4 "1." the following: "a."

5 2. Page 8, line 6, by striking the figure "2."
6 and inserting the following: "b."

7 3. Page 8, by inserting after line 7 the
8 following:

9 "2. Moneys collected from the assessment of civil
10 penalties and interest on civil penalties as provided
11 for in this section shall be deposited in the manure
12 storage indemnity fund as created in section 204.2."

By KOENIGS of Mitchell

H-1564 FILED APRIL 7, 1997

Adopted 4/23/97 (p. 15/3)

SENATE FILE 473

H-1576

1 Amend Senate File 473, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 7, line 23, by inserting after the word
4 "area." the following: "A person shall not construct
5 or expand an earthen storage structure which is part
6 of an animal feeding operation located outside an
7 agricultural drainage well area."

By DREES of Carroll

H-1576 FILED APRIL 7, 1997

w/d 4/23/97 (p. 15/2)

SENATE FILE 473

H-1698

1 Amend Senate File 473, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 3, by inserting after line 5 the
4 following:

5 "Sec. _____. Section 204.1, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 2A. "Bond" means a bond issued by
8 a surety company or an irrevocable letter of credit
9 issued by a financial institution as defined in
10 section 12.61.

11 Sec. _____. Section 204.1, subsection 8, Code 1997,
12 is amended to read as follows:

13 8. "Manure storage structure" means a structure
14 used to store manure as part of a confinement feeding
15 operation ~~subject to a construction permit issued by~~
16 ~~the department of natural resources pursuant to~~
17 ~~section 455B.173.~~ A manure storage structure
18 includes, but is not limited to, an anaerobic lagoon,
19 formed manure storage structure, or earthen manure
20 storage basin, as defined in section 455B.161.

21 Sec. _____. Section 204.4, subsections 1 and 3, Code
22 1997, are amended to read as follows:

23 1. A county that has acquired real estate
24 containing a manure storage structure following
25 nonpayment of taxes pursuant to section 446.19, may
26 make a claim against the fund to pay the costs of
27 cleaning up ~~the a contaminated site of the confinement~~
28 ~~feeding operation, including the costs of removing and~~
29 ~~disposing of the manure from a manure storage~~
30 ~~structure as provided in section 204.5.~~ Each claim
31 shall include a bid by a qualified person, other than
32 a governmental entity, to remove and dispose of the
33 manure for a fixed amount specified in the bid.

34 3. Upon a determination that the claim is eligible
35 for payment, the department shall provide for payment
36 of one hundred percent of the claim, as provided in
37 this section. However, the amount of the claim shall
38 be reduced by any amount received by the county from a
39 bond or cash deposit required to be paid to the county
40 as provided in section 204.4A. If at any time the
41 department determines that there are insufficient
42 moneys to make payment of all claims, the department
43 shall pay claims according to the date that the claims
44 are received by the department. To the extent that a
45 claim cannot be fully satisfied, the department shall
46 order that the unpaid portion of the payment be
47 deferred until the claim can be satisfied. However,
48 the department shall not satisfy claims from moneys
49 dedicated for the administration of the fund.

50 Sec. _____. NEW SECTION. 204.4A SECURITY EVIDENCE

H-1698

H-1698

Page 3

1 provide for notifying the department of agriculture
2 and land stewardship and the department of natural
3 resources of the termination of a person's security
4 evidence of financial responsibility and any
5 replacement form of security evidence of financial
6 responsibility approved by the board.

7 5. If the department of natural resources receives
8 notice from the county that the security evidence of
9 financial responsibility has been terminated and has
10 not been replaced, the department of natural resources
11 shall immediately inspect the confinement feeding
12 operation, and the confinement feeding operation shall
13 depopulate animals maintained in the confinement
14 feeding operation as provided in section 455B.202.

15 6. This section shall not apply if on August 31
16 following the close of a fiscal year, moneys in the
17 fund which are not obligated or encumbered on June 30
18 of the past fiscal year, less the department's
19 estimate of the cost to the fund for pending or
20 unsettled claims, equal or exceed one million dollars.
21 After the fiscal year in which this section does not
22 apply, this section shall apply again if on August 31
23 following the close of a fiscal year, moneys in the
24 fund which are not obligated or encumbered on June 30
25 of the past fiscal year, less the department's
26 estimate of the cost to the fund for pending or
27 unsettled claims, is less than seven hundred fifty
28 thousand dollars.

