

# Senate Study Bill 3069

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON NATURAL  
RESOURCES AND ENVIRONMENT BILL  
BY CO=CHAIRPERSONS BLACK AND  
HOUSER)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to water quality standards.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
3 TLSB 5158SC 81  
4 tm/sh/8

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1 1 Section 1. Section 455B.173, subsection 2, unnumbered  
1 2 paragraph 1, Code 2005, is amended to read as follows:  
1 3 Establish, modify, or repeal water quality standards,  
1 4 pretreatment standards and effluent standards, in accordance  
1 5 with the provisions of this chapter. The effluent standards  
1 6 may provide for maintaining the existing quality of the water  
1 7 of the state that is a navigable water of the United States  
1 8 under the federal Water Pollution Control Act where the  
1 9 quality thereof exceeds the requirements of the water quality  
1 10 standards.  
1 11 Sec. 2. Section 455B.174, subsection 4, paragraph b, Code  
1 12 Supplement 2005, is amended to read as follows:  
1 13 b. ~~In addition to the requirements of paragraph "a", a~~  
1 14 ~~permit shall not be issued to operate or discharge from any~~  
1 15 ~~disposal system unless the conditions of the permit assure~~  
1 16 ~~that any discharge from the disposal system meets or will meet~~  
1 17 ~~all applicable state and federal water quality standards and~~  
1 18 ~~effluent standards and the issuance of the permit is not~~  
1 19 ~~otherwise prohibited by the federal Water Pollution Control~~  
1 20 ~~Act.~~ All applications for discharge permits are subject to  
1 21 public notice and opportunity for public participation  
1 22 including public hearing as the department may by rule  
1 23 require. The director shall promptly notify the applicant in  
1 24 writing of the director's action and, if the permit is denied,  
1 25 state the reasons for denial. The applicant may appeal to the  
1 26 commission from the denial of a permit or from any condition  
1 27 in any permit if the applicant files notice of appeal with the  
1 28 director within thirty days of the notice of denial or  
1 29 issuance of the permit. The director shall notify the  
1 30 applicant within thirty days of the time and place of the  
1 31 hearing.  
1 32 Sec. 3. WATER QUALITY STANDARDS. The general assembly  
1 33 makes the following findings:  
1 34 1. The federal Water Pollution Control Act provides that  
1 35 the state is responsible for implementation of the federal Act  
2 1 in a manner that the state deems most appropriate.  
2 2 2. Historically, the state has been and continues to be a  
2 3 responsible steward of the environment, including Iowa's water  
2 4 quality.  
2 5 3. The state has adopted water quality standards that are  
2 6 protecting Iowa's water quality.  
2 7 4. State law provides in section 455B.176 that the  
2 8 environmental protection commission, when establishing,  
2 9 modifying, or repealing water quality standards, must base its  
2 10 decision upon data gathered from sources within the state.  
2 11 5. State law provides in section 455B.176, subsection 11,  
2 12 that the goal of any changes to water quality standards shall  
2 13 be a reasonable balance between total costs to the people and  
2 14 to the economy, and the resultant benefits to the people of  
2 15 Iowa.  
2 16 6. An efficient use of the state's limited resources when  
2 17 implementing changes to existing water quality standards is to  
2 18 complete a use attainability analysis for the classified

2 19 stream segment prior to changing the water quality standards,  
2 20 including the use designation, that apply to that particular  
2 21 stream segment. Using a scientific analysis in accordance  
2 22 with the terms of this section meets the general assembly's  
2 23 goals of protecting the public and the environment and  
2 24 balancing the costs and benefits to the public and to the  
2 25 environment.

2 26 7. The state should adopt water quality standards that,  
2 27 where attainable, provide water quality for the protection and  
2 28 propagation of fish, shellfish, and wildlife, and for  
2 29 recreation in and on the water.

2 30 Sec. 4. NEW SECTION. 455B.176A WATER QUALITY STANDARDS.

2 31 1. For purposes of this section, unless the context  
2 32 otherwise requires:

2 33 a. "Base flow conditions" means the flow of a classified  
2 34 stream segment, as measured during the time period between  
2 35 July 1 and September 30, that occurs during a period of time  
3 1 when the watershed, in which the classified stream segment is  
3 2 located, receives no twenty-four-hour rainfall in excess of  
3 3 one-quarter of one percent of total average annual rainfall  
3 4 for the watershed and not more than one-half inch total  
3 5 rainfall for the watershed in the preceding two weeks.

