

F I N A L R E P O R T

IOWA COAL AND HAZARDOUS WASTE FACILITY SITING SUBCOMMITTEE OF THE SENATE AND HOUSE COMMITTEES ON ENERGY

January, 1981

Two issues that the Committees on Energy may be examining during the 1981 legislative session are problems that may arise in the siting of hazardous waste treatment and disposal facilities and incentives to encourage the mining and use of Iowa coal by the public and private sectors. A joint subcommittee of the Committees on Energy authorized by the Legislative Council held two meetings during the 1980 legislative interim to collect information and formulate recommendations in these areas.

The following legislators served on the Subcommittee:

Senator Richard Ramsey
Senator James Briles
Senator Joe Brown
Senator James Gallagher
Senator Norman Rodgers
Senator Arne Waldstein
Senator Steve Bisenius
Representative Harold Van Maanen
Representative John Pelton
Representative Wendell Pellett
Representative Carroll Perkins
Representative Arlo Hullinger
Representative Rollin Howell
Representative Doug Ritsema

Senator Ramsey and Representative Van Maanen served as Co-chairpersons. A description of the Subcommittee's activities and recommendations in each subject area examined follows.

INCENTIVES TO PROMOTE THE USE OF IOWA COAL

Prior to the first Subcommittee meeting, three bills were prepared by the Legislative Service Bureau to provide participants with specific proposals to comment upon. The bills were suggested by representatives of the mining industry as ways to encourage the production and use of Iowa coal. The bills were as follows:

1. A proposal providing a sales tax exemption for mining equipment.
2. A bill to exempt Iowa coal held in inventory by electric utilities from the personal property tax.

3. A proposal to amend the current law requiring state and local governments except municipal utilities to use Iowa coal by removing the exceptions to the law except those relating to the quality and quantity of the coal.

Representatives of Iowa Fuel and Minerals Company, Iowa Coal Sales, the Energy and Mineral Resources Research Institute (EMRRI) at Iowa State University, Iowa Power and Light Company and the State Board of Regents appeared at the first meeting to comment on these proposals and to offer any other suggestions for legislative action to encourage development of the Iowa coal industry.

With the exception of the State Board of Regents, all of those persons submitting testimony favored the three draft proposals with minor modifications. Mr. Wayne Richey, Executive Secretary of the State Board of Regents, told the Subcommittee that the Board voted to oppose the proposed amendments to the state preference law because the changes would not allow the purchaser to consider the additional cost of purchasing Iowa coal, differences in burning efficiencies between coal varieties or the ability of the institution to use the product. Mr. Richey noted that the Regents institutions will use 320,000 tons of coal this year of which 175,000 tons will be Iowa coal. He added that on one bid alone using Iowa coal would have increased the cost by \$400,000 to \$500,000.

Taking the opposite viewpoint, Mr. Ray Fisher, Director of EMRRI, advocated removing the current exemption from the Iowa coal preference law for municipal utilities. Mr. Fisher also suggested along with Mr. Bryce Dahm from Iowa Fuel and Minerals Company that the General Assembly reinstate funding for a program under the Iowa Geological Survey to map coal deposits in the state.

The testimony received also included information on the present condition and achievements of the Iowa coal industry. Industry representatives expressed pride in their ability to clean Iowa coal using techniques demonstrated by state funded research conducted at Iowa State University. After washing, Iowa coal can be comparable in quality to some out-of-state coals and may have an economic edge depending on the costs of transporting the out-of-state coal. It seemed to be the consensus of those industry persons represented that incentives are necessary, particularly to encourage potential users to convert to coal.

Mr. Bill Leech from Iowa Power told the Subcommittee about a coal gasification project in which Iowa Power is currently involved. KILnGAS is a process developed by Allis-Chalmers and Mr. Leech indicated that the use of Iowa coal for gasification may have the potential for significant economic benefit to Iowa consumers.

