

House File 406 - Introduced

HOUSE FILE 406

BY STAED

A BILL FOR

1 An Act relating to requiring water quality plans for persons
2 receiving financial assistance for establishing soil and
3 water conservation plans.

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

1 Section 1. Section 161A.42, subsection 3, Code 2019, is
2 amended to read as follows:

3 3. "*Cost-share*" or "*cost-sharing*" means a contribution of
4 money made by the state in order to pay a percentage of the
5 costs related to the establishment of voluntary or mandatory
6 practices as provided under this chapter, including but not
7 limited to soil and water conservation practices, and erosion
8 control practices, or water quality practices.

9 Sec. 2. Section 161A.42, Code 2019, is amended by adding the
10 following new subsections:

11 NEW SUBSECTION. 6A. "*Farming practice*" includes but is
12 not limited to a decision regarding crop production, including
13 crop types and varieties to plant, cultivation and harvesting
14 methods, and the application of materials including manure and
15 commercial fertilizers, tillage, and crop rotation systems.

16 NEW SUBSECTION. 7A. "*Major water source*" means the same as
17 defined in section 459.102.

18 NEW SUBSECTION. 12. "*Water quality plan*" means an
19 instrument that requires a party to comply with water quality
20 practices or farming practices as a condition to receiving
21 financial assistance as provided in section 161A.77.

22 NEW SUBSECTION. 13. a. "*Water quality practice*" means
23 a land use change or the establishment and maintenance of a
24 measure that limits sediment or nutrients from being conveyed
25 by surface water runoff or leaching.

26 b. "*Water quality practice*" includes the establishment of
27 any of the following:

28 (1) A terrace.

29 (2) A cover crop that is used as part of crop rotation
30 cycle.

31 (3) A bioreactor installed as part of or connected to a
32 field drainage system.

33 (4) A wetland established as part of or connected to a crop
34 field.

35 (5) A saturated buffer.

1 (6) Cropland integrated with a prairie grass strip.

2 (7) A riparian buffer strip.

3 (8) A grassed waterway.

4 (9) An area maintained in permanent vegetation cover,
5 including perennial vegetation cover consisting of grasses or
6 legumes, including but not limited to grasslands or forages.

7 (10) A wetland area if the area is mostly underwater or
8 waterlogged during the growing season and is characterized by
9 vegetation of hydric soils.

10 (11) Any other measure recognized by the division that
11 manages nutrients and reduces contributing contaminant loads to
12 receiving surface waters, including by detaining sediment-laden
13 water, reducing the volume or velocity of precipitation-induced
14 surface water, filtering sediment-laden water, or reducing
15 nutrient loss through tile drainage systems.

16 NEW SUBSECTION. 14. "*Water source*" means the same as
17 defined in section 459.102.

18 Sec. 3. NEW SECTION. 161A.77 **Financing conditional upon**
19 **maintaining a water quality plan.**

20 1. In order to receive financing under this chapter, the
21 owner of agricultural land, or an operator managing the farming
22 activities occurring on the agricultural land shall execute a
23 water quality plan. The commissioners shall assist the owner
24 or operator in developing the plan. The person executing the
25 plan shall file the plan with the commissioners subject to
26 their approval. A copy of the plan shall be delivered to the
27 division. An updated plan must be filed and approved each
28 three years in the same manner as the original plan.

29 2. *a.* A person is not required to file a water quality plan
30 until December 31, 2021.

31 *b.* This subsection is repealed on January 1, 2022.

32 3. The water quality plan shall apply to the same farm unit
33 as an applicable farm unit conservation plan or conservation
34 agreement. The plan may be made part of the farm unit
35 conservation plan or soil conservation agreement. However,

1 a plan may cover one or more farm units as specified in the
2 plan so long as all farm units are located as part of the
3 same district. The plan shall identify those water quality
4 practices or farming practices that manage nutrients and
5 reduces contributing contaminant loads to receiving surface
6 waters as required under this section.

