

JAN 25 2005

Agriculture

HOUSE FILE 132
BY GREINER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the administration of units of government
2 associated with soil and water conservation, including
3 transferring the soil conservation division of the department
4 of agriculture and land stewardship to the department of
5 natural resources, and making name changes.

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

HF 132

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1 Section 1. Section 159.5, subsection 13, Code 2005, is
2 amended by striking the subsection.

3 Sec. 2. Section 159.18, subsections 1 and 3, Code 2005,
4 are amended to read as follows:

5 1. As used in this section, "farm programs" includes, but
6 is not limited to, financial incentive programs established
7 within the division of soil and water conservation of the
8 department of ~~agriculture-and-land-stewardship~~ natural
9 resources as provided in section 161A.70 and the beginning
10 farmer loan program administered by the agricultural
11 development authority as provided in section 175.12.

12 3. The department shall cooperate with private
13 institutions and public agencies in order to carry out this
14 section, including but not limited to the department of
15 natural resources, the department of economic development, and
16 the United States department of agriculture.

17 Sec. 3. Section 161A.3, subsection 5, Code 2005, is
18 amended to read as follows:

19 5. "Department" means the department of ~~agriculture-and~~
20 ~~land-stewardship~~ natural resources.

21 Sec. 4. Section 161A.3, Code 2005, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 5A. "Director" means the director of the
24 department of natural resources.

25 Sec. 5. Section 161A.3, subsection 7, Code 2005, is
26 amended to read as follows:

27 7. "Division" means the division of soil and water
28 conservation created within the department.

29 Sec. 6. Section 161A.4, subsections 1 through 3, Code
30 2005, are amended to read as follows:

31 1. The soil and water conservation division is established
32 within the department to perform the functions conferred upon
33 it in chapters 161A through 161C, 161E, 161F, 207, and 208.
34 The division shall be administered in accordance with the
35 policies of the state soil conservation committee, which shall

1 advise the division and which shall approve administrative
2 rules proposed by the division for the administration of
3 chapters 161A through 161C, 161E, 161F, 207, and 208 before
4 the rules are adopted pursuant to section 17A.5. If a
5 difference exists between the committee and secretary director
6 regarding the content of a proposed rule, the secretary
7 director shall notify the chairperson of the committee of the
8 difference within thirty days from the committee's action on
9 the rule. The secretary director and the committee shall meet
10 to resolve the difference within thirty days after the
11 secretary director provides the committee with notice of the
12 difference.

13 1A. The state soil conservation committee consists of a
14 chairperson and eight other voting members.

15 a. The following shall serve as ex officio nonvoting
16 members of the committee: the director of the Iowa
17 cooperative extension service in agriculture and home
18 economics, or the director's designee; and the ~~director-of-the~~
19 ~~department-of-natural-resources~~ secretary of agriculture, or
20 the ~~director's~~ secretary's designee.

21 b. Nine voting members shall be appointed by the governor
22 subject to confirmation by the senate. Six of the appointive
23 members shall be persons engaged in actual farming operations,
24 one of whom shall be a resident of each of six geographic
25 regions in the state, including northwest, southwest, north
26 central, south central, northeast, and southeast Iowa, and no
27 more than one of whom shall be a resident of any one county.
28 The boundaries of the geographic regions shall be established
29 by rule. The seventh, eighth, and ninth appointive members
30 shall be chosen by the governor from the state at large with
31 one appointed to be a representative of cities, one appointed
32 to be a representative of the mining industry, and one
33 appointee who is a farmer actively engaged in tree farming.
34 The committee may invite the secretary of agriculture of the
35 United States to appoint one person to serve with the other

1 members, and the president of the Iowa county engineers
2 association may designate a member of the association to serve
3 in the same manner, but these persons have no vote and shall
4 serve in an advisory capacity only.

5 1B. The committee may perform acts, hold public hearings,
6 and propose and approve rules pursuant to chapter 17A as
7 necessary for the execution of its functions.

8 2. The committee shall recommend three persons to the
9 ~~secretary-of-agriculture~~ director who shall appoint from the
10 persons recommended ~~an-administrative-director~~ a division
11 administrator to head the division who shall serve at the
12 pleasure of the secretary director. After reviewing the names
13 submitted, the secretary director may request the ~~soil~~
14 conservation committee to submit additional names for
15 consideration. The committee shall recommend to the secretary
16 director each year a budget for the division. The secretary
17 director, at the earliest opportunity and prior to formulating
18 a budget, shall meet with representatives of the committee to
19 discuss the committee's recommendation.

20 2A. The committee or division may call upon the attorney
21 general of the state for necessary legal services. The
22 committee may delegate to its chairperson, to one or more of
23 its members, or to one or more agents or employees, powers and
24 duties as it deems proper. Upon request of the committee, for
25 the purpose of carrying out any of the functions assigned the
26 committee or the department by law, the supervising officer of
27 any state agency, or of any state institution of learning
28 shall, insofar as possible under available appropriations, and
29 having due regard to the needs of the agency to which the
30 request is directed, assign or detail the request to the staff
31 or personnel of the agency or institution of learning, and
32 make the special reports, surveys, or studies as the committee
33 requests.

