

Reprinted

FEB 21 1990

Place On Calendar

HOUSE FILE 2534

BY COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

(SUCCESSOR TO HF 2327)

Passed House, Date 2/27/90 (p.677) Passed Senate, Date 3/16/90
Vote: Ayes 86 Nays 10 Vote: Ayes 40 Nays 2
Approved April 24, 1990

(p.1127)

A BILL FOR

52991 An Act relating to the local approval of the siting of sanitary
5314 2 disposal projects.

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

HOUSE FILE 2534

H-5299

1 Amend House File 2534 as follows:
2 1. Title page, line 1, by striking the words "the
3 local approval of the siting of".

By JESSE of Jasper

H-5299 FILED FEBRUARY 22, 1990

Placed on 2/27 (p.677)

HOUSE FILE 2534

H-5314

1 Amend House File 2534 as follows:
2 1. Page 6, by inserting after line 10, the
3 following:
4 "Sec. ____ . NEW SECTION. 455B.315 RADIOACTIVE
5 MATERIALS -- PROHIBITED DEPOSIT IN SANITARY LANDFILL.
6 A person shall not dispose of, and a sanitary
7 landfill shall not accept for final disposal,
8 radioactive materials, as defined pursuant to section
9 136C.1, on January 1, 1990."
10 2. Title page, by striking line 1, and inserting
11 the following: "An Act relating to sanitary".
12 3. By renumbering as necessary.

By BROWN of Lucas

H-5314 FILED FEBRUARY 22, 1990

Adopted 2/27 (p.677)

HF 2534

1 Section 1. NEW SECTION. 455B.305A LOCAL APPROVAL OF
2 SANITARY DISPOSAL PROJECTS.

3 1. Prior to the siting of a proposed sanitary disposal
4 project, a city, county, or private agency shall submit a
5 request for local siting approval to the city council or
6 county board of supervisors which governs the city or county
7 in which the proposed site is to be located. The city council
8 or county board of supervisors shall approve or disapprove the
9 site for each sanitary disposal project.

10 2. An applicant for siting approval shall submit
11 information to the city council or county board of supervisors
12 to demonstrate compliance with the requirements prescribed by
13 this chapter regarding a sanitary disposal project, and local
14 siting approval shall be granted only if the proposed project
15 meets all of the following criteria:

16 a. The project is necessary to accommodate the solid waste
17 management needs of the area which the project is intended to
18 serve.

19 b. The project is designed, located, and proposed to be
20 operated so that the public health, safety, and welfare will
21 be protected.

22 c. The project is located so as to minimize
23 incompatibility with the character of the surrounding area and
24 to minimize the effect on the value of the surrounding
25 property.

26 d. The project is located outside the boundary of the one
27 hundred year flood plain or the site is flood proofed.

28 e. The plan of operations for the project is designed to
29 minimize the danger to the surrounding area from fire, spills,
30 or other operational accidents.

31 f. The traffic patterns to or from the project are
32 designed in order to minimize the impact on existing traffic
33 flows.

34 g. Information regarding the previous operating experience
35 and previous record of convictions or admissions of violations

1 of a private agency applicant and its subsidiaries or parent
2 corporation in the area of solid waste management are made
3 available to the city council or county board of supervisors.

4 3. No later than fourteen days prior to a request for
5 siting approval, the applicant shall cause written notice of
6 the request to be served either in person or by restricted
7 certified mail on the owners of all property within the
8 proposed local site area not solely owned by the applicant,
9 and on the owners of all property within one thousand feet in
10 each direction of the lot line of the proposed local site
11 property if the proposed local site is within the city limits,
12 or within two miles in each direction of the lot line of the
13 proposed local site property if the proposed local site is
14 outside of the city limits. The owners shall be identified
15 based upon the authentic tax records of the county in which
16 the project is to be located. The number of all feet occupied
17 by public roads, streets, alleys, and other public property
18 shall be excluded in computing the feet requirement.

19 Written notice shall also be served either in person or by
20 restricted certified mail upon members of the general assembly
21 from the legislative district in which the proposed project is
22 to be located and shall be published in a newspaper of general
23 circulation published in the county in which the site is
24 located. The notice shall state the name and address of the
25 applicant, the location of the proposed site, the nature and
26 size of the development, the nature of the activity proposed,
27 the probable life of the proposed activity, the date when the
28 request for site approval will be submitted, and a description
29 of the right of persons to comment on the request.

30 4. An applicant shall file a copy of its request with the
31 city council or the county board of supervisors in which the
32 proposed site is located. The request shall include the
33 substance of the applicant's proposal and all documents, if
34 any, submitted as of that date to the department pertaining to
35 the proposed project. All documents or other materials

1 pertaining to the proposed project on file with the city
2 council or county board of supervisors shall be made available
3 for public inspection at the office of the city council or
4 county board of supervisors and may be copied upon payment of
5 the actual cost of reproduction.

6 Any person may file written comment with the city council
7 or county board of supervisors concerning the appropriateness
8 of the proposed site for its intended purpose. The city
9 council or county board of supervisors shall consider any
10 comment received or postmarked not later than thirty days
11 after the date of the last public hearing.

12 5. At least one public hearing shall be held by the city
13 council or county board of supervisors no sooner than ninety
14 days but no later than one hundred twenty days from receipt of
15 the request for siting approval. A hearing shall be preceded
16 by published notice in a newspaper of general circulation
17 published in the county of the proposed site, and notice by
18 restricted certified mail to all members of the general
19 assembly from the district in which the proposed site is to be
20 located and to the department. The public hearing shall
21 develop a record sufficient to form the basis of an appeal of
22 the decision in accordance with section 455B.305B.

23 6. Decisions of the city council or the county board of
24 supervisors shall be in writing, specifying the reasons for
25 the decision in conformance with subsection 1. In granting
26 approval for a site, the city council or the county board of
27 supervisors may impose conditions which are reasonable and
28 necessary to accomplish the purposes of this section. The
29 written decision of the city council or the county board of
30 supervisors shall be available for public inspection at the
31 office of the city council or county board of supervisors and
32 may be copied upon payment of the actual cost of reproduction.
33 If final action is not taken by the city council or the county
34 board of supervisors within one hundred eighty days after the
35 filing of the request for site approval, the request is

1 approved.

2 At any time prior to completion by the applicant of the
3 presentation of the applicant's factual evidence and an
4 opportunity for questioning by the city council or the county
5 board of supervisors and members of the public, the applicant
6 may file not more than one amended application upon payment of
7 additional fees pursuant to subsection 9. The time limitation
8 for final action on an amended application shall be extended
9 for an additional ninety days.

10 7. A local siting approval granted under this section
11 shall expire at the end of two calendar years from the date
12 upon which it was granted. If the local siting decision is
13 appealed, the two-year period shall begin on the date upon
14 which the appeal process is concluded.

15 8. The local siting approval, criteria, and appeal
16 procedures provided for in this section and in section
17 455B.305B are the exclusive siting procedures and appeal
18 procedures. Local zoning or other local land use requirements
19 shall not be applicable to such siting decisions.

20 9. A city council or a county board of supervisors may
21 charge an applicant for siting approval, under this section, a
22 fee to cover the reasonable and necessary costs incurred by
23 the city or county in the siting approval process.

24 10. An applicant shall not file a request for local siting
25 approval which is substantially the same as a request which
26 was denied within the preceding two years pursuant to a
27 finding against the applicant under the established criteria.

28 Sec. 2. NEW SECTION. 455B.305B APPEAL FROM DECISION.

29 1. If the city council or the county board of supervisors
30 does not approve a siting request under section 455B.305A, the
31 applicant, within thirty-five days of notice of the decision,
32 may petition for a hearing before the commission to contest
33 the decision. The commission shall publish notice of the
34 hearing on the appeal twenty-one days prior to the hearing in
35 a newspaper of general circulation published in that county.

1 The city council or the county board of supervisors shall
2 appear as respondent in the hearing, and the hearing shall be
3 based exclusively on the record before the city council or the
4 county board of supervisors. At the hearing, the burden of
5 proof shall be on the petitioner. However, no additional
6 evidence in support of or in opposition to any finding, order,
7 determination, or decision of the city council or the county
8 board of supervisors shall be heard by the commission. In
9 making its orders and determinations under this section, the
10 commission shall consider the written decision and reasons for
11 the decision of the city council or the county board of
12 supervisors, the transcribed record of the hearing held
13 pursuant to section 455B.305A, and the fundamental fairness of
14 the procedures used by the city council or the county board of
15 supervisors in reaching its decision. The commission shall
16 transmit a copy of its decision to the office of the city
17 council or the county board of supervisors where it shall be
18 available for public inspection and copied upon payment of the
19 actual cost of reproduction. If final action is not taken by
20 the commission within one hundred twenty days, the siting
21 ruling is affirmed.

