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SENATE FILE 2136  
BY McLAREN and BANKS

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the county zoning of animal feeding operations  
2 based upon a county-wide nitrogen analysis.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
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S.F. 2136

1 Section 1. Section 335.2, Code 1995, is amended to read as  
2 follows:

3 335.2 FARMS AGRICULTURAL PURPOSES EXEMPT.

4 1. As used in this section:

5 a. "Agricultural purpose" means any use connected or  
6 related to farming as defined in section 9H.1.

7 b. "Animal feeding operation" and "animal feeding  
8 operation structure" mean the same as defined in section  
9 455B.161.

10 c. "Manure storage structure" means a structure used to  
11 store manure produced by an animal feeding operation and  
12 includes an anaerobic lagoon, earthen manure storage basin, or  
13 formed manure storage structure, as defined in section  
14 455B.161.

15 2. ~~Except to the extent required to implement as provided~~  
16 in this section, 335.27, no an ordinance adopted under this  
17 chapter applies shall not apply to land, farm including  
18 houses, farm barns, farm outbuildings, or and other buildings  
19 or structures, which are is primarily adapted, by reason of  
20 nature and area, for use-for an agricultural purposes purpose,  
21 while so used. However, the ordinances may apply to any

22 3. Subsection 2 shall not prohibit an ordinance adopted  
23 pursuant to this chapter if the ordinance applies to either of  
24 the following:

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

27 b. The implementation of an agricultural preservation  
28 ordinance, as provided in section 335.27.

29 4. a. Subsection 2 shall not prohibit an ordinance  
30 adopted pursuant to this subsection which applies to animal  
31 feeding operations, including animal feeding operation  
32 structures, constructed or expanded after the effective date  
33 of this Act.

34 b. The county board of supervisors shall not adopt the  
35 ordinance until the board conducts a county-wide nitrogen use

1 analysis as provided for in this subsection. The methodology  
2 employed in performing the analysis must be approved by the  
3 department of natural resources according to procedures  
4 adopted by the department after consultation with the animal  
5 agriculture consulting organization as provided in 1995 Iowa  
6 Acts, chapter 195, section 37.

7 c. The analysis must find that the total nitrogen content  
8 of manure that is expected to be applied to land in the county  
9 and originating from manure storage structures located in the  
10 county, during the course of the next twelve-month period,  
11 exceeds the expected total nitrogen use necessary to obtain  
12 optimum crop yields on land used for producing crops in the  
13 county. Deductions shall be made for nitrogen credits from  
14 legume production and expected commercial nitrogen fertilizer  
15 applications. The resulting value shall then be corrected for  
16 expected nitrogen loss. Information to complete the required  
17 calculations must account for the soil types used to produce  
18 crops, the number of acres used to produce crops, and the  
19 types of crops produced in the county.

20 d. The calculations used by the county board of  
21 supervisors in its analysis shall be based upon rules adopted  
22 by the department of natural resources in cooperation with  
23 Iowa state university and the department of agriculture and  
24 land stewardship. The rules shall provide that the  
25 calculations may be based on conclusions by sources determined  
26 credible by the department of natural resources, including,  
27 but not limited to, Iowa state university, the United States  
28 department of agriculture, a registered professional engineer,  
29 or an individual certified as a crop consultant by the  
30 American registry of certified professionals in agronomy,  
31 crops, and soils, certified crop consultants, or the registry  
32 of environmental and agricultural professionals. Upon  
33 request, the department of natural resources shall provide to  
34 a county information regarding the nitrogen content of manure  
35 to be applied on land in the county according to manure

1 management plans filed with the department pursuant to section  
2 455B.203.

3 e. At any time after twelve months following the adoption  
4 of an ordinance under this subsection, a petition protesting  
5 the findings of the analysis may be submitted to the county  
6 board of supervisors. The petition must be signed by at least  
7 ten percent of all owners of animal feeding operations in the  
8 county, each of whom resides in the county and has received at  
9 least ten thousand dollars for animals sold in the previous  
10 twelve-month period. The ordinance shall be nullified unless  
11 within six months following receipt of the petition by the  
12 county board of supervisors, the board conducts a subsequent  
13 analysis as provided in this subsection which confirms the  
14 findings of the previous analysis, and the board adopts the  
15 subsequent analysis by resolution.

16 EXPLANATION

17 This bill amends chapter 335, which provides for county  
18 zoning. Section 335.2 currently provides that county zoning  
19 does not apply to land used for agricultural purposes. This  
20 bill provides that a county may adopt such an ordinance  
21 applicable to animal feeding operation structures constructed  
22 or expanded after the effective date of the bill. However,  
23 the bill requires the county board of supervisors to conduct a  
24 county-wide nitrogen use analysis. The methodology employed  
25 in performing the analysis must be approved by the department  
26 of natural resources. The analysis must find that the total  
27 nitrogen content of manure expected to be applied to land in  
28 the county and originating from manure storage structures  
29 located in the county exceeds the expected total nitrogen use  
30 necessary to obtain optimum crop yields on land used for  
31 producing crops in the county. The bill provides for  
32 deducting certain nitrogen credits and expected nitrogen loss.  
33 The calculations must be based upon rules adopted by the  
34 department of natural resources. The calculations may be  
35 based on conclusions by sources determined credible by the

1 department. Upon request, the department is required to  
2 provide to a county information regarding the nitrogen content  
3 of manure to be applied on land in the county according to  
4 manure management plans filed with the department. The bill  
5 provides for the filing of a petition protesting the findings  
6 of the analysis. The petition must be signed by at least 10  
7 percent of all owners of animal feeding operations in the  
8 county. The bill provides that the ordinance is nullified  
9 unless within six months following receipt of the petition by  
10 the county board of supervisors, the board conducts a  
11 subsequent analysis which confirms the findings of the  
12 previous analysis, and the board adopts the subsequent  
13 analysis by resolution.

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