29 Sec. _____. Section 204.5, unnumbered paragraph 1,
30 Code 1997, is amended to read as follows:

31 A county which has acquired real estate containing
32 a confinement-feeding-operation manure storage
33 structure, as defined in section 455B.161, following
34 the nonpayment of taxes pursuant to section 446.19,
35 may clean up the a site contaminated by manure
36 originating from the confinement feeding operation,
37 including by removing and disposing of manure at any
38 time, and restoring the quality of surface or
39 subsurface water contaminated by manure. The county
40 may seek reimbursement including by bringing an action
41 for the costs of the removal and disposal from the
42 person abandoning the real estate.

43 Sec. _____. Section 455B.171, Code 1997, is amended
44 by adding the following new subsection:

45 NEW SUBSECTION. 2A. "Animal feeding operation
46 structure" means the same as defined in section
47 455B.161.

48 Sec. _____. Section 455B.173, subsection 13, Code
49 1997, is amended to read as follows:

50 13. a. Adopt, modify, or repeal rules relating to

H-1698

H-1698

Page 4

1 the construction, including new construction or
2 expansion, or operation of animal feeding operations.
3 The rules shall include, but are not limited to,
4 minimum manure control requirements, requirements for
5 obtaining permits, and departmental evaluations of
6 animal feeding operations. The department shall not
7 require that a person obtain a permit for the
8 construction of an animal feeding operation structure,
9 if the structure is part of a small animal feeding
10 operation.

11 b. The department shall collect an indemnity fee
12 as provided in section 204.3 prior to the issuance
13 approval of a construction permit. The department
14 shall deposit moneys collected in indemnity fees in
15 the manure storage indemnity fund created in section
16 204.2. In addition, a permit for the construction of
17 an animal feeding operation structure which is part of
18 a confinement feeding operation shall not be approved,
19 unless the applicant submits a form certified by the
20 county board of supervisors stating that the applicant
21 satisfies the security evidence of financial
22 responsibility requirements of section 204.4A.

23 c. The department shall not approve a permit for
24 the construction of three or more animal feeding
25 operation structures unless the applicant files a
26 statement approved by a professional engineer
27 registered pursuant to chapter 542B certifying that
28 the construction of the animal feeding operation
29 structure will not impede the drainage through
30 established drainage tile lines which cross property
31 boundary lines unless measures are taken to
32 reestablish the drainage prior to completion of
33 construction. ~~The department shall deposit moneys~~
34 ~~collected in indemnity fees in the manure storage~~
35 ~~indemnity fund created in section 204.2.~~

36 d. The department shall issue a permit for an
37 animal feeding operation, if an application is
38 submitted according to procedures required by the
39 department, and the application meets standards
40 established by the department, regardless of whether
41 the animal feeding operation is required to obtain
42 such a permit.

43 e. An applicant for a construction permit shall
44 not begin construction at the location of a site
45 planned for the construction of an animal feeding
46 operation structure, until the person has been granted
47 a permit for the construction of the structure by the
48 department. The department shall make a determination
49 regarding the approval or denial of a permit within
50 sixty days from the date that the department receives

H-1698

H-1698

Page 5

1 a completed application for a permit. However, the
2 sixty-day requirement shall not apply to an
3 application, if the applicant is not required to
4 obtain a permit in order to construct an animal
5 feeding operation structure or to operate an animal
6 feeding operation.

7 f. The department shall deliver a copy or require
8 the applicant to deliver a copy of the application for
9 a construction permit to the county board of
10 supervisors in the county where the confinement
11 feeding operation or confinement feeding operation
12 structure subject to the permit is to be located. The
13 department shall not approve the application or issue
14 a construction permit until thirty days following
15 delivery of the application to the county board of
16 supervisors. The department shall consider comments
17 from the county board of supervisors, regarding
18 compliance by the applicant with the legal
19 requirements for the construction of the confinement
20 feeding operation structure as provided in this
21 chapter, and rules adopted by the department pursuant
22 to this chapter, if the comments are delivered to the
23 department within fourteen days after receipt of the
24 application by the county board of supervisors.

25 g. Prior to granting a permit to a person for the
26 construction of an animal feeding operation, the
27 department may require the installation and operation
28 of a hydrological monitoring system for an exclusively
29 earthen manure storage structure, if, after an on-site
30 inspection, the department determines that the site
31 presents an extraordinary potential for groundwater
32 pollution.

33 h. A person shall not obtain a permit for the
34 construction of a confinement feeding operation,
35 unless the person develops a manure management plan as
36 provided in section 455B.203.