22 2. If the city council or the county board of supervisors
23 grants approval under section 455B.305A, a third party other
24 than the applicant who participated in the public hearing
25 conducted by the city council or the county board of
26 supervisors, may petition the commission within thirty-five
27 days of filing of the written decision at the office of the
28 city council or county board of supervisors for a hearing to
29 contest the approval. Unless the commission determines that
30 the petition is duplicitous or frivolous, the commission shall
31 hear the petition in accordance with the procedures of
32 subsection 1. The hearing shall be based exclusively on the
33 record before the city council or the county board of
34 supervisors. The burden of proof shall be on the petitioner,
35 and the city council or the county board of supervisors and

1 the applicant shall be named as corespondents.

2 The commission shall transmit a copy of its decision to the
3 office of the city council or the county board of supervisors
4 where it shall be available for public inspection and may be
5 copied upon payment of the actual cost of reproduction.

6 3. Any person who files a petition to contest a decision
7 of the city council or the county board of supervisors shall
8 pay a filing fee.

9 4. Judicial review may be sought of actions of the
10 commission in accordance with chapter 17A.

52147

11 Sec. 3. MORATORIUM -- COMMERCIAL INFECTIOUS WASTE
12 INCINERATORS.

13 The department of natural resources shall not grant a
14 permit for the construction or operation of a commercial
15 infectious waste incinerator prior to July 1, 1991.

16 EXPLANATION

17 This bill provides for review and approval by city councils
18 or county boards of supervisors of proposals for the
19 establishment of sanitary disposal projects prior to the
20 siting of a sanitary disposal project by a city, county, or
21 private agency planning to operate a sanitary disposal project
22 to the department of natural resources. The bill provides for
23 a public hearing regarding the proposal and for appeal of the
24 decision of a city council or county board of supervisors to
25 the environmental protection commission. The bill also
26 provides for judicial review. The bill also provides for a
27 moratorium on the granting of permits for commercial
28 infectious waste incinerators until July 1, 1991.

29 This bill may provide for a state mandate under chapter
30 25B.

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SENATE AMENDMENT TO HOUSE FILE 2533

H-6150

1 Amend House File 2533, as amended, passed and
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1.

6 The legislative council is requested to create an
7 interim study committee to consider the creation of a
8 family court to handle cases involving family issues.
9 The study committee shall submit a report of its
10 findings and recommendations to the legislative
11 council and the general assembly before the 1991
12 regular session."

RECEIVED FROM THE SENATE

H-6150 FILED APRIL 5, 1990

REFUSED TO CONCUR (p. 2090)

Senate insisted 4/6 (p. 1629)

HOUSE FILE 2533
FISCAL NOTE

A fiscal note for House File 2533 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.

House File 2533 creates a family court within the district court in each judicial district, which has the authority to hear matters involving juveniles, domestic abuse, dissolution of marriage, child support, child custody, adoption, paternity and related matters. Juvenile court officers are changed into juvenile court officers, full-time juvenile court referees are changed into district associate judges, and part-time juvenile referees are eliminated, effective July 1, 1991.

The bill provides for expanded use of mediation for child custody and visitation issues in dissolution cases. The requirement that the parties pay joint custody mediation costs is eliminated, and provides that the court may order the parties to pay these costs. A pilot program for child custody and visitation mediation is established in Linn County; all child custody and visitation cases in that county shall be mediated.

The bill expands the jurisdiction of district associate court to include family court matters, and provides that these judges shall receive 90% of the salary set for district judges. The selection of chief judges is changed to election by the other judges in the district; they are currently appointed by the Supreme Court. The bill also provides that contingent upon funding, eight new district judges shall be appointed, one in each judicial district, effective July 1, 1991. The also provides for 30 additional family court officers July 1, 1992, contingent upon funding.

The bill provides that guardian ad litem must be practicing attorneys, and specifies that the same person who has served in a criminal or juvenile delinquency proceeding shall serve the child in a Child in Need of Assistance (CINA) case. The court may order the Department of Human Services to assign the same caseworker in a juvenile delinquency proceeding as it had previously assigned in a CINA matter.

Fiscal Impact:

House File 2533 is estimated to result in the following additional costs:

	FY 1991	FY 1992
Increased judicial salaries:	\$101,000	\$101,000
Change or eliminate referees:	204,000	15,000
Additional court reporters:	76,000	76,000
Judicial education:	19,000	27,000
Mediation project:	136,000	136,000
Additional District Judges, Support Staff:		1,148,000
TOTAL	\$536,000	\$1,503,000

The funding for the additional district judges is not required; these positions are only created contingent upon funding.

Estimated cost in FY 1993 is approximately \$2.5 million.

Source: Judicial Department

(LSB 7204HV, JMN)

FILED FEBRUARY 28, 1990

BY DENNIS PROUTY, FISCAL DIRECTOR

Sen energy 31

5372 3/6/90

HOUSE FILE 2534
BY COMMITTEE ON ENERGY AND
ENVIRONMENTAL PROTECTION

(SUCCESSOR TO HF 2327)

(As Amended and Passed by the House February 27, 1990)

Passed House, Date 4/4/90 (p. 1866) Passed Senate, Date 3/16/90 (p. 1127)

Vote: Ayes 89 Nays 5 Vote: Ayes 40 Nays 2

Approved April 24, 1990

Reconsidered, amended & passed
4/4/90 (p. 1968)
79-11

A BILL FOR

1 An Act relating to sanitary disposal projects.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

House Amendments _____

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4
5
6 Conference Committee Appointed 4/6/90
7 Repr. Jassa (Chair), Banks, Rosenberg, Peterson, and Lykawa (p. 2124)
8 Sen. Delaney (Chair), Priddy, Gronstal, Pate, & Lischke (p. 1625)

9
10 Passed per Conference Committee Report
11 House 4/7/90 (p. 2292) Senate 4/7/90 (p. 1715)
12 96-0 43-4

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5372 *Strikes Sec 1 & Sec 2*

1 Section 1. NEW SECTION. 455B.305A LOCAL APPROVAL OF
2 SANITARY DISPOSAL PROJECTS.

3 1. Prior to the siting of a proposed sanitary disposal
4 project, a city, county, or private agency shall submit a
5 request for local siting approval to the city council or
6 county board of supervisors which governs the city or county
7 in which the proposed site is to be located. The city council
8 or county board of supervisors shall approve or disapprove the
9 site for each sanitary disposal project.

10 2. An applicant for siting approval shall submit
11 information to the city council or county board of supervisors
12 to demonstrate compliance with the requirements prescribed by
13 this chapter regarding a sanitary disposal project, and local
14 siting approval shall be granted only if the proposed project
15 meets all of the following criteria:

16 a. The project is necessary to accommodate the solid waste
17 management needs of the area which the project is intended to
18 serve.

19 b. The project is designed, located, and proposed to be
20 operated so that the public health, safety, and welfare will
21 be protected.

22 c. The project is located so as to minimize
23 incompatibility with the character of the surrounding area and
24 to minimize the effect on the value of the surrounding
25 property.

26 d. The project is located outside the boundary of the one
27 hundred year flood plain or the site is flood proofed.

28 e. The plan of operations for the project is designed to
29 minimize the danger to the surrounding area from fire, spills,
30 or other operational accidents.

31 f. The traffic patterns to or from the project are
32 designed in order to minimize the impact on existing traffic
33 flows.

34 g. Information regarding the previous operating experience
35 and previous record of convictions or admissions of violations

1 of a private agency applicant and its subsidiaries or parent
2 corporation in the area of solid waste management are made
3 available to the city council or county board of supervisors.

4 3. No later than fourteen days prior to a request for
5 siting approval, the applicant shall cause written notice of
6 the request to be served either in person or by restricted
7 certified mail on the owners of all property within the
8 proposed local site area not solely owned by the applicant,
9 and on the owners of all property within one thousand feet in
10 each direction of the lot line of the proposed local site
11 property if the proposed local site is within the city limits,
12 or within two miles in each direction of the lot line of the
13 proposed local site property if the proposed local site is
14 outside of the city limits. The owners shall be identified
15 based upon the authentic tax records of the county in which
16 the project is to be located. The number of all feet occupied
17 by public roads, streets, alleys, and other public property
18 shall be excluded in computing the feet requirement.

