

Senate File 435 - Introduced

SENATE FILE 435
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A BILL FOR

1 An Act relating to surface water quality by requiring the
2 establishment and maintenance of riparian protection measures,
3 providing for financing, and providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 161A.4, Code 2025, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 2A. The division, in consultation with the
4 state soil conservation and water quality committee, and in
5 cooperation with the commissioners of the soil and water
6 conservation districts and the department of natural resources,
7 shall adopt rules pursuant to chapter 17A to implement,
8 administer, and enforce chapter 466B, subchapter V.

9 Sec. 2. Section 161A.42, subsection 4, Code 2025, is amended
10 by adding the following new paragraph:

11 NEW PARAGRAPH. d. The establishment of riparian protection
12 measures as provided in chapter 466B, subchapter V.

13 Sec. 3. Section 161A.42, subsection 9, paragraphs a and b,
14 Code 2025, are amended to read as follows:

15 a. (1) ~~"Permanent soil and water conservation practices"~~
16 "Permanent soil and water conservation practice" means
17 planting of perennial grasses, legumes, shrubs, or trees, the
18 establishment of grassed waterways, and or the construction of
19 terraces, or other permanent soil and water practices approved by
20 the division.

21 (2) "Permanent soil and water conservation practice" includes
22 riparian protection measures as provided in chapter 466B,
23 subchapter V.

24 b. ~~"Temporary soil and water conservation practices"~~
25 "Temporary soil and water conservation practice" means planting
26 of annual or biennial crops, use of strip-cropping, contour
27 planting, or minimum or mulch tillage, and any other cultural
28 practices approved by the division.

29 Sec. 4. Section 161A.48, subsection 1, Code 2025, is amended
30 to read as follows:

31 1. a. An Except as provided in paragraph "b", the owner
32 or occupant of agricultural land in this state is not required
33 to establish any new permanent or temporary soil and water
34 conservation practice unless cost-share or other public moneys
35 have been specifically approved for that land and made available

1 to the owner or occupant pursuant to section 161A.74.

2 b. Paragraph "a" does not apply to riparian protection
3 measures as provided in chapter 466B, subchapter V.

4 Sec. 5. Section 161A.49, Code 2025, is amended to read as
5 follows:

6 **161A.49 Petition for court order.**

7 1. The Except as provided in subsection 2, the commissioners
8 shall petition the district court for a court order requiring
9 immediate compliance with an administrative order previously
10 issued by the commissioners as provided in section 161A.47, if
11 all of the following apply:

12 ~~1.~~ a. The work necessary to comply with the administrative
13 order is not commenced on or before the date specified in
14 such order, or in any supplementary order subsequently issued
15 as provided in section 161A.48, unless in the judgment of the
16 commissioners the failure to commence or complete the work as
17 required by the administrative order is due to factors beyond the
18 control of the person or persons to whom such order is directed
19 and the person or persons can be relied upon to commence and
20 complete the necessary work at the earliest possible time.

21 ~~2.~~ b. Such work is not being performed with due diligence,
22 or is not satisfactorily completed by the date specified in the
23 administrative order, or when completed does not reduce soil
24 erosion from such land below the limits established by the soil
25 and water conservation district's regulations.

26 ~~3.~~ c. The person or persons to whom the administrative order
27 is directed advise the commissioners that they do not intend to
28 commence or complete such work.

29 2. Subsection 1 does not apply to the extent that the
30 division proceeds against a landowner for violating a riparian
31 protection measure as provided in chapter 466B, subchapter V.

32 Sec. 6. Section 161A.72, Code 2025, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 1A. The division shall provide a priority to
35 financing the establishment of riparian protection measures as

1 provided in chapter 466B, subchapter V.

2 Sec. 7. Section 161C.2, subsection 1, paragraph a, Code 2025,
3 is amended to read as follows:

4 a. Each soil and water conservation district, alone and
5 whenever practical in conjunction with other districts, shall
6 carry out district-wide and multiple-district projects to support
7 water protection practices in the district or districts,
8 including projects to protect this state's groundwater and
9 surface water from point and nonpoint sources of contamination,
10 including but not limited to contamination by agricultural
11 drainage wells, sinkholes, sedimentation, or chemical pollutants.
12 A district acting alone or in conjunction with other districts
13 shall provide priority to establishing riparian protection
14 measures as provided in chapter 466B, subchapter V.