3 6 b. "Classified stream segment" means a water of the state  
3 7 determined to be a classified stream segment pursuant to  
3 8 subsection 2. "Classified stream segment" does not include  
3 9 ephemeral streams, grass, vegetative or other waterways,  
3 10 culverts, ditches, farm ponds, tile lines, irrigation systems,  
3 11 public or private wells, subsurface drainage systems and  
3 12 stormwater management systems, effluent treatment wetlands,  
3 13 isolated wetlands, waters created as a result of a  
3 14 conservation structure or practice, and privately owned  
3 15 wetlands.

3 16 c. "Conservation structure or practice" means the same as  
3 17 defined by either the United States department of agriculture  
3 18 in the natural resources conservation service field office  
3 19 technical guide or the Iowa department of agriculture and land  
3 20 stewardship including, but not limited to, those soil and  
3 21 conservation practices defined in section 161A.42, designed  
3 22 for the purpose of maintenance, improvement, or restoration of  
3 23 the physical, chemical, and biological functions of soil,  
3 24 water, air, and related plant and animal resources.

3 25 d. "Credible data" means the same as defined in section  
3 26 455B.171 and is subject to the same requirements as provided  
3 27 in section 455B.193 and may include, but not rely solely on,  
3 28 data that is older than five years and that is obtained  
3 29 pursuant to the best professional judgment of a professional  
3 30 designee.

3 31 e. "Ephemeral stream" means a stream that flows only in  
3 32 response to precipitation and whose channel is primarily above  
3 33 the water table.

3 34 f. "Professional designee" means the same as defined in  
3 35 section 455B.193.

4 1 g. "Use attainability analysis" means a structured  
4 2 scientific assessment that includes physical, chemical,  
4 3 biological, and economic factors.

4 4 2. A water of the state is a classified stream segment  
4 5 when any one of the following is met:

4 6 a. The most recent ten-year median flow is equal to or in  
4 7 excess of one cubic foot per second based on data collected  
4 8 and evaluated by the United States geological survey between  
4 9 July 1 and September 30 of each year or in the absence of  
4 10 stream segment flow data calculations of flow conducted by  
4 11 extrapolation methods provided by the United States geological  
4 12 survey or based upon a calculation method adopted by rule.

4 13 b. The water is actually inhabited by a threatened or  
4 14 endangered aquatic specie as determined by the department or  
4 15 the United States fish and wildlife service.

4 16 c. Credible data developed in accordance with section  
4 17 455B.193 shows that water flows that are less than set out in  
4 18 paragraph "a" provide a refuge for aquatic life that permits  
4 19 biological recolonization of intermittently flowing segments.

4 20 3. All waters of the state not classified as a stream  
4 21 segment pursuant to subsection 2 shall be identified as an  
4 22 unclassified stream segment and shall be subject only to  
4 23 narrative water quality standards. The department shall adopt  
4 24 rules defining narrative water quality standards for  
4 25 unclassified stream segments.

4 26 4. a. The commission shall adopt rules to define  
4 27 designated uses of classified stream segments in accordance  
4 28 with the following categories:

4 29 (1) Agricultural water supply use.