19 Written notice shall also be served either in person or by
20 restricted certified mail upon members of the general assembly
21 from the legislative district in which the proposed project is
22 to be located and shall be published in a newspaper of general
23 circulation published in the county in which the site is
24 located. The notice shall state the name and address of the
25 applicant, the location of the proposed site, the nature and
26 size of the development, the nature of the activity proposed,
27 the probable life of the proposed activity, the date when the
28 request for site approval will be submitted, and a description
29 of the right of persons to comment on the request.

30 4. An applicant shall file a copy of its request with the
31 city council or the county board of supervisors in which the
32 proposed site is located. The request shall include the
33 substance of the applicant's proposal and all documents, if
34 any, submitted as of that date to the department pertaining to
35 the proposed project. All documents or other materials

1 pertaining to the proposed project on file with the city
2 council or county board of supervisors shall be made available
3 for public inspection at the office of the city council or
4 county board of supervisors and may be copied upon payment of
5 the actual cost of reproduction.

6 Any person may file written comment with the city council
7 or county board of supervisors concerning the appropriateness
8 of the proposed site for its intended purpose. The city
9 council or county board of supervisors shall consider any
10 comment received or postmarked not later than thirty days
11 after the date of the last public hearing.

12 5. At least one public hearing shall be held by the city
13 council or county board of supervisors no sooner than ninety
14 days but no later than one hundred twenty days from receipt of
15 the request for siting approval. A hearing shall be preceded
16 by published notice in a newspaper of general circulation
17 published in the county of the proposed site, and notice by
18 restricted certified mail to all members of the general
19 assembly from the district in which the proposed site is to be
20 located and to the department. The public hearing shall
21 develop a record sufficient to form the basis of an appeal of
22 the decision in accordance with section 455B.305B.

23 6. Decisions of the city council or the county board of
24 supervisors shall be in writing, specifying the reasons for
25 the decision in conformance with subsection 1. In granting
26 approval for a site, the city council or the county board of
27 supervisors may impose conditions which are reasonable and
28 necessary to accomplish the purposes of this section. The
29 written decision of the city council or the county board of
30 supervisors shall be available for public inspection at the
31 office of the city council or county board of supervisors and
32 may be copied upon payment of the actual cost of reproduction.
33 If final action is not taken by the city council or the county
34 board of supervisors within one hundred eighty days after the
35 filing of the request for site approval, the request is

1 approved.

2 At any time prior to completion by the applicant of the
3 presentation of the applicant's factual evidence and an
4 opportunity for questioning by the city council or the county
5 board of supervisors and members of the public, the applicant
6 may file not more than one amended application upon payment of
7 additional fees pursuant to subsection 9. The time limitation
8 for final action on an amended application shall be extended
9 for an additional ninety days.

10 7. A local siting approval granted under this section
11 shall expire at the end of two calendar years from the date
12 upon which it was granted. If the local siting decision is
13 appealed, the two-year period shall begin on the date upon
14 which the appeal process is concluded.

15 8. The local siting approval, criteria, and appeal
16 procedures provided for in this section and in section
17 455B.305B are the exclusive siting procedures and appeal
18 procedures. Local zoning or other local land use requirements
19 shall not be applicable to such siting decisions.

20 9. A city council or a county board of supervisors may
21 charge an applicant for siting approval, under this section, a
22 fee to cover the reasonable and necessary costs incurred by
23 the city or county in the siting approval process.

24 10. An applicant shall not file a request for local siting
25 approval which is substantially the same as a request which
26 was denied within the preceding two years pursuant to a
27 finding against the applicant under the established criteria.

28 Sec. 2. NEW SECTION. 455B.305B APPEAL FROM DECISION.

29 1. If the city council or the county board of supervisors
30 does not approve a siting request under section 455B.305A, the
31 applicant, within thirty-five days of notice of the decision,
32 may petition for a hearing before the commission to contest
33 the decision. The commission shall publish notice of the
34 hearing on the appeal twenty-one days prior to the hearing in
35 a newspaper of general circulation published in that county.

1 The city council or the county board of supervisors shall
2 appear as respondent in the hearing, and the hearing shall be
3 based exclusively on the record before the city council or the
4 county board of supervisors. At the hearing, the burden of
5 proof shall be on the petitioner. However, no additional
6 evidence in support of or in opposition to any finding, order,
7 determination, or decision of the city council or the county
8 board of supervisors shall be heard by the commission. In
9 making its orders and determinations under this section, the
10 commission shall consider the written decision and reasons for
11 the decision of the city council or the county board of
12 supervisors, the transcribed record of the hearing held
13 pursuant to section 455B.305A, and the fundamental fairness of
14 the procedures used by the city council or the county board of
15 supervisors in reaching its decision. The commission shall
16 transmit a copy of its decision to the office of the city
17 council or the county board of supervisors where it shall be
18 available for public inspection and copied upon payment of the
19 actual cost of reproduction. If final action is not taken by
20 the commission within one hundred twenty days, the siting
21 ruling is affirmed.

22 2. If the city council or the county board of supervisors
23 grants approval under section 455B.305A, a third party other
24 than the applicant who participated in the public hearing
25 conducted by the city council or the county board of
26 supervisors, may petition the commission within thirty-five
27 days of filing of the written decision at the office of the
28 city council or county board of supervisors for a hearing to
29 contest the approval. Unless the commission determines that
30 the petition is duplicitous or frivolous, the commission shall
31 hear the petition in accordance with the procedures of
32 subsection 1. The hearing shall be based exclusively on the
33 record before the city council or the county board of
34 supervisors. The burden of proof shall be on the petitioner,
35 and the city council or the county board of supervisors and

1 the applicant shall be named as correspondents.

2 The commission shall transmit a copy of its decision to the
3 office of the city council or the county board of supervisors
4 where it shall be available for public inspection and may be
5 copied upon payment of the actual cost of reproduction.

6 3. Any person who files a petition to contest a decision
7 of the city council or the county board of supervisors shall
8 pay a filing fee.

9 4. Judicial review may be sought of actions of the
10 commission in accordance with chapter 17A.

53727

11 Sec. 3. NEW SECTION. 455B.315 RADIOACTIVE MATERIALS --
12 PROHIBITED DEPOSIT IN SANITARY LANDFILL.

13 A person shall not dispose of, and a sanitary landfill
14 shall not accept for final disposal, radioactive materials, as
15 defined pursuant to section 136C.1, on January 1, 1990.

16 Sec. 4. MORATORIUM -- COMMERCIAL INFECTIOUS WASTE
17 INCINERATORS.

18 The department of natural resources shall not grant a
19 permit for the construction or operation of a commercial
20 infectious waste incinerator prior to July 1, 1991.

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HOUSE FILE 2534

H-6014

1 Amend the Senate amendment, H-5745, to House File
2 2534, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by striking lines 3 through 40 and
5 inserting the following:

6 "____. By striking everything after the enacting
7 clause and inserting the following:

8 "Section 1. NEW SECTION. 455B.305A LOCAL
9 APPROVAL OF SANITARY LANDFILL AND INCINERATOR
10 PROJECTS.

11 1. Prior to the siting of a proposed sanitary
12 landfill or incinerator, a city, county, or private
13 agency shall submit a request for local siting
14 approval to the city council or county board of
15 supervisors which governs the city or county in which
16 the proposed site is to be located. The city council
17 or county board of supervisors shall approve or
18 disapprove the site for each sanitary landfill or
19 incinerator.

20 2. An applicant for siting approval shall submit
21 information to the city council or county board of
22 supervisors to demonstrate compliance with the
23 requirements prescribed by this chapter regarding a
24 sanitary landfill or incinerator. Siting approval
25 shall be granted only if the proposed project meets
26 all of the following criteria:

27 a. The project is necessary to accommodate the
28 solid waste management needs of the area which the
29 project is intended to serve.

30 b. The project is designed, located, and proposed
31 to be operated so that the public health, safety, and
32 welfare will be protected.

33 c. The project is located so as to minimize
34 incompatibility with the character of the surrounding
35 area and to minimize the effect on the value of the
36 surrounding property.