37 i. The department shall not issue a permit to a
38 person under this subsection if an enforcement action
39 by the department, relating to a violation of this
40 chapter concerning a confinement feeding operation in
41 which the person has an interest, is pending. The
42 department shall not issue a permit to a person under
43 this subsection for five years after the date of the
44 last violation committed by a person or confinement
45 feeding operation in which the person holds a
46 controlling interest during which the person or
47 operation was classified as a habitual violator under
48 section 455B.191. The department shall conduct an
49 annual review of each confinement feeding operation
50 which is a habitual violator and each confinement

H-1698

-5-

H-1698

Page 6

1 feeding operation in which a habitual violator holds a
2 controlling interest. The department shall notify
3 persons classified as habitual violators of their
4 classification, additional restrictions imposed upon
5 the persons pursuant to the classification, and
6 special civil penalties that may be imposed upon the
7 persons. The notice shall be sent to the persons by
8 certified mail.

9 Sec. ____ . NEW SECTION. 455B.202 SECURITY
10 EVIDENCE OF FINANCIAL RESPONSIBILITY.

11 If the department receives notice that security
12 evidence of financial responsibility has been
13 terminated and has not been replaced as provided in
14 section 204.4A, the department shall immediately
15 inspect the confinement feeding operation required to
16 maintain the security evidence of financial
17 responsibility. The confinement feeding operation
18 shall depopulate animals maintained in the confinement
19 feeding operation within thirty days from the date of
20 the termination, unless the security evidence of
21 financial responsibility has been replaced as provided
22 in section 204.4A. The confinement feeding operation
23 may be repopulated after the security evidence of
24 financial responsibility is replaced."

25 2. Title page, line 1, by inserting after the
26 word "Act" the following: "relating to agriculture,
27 by providing for animal feeding operations,".

By FREVERT of Palo Alto

H-1698 FILED APRIL 14, 1997
w/d 4/23/97 (p. 1511)

SENATE FILE 473

H-1706

1 Amend Senate File 473, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 8, by striking lines 10 through 17 and
4 inserting the following: "chapter shall be reimbursed
5 by the division from any moneys received by the
6 department of agriculture and land stewardship from
7 the agricultural management account of the groundwater
8 protection fund as created in section 455E.11."

By MERTZ of Kossuth

H-1706 FILED APRIL 14, 1997
Leet 4/23/97 (p. 1513)

SENATE FILE 473

H-1827

1 Amend Senate File 473, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 3, by inserting after line 5 the
4 following:

5 "Sec. ____ . Section 441.37, subsection 1, Code
6 1997, is amended by adding the following new
7 paragraph:

8 NEW PARAGRAPH. f. That an animal feeding
9 operation, other than a small animal feeding
10 operation, as defined in section 455B.161, is
11 established within one mile from the assessed
12 property."

13 2. Title page, line 1, by inserting after the
14 word "Act" the following: "relating to environmental
15 protection, by".

16 3. Title page, line 8, by inserting after the
17 word "expenses," the following: "providing for
18 property tax assessments,".

By WEIGEL of Chickasaw

H-1827 FILED APRIL 21, 1997

Ruleed not germane 4/23/97 (p. 1512)

HOUSE AMENDMENT TO
SENATE FILE 473

S-3738

- 1 Amend Senate File 473, as amended, passed, and
2 reprinted by the Senate, as follows:
- 3 1. Page 5, by striking lines 19 through 29 and
4 inserting the following: "ensure compliance with this
5 section, as required by the county board of
6 supervisors in the county in which the agricultural
7 drainage well is located."
- 8 2. Page 5, line 31, by striking the words "and
9 drainage districts".
- 10 3. Page 5, line 33, by striking the words "or
11 drainage district".
- 12 4. Page 6, by striking lines 22 through 29 and
13 inserting the following: "agricultural drainage
14 well."
- 15 5. Page 6, by striking lines 33 and 34 and
16 inserting the following: "section 159.29 to each
17 county board of supervisors in which".
- 18 6. Page 7, by striking lines 5 through 16 and
19 inserting the following: "The department shall
20 provide the notice in cooperation with the county
21 board of supervisors in the county where the
22 agricultural drainage well is located."
- 23 7. Page 7, line 28, by inserting after the figure
24 "1." the following: "a."
- 25 8. Page 8, line 6, by striking the figure "2."
26 and inserting the following: "b."
- 27 9. Page 8, by inserting after line 7 the
28 following:
29 "2. Moneys collected from the assessment of civil
30 penalties and interest on civil penalties as provided
31 for in this section shall be deposited in the manure
32 storage indemnity fund as created in section 204.2."
33 10. By renumbering, relettering, or redesignating
34 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-3738 FILED APRIL 24, 1997

Senate concurred 4/29/97 (p. 1539)

Rensink, Chair
Hedge
Judge

SSB 241

Agriculture

Succeeded By

(SF/HF) 473

SENATE FILE

BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY CHAIR-
PERSON RENSINK)

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

A BILL FOR

1 An Act requiring owners of agricultural drainage wells to prevent
2 surface water intake into the wells, providing for the closure
3 of certain wells and the construction of alternative drainage
4 systems, providing state assistance for closing agricultural
5 drainage wells, prohibiting the construction and use of
6 certain structures located in agricultural drainage well
7 areas, providing penalties, and providing an effective date.