4 30 (2) Aquatic life support.  
4 31 (3) Domestic water supply.  
4 32 (4) Food procurement use.  
4 33 (5) Industrial water supply use.  
4 34 (6) Recreational use, including primary, secondary, and  
4 35 children's recreational use.  
5 1 (7) Seasonal use. The department may allow for a seasonal  
5 2 use designation for streams that would otherwise be classified  
5 3 under an aquatic or recreational designation if a varying  
5 4 degree of protection would be sufficient to protect the stream  
5 5 during a seasonal time period.  
5 6 b. The commission shall include subcategories of  
5 7 designated uses of the categories listed in paragraph "a", as  
5 8 deemed appropriate by the commission.  
5 9 c. When reviewing whether a designated use is attainable,  
5 10 the department shall consider the following:  
5 11 (1) Whether the natural, ephemeral, intermittent, or low  
5 12 flow conditions or water levels could inhibit recreational  
5 13 activities.  
5 14 (2) If opposite sides of a stream segment would have  
5 15 different designated recreational uses due to differences in  
5 16 public access, the designated use of the entire classified  
5 17 stream segment may be the higher attainable use.  
5 18 (3) The time period for determining recreational use shall  
5 19 be March 15 through November 15.  
5 20 (4) The degree to which the public has access to the  
5 21 stream segment.  
5 22 (5) The minimum depth of the deepest pool.  
5 23 (6) Classified stream segments shall be protected for all  
5 24 existing uses of the segment.  
5 25 (7) What types of aquatic life may live in streams whose  
5 26 primary flow is from effluent discharges and the frequency and  
5 27 depth of that flow.  
5 28 5. The commission shall adopt rules designating water  
5 29 quality standards which shall be specific to each designated  
5 30 use listed in subsection 4. The standards shall take into  
5 31 account the different characteristics of each designated use  
5 32 and shall provide for only the appropriate level of protection  
5 33 based upon that particular use. The standards shall not be  
5 34 identical for each designated use unless required for the  
5 35 appropriate level of protection. The appropriate level of  
6 1 protection and standards shall be determined on a scientific  
6 2 basis. In the development process for the water quality  
6 3 standards, input shall be received from a water quality  
6 4 standards advisory committee convened by the department to be  
6 5 comprised of experts in the fields of environmental  
6 6 engineering, aquatic toxicology, fisheries biology, and other  
6 7 life sciences and in the development of the appropriate levels  
6 8 of aquatic life protection and standards. The water quality  
6 9 standards shall be reviewed and revised by the department as  
6 10 new scientific data becomes available to support revision.  
6 11 6. Prior to any change in the use designation of any  
6 12 classified stream segment, the department or a designee of the  
6 13 department shall conduct a use attainability analysis. The  
6 14 commission shall adopt rules providing for the following  
6 15 procedures and criteria to be used in the development of a use  
6 16 attainability analysis:  
6 17 a. A review of physical, chemical, biological, economic,  
6 18 and social factors affecting whether a designated use is  
6 19 attainable.  
6 20 b. A review of naturally occurring pollutant  
6 21 concentrations and conditions affecting whether a designated  
6 22 use is attainable.  
6 23 c. A review of natural, ephemeral, intermittent, or low=  
6 24 flow conditions, or water levels affecting whether a  
6 25 designated use is attainable.  
6 26 d. A review of human conditions that prevent the  
6 27 designated use, including state laws, and conditions which  
6 28 cannot be remedied or that would cause more damage or a  
6 29 disproportionate cost to remedy rather than to leave in place.  
6 30 e. A review of hydrologic modifications such as dams and  
6 31 diversions affecting whether a designated use is attainable.  
6 32 f. A review of physical conditions related to natural  
6 33 features, such as lack of proper substrate, soil types and  
6 34 erodibility, cover, flow, depth, pools, riffles, and other  
6 35 stream morphology affecting whether a designated use is  
7 1 attainable.  
7 2 g. A review of the economic and social impact resulting  
7 3 from controls more stringent than those required by sections  
7 4 301(b) and 306 of the federal Water Pollution Control Act.  
7 5 h. Stream evaluations conducted during normal base flow

7 6 conditions.

7 7 i. Sampling of fish and invertebrate species populations  
7 8 conducted between July 1 and September 30 each year.

7 9 7. A stream segment shall not be classified for a  
7 10 designated use if any of the following apply:

7 11 a. Naturally occurring pollutant concentrations prevent  
7 12 the attainment of the designated use.

7 13 b. Natural, ephemeral, intermittent, or low-flow  
7 14 conditions, or water levels prevent the attainment of the  
7 15 designated use, unless these conditions or levels may be  
7 16 compensated for by a sufficient volume of effluent discharges  
7 17 without violating state water conservation requirements in  
7 18 order to allow the designated uses to be met.

7 19 c. Human-caused conditions or sources of pollution prevent  
7 20 the attainment of the designated use and cannot be remedied or  
7 21 correction would result in more environmental damage than if  
7 22 the conditions or sources are left in place.

7 23 d. Dams, diversions, or other types of hydrologic  
7 24 modifications preclude the attainment of the designated use,  
7 25 and it is not feasible to restore the water body to its  
7 26 original use.

7 27 e. Physical conditions related to the natural features of  
7 28 the water body, such as the lack of a proper substrate, soil  
7 29 types and erodibility, cover, flow, depth, pools, and riffles,  
7 30 unrelated to water quality, preclude attainment of aquatic  
7 31 life protection uses.

