

Way-Keane 16 Amend (2171) S. Pass 2/26 (888)

Reprinted

FILED MAR 05 1991

SENATE FILE 294
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 254)

Passed Senate, Date 4/3/91 (p. 1012) Passed House, Date _____
Vote: Ayes 45 Nays 4 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the establishment of agricultural enterprise
21912 zones, restricting nuisance suits, providing for tax refunds
3 on facilities within such zones, and providing a penalty.

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

SENATE FILE 294

S-3211

- 1 Amend the amendment, S-3191, to Senate File 294, as
- 2 follows:
- 3 1. Page 1, line 20, by striking the word "actual"
- 4 and inserting the following: "assessed".
- 5 2. Page 1, line 25, by striking the word "actual"
- 6 and inserting the following: "assessed".
- 7 3. Page 1, line 29, by striking the word
- 8 "completed" and inserting the following: "first
- 9 assessed for taxation".
- 10 4. Page 1, line 30, by striking the word "actual"
- 11 and inserting the following: "assessed".
- 12 5. Page 2, line 15, by striking the word "actual"
- 13 and inserting the following: "assessed".
- 14 6. Page 2, line 17, by striking the word "actual"
- 15 and inserting the following: "assessed".
- 16 7. Page 2, line 19, by striking the word "actual"
- 17 and inserting the following: "assessed".

By DERRYL McLAREN
BERL E. PRIEBE
JOHN E. SOORHOLTZ

S-3211 FILED MARCH 27, 1991
Adopted 4/3/91 (p. 1011)

1 Section 1. NEW SECTION. 358A.31 CREATION OF AGRICULTURAL
2 ENTERPRISE ZONES.

3 1. A county board of supervisors may by ordinance
4 designate part of the county as being appropriate for
5 intensive agricultural activities. This part shall be
6 referred to as an "agricultural enterprise zone." The land
7 included within this zone is not required to be contiguous.

8 As used in this section "agricultural activity" means an
9 activity directly connected to the raising, drying or storage
10 of crops, the care or feeding of livestock as defined in
11 section 267.1, the handling or transportation of crops or
12 livestock, or the treatment or disposal of wastes resulting
13 from livestock.

14 2. In a county that has adopted a zoning ordinance that
15 establishes one or more agricultural zones, all of the land
16 within an agricultural zone is eligible to be included in the
17 agricultural enterprise zone, except for land within the
18 corporate limits of a city or land within a state park or
19 state preserve.

20 3. In a county that has not adopted a zoning ordinance
21 that establishes one or more agricultural zones, all of the
22 land within the county is eligible to be included in the
23 agricultural enterprise zone, except for land within the
24 corporate limits of a city, land within an area over which a
25 city has exercised its zoning authority under section 414.23,
26 or land within a state park or state preserve.

27 4. All of the eligible land shall be included in the
28 agricultural enterprise zone, except to the extent that the
29 board of supervisors excludes eligible land from the
30 agricultural enterprise zone because the land is, or is
31 located in close proximity to, one of the following:

32 a. Land that is unique, and of scientifically recognized
33 ecological value.

34 b. Towns, residential subdivisions, or other population
35 centers.

1 c. Locations at which a significant number of people
2 regularly congregate.

3 The determination by the board of supervisors that land is
4 in close proximity to a location excluded under this section
5 shall be a legislative determination.

6 5. The board of supervisors shall conduct a public hearing
7 on the adoption of a proposed ordinance establishing an
8 agricultural enterprise zone within sixty days after either of
9 the following:

10 a. The board of supervisors receives a petition requesting
11 adoption of such an ordinance. The petition shall specify the
12 proposed boundaries of the agricultural enterprise zone. The
13 petition must be signed by at least fifty eligible electors of
14 the county.

15 b. The board of supervisors approves a resolution
16 indicating its intent to establish an agricultural enterprise
17 zone.

18 6. The board of supervisors may amend the boundaries of
19 the agricultural enterprise zone, rezone areas included within
20 a zone, or eliminate the agricultural enterprise zone. When
21 establishing an agricultural enterprise zone, rezoning the
22 land within the zone, or amending its borders, the board of
23 supervisors shall comply with the notice, hearing, and
24 adoption requirements provided in section 358A.6. When
25 establishing such a zone, the board of supervisors shall mail
26 a notice, at least ten days before the public hearing on the
27 ordinance, to the owners of any eligible parcel of land having
28 more than two acres which the board is considering excluding
29 from the agricultural enterprise zone. When amending the
30 borders of such a zone, or rezoning land within the zone, the
31 board of supervisors shall mail this notice to the owners of
32 any parcel of land within the zone having more than two acres
33 which the board is considering excluding from the agricultural
34 enterprise zone.

35 7. Upon the creation of an agricultural enterprise zone,

1 or the amendment of its borders, the board of supervisors
2 shall cause its description to be filed with the county
3 auditor and placed on record in the office of the county
4 recorder.

5 Sec. 2. NEW SECTION. 358A.32 NUISANCE RESTRICTIONS
6 WITHIN AGRICULTURAL ENTERPRISE ZONES.

7 1. Subject to the exceptions in subsection 2, an
8 agricultural activity located in an agricultural enterprise
9 zone established pursuant to section 358A.31 shall not be
10 found to be a public or private nuisance regardless of the
11 established date of operation or expansion of the agricultural
12 activity.

13 2. This section does not apply to any of the following:

14 a. A public or private nuisance which is the result of an
15 agricultural activity determined to be in violation of a
16 federal statute or regulation or state statute or rule.

17 b. An action or proceeding arising from injury or damage
18 to person or property caused by the agricultural activity
19 before the creation of the agricultural enterprise zone.

20 c. The right of a person to recover damages for injury or
21 damage sustained by the person because of the pollution or
22 change in condition of the waters of a stream, the overflowing
23 of such waters on the person's land, or excessive soil erosion
24 onto another person's land.

25 3. This section shall apply to an agricultural activity
26 for fifteen years following the exclusion of land within an
27 agricultural enterprise zone due to the elimination of the
28 zone, the rezoning of the land included in the zone by the
29 county or a city, or the change in the boundaries of the zone.
30 This section shall apply to an agricultural activity from the
31 earliest date of either the filing of an application by or on
32 behalf of the property owner for a local or state permit
33 authorizing work related to the activity, or the commencement
34 of construction of any facility related to the activity.

35 4. As used in this section "agricultural activity" means

1 the same as defined in section 358A.31.

5/7/2 Sec. 3. NEW SECTION. 427B.8 PARTIAL TAX REFUND FOR
319/ 3 QUALIFIED LIVESTOCK PROJECTS.

4 1. For purposes of this section:

5 a. "Entity" means a corporation, partnership, trust, or
6 estate. An unincorporated joint venture or co-ownership of
7 property shall be considered a partnership.

8 b. "Family unit" means an individual, the individual's
9 spouse, if any other than a spouse who is legally separated
10 from the individual under a decree of divorce or separate
11 maintenance, and the individual's minor children as determined
12 on January 1 of the assessment year in which begins the fiscal
13 year for which the taxes are levied.

14 c. "Livestock project" means a building, structure, or
15 addition to an existing building or structure which is
16 primarily adapted for providing shelter to or feeding of
17 livestock as defined in section 267.1, if constructed while
18 the land is within an agricultural enterprise zone as provided
19 in section 358A.31.

