

House Study Bill 713 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
NATURAL RESOURCES BILL BY
CHAIRPERSON WOOD)

A BILL FOR

1 An Act relating to the use and withdrawal of Iowa's surface and
2 groundwater resources, including permitting requirements.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 455B.172, subsection 7, paragraph a,
2 subparagraph (2), Code 2026, is amended to read as follows:

3 (2) Those used for the withdrawal of water for which a permit
4 is required pursuant to section ~~455B.268~~, ~~subsection 1~~ 455B.264,
5 subsection 2.

6 Sec. 2. Section 455B.261, subsection 4, Code 2026, is amended
7 to read as follows:

8 4. "*Beneficial use*" means the application of water to a
9 lawful and useful purpose that inures to the benefit of the
10 water user and subject to the user's dominion and control but
11 does not include the waste or pollution of water, in such
12 reasonable quantities as are necessary for the economical and
13 efficient utilization of that water, consistent with the public
14 interest of the state. Beneficial uses shall include but are not
15 limited to purposes related to or involving domestic, municipal,
16 agricultural, industrial, fish and wildlife, or recreational
17 activities.

18 Sec. 3. Section 455B.261, subsection 16, Code 2026, is
19 amended by striking the subsection.

20 Sec. 4. Section 455B.262, Code 2026, is amended to read as
21 follows:

22 **455B.262 Declaration of policy and planning requirements.**

23 1. It is recognized that the protection of life and property
24 from floods, the prevention of damage to lands from floods, and
25 the orderly development, wise use, protection, and conservation
26 of the water resources of the state by their considered and
27 proper use is of paramount importance to the welfare and
28 prosperity of the people of the state, and to realize these
29 objectives, it is the policy of the state to correlate and vest
30 the powers of the state in a ~~single agency~~, the department,
31 ~~with the duty and authority to assess the water needs of all~~
32 ~~water users at five-year intervals for the twenty years beginning~~
33 ~~January 1, 1985, and ending December 31, 2004, utilizing a~~
34 ~~database developed and managed by the Iowa geological survey,~~
35 ~~and to prepare a general plan of water allocation in this~~

~~1 state considering the quantity and quality of water resources
2 available in this state designed to meet the specific needs
3 of the water users. The department shall also develop and
4 the department shall adopt no later than June 30, 1986, a
5 plan for delineation of floodplain and floodway boundaries for
6 selected stream reaches in the various river basins of the state.
7 Selection of the stream reaches and assignment of priorities for
8 mapping of the selected reaches shall be based on consideration
9 of flooding characteristics, the type and extent of existing and
10 anticipated floodplain development in particular stream reaches,
11 and the needs of local governmental bodies for assistance in
12 delineating floodplain and floodway boundaries. The plan of
13 floodplain mapping shall be for the period from June 30, 1986,
14 to December 31, 2004. After the department adopts a plan of
15 floodplain mapping, the department shall submit a progress report
16 and proposed implementation schedule to the general assembly
17 biennially. The department may modify the floodplain mapping
18 plan as needed in response to changing circumstances.~~

~~19 2. The general welfare of the people of the state requires
20 that the water resources of the state be put to beneficial use
21 which includes ensuring that the waste or unreasonable use, or
22 unreasonable methods of use of water be prevented, and that the
23 conservation and protection of water resources be required with
24 the view to their reasonable and beneficial use in the interest
25 of the people, and that the public and private funds for the
26 promotion and expansion of the beneficial use of water resources
27 be invested to the end that the best interests and welfare of the
28 people are served.~~

~~29 3. 2. Water occurring in a basin or watercourse, or other
30 body of water of the state, is public water and public wealth
31 of the people of the state and subject to use in accordance
32 with this chapter, and the control and development and use of
33 water for all beneficial purposes is vested in the state, which
34 shall take measures to ensure the conservation and protection of
35 the water resources of the state. These measures shall include~~

1 the protection of specific surface and groundwater sources as
2 necessary to ensure long-term availability ~~in terms of quantity~~
3 ~~and quality to preserve the public health and welfare of the~~
4 state's water resources.

5 Sec. 5. Section 455B.264, subsection 2, Code 2026, is amended
6 to read as follows:

7 2. a. Except for a nonregulated use, a person withdrawing
8 water from any surface or groundwater source, or a person who
9 diverts water or any material from the surface directly into
10 an underground watercourse or basin, must first apply for and
11 obtain a permit from the department. Except for nonregulated
12 uses, it is unlawful to withdraw water from any surface or
13 groundwater source, or to take treated water from a permitted
14 aquifer storage and recovery site, except in compliance with
15 this section. However, existing permitted uses may be continued
16 during the department's review period when applicants apply for a
17 permit renewal.

18 b. Upon application by any person for permission to divert,
19 pump, or otherwise take waters withdraw water from any
20 watercourse, underground basin or watercourse, drainage ditch, or
21 settling basin surface or groundwater source within this state
22 for any purpose other than a nonregulated use, the director
23 shall investigate the effect of the use upon the natural flow
24 of the watercourse, the effect of the use upon the owners of
25 any land which that might be affected by the use, the effect
26 of the use upon prior users of the water source and contracts
27 made under section 455B.263, and whether the use is consistent
28 with the principles and policies of a beneficial use. If the
29 director determines that the withdrawal or proposed use will have
30 an adverse impact on a surface or groundwater source, the natural
31 flow of the watercourse, or the owners of any land that might
32 be affected by the use, then appropriate conditions shall be
33 included in the permit to mitigate the adverse impact. If permit
34 conditions cannot mitigate the adverse impact, the department may
35 deny the application.