7 32 f. Controls more stringent than those required by sections  
7 33 301(b) and 306 of the federal Water Pollution Control Act  
7 34 would result in substantial and widespread economic and social  
7 35 impact as defined in subsection 8.

8 1 g. The imposition of effluent limits required under  
8 2 sections 301(b) and 306 of the federal Water Pollution Control  
8 3 Act and the voluntary utilization of cost-effective and  
8 4 reasonable best management practices for nonpoint source  
8 5 control are not sufficient to allow the designated use. For  
8 6 purposes of this paragraph, a best management practice for an  
8 7 agricultural land use is a site-appropriate conservation  
8 8 structure and a practice.

8 9 8. Prior to classifying a stream segment for a designated  
8 10 use, the department shall consider the substantial and  
8 11 widespread economic and social impact that may occur as a  
8 12 result of a classification. To make this determination, the  
8 13 department shall review circumstances that are unique to each  
8 14 regulated entity to determine whether substantial and  
8 15 widespread economic and social impact would occur. The  
8 16 analysis shall demonstrate whether the regulated entity would  
8 17 face substantial financial impacts due to the costs of  
8 18 compliance and that the affected community would bear  
8 19 significant adverse impacts. The department shall work with  
8 20 the regulated entity to gather necessary information to make  
8 21 this determination.

8 22 a. The commission shall adopt rules to determine when a  
8 23 regulated entity and the affected community would suffer  
8 24 substantial and widespread economic and social impact due to  
8 25 the costs of complying with a water quality standard. To make  
8 26 this determination, the department shall review the  
8 27 circumstances that are unique to each regulated entity and the  
8 28 affected community. The rules shall include but not be  
8 29 limited to all of the following elements:

8 30 (1) A financial analysis of the discharger to determine if  
8 31 the capital, operating, and maintenance costs of pollution  
8 32 control will have a substantial impact.

8 33 (2) The financial impact on households resulting from  
8 34 compliance.

8 35 (3) The ability of the person releasing a pollutant into a  
9 1 water of the state to obtain pollution control financing and  
9 2 the general economic health of that person.

9 3 (4) The change in socioeconomic conditions that would  
9 4 occur as a result of compliance. Factors to consider should  
9 5 include but not be limited to median household income,  
9 6 unemployment, and overall net debt as a percent of full market  
9 7 value of taxable property.

9 8 (5) The benefits of improved water quality, such as the  
9 9 expansion of consumptive markets, enhanced recreational use,  
9 10 and increased property values in the community.

9 11 b. The department may grant a regulated entity a variance  
9 12 from meeting a water quality standard pursuant to section  
9 13 455B.181 if it is determined that the regulated entity or the  
9 14 affected community would suffer substantial and widespread  
9 15 economic and social impact. The variance shall be based on  
9 16 the availability of funding that minimizes the impact on the

9 17 regulated entity's customers or the affected community's  
9 18 taxpayers. The department shall ensure the conditions of any  
9 19 discharge permit variance represent reasonable progress toward  
9 20 complying with water quality standards but do not result in  
9 21 substantial and widespread economic and social impact.

9 22 9. A regulated entity may use an alternative technology  
9 23 system to meet technology standards. The department shall  
9 24 convene a technical advisory committee to assist in the  
9 25 development of rules to allow for the use of appropriate  
9 26 alternative technologies that include but are not limited to  
9 27 all of the following:

9 28 a. Performance-based standards for alternative technology  
9 29 systems.

9 30 b. Effluent reuse standards.

9 31 c. Criteria for large subsurface, midsize treatment, and  
9 32 small cluster wastewater systems.

9 33 d. Setback requirements appropriate to the alternative  
9 34 treatment technology.

9 35 e. Monitoring requirements appropriate to the alternative  
10 1 technology and size of the treatment system.

10 2 f. Sizing factors based on soil morphology.

10 3 g. Design standards for preapproved alternative technology  
10 4 system types.

10 5 10. The commission shall adopt rules for an expedited  
10 6 review and approval process for standardized treatment  
10 7 systems, expedited technical reviews for projects that meet  
10 8 the design standards adopted pursuant to subsection 9,  
10 9 paragraph "g", including standardized review checklists for  
10 10 the systems, and streamlined permit processing for systems  
10 11 that promote ecological wastewater management.

10 12 11. a. The commission shall adopt rules pursuant to  
10 13 chapter 17A to administer this section. All new or revised  
10 14 stream segment classifications and use designations shall be  
10 15 adopted by rule. Any rule that establishes, modifies, or  
10 16 repeals existing water quality standards in this state shall  
10 17 be adopted in conformance with this section.