Based on the testimony received and after Subcommittee discussion of the legislative proposals, the Subcommittee makes the following recommendations:

1. The Subcommittee recommends the attached Bill I exempting coal mined in Iowa and held in inventory by an electric utility from the personal property tax.

Currently, all coal held in inventory by a business entity except a utility is exempt from the personal property tax. This bill expands that exemption to include Iowa coal held in inventory by an electric utility. Therefore the only coal held in inventory that would not be exempt from the personal property tax under this bill is coal held by electric utilities that was mined outside the state of Iowa.

During Subcommittee discussion of this proposal, members expressed concern for revenues that would be lost by local governments under the draft. Recognizing that the bill must also be considered by the Committees on Ways and Means, the Subcommittee recommends that those Committees consider and if possible incorporate language in the bill providing for state reimbursement for revenues lost by local governments because of the exemption from personal property tax of coal mined in Iowa and held in inventory by any business entity. The Subcommittee also recommends the Committees on Ways and Means consider including language to provide that any savings to a utility attributable to the exemption be passed on to the utility's customers.

2. The Subcommittee recommends Bill II providing an exemption from the state sales tax for mining equipment to be used only as such on the premises of an Iowa mine. While a fiscal note has not yet been prepared for this bill, industry proponents estimate the cost would be around \$60,000 annually. During discussion of this proposal the Subcommittee expressed concern over insuring that the exemption is adequately monitored. The Subcommittee raises this concern in this report so the Committees on Ways and Means can further examine and address any potential problems.

3. The Subcommittee recommends that the Committees on Energy or other appropriate standing committees review sections 73.6 and 73.7 of the Code relating to the Iowa coal preference to determine the extent of compliance with those sections and to recommend meaningful revisions. While the Subcommittee considered a bill amending these sections the Subcommittee concluded that more information is needed concerning both how the present law is being used and interpreted and how changes in the statute would impact on government institutions.

SULFUR DIOXIDE EMISSION STANDARDS FOR EXISTING COAL BURNING FACILITIES

Another area the Subcommittee examined was the long-standing disagreement between the state Department of Environmental Quality and the federal Environmental Protection Agency over the sulfur dioxide emission standards for existing coal burning facilities in Iowa.

Iowa's original SO₂ emission standard for such facilities proposed by DEQ in 1972 and approved by EPA allowed six pounds of SO₂ per million Btu's of heat input in all areas of the state with a reduction to five pounds in 1975. The DEQ submitted several revisions to delay the reduction to five pounds to first 1976 and then 1978. Both revisions were never approved with the result being a federally approved standard of five pounds per million Btu after 1975. In 1974 after a state funded study on the effects of SO₂ emissions on the ambient air the DEQ again sent revised standards to EPA for approval. These rules set the SO₂ emission limit for facilities in ten counties at six pounds per million Btu. In the rest of the state the limit was eight pounds for existing facilities over 500 million Btu's per hour of heat input and no limit for existing facilities of less than 500 million Btu's of heat input.

In 1977 the EPA approved the six pound limit for the ten counties but rejected the eight pound limit as being inadequate to protect the air quality, thereby reinstating the previous five pound limit. Consequently many facilities are now faced with meeting two different emission standards. Both DEQ and EPA are cooperating on a new modeling procedure to be used to propose new standards.

The Subcommittee found that the current situation is confusing for Iowa industries and for industries planning to develop or expand in Iowa. Furthermore the dual standards may have had an adverse effect on the use of Iowa coal. The Subcommittee requested a resolution be sent to the members of Iowa's congressional delegation reflecting its concern over the current dual standard and asking them to encourage the EPA to resolve the problem in the best interests of the people of Iowa. The Subcommittee is not necessarily requesting a relaxation of the current standards to the detriment of the state's general air quality. A copy of the resolution is attached to this report.

