

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:

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
4 permit is required pursuant to section ~~455B.268, subsection 1~~
5 455B.264, subsection 2.

6 Sec. 2. Section 455B.261, subsection 4, Code 2026, is
7 amended 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
15 not limited to purposes related to or involving domestic,
16 municipal, agricultural, industrial, fish and wildlife, or
17 recreational 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
24 property from floods, the prevention of damage to lands from
25 floods, and the orderly development, wise use, protection,
26 and conservation of the water resources of the state by their
27 considered and proper use is of paramount importance to the
28 welfare and prosperity of the people of the state, and to
29 realize these objectives, it is the policy of the state to
30 correlate and vest the powers of the state in a ~~single agency,~~
31 ~~the department, with the duty and authority to assess the~~
32 ~~water needs of all water users at five-year intervals for the~~
33 ~~twenty years beginning January 1, 1985, and ending December~~
34 ~~31, 2004, utilizing a database developed and managed by the~~
35 ~~Iowa geological survey, and to prepare a general plan of water~~

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

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

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

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

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

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

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

1 mitigate the adverse impact, the department may deny the
2 application.

3 c. A permit shall not be issued if any of the following
4 apply:

5 (1) The use proposed on the application is not a beneficial
6 use.

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

9 (3) The proposed use will impair the navigability of any
10 navigable watercourse.

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

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

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

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

1 or the department may determine the duration and frequency
2 of withdrawal and the quantity of water to be diverted,
3 stored, or withdrawn pursuant to the permit. Each permit
4 ~~granted after July 1, 1986,~~ shall include conditions requiring
5 routine conservation practices, and requiring implementation
6 of emergency conservation measures after notification by the
7 department.

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

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

12 The department may charge a fee to a person who has been
13 granted a permit pursuant to [this section](#) or is required to
14 have a permit pursuant to section ~~455B.268~~ 455B.264, subsection
15 2. The commission shall adopt by rule the fee amounts.

16 Sec. 9. Section 460.302, subsection 8, unnumbered paragraph
17 1, Code 2026, is amended to read as follows:

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

26 Sec. 10. REPEAL. Sections 455B.267, 455B.268, and
27 455B.269, Code 2026, are repealed.

28 EXPLANATION

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

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

33 The bill amends the definition of "beneficial use" to mean
34 the application of water to a lawful and useful purpose in
35 reasonable quantities necessary for economical and efficient

1 utilization, consistent with the public interest.

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

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

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

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

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

33 The bill makes changes to align with the amended provisions
34 in the bill, including repealing certain Code sections relating
35 to water permitting and administration.