37 d. The plan of operations for the project is
38 designed to minimize the danger to the surrounding
39 area from fire, spills, or other operational
40 accidents.

41 e. The traffic patterns to or from the project are
42 designed in order to minimize the impact on existing
43 traffic flows.

44 f. Information regarding the previous operating
45 experience of a private agency applicant and its
46 subsidiaries or parent corporation in the area of
47 solid waste management or related activities are made
48 available to the city council or county board of
49 supervisors.

50 3. No later than fourteen days prior to a request

H-6014

Page 2

1 for siting approval, the applicant shall cause written
2 notice of the request to be served either in person or
3 by restricted certified mail on the owners of all
4 property within the proposed local site area not
5 solely owned by the applicant, and on the owners of
6 all property within one thousand feet in each
7 direction of the lot line of the proposed local site
8 property if the proposed local site is within the city
9 limits, or within two miles in each direction of the
10 lot line of the proposed local site property if the
11 proposed local site is outside of the city limits.

12 The owners shall be identified based upon the
13 authentic tax records of the county in which the
14 project is to be located.

15 Written notice shall be published in the official
16 newspaper of the county in which the site is located.
17 The notice shall state the name and address of the
18 applicant, the location of the proposed site, the
19 nature and size of the development, the nature of the
20 activity proposed, the probable life of the proposed
21 activity, the date when the request for site approval
22 will be submitted, and a description of the right of
23 persons to comment on the request.

24 4. An applicant shall file a copy of its request
25 with the department and with the city council or the
26 county board of supervisors in which the proposed site
27 is located. The request shall include the substance
28 of the applicant's proposal and all documents, if any,
29 submitted as of that date to the department pertaining
30 to the proposed project. All documents or other
31 materials pertaining to the proposed project on file
32 with the city council or county board of supervisors
33 shall be made available for public inspection at the
34 office of the city council or county board of
35 supervisors and may be copied upon payment of the
36 actual cost of reproduction.

37 Any person may file written comment with the city
38 council or county board of supervisors concerning the
39 appropriateness of the proposed site for its intended
40 purpose. The city council or county board of
41 supervisors shall consider any comment received or
42 postmarked not later than thirty days after the date
43 of the last public hearing.

44 5. At least one public hearing shall be held by
45 the city council or county board of supervisors no
46 sooner than ninety days but no later than one hundred
47 twenty days from receipt of the request for siting
48 approval. A hearing shall be preceded by published
49 notice in an official newspaper of the county of the
50 proposed site, including in any official newspaper

H-6014

Page 3

1 located in the city of the proposed site. The public
2 hearing shall develop a record sufficient to form the
3 basis of an appeal of the decision.

4 6. Decisions of the city council or the county
5 board of supervisors shall be in writing, specifying
6 the reasons for the decision. The written decision of
7 the city council or the county board of supervisors
8 shall be available for public inspection at the office
9 of the city council or county board of supervisors and
10 may be copied upon payment of the actual cost of
11 reproduction. Final action shall be taken by the city
12 council or the county board of supervisors within one
13 hundred eighty days after the filing of the request
14 for site approval.

15 At any time prior to completion by the applicant of
16 the presentation of the applicant's factual evidence
17 and an opportunity for questioning by the city council
18 or the county board of supervisors and members of the
19 public, the applicant may file not more than one
20 amended application upon payment of additional fees
21 pursuant to subsection 9. The time limitation for
22 final action on an amended application shall be
23 extended for an additional ninety days.

24 7. Construction of a project which is granted
25 local siting approval under this section shall
26 commence within one calendar year from the date upon
27 which it was granted or the permit shall be nullified.
28 If the local siting decision is appealed, the one-year
29 period shall begin on the date upon which the appeal
30 process is concluded.

31 8. The local siting approval, criteria, and appeal
32 procedures provided for in this section and in section
33 455B.305B are the exclusive local siting procedures
34 and appeal procedures. Local zoning or other local
35 land use requirements shall not be applicable to such
36 siting decisions.

37 9. A city council or a county board of supervisors
38 shall charge an applicant for siting approval, under
39 this section, a fee to cover the reasonable and
40 necessary costs incurred by the city or county in the
41 siting approval process.

42 10. An applicant shall not file a request for
43 local siting approval which is substantially the same
44 as a request which was denied within the preceding two
45 years pursuant to a finding against the applicant
46 under the established criteria.

47 Sec. 2. NEW SECTION. 455B.305B APPEAL FROM
48 DECISION.

49 1. If the city council or the county board of
50 supervisors does not approve a siting request under

H-6014

Page 4

1 section 455B.305A, the applicant, within sixty days of
2 notice of the decision, may petition for a hearing
3 before the commission to contest the decision. The
4 commission shall publish notice of the hearing on the
5 appeal thirty days prior to the hearing in an official
6 newspaper of the county of the proposed site,
7 including in any official newspaper located in the
8 city of the proposed site. The city council or the
9 county board of supervisors shall appear as respondent
10 in the hearing, and the hearing shall be based
11 exclusively on the record before the city council or
12 the county board of supervisors. At the hearing, the
13 burden of proof shall be on the petitioner. In making
14 its orders and determinations under this section, the
15 commission shall consider the written decision and
16 reasons for the decision of the city council or the
17 county board of supervisors and the transcribed record
18 of the hearing held pursuant to section 455B.305A.
19 The commission shall transmit a copy of its decision
20 to the office of the city council or the county board
21 of supervisors where it shall be available for public
22 inspection and copied upon payment of the actual cost
23 of reproduction. Final action by the commission shall
24 be taken within one hundred twenty days.

25 2. If the city council or the county board of
26 supervisors grants approval under section 455B.305A, a
27 third party other than the applicant who participated
28 in the public hearing conducted by the city council or
29 the county board of supervisors, may petition the
30 commission within sixty days of filing of the written
31 decision at the office of the city council or county
32 board of supervisors for a hearing to contest the
33 approval. Unless the commission determines that the
34 petition is duplicitous or frivolous, the commission
35 shall hear the petition in accordance with the
36 procedures of subsection 1. The burden of proof shall
37 be on the petitioner, and the city council or the
38 county board of supervisors and the applicant shall be
39 named as correspondents.

40 The commission shall transmit a copy of its
41 decision to the office of the city council or the
42 county board of supervisors where it shall be
43 available for public inspection and may be copied upon
44 payment of the actual cost of reproduction.

45 3. Any person who files a petition to contest a
46 decision of the city council or the county board of
47 supervisors shall pay a reasonable filing fee.

48 4. Judicial review may be sought of actions of the
49 commission in accordance with chapter 17A.

50 Sec. 3. NEW SECTION. 455B.315 RADIOACTIVE

H-6014

Page 5

1 MATERIALS -- PROHIBITED DEPOSIT IN SANITARY LANDFILLS.

2 A person shall not dispose of, and a sanitary
3 landfill shall not accept for final disposal,
4 radioactive materials, as defined as of January 1,
5 1990, pursuant to section 136C.1.

6 Sec. 4. Section 455D.9, subsection 2, Code
7 Supplement 1989, is amended to read as follows:

8 2. The department shall assist local communities
9 in the development of collection systems for yard
10 waste generated from residences and shall assist in
11 the establishment of local composting facilities. By
12 ~~July 17, 1990~~, Within one hundred twenty days of the
13 adoption of rules by the department regarding yard
14 waste, each city and county shall, by ordinance,
15 require persons within the city or county to separate
16 yard waste from other solid waste generated.
17 Municipalities which provide a collection system for
18 solid waste shall provide for a collection system for
19 yard waste which is not composted.

20 Sec. 5. MORATORIUM -- COMMERCIAL INFECTIOUS WASTE
21 INCINERATORS.

22 The department of natural resources shall not grant
23 a permit for the construction or operation of a
24 commercial for-profit infectious waste incinerator
25 prior to July 1, 1991. The moratorium does not apply
26 to a hospital licensed pursuant to chapter 135B which
27 accepts waste from other infectious waste generators
28 if the total amount of infectious waste accepted from
29 other generators is less than sixty-six percent of the
30 infectious waste incinerated.

31 Sec. 6. COAL MINED LAND -- COAL COMBUSTION WASTE -
32 - STUDY.

33 The department of natural resources shall conduct a
34 study of the reclamation of coal mined land with coal
35 combustion waste. The study shall be conducted in
36 cooperation with the department of agriculture and
37 land stewardship and with Iowa state university of
38 science and technology. The department of natural
39 resources shall submit the results of the study and
40 the recommendations of the department, based upon the
41 results of the study, to the general assembly by
42 January 15, 1991.

