

HF 2459

**Watershed
Legislation:**

**Watershed Planning Advisory Council
Watershed Demonstration Pilot Projects
Watershed Management Authorities**

**Legislative Guide
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Watershed Legislation

HF 2459 was signed into law on April 7, 2010. This bill adds several provisions to Iowa Code Chapter 466B, the Surface Water Protection and Flood Mitigation Act. The bill:

1. Establishes a Watershed Planning Advisory Council to develop annual recommendations for improving water quality and mitigating floods.
2. Directs several state agencies to seek funding to plan and implement a watershed demonstration pilot.
3. Outlines the process for Watershed Management Authorities to be created using 28E agreements to reduce flood risk and improve water quality, monitor federal flood risk planning and activities, and educate residents of the watershed regarding flood risks and water quality.

This document provides an overview of the three bill components identified above.

Watershed Planning Advisory Council

Background: The Watershed Planning Advisory Council is comprised of stakeholders that recommended legislation passed in 2008 that created this chapter of the Code, and thereby the Water Resources Coordinating Council (WRCC). Flood mitigation was added to the purview of the WRCC in 2009. The 2010 legislation adds drainage district representation to the 2008 stakeholder group.

The 21-member Watershed Planning Advisory Council was created to develop annual recommendations related to improving water quality in Iowa. Recommendations will be submitted to the Governor, General Assembly, Iowa Department of Agriculture and Land Stewardship, Department of Natural Resources, and the WRCC.

The report, submitted by December 1 of each year, will include recommendations regarding the following:

- Improving water quality and optimizing the costs of voluntarily achieving and maintaining water quality standards.
- Creating economic incentives for voluntary non-point source load reductions, point source discharge reductions beyond those required by the federal Water Pollution Control Act,
- Implementation of pollution prevention programs, wetland restoration and creation, and the development of emerging pollution control technologies.
- Facilitating the implementation of total maximum daily loads, urban storm water control programs, and non-point source management practices required or authorized under the federal Water Pollution Control Act. This is not intended to replace the

requirement to develop a total maximum daily load for waters that do not meet water quality standards as required by section 303(d) of the federal Water Pollution Control Act or to delay implementation of a total maximum daily load that has been approved by the department and the director.

- Providing incentives, methods, and practices for the development of new and more accurate and reliable pollution control quantification protocols and procedures, including, but not limited to, development of policy based on information and data that is publicly available and that can be verified and evaluated.
- Providing greater flexibility for broader public involvement through community-based, non-regulatory, and performance-driven watershed management planning.
- Assigning responsibility for monitoring flood risk, flood mitigation, and coordination with federal agencies.
- Involving cities, counties, and other local and regional public and private entities in watershed improvement including, but not limited to, incentives for participation in a watershed management authority created under this chapter.

The Advisory Council may consult with councils of governments or other organizations in the development of its recommendations. The Advisory Council shall meet a minimum of once a year and may appoint a task force to assist in completing its duties. The voting members of the Advisory Council shall designate a voting member as chairperson each year.

Voting members of the Advisory Council shall include one representative selected from the following organizations:

- Iowa Association of Municipal Utilities
- Iowa League of Cities
- Iowa Association of Business and Industry
- Iowa Water Pollution Control Association
- Iowa Rural Water Association
- Growing Green Communities
- Iowa Environmental Council
- Iowa Farm Bureau Federation
- Iowa Corn Growers Association
- Iowa Soybean Association
- Iowa Pork Producers Council

- The Soil and Water Conservation Districts of Iowa
- Department of Agriculture and Land Stewardship
- Department of Natural Resources
- Iowa Drainage District Association
- Iowa Conservation Alliance (two representatives selected)

Nonvoting members include:

- Two members of the Senate - one appointed by the Majority Leader and one by the Minority Leader
- Two members of the House of Representatives - one appointed by the Majority Leader and one by the Minority Leader

Watershed Demonstration Pilot Projects

The second major section of the bill directs the Department of Natural Resources and the Department of Agriculture and Land Stewardship in collaboration with the U.S. Department of Agriculture's Natural Resources Conservation Service, the Iowa Flood Center at the University of Iowa, and the Water Resources Coordinating Council to seek funding to plan, implement and monitor one or more watershed demonstration pilot projects for urban and rural areas involving a 12-digit hydrologic unit code (HUC-12) subwatershed. The pilot projects shall include the following features:

1. Maximize soil water holding capacity from precipitation;
2. Minimize severe scour erosion and sand deposition during floods;
3. Manage water runoff in uplands under saturated soil moisture conditions; and
4. Reduce and mitigate structural and nonstructural flood damage.