20 2. The family unit that pays the real estate taxes on a
21 livestock project, indirectly through an entity or directly,
22 is eligible to receive a partial refund of the taxes for a
23 period of five years. The amount of the taxes actually paid
24 on which the tax refund is computed shall be as follows:

- 25 a. For the first year, seventy-five percent.
- 26 b. For the second year, sixty percent.
- 27 c. For the third year, forty-five percent.
- 28 d. For the fourth year, thirty percent.
- 29 e. For the fifth year, fifteen percent.

30 The years described in this subsection shall be counted
31 starting with the first year for which the completed livestock
32 project is subject to taxation.

33 3. The following limitations shall apply to partial
34 livestock refunds:

- 35 a. Only a family unit may make a refund claim for the

1 taxes it pays, indirectly through an entity or directly, on
2 livestock projects. The maximum refund that can be claimed by
3 a family unit is the amount of tax paid by the family unit on
4 the first three hundred sixty thousand dollars of assessed
5 valuation.

6 b. The taxes paid on a livestock project owned by an
7 entity shall be considered as being paid proportionately by
8 the entity's shareholders, partners, or beneficiaries as
9 determined on January 1 of the assessment year in which begins
10 the fiscal year for which the taxes are levied.

11 c. A family unit which pays taxes on more than one
12 livestock project, indirectly through an entity or directly,
13 shall designate on the refund claim the livestock project or
14 projects, or the portion thereof, for which the refund is
15 being claimed. This designation on the refund claim for one
16 year does not affect the designation on the refund claims for
17 subsequent years.

18 4. The following procedures shall apply to partial
19 livestock tax refunds:

20 a. One refund claim shall be filed for all livestock
21 projects for which a refund is claimed and for each year for
22 which a refund is claimed. The claim shall be filed with the
23 department of revenue and finance by June 30 for the real
24 estate taxes paid during the fiscal year ending on that date.

25 b. Refund claims shall be made on forms prescribed by the
26 director of revenue and finance. These forms shall provide
27 for a certification by the county treasurer of the amount of
28 taxes actually paid during the fiscal year on the livestock
29 project and for a certification by the county assessor of the
30 fiscal year in which taxes were first levied on the completed
31 livestock project.

32 c. The first fiscal year for which a refund claim can be
33 filed is the first fiscal year in which taxes have been levied
34 on the completed livestock project. The failure to file a
35 refund claim by the deadline shall result in the permanent

1 loss of the refund for that fiscal year. The failure to file
2 a refund claim for one year shall not affect the eligibility
3 to file a refund claim for subsequent years at the reduced
4 percentages for such subsequent years.

5 d. If the assessed value of a livestock project has been
6 reduced as a result of the partial exemption under section
7 427B.7, the livestock project will not be eligible for the
8 partial tax refund under this section.

9 e. If for any fiscal year the amount appropriated for
10 partial tax refunds on livestock projects is insufficient to
11 pay in full the amounts due on the claims for refunds, then
12 the amount of each refund payment shall be reduced by the same
13 percentage to provide that the aggregate payments to all
14 claimants shall be equal to the amount appropriated for such
15 payments.

16 f. Notwithstanding section 8.33, the unencumbered or
17 unobligated balance of moneys as of June 30 of a fiscal year
18 appropriated for the fiscal year to support partial tax
19 refunds on livestock projects and interest earned on such
20 funds shall not revert to the fund from which the
21 appropriation was made, but shall remain available to support
22 the partial tax refunds.

23 g. The amount due each refund claimant shall be paid in
24 the form of warrants payable to the claimant by the director
25 of revenue and finance by September 30 each year, taking into
26 consideration the relative budget and cash position of the
27 state resources.

28 5. A person making a false claim for the purpose of
29 securing a partial livestock tax refund or for the purpose of
30 aiding another person to secure such partial livestock tax
31 refund commits a fraudulent practice as provided in chapter
32 714.

33 6. The director of revenue and finance shall adopt all
34 rules necessary to administer this section.

35

EXPLANATION

1 This bill provides that a county board of supervisors may
2 by ordinance designate part of the county as being appropriate
3 for intensive agricultural activities. The bill places
4 restrictions on land eligible to be included within an
5 agricultural enterprise zone. Land which is not eligible for
6 inclusion includes land within the corporate limits of a city,
7 or land within a state park or state preserve. The bill
8 provides that the board of supervisors must also disqualify
9 land that is of unique value or where populations of people
10 reside or gather.

11 The bill provides procedures for creating an agricultural
12 enterprise zone by petition or upon resolution of the board.
13 The bill establishes procedures for amending the boundaries of
14 the agricultural enterprise zone, rezoning land within the
15 zone, or eliminating the zone.

16 The bill provides that an agricultural activity located
17 within a zone is not a public or private nuisance, unless it
18 is the result of a violation of federal or state law, it
19 occurs prior to the creation of the zone, or it results due to
20 pollution, flooding, or excessive soil erosion.

21 Protections against nuisance suits remain in effect for 15
22 years following the exclusion of land within a zone due to the
23 elimination of the zone, the rezoning of the land, or change
24 in boundaries of the zone.

25 The bill also provides a partial real estate tax refund for
26 the value of a building, structure, or addition to a building
27 or structure which is primarily adapted for livestock and con-
28 structed within an agricultural enterprise zone. Claimants
29 for the refund include an individual, the individual's spouse,
30 and their minor children. The refund may be claimed for five
31 years based on a schedule of depreciation. The maximum refund
32 that can be claimed is the amount of tax paid by the family
33 unit on the first \$360,000 of assessed valuation. The bill
34 provides procedures for filing claims for refunds. A person
35 making a false claim commits a fraudulent practice.

SENATE FILE 294
FISCAL NOTE

A fiscal note for Senate File 294 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 294 provides that a county Board of Supervisors may, by ordinance, designate part of the county as being appropriate for intensive agricultural activities. It places restrictions on land eligible to be included within an agricultural enterprise zone.

The bill provides procedures for creating an agricultural enterprise zone either by petition or upon resolution of the Board. It establishes procedures for amending the boundaries of the zone, rezoning land within the zone, or eliminating the zone. The bill provides that an agricultural activity located within a zone is not a public or private nuisance except under certain specified situations.

The bill also provides a partial property tax exemption on the value of a structure which is constructed or improved as a livestock facility within an agricultural enterprise zone. To qualify, the assessed value of the real estate must be increased by at least 10 percent by the construction or improvement. The exemption is allowed for a period of 10 years. The bill specifies the yearly partial exemption percentage, the application review and approval process, and the application denial and appeal procedures.

Fiscal Effect

The bill would have no impact on state revenues.

If a county Board of Supervisors establishes an agricultural enterprise zone and eligible taxpayers apply for and receive the exemption on the value of their improvements, then less revenues would be collected by the county. A statewide estimate of the fiscal impact cannot be provided because it is not known how many counties will establish agricultural enterprise zones, it is not known how many individuals will apply for and receive the exemption, and the Department lacks information on the value of qualifying structures.

Source: Department of Revenue and Finance

(LSB 252737, PDD)

FILED APRIL 30, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 294

S-3171

1 Amend Senate File 294 as follows:

2 1. By striking page 4, line 2 through page 6,
3 line 34, and inserting the following:

4 "Sec. 3. NEW SECTION. 427B.8 PROPERTY TAX
5 EXEMPTION FOR QUALIFIED LIVESTOCK FACILITIES.

