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SENATE FILE 217

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CONNOLLY, and HANSEN

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act regulating the siting of confinement feeding operations by
2 counties.

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

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SF 217 AGRICULTURE

1 Section 1. NEW SECTION. 335.1A DEFINITIONS.

2 As used in this section, unless the context otherwise
3 requires:

4 1. "Animal feeding operation structure" means the same as
5 defined in section 455B.161.

6 2. "Animal weight capacity" means the same as defined in
7 section 455B.161.

8 3. "Confinement feeding operation" means the same as
9 defined in section 455B.161.

10 4. "Egg washwater storage structure" means the same as
11 defined in section 455B.161.

12 5. "Farm operation" means a condition or activity which
13 occurs on farmland relating to the production of farm products
14 which may include but are not limited to any of the following:
15 the raising, harvesting, drying, or storage of crops; the care
16 or feeding of livestock; the handling or transportation of
17 crops or livestock; the storage, treatment, transportation,
18 application, or disposal of livestock manure or wastes; the
19 operation of farm machinery and irrigation pumps; ground and
20 aerial seeding and spraying; and the application of chemical
21 fertilizers, conditioners, insecticides, pesticides, and
22 herbicides.

23 6. "Farm product" means a product produced from a farm
24 operation.

25 7. "Farmland" means land and buildings used in the
26 commercial production of farm products.

27 8. "Manure storage structure" means a formed or unformed
28 manure storage structure as defined in section 455B.161.

29 9. "Small animal feeding operation" means the same as
30 defined in section 455B.161.

31 Sec. 2. Section 335.2, Code 2001, is amended to read as
32 follows:

33 335.2 FARMS-EXEMPT FARM OPERATIONS EXEMPTION.

34 1. Except to the extent required to implement section
35 ~~335-277~~, no as provided in subsection 2, an ordinance adopted

1 under this chapter ~~applies~~ shall not apply to ~~land, farm~~
2 farming operations, including farmland and related structures
3 such as houses, farm barns, farm or outbuildings or other
4 buildings or structures which are primarily adapted, by reason
5 of nature and area, for ~~use for~~ agricultural purposes, ~~while~~
6 ~~so used.~~ ~~However, the ordinances~~

7 2. A county board of supervisors may apply to any adopt an
8 ordinance under this chapter which applies to any of the
9 following:

10 a. The implementation of an agricultural land preservation
11 ordinance, as provided in section 335.27.

12 b. A structure, building, dam, obstruction, deposit, or
13 excavation in or on the flood plains of any a river or stream.

14 c. The siting of a confinement feeding operation, as
15 provided in section 335.2A.

16 Sec. 3. NEW SECTION. 335.2A CONFINEMENT FEEDING
17 OPERATIONS.

18 1. Notwithstanding section 331.304A, a county may adopt a
19 confinement feeding operations siting ordinance which shall be
20 part of other regulations provided in this chapter. The
21 ordinance shall regulate the siting of confinement feeding
22 operation buildings and related manure storage structures.
23 The ordinance shall be subject to adoption by the county board
24 of supervisors, upon recommendation by the county's zoning
25 commission as provided in section 335.8. The county board of
26 supervisors shall adopt the ordinance in the same manner as
27 other regulations adopted pursuant to this chapter.

28 2. The ordinance shall include a siting plan as follows:

29 a. The plan shall do all of the following:

30 (1) Preserve the availability of farmland reserved for
31 confinement feeding operations.

32 (2) Encourage efficient urban development patterns that do
33 not burden farmland reserved under the plan for confinement
34 feeding operations. The plan shall attempt to prevent
35 congestion and overcrowding of confinement feeding operations,

1 especially near cities.

2 (3) Preserve and protect natural resources, including
3 water sources, fragile environmental locations, and
4 recreational areas.

5 b. The plan may provide different regulations for
6 confinement feeding operations based on all of the following:

7 (1) The animal weight capacity of the confinement feeding
8 operation.

9 (2) The type of animal feeding operation structure.

10 (3) The proximity of land for the application of manure
11 which originates from the confinement feeding operation.

12 3. The ordinance shall not apply to a small animal feeding
13 operation.

14 4. a. The ordinance shall not violate any requirement of
15 chapter 455B, or rules adopted by the department of natural
16 resources pursuant to that chapter. However, the ordinance
17 may provide for separation distance requirements that exceed
18 the requirements of chapter 455B, division II, part 2, or
19 section 455B.204. The separation distance requirement may be
20 based on guidelines established by the department of natural
21 resources pursuant to sections 455B.165 and 455B.204 and shall
22 to every extent practicable be based on the methodology
23 established by the department pursuant to those sections.

24 b. The ordinance shall be consistent with the county's
25 comprehensive plan as required by section 335.5, and other
26 regulations adopted pursuant to this chapter.

27 c. The ordinance shall not prohibit the operation of
28 confinement feeding operations constructed prior to the
29 effective date of the ordinance.

30 5. The ordinance shall provide for review and approval or
31 disapproval of proposals to construct confinement feeding
32 operations, including the construction of a confinement
33 building or related manure storage structures.

34 a. The ordinance shall provide for methods and procedures
35 required for timely submission, review, and approval or

1 disapproval of proposals.