43 Sec. 7.

44 Section 5 of this Act is retroactively applicable
45 to January 1, 1990.

46 Sec. 8.

47 This Act, being deemed of immediate importance,
48 takes effect upon enactment."

49 2. Title page, line 1, by striking the words
50 "sanitary disposal projects" and inserting the

H-6014

Page 6

- 1 following: "sanitary landfill and incineration
- 2 projects, providing a retroactive applicability date,
- 3 and providing an effective date".

By JESSE of Jasper

LYKAM of Scott

DVORSKY of Johnson

SHEARER of Louisa

BROWN of Lucas

H-6014 FILED MARCH 30, 1990

*Adopted 4/7/90 (p. 1866)**Reconsidered, amended by 6114 & Adopted (p. 1967)*

HOUSE FILE 2534

S-5372

1 Amend House File 2534 as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking page 1, line 1 through page 6,
4 line 10.

5 2. Page 6, by inserting before line 11, the
6 following:

7 "Sec. ____ . NEW SECTION. 455B.305A LOCAL APPROVAL
8 OF CERTAIN SANITARY DISPOSAL PROJECTS.

9 If a city or county provides by ordinance for
10 zoning relative to sanitary landfills or waste
11 incineration facilities, prior to the siting of a
12 proposed sanitary landfill or waste incineration
13 facility, a city, county, or private agency shall
14 submit a request for local siting approval to the city
15 council or county board of supervisors which governs
16 the city or county in which the proposed site is
17 located. The city council or county board of
18 supervisors shall approve or disapprove each request
19 submitted within one hundred eighty days of the
20 submitting of the request."

21 3. Page 6, by striking lines 18 through 20 and
22 inserting the following:

23 "The department of natural resources shall not
24 grant a permit prior to July 1, 1991, for the
25 construction or operation of a new infectious waste
26 incinerator that receives in excess of seventy-five
27 percent of its waste from other public or private
28 agencies for a fee."

29 4. Title page, line 1, by inserting after the
30 word "to" the following: "certain".

By COMMITTEE ON ENVIRONMENT
AND ENERGY UTILITIES
PATRICK DELUHERY, Chairperson

S-5372 FILED MARCH 6, 1990

Adopted as amended by Senate 3/16 (p. 1136)

SENATE CLIP SHEET

MARCH 16, 1990

Page 37

HOUSE FILE 2534

S-5503

1 Amend the amendment, S-5372, to House File 2534, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 1, line 20, by inserting after the word
5 "request." the following: "The requirements of this
6 section do not apply to a sanitary landfill or waste
7 incineration facility for which local approval has
8 been sought or obtained, or for which a departmental
9 permit has been issued prior to July 1, 1990."

By MICHAEL E. GRONSTAL

S-5503 FILED MARCH 15, 1990

Adopted 3/16 (p. 1136)

HOUSE FILE 2534

S-5486

1 Amend the amendment, S-5372, to House File 2534 as
2 amended, passed, and reprinted by the House as
3 follows:
4 1. Page 1, by inserting after line 20 the
5 following:
6 "____. Page 6, by striking line 15, and inserting
7 the following: "defined as of January 1, 1990,
8 pursuant to section 136C.1.""
9 2. Page 1, by inserting after line 28 the
10 following:
11 "Sec. _____. This Act, being deemed of immediate
12 importance, takes effect upon enactment."
13 3. Page 1, by striking lines 29 and 30, and
14 inserting the following:
15 "____. Title page, by striking line 1, and
16 inserting the following: "An Act relating to certain
17 sanitary disposal projects, and providing an effective
18 date.""

By PAUL D. PATE

S-5486 FILED MARCH 14, 1990

Adopted 3/16 (p. 1122)

HOUSE FILE 2534

S-5536

1 Amend amendment, S-5372, to House File 2534, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. Page 1, by inserting after line 6, the
5 following:
6 "Sec. _____. Section 455B.301, Code 1989, is amended
7 by adding the following new subsection:
8 NEW SUBSECTION. 3A. "Coal combustion residue"
9 means any solid waste produced by the burning of coal
10 itself or in conjunction with natural gas or other
11 fossil fuels. "Coal combustion residue" includes, but
12 is not limited to, bottom ash, fly ash, slag, and flue
13 gas desulfurization sludge generated by coal
14 combustion and associated air pollution control
15 equipment.
16 Sec. _____. Section 455B.304, Code Supplement 1989,
17 is amended by adding the following new unnumbered
18 paragraph:
19 NEW UNNUMBERED PARAGRAPH. The commission shall
20 adopt rules authorizing the reuse or beneficial use of
21 certain solid waste materials without a sanitary
22 disposal project permit. Coal combustion residue,
23 when used for the remediation or reclamation of an
24 abandoned coal strip mine area is a reuse or
25 beneficial use of solid waste material which shall be
26 authorized without a sanitary disposal project
27 permit."
28 2. By renumbering as necessary.

By PAT DELUHERY

S-5536 FILED MARCH 16, 1990

WITHDRAWN *(p. 1136)*

SENATE AMENDMENT TO HOUSE FILE 2534

H-745

Amend House File 2534 as amended, passed, and reprinted by the House, as follows:

1. By striking page 1, line 1 through page 6, line 10.

2. Page 6, by inserting before line 11, the following:

"Sec. ____ . NEW SECTION. 455B.305A LOCAL APPROVAL OF CERTAIN SANITARY DISPOSAL PROJECTS.

If a city or county provides by ordinance for zoning relative to sanitary landfills or waste incineration facilities, prior to the siting of a proposed sanitary landfill or waste incineration facility, a city, county, or private agency shall submit a request for local siting approval to the city council or county board of supervisors which governs the city or county in which the proposed site is located. The city council or county board of supervisors shall approve or disapprove each request submitted within one hundred eighty days of the submitting of the request. The requirements of this section do not apply to a sanitary landfill or waste incineration facility for which local approval has been sought or obtained, or for which a departmental permit has been issued prior to July 1, 1990."

3. Page 6, by striking line 15, and inserting the following: "defined as of January 1, 1990, pursuant to section 136C.1."

4. Page 6, by striking lines 18 through 20 and inserting the following:

"The department of natural resources shall not grant a permit prior to July 1, 1991, for the construction or operation of a new infectious waste incinerator that receives in excess of seventy-five percent of its waste from other public or private agencies for a fee.

Sec. ____ . This Act, being deemed of immediate importance, takes effect upon enactment."

5. Title page, by striking line 1, and inserting the following: "An Act relating to certain sanitary disposal projects, and providing an effective date."

RECEIVED FROM THE SENATE

H-5745 FILED MARCH 19, 1990

Concurred as amended by 6014 4/4 (p. 1866)
Reconsidered, further amended & Concurred (p. 1967)

HOUSE FILE 2534

H-6114

1 Amend the amendment, H-6014, to the Senate
2 amendment, H-5745, to House File 2534, as amended,
3 passed, and reprinted by the House, as follows:

4 1. Page 2, by inserting after line 43, the
5 following:

6 "____. The city council or county board of
7 supervisors shall obtain the advice of the appropriate
8 planning and zoning commission regarding the
9 application."

10 2. Page 3, by striking lines 35 and 36, and
11 inserting the following: "land use requirements may
12 be superseded by the city council or county board of
13 supervisors provided that they have received advice
14 from the appropriate planning and zoning commission."

15 3. Page 5, by striking lines 31 through 42.

16 4. By renumbering as necessary.

By JESSE of Jasper

H-6114 FILED APRIL 4, 1990

ADOPTED (g. 1967)

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 2534

S-5914

1 Amend the Senate amendment, H-5745, to House File
2 2534, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by striking lines 3 through 40 and
5 inserting the following:

6 "_____. By striking everything after the enacting
7 clause and inserting the following:

8 "Section 1. NEW SECTION. 455B.305A LOCAL
9 APPROVAL OF SANITARY LANDFILL AND INCINERATOR
10 PROJECTS.

11 1. Prior to the siting of a proposed sanitary
12 landfill or incinerator, a city, county, or private
13 agency shall submit a request for local siting
14 approval to the city council or county board of
15 supervisors which governs the city or county in which
16 the proposed site is to be located. The city council
17 or county board of supervisors shall approve or
18 disapprove the site for each sanitary landfill or
19 incinerator.