10 18 b. Data to substantiate a use designation for a classified  
10 19 stream segment shall be collected and used in accordance with  
10 20 the credible data standards as described in subsection 1 and  
10 21 in sections 455B.193 through 455B.195.

10 22 c. A new or revised use designation for a classified  
10 23 stream segment shall only occur as the result of a use  
10 24 attainability analysis.

10 25 d. A stream segment classification in existence on the  
10 26 effective date of this Act that is identified on the 2004 Iowa  
10 27 surface water classification list shall remain in effect until  
10 28 the department or its professional designee completes a use  
10 29 attainability analysis on each classified stream segment. The  
10 30 use designation shall continue in effect without further  
10 31 rulemaking if, after the use attainability analysis is  
10 32 completed, the department determines that the 2004 Iowa  
10 33 surface water classification for that classified stream  
10 34 segment is the appropriate designated use for that stream  
10 35 segment.

11 1 e. All use attainability analyses shall be conducted in  
11 2 accordance with the following:

11 3 (1) A use attainability analysis for each classified  
11 4 stream segment shall be conducted by either the department or  
11 5 a professional designee.

11 6 (2) A use attainability analysis conducted by a  
11 7 professional designee shall comply with the following review  
11 8 process:

11 9 (a) Within thirty days after receipt of submission of a  
11 10 use attainability analysis, the department shall review and  
11 11 provide a written determination of whether the documentation  
11 12 submitted is complete.

11 13 (b) Within ninety days after receipt of submission of a  
11 14 completed use attainability analysis, the department shall  
11 15 review and provide a written determination of whether a new or  
11 16 revised designated use is appropriate for the classified  
11 17 stream segment.

11 18 (3) A use attainability analysis for a classified stream  
11 19 segment and the written determination of the appropriate  
11 20 designated use for the classified stream segment shall be made  
11 21 available to the public.

11 22 (4) Any regulated entity aggrieved by such a determination  
11 23 may make a written request, within thirty days from the date  
11 24 the written determination of the appropriate designated use is  
11 25 made available to the public, for a meeting with the director  
11 26 or the director's designee to appeal the determination. The  
11 27 regulated entity shall be allowed to provide evidence that the

11 28 designation is not appropriate under the criteria as  
11 29 established in this section.

11 30 f. The department shall comply with the following  
11 31 implementation schedule:

11 32 (1) By December 31, 2006, the department shall publish a  
11 33 list of all classified stream segments for which a use  
11 34 attainability analysis for recreational use has been  
11 35 completed, and whether recreational use has been determined to  
12 1 be or not to be attainable; and a list of all classified  
12 2 stream segments for which a use attainability analysis for  
12 3 recreational use has not been completed. By November 30,  
12 4 2007, a minimum of twenty-five percent of the classified  
12 5 stream segments that have not had a use attainability analysis  
12 6 for recreational use completed shall have a use attainability  
12 7 analysis completed. Each year, for the period beginning  
12 8 December 1, 2007, and ending November 30, 2010, a minimum of  
12 9 twenty-five percent of the classified stream segments that  
12 10 have not had an attainability analysis for recreational use  
12 11 completed that were listed on the list published by the  
12 12 department pursuant to this subparagraph shall have a use  
12 13 attainability analysis completed, unless less than twenty-five  
12 14 percent of such classified stream segments remain on the list.

12 15 (2) By October 31, 2007, the department shall review all  
12 16 stream segments to determine whether each stream segment can  
12 17 be classified as a classified stream segment as required  
12 18 pursuant to this section. All stream segments classified for  
12 19 a designated use as of January 1, 2006, shall remain in effect  
12 20 until a date that is no earlier than the completion of the  
12 21 required review for the specific stream segment by the  
12 22 department or the department's professional designee.