34 3. The committee shall designate its chairperson, and may
35 change the designation. The members appointed by the governor

1 shall serve for a period of six years. Members shall be
2 appointed in each odd-numbered year to succeed members whose
3 terms expire as provided by section 69.19. Appointments may
4 be made at other times and for other periods as necessary to
5 fill vacancies on the committee. Members shall not be
6 appointed to serve more than two complete six-year terms.
7 Members designated to represent the ~~director~~ secretary of the
8 ~~department-of-natural-resources~~ agriculture and the director
9 of the Iowa cooperative extension service in agriculture and
10 home economics shall serve at the pleasure of the officer
11 making the designation. A majority of the voting members of
12 the committee constitutes a quorum, and the concurrence of a
13 majority of the voting members of the committee in any matter
14 within their duties is required for its determination.
15 Members are entitled to actual expenses necessarily incurred
16 in the discharge of their duties as members of the committee.
17 The expenses paid to the committee members shall be paid from
18 funds appropriated to the department. Each member of the
19 committee may also be eligible to receive compensation as
20 provided in section 7E.6. The committee shall provide for the
21 execution of surety bonds for all employees and officers who
22 are entrusted with funds or property, shall provide for the
23 keeping of a full and accurate record of all proceedings and
24 of all resolutions and orders issued or adopted, and shall
25 provide for an annual audit of the accounts of receipts and
26 disbursements.

27 Sec. 7. Section 161A.4, subsection 4, unnumbered paragraph
28 1, Code 2005, is amended to read as follows:

29 In addition to other duties and powers conferred upon the
30 division of soil and water conservation, the division has the
31 following duties and powers:

32 Sec. 8. Section 161A.6, unnumbered paragraph 4, Code 2005,
33 is amended to read as follows:

34 The commissioners may call upon the attorney general of the
35 state for such legal services as they may require. The

1 commissioners may delegate to their chairperson, to one or
2 more commissioners or to one or more agents, or employees,
3 such powers and duties as they may deem proper. The
4 commissioners shall furnish to the division ~~of soil~~
5 ~~conservation~~, upon request, copies of such ordinances, rules,
6 regulations, orders, contracts, forms, and other documents as
7 they shall adopt or employ, and such other information
8 concerning their activities as it may require in the
9 performance of its duties under this chapter.

10 Sec. 9. Section 161A.15, Code 2005, is amended to read as
11 follows:

12 161A.15 NOTICE AND HEARING.

13 Within thirty days after a petition has been filed with the
14 soil and water conservation district commissioners, they shall
15 fix a date, hour, and place for a hearing and direct the
16 secretary of the district to cause notice to be given to the
17 owners of each tract of land, or lot, within the proposed
18 subdistrict as shown by the transfer books of the auditor's
19 office, and to each lienholder, or encumbrancer, of any such
20 lands as shown by the county records, and to all other persons
21 whom it may concern, and without naming individuals all actual
22 occupants of land in the proposed subdistrict, of the pendency
23 and purpose of the petition and that all objections to
24 establishment of the subdistrict for any reason must be made
25 in writing and filed with the secretary of the ~~soil-and-water~~
26 ~~conservation~~ district at, or before, the time set for hearing.
27 The soil and water conservation district commissioners shall
28 consider and determine whether the operation of the
29 subdistrict within the defined boundaries as proposed is
30 desirable, practicable, feasible, and of necessity in the
31 interest of health, safety, and public welfare. All
32 interested parties may attend the hearing and be heard. The
33 soil and water conservation district commissioners may for
34 good cause adjourn the hearing to a day certain which shall be
35 announced at the time of adjournment and made a matter of

1 record. If the soil and water conservation district
2 commissioners determine that the petition meets the
3 requirements set forth in this section and in section 161A.5,
4 they shall declare that the subdistrict is duly organized and
5 shall record such action in their official minutes together
6 with an appropriate official name or designation for the
7 subdistrict.

8 Sec. 10. Section 161A.18, Code 2005, is amended to read as
9 follows:

10 161A.18 CERTIFICATION.

11 Following the entry in the official minutes of the soil and
12 water conservation district commissioners of the creation of
13 the subdistrict, the commissioners shall certify this fact on
14 a separate form, authentic copies of which shall be recorded
15 with the county recorder of each county in which any portion
16 of the subdistrict lies, and with the division ~~of-soil~~
17 ~~conservation~~.

18 Sec. 11. Section 161A.42, subsection 12, Code 2005, is
19 amended to read as follows:

20 12. "State forester" means a person employed by the
21 department ~~of-natural-resources~~ as required by section
22 456A.13.

23 Sec. 12. Section 161A.61, subsection 2, paragraph b, Code
24 2005, is amended to read as follows:

25 b. Bring the farm unit which is the subject of the order
26 into compliance with a plan developed for that farm unit by
27 the commissioners, in accordance with guidelines established
28 by the division ~~of-soil-conservation~~, and presented to the
29 court as a part of the commissioners' petition, if a farm unit
30 soil conservation plan has not previously been agreed upon for
31 that farm unit. A plan presented to the court by the
32 commissioners under this paragraph shall specify as many
33 alternative approved soil and water conservation practices as
34 feasible, among which the owner or occupant of the farm unit
35 may choose in taking the steps necessary to comply with the

1 court's order.