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

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

1 Section 1. Section 159.1, Code 1997, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 0A. "Agricultural drainage well" means
4 the same as defined in section 455H.1.

5 NEW SUBSECTION. 0B. "Agricultural drainage well area"
6 means the same as defined in section 455H.1.

7 Sec. 2. NEW SECTION. 159.29A AGRICULTURAL DRAINAGE WELLS
8 -- ALTERNATIVE DRAINAGE SYSTEM ASSISTANCE FUND.

9 1. An alternative drainage system assistance fund is
10 created in the state treasury under the control of the soil
11 conservation division. The fund is composed of moneys
12 appropriated by the general assembly, and moneys available to
13 and obtained or accepted by the division or the state soil
14 conservation committee established pursuant to section 161A.4,
15 from the United States or private sources for placement in the
16 fund.

17 2. Moneys in the fund are subject to an annual audit by
18 the auditor of state. The fund is subject to warrants written
19 by the director of revenue and finance, drawn upon the written
20 requisition of the division.

21 3. The fund shall be used to support the alternative
22 drainage system assistance program as provided in section
23 159.29B. Moneys shall be used to provide financial incentives
24 under the program, and to defray expenses by the division in
25 administering the program. However, not more than one percent
26 of the money in the fund is available to defray administrative
27 expenses. The division may adopt rules pursuant to chapter
28 17A to administer this section.

29 4. The division shall not in any manner directly or
30 indirectly pledge the credit of the state.

31 5. Section 8.33 shall not apply to moneys in the fund.
32 Notwithstanding section 12C.7, moneys earned as income,
33 including as interest, from the fund shall remain in the fund
34 until expended as provided in this section.

35 Sec. 3. NEW SECTION. 159.29B AGRICULTURAL DRAINAGE WELLS

1 -- ALTERNATIVE DRAINAGE SYSTEM ASSISTANCE PROGRAM.

2 1. The soil conservation division shall establish an
3 alternative drainage system assistance program as provided by
4 rules which shall be adopted by the division pursuant to
5 chapter 17A. The program shall be supported from moneys
6 deposited in the alternative drainage system assistance fund
7 created pursuant to section 159.29A.

8 2. To the extent that moneys are available to support the
9 program, the division shall provide cost-share moneys to
10 persons closing agricultural drainage wells located within
11 designated agricultural drainage well areas, and constructing
12 alternative drainage systems which are part of a drainage in
13 accordance with the priority system established pursuant to
14 section 159.29. The amount of moneys allocated in cost-share
15 payments to a person qualifying under the program shall not
16 exceed seventy-five percent of the estimated cost of
17 installing the alternative drainage system or seventy-five
18 percent of the actual cost of installing the alternative
19 drainage system, whichever is less.

20 3. a. A person owning land within a designated
21 agricultural drainage well area shall not be eligible to
22 participate in the program, if the person could be subject to
23 a special civil penalty by the department of natural resources
24 as a habitual violator for violations of state law involving
25 an animal feeding operation.

26 b. Noncrop acres located within a designated agricultural
27 drainage well area shall not be eligible to benefit from the
28 program.

29 The department of natural resources shall cooperate with
30 the division by providing information necessary to administer
31 this subsection.

32 Sec. 4. NEW SECTION. 455H.1 DEFINITIONS.

33 As used in this chapter, unless the context otherwise
34 requires:

35 1. "Agricultural drainage well" means a vertical opening

1 to an aquifer or permeable substratum which is constructed by
2 any means including but not limited to drilling, driving,
3 digging, boring, augering, jetting, washing, or coring, and
4 which is capable of intercepting or receiving surface or
5 subsurface drainage water from land directly or by a drainage
6 system.

7 2. "Agricultural drainage well area" means an area of land
8 where surface or subsurface water drains into an agricultural
9 drainage well directly or through a drainage system connecting
10 to the agricultural drainage well.

11 3. "Alternative drainage system" means a drainage system
12 constructed as part of a drainage district in order to drain
13 surface or subsurface water from land due to the closing of an
14 agricultural drainage well.

15 4. "Cost-share" means a contribution of money made by the
16 state in order to pay a percentage of the costs related to
17 closing an agricultural drainage well or constructing an
18 alternative drainage system as provided in this chapter.

19 5. "Department" means the department of natural resources.

