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HOUSE REPUBLICAN STAFF ANALYSIS

Bill: Senate File 407
Committee: House Environmental Protection
Date: April 11, 2011
Staff: Lew Olson (1-3096)
Floor Manager: Representative DeBoef

DNR Disadvantaged Community Sewer Waivers

SF 407 as it passed the Senate proposes to give County Boards of Supervisors mandatory authority to issue permits, conduct inspection, and adopt standards in relation to delegated authority from the Iowa Department of Natural Resources concerning the regulation and enforcement of construction permits of semi-public waste water treatment disposal systems. The bill additionally provides counties with new ability to assess and keep civil penalties involving violation of the delegated regulation of semi-public sewage disposal systems in amounts consistent with, but not exceeding amounts established for DNR is Code chapter 455B clean water division (\$5,000 per day per violation, but no more than \$10,000).

The bill was amended in Committee with two different amendments. The first was unanimously adopted by a voice vote to change where civil penalties assessed by counties for violations of delegated semi-public sewage system regulation are deposited by shifted them from a county's general fund to the Iowa Finance Authority unsewered community revolving loan fund. The second amendment was adopted on a partisan roll-call 13-aye to 8-nay vote. This latter amendment expands existing DNR Code language dealing with the ability of the agency to waive water quality standards for unsewered communities if they are disadvantaged and requiring them to install treatment systems that would meet the standards would—"... *create substantial and widespread economic and social impact...*" The existing waiver provision language has been part of the Iowa Code since 2006 and is part of the Federal Clean Water Act, but DNR has been exceedingly slow to devise rules to implement it. The new language in the amendment adds new verbiage to the Code that DNR must consider—(1) the ability of the regulated entity (community) to pay for a projected sewer project based on a ratio of total annual project cost per household to median household income of the area; (2) the unemployment rate of the county where the community is located, and (3) whether the anticipated annual compliance cost is more than 1% of the community's median household income. This language aims to ease the spreading onerous regulatory burden that is affecting a growing number of rural, elderly and poorer communities that are potentially facing additional sewer costs increases of \$30-50 more per month than what citizens pay now. Furthermore, in a lot of these cities, or housing areas, which may have once been cities, but have dis-incorporated, the estimated debt financing of the new systems exceeds the assessed property in those communities and taking on this debt may accelerate the community's demise as homeowners walk away from their homes rather than commit to pay substantial new sewer cost for the next several decades.

Summary of Action

The Senate **PASSED** Senate File 407 on March 10, 2011 by a party-line 26-24 vote.

The House Environmental Protection Committee **PASSED** Senate File 408 March 24, 2010 by a 21-0.

Section by Section Analysis

Section 1—Counties Given the Ability to Issue Permits, Conduct Inspections, & Adopt Standards Related to Construction of Semi-Public Sewage Disposal Systems

Sections 2 & 4—DNR Given Flexibility to Delegate Semi-Public Sewage Disposal Systems to Counties

Section 3—Counties Given New Authority to Collect Civil Penalties in Amounts that DNR Charges for Semi-Public Sewage Disposal System Violations

Section 4—Eliminates Out-of-date (11-15-2009) Language that Requires the WRCC to Submit Policy and Funding Recommendations to Governor and General Assembly

Amendments

H-1462 by Environmental Protection Committee, proposes to make several changes to SF 407.

Action 1 inserts after line 22 on page 2, that directs any civil penalty a county might collect in enforcing semi-public sewage disposal system regulation must be deposited the Iowa Finance Authority Unsewered Community Revolving Loan fund.

Action 2 inserts language before line 24 of page 2 language that expands and revises existing Code language directing DNR find that certain affected communities are ‘disadvantaged communities’. The new language is more consistent with federal U.S. EPA verbiage on the issue. This action adds new verbiage to the Code that DNR must consider—(1) the ability of the regulated entity (community) to pay for a projected sewer project based on a ratio of total annual project cost per household to median household income of the area; (2) the unemployment rate of the county where the community is located, (3) the Bond rating of the community. However, DNR may not consider a community as disadvantaged if the anticipated annual compliance cost is less than 1% of the community’s median household income. DNR is required not to require installation of a wastewater treatment system by an unsewered community if the department determines that such installation would create substantial and widespread economic and social impact.

Actions 3 & 4 amends the Title page to reflect the impact of action 1 and 2 of this amendment.