HAZARDOUS WASTE FACILITY SITING

In 1979 the General Assembly enacted legislation giving the Department of Environmental Quality regulatory authority over the generation, transportation, treatment and disposal of hazardous waste. Absent such state authority, the federal EPA would enforce similar provisions of the federal Resource Conservation and Recovery Act in the state. On November 19, 1980 federal rules requiring generators of hazardous waste to dispose of their waste only at a DEQ approved facility went into effect. There are currently no approved hazardous waste disposal sites in Iowa although generators of less than 1000 kg per month of hazardous waste may continue to dispose of their waste at sanitary landfills that have a special waste authorization issued by DEQ. (There are 38 such landfills.)

Shipping wastes out of state may provide a temporary solution to the disposal problems of the "larger" generator, however disposal facilities in the surrounding states are either rapidly filling to capacity, or facing closure because of public opposition or their inability to meet the new federal regulations. Ultimately treatment and disposal facilities, whether land disposal, incineration, neutralization or other type will have to be established in Iowa to meet the needs of Iowa industries.

The siting of such a facility is a process that has proved to be a science in itself. The experience of other states is not good. Public opposition to the location of a facility is intense as people envision another Love Canal or Valley of the Drums in their backyard. In 1980 the General Assembly enacted language giving the Executive Council, upon recommendation of the DEQ, the authority to condemn land for a disposal site. The law prohibits the DEQ from owning or operating the actual facility, but rather contemplates the long-term lease of the land to a private contractor or local government. Whether this procedure along with DEQ's general regulatory authority over hazardous waste is sufficient to enable the establishment of sites in Iowa is one of the questions examined by the Subcommittee.

Prior to the first meeting legislation was drafted creating a nine-member siting board with the authority to supersede contrary local ordinances and issue a permit for a treatment or disposal site. The legislation was based both on the recommendations of a conference on hazardous waste facility siting held in June and sponsored by the EPA and the Institute of Public Affairs at the University of Iowa and on other state's laws on the subject. The DEQ, the EPA, the Iowa Development Commission, the Iowa Manufacturer's Association, the League of Iowa Municipalities and the Iowa State Association of Counties were sent copies of the discussion draft and asked for their comments.

Mr. Larry Crane, representing DEQ, emphasized that additional state authority is necessary. He opined that the eminent domain authority is inadequate and probably would not be exercised. Mr. Crane recommended the legislature establish a state level siting authority with adequate staff to deal with land use and zoning requirements for hazardous waste facilities. Before establishing a new governmental body, the legislature should review all existing agencies, boards, and commissions to determine if the authority could logically be assigned to one of these entities. The powers and duties of the siting authority should preempt zoning requirements. In addition, the siting authority must, Mr. Crane stated, approve any site which meets the rules and requirements for the following areas of concern:

1. Demonstrated compliance with appropriate zoning requirements.

2. Demonstrated need for facility, including which waste generators and quantities and types of wastes are to be handled initially.

3. Demonstrated public benefit to be attained which will offset projected adverse impact from the facility.

4. Demonstrated compliance with environmental requirements.

The Iowa Development Commission and the Iowa Manufacturer's Association concurred in these recommendations.

The League of Iowa Municipalities opposed the creation of a siting board until the ultimate direction of the federal hazardous waste regulations and DEQ's state program is determined. Specifically the League opposed provisions that give local governments a minority role on the board and that allow the board to overrule contrary local ordinance. The State Association of Counties supported the draft proposal only in the sense that it provides for local participation in the decision-making process.

The Subcommittee emphasizes the importance of allowing adequate time to carefully examine and consider the siting issue. Waiting to respond until a crisis develops is not a sound policy. The Subcommittee attaches the draft proposal that it considered during the study without recommendation and only as a vehicle for further study of the issue by the General Assembly (Bill III). The Subcommittee recommends that the following items be included or addressed in the development of siting legislation:

1. The legislation should supersede inappropriate local ordinances.

2. A draft must recognize the need for public and local government participation at decision-making levels.

3. A draft should provide for participation by state regulatory agencies.

4. Providing incentives to communities to serve as sites for facilities should be explored.

5. Legislation should provide a reasonable time frame for decision-making.

6. A fund supported by generators of hazardous waste to be used for research and development and other costs of hazardous waste programs merits consideration.