2 Sec. 13. Section 161A.80, subsection 2, Code 2005, is
3 amended to read as follows:

4 2. A blufflands protection revolving fund is created in
5 the state treasury. All proceeds shall be divided into two
6 equal accounts. One account shall be used for the purchase of
7 blufflands along the Mississippi river and its tributaries and
8 the other account shall be used for the purchase of blufflands
9 along the Missouri river and its tributaries. The proceeds of
10 the revolving fund are appropriated to make loans to
11 conservation organizations which agree to purchase bluffland
12 properties adjacent to state public lands. The department of
13 ~~agriculture-and-land-stewardship,--in-conjunction-with-the~~
14 ~~department-of~~ natural resources, in conjunction with the
15 department of agriculture and land stewardship, shall adopt
16 rules pursuant to chapter 17A to administer the disbursement
17 of funds. Notwithstanding section 12C.7, interest or earnings
18 on investments made pursuant to this section or as provided in
19 section 12B.10 shall be credited to the blufflands protection
20 revolving fund. Notwithstanding section 8.33, unobligated or
21 unencumbered funds credited to the blufflands protection
22 revolving fund shall not revert at the close of a fiscal year.
23 However, the maximum balance in the blufflands protection
24 revolving fund shall not exceed two million five hundred
25 thousand dollars. Any funds in excess of two million five
26 hundred thousand dollars shall be credited to the rebuild Iowa
27 infrastructure fund.

28 a. This section is repealed on July 1, 2005.

29 b. The principal and interest from any blufflands
30 protection loan outstanding on July 1, 2005, and payable to
31 the blufflands protection revolving fund, shall be paid to the
32 ~~administrative-director~~ administrator of the soil and water
33 conservation division of ~~soil-conservation~~ the department on
34 or after July 1, 2005, pursuant to the terms of the loan
35 agreement and shall be credited to the rebuild Iowa

1 infrastructure fund.

2 Sec. 14. Section 161C.1, subsections 2 and 4, Code 2005,
3 are amended to read as follows:

4 2. "Department" means the department of ~~agriculture-and~~
5 ~~land-stewardship~~ natural resources.

6 4. "Division" means the division of soil and water
7 conservation created within the department.

8 Sec. 15. Section 161C.6, subsection 2, paragraph e, Code
9 2005, is amended to read as follows:

10 e. The department shall not allocate moneys to a person
11 who is a party to a legal or administrative action, including
12 a contested case proceeding under chapter 17A, which relates
13 to an alleged violation of chapter 455B or 459, subchapters II
14 and III, involving the disposal of livestock waste, until the
15 action is resolved. ~~The-department-of-natural-resources-shall~~
16 ~~cooperate-with-the-division-by-providing-information-necessary~~
17 ~~to-administer-this-paragraph.~~

18 Sec. 16. Section 161C.7, subsection 1, Code 2005, is
19 amended to read as follows:

20 1. ~~The-department-of-agriculture-and-land-stewardship~~
21 division shall ~~implement-and~~ administer a watershed protection
22 program. The division, in consultation with the department of
23 agriculture and land stewardship, ~~in-consultation-with-the~~
24 ~~department-of-natural-resources,~~ shall annually establish a
25 prioritized list of watersheds that are of the highest
26 importance to the state's water quality. The watershed
27 protection program shall, to the extent practical, target for
28 assistance those watersheds on the prioritized list. A soil
29 and water conservation district, in cooperation with state
30 agencies, local units of government, and private
31 organizations, may submit an application for assistance to the
32 ~~department~~ division which provides a strategy for protecting
33 soil, water quality, and other natural resources, and
34 improving flood control in the watershed. Upon approval of an
35 application, the ~~department~~ division may provide a grant to

1 the ~~soil-and-water-conservation~~ district for purposes of
2 carrying out the strategy provided in the application.

3 Sec. 17. Section 161D.1, subsection 2, Code 2005, is
4 amended to read as follows:

5 2. The mission of the authority is to develop and
6 coordinate plans for projects related to the unique natural
7 resource, rural development, and infrastructure problems of
8 counties in the deep loess region of western Iowa. The
9 erosion and degradation of stream channels in the deep loess
10 soils has occurred due to historic channelization of the
11 Missouri river and straightening stream channels of its
12 tributaries. This erosion of land has damaged the rural
13 infrastructure of this area, destroyed public roads and
14 bridges, adversely impacted stream water quality and riparian
15 habitat, and affected other public and private improvements.
16 Stabilization of stream channels is necessary to protect the
17 rural infrastructure in the deep loess soils area of the
18 state. The authority shall cooperate with the division of
19 soil and water conservation of the department of ~~agriculture~~
20 ~~and-land-stewardship~~ natural resources, the affected soil and
21 water conservation districts, the department of ~~natural~~
22 ~~resources~~ agriculture and land stewardship, and the state
23 department of transportation in carrying out its mission and
24 duties. The authority shall also cooperate with appropriate
25 federal agencies, including the United States environmental
26 protection agency, the United States department of interior,
27 and the United States department of agriculture natural
28 resources conservation service. The authority shall make use
29 of technical resources available through member counties and
30 cooperating agencies.

31 Sec. 18. Section 161D.8, subsection 1, unnumbered
32 paragraph 1, Code 2005, is amended to read as follows:

33 The authority shall submit to the department of management,
34 the legislative services agency, and the division of soil and
35 water conservation of the department of ~~agriculture-and-land~~

1 stewardship natural resources, on or before December 31
2 annually, a report including information regarding all of the
3 following:

4 Sec. 19. Section 161D.11, subsection 3, Code 2005, is
5 amended to read as follows:

6 3. The authority shall cooperate with the division of soil
7 and water conservation of the department of ~~agriculture-and~~
8 ~~land-stewardship natural resources~~, the affected soil and
9 water conservation districts, the department of ~~natural~~
10 ~~resources agriculture and land stewardship~~, and the state
11 department of transportation in carrying out its mission and
12 duties. The authority shall also cooperate with appropriate
13 federal agencies, including the United States environmental
14 protection agency, the United States department of interior,
15 and the United States department of agriculture natural
16 resources conservation service. The authority shall make use
17 of technical resources available through member counties and
18 cooperating agencies.