20 6. "Designated agricultural drainage well area" means an
21 agricultural drainage well area in which there is located an
22 earthen storage structure.

23 7. "Division" means the soil conservation division of the
24 department of agriculture and land stewardship.

25 8. "Drainage district" means a drainage district
26 established pursuant to chapter 468.

27 9. "Drainage system" means tile lines, laterals, surface
28 inlets, or other improvements which are constructed to
29 facilitate the drainage of land.

30 10. "Earthen storage structure" means an earthen cavity,
31 either covered or uncovered, including but not limited to an
32 anaerobic lagoon or earthen manure storage basin which is used
33 to store manure, sewage, wastewater, industrial waste, or
34 other waste as regulated by the department of natural
35 resources, if stored in a liquid or semi-liquid state.

241

1 11. "Land" means land which is used or which is suitable
2 for use for any purpose, if the land is located within an
3 agricultural drainage well area which includes land used or
4 suitable for use in farming.

5 12. "Surface water" means water occurring on the surface
6 of the ground.

7 13. "Surface water intake" means an artificial opening to
8 a drain tile line which drains into an agricultural drainage
9 well, if the artificial opening allows surface water to enter
10 the drain tile line without filtration through the soil
11 profile.

12 Sec. 5. NEW SECTION. 455H.2 PREVENTING SURFACE WATER
13 DRAINAGE INTO AGRICULTURAL DRAINAGE WELLS -- PENALTY.

14 Not later than December 31, 1998, all of the following
15 shall apply:

16 1. An owner of land on which an agricultural drainage well
17 is located shall prevent surface water from draining into the
18 agricultural drainage well. The landowner shall comply with
19 rules, which shall be adopted by the department, in
20 consultation with the division, required to carry out this
21 section. The landowner shall do all of the following:

22 a. If the land has a surface water intake emptying into an
23 agricultural drainage well, including a surface water intake
24 located in a road ditch, the landowner shall remove the
25 surface water intake.

26 b. If the land has a cistern connecting to an agricultural
27 drainage well, the landowner shall construct and maintain
28 sidewalls surrounding the cistern in order to prevent surface
29 water runoff directly emptying into the agricultural drainage
30 well.

31 c. If the land has an agricultural drainage well, the
32 landowner shall ensure that the agricultural drainage well and
33 related drainage system are adequately ventilated in a manner
34 that does not allow surface water to directly drain into the
35 agricultural drainage well.

1 d. The landowner shall install a locked cover over the
2 agricultural drainage well or its cistern in order to prevent
3 unauthorized access to the agricultural drainage well or its
4 cistern.

5 This subsection does not require a person to remove a tile
6 line that drains into an agricultural drainage well if the
7 tile line does not have a surface water intake. This
8 subsection also does not prohibit a person from installing a
9 tile line, if the installed tile line does not increase an
10 agricultural drainage well area.

11 2. An agricultural drainage well shall be inspected to
12 ensure compliance with this section, as follows:

13 a. If the agricultural drainage well is not located within
14 a drainage district as provided in chapter 468, the inspection
15 shall be made as required by the county board of supervisors
16 in the county in which the agricultural drainage well is
17 located.

18 b. If the agricultural drainage well is located on land
19 within a drainage district as provided in chapter 468, the
20 inspection shall be made as required by the board of the
21 drainage district, unless the county and the district
22 determine that inspection will be made by the county.

23 3. The department shall adopt guidelines as is necessary
24 to assist counties and drainage districts in performing
25 inspections as provided in this section.

26 Sec. 6. NEW SECTION. 455H.3 CLOSING OF AGRICULTURAL
27 DRAINAGE WELLS AND CONSTRUCTION OF ALTERNATIVE DRAINAGE
28 SYSTEMS.

29 1. Not later than December 31, 1998, the owner of land
30 which is within a designated agricultural drainage well area
31 shall close each agricultural drainage well located on the
32 land. The owner shall close the agricultural drainage well in
33 a manner using materials and according to specifications
34 required by rules which shall be adopted by the department in
35 consultation with the division. The department may provide

1 different closing requirements based on classifications
2 established by the department. However, the department's
3 requirements shall ensure that an agricultural drainage well
4 is closed by using sealing materials such as bentonite to
5 permanently seal the agricultural drainage well from
6 contamination by surface or subsurface water drainage.

7 2. A person owning land affected by the closing of an
8 agricultural drainage well as required pursuant to subsection
9 1 may construct an alternative drainage system as part of an
10 established or new drainage district as provided in chapter
11 468. The alternative drainage system shall ensure that
12 surface or subsurface water does not drain into an
13 agricultural drainage well. A professional engineer licensed
14 pursuant to chapter 542B shall certify that work related to
15 closing the agricultural drainage well and that constructing
16 an alternative drainage system meets all applicable
17 engineering standards. If the site is within an established
18 drainage district, the engineer shall be the district's
19 engineer appointed pursuant to section 468.10 or an engineer
20 approved by the district's engineer.