20 2. An applicant for siting approval shall submit
21 information to the city council or county board of
22 supervisors to demonstrate compliance with the
23 requirements prescribed by this chapter regarding a
24 sanitary landfill or incinerator. Siting approval
25 shall be granted only if the proposed project meets
26 all of the following criteria:

27 a. The project is necessary to accommodate the
28 solid waste management needs of the area which the
29 project is intended to serve.

30 b. The project is designed, located, and proposed
31 to be operated so that the public health, safety, and
32 welfare will be protected.

33 c. The project is located so as to minimize
34 incompatibility with the character of the surrounding
35 area and to minimize the effect on the value of the
36 surrounding property.

37 d. The plan of operations for the project is
38 designed to minimize the danger to the surrounding
39 area from fire, spills, or other operational
40 accidents.

41 e. The traffic patterns to or from the project are
42 designed in order to minimize the impact on existing
43 traffic flows.

44 f. Information regarding the previous operating
45 experience of a private agency applicant and its
46 subsidiaries or parent corporation in the area of
47 solid waste management or related activities are made
48 available to the city council or county board of
49 supervisors.

50 3. No later than fourteen days prior to a request

S-5914

Page 2

1 for siting approval, the applicant shall cause written
2 notice of the request to be served either in person or
3 by restricted certified mail on the owners of all
4 property within the proposed local site area not
5 solely owned by the applicant, and on the owners of
6 all property within one thousand feet in each
7 direction of the lot line of the proposed local site
8 property if the proposed local site is within the city
9 limits, or within two miles in each direction of the
10 lot line of the proposed local site property if the
11 proposed local site is outside of the city limits.
12 The owners shall be identified based upon the
13 authentic tax records of the county in which the
14 project is to be located.

15 Written notice shall be published in the official
16 newspaper of the county in which the site is located.
17 The notice shall state the name and address of the
18 applicant, the location of the proposed site, the
19 nature and size of the development, the nature of the
20 activity proposed, the probable life of the proposed
21 activity, the date when the request for site approval
22 will be submitted, and a description of the right of
23 persons to comment on the request.

24 4. An applicant shall file a copy of its request
25 with the department and with the city council or the
26 county board of supervisors in which the proposed site
27 is located. The request shall include the substance
28 of the applicant's proposal and all documents, if any,
29 submitted as of that date to the department pertaining
30 to the proposed project. All documents or other
31 materials pertaining to the proposed project on file
32 with the city council or county board of supervisors
33 shall be made available for public inspection at the
34 office of the city council or county board of
35 supervisors and may be copied upon payment of the
36 actual cost of reproduction.

37 Any person may file written comment with the city
38 council or county board of supervisors concerning the
39 appropriateness of the proposed site for its intended
40 purpose. The city council or county board of
41 supervisors shall consider any comment received or
42 postmarked not later than thirty days after the date
43 of the last public hearing.

44 5. The city council or county board of supervisors
45 shall obtain the advice of the appropriate planning
46 and zoning commission regarding the application.

47 6. At least one public hearing shall be held by
48 the city council or county board of supervisors no
49 sooner than ninety days but no later than one hundred
50 twenty days from receipt of the request for siting

1 approval. A hearing shall be preceded by published
2 notice in an official newspaper of the county of the
3 proposed site, including in any official newspaper
4 located in the city of the proposed site. The public
5 hearing shall develop a record sufficient to form the
6 basis of an appeal of the decision.

7 7. Decisions of the city council or the county
8 board of supervisors shall be in writing, specifying
9 the reasons for the decision. The written decision of
10 the city council or the county board of supervisors
11 shall be available for public inspection at the office
12 of the city council or county board of supervisors and
13 may be copied upon payment of the actual cost of
14 reproduction. Final action shall be taken by the city
15 council or the county board of supervisors within one
16 hundred eighty days after the filing of the request
17 for site approval.

18 At any time prior to completion by the applicant of
19 the presentation of the applicant's factual evidence
20 and an opportunity for questioning by the city council
21 or the county board of supervisors and members of the
22 public, the applicant may file not more than one
23 amended application upon payment of additional fees
24 pursuant to subsection 9. The time limitation for
25 final action on an amended application shall be
26 extended for an additional ninety days.

27 8. Construction of a project which is granted
28 local siting approval under this section shall
29 commence within one calendar year from the date upon
30 which it was granted or the permit shall be nullified.
31 If the local siting decision is appealed, the one-year
32 period shall begin on the date upon which the appeal
33 process is concluded.

34 9. The local siting approval, criteria, and appeal
35 procedures provided for in this section and in section
36 455B.305B are the exclusive local siting procedures
37 and appeal procedures. Local zoning or other local
38 land use requirements may be superseded by the city
39 council or county board of supervisors provided that
40 they have received advice from the appropriate
41 planning and zoning commission.

42 10. A city council or a county board of
43 supervisors shall charge an applicant for siting
44 approval, under this section, a fee to cover the
45 reasonable and necessary costs incurred by the city or
46 county in the siting approval process.

47 11. An applicant shall not file a request for
48 local siting approval which is substantially the same
49 as a request which was denied within the preceding two
50 years pursuant to a finding against the applicant

S-5914

Page 4

1 under the established criteria.

2 Sec. 2. NEW SECTION. 455B.305B APPEAL FROM

3 DECISION.

4 1. If the city council or the county board of
5 supervisors does not approve a siting request under
6 section 455B.305A, the applicant, within sixty days of
7 notice of the decision, may petition for a hearing
8 before the commission to contest the decision. The
9 commission shall publish notice of the hearing on the
10 appeal thirty days prior to the hearing in an official
11 newspaper of the county of the proposed site,
12 including in any official newspaper located in the
13 city of the proposed site. The city council or the
14 county board of supervisors shall appear as respondent
15 in the hearing, and the hearing shall be based
16 exclusively on the record before the city council or
17 the county board of supervisors. At the hearing, the
18 burden of proof shall be on the petitioner. In making
19 its orders and determinations under this section, the
20 commission shall consider the written decision and
21 reasons for the decision of the city council or the
22 county board of supervisors and the transcribed record
23 of the hearing held pursuant to section 455B.305A.
24 The commission shall transmit a copy of its decision
25 to the office of the city council or the county board
26 of supervisors where it shall be available for public
27 inspection and copied upon payment of the actual cost
28 of reproduction. Final action by the commission shall
29 be taken within one hundred twenty days.

30 2. If the city council or the county board of
31 supervisors grants approval under section 455B.305A, a
32 third party other than the applicant who participated
33 in the public hearing conducted by the city council or
34 the county board of supervisors, may petition the
35 commission within sixty days of filing of the written
36 decision at the office of the city council or county
37 board of supervisors for a hearing to contest the
38 approval. Unless the commission determines that the
39 petition is duplicitous or frivolous, the commission
40 shall hear the petition in accordance with the
41 procedures of subsection 1. The burden of proof shall
42 be on the petitioner, and the city council or the
43 county board of supervisors and the applicant shall be
44 named as correspondents.

45 The commission shall transmit a copy of its
46 decision to the office of the city council or the
47 county board of supervisors where it shall be
48 available for public inspection and may be copied upon
49 payment of the actual cost of reproduction.

50 3. Any person who files a petition to contest a

S-5914

Page 5

1 decision of the city council or the county board of
2 supervisors shall pay a reasonable filing fee.
3 4. Judicial review may be sought of actions of the
4 commission in accordance with chapter 17A.

5 Sec. 3. NEW SECTION. 455B.315 RADIOACTIVE
6 MATERIALS -- PROHIBITED DEPOSIT IN SANITARY LANDFILLS.

7 A person shall not dispose of, and a sanitary
8 landfill shall not accept for final disposal,
9 radioactive materials, as defined as of January 1,
10 1990, pursuant to section 136C.1.

11 Sec. 4. Section 455D.9, subsection 2, Code
12 Supplement 1989, is amended to read as follows:

13 2. The department shall assist local communities
14 in the development of collection systems for yard
15 waste generated from residences and shall assist in
16 the establishment of local composting facilities. By
17 July 17, 1990, within one hundred twenty days of the
18 adoption of rules by the department regarding yard
19 waste, each city and county shall, by ordinance,
20 require persons within the city or county to separate
21 yard waste from other solid waste generated.

22 Municipalities which provide a collection system for
23 solid waste shall provide for a collection system for
24 yard waste which is not composted.