PROPOSED SENATE/HOUSE FILE _____

BY (PROPOSED IOWA COAL AND HAZARDOUS
WASTE SUBCOMMITTEE BILL)

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

A BILL FOR

1 An Act exempting coal mined in Iowa and held as inventory by
2 an electric utility from property taxation.

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

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1 Section 1. Section 427.1, subsection 35, Code 1981, is
2 amended to read as follows:

3 35. Coal which is held in inventory ~~to-be-used-for-methane~~
4 ~~gas-production-or-other-purposes~~ by a person, corporation,
5 partnership, or other business entity, ~~except~~. However, coal
6 held in inventory which is owned by a person, corporation,
7 partnership, or other business entity whose property is
8 assessed by the department of revenue pursuant to sections
9 428.24 to 428.29 or chapters 433 to 438 is not exempt from
10 taxation if the coal held in inventory has been extracted
11 from a mine located outside the state of Iowa.

12 EXPLANATION

13 Currently, all coal held in inventory by a business entity
14 except a utility is exempt from the personal property tax.
15 This bill expands that exemption to include Iowa coal held
16 in inventory by an electric utility. Therefore the only coal
17 held in inventory that would not be exempt from the personal
18 property tax under this bill is coal held by electric utilities
19 that was mined outside the state of Iowa.

20 The bill takes effect July 1 following its enactment.

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PROPOSED SENATE/HOUSE FILE _____

BY (PROPOSED IOWA COAL AND HAZARDOUS
WASTE SUBCOMMITTEE BILL)

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

A BILL FOR

1 An Act exempting the gross receipts from the sale or rental
2 of mining equipment to be used within the state from the
3 state sales tax.

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

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1 Section 1. Section 422.45, Code 1981, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. The gross receipts from the sale or rental
4 of equipment that will only be used on the premises of a coal
5 mining operation within the state for the extraction, moving,
6 processing, cleaning or washing of coal. The exemption
7 includes the sale of replacement parts for such equipment.

8 EXPLANATION

9 This bill exempts gross receipts from the sale or rental
10 of certain coal mining equipment to be used within the state
11 from the state sales tax. The bill becomes effective July
12 1 following its enactment.

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PROPOSED SENATE/HOUSE FILE _____

By PREPARED FOR THE COAL AND
HAZARDOUS WASTE SUBCOMMITTEE
OF THE COMMITTEES ON ENERGY
FOR DISCUSSION ONLY

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

A BILL FOR

1 An Act relating to the siting of hazardous waste treatment,
2 storage and disposal facilities.

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

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1 Section 1. NEW SECTION. DEFINITIONS. As used in this
2 Act unless the context otherwise requires:

3 1. "Board" means the site approval board created in section
4 2 of this Act.

5 2. "Facility" means a facility for the treatment, disposal
6 or storage of a hazardous waste required to have a permit
7 under section 455B.125.

8 3. "Hazardous waste" means a hazardous waste as defined
9 in section 455B.121, subsection 3 and listed by the
10 environmental quality commission under section 455B.122,
11 subsection 2.

12 4. "Commission" means the environmental quality commission.

13 5. "Executive director" means the executive director of
14 the department.

15 6. "Agency" means an agency as defined in section 17A.2,
16 subsection 1.

17 7. "Regulatory agency" means an agency that issues li-
18 censes or permits required for the construction, operation
19 or maintenance of a facility pursuant to statute or rules
20 in effect on the date the application for a site permit is
21 submitted to the commission.

22 8. "Commence to construct" means significant alteration
23 of a site to install permanent equipment or structures but
24 does not include activities incident to preliminary engineering
25 environmental studies or acquisition of a site for a facility.
26 "Commence to construct" includes alteration to existing struc-
27 tures or a land disposal facility to accommodate hazardous
28 waste.