1 c. A permit shall not be issued if any of the following
2 apply:

3 (1) The use proposed on the application is not a beneficial
4 use.

5 (2) The established average minimum water flow in the
6 watercourse is not preserved.

7 (3) The proposed use will impair the navigability of any
8 navigable watercourse.

9 (4) The proposed use will threaten the long-term availability
10 of water in any surface or groundwater source.

11 Sec. 6. Section 455B.265, subsection 1, Code 2026, is amended
12 to read as follows:

13 1. a. In its consideration of applications for permits, the
14 department shall give priority in processing to persons in the
15 order that the applications are received, except ~~where~~ when
16 the application of this processing priority system prevents the
17 prompt approval of routine applications or ~~where~~ when the public
18 health, safety, or welfare will be threatened by delay. If
19 the department determines after investigation that the diversion,
20 storage, or withdrawal ~~is consistent with the principles and~~
21 ~~policies of beneficial use and ensuring conservation~~ complies
22 with section 455B.254, subsection 2, the department shall grant
23 a permit.

24 b. An application for a permit shall be approved or denied
25 within ninety days from the date that the department receives
26 the complete application. A renewal permit shall be approved
27 or denied by the department within thirty days from the
28 date that the department receives a complete application for
29 renewal. If the applicant requests an extension of the time
30 allotted, the department may approve the request to allow the
31 applicant more time to submit additional information to resolve
32 a contested or complex application. Regardless of the request
33 in the application, and subject to appeal, the director or the
34 department may determine the duration and frequency of withdrawal
35 and the quantity of water to be diverted, stored, or withdrawn

1 pursuant to the permit. Each permit ~~granted after July 1,~~
2 ~~1986,~~ shall include conditions requiring routine conservation
3 practices, and requiring implementation of emergency conservation
4 measures after notification by the department.

5 Sec. 7. Section 455B.265, subsection 2, Code 2026, is amended
6 by striking the subsection.

7 Sec. 8. Section 455B.265, subsection 6, unnumbered paragraph
8 1, Code 2026, is amended to read as follows:

9 The department may charge a fee to a person who has been
10 granted a permit pursuant to this section or is required to have
11 a permit pursuant to section ~~455B.268~~ 455B.264, subsection 2.
12 The commission shall adopt by rule the fee amounts.

13 Sec. 9. Section 460.302, subsection 8, unnumbered paragraph
14 1, Code 2026, is amended to read as follows:

15 Notwithstanding the prohibitions of section ~~455B.267,~~
16 ~~subsection 4~~ 455B.264, subsection 2, an owner of an agricultural
17 drainage well may make emergency repairs necessitated by damage
18 to the drainage well to minimize surface runoff into the
19 agricultural drainage well, upon the approval of the county board
20 of supervisors or the board's designee of the county in which
21 the agricultural drainage well is located. The approval shall be
22 based upon the following conditions:

23 Sec. 10. REPEAL. Sections 455B.267, 455B.268, and 455B.269,
24 Code 2026, are repealed.

25 EXPLANATION

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

28 This bill relates to the use and withdrawal of Iowa's surface
29 and groundwater resources, including permitting requirements.

30 The bill amends the definition of "beneficial use" to mean the
31 application of water to a lawful and useful purpose in reasonable
32 quantities necessary for economical and efficient utilization,
33 consistent with the public interest.

34 The bill strikes the definition of "waste" for purposes of
35 Code chapter 455B, subchapter III, part 4.

1 The bill enhances the readability of the declaration of policy
2 and planning requirements, by removing certain planning language,
3 time-limited requirements, and declarations. Under current law,
4 the department of natural resources (department) is required to
5 submit a progress report and proposed implementation schedule
6 of the floodplain mapping plan every two years to the general
7 assembly, and is authorized to modify the floodplain mapping plan
8 as needed. The bill removes the provision requiring submission
9 and authorizing modification related to the floodplain mapping
10 plan.

11 Under current law, the department is directed to take measures
12 to protect water resources to ensure long-term availability in
13 terms of quantity and quality to preserve public health and
14 welfare. The bill amends the language to ensure long-term
15 availability of the state's water resources.

16 The bill requires any person withdrawing water from surface
17 or groundwater sources or diverting water into underground
18 watercourses or basins to first be issued a permit, except for
19 nonregulated uses. The bill allows for existing permitted uses
20 during the department's review period.

21 The bill prohibits the director from approving a permit
22 application if the director determines that the withdrawal or
23 proposed use will adversely impact water sources, natural flows,
24 or landowners, if permit conditions cannot mitigate the adverse
25 effects. The bill requires denial of a permit when the proposed
26 use is not a beneficial use, would fail to preserve established
27 average minimum water flows, would impair navigability, or would
28 threaten the long-term availability of water in any surface or
29 groundwater source.

30 The bill makes changes to align with the amended provisions in
31 the bill, including repealing certain Code sections relating to
32 water permitting and administration.