Watershed Management Authorities

The third element of the bill defines how a Watershed Management Authority may be created by two or more political subdivisions by using a Chapter 28E Agreement and can work within a United States geological survey hydrologic unit code (HUC) 8 watershed.

Watershed: A geographic area of land, water, plants and animals within the confines of a drainage divide. Watershed boundaries define the aerial extent of surface water drainage to a point and always follow the highest ridgeline around the stream channels and meet at the lowest point of the land where water flows out of the watershed.

Hydrologic Unit: Watersheds in the United States were delineated by the U.S. Geological Survey using a national standard hierarchical system based on surface hydrologic features and are classified into the following types of hydrologic units:

- First-field (region)
- Second-field (sub-region)
- Third-field (accounting unit)
- Fourth-field (cataloguing unit)
- Fifth-field (watershed)
- Sixth-field (sub-watershed)

Hydrologic Unit Code: Each hydrologic unit is identified by a unique code, thus called a hydrologic unit code (HUC) consisting of two to twelve digits based on the six levels of classification described above:

- 2-digit HUC - Region
- 4-digit HUC - Subregion
- 6-digit HUC - Accounting Unit
- 8-digit HUC - Cataloguing Unit
- 10-digit HUC - Watershed

It is important to note, however, that participation by a political subdivision is optional; there is no requirement to participate in a watershed management authority or be a party to a chapter 28E agreement under this subchapter. Within 30 days prior to organization of an authority, all political subdivisions located in the same (HUC) 8 watershed must be notified and provided the opportunity to participate. Participating political subdivisions must be located in the same HUC 8 watershed. The chapter 28E agreement shall include a map showing the area and boundaries of the authority. A political subdivision may participate in more than one authority created pursuant to this subchapter.

These Authorities are governed by a board of directors to accomplish the following:

- Assess and reduce flood risk;
- Assess and improve water quality;
- Monitor federal flood risk planning and activities;
- Educate residents of the watershed regarding flood risks and water quality; and
- Allocate moneys made available to the Authority for purposes of water quality and flood mitigation.

The Authority may enter into and execute contracts and agreements necessary to carry out their duties. They shall not acquire property by eminent domain. They may coordinate activities with the Department of Natural Resources, the Department of Agriculture and Land Stewardship, Councils of Governments, public drinking water utilities, and Soil and Water Conservation Districts.

Board of Directors

An Authority shall be governed by a board of directors. Members of the board shall be divided among the political subdivisions comprising the authority and shall be appointed by the respective political subdivision's elected legislative body.

A board shall consist of one representative of each participating political subdivision unless an applicable Chapter 28E Agreement provides an alternative board composition method. For example, members might decide that a political subdivision with either a greater population or covering a greater land area should have more representatives on the board.

The directors shall serve staggered terms of four years. The initial board shall determine, by lot, the initial terms to be shortened and lengthened, as necessary, to achieve staggered terms. A person appointed to fill a vacancy shall be appointed in the same manner as the original appointment for the duration of the unexpired term. A director is eligible for reappointment. This subsection shall not apply if a chapter 28E agreement under this subchapter provides an alternative for the length of term, appointment, and reappointment of directors.

A board may provide procedures for the removal of a director who fails to attend three consecutive regular meetings of the board. If a director is removed, a successor shall be appointed for the duration of the unexpired term of the removed director in the same manner as the original appointment. The appointing body may at any time remove a director appointed by it for misfeasance, nonfeasance, or malfeasance in office.

A board shall adopt bylaws and shall elect one director as chairperson and one director as vice chairperson, each for a term of two years, and shall appoint a secretary who need not be a director.

A majority of the membership of a board of directors shall constitute a quorum for the purpose of holding a meeting of the board. The affirmative vote of a majority of a quorum shall be necessary for any action taken by an authority unless the authority's bylaws specify those particular actions of the authority requiring a greater number of affirmative votes. A vacancy in the membership of the board shall not impair the rights of a quorum to exercise all the rights and perform all the duties of the authority.