21 Sec. 7. NEW SECTION. 455H.4 NOTICE.

22 1. The department shall provide information regarding
23 landowners registering agricultural drainage wells pursuant to
24 section 159.29 to each county board of supervisors and each
25 drainage district organized pursuant to chapter 468, in which
26 an agricultural drainage well is registered.

27 2. The department shall notify landowners of land on which
28 an agricultural drainage well is located of the deadline for
29 complying with this chapter. The notice shall be provided by
30 print, electronic media, or other notification process.

31 a. If the agricultural drainage well is not located on
32 land within a drainage district as provided in chapter 468,
33 the department shall provide the notice in cooperation with
34 the county board of supervisors in the county where the
35 agricultural drainage well is located.

1 b. If the agricultural drainage well is located on land
2 within a drainage district as provided in chapter 468, the
3 department shall provide the notice in cooperation with the
4 board of the drainage district, unless the county and the
5 district where the agricultural drainage well is located
6 determine that inspection of the agricultural drainage wells
7 will be provided by the county.

8 3. The department shall mail a special notice to owners of
9 land registering agricultural drainage wells pursuant to
10 section 159.29.

11 Sec. 8. NEW SECTION. 455H.5 PROHIBITION AGAINST
12 CONSTRUCTING EARTHEN STORAGE STRUCTURES.

13 A person shall not construct or expand an earthen storage
14 structure within an agricultural drainage well area. Each day
15 that a person operates an earthen storage structure which is
16 constructed in violation of this section constitutes a
17 separate violation.

18 Sec. 9. NEW SECTION. 455H.6 PENALTIES.

19 1. A person who violates sections 455H.2 or 455H.3 is
20 subject to a civil penalty of not more than one thousand
21 dollars. However, if a person is found to have violated a
22 section and again violates the section by not taking action
23 necessary to correct a previous violation within sixty days
24 after the person was found to have committed the previous
25 violation, the person is subject to a civil penalty not to
26 exceed five thousand dollars. If a person is convicted of
27 violating a section two or more times and again violates that
28 section by not taking action necessary to correct a previous
29 violation within sixty days after the person was found to have
30 committed the last previous violation, the person is subject
31 to a civil penalty not to exceed fifteen thousand dollars.

32 2. A person who violates section 455H.5 is subject to a
33 civil penalty not to exceed five thousand dollars.

34 Sec. 10. NEW SECTION. 455H.7 REIMBURSEMENT OF EXPENSES.

35 The expenses incurred by a county in carrying out this

SSB 241

S.F. _____ H.F. _____

1 This bill may create a state mandate as provided in chapter
2 25B.

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

SENATE FILE 473

AN ACT

REQUIRING OWNERS OF AGRICULTURAL DRAINAGE WELLS TO PREVENT SURFACE WATER INTAKE INTO THE WELLS, PROVIDING FOR THE CLOSURE OF CERTAIN WELLS AND THE CONSTRUCTION OF ALTERNATIVE DRAINAGE SYSTEMS, PROVIDING STATE ASSISTANCE FOR CLOSING AGRICULTURAL DRAINAGE WELLS, PROHIBITING THE CONSTRUCTION AND USE OF CERTAIN STRUCTURES LOCATED IN AGRICULTURAL DRAINAGE WELL AREAS, PROVIDING FOR THE ASSESSMENT AND COLLECTION OF CERTAIN DRAINAGE DISTRICT EXPENSES, PROVIDING PENALTIES, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 159.1, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "Agricultural drainage well" means the same as defined in section 455H.1.

NEW SUBSECTION. 0B. "Agricultural drainage well area" means the same as defined in section 455H.1.

NEW SUBSECTION. 1A. "Designated agricultural drainage well area" means the same as defined in section 455H.1.

Sec. 2. NEW SECTION. 159.29A AGRICULTURAL DRAINAGE WELLS -- ALTERNATIVE DRAINAGE SYSTEM ASSISTANCE FUND.

1. An alternative drainage system assistance fund is created in the state treasury under the control of the soil conservation division. The fund is composed of moneys appropriated by the general assembly, and moneys available to and obtained or accepted by the division or the state soil conservation committee established pursuant to section 161A.4, from the United States or private sources for placement in the fund.

2. Moneys in the fund are subject to an annual audit by the auditor of state. The fund is subject to warrants written

by the director of revenue and finance, drawn upon the written requisition of the division.