15 Sec. 8. Section 455B.171, subsection 11, Code 2025, is
16 amended to read as follows:

17 11. "*Iowa nutrient reduction strategy*" means a water quality
18 initiative developed and updated by the department of agriculture
19 and land stewardship, the department of natural resources, and
20 the college of agriculture and life sciences at Iowa state
21 university of science and technology in order to assess do all
22 of the following:

23 a. Assess and reduce nutrients in this state's watersheds
24 that utilize a pragmatic, strategic, and coordinated approach
25 with the goal of accomplishing reductions over time.

26 b. Evaluate the progress of water quality initiatives
27 including but not limited to the programs and riparian protection
28 measures provided in chapter 466B, subchapter V.

29 Sec. 9. Section 466B.5, Code 2025, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 2A. *Riparian protection.* The department of
32 natural resources shall provide for the assessment of regional
33 watersheds and subwatersheds that are identified in the riparian
34 protection inventory and map.

35 Sec. 10. Section 466B.6, Code 2025, is amended by adding the

1 following new subsection:

2 NEW SUBSECTION. 3. *Riparian protection.* A community-based
3 subwatershed improvement plan shall provide for methods to
4 increase compliance with riparian protection measures provided in
5 subchapter V.

6 Sec. 11. Section 466B.7, subsection 2, Code 2025, is amended
7 to read as follows:

8 2. *Data collection and use.* Local communities in which the
9 department of natural resources conducts subwatershed monitoring
10 shall use the information to support subwatershed planning
11 activities, do local data collection, and identify priority
12 areas needing additional resources. Local communities shall
13 also collect data regarding the effect of riparian protection
14 measures, and collect data over time and use the data to evaluate
15 for use in evaluating the impacts of their management efforts.

16 Sec. 12. NEW SECTION. **466B.51 Definitions.**

17 As used in this subchapter, unless the context otherwise
18 requires:

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

20 2. "District" means a soil and water conservation district
21 established in section 161A.5.

22 3. "Division" means the division of soil conservation and
23 water quality created within the department of agriculture and
24 land stewardship pursuant to section 159.5.

25 4. "Landowner" means a person listed on the tax assessment
26 rolls as responsible for the payment of real estate taxes imposed
27 on the land adjacent to a public water source.

28 5. "Normal water level" means the level evidenced by the
29 long-term presence of surface water as indicated directly by
30 hydrophytic plants or hydric soils or indirectly determined via
31 hydrological models or analysis.

32 6. "Public water source" means waters of the state having
33 definite banks and a bed.

34 7. "Riparian protection measure" means a riparian protection
35 buffer or an alternative riparian protection practice as provided

1 in section 466B.55.

2 8. "Waters of the state" means any stream, lake, pond,
3 marsh, watercourse, waterway, well, spring, reservoir, aquifer,
4 irrigation system, drainage system, and any other body or
5 accumulation of water, surface or underground, natural or
6 artificial, public or private, which is contained within, flows
7 through, or borders upon the state or any portion of the state.

8 Sec. 13. NEW SECTION. **466B.52 Purposes and goals.**

9 1. The purpose of this subchapter is to establish riparian
10 protection measures for public water sources that do all of the
11 following:

12 a. Provide protection from erosion and runoff pollution.

13 b. Stabilize soils, shores, and banks.

14 c. Protect or provide riparian corridors for public use.

15 2. In administering this subchapter, the division, in
16 consultation with the department, shall advance all of the
17 following goals:

18 a. Reduce soil erosion and sediment loss, including by doing
19 any of the following:

20 (1) Stabilizing the soil or otherwise limiting sediment from
21 being conveyed by surface water runoff.

22 (2) Filtering sediment-laden water.

23 b. Manage nutrients and reduce contributing contaminant loads
24 to receiving public surface waters.

25 c. Provide a setback distance from an input applied to
26 adjacent land, including pesticides as defined in section 206.2,
27 nutrients as defined in section 455B.171, commercial fertilizers
28 as defined in section 200.3, and manure as defined in section
29 459.102.

30 d. Reduce the volume or velocity of precipitation-induced
31 surface water.

32 e. Improve stream or ditch bank stability with deep-rooted
33 plants.

34 f. Provide an infiltration area for surface water.

35 g. Provide an uptake and denitrification zone for shallow

1 subsurface flow.

2 h. Retire adjacent land from crop production in areas that
3 have low productivity or are inefficient to farm.

4 i. Provide habitat for beneficial wildlife species if a
5 corridor is sufficiently wide or the buffer connects larger
6 habitat areas together.

