

House File 2303 - Introduced

HOUSE FILE 2303

BY COMMITTEE ON ENVIRONMENTAL
PROTECTION

(SUCCESSOR TO HSB 571)

A BILL FOR

1 An Act relating to the duties of and programs administered by
2 the department of natural resources, and making penalties
3 applicable.

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

1 Section 1. Section 455A.4, subsection 1, paragraph b, Code
2 2018, is amended to read as follows:

3 b. Provide overall supervision, direction, and coordination
4 of functions to be administered by the administrators under
5 chapters 321G, 321I, 455B, 455C, ~~456~~, 456A, 456B, 457A, 458A,
6 459, 459A, 459B, 461A, 462A, 462B, 464A, 465C, 473, 481A, 481B,
7 483A, 484A, and 484B.

8 Sec. 2. Section 455B.105, subsection 5, Code 2018, is
9 amended to read as follows:

10 5. Make a concise ~~annual~~ biennial report to the governor and
11 the general assembly, which report shall contain information
12 relating to the accomplishments and status of the programs
13 administered by the department and include recommendations
14 for legislative action which may be required to protect or
15 enhance the environment or to modernize the operation of the
16 department or any of the programs or services assigned to the
17 department and recommendations for the transfer of powers and
18 duties of the department as deemed advisable by the commission.
19 The ~~annual~~ biennial report shall conform to the provisions of
20 section 7A.3.

21 Sec. 3. Section 455B.174, subsection 5, paragraph a, Code
22 2018, is amended to read as follows:

23 a. ~~Conduct random inspections of work done~~ Periodically
24 review permits and reports submitted by city and county
25 public works departments in accordance with section 455B.183,
26 subsection 3, to ensure such public works departments are
27 complying with this part of this division. If a city or county
28 public works department is not complying with section 455B.183
29 in reviewing plans and specifications or in granting permits
30 or both, the department shall perform these functions in that
31 jurisdiction until the city or county public works department
32 is able to perform them. Performance of these functions in a
33 jurisdiction by a local public works department shall not be
34 suspended or revoked until after notice and opportunity for
35 hearing as provided in chapter 17A.

1 Sec. 4. Section 455B.301, subsection 23, Code 2018, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *f.* Material that is legitimately recycled
4 pursuant to section 455D.4A.

5 Sec. 5. Section 455D.1, subsection 5, Code 2018, is amended
6 to read as follows:

7 5. "*Recycling*" means any process by which waste, or
8 materials ~~which~~ that would otherwise become waste, are
9 collected, separated, or processed and revised or returned
10 to use in the form of raw materials or products pursuant to
11 section 455D.4A. "*Recycling*" includes but is not limited to the
12 composting of yard waste which has been previously separated
13 from other waste, but does not include any form of energy
14 recovery.

15 Sec. 6. NEW SECTION. **455D.4A Recycling.**

16 1. For the purpose of this section, "*recycling facility*"
17 means any facility, business, or operation that has the stated
18 primary purpose of facilitating the recycling of materials that
19 would otherwise be solid waste.

20 2. Recycling of materials for the purpose of being excluded
21 from the solid waste provisions of chapter 455B, division
22 IV, part 1, must be legitimate. A material that is not
23 legitimately recycled is discarded material and is a solid
24 waste. In determining if recycling is legitimate, recycling
25 facilities must establish all of the following:

26 *a.* The material is potentially recyclable and has a feasible
27 means of being recycled into a valuable product.

28 *b.* The material is being managed as a valuable commodity
29 while under their control.

30 *c.* The material is not being accumulated speculatively
31 pursuant to subsection 7.

32 3. If the department determines that a facility is not
33 legitimately recycling material, the department may allow the
34 facility owner or operator an opportunity to comply with the
35 criteria in subsection 2, or may immediately deem the facility

1 subject to the solid waste provisions of chapter 455B, division
2 IV, part 1.

3 4. The criteria in subsection 2 are intended to mitigate
4 the risk posed by facilities that accumulate materials
5 speculatively prior to recycling by preventing materials that
6 are not otherwise regulated under chapter 455B, division IV,
7 part 1, from being stored indefinitely and potentially causing
8 a public health nuisance or adverse environmental impact.
9 In response to enforcement initiated by the department for
10 alleged violations of this section, the burden of proof falls
11 on the recycling facility owner or operator to establish that
12 materials are being legitimately recycled.

13 5. To establish that a material is potentially recyclable
14 and has a feasible means of being recycled into a valuable
15 product, a recycling facility owner or operator shall maintain
16 with an end user at least one purchase contract, a letter of
17 understanding, or other formal agreement. Such documentation
18 must be provided to the department upon request. In addition,
19 if the material is going to be recycled in an unusual manner,
20 the owner or operator may use technical specifications from the
21 end user or other documentation to prove recycling the material
22 in such manner will result in a valuable product.