3. The fund shall be used to support the alternative drainage system assistance program as provided in section 159.29B. Moneys shall be used to provide financial incentives under the program, and to defray expenses by the division in administering the program. However, not more than one percent of the money in the fund is available to defray administrative expenses. The division may adopt rules pursuant to chapter 17A to administer this section.

4. The division shall not in any manner directly or indirectly pledge the credit of the state.

5. Section 8.33 shall not apply to moneys in the fund. Notwithstanding section 12C.7, moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this section.

Sec. 3. NEW SECTION. 159.29B AGRICULTURAL DRAINAGE WELLS -- ALTERNATIVE DRAINAGE SYSTEM ASSISTANCE PROGRAM.

1. The soil conservation division shall establish an alternative drainage system assistance program as provided by rules which shall be adopted by the division pursuant to chapter 17A. The program shall be supported from moneys deposited in the alternative drainage system assistance fund created pursuant to section 159.29A.

2. To the extent that moneys are available to support the program, the division shall provide cost-share moneys to persons closing agricultural drainage wells located within designated agricultural drainage well areas, and constructing alternative drainage systems which are part of a drainage district in accordance with the priority system established pursuant to section 159.29. The amount of moneys allocated in cost-share payments to a person qualifying under the program shall not exceed seventy-five percent of the estimated cost of installing the alternative drainage system or seventy-five percent of the actual cost of installing the alternative drainage system, whichever is less.

3. a. A person who owns an interest in land within a designated agricultural drainage well area shall not be eligible to participate in the program, if the person is any of the following:

(1) A party to a pending legal or administrative action, including a contested case proceeding under chapter 17A, relating to an alleged violation involving an animal feeding operation as regulated by the department of natural resources, regardless of whether the pending action is brought by the department or the attorney general.

(2) Is classified as a habitual violator for a violation of state law involving an animal feeding operation as regulated by the department of natural resources.

b. Noncrop acres located within a designated agricultural drainage well area shall not be eligible to benefit from the program.

The department of natural resources shall cooperate with the division by providing information necessary to administer this subsection.

Sec. 4. NEW SECTION. 455H.1 DEFINITIONS.

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

1. "Agricultural drainage well" means a vertical opening to an aquifer or permeable substratum which is constructed by any means including but not limited to drilling, driving, digging, boring, augering, jetting, washing, or coring, and which is capable of intercepting or receiving surface or subsurface drainage water from land directly or by a drainage system.

2. "Agricultural drainage well area" means an area of land where surface or subsurface water drains into an agricultural drainage well directly or through a drainage system connecting to the agricultural drainage well.

3. "Alternative drainage system" means a drainage system constructed as part of a drainage district in order to drain surface or subsurface water from land due to the closing of an agricultural drainage well.

4. "Department" means the department of natural resources.

5. "Designated agricultural drainage well area" means an agricultural drainage well area in which there is located an anaerobic lagoon or earthen manure storage basin required to obtain a construction permit by the department of natural resources.

6. "Division" means the soil conservation division of the department of agriculture and land stewardship.

7. "Drainage district" means a drainage district established pursuant to chapter 468.

8. "Drainage system" means tile lines, laterals, surface inlets, or other improvements which are constructed to facilitate the drainage of land.

9. "Earthen storage structure" means an earthen cavity, either covered or uncovered, including but not limited to an anaerobic lagoon or earthen manure storage basin which is used to store manure, sewage, wastewater, industrial waste, or other waste as regulated by the department of natural resources, if stored in a liquid or semi-liquid state.

10. "Land" means land which is used or which is suitable for use for any purpose, if the land is located within an agricultural drainage well area which includes land used or suitable for use in farming.

11. "Surface water" means water occurring on the surface of the ground.

12. "Surface water intake" means an artificial opening to a drain tile line which drains into an agricultural drainage well, if the artificial opening allows surface water to enter the drain tile line without filtration through the soil profile.

Sec. 5. NEW SECTION. 455H.2 PREVENTING SURFACE WATER DRAINAGE INTO AGRICULTURAL DRAINAGE WELLS -- PENALTY.

Not later than December 31, 1998, all of the following shall apply:

1. An owner of land on which an agricultural drainage well is located shall prevent surface water from draining into the agricultural drainage well. The landowner shall comply with rules, which shall be adopted by the department, in

consultation with the division, required to carry out this section. The landowner shall do all of the following:

a. If the land has a surface water intake emptying into an agricultural drainage well, including a surface water intake located in a road ditch, the landowner shall remove the surface water intake.

b. If the land has a cistern connecting to an agricultural drainage well, the landowner shall construct and maintain sidewalls surrounding the cistern in order to prevent surface water runoff directly emptying into the agricultural drainage well.

c. If the land has an agricultural drainage well, the landowner shall ensure that the agricultural drainage well and related drainage system are adequately ventilated in a manner that does not allow surface water to directly drain into the agricultural drainage well.

d. The landowner shall install a locked cover over the agricultural drainage well or its cistern in order to prevent unauthorized access to the agricultural drainage well or its cistern.