6 1. As used in this section, unless the context
7 otherwise requires:

8 a. "Agricultural enterprise zone" means an
9 agricultural enterprise zone created pursuant to
10 section 358A.31.

11 b. "Livestock" means livestock as defined in
12 section 267.1.

13 c. "Livestock facility" means a building,
14 structure, or addition to an existing building or
15 structure which is primarily adapted for providing
16 shelter to or feeding of livestock.

17 2. All real estate within an agricultural
18 enterprise zone is eligible to receive a partial
19 exemption from taxation on the actual value of a
20 structure which is constructed or improved as a
21 livestock facility, if the construction or
22 improvements occur during the period when the
23 agricultural enterprise zone exists. The actual value
24 of the real estate must be increased by at least ten
25 percent by the construction or improvement. The
26 exemption is for a period of ten years, beginning in
27 the year that the construction or improvement is
28 completed. The amount of the partial exemption is
29 equal to a percent of the actual value added by the
30 construction or improvements, which shall be
31 determined as follows:

32 a. For the first year, one hundred percent.

33 b. For the second year, one hundred percent.

34 c. For the third year, one hundred percent.

35 d. For the fourth year, ninety percent.

36 e. For the fifth year, eighty-five percent.

37 f. For the sixth year, eighty-five percent.

38 g. For the seventh year, eighty-five percent.

39 h. For the eighth year, eighty-five percent.

40 i. For the ninth year, eighty-five percent.

41 j. For the tenth year, eighty-five percent.

42 3. A person may submit an application to the board
43 of supervisors in the county where the real estate is
44 located. An application shall be filed for each new
45 exemption claimed. The first application for an
46 exemption shall be filed by the owner of the property
47 with the board of supervisors by February 1 of the
48 assessment year for which the exemption is claimed.
49 The application shall contain information relating to
50 the construction or improvement of the livestock

S-3171

Page 2

1 facility, including but not limited to all of the
2 following information:
3 a. The nature of the construction or improvement.
4 b. The date of completion.
5 c. The cost of the construction or improvement.
6 The board shall approve the application, subject to
7 review by the county assessor. A person is not
8 required to obtain approval of a previously approved
9 exemption for succeeding years.
10 4. The county assessor shall review each first-
11 year application by making a physical review of the
12 property, to determine if the construction or
13 improvements made increased the actual value of the
14 real estate by at least ten percent. If the county
15 assessor determines that the actual value of the real
16 estate has increased by at least ten percent, the
17 county assessor shall proceed to determine the actual
18 value of the property and certify the valuation
19 determined pursuant to subsection 2 to the county
20 auditor at the time of transmitting the assessment
21 rolls. The county assessor shall notify the applicant
22 of the determination, and the assessor's decision may
23 be appealed to the local board of review as provided
24 in section 441.37. If an application for an exemption
25 is denied as a result of a failure to sufficiently
26 increase the value of the real estate, the owner may
27 file a first annual application in a subsequent year
28 when additional improvements are made to satisfy the
29 requirement. After the tax exemption is granted, the
30 county assessor shall continue to grant the tax
31 exemption, with periodic physical review by the
32 assessor for the remaining period of the scheduled
33 exemption."
34 2. Title page, line 2, by striking the word
35 "refunds" and inserting the following: "exemptions".

By BERL E. PRIEBE
JOHN E. SOORHOLTZ
DERRYL MCLAREN

S-3171 FILED MARCH 25, 1991

Place 2 o/o 4/3/91 (p 1012)

SENATE FILE 294

S-3191

1 Amend Senate File 294 as follows:

2 1. By striking page 4, line 2 through page 6,
3 line 34, and inserting the following:

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9 agricultural enterprise zone created pursuant to
10 section 358A.31.

11 b. "Livestock" means livestock as defined in
12 section 267.1.

13 c. "Livestock facility" means a building,
14 structure, or addition to an existing building or
15 structure which is primarily adapted for providing
16 shelter to or feeding of livestock.

17 2. The board of supervisors creating an
18 agricultural enterprise zone may, as part of the
19 ordinance creating the zone, establish a partial
20 exemption from taxation on the actual value of a
21 structure which is constructed or improved as a
22 livestock facility within the agricultural enterprise
23 zone, if the construction or improvements occur during
24 the period when the agricultural enterprise zone
25 exists. The actual value of the real estate must be
26 increased by at least ten percent by the construction
27 or improvement. The exemption is for a period of ten
28 years, beginning in the year that the construction or
29 improvement is completed. The amount of the partial
30 exemption is equal to a percent of the actual value
31 added by the construction or improvements, which shall
32 be determined as follows:

33 a. For the first year, one hundred percent.

34 b. For the second year, one hundred percent.

35 c. For the third year, one hundred percent.

36 d. For the fourth year, ninety percent.

37 e. For the fifth year, eighty-five percent.

38 f. For the sixth year, eighty-five percent.

39 g. For the seventh year, eighty-five percent.

40 h. For the eighth year, eighty-five percent.

41 i. For the ninth year, eighty-five percent.

42 j. For the tenth year, eighty-five percent.

43 3. A person may submit an application to the board
44 of supervisors in the county where the real estate is
45 located and the agricultural enterprise zone is
46 created. An application shall be filed for each new
47 exemption claimed. The first application for an
48 exemption shall be filed by the owner of the property
49 with the board of supervisors by February 1 of the
50 assessment year for which the exemption is claimed.

S-3191

Page 2

1 The application shall contain information relating to
2 the construction or improvement of the livestock
3 facility, including but not limited to all of the
4 following information:

- 5 a. The nature of the construction or improvement.
- 6 b. The date of completion.
- 7 c. The cost of the construction or improvement.

8 The board shall approve the application, subject to
9 review by the county assessor. A person is not
10 required to obtain approval of a previously approved
11 exemption for succeeding years.

12 4. The county assessor shall review each first-
13 year application by making a physical review of the
14 property, to determine if the construction or
15 improvements made increased the actual value of the
16 real estate by at least ten percent. If the county
17 assessor determines that the actual value of the real
18 estate has increased by at least ten percent, the
19 county assessor shall proceed to determine the actual
20 value of the property and certify the valuation
21 determined pursuant to subsection 2 to the county
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24 of the determination, and the assessor's decision may
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27 is denied as a result of a failure to sufficiently
28 increase the value of the real estate, the owner may
29 file a first annual application in a subsequent year
30 when additional improvements are made to satisfy the
31 requirement. After the tax exemption is granted, the
32 county assessor shall continue to grant the tax
33 exemption, with periodic physical review by the
34 assessor for the remaining period of the scheduled
35 exemption."

36 2. Title page, line 2, by striking the word
37 "refunds" and inserting the following: "exemptions".

By COMMITTEE ON WAYS AND MEANS
WILLIAM DIELEMAN, Chairperson

S-3191 FILED MARCH 26, 1991

Adopted as amended by 3211 4/3/91 (p. 1012)

House Ag 4/5/91 Amend (2624) Do Pass 4/12/91
Supp Measure 4/15/91

SENATE FILE 294
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 254)

(AS AMENDED AND PASSED BY THE SENATE APRIL 3, 1991)
- New Language by the Senate

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

A BILL FOR

1 An Act providing for the establishment of agricultural enterprise
2 zones, restricting nuisance suits, providing for tax
3 exemptions on facilities within such zones, and providing a
4 penalty.