19 Sec. 20. Section 161D.13, subsection 1, unnumbered
20 paragraph 1, Code 2005, is amended to read as follows:

21 The southern Iowa development and conservation authority
22 shall submit to the department of management, the legislative
23 services agency, and the ~~division-of~~ soil and water
24 conservation division of the department of ~~agriculture-and~~
25 ~~land-stewardship natural resources~~, on or before December 31
26 annually, a report including information regarding all of the
27 following:

28 Sec. 21. Section 175.34, subsection 2, paragraph c, Code
29 2005, is amended to read as follows:

30 c. The Any state agency, including but not limited to the
31 soil and water conservation division of soil-conservation the
32 department of natural resources as provided in chapter 161A,
33 or ~~any-other-state-agency-and~~ the commissioners and staffs of
34 the soil and water conservation districts as provided in that
35 chapter, may provide technical and financial assistance to the

1 authority or in connection with the soil conservation loan
2 program to assure the success of this program.

3 Sec. 22. Section 207.2, subsections 1 through 3, Code
4 2005, are amended to read as follows:

5 1. "Administrator" means the ~~division~~ administrator of the
6 division of soil and water conservation of the department as
7 provided in section 161A.4 or a designee.

8 2. "Committee" means the state soil conservation committee
9 as established in section 161A.4.

10 2A. "Department" means the department of natural
11 resources.

12 3. "Division" means the ~~division-of~~ soil and water
13 conservation division established within the department of
14 ~~agriculture-and-land-stewardship~~ as provided in section
15 161A.4.

16 Sec. 23. Section 208.2, subsections 1, 3, and 4, Code
17 2005, are amended to read as follows:

18 1. "Administrator" means the administrator of the division
19 ~~of-soil-conservation~~ or a designee.

20 3. "Committee" means the state soil conservation committee
21 as established in section 161A.4.

22 4. "Division" means the ~~division-of~~ soil and water
23 conservation division established within the department of
24 ~~agriculture-and-land-stewardship~~ natural resources as provided
25 in section 161A.4.

26 Sec. 24. Section 455A.1, subsection 6, Code 2005, is
27 amended by striking the subsection.

28 Sec. 25. Section 455A.7, subsections 1 and 3, Code 2005,
29 are amended to read as follows:

30 1. a. The director may establish administrative
31 divisions, bureaus, or other administrative entities within
32 the department in order to most efficiently and effectively
33 carry out the department's responsibilities. The creation or
34 modification of departmental divisions, bureaus, or other
35 administrative entities shall be implemented only after

1 consultation with the natural resource commission or the
2 environmental protection commission as applicable.

3 b. A soil and water conservation division is created in
4 the department as provided in section 161A.4.

5 3. a. The director shall appoint an administrator for
6 each division created under subsection 1. The director shall
7 appoint the division administrator for the soil and water
8 conservation division from a list of names of persons
9 recommended by the soil conservation committee, pursuant to
10 section 161A.4.

11 b. The director shall make the appointment based on the
12 appointee's training, experience, and capabilities. Each
13 administrator has the responsibility of administering the
14 programs assigned the division under subsection 1 and other
15 programs assigned by the director. Each administrator shall
16 carry out the duties and responsibilities of office under the
17 general direction and supervision of the director.

18 Sec. 26. Section 455A.19, subsection 1, paragraph c, Code
19 2005, is amended to read as follows:

20 c. Twenty percent shall be allocated to the soil and water
21 enhancement account. The moneys shall be used to carry out
22 soil and water enhancement programs including, but not limited
23 to, reforestation, woodland protection and enhancement,
24 wildlife habitat preservation and enhancement, protection of
25 highly erodible soils, and clean water programs. The ~~division~~
26 ~~of soil and water conservation division~~, by rule, shall
27 establish procedures for eligibility, application, review, and
28 selection of projects and practices to implement the
29 requirements of this paragraph. There is appropriated from
30 the soil and water enhancement account to the soil
31 conservation division the amount in that account, or so much
32 thereof as is necessary, to carry out the programs as
33 specified in this paragraph. Remaining funds of the soil and
34 water enhancement account shall be allocated to the accounts
35 of the water protection fund authorized in section 161C.4.

1 Annually, fifty percent of the soil and water enhancement
2 account funds shall be allocated to the water quality
3 protection projects account. The balance of the funds shall
4 be allocated to the water protection practices account. An
5 appropriation made under this paragraph shall continue in
6 force for two fiscal years after the fiscal year in which the
7 appropriation was made or until completion of the project for
8 which the appropriation was made, whichever date is earlier.
9 All unencumbered or unobligated funds remaining at the close
10 of the fiscal year in which the project is completed or at the
11 close of the third fiscal year, whichever date is earlier,
12 shall revert to the soil and water enhancement account.

13 Sec. 27. Section 455E.11, subsection 1, unnumbered
14 paragraph 3, Code 2005, is amended by striking the unnumbered
15 paragraph.