29 Sec. 2. NEW SECTION. BOARD ESTABLISHED.

30 1. A site approval board is established to review and
31 grant or deny a site permit required for a facility by section
32 3 of this Act. A separate board shall be convened for each
33 site permit application received by the commission. Mem-
34 bers of the board shall be appointed as provided in subsec-
35 tion 2. Permanent members shall serve on each board created

1 during their term of office. Temporary members shall serve
2 until final action has been taken on the site permit
3 application subject to their review.

4 2. The site approval board shall consist of five permanent
5 and four temporary positions as follows:

6 a. Three permanent members shall be appointed, one to
7 represent the department of environmental quality, one to
8 represent the department of health, and one to represent the
9 Iowa geological survey. Each shall be appointed by the execu-
10 tive officer of the respective department for a four-year
11 term. Vacancies shall be filled in the same manner as the
12 original appointment was made.

13 b. Two permanent members shall represent the public and
14 shall be appointed by the governor subject to confirmation
15 by the senate for four-year terms beginning and ending as
16 provided in section 69.19. One public member must be a
17 geologist and one must be a chemical engineer.

18 c. Two temporary members shall be residents of the county
19 in which the facility is proposed to be located and shall
20 be appointed by the county board of supervisors.

21 d. Two temporary members shall be residents of the city
22 in which the facility is proposed to be located and shall
23 be appointed by the governing body of the city. If the
24 proposed facility is not located in a city the two temporary
25 members appointed under this paragraph shall reside in a city
26 located closest to the proposed location of the facility.

27 3. Five members of the board constitute a quorum. The
28 executive director shall provide administrative and technical
29 support to the board as necessary to perform its functions.

30 4. The representative of the department of environmental
31 quality shall serve as chairperson of the board.

32 5. Board members who are not employees of the state or
33 of a local unit of government shall receive forty dollars
34 per diem and actual and necessary expenses incurred in
35 performing their official duties. Board members who are

1 employed by the state or a local unit of government shall
2 be reimbursed for actual and necessary expenses incurred in
3 the performance of their duties as a board member.

4 Sec. 3. NEW SECTION. PERMIT REQUIRED.

5 1. Commencing January 1, 1982 a person shall not commence
6 to construct a facility without first publishing a notice
7 of the intent to construct the facility in a newspaper having
8 general circulation in the immediate area in which the fa-
9 cility is to be located. The notice shall appear for three
10 consecutive days and shall contain the following:

11 a. A description of the proposed location of the facility.

12 b. A description of the treatment or disposal method to
13 be used and the types of wastes to be handled, including es-
14 timated volumes.

15 c. The names and addresses of the owners and the opera-
16 tors of the facility.

17 A person shall not commence to construct the facility as de-
18 scribed in the notice for at least thirty days following the
19 last date of publication of the notice and until a site permit
20 for the facility is obtained if a site permit is required
21 under subsection 2.

22 2. A resident of the city or county in which the facility
23 is proposed to be located may within thirty days of the date
24 the notice is last published file a petition signed by five
25 hundred residents of the city or county with the commission
26 requesting that a site permit be required for the facility
27 under this Act. Upon receipt of the petition, the commission
28 shall notify the person seeking to construct the facility
29 that a site permit for the facility is required.

30 3. A person required to obtain a site permit shall not
31 commence to construct a facility without obtaining the permit.
32 This Act does not apply to:

33 a. A facility permitted under subsection 2 of section
34 125B.125.

35 b. A facility that has obtained applicable local zoning

1 permits and for which contracts have been signed prior to
2 January 1, 1982.

3 4. A person required to obtain a site permit for a fa-
4 cility under subsection 1 shall submit an application for
5 the permit to the commission on a form provided by the commis-
6 sion. The application for a site permit shall contain the
7 name and residence of the applicant, the location of the pro-
8 posed facility, and other information the commission may by
9 rule require.