12 23 (3) By December 31, 2007, the department shall publish a  
12 24 list of all classified stream segments for which a use  
12 25 attainability analysis for use other than recreational use has  
12 26 been completed, and a list of all classified stream segments  
12 27 for which a use other than recreational use has been  
12 28 determined to be or not to be attainable; and a list of all  
12 29 classified stream segments for which a use attainability  
12 30 analysis for a use other than recreational use has not been  
12 31 completed. By November 30, 2008, a minimum of twenty-five  
12 32 percent of the classified stream segments that have not had a  
12 33 use attainability analysis for use other than recreational use  
12 34 completed shall have a use attainability analysis completed.  
12 35 Each year, for the period beginning December 1, 2008, and  
13 1 ending November 30, 2011, a minimum of twenty-five percent of  
13 2 the classified stream segments that have not had a use  
13 3 attainability analysis for use other than recreational use  
13 4 completed that were listed on the list published by the  
13 5 department pursuant to this subparagraph shall have a use  
13 6 attainability analysis completed, unless less than twenty-five  
13 7 percent of such classified stream segments remain on the list.

13 8 12. An operation permit issued pursuant to section  
13 9 455B.173 that expires before a use attainability analysis is  
13 10 performed shall remain in effect and the department shall not  
13 11 renew the permit until a use attainability analysis is  
13 12 completed. If a use attainability analysis demonstrates that  
13 13 a change in the use designation is warranted, the permit shall  
13 14 remain in effect and the department shall not renew the permit  
13 15 until the stream use designation is changed. In order for an  
13 16 expired permit to remain in effect, the permit holder must  
13 17 meet the requirements for a permit renewal.

13 18 13. This section shall not be construed to authorize  
13 19 public access to private property unless such public access is  
13 20 otherwise authorized by law or by written permission of the  
13 21 landowner.

13 22 Sec. 5. Section 455B.194, subsection 2, Code 2005, is  
13 23 amended by striking the subsection.

13 24 Sec. 6. WATERSHED QUALITY TRADING TASK FORCE.

13 25 1. A watershed quality trading task force is established  
13 26 within the department of natural resources in cooperation with  
13 27 the Iowa department of agriculture and land stewardship. By  
13 28 June 30, 2008, the task force shall report to the general  
13 29 assembly its recommendations for a voluntary statewide water  
13 30 quality trading program which is designed to achieve all of  
13 31 the following goals:

13 32 a. Improving water quality and optimizing the costs of  
13 33 voluntarily achieving and maintaining water quality standards.

13 34 b. Creating economic incentives for voluntary nonpoint  
13 35 source load reductions, point source discharge reductions  
14 1 beyond those required by the federal Clean Water Act,  
14 2 implementation of pollution prevention programs, wetland  
14 3 restoration and creation, and the development of emerging

14 4 pollution control technologies.

14 5 c. Facilitating the implementation of total maximum daily  
14 6 loads, urban stormwater control programs, and nonpoint source  
14 7 management practices required or authorized under the federal  
14 8 Clean Water Act. This paragraph shall not be construed to  
14 9 obviate the requirement to develop a total maximum daily load  
14 10 for waters that do not meet water quality standards as  
14 11 required by section 303(d) of the federal Clean Water Act or  
14 12 to delay implementation of a total maximum daily load that has  
14 13 been approved by the department and the director.

14 14 d. Providing incentives for the development of new and  
14 15 more accurate and reliable pollution control quantification  
14 16 protocols and procedures.

14 17 e. Providing greater flexibility through community-based,  
14 18 nonregulatory, and performance-driven watershed management  
14 19 planning.

14 20 2. Membership on the task force shall consist of all of  
14 21 the following:

14 22 a. Voting members of the task force shall include all of  
14 23 the following:

14 24 (1) One member selected by the Iowa association of  
14 25 municipal utilities.

14 26 (2) One member selected by the Iowa league of cities.

14 27 (3) One member selected by the Iowa association of  
14 28 business and industry.

14 29 (4) One member selected by the Iowa water pollution  
14 30 control association.

14 31 (5) One member selected by the Iowa rural water  
14 32 association.

14 33 (6) One member selected by growing green communities.

14 34 (7) One member selected by the Iowa environmental council.

14 35 (8) One member selected by the Iowa farm bureau  
15 1 federation.

15 2 (9) One member selected by the Iowa corn growers  
15 3 association.

15 4 (10) One member selected by the Iowa soybean association.

15 5 (11) One member selected by the Iowa pork producers  
15 6 council.

15 7 (12) One member selected by the department of natural  
15 8 resources representing soil and water conservation districts  
15 9 of Iowa.

15 10 (13) One person representing the department of agriculture  
15 11 and land stewardship selected by the secretary of agriculture.

15 12 (14) One person representing the department of natural  
15 13 resources selected by the director.

