

CHAPTER 1160  
NATURAL RESOURCES COUNCIL

H. F. 2212

AN ACT relating to the authority of the Iowa natural resources council and providing a penalty.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section four hundred fifty-five A point twenty (455A.20), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred twenty-three (123), section four (4), is amended to read as follows:

If the water commissioner at the first hearing or the council at the hearing on appeal shall determine after due investigation that such diversion, storage or withdrawal will not be detrimental to the public interests, including drainage and levee districts, or to the interests of property owners with prior or superior rights who might be affected, the water commissioner following the first hearing, or the council following the hearing on appeal shall grant a permit for such diversion, storage or withdrawal. Judicial review of such action is available in accordance with the terms of the Iowa administrative procedure Act and section 455A.37. Permits may be granted for any period of time but not to exceed ten years except for the storage of water which may be granted for the life of the structure unless withdrawn for good cause. All existing storage permits are hereby extended for the life of the structure unless withdrawn for good cause. Permits may be granted which provide for less diversion, storage, or withdrawal of waters than set forth in the application. Permits may be extended by the water commissioner for a period of not more than ninety days during the pendency of an application for renewal. Any permit granted shall remain as an appurtenance of the land described therein through the date specified in such permit and any extension thereof or such earlier date as the permit or any extension thereof is revoked or canceled under the provisions of section 455A.28.

Sec. 2. Section four hundred fifty-five A point thirty-three (455A.33), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred twenty-three (123), section six (6), is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. When approving a request to

straighten a stream, the director or council may establish as a condition of approval a permanent prohibition against tillage of land owned by the person receiving the approval and lying within some minimum distance from the stream sufficient in the judgment of the director or council to hold soil erosion to reasonable limits. The director shall record the prohibition in the office of the county recorder of the appropriate county and the prohibition shall attach to the land. A person who violates a prohibition against tillage shall be guilty of a simple misdemeanor. Each day upon which a violation occurs constitutes a separate violation.

NEW UNNUMBERED PARAGRAPH. The council shall by rule establish thresholds for dimensions and effects, and any structure, dam, obstruction, deposit, or excavation having smaller dimensions and effects than those established by the council shall be lawful and not subject to regulation under this section. The thresholds shall be such that only those structures, dams, obstructions, deposits, or excavations posing a significant threat to the well-being of the public and the environment shall be subject to regulation.

Sec. 3. Section four hundred fifty-five A point thirty-three (455A.33), unnumbered paragraphs three (3) and four (4), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred twenty-three (123), section six (6), are amended to read as follows:

In the event any person desires to erect or make, or to suffer or permit, a structure, dam, obstruction, deposit or excavation, other than a dam, constructed and operated under the authority of chapter 469 as amended, to be erected, made, used or maintained in or on any floodway or flood plains, such person shall file a verified written application with the ~~council~~ director, setting forth the material facts, ~~and the council after an investigation or hearing, shall enter an order, determining the fact and permitting or prohibiting the same, upon such terms and conditions as it may prescribe.~~ The director shall provide the council with copies of the application and an opportunity for the council to call up the application for its determination. The director, or the council, after an investigation or a public hearing if there is an objection to the proposed project shall determine the fact and approve or deny the application imposing such conditions and terms as the director or council may prescribe. A determination of the director may be appealed to the council

by any aggrieved party.

The council shall have the authority to maintain an action in equity to enjoin any such person from erecting or making or suffering or permitting to be made any structure, dam, obstruction, deposit, or excavation other than a dam constructed and operated under the authority of chapter 469, for which a permit has not been granted. The council is also authorized to abate as a public nuisance any structure, dam, obstruction, deposit, or excavation erected or made without a permit required by this chapter within one year of cessation of construction. The costs of the abatement shall be borne by the violator.

Sec. 4. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred twenty-three (123), section eight (8), is amended to read as follows:

SEC. 8. APPLICATION FOR SPECIAL PERMITS. Application and payment of the fee for special permits shall be in accordance with the provisions of sections four hundred fifty-five A point nineteen (455A.19), subsection one (1), and four hundred fifty-five A point nineteen (455A.19), subsection five (5) of the Code, respectively. Upon receipt of the application and fee, the commissioner shall cause notice of the application to be published in a newspaper of general circulation in the county where the permit is sought. The special permit shall be issued by the commissioner two weeks from the date of publication, unless written objection to the application is filed with the commissioner before that date, in which case the hearing procedures of section four hundred fifty-five A point nineteen (455A.19) of the Code, shall be followed. ~~Special permits shall be issued for a period not to exceed one year.~~ Special permits issued after the effective date of this Act shall terminate on July 1, 1980. The termination date of all existing special permits is hereby extended to July 1, 1980.

Sec. 5. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred twenty-three (123), section nine (9), is amended to read as follows:

SEC. 9. Section four hundred fifty-five A point twenty (455A.20), Code 1977, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Until the council adopts a statewide water plan, all new water permits issued for irrigation purposes, except special permits, shall not exceed

one year and all renewals thereof shall also be limited to one year. The preceding limitation shall not apply to the renewal or extension of any valid water permit granted prior to the effective date of this Act. If it is determined, through monitoring of the permitted withdrawal, that it will endanger the present or future availability of groundwater said permits may be modified or canceled under the provisions of section four hundred fifty-five A point twenty-eight (455A.28) of the Code.

NEW UNNUMBERED PARAGRAPH. When permits are modified or canceled, priority for permits shall be given to applicants or permit holders who utilize such water for agriculture research. Nothing in this paragraph shall give priority to such applicants or permit holders in preference to those classes granted priority under section four hundred fifty-five A point twenty-one (455A.21) of the Code.

Sec. 6. This Act is effective January 1, 1979.

Approved June 12, 1978

## CHAPTER 1161

### WATERWORKS OPERATOR'S CERTIFICATE

H. F. 566

AN ACT relating to the issuance and expiration of waterworks or waste waterworks operators' certificates.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section four hundred fifty-five B point fifty-eight (455B.58), Code 1977, is amended to read as follows:

455B.58 DURATION. Certificates shall continue in effect ~~for one year~~ from the date of issuance until the following June thirtieth unless sooner revoked by the executive director, but such certificates shall remain the property of the department and the certificate shall so state. The fee for issuance of certificates as determined under section four hundred fifty-five B point sixty-one (455B.61) of the Code shall be prorated on a quarterly basis for any original certificate issued for a period of less than twelve months. A person who fails to renew ~~his a~~ certificate by ~~the expiration date~~ June thirtieth following its issuance shall be allowed to do so ~~within thirty days following its expiration~~ by July