10 5. A person required to obtain a site permit shall con-
11 struct, operate and maintain the facility as required in the
12 site permit. A site permit shall only be issued pursuant
13 to this Act.

14 Sec. 4. NEW SECTION. NOTIFICATION REQUIREMENTS. Upon
15 receipt of a site permit application that complies with the
16 requirements imposed under section 3 of this Act the commission
17 shall:

18 1. Immediately notify the permanent board members and
19 the governing bodies of the city and county responsible for
20 appointing the temporary board members as provided in section
21 2. The notice shall describe the procedure by which the per-
22 mit may be approved or denied. The governing bodies shall
23 appoint the temporary members within forty-five days of
24 notification under this paragraph. Upon appointment of the
25 temporary members the board is created and ready to conduct
26 business.

27 2. Send copies of the application to regulatory agencies.
28 Regulatory agencies receiving a copy of the application shall
29 conduct a preliminary review of the contents and shall evaluate
30 the application for completeness and for compliance with the
31 regulatory agency's permit and licensing requirements.

32 Sec. 5. NEW SECTION. PROCEEDING.

33 1. Within thirty days after creation of the board under
34 section 4 of this Act, the board shall meet to review and
35 establish a timetable for consideration of the site permit

1 application. The timetable for final action by the board
2 shall not exceed one hundred eighty days after the date of
3 the first board meeting. The board may require that the
4 applicant provide additional information not required by the
5 commission to be included on the application form.

6 2. The proceeding for issuance of a site permit shall
7 be conducted by the board in the same manner as a contested
8 case under chapter 17A.

9 3. The board shall establish a date for the hearing on
10 the application and shall serve notice of the hearing on the
11 following:

12 a. Interested agencies, as determined by the commission,
13 and regulatory agencies.

14 b. County and city zoning authorities from the area in
15 which the proposed site is located.

16 c. Owners of record of real property located within one
17 thousand linear feet of the proposed site.

18 3. Notice of the hearing in the form provided in section
19 17A.12, subsection 2, shall be published in a newspaper of
20 general circulation in each city or county in which the pro-
21 posed site is located once a week for two consecutive weeks
22 with the second publication being at least twenty days prior
23 to the date of the hearing. The board is responsible for
24 publication and delivery of notices required by this section.

25 4. The board shall conduct the hearing in the city or
26 county in which the construction of the greater portion of
27 the facility is being proposed.

28 Sec. 6. NEW SECTION. PROCEEDING--ROLE OF REGULATORY AGEN-
29 CIES AND LOCAL AUTHORITIES.

30 1. Regulatory agencies which appear on record at the
31 proceeding shall state whether the application meets their
32 permit and licensing requirements. If the application does
33 not meet such requirements, the regulatory agency shall
34 recommend amendments to the application which outline actions
35 necessary to bring the applicant in compliance with the

1 regulatory agency's permit and licensing requirements. The
2 board shall not issue a certificate for a facility which does
3 not meet the permit and licensing requirements of a regulatory
4 agency.

5 2. If a regulatory agency which received notice pursuant
6 to section 4 of this Act fails to appear of record at the
7 hearing, the board shall conclusively presume that the facility
8 meets the regulatory agency's permit and licensing requirements
9 and the regulatory agency shall immediately issue any license
10 or permit required for the construction, operation and
11 maintenance of the facility.

12 3. City and county zoning authorities designated as parties
13 to the proceeding may appear on record and may state whether
14 the facility meets city, county and airport zoning require-
15 ments. The failure of a facility to meet zoning requirements
16 established pursuant to chapters 329, 358A and 414 shall not
17 preclude the board from issuing the site permit and to that
18 extent this subsection supersedes chapters 329, 358A and 414.

19 4. Any person may present written comments to the board
20 at the public hearing. The board may allow oral testimony
21 by persons other than those designated as parties to the pro-
22 ceeding and shall continue to accept written testimony for
23 fifteen days after the hearing date.