15 14 b. Nonvoting members of the task force shall include all  
15 15 of the following:

15 16 (1) Two members of the senate. One senator shall be  
15 17 appointed by the republican leader of the senate and one  
15 18 senator shall be appointed by the democratic leader of the  
15 19 senate.

15 20 (2) Two members of the house of representatives. One  
15 21 member shall be appointed by the speaker of the house of  
15 22 representatives and one member shall be appointed by the  
15 23 minority leader of the house of representatives.

#### 15 24 EXPLANATION

15 25 This bill relates to water quality standards.

15 26 The bill eliminates a requirement that a disposal system  
15 27 permit shall not be issued unless the conditions of the permit  
15 28 assure that any discharge from the disposal system meets or  
15 29 will meet all applicable state and federal water quality  
15 30 standards and effluent standards and the issuance of the  
15 31 permit is not otherwise prohibited by the federal Water  
15 32 Pollution Control Act.

15 33 The bill provides that a water of the state is a classified  
15 34 stream segment when one of three possible criteria is met.

15 35 The possible criteria include certain median flow rates of the  
16 1 stream segment, inhabitation by a threatened or endangered  
16 2 aquatic specie, or certain waters which provide a refuge for  
16 3 aquatic life and permit biological recolonization of  
16 4 intermittently flowing segments.

16 5 The bill provides that all waters of the state not  
16 6 classified as a stream segment shall be identified as an  
16 7 unclassified stream segment and shall be subject only to  
16 8 narrative water quality standards.

16 9 The bill requires the environmental protection commission  
16 10 to adopt rules to define designated uses of classified stream  
16 11 segments in categories of agricultural water supply use,  
16 12 aquatic life support, domestic water supply, food procurement  
16 13 use, industrial water supply use, recreational use including  
16 14 primary, secondary, and children's recreational use, and

16 15 seasonal use. The bill requires the commission to include  
16 16 subcategories of designated uses as deemed necessary by the  
16 17 commission. The bill provides considerations for the  
16 18 department's determination of whether a designated use is  
16 19 attainable.

16 20 The bill provides that the environmental protection  
16 21 commission shall adopt rules designating water quality  
16 22 standards which shall be specific to each designated use of  
16 23 classified stream segments. The bill requires the standards  
16 24 to take into account the different characteristics of each  
16 25 designated use and provide for only the appropriate level of  
16 26 protection based upon that particular use. The bill requires  
16 27 that the appropriate level of protection and standards be  
16 28 determined on a scientific basis. The bill provides that the  
16 29 water quality standards shall be reviewed and revised by the  
16 30 department of natural resources as new scientific data become  
16 31 available to support revision.

16 32 The bill provides that, prior to any change in the use  
16 33 designation of any classified stream segment, the department  
16 34 or a designee of the department shall conduct a use  
16 35 attainability analysis. The bill requires the commission to  
17 1 adopt rules providing for certain criteria to be used in the  
17 2 development of a use attainability analysis.

17 3 The bill provides that a stream segment shall not be  
17 4 classified for a designated use if certain conditions exist  
17 5 which prevent designated uses from being attainable. The  
17 6 conditions include pollutant concentrations, certain flow  
17 7 rates, hydrologic modifications, physical conditions related  
17 8 to the natural features of the water body, and restrictive  
17 9 controls placed on the water body.

17 10 The bill provides that, prior to classifying a stream  
17 11 segment for a specific use, the department shall consider the  
17 12 substantial and widespread economic and social impact that may  
17 13 occur as a result of a classification. To make this  
17 14 determination, the bill requires the department to review  
17 15 circumstances that are unique to each regulated entity to  
17 16 determine whether substantial and widespread economic and  
17 17 social impact would occur. The bill allows the department to  
17 18 grant a regulated entity a variance from meeting a water  
17 19 quality standard if it is determined that the regulated entity  
17 20 or the affected community would suffer substantial and  
17 21 widespread economic and social impact. The bill requires the  
17 22 variance to be based on the availability of funding that  
17 23 minimizes the impact on the regulated entity's customers or  
17 24 the affected community's taxpayers.

17 25 The bill provides that a regulated entity may use an  
17 26 alternative technology system to meet technology standards.  
17 27 The bill requires the department to convene a technical  
17 28 advisory committee to assist in the development of rules to  
17 29 allow for the use of appropriate alternative technologies.