2 b. The planning and zoning commission shall review each
3 proposal and recommend to the board of supervisors that the
4 proposal be approved or disapproved. The board of supervisors
5 shall approve or disapprove the proposal after considering all
6 relevant information, including the commission's
7 recommendation. The commission's recommendation and the
8 board's decision shall be based solely on whether the proposal
9 satisfies the requirements of the ordinance.

10 Sec. 4. Section 335.8, Code 2001, is amended to read as
11 follows:

12 335.8 ZONING COMMISSION APPOINTED.

13 1. In order to avail itself of the powers conferred by
14 this chapter, the The board of supervisors shall appoint
15 establish a zoning commission, -a. The board shall appoint
16 members to the commission. A majority of whose the members
17 shall reside within the county but outside the corporate
18 limits of any city, -to-be-known-as-the-county-zoning
19 commission, -to-recommend. The zoning commission shall do all
20 of the following:

21 a. Recommend the boundaries of ~~the various~~ original
22 districts, and appropriate regulations and restrictions to be
23 enforced therein within those districts. Such The commission
24 shall, with due diligence, prepare a preliminary report and
25 hold public hearings thereon on the preliminary report before
26 submitting ~~its~~ a final report, -and-the. The board of
27 supervisors shall not hold ~~its~~ public hearings or take action
28 until ~~it~~ the board has received the final report ~~of-such~~
29 commission. After the adoption of such regulations,
30 restrictions, and boundaries of districts, the zoning
31 commission may, from time to time, recommend to the board of
32 supervisors amendments, supplements, changes, or
33 modifications.

34 b. Provide for the siting of confinement feeding
35 operations as follows:

1 (1) The zoning commission shall prepare a confinement
2 feeding operations siting ordinance including a plan for
3 siting for recommendation to the board of supervisors as
4 provided in section 335.2A. The zoning commission shall
5 prepare and recommend the ordinance or any amendments,
6 supplements, changes, or modifications to the ordinance, in
7 the same manner as other regulations pursuant to paragraph
8 "a". The zoning commission shall not make a recommendation
9 without holding a public hearing in the same manner as
10 provided in section 335.6.

11 (2) The zoning commission shall review and recommend the
12 approval or disapproval of a proposal for the construction of
13 a confinement feeding operation as provided in section 335.2A
14 based on compliance with the confinement feeding operations
15 siting ordinance.

16 2. The zoning commission, with the approval of the board
17 of supervisors, may contract with professional consultants,
18 regional planning commissions, the Iowa department of economic
19 development, the department of natural resources, or the
20 federal government, for local planning assistance.

21 Sec. 5. Section 455B.165, Code 2001, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 9. A separation distance requirement that
24 is provided in a confinement feeding operation siting
25 ordinance adopted by a county board of supervisors pursuant to
26 section 335.2A. The ordinance shall not include a requirement
27 providing a lesser separation distance than is provided for in
28 this part. If requested by a county, the department shall
29 provide recommendations with guidelines for increasing
30 required separation distances based on a methodology which
31 considers topographic, hydrologic, climatic, or demographic
32 factors.

33 Sec. 6. Section 455B.204, subsection 3, Code 2001, is
34 amended by adding the following new paragraph:

35 NEW PARAGRAPH. c. A separation distance requirement that

1 is provided in a confinement feeding operation siting
2 ordinance adopted by a county board of supervisors pursuant to
3 section 335.2A. The ordinance shall not include a requirement
4 providing a closer separation distance than is provided for in
5 subsection 2. Upon request by a county, the department shall
6 provide recommendations to the county as provided in section
7 455B.165.

8 EXPLANATION

9 This bill amends provisions in Code chapter 335, which
10 provides for county zoning. Code section 335.2 provides that
11 county zoning does not apply to farming operations. This bill
12 amends that section to provide that county zoning does apply
13 to the siting of confinement feeding operations. The bill
14 provides that a county may adopt a confinement feeding
15 operations siting ordinance, including a siting plan, as part
16 of its zoning regulations. The plan must preserve the
17 availability of farmland reserved for confinement feeding
18 operations; encourage efficient urban development patterns;
19 lessen congestion and overcrowding of confinement feeding
20 operations, especially near cities; and preserve and protect
21 natural resources, including water sources, fragile
22 environmental locations, and recreational areas.

23 The plan may provide different regulations for confinement
24 feeding operations based on the animal weight capacity of the
25 confinement feeding operation, the type of animal feeding
26 operation structure, and the proximity of land for the
27 application of manure which originates from the confinement
28 feeding operation. The bill provides that the ordinance does
29 not apply to small animal feeding operations. The bill
30 provides that an ordinance cannot prohibit the operation of a
31 confinement feeding operation constructed prior to the
32 effective date of the ordinance.

33 The bill also provides that the ordinance cannot violate
34 any requirement of Code chapter 455B regulating confinement
35 feeding operations by the department of natural resources.

1 However, the bill provides that the ordinance may provide for
2 distance requirements that exceed the requirements of Code
3 chapter 455B. The separation distances may be based on
4 guidelines established by the department and to every extent
5 practicable must be based on methodology established by the
6 department. Upon request by a county, the department is
7 required to provide the county with guidelines based on a
8 methodology which analyzes relevant factors relating to
9 topographic, climatic, demographic, or hydrologic conditions.

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