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

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S.F. 294

1 Section 1. NEW SECTION. 358A.31 CREATION OF AGRICULTURAL
2 ENTERPRISE ZONES.

3 1. A county board of supervisors may by ordinance
4 designate part of the county as being appropriate for
5 intensive agricultural activities. This part shall be
6 referred to as an "agricultural enterprise zone." The land
7 included within this zone is not required to be contiguous.

8 As used in this section "agricultural activity" means an
9 activity directly connected to the raising, drying or storage
10 of crops, the care or feeding of livestock as defined in
11 section 267.1, the handling or transportation of crops or
12 livestock, or the treatment or disposal of wastes resulting
13 from livestock.

14 2. In a county that has adopted a zoning ordinance that
15 establishes one or more agricultural zones, all of the land
16 within an agricultural zone is eligible to be included in the
17 agricultural enterprise zone, except for land within the
18 corporate limits of a city or land within a state park or
19 state preserve.

20 3. In a county that has not adopted a zoning ordinance
21 that establishes one or more agricultural zones, all of the
22 land within the county is eligible to be included in the
23 agricultural enterprise zone, except for land within the
24 corporate limits of a city, land within an area over which a
25 city has exercised its zoning authority under section 414.23,
26 or land within a state park or state preserve.

27 4. All of the eligible land shall be included in the
28 agricultural enterprise zone, except to the extent that the
29 board of supervisors excludes eligible land from the
30 agricultural enterprise zone because the land is, or is
31 located in close proximity to, one of the following:

32 a. Land that is unique, and of scientifically recognized
33 ecological value.

34 b. Towns, residential subdivisions, or other population
35 centers.

1 c. Locations at which a significant number of people
2 regularly congregate.

3 The determination by the board of supervisors that land is
4 in close proximity to a location excluded under this section
5 shall be a legislative determination.

6 5. The board of supervisors shall conduct a public hearing
7 on the adoption of a proposed ordinance establishing an
8 agricultural enterprise zone within sixty days after either of
9 the following:

10 a. The board of supervisors receives a petition requesting
11 adoption of such an ordinance. The petition shall specify the
12 proposed boundaries of the agricultural enterprise zone. The
13 petition must be signed by at least fifty eligible electors of
14 the county.

15 b. The board of supervisors approves a resolution
16 indicating its intent to establish an agricultural enterprise
17 zone.

18 6. The board of supervisors may amend the boundaries of
19 the agricultural enterprise zone, rezone areas included within
20 a zone, or eliminate the agricultural enterprise zone. When
21 establishing an agricultural enterprise zone, rezoning the
22 land within the zone, or amending its borders, the board of
23 supervisors shall comply with the notice, hearing, and
24 adoption requirements provided in section 358A.6. When
25 establishing such a zone, the board of supervisors shall mail
26 a notice, at least ten days before the public hearing on the
27 ordinance, to the owners of any eligible parcel of land having
28 more than two acres which the board is considering excluding
29 from the agricultural enterprise zone. When amending the
30 borders of such a zone, or rezoning land within the zone, the
31 board of supervisors shall mail this notice to the owners of
32 any parcel of land within the zone having more than two acres
33 which the board is considering excluding from the agricultural
34 enterprise zone.

35 7. Upon the creation of an agricultural enterprise zone,

1 or the amendment of its borders, the board of supervisors
2 shall cause its description to be filed with the county
3 auditor and placed on record in the office of the county
4 recorder.

5 Sec. 2. NEW SECTION. 358A.32 NUISANCE RESTRICTIONS
6 WITHIN AGRICULTURAL ENTERPRISE ZONES.

7 1. Subject to the exceptions in subsection 2, an
8 agricultural activity located in an agricultural enterprise
9 zone established pursuant to section 358A.31 shall not be
10 found to be a public or private nuisance regardless of the
11 established date of operation or expansion of the agricultural
12 activity.

13 2. This section does not apply to any of the following:

14 a. A public or private nuisance which is the result of an
15 agricultural activity determined to be in violation of a
16 federal statute or regulation or state statute or rule.

17 b. An action or proceeding arising from injury or damage
18 to person or property caused by the agricultural activity
19 before the creation of the agricultural enterprise zone.

20 c. The right of a person to recover damages for injury or
21 damage sustained by the person because of the pollution or
22 change in condition of the waters of a stream, the overflowing
23 of such waters on the person's land, or excessive soil erosion
24 onto another person's land.

25 3. This section shall apply to an agricultural activity
26 for fifteen years following the exclusion of land within an
27 agricultural enterprise zone due to the elimination of the
28 zone, the rezoning of the land included in the zone by the
29 county or a city, or the change in the boundaries of the zone.
30 This section shall apply to an agricultural activity from the
31 earliest date of either the filing of an application by or on
32 behalf of the property owner for a local or state permit
33 authorizing work related to the activity, or the commencement
34 of construction of any facility related to the activity.

35 4. As used in this section "agricultural activity" means

1 the same as defined in section 358A.31.

3624 2 Sec. 3. NEW SECTION. 427B.8 PROPERTY TAX EXEMPTION FOR
3 QUALIFIED LIVESTOCK FACILITIES.

4 1. As used in this section, unless the context otherwise
5 requires:

6 a. "Agricultural enterprise zone" means an agricultural
7 enterprise zone created pursuant to section 358A.31.

8 b. "Livestock" means livestock as defined in section
9 267.1.

10 c. "Livestock facility" means a building, structure, or
11 addition to an existing building or structure which is
12 primarily adapted for providing shelter to or feeding of
13 livestock.

3624 14 2. The board of supervisors creating an agricultural
15 enterprise zone may, as part of the ordinance creating the
16 zone, establish a partial exemption from taxation on the
17 assessed value of a structure which is constructed or improved
18 as a livestock facility within the agricultural enterprise
19 zone, if the construction or improvements occur during the
20 period when the agricultural enterprise zone exists. The
21 assessed value of the real estate must be increased by at
22 least ten percent by the construction or improvement. The
23 exemption is for a period of ten years, beginning in the year
24 that the construction or improvement is first assessed for
25 taxation. The amount of the partial exemption is equal to a
26 percent of the assessed value added by the construction or
27 improvements, which shall be determined as follows:

- 28 a. For the first year, one hundred percent.
- 29 b. For the second year, one hundred percent.
- 30 c. For the third year, one hundred percent.
- 31 d. For the fourth year, ninety percent.
- 32 e. For the fifth year, eighty-five percent.
- 33 f. For the sixth year, eighty-five percent.
- 34 g. For the seventh year, eighty-five percent.
- 35 h. For the eighth year, eighty-five percent.

1 i. For the ninth year, eighty-five percent.

2 j. For the tenth year, eighty-five percent.

3 3. A person may submit an application to the board of
4 supervisors in the county where the real estate is located and
5 the agricultural enterprise zone is created. An application
6 shall be filed for each new exemption claimed. The first
7 application for an exemption shall be filed by the owner of
8 the property with the board of supervisors by February 1 of
9 the assessment year for which the exemption is claimed. The
10 application shall contain information relating to the
11 construction or improvement of the livestock facility,
12 including but not limited to all of the following information:

13 a. The nature of the construction or improvement.

14 b. The date of completion.

15 c. The cost of the construction or improvement.

16 The board shall approve the application, subject to review
17 by the county assessor. A person is not required to obtain
18 approval of a previously approved exemption for succeeding
19 years.