24 Sec. 7. NEW SECTION. DECISION BY BOARD.

25 1. The board shall consider the impact of the proposed
26 facility on the area in which it is to be located and make
27 a final determination on the site permit application. The
28 board shall consider, at a minimum:

29 a. The risk and impact of accident during the transporta-
30 tion of hazardous waste.

31 b. The impact on the area where the proposed disposal
32 facility is to be located in terms of health, safety, cost,
33 and consistency with local planning and existing development.

34 c. Local ordinances, permits, or other requirements and
35 their relationship to the proposed facility.

1 d. The need for the services and operations that would
2 be provided by the proposed facility.

3 2. The board shall either approve or deny the application
4 for a site permit. If the board rejects a site permit applica-
5 tion, the board shall state its reason for the rejection in
6 writing.

7 Sec. 8. NEW SECTION. ISSUANCE OF PERMIT--EFFECT. Issuance
8 of a permit by the board authorizes construction of the
9 facility on the site designated in the permit according to
10 the terms and conditions stated in the permit and licenses
11 and permits issued by regulatory agencies during the
12 proceeding.

13 A permit may be transferred, subject to the approval of
14 the board, to a person who agrees to comply with the terms
15 of the permit. Permits shall be transferable by operation
16 of law to any receiver, trustee or similar assignee under
17 a mortgage, deed of trust or similar instrument.

18 Sec. 9. NEW SECTION. FURTHER APPROVALS PROHIBITED--
19 EXCEPTION. Upon issuance of a permit, notwithstanding any
20 provision of law except statutory requirements relating to
21 the protection of employees engaged in the construction of
22 the facility, a regulatory agency, city or county shall not
23 require any further approval, permit or license for the
24 construction of the facility.

25 Sec. 10. NEW SECTION. COSTS OF PROCEEDING. The applicant
26 for a permit shall pay all the costs and expenses incurred
27 by the board in reaching a decision on the application
28 including the costs of examinations of the site, the hearing,
29 publishing of notice, per diem and expenses for board members,
30 costs incurred by the executive director and the commission
31 attributable to the proceeding and other expenses reasonably
32 attributable to the proceeding.

33 Sec. 11. NEW SECTION. SINGLE HEARING--JUDICIAL REVIEW.
34 Notwithstanding chapter 17A:

35 1. Any proceeding or oral presentation held before the

1 board on an application for a permit shall be held in lieu
2 of any other proceeding or oral presentation required for
3 a license or permit necessary for the construction, maintenance
4 or operation of a facility.

5 2. The decision of the board shall be considered a single
6 agency action. The agency action is subject to judicial
7 review in the manner provided in chapter 17A.

8 3. Only parties to the proceeding before the board may
9 seek judicial review of the final order of the board.

10 Sec. 12. NEW SECTION. RULES. The commission shall adopt
11 rules pursuant to chapter 17A necessary to implement this
12 Act including but not limited to the form for an application
13 for a permit and the description of information to be furnished
14 by the applicant.

15 Sec. 13. NEW SECTION. PENALTIES.

16 1. Any person who is required to obtain a site permit
17 under this Act who commences to construct a facility without
18 having first obtained the permit, or who constructs, operates
19 or maintains any facility other than in compliance with a
20 permit issued by the board, or who causes any of these acts
21 to occur, is liable for a civil penalty of not more than ten
22 thousand dollars for each violation or for each day of
23 continuing violation. Civil penalties collected pursuant
24 to this subsection shall be forwarded by the clerk of court
25 to the treasurer of state for deposit in the general fund
26 of the state.

27 2. The district court has exclusive jurisdiction to grant
28 restraining orders and temporary or permanent injunctive
29 relief as may be necessary to obtain compliance with this
30 Act.

31 3. Persons convicted of violating any provision of this
32 Act are guilty of a simple misdemeanor.