23 6. To establish that a material is being managed as a
24 valuable commodity while under their control, a recycling
25 facility owner or operator shall ensure that stockpiled
26 material is not speculatively accumulated by maintaining
27 current inventory records and is managed in a manner consistent
28 with comparable recyclable materials or products in an equally
29 protective manner.

30 7. To establish that a material is not being accumulated
31 speculatively, the recycling facility owner or operator must
32 document that, during a given calendar year, the amount of
33 material that is recycled, or transferred to a different
34 site for recycling, equals at least seventy-five percent by
35 weight or volume of the amount of material accumulated at

1 the beginning of the period. Materials must be placed in a
2 storage unit with a label indicating the first date that the
3 material began to be accumulated. If placing a label on the
4 storage unit is not practicable, the accumulation period must
5 be documented through an inventory log or other appropriate
6 method.

7 8. Failure to provide documentation upon request to the
8 department relative to the requirements of this section is
9 grounds for the department to immediately deem the facility not
10 in compliance with this section.

11 Sec. 7. Section 455D.16, subsection 7, paragraph c, Code
12 2018, is amended by striking the paragraph.

13 Sec. 8. Section 455D.22, Code 2018, is amended to read as
14 follows:

15 **455D.22 Civil penalty.**

16 A person who violates section 455D.4A, 455D.6, subsection
17 4, [section 455D.11](#), [455D.11A](#), [455D.11B](#), [455D.11I](#), or [455D.19](#),
18 or any rule, permit, or order issued pursuant thereto shall
19 be subject to a civil penalty which shall be established,
20 assessed, and collected in the same manner as provided in
21 section 455B.109. Any civil penalty collected shall be
22 deposited in the general fund of the state.

23 Sec. 9. Section 455D.23, Code 2018, is amended to read as
24 follows:

25 **455D.23 Violations.**

26 The director may issue any order necessary to secure
27 compliance with or prevent a violation of the provisions of
28 this chapter or any rule adopted or permit or order issued
29 pursuant to [this chapter](#). Any order issued to enforce section
30 455D.4A may include a requirement to remove and properly
31 dispose of materials being accumulated speculatively from a
32 property and impose costs and penalties as determined by the
33 department by rule. The person to whom such compliance order
34 is issued may cause to be commenced a contested case within the
35 meaning of [chapter 17A](#), by filing within thirty days a notice

1 of appeal to the commission. On appeal, the commission may
2 affirm, modify, or vacate the order of the director.

3 Sec. 10. Section 455D.25, subsection 2, Code 2018, is
4 amended to read as follows:

5 2. Any person who violates [section 455D.4A](#), [455D.10A](#),
6 [455D.11](#), [455D.11A](#), [455D.11B](#), [455D.11I](#), or [455D.19](#), or any order
7 or permit issued or rule adopted pursuant to section 455D.6,
8 subsection 4, [section 455D.10A](#), [455D.11](#), [455D.11A](#), [455D.11B](#),
9 [455D.11I](#), or [455D.19](#), shall be subject to a civil penalty, not
10 to exceed ten thousand dollars for each day of such violation.

11 Sec. 11. Section 456.1, Code 2018, is amended by striking
12 the section and inserting in lieu thereof the following:

13 **456.1 Geological survey created.**

14 A geological survey of the state is created within the state
15 university of Iowa, under the jurisdiction and authority of the
16 state board of regents.

17 Sec. 12. Section 456.2, Code 2018, is amended to read as
18 follows:

19 **456.2 State geologist — qualifications.**

20 The ~~director~~ state board of regents shall appoint the state
21 geologist. The state geologist must, at a minimum, have a
22 master's degree in geology from an accredited college or
23 university and must have at least five years of geological
24 experience. The annual salary of the state geologist shall be
25 determined by the ~~director~~ state board of regents.

26 Sec. 13. Section 456.4, Code 2018, is amended to read as
27 follows:

28 **456.4 Investigations — collection — ~~renting space~~.**

29 The state geologist shall investigate the characters of the
30 various soils and their capacities for agricultural purposes,
31 the streams, and other scientific and natural resource matters
32 that may be of practical importance and interest. ~~For the~~
33 ~~purpose of preserving well drilling samples, rock cores,~~
34 ~~fossils, and other materials as may be necessary to carry on~~
35 ~~investigations, the state geologist shall have the authority~~

1 ~~to lease or rent sufficient space for storage of these~~
2 ~~materials with the approval of the director of the department~~
3 ~~of administrative services.~~ A complete cabinet collection ~~may~~
4 shall be made to illustrate the natural products of the state,
5 and the state geologist may also furnish suites of materials,
6 rocks, and fossils for colleges and public museums within the
7 state, if it can be done without impairing the general state
8 collection.

9 Sec. 14. Section 456.7, Code 2018, is amended to read as
10 follows:

11 **456.7 Annual report.**

12 The state geologist shall, annually, at the time provided
13 by law, make to the governor and the general assembly a full
14 report of the work in the preceding year, which report shall
15 be accompanied by such other reports and papers as may be
16 considered desirable for publication.