25 Sec. 5. MORATORIUM -- COMMERCIAL INFECTIOUS WASTE
26 INCINERATORS.

27 The department of natural resources shall not grant
28 a permit for the construction or operation of a
29 commercial for-profit infectious waste incinerator
30 prior to July 1, 1991. The moratorium does not apply
31 to a hospital licensed pursuant to chapter 135B which
32 accepts waste from other infectious waste generators
33 if the total amount of infectious waste accepted from
34 other generators is less than sixty-six percent of the
35 infectious waste incinerated.

36 Sec. 6.

37 Section 5 of this Act is retroactively applicable
38 to January 1, 1990.

39 Sec. 7.

40 This Act, being deemed of immediate importance,
41 takes effect upon enactment."

42 2. Title page, line 1, by striking the words
43 "sanitary disposal projects" and inserting the
44 following: "sanitary landfill and incineration
45 projects, providing a retroactive applicability date,
46 and providing an effective date".

RECEIVED FROM THE HOUSE

S-5914 FILED APRIL 5, 1990

Senate refused to concur 4/6 (p. 1604)
Have insisted 4/6 (p. 2124)

REPORT OF THE CONFERENCE COMMITTEE
ON HOUSE FILE 2534

To the Speaker of the House of Representatives and the President of the Senate:

We, the undersigned members of the conference committee appointed to resolve the differences between the House of Representatives and the Senate on House File 2534, a bill for An Act relating to sanitary disposal projects, respectfully make the following report:

1. That the House recedes from its amendment, S-5914.
2. That the Senate recedes from its amendment, H-5745.
3. That House File 2534, as amended, passed, and reprinted by the House, is amended as follows:

1. By striking everything after the enacting clause, and inserting the following:

"Section 1. NEW SECTION. 455B.305A LOCAL APPROVAL OF SANITARY LANDFILL AND INFECTIOUS WASTE INCINERATOR PROJECTS.

1. Prior to the siting of a proposed, new sanitary landfill or infectious waste incinerator, a city, county, or private agency, with the exception of a private agency disposing of waste which the agency generates on property owned by the agency as of January 1, 1990, shall submit a request for local siting approval to the city council or county board of supervisors which governs the city or county in which the proposed site is to be located. The city council or county board of supervisors shall approve or disapprove the site for each sanitary landfill or infectious waste incinerator.

2. An applicant for siting approval shall submit information to the city council or county board of supervisors to demonstrate compliance with the requirements prescribed by this chapter regarding a sanitary landfill or infectious waste incinerator. Siting approval shall be granted only if the proposed project meets all of the following criteria:

- a. The project is necessary to accommodate the solid waste management needs of the area which the project is intended to

CCR-2534

Page 2

serve.

b. The project is designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.

c. The project is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property. The city council or county board of supervisors shall consider the advice of the appropriate planning and zoning commission regarding the application.

d. The plan of operations for the project is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents.

e. The traffic patterns to or from the project are designed in order to minimize the impact on existing traffic flows.

f. Information regarding the previous operating experience of a private agency applicant and its subsidiaries or parent corporation in the area of solid waste management or related activities are made available to the city council or county board of supervisors.

g. The department of natural resources has been consulted by the city council or board of supervisors prior to the approval.

3. No later than fourteen days prior to a request for siting approval, the applicant shall cause written notice of the request to be served either in person or by restricted certified mail on the owners of all property within the proposed local site area not solely owned by the applicant, and on the owners of all property within one thousand feet in each direction of the lot line of the proposed local site property if the proposed local site is within the city limits, or within two miles in each direction of the lot line of the proposed local site property if the proposed local site is outside of the city limits. The owners shall be identified based upon the authentic tax records of the county in which the project is to

CCR-2534

Page 3

be located.

Written notice shall be published in the official newspaper of the county in which the site is located. The notice shall state the name and address of the applicant, the location of the proposed site, the nature and size of the development, the nature of the activity proposed, the probable life of the proposed activity, the date when the request for site approval will be submitted, and a description of the right of persons to comment on the request.

4. An applicant shall file a copy of its request with the department and with the city council or the county board of supervisors in which the proposed site is located. The request shall include the substance of the applicant's proposal and all documents, if any, submitted as of that date to the department pertaining to the proposed project. All documents or other materials pertaining to the proposed project on file with the city council or county board of supervisors shall be made available for public inspection at the office of the city council or county board of supervisors and may be copied upon payment of the actual cost of reproduction.

Any person may file written comment with the city council or county board of supervisors concerning the appropriateness of the proposed site for its intended purpose. The city council or county board of supervisors shall consider any comment received or postmarked not later than thirty days after the date of the last public hearing.

5. At least one public hearing shall be held by the city council or county board of supervisors no sooner than ninety days but no later than one hundred twenty days from receipt of the request for siting approval. A hearing shall be preceded by published notice in an official newspaper of the county of the proposed site, including in any official newspaper located in the city of the proposed site. The public hearing shall develop a record sufficient to form the basis of an appeal of the decision.

CCR-2534

Page 4

6. Decisions of the city council or the county board of supervisors shall be in writing, specifying the reasons for the decision. The written decision of the city council or the county board of supervisors shall be available for public inspection at the office of the city council or county board of supervisors and may be copied upon payment of the actual cost of reproduction. Final action shall be taken by the city council or the county board of supervisors within one hundred eighty days after the filing of the request for site approval.

At any time prior to completion by the applicant of the presentation of the applicant's factual evidence and an opportunity for questioning by the city council or the county board of supervisors and members of the public, the applicant may file not more than one amended application upon payment of additional fees pursuant to subsection 9. The time limitation for final action on an amended application shall be extended for an additional ninety days.

7. Construction of a project which is granted local siting approval under this section shall commence within one calendar year from the date upon which it was granted or the permit shall be nullified. If the local siting decision is appealed, the one-year period shall begin on the date upon which the appeal process is concluded.

8. The local siting approval, criteria, and appeal procedures provided for in this section and in section 455B.305B are the exclusive local siting procedures and appeal procedures. Local zoning, ordinances, or other local land use requirements may be considered in such siting decisions.

9. A city council or a county board of supervisors shall charge an applicant for siting approval, under this section, a fee to cover the reasonable and necessary costs incurred by the city or county in the siting approval process.

10. An applicant shall not file a request for local siting approval which is substantially the same as a request which was denied within the preceding two years pursuant to a finding

CCR-2534

Page 5

against the applicant under the established criteria.

Sec. 2. NEW SECTION. 455B.305B APPEAL FROM DECISION.

1. If the city council or the county board of supervisors does not approve a siting request under section 455B.305A, the applicant, within sixty days of notice of the decision, may petition for a hearing before the commission or the commission's designee to contest the decision. The city council or the county board of supervisors shall appear as respondent in the hearing. At the hearing, the burden of proof shall be on the petitioner. In making its orders and determinations under this section, the commission or the commission's designee shall consider the written decision and reasons for the decision of the city council or the county board of supervisors and the transcribed record of the hearing held pursuant to section 455B.305A. The commission or the commission's designee shall transmit a copy of its decision to the office of the city council or the county board of supervisors where it shall be available for public inspection and copied upon payment of the actual cost of reproduction. Final action by the commission or the commission's designee shall be taken within one hundred twenty days.

2. If the city council or the county board of supervisors grants approval under section 455B.305A, a third party other than the applicant who participated in the public hearing conducted by the city council or the county board of supervisors, may petition the commission or the commission's designee within sixty days of filing of the written decision at the office of the city council or county board of supervisors for a hearing to contest the approval. Unless the commission or the commission's designee determines that the petition is duplicitous or frivolous, the commission or the commission's designee shall hear the petition in accordance with the procedures of subsection 1. The burden of proof shall be on the petitioner, and the city council or the county board of supervisors and the applicant shall be named as correspondents.

CCR-2534

Page 6

The commission or the commission's designee shall transmit a copy of its decision to the office of the city council or the county board of supervisors where it shall be available for public inspection and may be copied upon payment of the actual cost of reproduction.

3. Any person who files a petition to contest a decision of the city council or the county board of supervisors shall pay a reasonable filing fee.

4. Judicial review may be sought of actions of the commission or the commission's designee in accordance with chapter 17A.

Sec. 3. NEW SECTION. 455B.315 RADIOACTIVE MATERIALS -- PROHIBITED DEPOSIT IN SANITARY LANDFILLS.