17 30 The bill provides that all new or revised stream  
17 31 classifications and use designations shall be adopted by rule.  
17 32 The bill provides that data collected to substantiate a use  
17 33 designation for a classified stream segment shall be in  
17 34 accordance with the credible data standards of current law.  
17 35 The bill provides that a new or revised use designation for a  
18 1 classified stream segment shall only occur as the result of a  
18 2 use attainability analysis. The bill provides that a stream  
18 3 classification in existence on the effective date of the bill  
18 4 that is identified on the 2004 Iowa surface water  
18 5 classification list shall remain in effect until the  
18 6 department or its professional designee completes a use  
18 7 attainability analysis on each classified stream segment. The  
18 8 bill provides that a use designation shall continue in effect  
18 9 without further rulemaking if, after the use attainability  
18 10 analysis is completed, the department determines that the 2004  
18 11 surface water classification for that classified stream  
18 12 segment is the appropriate designated use for that segment.

18 13 The bill provides that all use attainability analyses shall  
18 14 be conducted by either the department or a professional  
18 15 designee, that a use attainability analysis for a classified  
18 16 stream segment and the written determination of the  
18 17 appropriate designated use for such a classified stream  
18 18 segment shall be made available to the public, and any  
18 19 regulated entity aggrieved by such a determination may make a  
18 20 written request, within 30 days from the date the written  
18 21 determination of the appropriate designated use is made  
18 22 available to the public, for a meeting with the director or  
18 23 the director's designee to appeal the determination.

18 24 The bill provides that the department shall comply with an  
18 25 implementation schedule for the provisions of the bill.



18 26 The bill provides that, by December 31, 2006, the  
18 27 department shall publish a list of all classified stream  
18 28 segments for which a use attainability analysis for  
18 29 recreational use has been completed, and whether recreational  
18 30 use has been determined to be or not to be attainable, and a  
18 31 list for which a use attainability analysis for recreational  
18 32 use has not been completed. The bill provides a schedule for  
18 33 the incremental completion of use attainability analyses of  
18 34 classified stream segments for recreational use. The bill  
18 35 requires completion by November 30, 2010.

19 1 The bill provides that, by October 31, 2007, the department  
19 2 shall review all stream segments to determine whether each  
19 3 stream segment can be classified as a classified stream  
19 4 segment as required pursuant to the bill. All stream segments  
19 5 classified for a designated use as of January 1, 2006, shall  
19 6 remain in effect until a date that is no earlier than the  
19 7 completion of the required analysis for the specific stream  
19 8 segment by the department or the department's designee.

19 9 The bill provides that, by December 31, 2007, the  
19 10 department shall publish a list of all classified stream  
19 11 segments for which a use attainability analysis for use other  
19 12 than recreational use has been completed, and whether a use  
19 13 other than recreational use has been determined to be or not  
19 14 to be attainable, and a list for which a use attainability  
19 15 analysis for a use other than recreational use has not been  
19 16 completed. The bill provides a schedule for the incremental  
19 17 completion of use attainability analyses of classified stream  
19 18 segments for uses other than a recreational use. The bill  
19 19 requires completion by November 30, 2011.

19 20 The bill provides that an operation permit issued to a  
19 21 disposal system that expires before a use attainability  
19 22 analysis is performed shall remain in effect and the  
19 23 department shall not renew the permit until a use  
19 24 attainability analysis is completed. The bill provides that,  
19 25 if a use attainability analysis demonstrates that a change in  
19 26 the use designation is warranted, the permit shall remain in  
19 27 effect and the department shall not renew the permit until the  
19 28 stream use designation is changed. The bill provides that, in  
19 29 order for an expired permit to remain in effect, the permit  
19 30 holder must meet the requirements for a permit renewal.

19 31 The bill provides that the bill shall not be construed to  
19 32 allow public access to private property unless such public  
19 33 access is otherwise authorized by law or by written permission  
19 34 of the landowner.

19 35 The bill eliminates the provision that credible data is not  
20 1 required for a report required by section 305(b) of the  
20 2 federal Water Pollution Control Act and that credible data is  
20 3 not required for the establishment of a designated use or  
20 4 other classification of a water of the state.

20 5 The bill establishes a watershed quality trading task force  
20 6 within the department in cooperation with the Iowa department  
20 7 of agriculture and land stewardship. The bill provides that,  
20 8 by June 30, 2008, the task force shall report to the general  
20 9 assembly its recommendations for a voluntary statewide water  
20 10 quality trading program.

20 11 LSB 5158SC 81

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