20 4. The county assessor shall review each first-year
21 application by making a physical review of the property, to
22 determine if the construction or improvements made increased
23 the assessed value of the real estate by at least ten percent.
24 If the county assessor determines that the assessed value of
25 the real estate has increased by at least ten percent, the
26 county assessor shall proceed to determine the assessed value
27 of the property and certify the valuation determined pursuant
28 to subsection 2 to the county auditor at the time of
29 transmitting the assessment rolls. The county assessor shall
30 notify the applicant of the determination, and the assessor's
31 decision may be appealed to the local board of review as
32 provided in section 441.37. If an application for an
33 exemption is denied as a result of a failure to sufficiently
34 increase the value of the real estate, the owner may file a
35 first annual application in a subsequent year when additional

1 improvements are made to satisfy the requirement. After the
2 tax exemption is granted, the county assessor shall continue
3 to grant the tax exemption, with periodic physical review by
4 the assessor for the remaining period of the scheduled
5 exemption.

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SENATE FILE 294

H-3923

1 Amend Senate File 294, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting before line 1, the
4 following:

5 "Section 1. NEW SECTION. 108.15 PROTECTION OF
6 DESIGNATED PUBLIC USE AREAS.

7 1. As used in this section, unless the context
8 otherwise requires:

9 a. "Agricultural activity" means the same as
10 defined in section 358A.31.

11 b. "Agricultural enterprise zone" means the same
12 as defined in section 358A.31.

13 c. "Designated public use area" means any of the
14 following:

15 (1) Land within a state park as provided in
16 chapter 111.

17 (2) Land within a state preserve as provided in
18 chapter 111B.

19 (3) A state-owned lake under the jurisdiction of
20 the natural resource commission.

21 (4) State-owned land developed for recreational
22 activities such as hiking, camping, picnicking, water
23 sports, team sports, or winter sports, if the land is
24 under the jurisdiction of the natural resource
25 commission. However, a recreational activity does not
26 include fishing, hunting, or trapping of animals.

27 d. "Facility" means an operational site engaging
28 in an agricultural activity, an industrial activity,
29 or waste management activity, if the operation
30 requires a permit issued by the department for the
31 construction or operation of air pollution control
32 facilities, wastewater treatment facilities, gas and
33 mineral exploration, sovereign land construction,
34 barge fleetting, waste disposal, or floodplain
35 development. However a facility does not include an
36 operational site engaging in wastewater treatment or
37 wastewater management if operated by or for the
38 department.

39 e. "Industrial activity" means an activity
40 directly connected to a business engaged in
41 manufacturing, processing, or assembling products for
42 sale in interstate or intrastate commerce.

43 f. "Waste management activity" means an activity
44 directly connected to the management of waste as
45 defined in section 455B.482.

46 2. The natural resource commission shall consult
47 with the environmental protection commission and adopt
48 rules protecting designated public use areas from the
49 impact of agricultural activities, industrial
50 activities, or waste management activities conducted

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Page 2

1 from a facility, including a facility located within
2 an agricultural enterprise zone. The rules shall
3 protect the designated public use area from the
4 discharge of pollutants, including but not limited to
5 odors, noises, or airborne or waterborne contaminants.

6 If the facility is located within an agricultural
7 enterprise zone, the rules shall, to the extent
8 practicable, balance the need for the development and
9 operation of agricultural activities within an
10 agricultural enterprise zone with the protection of
11 public recreation uses and the conservation of
12 resources within the designated public use areas. The
13 rules shall be based on the impact of current and
14 proposed agricultural activities on the preservation
15 and public enjoyment of designated public use areas.

16 3. In developing the rules, the natural resource
17 commission shall consider all of the following:

18 a. The intensity of public use in the designated
19 public use area.

20 b. The amount of public investment committed to or
21 expended in developing facilities within the
22 designated public use area.

23 c. The potential damage to the infrastructure or
24 resources within the designated public use area.

25 d. The potential injury to the human enjoyment of
26 the designated public use area.

27 e. The uniqueness or vulnerability of plant and
28 animal species and communities in the designated
29 public use area.

30 f. The economic benefits produced from the
31 designated public use area, including benefits to the
32 region surrounding the designated public use area.

33 4. The rules may require that facilities
34 established on or after January 1, 1992, be separated
35 by a buffer area. The buffer area shall be land
36 between a facility and the designated public use area.
37 The separation distance shall be determined by the
38 natural resource commission, but shall not equal more
39 than one mile.

40 5. The rules shall not apply to an area within the
41 corporate limits of a city. The rules shall also not
42 apply to an area outside the corporate limits of the
43 city, if the city has previously extended its powers
44 over the area pursuant to section 414.23. The
45 commission may grant a variance for the establishment
46 of a facility, if the facility institutes safeguards
47 which operate to protect the designated public use
48 area."

49 2. Page 1, by striking lines 17 through 19, and
50 inserting the following: "agricultural enterprise

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Page 3

1 zone. However, the following shall be excluded from
2 an agricultural enterprise zone:

3 a. Land within the corporate limits of a city.

4 b. Land within a designated public use area as
5 provided in section 108.15.

6 c. Land within a buffer area as provided in
7 section 108.15."

8 3. Page 1, by striking lines 23 through 26, and
9 inserting the following: "agricultural enterprise
10 zone. However, the following shall be excluded from
11 an agricultural enterprise zone:

12 a. Land within the corporate limits of a city.

13 b. Land subject to zoning exercised by a city
14 pursuant to section 414.23.

15 c. Land within a designated public use area as
16 provided in section 108.15.

17 d. Land within a buffer area as provided in
18 section 108.15."

19 4. Page 2, by inserting after line 34, the
20 following:

21 "____. When establishing an agricultural
22 enterprise zone, amending the borders of the zone, or
23 rezoning land within the zone, the board of
24 supervisors shall mail a notice to the department of
25 natural resources, if the establishment, amendment, or
26 rezoning would locate the borders of the agricultural
27 enterprise zone within one mile from a designated
28 public use area, as defined in section 108.15. The
29 notice shall be delivered to the department in a
30 manner and according to procedures established by the
31 department."

32 5. Page 3, by inserting after line 24, the
33 following:

34 "____. An action or proceeding arising from
35 damages to property within or the interference with
36 the enjoyment of a designated public use area."

37 6. Title page, line 1, by inserting before the
38 word "providing" the following: "relating to land use,
39 by providing for the protection of designated areas,".

40 7. By renumbering and relettering as necessary.

By SHOULTZ of Black Hawk

OLLIE of Clinton

PLASIER of Sioux

GRONINGA of Cerro Gordo

BLANSHAN of Greene

BLACK of Jasper

DICKINSON of Jackson

H-3923 FILED APRIL 26, 1991

SENATE FILE 294

H-3624

1 Amend Senate File 294, as amended, passed, and re-
2 printed by the Senate, as follows:

3 1. By striking page 4, line 14, through page 6,
4 line 5, and inserting the following:

5 "2. A county board of supervisors may, by
6 ordinance as provided in section 427B.1, establish a
7 partial exemption from property taxation of the actual
8 value of a new livestock facility or the actual value
9 added to an existing livestock facility within an
10 agricultural enterprise zone. The construction of a
11 new livestock facility or an improvement in an
12 existing livestock facility must be completed after
13 the agricultural enterprise zone is established. An
14 exemption shall not be applied to the value added to
15 an owner-operated cattle facility receiving an
16 exemption pursuant to section 427B.7. The application
17 for the exemption shall be filed pursuant to section
18 427B.4. The actual value is eligible to receive a
19 partial exemption from taxation for a period of five
20 years. The amount of actual value which is eligible
21 to be exempt from taxation is the same as provided in
22 the exemption schedule in section 427B.3."