A person shall not dispose of, and a sanitary landfill shall not accept for final disposal, radioactive materials, as defined as of January 1, 1990, pursuant to section 136C.1.

Sec. 4. Section 455D.9, subsection 2, Code Supplement 1989, is amended to read as follows:

2. The department shall assist local communities in the development of collection systems for yard waste generated from residences and shall assist in the establishment of local composting facilities. ~~By July 1, 1990,~~ Within one hundred twenty days of the adoption of rules by the department regarding yard waste, each city and county shall, by ordinance, require persons within the city or county to separate yard waste from other solid waste generated. Municipalities which provide a collection system for solid waste shall provide for a collection system for yard waste which is not composted.

Sec. 5. MORATORIUM -- COMMERCIAL INFECTIOUS WASTE INCINERATORS.

The department of natural resources shall not grant a permit for the construction or operation of a commercial infectious waste incinerator prior to July 1, 1991. The moratorium does not apply to a hospital licensed pursuant to chapter 135B which accepts waste from other infectious waste generators if the

CCR-2534

Page 7

total amount of infectious waste accepted from other generators is less than sixty-six percent of the infectious waste incinerated.

Sec. 6. DEAD ANIMAL DISPOSAL -- RULES -- REPORT REQUIRED.

1. The disposal of dead animals is an issue of great importance to the state both in terms of protection of animal populations from the transmission of diseases and the protection of groundwater from contamination. The preference for the disposal of dead animals is rendering. If rendering is not possible, or the operator is unwilling to accept dead animals, then land disposal is an acceptable option.

2. The department of natural resources shall provide the Iowa state university of science and technology extension service with copies of the rules related to the on-farm disposal of dead animals. The department of natural resources shall also cooperate in the preparation and circulation of information which explains how to comply with the rules and encourages the practice as an alternative to disposal of dead animals at a landfill.

At the October 1990 meeting of the administrative rules review committee of the legislative council, the department of natural resources shall provide a report on the implementation of the rules and shall report on changes which are being made to address problems which have been identified.

Sec. 7. RETROACTIVITY.

Section 5 of this Act is retroactively applicable to January 1, 1990.

Sec. 8. REPEAL.

Section 2 of this Act is repealed effective June 30, 1991.

Sec. 9. EFFECTIVE DATE.

This Act, being deemed of immediate importance, takes effect upon enactment."

2. Title page, line 1, by striking the words "sanitary disposal projects" and inserting the following: "waste disposal, providing a retroactive applicability date, and

CCR-2534

Page 8

providing an effective date".

ON THE PART OF THE HOUSE:

GLEN JESSE, Chairperson
BRADLY BANKS
JIM LYKAM
DAN PETERSEN
RALPH ROSENBERG

ON THE PART OF THE SENATE:

PAT DELUHERY, Chairperson
MICHAEL E. GRONSTAL
PAUL D. PATE
BERL E. PRIEBE
JOHN E. SOORHOLTZ

CCR-2534 FILED APRIL 7, 1990
REPORT ADOPTED. (p. 229.2)

Senate adopted 4/7 (p. 1715)

HOUSE FILE 2534

AN ACT

RELATING TO WASTE DISPOSAL, PROVIDING A RETROACTIVE APPLICABILITY DATE, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. NEW SECTION. 455B.305A LOCAL APPROVAL OF SANITARY LANDFILL AND INFECTIOUS WASTE INCINERATOR PROJECTS.

1. Prior to the siting of a proposed, new sanitary landfill or infectious waste incinerator, a city, county, or private agency, with the exception of a private agency disposing of waste which the agency generates on property owned by the agency as of January 1, 1990, shall submit a request for local siting approval to the city council or county board of supervisors which governs the city or county in which the proposed site is to be located. The city council or county board of supervisors shall approve or disapprove the site for each sanitary landfill or infectious waste incinerator.

2. An applicant for siting approval shall submit information to the city council or county board of supervisors to demonstrate compliance with the requirements prescribed by this chapter regarding a sanitary landfill or infectious waste incinerator. Siting approval shall be granted only if the proposed project meets all of the following criteria:

a. The project is necessary to accommodate the solid waste management needs of the area which the project is intended to serve.

b. The project is designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.

c. The project is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property. The city council or county board of supervisors shall consider the advice of the appropriate planning and zoning commission regarding the application.

d. The plan of operations for the project is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents.

e. The traffic patterns to or from the project are designed in order to minimize the impact on existing traffic flows.

f. Information regarding the previous operating experience of a private agency applicant and its subsidiaries or parent corporation in the area of solid waste management or related activities are made available to the city council or county board of supervisors.

g. The department of natural resources has been consulted by the city council or board of supervisors prior to the approval.

3. No later than fourteen days prior to a request for siting approval, the applicant shall cause written notice of the request to be served either in person or by restricted certified mail on the owners of all property within the proposed local site area not solely owned by the applicant, and on the owners of all property within one thousand feet in each direction of the lot line of the proposed local site property if the proposed local site is within the city limits, or within two miles in each direction of the lot line of the

proposed local site property if the proposed local site is outside of the city limits. The owners shall be identified based upon the authentic tax records of the county in which the project is to be located.

Written notice shall be published in the official newspaper of the county in which the site is located. The notice shall state the name and address of the applicant, the location of the proposed site, the nature and size of the development, the nature of the activity proposed, the probable life of the proposed activity, the date when the request for site approval will be submitted, and a description of the right of persons to comment on the request.

4. An applicant shall file a copy of its request with the department and with the city council or the county board of supervisors in which the proposed site is located. The request shall include the substance of the applicant's proposal and all documents, if any, submitted as of that date to the department pertaining to the proposed project. All documents or other materials pertaining to the proposed project on file with the city council or county board of supervisors shall be made available for public inspection at the office of the city council or county board of supervisors and may be copied upon payment of the actual cost of reproduction.

Any person may file written comment with the city council or county board of supervisors concerning the appropriateness of the proposed site for its intended purpose. The city council or county board of supervisors shall consider any comment received or postmarked not later than thirty days after the date of the last public hearing.

5. At least one public hearing shall be held by the city council or county board of supervisors no sooner than ninety days but no later than one hundred twenty days from receipt of the request for siting approval. A hearing shall be preceded by published notice in an official newspaper of the county of

the proposed site, including in any official newspaper located in the city of the proposed site. The public hearing shall develop a record sufficient to form the basis of an appeal of the decision.

6. Decisions of the city council or the county board of supervisors shall be in writing, specifying the reasons for the decision. The written decision of the city council or the county board of supervisors shall be available for public inspection at the office of the city council or county board of supervisors and may be copied upon payment of the actual cost of reproduction. Final action shall be taken by the city council or the county board of supervisors within one hundred eighty days after the filing of the request for site approval.

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7. Construction of a project which is granted local siting approval under this section shall commence within one calendar year from the date upon which it was granted or the permit shall be nullified. If the local siting decision is appealed, the one-year period shall begin on the date upon which the appeal process is concluded.

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9. A city council or a county board of supervisors shall charge an applicant for siting approval, under this section, a fee to cover the reasonable and necessary costs incurred by the city or county in the siting approval process.

10. An applicant shall not file a request for local siting approval which is substantially the same as a request which was denied within the preceding two years pursuant to a finding against the applicant under the established criteria.

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1. If the city council or the county board of supervisors does not approve a siting request under section 455B.305A, the applicant, within sixty days of notice of the decision, may petition for a hearing before the commission or the commission's designee to contest the decision. The city council or the county board of supervisors shall appear as respondent in the hearing. At the hearing, the burden of proof shall be on the petitioner. In making its orders and determinations under this section, the commission or the commission's designee shall consider the written decision and reasons for the decision of the city council or the county board of supervisors and the transcribed record of the hearing held pursuant to section 455B.305A. The commission or the commission's designee shall transmit a copy of its decision to the office of the city council or the county board of supervisors where it shall be available for public inspection and copied upon payment of the actual cost of reproduction. Final action by the commission or the commission's designee shall be taken within one hundred twenty days.

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Sec. 7. RETROACTIVITY.

Section 5 of this Act is retroactively applicable to January 1, 1990.

Sec. 8. REPEAL.

Section 2 of this Act is repealed effective June 30, 1991.

Sec. 9. EFFECTIVE DATE.

This Act, being deemed of immediate importance, takes effect upon enactment.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2534, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved *April 24*, 1990

TERRY E. BRANSTAD
Governor