16 Sec. 28. Section 455E.11, subsection 2, paragraph b,
17 subparagraph (3), subparagraph subdivision (d), Code 2005, is
18 amended to read as follows:

19 (d) Thirteen percent of the moneys is appropriated
20 annually to the department of ~~agriculture-and-land-stewardship~~
21 natural resources, soil and water conservation division, for
22 financial incentive programs related to agricultural drainage
23 wells and sinkholes, for studies and administrative costs
24 relating to sinkholes and agricultural drainage wells
25 programs. Of the moneys allocated for financial incentive
26 programs, the ~~department~~ division may reimburse landowners for
27 engineering costs associated with voluntarily closing
28 agricultural drainage wells. The financial incentives
29 allocated for voluntary closing of agricultural drainage wells
30 shall be provided on a cost-share basis which shall not exceed
31 fifty percent of the estimated cost or fifty percent of the
32 actual cost, whichever is less. Engineering costs do not
33 include construction costs, including costs associated with
34 earth moving.

35 Sec. 29. Section 456.11, subsection 10, Code 2005, is

1 amended to read as follows:

2 10. COPIES FURNISHED. The state geologist shall provide
3 the department's division of soil and water conservation
4 ~~within-the-department-of-agriculture-and-land-stewardship~~ with
5 a copy of each map and map extension received by the geologist
6 under this section.

7 Sec. 30. Section 456A.33A, Code 2005, is amended to read
8 as follows:

9 456A.33A WATERSHED PRIORITY.

10 The commission shall each year establish a priority list of
11 watersheds which are of highest importance based on soil loss
12 to be used for the allocation of moneys set aside in annual
13 appropriations from the general fund to the department of
14 ~~agriculture-and-land-stewardship~~ for permanent soil
15 conservation practices under chapter 161A on watersheds above
16 publicly owned lakes. Chapter 17A does not apply to this
17 section.

18 Sec. 31. Section 460.101, Code 2005, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 4A. "Department" means the department of
21 natural resources.

22 Sec. 32. Section 460.101, subsections 5, 6, and 9, Code
23 2005, are amended to read as follows:

24 5. "Designated agricultural drainage well area" means an
25 agricultural drainage well area in which there is located an
26 anaerobic lagoon or earthen manure storage basin required to
27 obtain a construction permit by the department ~~of-natural~~
28 ~~resources.~~

29 6. "Division" means the soil and water conservation
30 division of the department ~~of-agriculture-and-land~~
31 ~~stewardship.~~

32 9. "Earthen storage structure" means an earthen cavity,
33 either covered or uncovered, including but not limited to an
34 anaerobic lagoon or earthen manure storage basin which is used
35 to store manure, sewage, wastewater, industrial waste, or

1 other waste as regulated by the department ~~of-natural~~
2 ~~resources~~, if stored in a liquid or semi-liquid state.

3 Sec. 33. Section 460.202, subsection 1, unnumbered
4 paragraph 1, Code 2005, is amended to read as follows:

5 An owner of land on which an agricultural drainage well is
6 located shall prevent surface water from draining into the
7 agricultural drainage well. The landowner shall comply with
8 rules, which shall be adopted by the ~~department,~~-in
9 ~~consultation-with-the~~ division, required to carry out this
10 section. The landowner shall do all of the following:

11 Sec. 34. Section 460.202, subsection 3, Code 2005, is
12 amended to read as follows:

13 3. The ~~department~~ division shall adopt guidelines as
14 necessary to assist counties in performing inspections as
15 provided in this section. The guidelines shall not affect the
16 authority of a county to designate a person to perform
17 inspections.

18 Sec. 35. Section 460.203, subsection 1, Code 2005, is
19 amended to read as follows:

20 1. Not later than December 31, 2001, the owner of land
21 which is within a designated agricultural drainage well area
22 shall close each agricultural drainage well located on the
23 land. The owner shall close the agricultural drainage well in
24 a manner using materials and according to specifications
25 required by rules which shall be adopted by the ~~department-in~~
26 ~~consultation-with-the~~ division. The department may provide
27 different closing requirements based on classifications
28 established by the department. However, the ~~department's~~
29 division's requirements shall ensure that an agricultural
30 drainage well is closed by using sealing materials such as
31 bentonite to permanently seal the agricultural drainage well
32 from contamination by surface or subsurface water drainage.

33 Sec. 36. Section 460.204, Code 2005, is amended to read as
34 follows:

35 460.204 NOTICE.

1 1. The ~~department~~ division shall provide information
2 regarding landowners registering agricultural drainage wells
3 pursuant to section 460.302 to each county board of
4 supervisors in which an agricultural drainage well is
5 registered.

6 2. The ~~department~~ division shall notify landowners of land
7 on which an agricultural drainage well is located of the
8 deadline for complying with this subchapter. The notice shall
9 be provided by print, electronic media, or other notification
10 process. The ~~department~~ division shall provide the notice in
11 cooperation with the county board of supervisors in the county
12 where the agricultural drainage well is located.

13 3. The ~~department~~ division shall mail a special notice to
14 owners of land registering agricultural drainage wells
15 pursuant to section 460.302.

16 Sec. 37. Section 460.302, Code 2005, is amended to read as
17 follows:

18 460.302 AGRICULTURAL DRAINAGE WELLS.