By COMMITTEE ON AGRICULTURE

FOGARTY of Palo Alto, Chairperson

H-3624 FILED APRIL 15, 1991

SENATE FILE 294

H-3772

1 Amend Senate File 294, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, line 34, by inserting after the word
4 "zone." the following: "When establishing such a
5 zone, amending the borders of the zone, or rezoning
6 land within the zone, the board of supervisors shall
7 also mail the notice, at least ten days before the
8 public hearing, to each member of a zoning commission
9 appointed by the board pursuant to section 358A.8, and
10 to each member of a board of adjustment appointed by
11 the board pursuant to section 358A.10."

By IVERSON of Wright

H-3772 FILED APRIL 22, 1991

SENATE FILE 294

H-4085

1 Amend Senate File 294, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 13, by inserting after the word
4 "livestock." the following: "'An agricultural
5 activity" includes an intensive agricultural activity
6 as defined in section 358A.33."

7 2. Page 1, by striking lines 27 through 31 and
8 inserting the following:

9 " . The board of supervisors of a county may
10 include any portion of the eligible land in the county
11 within the agricultural enterprise zone, except land
12 which is located in proximity to one of the
13 following:"

14 3. Page 2, by striking lines 8 through 10 and
15 inserting the following: "agricultural enterprise
16 zone within sixty days after the board of supervisors
17 receives a petition requesting".

18 4. Page 2, line 14, by inserting after the word
19 "county." the following: "The receipt of the petition
20 shall be conditioned upon payment by the petitioners
21 of all expenses related to establishing the
22 agricultural enterprise zone. The payment may be made
23 at a time and in a manner determined by the board of
24 supervisors."

25 5. Page 2, by striking lines 15 through 17.

26 6. Page 2, line 24, by inserting after the figure
27 "358A.6." the following: "However, the notice shall
28 be published in a newspaper in the county having a
29 general circulation within each affected township.
30 The notice shall also be posted in at least three
31 public places located in each county, but not less
32 than at least one public place in each city in the
33 county. The notice shall include a description of the
34 land proposed to be included in the agricultural
35 enterprise zone. The published or posted notice shall
36 be printed in at least ten point boldface type.
37 However, the description of the land proposed to be
38 included in the agricultural enterprise zone is not
39 required to be printed in at least ten point boldface
40 type."

41 7. Page 3, line 5, by striking the words
42 "NUISANCE RESTRICTIONS" and inserting the following:
43 "INTERFERENCE WITH A NEIGHBOR'S COMFORTABLE AND
44 REASONABLE USE AND ENJOYMENT OF THE NEIGHBOR'S
45 PROPERTY".

46 8. Page 3, by striking lines 10 through 12 and
47 inserting the following: "found to be an interference
48 with a neighbor's comfortable and reasonable use and
49 enjoyment of the neighbor's property."

50 9. Page 3, by striking line 14 and inserting the

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Page 2

1 following:

2 "a. An interference with a neighbor's comfortable
3 and reasonable use and enjoyment of the neighbor's
4 property, which is the result of an".

5 10. Page 3, by inserting after line 24 the
6 following:

7 "____. The right of a person to bring an action or
8 proceeding arising from or based upon a nuisance
9 affecting property or the enjoyment of the property,
10 if the property includes a residence owned or occupied
11 by the person, and the residence existed prior to the
12 establishment of the agricultural activity. As used
13 in this paragraph, an agricultural activity is deemed
14 to be established when it is first performed. An
15 agricultural activity which changes its character
16 shall be deemed to be established at the time when the
17 change in character occurs."

18 11. Page 4, by inserting after line 1 the
19 following:

20 "Sec. ____ . NEW SECTION. 358A.33 RESTRICTIONS
21 UPON INTENSIVE AGRICULTURAL ACTIVITIES WITHIN
22 AGRICULTURAL ENTERPRISE ZONES.

23 1. As used in this section, unless the context
24 otherwise requires:

25 a. "Agricultural activity" means the same as
26 defined in section 358A.31.

27 b. "Intensive agricultural activity" means an
28 agricultural activity directly connected to one of the
29 following:

30 (1) A confinement feeding facility. A confinement
31 feeding facility is a building and any appurtenances
32 which are used to produce more than five hundred head
33 of cattle, eight hundred head of swine, or five
34 thousand head of poultry.

35 (2) A feedlot as defined in section 172D.1, other
36 than a confinement feeding facility, which is used to
37 produce more than two hundred fifty head of cattle,
38 four hundred head of swine, or two thousand five
39 hundred head of poultry.

40 (3) A site used to dispose of waste material
41 generated by animals contained in a confinement
42 feeding facility or in a feedlot.

43 (4) A site used to produce animals other than
44 domesticated animals.

45 c. "Residence" means a place where a natural
46 person resides either permanently or temporarily.

47 2. An intensive agricultural activity within an
48 agricultural enterprise zone shall not be established
49 within thirteen hundred and twenty feet from a
50 residence existing prior to the establishment of the

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Page 3

1 intensive agricultural activity, unless one of the
2 following applies:

3 a. The residence is owned or leased by the person
4 who carries out the intensive agricultural activity.

5 b. The board of supervisors adopts an ordinance
6 which establishes a separation distance requirement
7 between the intensive agricultural activity and the
8 residence. The board may establish various separation
9 requirements. The ordinance shall be adopted as part

10 of the ordinance establishing the agricultural
11 enterprise zone or as part of an ordinance adopted
12 pursuant to chapter 358A. An ordinance shall not
13 interfere with the right of persons to contract for
14 separate conditions as provided in paragraph "c".

15 c. The person owning the residence and the person
16 owning land where the intensive agricultural activity
17 is carried out are parties or successors in interest
18 to a written contract which includes a waiver of any
19 separation distance requirement provided for in this
20 section. The terms of the contract relating to the
21 waiver may be enforced in law or equity by either
22 party or any successor in interest to the affected
23 property subject to the contract.

24 d. A site is used to dispose of waste material
25 generated by animals connected to the intensive
26 agricultural activity, if all of the following apply:

27 (1) The disposal is made at the site not more than
28 once each sixty days.

29 (2) The site is located five hundred feet or more
30 from a residence.

31 (3) The waste material must be incorporated into
32 soil within twenty-four hours from the date of
33 disposal."

34 12. By renumbering and relettering as necessary.

By HIBBARD of Madison

JESSE of Jasper

BRAND of Benton

BLACK of Jasper

SVOBODA of Tama

H-4085 FILED MAY 8, 1991

H-4086

1 Amend Senate File 294, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, by inserting before line 35, the
4 following:

5 "6A. a. The board of supervisors shall conduct a
6 referendum upon receiving a petition. The petition
7 may request that all or part of the land be excluded
8 from an agricultural enterprise zone to be established
9 pursuant to subsection 5. The petition may request a
10 modification in any proposed amendment of boundaries,
11 rezoning of areas, or elimination of the agricultural
12 enterprise zone pursuant to subsection 6. However,
13 the petition shall not seek to include land which is
14 ineligible or which the board has excluded, in
15 establishing the agricultural enterprise zone pursuant
16 to subsections 2 through 4.