7 Sec. 14. NEW SECTION. **466B.53 Administration and**
8 **enforcement.**

9 1. The division shall administer and enforce this chapter
10 in consultation with the department. The division shall adopt
11 all rules necessary or desirable to carry out this subchapter,
12 including rules necessary or desirable to effectuate this
13 subchapter's purposes and goals as provided in section 466B.52.

14 2. The division shall assist the department and the water
15 resources coordinating council established in section 466B.3,
16 including in the completion of a statewide regional watershed
17 assessment, prioritization, and planning process described in
18 section 466B.5.

19 3. a. The commissioners of a district shall consult with
20 department field office staff in assisting the division in the
21 administration and enforcement of this subchapter.

22 b. The commissioners of a district shall assist landowners in
23 establishing and maintaining riparian protection measures. The
24 assistance may be in the form of planning, technical support, and
25 tracking progress toward compliance with the requirements of this
26 subchapter.

27 4. The division, acting on its own or on behalf of the
28 commissioners of a district, may obtain an administrative search
29 warrant to determine compliance with this subchapter as provided
30 in section 808.14.

31 Sec. 15. NEW SECTION. **466B.54 Riparian protection inventory**
32 **and map.**

33 1. The department shall prepare, revise, and publish a
34 riparian protection inventory and map for each county which shall
35 be used as the basis of designating public water sources that

1 require riparian protection from nonpoint sources of pollution as
2 provided in this subchapter.

3 2. In preparing and revising a riparian protection inventory
4 and map, the department shall provide priority to a public water
5 source classified as any of the following:

6 a. Part of a subwatershed that drains into a water body or
7 water segment placed on the department's section 303(d) list
8 as defined in section 455B.171, regardless of whether a total
9 maximum daily load for that water body or water segment has been
10 developed.

11 b. A high-quality water resource as defined in section
12 459.102.

13 c. The Mississippi river basin as part of the Mississippi
14 river basin initiative as provided in chapter 161G.

15 3. Each tract of land where each riparian protection measure
16 is to be established shall be identified according to a system of
17 parcels identified by a property identification number according
18 to uniform criteria developed by the department.

19 4. The division, and a board governing a drainage or
20 levee district as provided in chapter 468, shall provide all
21 cooperation requested by the department in order to prepare and
22 revise a riparian protection inventory and map.

23 Sec. 16. NEW SECTION. **466B.55 Riparian protection**
24 **measures.**

25 1. A landowner shall establish and maintain riparian
26 protection measures as provided in this section.

27 2. a. A landowner of property adjacent to a public water
28 source identified as part of a riparian protection inventory and
29 map shall maintain a continuous riparian protection buffer as
30 follows:

31 (1) The riparian protection buffer must consist of perennial
32 vegetation, excluding invasive plants and weeds declared noxious
33 pursuant to section 317.1A, if the area is adjacent to a public
34 water source.

35 (2) (a) Except as provided in subparagraph division (b), the

1 riparian protection buffer shall have a fifty-foot average width
2 and a thirty-foot minimum width.

3 (b) A landowner shall comply with subparagraph division
4 (a) twelve months after the land is identified in a riparian
5 protection inventory and map published under section 466B.54.
6 The commissioners of a district may grant a landowner a one-time
7 waiver of this requirement for not more than one year.

8 (3) (a) For a ditch, tile drain, watercourse, or settling
9 basin established as part of a drainage or levee district
10 governed under chapter 468, the buffer shall have a sixteen and
11 one-half foot minimum width.

12 (b) A landowner shall comply with subparagraph division (a)
13 twenty-four months after the land is identified as part of a
14 riparian protection inventory and map published under section
15 466B.54. The commissioners of a district may grant a landowner a
16 one-time waiver of this requirement for not more than one year.

17 b. The width of a riparian protection buffer shall be
18 measured from the crown of the bank. Where there is no defined
19 bank, the measurement shall be from the edge of the normal
20 water level. The division may provide a different measurement
21 method for a ditch, tile drain, watercourse, or settling basin
22 established as part of a drainage or levee district governed
23 under chapter 468.

24 3. a. A landowner of property adjacent to a public water
25 source identified as part of a riparian protection inventory
26 and map may meet the requirements described in subsection 1 by
27 adopting an alternative riparian protection practice alone or
28 in combination with a modified riparian protection buffer. The
29 alternative riparian protection practice as established alone or
30 in combination with a riparian protection buffer shall provide
31 water quality protection comparable to the riparian protection
32 described in subsection 2.

33 b. A landowner shall comply with paragraph "a" twelve
34 months after the land is identified as part of a riparian
35 protection inventory and map published under section 466B.54.