7 4. The water quality plan shall be completed on forms
8 prepared by the division in consultation with the Iowa nutrient
9 research center established pursuant to section 466B.47.
10 The plan shall be based on an analysis of the nutrient loss
11 potential of a farm's farming practices and water quality
12 practices by the water quality model established by the Iowa
13 nutrient research center pursuant to section 466B.52. The plan
14 must provide that the farm unit's nutrient load contribution to
15 surface water sources shall not exceed its assigned tolerance
16 values for nitrogen or phosphorus. The plan shall account for
17 all of the following:

18 a. The location of each field and its size in acres.

19 b. The proximity of the field to a water source, including
20 any major water source.

21 c. The amount and timing of nutrients or commercial
22 fertilizers applied to each field.

23 d. Whether the application occurs on snow-covered ground or
24 frozen ground.

25 e. If the farm unit includes an animal feeding operation,
26 whether the animal feeding operation is a confinement feeding
27 operation as defined in section 459.102 or an open feedlot
28 operation as defined in section 459A.102. For each animal
29 feeding operation, the plan shall state the type of animals
30 confined, and the animal unit capacity of the operation.

31 f. The maintenance of any water quality practice, soil and
32 water conservation practice, or erosion control practice.

33 g. The types of farming practices utilized.

34 h. Whether the agricultural land has been subject to soil
35 erosion in excess of the applicable soil loss limits.

1 *i.* The predicted loads of nitrogen and phosphorus
2 respectively contributed to a surface water source, including
3 a major water source, and the extent that such loads are less
4 than the tolerance values assigned to that farm unit.

5 *j.* The results of a test conducted according to a schedule
6 adopted in the plan that indicates the average loads of
7 nitrogen and phosphorus respectively being contributed to a
8 surface water source, including a major water source. The test
9 shall be conducted by the division, the commissioners, or a
10 person approved by the division or the commissioners.

11 5. The commissioners shall ensure that a person receiving
12 financial assistance under this chapter is complying with the
13 terms and conditions of the water quality plan.

14 6. The commissioners shall inspect or cause to be inspected
15 agricultural land covered by a water quality plan, if
16 reasonable grounds exist to believe that a failure to comply
17 with the plan is occurring. If the commissioners determine
18 a failure is occurring, a notice of that finding shall be
19 delivered to the person who filed the plan, to the landowner or
20 landowners of record, and to each occupant of the agricultural
21 land if known to the commissioners. The notice shall describe
22 the agricultural land affected and shall describe the failure.
23 The notice shall also describe the corrective action required
24 and the time limit for commencing and accomplishing such
25 action.

26 7. If corrective action has not been commenced or
27 accomplished as described in the notice, the commissioners
28 shall issue an administrative order to the person who filed the
29 water quality plan. The administrative order shall address the
30 same subjects provided in the notice. However, the corrective
31 action must be commenced not more than six months after the
32 date the order is issued and must be completed not more than
33 one year after that date.

34 8. The commissioners shall petition the district court
35 to issue an order requiring immediate compliance with an

1 administrative order if the commissioners have determined any
2 of the following:

3 a. The corrective action has not been commenced or completed
4 by the date specified in the administrative order.

5 b. The corrective action has been commenced but is not
6 being performed with due diligence or in a manner that will
7 reasonably result in compliance with the water quality plan.

8 Sec. 4. Section 466B.41, Code 2019, is amended to read as
9 follows:

10 **466B.41 Definitions.**

11 As used in this subchapter, unless the context otherwise
12 requires:

13 1. "*Center*" means the Iowa nutrient research center
14 established pursuant to [section 466B.47](#).

15 2. "*Committee*" means the state soil conservation and water
16 quality committee established in section 161A.4.

17 ~~2.~~ 3. "*Council*" means the Iowa nutrient research center
18 advisory council established pursuant to [section 466B.48](#).