17 b. The petition must be delivered to the board
18 within thirty days after the board conducts a public
19 hearing as provided in subsection 6. The petition
20 must be signed by at least one hundred eligible
21 electors who are residents of the county. The
22 petition must include a description of land subject to
23 exclusion from or inclusion in the agricultural
24 enterprise zone. If the board receives several
25 petitions, the board shall consider the petitions
26 together as a single petition.

27 c. The board shall canvass the petition and order
28 a referendum to be held at a convenient place in the
29 county not later than the next general election.

30 d. The board shall provide notice of the
31 referendum, including the time and place of holding
32 the referendum and the hours when the polls will open
33 and close. The notice shall be published for two
34 consecutive weeks in a newspaper in which the official
35 proceedings of the board are published in the county.
36 The final notice shall be published not less than ten
37 days before the date of the referendum.

38 e. A map of the county illustrating land subject
39 to exclusion from or inclusion in the agricultural
40 enterprise zone shall be posted at the place of the
41 referendum. The question to exclude the land
42 illustrated on the map shall be printed on the
43 ballots.

44 f. On the day designated for the referendum the
45 polls shall open at 8:00 a.m. and remain open until
46 8:00 p.m. All eligible electors whose residence would
47 be included within the agricultural enterprise zone
48 may vote in the referendum. The referendum must be
49 approved by a majority of electors casting votes. The
50 judges of the referendum shall canvass the vote and

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Page 2

1 certify the result, and deposit with the county
2 auditor the ballots cast, together with the pollbooks
3 showing the names of the voters.

4 g. The board of supervisors shall canvass returns
5 on the next Monday following the referendum. The
6 board shall make a return of the results available to
7 the county auditor who shall publish the results in
8 the newspaper providing notice of the referendum."

9 2. By renumbering as necessary.

By BERNAU of Story

SENATE FILE 294

H-3999

1 Amend the amendment, H-3923, to Senate File 294, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 2, by inserting after line 5 the
5 following:

6 "Within sixty days following adoption of the rules
7 by the natural resource commission pursuant to this
8 subsection, the department of natural resources shall
9 file with the county recorder of each county affected
10 by the rules, a map illustrating the boundaries of
11 each designated public use area located in the county.
12 The map shall also illustrate buffer areas located in
13 the county which have been established pursuant to
14 subsection 4. The department shall file an amended
15 map with the county recorder within thirty days after
16 the boundaries of a designated public use area or
17 buffer area have changed. However, the map is not
18 required to contain information relating to variances
19 granted pursuant to subsection 5."

By PLASIER of Sioux

H-3999 FILED MAY 1, 1991

SENATE FILE 294

H-4059

1 Amend Senate File 294, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 7, by inserting after the word
4 "contiguous." the following: "However, land
5 containing less than one thousand five hundred
6 contiguous acres shall not be included within an
7 agricultural enterprise zone."

By OSTERBERG of Linn

H-4059 FILED MAY 6, 1991

McLAREN, Ch.
SOORHOLTZ
HEDGE
PALMER
RIBBON

SSB 254
AGRICULTURE

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON PRIEBE)

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

A BILL FOR

1 An Act providing for the establishment of agricultural enterprise
2 zones, restricting nuisance suits, providing for tax refunds
3 on facilities within such zones, and providing a penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 358A.31 CREATION OF AGRICULTURAL
2 ENTERPRISE ZONES.

3 1. A county board of supervisors may by ordinance
4 designate part of the county as being appropriate for
5 intensive agricultural activities. This part shall be
6 referred to as an "agricultural enterprise zone." The land
7 included within this zone is not required to be contiguous.

8 As used in this section "agricultural activity" means an
9 activity directly connected to the raising, drying or storage
10 of crops, the care or feeding of livestock as defined in
11 section 267.1, the handling or transportation of crops, or
12 livestock, or the treatment or disposal of wastes resulting
13 from livestock.

14 2. In a county that has adopted a zoning ordinance that
15 establishes one or more agricultural zones, all of the land
16 within an agricultural zone is eligible to be included in the
17 agricultural enterprise zone, except for land within the
18 corporate limits of a city or land within a state park or
19 state preserve.

20 3. In a county that has not adopted a zoning ordinance
21 that establishes one or more agricultural zones, all of the
22 land within the county is eligible to be included in the
23 agricultural enterprise zone, except for land within the
24 corporate limits of a city, land within an area over which a
25 city has exercised its zoning authority under section 414.23,
26 or land within a state park or state preserve.

27 4. All of the eligible land shall be included in the
28 agricultural enterprise zone, except to the extent that the
29 board of supervisors excludes eligible land from the
30 agricultural enterprise zone because the land is, or is
31 located in close proximity to, one of the following:

32 a. Land that is unique, and of scientifically recognized
33 ecological value.

34 b. Towns, residential subdivisions, or other population
35 centers.

1 c. Locations at which a significant number of people
2 regularly congregate.

3 The determination by the board of supervisors that land is
4 in close proximity to a location excluded under this section
5 shall be a legislative determination.

6 5. The board of supervisors shall conduct a public hearing
7 on the adoption of a proposed ordinance establishing an
8 agricultural enterprise zone within sixty days after either of
9 the following:

10 a. The board of supervisors receives a petition requesting
11 adoption of such an ordinance. The petition shall specify the
12 proposed boundaries of the agricultural enterprise zone. The
13 petition must be signed by at least fifty eligible electors of
14 the county.

15 b. The board of supervisors approves a resolution
16 indicating its intent to establish an agricultural enterprise
17 zone.

18 6. The board of supervisors may amend the boundaries of
19 the agricultural enterprise zone, rezone areas included within
20 a zone, or eliminate the agricultural enterprise zone. When
21 establishing an agricultural enterprise zone, rezoning the
22 land within the zone, or amending its borders, the board of
23 supervisors shall comply with the notice, hearing, and
24 adoption requirements provided in section 358A.6. When
25 establishing such a zone, the board of supervisors shall mail
26 a notice, at least ten days before the public hearing on the
27 ordinance, to the owners of any eligible parcel of land having
28 more than two acres which the board is considering excluding
29 from the agricultural enterprise zone. When amending the
30 borders of such a zone, or rezoning land within the zone, the
31 board of supervisors shall mail this notice to the owners of
32 any parcel of land within the zone having more than two acres
33 which the board is considering excluding from the agricultural
34 enterprise zone.

35 7. Upon the creation of an agricultural enterprise zone,

1 or the amendment of its borders, the board of supervisors
2 shall cause its description to be filed with the county
3 auditor and placed on record in the office of the county
4 recorder.

5 Sec. 2. NEW SECTION. 358A.32 NUISANCE RESTRICTIONS
6 WITHIN AGRICULTURAL ENTERPRISE ZONES.

7 1. Subject to the exceptions in subsection 2, an
8 agricultural activity located in an agricultural enterprise
9 zone established pursuant to section 358A.31 shall not be
10 found to be a public or private nuisance regardless of the
11 established date of operation or expansion of the agricultural
12 activity.

13 2. This section does not apply to any of the following:

14 a. A public or private nuisance which is the result of an
15 agricultural activity determined to be in violation of a
16 federal statute or regulation or state statute or rule.

17 b. An action or proceeding arising from injury or damage
18 to person or property caused by the agricultural activity
19 before the creation of the agricultural enterprise zone.