19 1. An owner of an agricultural drainage well shall
20 register the well with the department ~~of-natural-resources~~ by
21 September 30, 1988. The ~~department-of-agriculture-and-land~~
22 ~~stewardship, in cooperation with the~~ department ~~of-natural~~
23 ~~resources,~~ shall adopt rules, pursuant to chapter 17A, which
24 provide for an appeals process for violations of this
25 subsection.

26 2. An owner of an agricultural drainage well and a
27 landholder whose land is drained by the well or wells of
28 another person shall develop, in consultation with the
29 ~~department-of-agriculture-and-land-stewardship-and-the~~
30 ~~department-of-natural-resources~~ division, a plan which
31 proposes alternatives to the use of agricultural drainage
32 wells ~~by-july-17-1998~~.

33 a. Financial incentive moneys may be allocated from the
34 financial incentive portion of the agriculture management
35 account of the groundwater protection fund to implement

1 alternatives to agricultural drainage wells.

2 b. An owner of an agricultural drainage well and a
3 landholder whose land is drained by the well or wells of
4 another person shall not be eligible for financial incentive
5 moneys pursuant to paragraph "a" if the owner fails to
6 register the well with the department ~~of-natural-resources~~ by
7 September 30, 1988, or if the owner fails to develop a plan
8 for alternatives in cooperation with the ~~department-of~~
9 ~~agriculture-and-land-stewardship-and-the-department-of-natural~~
10 ~~resources~~ division.

11 3. The department shall:

12 ~~a.---On-July-17-1987-initiate-a-pilot-demonstration-and~~
13 ~~research-project-concerning-elimination-of-groundwater~~
14 ~~contamination-attributed-to-the-use-of-agricultural-chemicals~~
15 ~~and-agricultural-drainage-wells.---The-project-shall-be~~
16 ~~established-in-a-location-in-north-central-Iowa-determined-by~~
17 ~~the-department-to-be-the-most-appropriate.---A-demonstration~~
18 ~~project-shall-also-be-established-in-northeast-Iowa-to-study~~
19 ~~techniques-for-the-cleanup-of-sinkholes.~~

20 ~~The-agricultural-drainage-well-pilot-project-shall-be~~
21 ~~designed-to-identify-the-environmental,-economic,-and-social~~
22 ~~problems-presented-by-continued-use-or-closure-of-agricultural~~
23 ~~drainage-wells-and-to-monitor-possible-contamination-caused-by~~
24 ~~agriculture-land-management-practices-and-agricultural~~
25 ~~chemical-use-relative-to-agricultural-drainage-wells.~~

26 ~~b. a.~~ Develop alternative management practices based upon
27 the findings from the demonstration projects to reduce the
28 infiltration of synthetic organic compounds into the
29 groundwater through agricultural drainage wells and sinkholes.

30 ~~c. b.~~ Examine alternatives and the costs of
31 implementation of alternatives to the use of agricultural
32 drainage wells, and examine the legal, technical, and
33 hydrological constraints for integrating alternative drainage
34 systems into existing drainage districts.

35 4. Financial incentive moneys expended through the use of

1 the financial incentive portion of the agriculture management
2 account may be provided by the department division to
3 landowners in the project areas for employing reduced chemical
4 farming practices and land management techniques.

5 5. The secretary division administrator may appoint
6 interagency committees and groups as needed to coordinate the
7 involvement of agencies participating in department sponsored
8 projects. The interagency committees and groups may accept
9 grants and funds from public and private organizations.

10 ~~6. The department shall publish a report on the status and~~
11 ~~findings of the pilot demonstration projects on or before July~~
12 ~~17, 1989, and each subsequent year of the projects.~~ The
13 ~~department of agriculture and land stewardship~~ division shall
14 develop a priority system for the elimination of chemical
15 contamination from agricultural drainage wells and sinkholes.
16 The priority system shall incorporate available information
17 regarding the significance of contamination, the number of
18 registered wells in the area, and the information derived from
19 the report prepared pursuant to this subsection. The highest
20 priority shall be given to agricultural drainage wells for
21 which the above criteria are best met, and the costs of
22 necessary action are at the minimum level.

23 7. ~~Beginning July 17, 1993, the department~~ The division
24 shall ~~initiate~~ administer an ongoing program to meet the goal
25 of eliminating chemical contamination caused by the use of
26 agricultural drainage wells ~~by January 17, 1995, based upon the~~
27 ~~findings of the report published pursuant to subsection 6.~~

28 8. Notwithstanding the prohibitions of section 455B.267,
29 subsection 4, an owner of an agricultural drainage well may
30 make emergency repairs necessitated by damage to the drainage
31 well to minimize surface runoff into the agricultural drainage
32 well, upon the approval of the county board of supervisors or
33 the board's designee of the county in which the agricultural
34 drainage well is located. The approval shall be based upon
35 the following conditions:

1 a. The well has been registered in accordance with both
2 state and federal law.

3 b. The applicant will institute management practices
4 including alternative crops, reduced application of chemicals,
5 or other actions which will reduce the level of chemical
6 contamination of the water which drains into the well.

7 c. The owner submits a written statement that approved
8 emergency repairs are necessary and do not constitute a basis
9 to avoid the eventual closure of the well if closure is later
10 determined to be required. If a county board of supervisors
11 or the board's designee approves the emergency repair of an
12 agricultural drainage well, the county board of supervisors or
13 the board's designee shall notify the department ~~of-natural~~
14 ~~resources~~ of the approval within thirty days of the approval.