17 Sec. 15. Section 456.10, Code 2018, is amended to read as
18 follows:

19 **456.10 Distribution ~~and sale~~ of reports.**

20 All publications of the geological survey shall be
21 ~~distributed by the state as are other published reports of~~
22 ~~state officers when no special provision is made. When such~~
23 ~~distribution has been made the state geologist shall retain~~
24 ~~a sufficient number of copies to supply probable future~~
25 ~~demands and any copies in excess of such number shall be sold~~
26 ~~to persons making application therefor at the cost price of~~
27 ~~publication, the money thus accruing to be turned into the~~
28 ~~treasury of the state~~ made available electronically via an
29 internet site maintained for that purpose.

30 Sec. 16. REPEAL. Section 455C.17, Code 2018, is repealed.

31 **EXPLANATION**

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill relates to duties and programs administered by the
35 department of natural resources.

1 Under current law, the environmental protection commission
2 must give an annual report to the governor and general assembly
3 about the accomplishments and status of the programs of the
4 department. The bill causes the report to be biennial rather
5 than annual.

6 The director currently has the duty to conduct random
7 inspections of work done by city and public works departments
8 to ensure that such public works departments are complying with
9 permit issuance and records reporting criteria regarding water
10 and sewage projects. Rather than conduct random inspections
11 of on-site files of city and county public works departments,
12 the bill requires the director to periodically review permits
13 and reports submitted by those agencies in accordance with Code
14 section 455B.183(3).

15 The current definition for "recycling" states that it is a
16 process involving the collecting, separating, or processing
17 of potential waste to revise or return the waste to use in
18 the form of raw materials or products. The bill changes the
19 definition of "recycling" by stating that recycling occurs
20 pursuant to new Code section 455D.4A. The bill also creates a
21 definition for "recycling facility".

22 Currently, the director may issue a compliance order
23 to secure compliance or prevent a violation of any of the
24 provisions relating to recycling and waste reduction. A person
25 who violates a law that governs the disposal, storage, or
26 handling of certain wastes, or a rule, permit, or order issued
27 pursuant to one of those laws, is subject to a civil penalty
28 of no more than \$10,000. The department can request that the
29 attorney general pursue litigation for that violation. A
30 person found in violation after litigation shall be subject to
31 a civil penalty of up to \$10,000 per day.

32 The bill requires a recycling facility to prove that
33 materials it stores are potentially recyclable. A person who
34 fails to meet the criteria for legitimate recycling is subject
35 to the provisions regarding compliance orders, litigation, and

1 civil penalties.

2 Since 2010, the department has had to submit a written
3 report to the general assembly regarding issues related to the
4 collection and recycling of mercury-added thermostats in the
5 state. The bill deletes this duty.

6 Currently, a geological survey exists within the department.
7 The director of the department must provide supervision,
8 direction, and coordination of functions of the state
9 geologist. The director must appoint the state geologist, who
10 must have a degree in geology from an accredited college or
11 university and at least five years of geological experience.
12 The director determines the state geologist's salary. The
13 state geologist has the authority to lease or rent sufficient
14 space for storage of well drilling samples, rock cores,
15 fossils, and other materials as may be necessary to carry
16 on investigations, with the approval of the director of the
17 department of administrative services. The state geologist
18 may assemble a complete cabinet collection to illustrate the
19 natural products of the state.

20 The state geologist must give to the governor an annual
21 report that consists of the work from the preceding year. The
22 state shall distribute all publications of the geological
23 survey like any other publication of state officers when no
24 special provision exists. The state geologist shall retain a
25 sufficient number of copies to supply probable future demands
26 and the state will sell any extra copies to persons making
27 application therefor at the cost price of publication.

28 The bill removes the geological survey from the department
29 and places it in the state university of Iowa under the
30 jurisdiction and authority of the state board of regents.
31 The state board of regents will appoint the state geologist,
32 who must have at least a master's degree in geology from an
33 accredited college or university and five years of geological
34 experience. The state board of regents will determine the
35 salary for the state geologist. The state geologist will no

1 longer have the authority to lease or rent sufficient space
2 for storage of well drilling samples, rock cores, fossils, and
3 other materials as may be necessary to carry on investigations.
4 Additionally, the state geologist must assemble a complete
5 cabinet collection to illustrate the natural products of the
6 state.

7 The bill requires the state geologist to annually report to
8 the general assembly in addition to the governor. Geological
9 survey publications will no longer be distributed or sold
10 like other published reports of state officers, but rather be
11 available electronically on an internet site maintained for the
12 purpose of documenting these publications.

13 There currently exists an independent redemption center
14 grant program that awards grants for improvements to redemption
15 centers that are not affiliated with or in any way a subsidiary
16 of a dealer, distributor, or manufacturer and are either
17 nonprofit or for-profit but have existed prior to July 1, 2008.
18 The bill repeals this grant program.