This subsection does not require a person to remove a tile line that drains into an agricultural drainage well if the tile line does not have a surface water intake. This subsection also does not prohibit a person from installing a tile line, if the installed tile line does not increase an agricultural drainage well area.

2. An agricultural drainage well shall be inspected to ensure compliance with this section, as required by the county board of supervisors in the county in which the agricultural drainage well is located.

3. The department shall adopt guidelines as necessary to assist counties in performing inspections as provided in this section. The guidelines shall not affect the authority of a county to designate a person to perform inspections.

Sec. 6. NEW SECTION. 455H.3 CLOSING OF AGRICULTURAL DRAINAGE WELLS AND CONSTRUCTION OF ALTERNATIVE DRAINAGE SYSTEMS.

1. Not later than December 31, 1999, the owner of land which is within a designated agricultural drainage well area shall close each agricultural drainage well located on the land. The owner shall close the agricultural drainage well in a manner using materials and according to specifications required by rules which shall be adopted by the department in consultation with the division. The department may provide different closing requirements based on classifications established by the department. However, the department's requirements shall ensure that an agricultural drainage well is closed by using sealing materials such as bentonite to permanently seal the agricultural drainage well from contamination by surface or subsurface water drainage.

2. A person owning land affected by the closing of an agricultural drainage well as required pursuant to subsection 1 may construct an alternative drainage system as part of an established or new drainage district as provided in chapter 468. The alternative drainage system shall ensure that surface or subsurface water does not drain into an agricultural drainage well.

Sec. 7. NEW SECTION. 455H.4 NOTICE.

1. The department shall provide information regarding landowners registering agricultural drainage wells pursuant to section 159.29 to each county board of supervisors in which an agricultural drainage well is registered.

2. The department shall notify landowners of land on which an agricultural drainage well is located of the deadline for complying with this chapter. The notice shall be provided by print, electronic media, or other notification process. The department shall provide the notice in cooperation with the county board of supervisors in the county where the agricultural drainage well is located.

3. The department shall mail a special notice to owners of land registering agricultural drainage wells pursuant to section 159.29.

Sec. 8. NEW SECTION. 455H.5 PROHIBITION AGAINST CONSTRUCTING EARTHEN STORAGE STRUCTURES.

A person shall not construct or expand an earthen storage structure within an agricultural drainage well area. Each day that a person operates an earthen storage structure which is constructed in violation of this section constitutes a separate violation.

Sec. 9. NEW SECTION. 455H.6 PENALTIES.

1. a. A person who violates sections 455H.2 or 455H.3 is subject to a civil penalty of not more than one thousand dollars. However, if a person is found to have violated a section and again violates the section by not taking action necessary to correct a previous violation within sixty days after the person was found to have committed the previous violation, the person is subject to a civil penalty not to exceed five thousand dollars. If a person is convicted of violating a section two or more times and again violates that section by not taking action necessary to correct a previous violation within sixty days after the person was found to have committed the last previous violation, the person is subject to a civil penalty not to exceed fifteen thousand dollars.

b. A person who violates section 455H.5 is subject to a civil penalty not to exceed five thousand dollars.

2. Moneys collected from the assessment of civil penalties and interest on civil penalties as provided for in this section shall be deposited in the manure storage indemnity fund as created in section 204.2.

Sec. 10. NEW SECTION. 455H.7 REIMBURSEMENT OF EXPENSES.

The expenses incurred by a county in carrying out this chapter shall be prorated among the landowners in the county who own land on which an agricultural drainage well is located. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. If expenses are incurred by a drainage district, the board shall levy an assessment on the lands in the district where an agricultural drainage well is located as provided in section 468.50.

Sec. 11. NEW SECTION. 468.189 CLOSING AGRICULTURAL DRAINAGE WELLS -- ASSESSMENT OF COSTS WITHIN A DRAINAGE DISTRICT.

The costs of closing an agricultural drainage well and constructing an alternative drainage system as part of a drainage district shall be assessed as a special assessment by the board as provided in this chapter.

Sec. 12. DEPARTMENTAL RULES. The department of agriculture and land stewardship and the department of natural resources shall adopt all rules required to carry out this Act by December 31, 1997.

Sec. 13. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 473, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved May 29, 1997

TERRY E. BRANSTAD
Governor