15 Sec. 38. Section 460.303, subsection 1, Code 2005, is
16 amended to read as follows:

17 1. An alternative drainage system assistance fund is
18 created in the state treasury under the control of the ~~soil~~
19 ~~conservation~~ division. The fund is composed of moneys
20 appropriated by the general assembly, and moneys available to
21 and obtained or accepted by the division or the state soil
22 conservation committee established pursuant to section 161A.4,
23 from the United States or private sources for placement in the
24 fund.

25 Sec. 39. Section 460.304, subsection 1, Code 2005, is
26 amended to read as follows:

27 1. The ~~soil-conservation~~ division shall establish an
28 alternative drainage system assistance program as provided by
29 rules which shall be adopted by the division pursuant to
30 chapter 17A. The program shall be supported from moneys
31 deposited in the alternative drainage system assistance fund
32 created pursuant to section 460.303.

33 Sec. 40. Section 460.304, subsection 3, paragraph a,
34 subparagraph (1), Code 2005, is amended to read as follows:

35 (1) A party to a pending legal or administrative action,

1 including a contested case proceeding under chapter 17A,
2 relating to an alleged violation involving an animal feeding
3 operation as regulated by the department ~~of-natural-resources~~,
4 regardless of whether the pending action is brought by the
5 department or the attorney general.

6 Sec. 41. Section 460.304, unnumbered paragraph 1, Code
7 2005, is amended to read as follows:

8 The department ~~of-natural-resources~~ shall cooperate with
9 the division by providing information necessary to administer
10 this subsection.

11 Sec. 42. Section 460.305, Code 2005, is amended to read as
12 follows:

13 460.305 SINKHOLES -- CONSERVATION EASEMENT PROGRAMS.

14 1. The ~~department~~ division shall develop and implement a
15 program for the prevention of groundwater contamination
16 through sinkholes. The program shall provide for education of
17 landowners and encourage responsible chemical and land
18 management practices in areas of the state prone to the
19 formation of sinkholes.

20 2. The ~~program~~ division may provide financial incentives
21 for land management practices and the acquisition of
22 conservation easements around sinkholes. The program may also
23 provide financial assistance for the cleanup of wastes dumped
24 into sinkholes.

25 The program shall be coordinated with the groundwater
26 protection programs of the department ~~of-natural-resources~~ and
27 other local, state, or federal government agencies which could
28 compensate landowners for resource protection measures. The
29 ~~department~~ division shall use moneys appropriated for this
30 purpose from the agriculture management account of the
31 groundwater protection fund.

32 Sec. 43. Sections 460.201 and 460.301, Code 2005, are
33 repealed.

34 Sec. 44. TRANSITIONAL PROVISIONS.

35 1. As used in this section, "division" means the soil

1 conservation division of the department of agriculture and
2 land stewardship as that division existed on June 30, 2005,
3 and as renamed the soil and water conservation division and
4 transferred to the department of natural resources as an
5 administrative unit pursuant to this Act.

6 2. a. Any license or permit issued by the department of
7 agriculture and land stewardship on behalf of the division or
8 directly by the division to a person, which is in effect on
9 the effective date of this Act, shall continue in full force
10 and effect until its expiration or renewal as otherwise
11 provided by law.

12 b. Any agreement made by the department of agriculture and
13 land stewardship on behalf of the division or directly by the
14 division to a person, including but not limited to a cost-
15 share agreement or agreements relating to other financial
16 incentive programs, which is in effect on the effective date
17 of this Act, shall continue in full force and effect until it
18 expires by its terms or is amended, terminated, or
19 supplemented by the affirmative action of the division as an
20 administrative unit of the department of natural resources as
21 established in this Act.

22 c. Any rule, regulation, form, order, or directive adopted
23 or promulgated by the department of agriculture and land
24 stewardship on behalf of the division or by the division
25 directly, which is in effect on the effective date of this
26 Act, shall continue in full force and effect until amended,
27 repealed, or supplemented by the affirmative action of the
28 division as an administrative unit of the department of
29 natural resources as established in this Act and as provided
30 in chapter 17A. In regard to updating references and format
31 in the Iowa administrative code in order to correspond to the
32 restructuring of state government as established in this Act,
33 the administrative rules coordinator and the administrative
34 rules review committee, in consultation with the
35 administrative code editor, shall jointly develop a schedule

1 for the necessary updating of the Iowa administrative code.

2 3. Notwithstanding provisions in this Act, including but
3 not limited to any change in the organizational location of
4 the division that is caused by this Act, all of the following
5 shall apply:

6 a. The person who holds the position of administrative
7 director of the division on June 30, 2005, shall hold the
8 position of division administrator of the division without any
9 loss in salary, benefits, or accrued years of service.

10 b. Any personnel in the state merit system of employment
11 who are mandatorily transferred due to the effect of this Act
12 shall be so transferred without any loss in salary, benefits,
13 or accrued years of service.

14 c. A person who holds a position as a member of the state
15 soil conservation committee or who holds a position as a
16 commissioner of a soil and water conservation district shall
17 continue to hold such position until the end of the member's
18 term of office.