1 The commissioners of a district may grant a one-time waiver of
2 this requirement for not more than one year.

3 4. The terms and conditions of a riparian protection measure
4 shall be set forth in a parcel-specific riparian protection
5 compliance plan approved by the commissioners of the district
6 where the land is located and filed by the commissioners with
7 the division which shall be published on the division's internet
8 site. The riparian protection plan may be part of a financing
9 agreement entered into by the landowner and the division or
10 commissioners of a district as provided in chapter 161A.

11 5. The establishment and maintenance of a riparian protection
12 measure shall at least comply with all requirements of soil
13 and water conservation practices or erosion control practices
14 as described in chapter 161A, unless otherwise provided by
15 the division and agreed to by the commissioners. A riparian
16 protection measure qualifies for water quality agriculture
17 infrastructure programs created in section 466B.43 and the water
18 quality urban infrastructure program as provided in section
19 466B.44. A riparian protection measure shall be inspected and
20 certified by the commissioners of the district where the land is
21 located as required by the division.

22 6. This section does not prevent a landowner from using land
23 established for riparian protection in any manner that does not
24 interfere with the requirements of this subchapter, including a
25 riparian protection compliance plan. The division shall upon
26 request of a landowner issue a declaratory order regarding the
27 use as provided in section 17A.9.

28 Sec. 17. NEW SECTION. 466B.56 Exemptions.

29 1. A landowner is not required to comply with the
30 requirements in section 466B.55 if any of the following apply:

31 a. The public water source is located adjacent to land where
32 only one landowner is riparian.

33 b. A person's contribution of a pollutant to a public water
34 source is regulated by the department under chapter 455B or
35 pursuant to a permit related to the administration of the

1 national pollutant discharge elimination system permit program
2 pursuant to the federal Water Pollution Control Act, 33 U.S.C.
3 ch. 26, as amended, and 40 C.F.R. pt. 124. However, this
4 paragraph does not apply to the discharge or application of
5 manure or other nutrients under chapter 459, 459A, or 459B.

6 c. The land where riparian protection measures are otherwise
7 required pursuant to section 466B.55 is any of the following:

8 (1) Enrolled in the federal conservation reserve program as
9 described in 7 C.F.R. pt. 1410.

10 (2) A wetland that could qualify under the conservation
11 reserve enhancement program as provided in section 466.5.

12 (3) Subject to a conservation easement as provided in chapter
13 457A.

14 (4) Covered by a road, trail, building, or other structure.

15 (5) Subject to a crop approved by the division, including
16 alfalfa or other perennial crop or part of a water-inundation
17 cropping system.

18 (6) Part of a prairie, forest area, other biologically
19 significant area, or that contains significant archaeological,
20 historical, or cultural value.

21 (7) Contains geological characteristics which are unsuitable
22 for vegetation.

23 (8) In a temporary nonvegetated condition due to drainage
24 tile installation and maintenance, plant seeding, or the
25 construction of a conservation project authorized by the federal
26 government, the state, or a political subdivision thereof.

27 2. The division may excuse a landowner from complying with
28 the requirements of section 466B.55 if the division determines
29 that compliance would not significantly further the purposes and
30 goals of this chapter as described in section 466B.52. The
31 exemption may be based on but is not limited to any of the
32 following:

33 a. The normal water level, which may exclude periods of
34 drought or flooding.

35 b. The average water flow, which may exclude periods of

1 drought or flooding.

2 c. The total drainage area, which may exclude periods of
3 drought or flooding.

4 Sec. 18. NEW SECTION. **466B.57 Corrective action —**
5 **compliance order.**

6 1. The division shall take enforcement action against a
7 landowner who violates a term or condition of a riparian
8 protection compliance plan as provided in section 466B.55. The
9 division, in cooperation with the department and commissioners of
10 a district where the land is located, shall issue a compliance
11 order that includes a list of corrective actions that the
12 landowner must correct. The compliance order shall include a
13 practical period for the landowner to complete the corrective
14 actions and for the commissioners to inspect the land and approve
15 the corrective actions. A corrective action must be approved by
16 the commissioners within one year after the division issues the
17 compliance order, unless the commissioners grant an extension.

18 2. If the landowner is in violation of a protection
19 compliance plan as provided in section 466B.55 and an
20 administrative order is issued by the commissioners under chapter
21 161A, subchapter V, part 1, to the landowner, the division may
22 waive its right to take an enforcement action under this chapter.