19 ~~3.~~ 4. "*Division*" means the division of soil conservation
20 and water quality created within the department of agriculture
21 and land stewardship pursuant to [section 159.5](#).

22 5. "*Farming practice*" means the same as defined in section
23 161A.42.

24 ~~4.~~ 6. "*Fund*" means the water quality initiative fund
25 created in [section 466B.45](#).

26 7. "*Iowa nutrient reduction strategy*" means the same as
27 defined in section 455B.171.

28 8. "*Model*" means the crop field water quality model as
29 provided in section 466B.52.

30 ~~5.~~ 9. "*Nutrient*" includes nitrogen and phosphorus.

31 10. "*Water quality plan*" or "*plan*" means the same as defined
32 in section 161A.42.

33 11. "*Water quality practice*" means the same as defined in
34 section 161A.42.

35 Sec. 5. NEW SECTION. **466B.51 Policy.**

1 It is the policy of this state that Iowa must reduce
2 its contribution of nutrient loading to the Gulf of Mexico
3 contributed from nonpoint sources occurring on agricultural
4 land by the following percentages:

- 5 1. For nitrogen, forty-one percent.
- 6 2. For phosphorus, twenty-nine percent.

7 Sec. 6. NEW SECTION. **466B.52 Iowa nutrient research center**
8 **— crop field water quality model.**

9 1. Not later than July 1, 2020, the center shall establish
10 a crop field water quality model based on the policy objective
11 described in section 466.51. The center shall establish the
12 model in cooperation with other entities, including all of the
13 following:

- 14 *a.* Iowa state university of science and technology.
- 15 *b.* The department.
- 16 *c.* The division.
- 17 *d.* The state soil conservation and water quality committee.

18 2. The model shall be based on findings and recommendations
19 contained in the Iowa nutrient reduction strategy, and on other
20 pertinent research data.

21 3. The model shall be used to predict contaminant loads to
22 receiving surface waters caused by farming practices and the
23 application of nutrients on agricultural land.

24 4. The model shall take into account all of the following:

25 *a.* Water quality practices and farming practices. The
26 model shall allow sufficient flexibility to allow a person
27 required to file a water quality plan to select those farming
28 practices and water quality practices that are compatible with
29 the person's business operations consistent with the policy
30 described in section 466B.51.

31 *b.* Special characteristics associated with various types
32 of agricultural land, including field slopes, soil types,
33 the presence of highly erodible land, the presence of tile
34 drainage systems, and proximity of water sources, including
35 any major water source as defined in section 459.102. The

1 model shall also take into account the effects of the special
2 characteristics on the predicted loadings of nitrogen and
3 phosphorus using farming practices described in the plan.

4 c. Tolerance values for nitrogen and phosphorus loads from
5 farm fields based on the goals of the center normalized to a
6 crop field level basis.

7 EXPLANATION

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

10 This bill requires a water quality plan to be executed by
11 a person as a condition to receiving financial assistance for
12 establishing a soil and water conservation practice. The plan
13 would cover water quality practices such as land use changes
14 or the establishment and maintenance of a measure that limits
15 sediment or nutrients from being conveyed by surface water
16 runoff or leaching. It would also cover farming practices
17 regarding crop production, including those associated with
18 tillage. A water quality plan must be executed by the owner
19 of agricultural land or an operator managing the farming
20 activities occurring on the agricultural land. The plan is
21 to develop in cooperation with the commissioners of the soil
22 and water conservation district where the agricultural land is
23 located. However, a plan is not required to be filed until
24 December 31, 2021. The plan must be based on a crop field water
25 quality model required to be developed by the Iowa nutrient
26 research center with the objective that the contribution of
27 nonpoint sources of nutrients occurring on agricultural land
28 must be reduced by 41 percent for nitrogen and 29 percent for
29 phosphorus. The commissioners must conduct inspections to
30 ensure compliance with the plan and take administrative or
31 judicial action to enforce its provisions.