HOUSE FILE 2135
BY STAED

A BILL FOR

1 An Act relating to confinement feeding operations, including
2 by establishing a moratorium, requiring the department of
3 natural resources to adjust compliance fees, requiring the
4 department to submit a report to the general assembly,
5 making penalties applicable, and including effective date
6 provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
1 Section 1. NEW SECTION. 459.104 Moratorium — confinement feeding operations.

1. a. Notwithstanding sections 459.303 and 459.304, the department shall not accept or approve an application for a permit to construct a confinement feeding operation structure that is a part of a confinement feeding operation.

b. A person shall not begin construction of a confinement feeding operation structure that is a part of a confinement feeding operation.

2. Subsection 1 does not apply to any of the following:

a. A confinement feeding operation structure that is part of a confinement feeding operation that has an animal unit capacity of 300 or fewer animal units.

b. A confinement feeding operation structure, if construction of the structure began prior to the effective date of this Act.

c. The construction of an egg washwater storage structure that is part of the confinement feeding operation.

d. The construction of a dry bedded confinement feeding operation structure that is part of a dry bedded confinement feeding operation as provided in chapter 459B.

e. The construction of a confinement feeding operation structure, for which a variance has been granted. However, in order to grant a variance, the department must determine that all of the following apply:

(1) The confinement feeding operation structure replaces an existing confinement feeding operation structure.

(2) The animal weight capacity or animal unit capacity, whichever is applicable, of the confinement feeding operation is not increased.

(3) The capacity of all manure storage structures is not increased.

(4) An unformed manure storage structure does not replace an existing manure storage structure.

(5) The construction of a replacement formed manure storage structure.
structure that complies with standards established pursuant to section 459.307.

(6) The construction of the confinement feeding operation structure complies with all applicable requirements that would otherwise apply to the construction.

(7) The replacement confinement feeding operation structure if it is more likely than not to provide a higher degree of environmental protection than the replaced confinement feeding operation structure.

j. The replaced confinement feeding operation structure must be closed as required by the department, but not later than six months after the replacement confinement feeding operation structure is constructed.

3. a. For purposes of this section, the construction of a confinement feeding operation includes the expansion of the structure.

b. Notwithstanding sections 459.201 and 459.301, for purposes of this section, a confinement feeding operation structure begins construction when a concrete foundation or floor of a structure has been poured.

Sec. 2. NEW SECTION. 459.105 Proposed budget — annual stakeholder meeting.

1. The department shall prepare a proposed budget for each fiscal year beginning on or after July 1, 2018, that includes all of the following:

a. The amount of all moneys appropriated or available to fully support the department’s administration and enforcement of this chapter for the following fiscal year.

b. Any necessary adjustment to the amount of one or more compliance fees described in section 459.400 for deposit in the animal agriculture compliance fund as provided in section 459.401. However, this subsection does not require that any account in the fund have a zero ending balance at the end of the fiscal year.

c. An estimate of all expenditures from the animal
agriculture compliance fund to be expended for reasonable
direct and indirect costs of fully administering and enforcing
this chapter.

2. The department shall invite interested persons to
participate as stakeholders and convene an annual stakeholder
meeting prior to June 1 to review the department’s proposed
budget for the following fiscal year. The department shall
consider any recommendations of the stakeholders when computing
its final budget for the following fiscal year. A person
attending a stakeholder meeting is not entitled to receive
a per diem as specified in section 7E.6 and shall not be
reimbursed for expenses incurred while attending the meeting.

3. Notwithstanding section 459.400, the department
shall establish a final annual budget for the fiscal year,
including any adjustments to the fee amounts, based on its
estimated budget and after considering any recommendations of
stakeholders at the annual stakeholder meeting.

4. The department shall prepare a report to be submitted
to the governor and general assembly not later than January
3, 2020, that recommends the appropriate amount of moneys
required to pay for all reasonable direct and indirect costs of
administering and enforcing this chapter.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate
importance, takes effect upon enactment.

EXPLANATION
The inclusion of this explanation does not constitute agreement with
the explanation’s substance by the members of the general assembly.

GENERAL. This bill amends Code chapter 459 (the “Animal
Agriculture Compliance Act”) regulated by the department of
natural resources (DNR) by establishing a moratorium upon the
construction, including expansion, of a confinement feeding
operation structure (structure) such as buildings or manure
storage structure associated with a confinement feeding
operation (operation). The degree of regulation is based on
a number of factors including the date the operations were
established, the type of structure being constructed, and the operation's size determined according to its animal unit capacity (AUC). The bill also requires DNR to establish an annual budget that provides for fully administering and enforcing the Code chapter, including by adjusting the statutory amount assessed for each compliance fee (fee) that is deposited in the animal agriculture compliance fund (fund).

MORATORIUM. The moratorium applies to DNR's acceptance or approval of applications for permits to construct a structure and to the construction of such structure (when concrete is poured to form its floor or foundation) regardless of whether a permit has been issued. A number of exceptions apply, including for operations having an AUC of 300 or fewer animal units, dry bedded confinement feeding operations (where manure is stored as dry bedded manure rather than liquid), the construction of an egg washwater storage structure, and the construction of a structure pursuant to a variance granted by DNR for a replacement structure so long as the operation's AUC or its manure storage capacity is not increased, and the structure provides a higher degree of environmental protection than the replaced structure.

DNR ANNUAL BUDGET AND REPORT. The bill requires DNR to prepare an estimated budget that calculates the total amount of moneys appropriated and available to fully fund DNR's administration and enforcement of the Code chapter for each fiscal year beginning on or after July 1, 2018. The estimated budget must include any necessary adjustment to the amount of fees it assesses for deposit in the fund. DNR is required to conduct an annual stakeholder meeting held prior to June 1 of each year in order to consider DNR's estimated budget which becomes final on July 1, the beginning of the next fiscal year. DNR must submit a report to the governor and general assembly by January 3, 2020, that includes a recommendation for an appropriate funding level.

PENALTIES APPLICABLE. A person who violates subchapter III
1 of the Code chapter, regulating water quality, is subject to
2 a range of civil penalties not to exceed $10,000, which is
3 administratively enforced by DNR under the Iowa administrative
4 procedures Act (Code chapter 17A). Alternatively, a judicial
5 action may be brought against a person by the attorney general
6 with a civil penalty not to exceed $5,000 for each day of such
7 violation (Code section 459.603 referring to Code sections
8 455B.109 and 455B.191).
9 EFFECTIVE DATE. The bill, if enacted, would take effect upon
10 enactment.