23 Sec. 19. NEW SECTION. **466B.58 Removal or degradation.**

24 1. A landowner shall not engage in any work to remove or
25 degrade a riparian protection measure, in whole or in part,
26 unless the person has obtained a signed statement from the
27 commissioners of the district where the land is located granting
28 authorization to engage in the work as required by the division.

29 2. A person other than a landowner shall not engage in any
30 work to remove or degrade a riparian protection measure, in whole
31 or in part, unless the person has obtained a signed statement
32 from the landowner granting authorization to engage in the work
33 subject to the requirements in subsection 1.

34 Sec. 20. NEW SECTION. **466B.59 Civil penalty.**

35 1. Except as provided in subsection 2, a landowner who does

1 not complete a corrective action within the period stated in
2 the compliance order under section 466B.57 is subject to a civil
3 penalty as follows:

4 a. One hundred dollars per parcel as described in
5 the riparian protection compliance plan which shall be
6 assessed, imposed, and collected on a thirty-day basis for a
7 one-hundred-eighty-day period.

8 b. After the period described in paragraph "a", five hundred
9 dollars per parcel as described in the riparian protection
10 compliance plan which shall be assessed, imposed, and collected
11 on a thirty-day basis.

12 2. A person who is in violation of section 466B.56 is
13 subject to a civil penalty of five hundred dollars per parcel
14 as described in the riparian protection compliance plan which
15 shall be assessed, imposed, and collected by the division on a
16 thirty-day basis.

17 3. Civil penalties collected pursuant to this section shall
18 be credited to the general fund of the state.

19 EXPLANATION

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

22 GENERAL. This bill amends Code chapter 466B, which provides
23 for a number of programs to protect surface water and provide for
24 flood mitigation and watershed management. The bill creates a
25 new Code subchapter which requires a landowner having an interest
26 in property adjoining a public water source (e.g., a watercourse
27 such as a river, stream, or drainage ditch; or body of water
28 such as a pond, lake, or reservoir) to establish and maintain
29 a riparian protection measure (measure) in compliance with a
30 riparian protection compliance plan (plan). The plan is derived
31 from a riparian protection inventory and map developed by the
32 department of natural resources (DNR).

33 ADMINISTRATION. The plan must be prepared by the landowner
34 and approved by the division of soil conservation and water
35 quality (division) created within the department of agriculture

1 and land stewardship. The division must act in partnership
2 with commissioners of soil and water conservation districts
3 (commissioners), and in cooperation with a number of other
4 government entities, including the state soil conservation
5 and water quality committee, the water resources coordinating
6 council, and DNR.

7 **REQUIREMENTS.** Under an approved plan, a landowner must
8 establish and maintain a measure which is either a riparian
9 protection buffer consisting of perennial vegetation, or an
10 alternative riparian protection practice (e.g., erosion control
11 practice or soil and water conservation practice) alone or in
12 combination with a modified riparian protection buffer. The
13 landowner must establish and maintain the measure after the
14 division completes a riparian protection inventory and map which
15 identifies the land subject to riparian protection. A landowner
16 may apply for financial assistance to establish a measure under a
17 number of programs, including cost-share moneys awarded under the
18 authority of the division.

19 **EXCEPTIONS.** The bill creates a number of exceptions that
20 excuse compliance, including if (1) there is only one riparian
21 landowner; (2) other regulations apply, including storm water
22 outlets regulated by DNR, or a conservation program regulated
23 by the federal or state government; (3) the land is covered by
24 another object or structure; (4) the land is used to produce
25 a designated crop; (5) the land is part of an environmentally
26 designated area (e.g., a forest); (6) the land contains unique
27 geological characteristics; or (7) the land is subject to
28 construction. The division may also create other exceptions if
29 it determines that the exception would not interfere with the
30 bill's purposes.

31 **ENFORCEMENT.** The division is to take enforcement action
32 against a landowner who violates a term or condition of a
33 plan, unless the division allows the commissioners to take an
34 enforcement action in court for the landowner's violation of the
35 terms of an administrative order (e.g., for violating the terms

1 of a cost-share agreement). If the division enforces the plan,
2 if must first issue a compliance order listing items that the
3 landowner must complete within a specified time but not more than
4 one year after the compliance order has been issued. The bill
5 also prohibits a landowner or another person from engaging in any
6 work to remove or degrade a riparian protection measure, unless
7 the person has obtained authorization. The bill provides a
8 range of civil penalties based on the number of parcels included
9 in the plan and the period that the violation continues after
10 the compliance order was delivered. The amounts of the civil
11 penalties range from \$100 to \$500 per parcel.

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