33 Sec. 14. Section 455B.5, Code 1981, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. Adopt rules and perform other duties re-

1 lating to the procedure for issuance of a site permit for
2 a hazardous waste facility as required in sections 1 through
3 13 of this Act.

4 Sec. 16. Section 455B.125, subsection 3, Code 1981, is
5 amended to read as follows:

6 3. The commission may by rule specify the information
7 required to be submitted with the application for a permit
8 and the conditions under which the executive director shall
9 issue, deny, revoke, suspend or modify permits. ~~However,~~
10 ~~a~~ A permit shall not be issued for a treatment, storage or
11 disposal facility unless the applicant presents evidence of
12 financial responsibility and continuity of operation consistent
13 with the degree and duration of risks associated with the
14 treatment, storage or disposal of the hazardous waste as
15 determined by the commission and obtains a site permit if
16 required to do so under section 3 of this Act.

17 EXPLANATION

18 This bill creates a site approval board to review and ap-
19 prove or deny applications for a site permit which the bill
20 requires for certain hazardous waste treatment, storage and
21 disposal facilities. The board has nine members, five of
22 whom are permanent and represent government agencies and
23 public professionals and four of whom are appointed by local
24 governments affected by a single permit application and who
25 serve only until that application is acted upon.

26 The permit process for a proposed facility is triggered
27 by the filing of a petition bearing citizen signatures with
28 the environmental quality commission requesting that a permit
29 for the facility be required. If a petition is not filed
30 within thirty days of the publishing of notice of the facility
31 in a local newspaper, no site permit is required. This feature
32 is intended to screen out those facilities which generate
33 little public concern or controversy and save the owners from
34 a perhaps long and complex permit procedure.

35 The process for obtaining the site permit is patterned

1 after the current procedure for issuance of a certificate
2 of convenience and necessity for electric generating
3 facilities. A single hearing is held by the board at which
4 all other state and local agencies required to issue permits
5 for the facility appear. The objective is to consolidate
6 all of the permit processes into a single action. The
7 authority of the board extends only to questions concerning
8 the need for the facility and its probable impact on the
9 proposed locale. The authority of other permitting agencies
10 is not diminished. The board cannot approve a site permit
11 until all other permits have been issued, with the exception
12 that the board can overrule local zoning authorities.

13 This bill is effective July 1 following its enactment.

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SUBCOMMITTEE RESOLUTION _____

By: JOINT SUBCOMMITTEE ON IOWA COAL AND
HAZARDOUS WASTE SITING FACILITY

1 WHEREAS, the allowable emission standards for sulfur dioxide
2 of the Iowa Department of Environmental Quality and the United
3 States Environmental Protection Agency for coal burning facilities
4 are different in eighty-nine counties in Iowa; and

5 WHEREAS, this difference creates confusion and apprehension
6 among industries and utilities which are considering locating
7 or expanding in Iowa or increasing their use of Iowa coal; and

8 WHEREAS, the Iowa Department of Environmental Quality and the
9 United States Environmental Protection Agency are now cooperating
10 to develop a new modeling procedure to propose new allowable
11 emission standards for sulfur dioxide; NOW THEREFORE;

12 BE IT RESOLVED BY THE JOINT SUBCOMMITTEE ON IOWA COAL AND
13 HAZARDOUS WASTE FACILITY SITING That the members of the Iowa
14 congressional delegation are requested to express their concern
15 to the United States Environmental Protection Agency for its
16 continued cooperation in proposing new allowable emission
17 standards for sulfur dioxide by coal burning facilities in Iowa
18 as early as possible to reduce investor uncertainty about locating
19 or expanding in Iowa or using Iowa coal; and

20 BE IT FURTHER RESOLVED, That the legislative service bureau
21 is directed to send a copy of this resolution to each member of
22 the Iowa congressional delegation, the United States Environmental
23 Protection Agency and the Iowa Department of Environmental Quality.

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