19 4. Any moneys in any account or fund established within or
20 controlled by the department of agriculture and land
21 stewardship which would otherwise be eliminated due to the
22 effect of this Act shall be transferred to a comparable fund
23 or account established within or controlled by the department
24 of natural resources on behalf of the division. However, an
25 account or fund which was established in or under the control
26 of the division on June 30, 2005, shall be established within
27 the division and shall be under the control of the division on
28 the effective date of this Act.

29 5. Any cause of action or statute of limitations relating
30 to the division as an administrative unit of the department of
31 agriculture and land stewardship on June 30, 2005, shall not
32 be affected as a result of the transfer of the division to the
33 department of natural resources on the effective date of this
34 Act, and such cause of action or statute of limitations shall
35 apply to the division as transferred.

1 6. Any replacement of signs, logos, stationery, insignia,
2 uniforms, or related items of the department of agriculture
3 and land stewardship, the department of natural resources, or
4 the division that is made due to the effect of this Act should
5 be done as part of the normal replacement cycle for such
6 items.

7 Sec. 45. PROGRESS REPORTS.

8 1. The department of natural resources, in cooperation
9 with the department of agriculture and land stewardship and
10 the state soil conservation committee, shall prepare and
11 deliver reports as provided in this section.

12 2. The report shall be delivered to all of the following:

13 a. The governor.

14 b. The cochairpersons and ranking members of the joint
15 appropriations subcommittee on agriculture and natural
16 resources.

17 c. The committees on government oversight of the senate
18 and house of representatives.

19 3. A preliminary report shall be due on or before January
20 10, 2006, and a final report shall be due by July 31, 2006.
21 The reports shall provide a detailed account of the activities
22 of the department in implementing the requirements of this
23 Act.

24 Sec. 46. DIRECTION TO CODE EDITOR -- CHANGE OF NAME.

25 1. The Code editor is directed to change the term
26 "department of agriculture and land stewardship" or "state
27 department of agriculture and land stewardship" to "Iowa
28 department of agriculture" wherever that term appears in the
29 2005 Code or amendments to those chapters enacted during a
30 regular or extraordinary session of the 2005 general assembly.

31 2. The Code editor is directed to change the term "federal
32 department of agriculture" to "United States department of
33 agriculture" wherever that term appears in the 2005 Code or
34 amendments to those chapters enacted during a regular or
35 extraordinary session of the 2005 general assembly. If the

1 Code editor determines that a section refers to "department"
2 meaning the Iowa department of agriculture, and also refers to
3 the United States department of agriculture, the Code editor
4 shall change the reference from "department" to "Iowa
5 department of agriculture".

6 Sec. 47. DIRECTION TO CODE EDITOR. The Code editor is
7 directed to transfer chapter 161A, chapters 161C through 161F,
8 and chapters 207 and 208 to new chapters beginning with
9 chapter 467. The Code editor may also consolidate these
10 chapters or reorganize sections within these chapters in order
11 to enhance their readability. The Code editor may delay
12 implementing this section until the publication of the 2007
13 Code.

14

EXPLANATION

15 This bill relates to the soil conservation division, which
16 is an administrative unit established within the department of
17 agriculture and land stewardship. The bill transfers that
18 division to a permanent division established within the
19 department of natural resources and renames it the "soil and
20 water conservation division".

21 The division's principal enabling provisions are in Code
22 chapter 161A (the soil conservation districts law). It
23 establishes the division, a division head who is appointed by
24 the secretary of agriculture, referred to by statute as a
25 director, and a state soil conservation committee which
26 directs policy (see Code section 161A.4). It also provides
27 for soil and water conservation districts throughout the state
28 which are under the direction of local commissioners (see Code
29 sections 161A.5 and 161A.6). The Code chapter provides a
30 number of substantive provisions including taxing owners of
31 property (see the Code chapter's division IV), and
32 establishing soil and water conservation practices which may
33 include financing usually on a cost-share basis (see the Code
34 chapter's division V).

35 The soil conservation division and soil and water

1 conservation districts are provided authority and
2 responsibility under other Code chapters. Code chapter 161C
3 provides for water protection projects and practices, Code
4 chapters 161E and 161F provide for flood and erosion control,
5 including tax levies, and Code chapters 207 and 208 provide
6 for the regulation of mining. Code chapter 460 provides for
7 the regulation of agricultural drainage wells by the
8 department of natural resources and the department of
9 agriculture and land stewardship, including the soil
10 conservation division. The Code chapter contains provisions
11 which authorize the department of agriculture to provide
12 incentive payments to assist in closing the agricultural
13 drainage wells. The bill transfers these responsibilities to
14 the division.

15 The bill includes transitional provisions which provide for
16 the continuance of administrative functions and legal rights
17 during the transition. These include provisions relating to
18 licenses or permits, agreements, rules or orders, the status
19 of officials or employees, moneys in funds or accounts, causes
20 of action, and items associated with the division and which
21 are identified with the department of agriculture and land
22 stewardship by name.

23 The bill requires the department of natural resources, in
24 cooperation with the department of agriculture and land
25 stewardship and the state soil conservation committee, to
26 prepare and deliver reports to the governor and the general
27 assembly.

28 The Iowa Code editor is directed to change the name of the
29 department of agriculture and land stewardship to the Iowa
30 department of agriculture throughout the Code. The Code
31 editor is also directed to change the name of the federal
32 department of agriculture to the United States department of
33 agriculture throughout the Code.

34 The Iowa Code editor is also directed to transfer related
35 chapters to Code Title XI, which is associated with the

1 jurisdiction of the department of natural resources.

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