20 c. The right of a person to recover damages for injury or
21 damage sustained by the person because of the pollution or
22 change in condition of the waters of a stream, the overflowing
23 of such waters on the person's land, or excessive soil erosion
24 onto another person's land.

25 3. This section shall apply to an agricultural activity
26 for fifteen years following the exclusion of land within an
27 agricultural enterprise zone due to the elimination of the
28 zone, the rezoning of the land included in the zone by the
29 county or a city, or the change in the boundaries of the zone.
30 This section shall apply to an agricultural activity from the
31 earliest date of either the filing of an application by or on
32 behalf of the property owner for a local or state permit
33 authorizing work related to the activity, or the commencement
34 of construction of any facility related to the activity.

35 4. As used in this section "agricultural activity" means

1 the same as defined in section 358A.31.

2 Sec. 3. NEW SECTION. 427B.8 PARTIAL TAX REFUND FOR
3 QUALIFIED LIVESTOCK PROJECTS.

4 1. For purposes of this section:

5 a. "Entity" means a corporation, partnership, trust, or
6 estate. An unincorporated joint venture or co-ownership of
7 property shall be considered a partnership.

8 b. "Family unit" means an individual, the individual's
9 spouse, if any other than a spouse who is legally separated
10 from the individual under a decree of divorce or separate
11 maintenance, and the individual's minor children as determined
12 on January 1 of the assessment year in which begins the fiscal
13 year for which the taxes are levied.

14 c. "Livestock project" means a building, structure, or
15 addition to an existing building or structure which is
16 primarily adapted for providing shelter to or feeding of
17 livestock as defined in section 267.1, if constructed while
18 the land is within an agricultural enterprise zone as provided
19 in section 358A.31.

20 2. The family unit that pays the real estate taxes on a
21 livestock project, indirectly through an entity or directly,
22 is eligible to receive a partial refund of the taxes for a
23 period of five years. The amount of the taxes actually paid
24 on which the tax refund is computed shall be as follows:

25 a. For the first year, seventy-five percent.

26 b. For the second year, sixty percent.

27 c. For the third year, forty-five percent.

28 d. For the fourth year, thirty percent.

29 e. For the fifth year, fifteen percent.

30 The years described in this subsection shall be counted
31 starting with the first year for which the completed livestock
32 project is subject to taxation.

33 3. The following limitations shall apply to partial
34 livestock refunds:

35 a. Only a family unit may make a refund claim for the

S.F. _____ H.F. _____

1 taxes it pays, indirectly through an entity or directly, on
2 livestock projects. The maximum refund that can be claimed by
3 a family unit is the amount of tax paid by the family unit on
4 the first three hundred sixty thousand dollars of assessed
5 valuation.

6 b. The taxes paid on a livestock project owned by an
7 entity shall be considered as being paid proportionately by
8 the entity's shareholders, partners, or beneficiaries as
9 determined on January 1 of the assessment year in which begins
10 the fiscal year for which the taxes are levied.

11 c. A family unit which pays taxes on more than one
12 livestock project, indirectly through an entity or directly,
13 shall designate on the refund claim the livestock project or
14 projects, or the portion thereof, for which the refund is
15 being claimed. This designation on the refund claim for one
16 year does not affect the designation on the refund claims for
17 subsequent years.

18 4. The following procedures shall apply to partial
19 livestock tax refunds:

20 a. One refund claim shall be filed for all livestock
21 projects for which a refund is claimed and for each year for
22 which a refund is claimed. The claim shall be filed with the
23 department of revenue and finance by June 30 for the real
24 estate taxes paid during the fiscal year ending on that date.

25 b. Refund claims shall be made on forms prescribed by the
26 director of revenue and finance. These forms shall provide
27 for a certification by the county treasurer of the amount of
28 taxes actually paid during the fiscal year on the livestock
29 project and for a certification by the county assessor of the
30 fiscal year in which taxes were first levied on the completed
31 livestock project.

32 c. The first fiscal year for which a refund claim can be
33 filed is the first fiscal year in which taxes have been levied
34 on the completed livestock project. The failure to file a
35 refund claim by the deadline shall result in the permanent

1 loss of the refund for that fiscal year. The failure to file
2 a refund claim for one year shall not affect the eligibility
3 to file a refund claim for subsequent years at the reduced
4 percentages for such subsequent years.

5 d. If the assessed value of a livestock project has been
6 reduced as a result of the partial exemption under section
7 427B.7, the livestock project will not be eligible for the
8 partial tax refund under this section.

9 e. If for any fiscal year the amount appropriated for
10 partial tax refunds on livestock projects is insufficient to
11 pay in full the amounts due or the claims for refunds, then
12 the amount of each refund payment shall be reduced by the same
13 percentage to provide that the aggregate payments to all
14 claimants shall be equal to the amount appropriated for such
15 payments.

16 f. Notwithstanding section 8.33, the unencumbered or
17 unobligated balance of moneys as of June 30 of a fiscal year
18 appropriated for the fiscal year to support partial tax
19 refunds on livestock projects and interest earned on such
20 funds shall not revert to the fund from which the
21 appropriation was made, but shall remain available to support
22 the partial tax refunds.

23 g. The amount due each refund claimant shall be paid in
24 the form of warrants payable to the claimant by the director
25 of revenue and finance by September 30 each year, taking into
26 consideration the relative budget and cash position of the
27 state resources.

28 5. A person making a false claim for the purpose of
29 securing a partial livestock tax refund or for the purpose of
30 aiding another person to secure such partial livestock tax
31 refund commits a fraudulent practice as provided in chapter
32 714.

33 6. The director of revenue and finance shall adopt all
34 rules necessary to administer this section.

35

EXPLANATION

1 This bill provides that a county board of supervisors may
2 by ordinance designate part of the county as being appropriate
3 for intensive agricultural activities. The bill places
4 restrictions on land eligible to be included within an
5 agricultural enterprise zone. Land which is not eligible for
6 inclusion includes land within the corporate limits of a city,
7 or land within a state park or state preserve. The bill
8 provides that the board of supervisors must also disqualify
9 land that is of unique value or where populations of people
10 reside or gather.

11 The bill provides procedures for creating an agricultural
12 enterprise zone by petition or upon resolution of the board.
13 The bill establishes procedures for amending the boundaries of
14 the agricultural enterprise zone, rezoning land within the
15 zone, or eliminating the zone.

16 The bill provides that an agricultural activity located
17 within a zone is not a public or private nuisance, unless it
18 is the result of a violation of federal or state law, it
19 occurs prior to the creation of the zone, or it results due to
20 pollution, flooding, or excessive soil erosion.

21 Protections against nuisance suits remain in effect for 15
22 years following the exclusion of land within a zone due to the
23 elimination of the zone, the rezoning of the land, or change
24 in boundaries of the zone.

25 The bill also provides a partial real estate tax refund for
26 the value of a building, structure, or addition to a building
27 or structure which is primarily adapted for livestock and con-
28 structed within an agricultural enterprise zone. Claimants
29 for the refund include an individual, the individual's spouse,
30 and their minor children. The refund may be claimed for five
31 years based on a schedule of depreciation. The maximum refund
32 that can be claimed is the amount of tax paid by the family
33 unit on the first \$360,000 of assessed valuation. The bill
34 provides procedures for filing claims for refunds. A person
35 making a false claim commits a fraudulent practice.

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