

3/25/96 Agric?

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SENATE FILE **2339**
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO LSB 4317XC)

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

A BILL FOR

1 An Act relating to animal feeding operations, providing for
2 certain county regulation, and providing for the assessment of
3 property taxes.

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

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S.F. 2339

1 Section 1. Section 427.1, Code Supplement 1995, is amended
2 by adding the following new subsection:

3 NEW SUBSECTION. 28. CONFINEMENT FEEDING OPERATIONS
4 CONSTRUCTING FORMED MANURE STORAGE STRUCTURES. A confinement
5 feeding operation which constructs a formed manure storage
6 structure requiring a construction permit pursuant to section
7 455B.173, on or after the effective date of this Act, shall be
8 exempt from taxation for a period of five years, to the extent
9 provided in this subsection, as provided in this subsection.

10 a. The exemption shall begin on January 1 of the year
11 following the year in which the formed manure storage
12 structure is constructed.

13 b. The exemption is limited to the market value, as
14 defined in section 441.21, of the formed manure storage
15 structure. If the formed manure storage structure is assessed
16 with other property as a unit, the exemption shall be limited
17 to the net market value of the formed manure storage structure
18 determined as of the assessment date.

19 c. In order to receive the exemption, the owner of the
20 confinement feeding operation must file for the exemption with
21 the assessing authority not later than February 1 of the first
22 year for which the exemption applies, on forms provided by the
23 department of revenue and finance. The application shall
24 provide a description of the formed manure storage structure
25 subject to the exemption.

26 Sec. 2. Section 441.21, subsection 1, paragraph e, Code
27 Supplement 1995, is amended to read as follows:

28 e. The actual value of agricultural property shall be
29 determined on the basis of productivity and net earning
30 capacity of the property determined on the basis of its use
31 for agricultural purposes capitalized at a rate of seven
32 percent and applied uniformly among counties and among classes
33 of property. Any formula or method employed to determine
34 productivity and net earning capacity of property shall be
35 adopted in full by rule. Property on which there is located a

1 manure storage structure which is an anaerobic lagoon or
2 earthen manure storage basin which is required to obtain a
3 construction permit under section 455B.173, other than a
4 manure storage structure which stores manure in an exclusively
5 dry form, shall be assessed at the same rate calculated by
6 assessing the property as a confinement feeding building at
7 full capacity, having the same construction costs. The county
8 shall place all moneys assessed against the manure storage
9 structure into a special fund for use by the county in
10 supplementing amounts received under the manure storage
11 indemnity fund as provided in section 204.2.

12 Sec. 3. Section 455B.171, Code Supplement 1995, is amended
13 by adding the following new subsection:

14 NEW SUBSECTION. 12A. "Manure storage structure" means a
15 structure used to store manure which is connected to an animal
16 feeding operation, including an anaerobic lagoon, earthen
17 manure storage basin, or formed manure storage structure as
18 defined in section 455B.161.

19 Sec. 4. Section 455B.173, subsection 13, Code Supplement
20 1995, is amended to read as follows:

21 13. a. Adopt, modify, or repeal rules relating to the
22 construction or operation of animal feeding operations. The
23 rules shall include, but are not limited to, minimum manure
24 control requirements, requirements for obtaining permits, and
25 departmental evaluations of animal feeding operations. The
26 department shall not require that a person obtain a permit for
27 the construction of an animal feeding operation structure, if
28 the structure is part of a small animal feeding operation.

29 b. The department shall collect an indemnity fee as
30 provided in section 204.3 prior to the issuance of a
31 construction permit. The department shall deposit moneys
32 collected in indemnity fees in the manure storage indemnity
33 fund created in section 204.2.

34 c. The department shall not approve a permit for the
35 construction of three or more animal feeding operation

1 structures unless the applicant files a statement approved by
2 a professional engineer registered pursuant to chapter 542B
3 certifying that the construction of the animal feeding
4 operation structure will not impede the drainage through
5 established drainage tile lines which cross property boundary
6 lines unless measures are taken to reestablish the drainage
7 prior to completion of construction. ~~The department shall~~
8 ~~deposit moneys collected in indemnity fees in the manure~~
9 ~~storage indemnity fund created in section 204.2.~~

10 d. The department shall issue a permit for an animal
11 feeding operation, if an application is submitted according to
12 procedures required by the department according to this
13 section, and the application meets standards established by
14 the department, regardless of whether the animal feeding
15 operation is required to obtain such a permit. An applicant
16 for a construction permit shall not begin construction at the
17 location of a site planned for the construction of an animal
18 feeding operation structure, until the person has been granted
19 a permit for the construction of the structure by the
20 department.

21 e. The department shall make a determination regarding the
22 approval or denial of a permit within sixty days from the date
23 that the department receives a completed application for a the
24 approval of the permit, as provided in this paragraph.
25 However, the sixty-day requirement shall not apply to an
26 application, if the applicant is not required to obtain a
27 permit in order to construct an animal feeding operation
28 structure or to operate an animal feeding operation. The
29 department shall deliver a copy or require the applicant to
30 deliver a copy of the application for a construction permit to
31 the county board of supervisors in the county where the
32 confinement feeding operation or confinement feeding operation
33 structure subject to the permit is to be located. Upon
34 receipt of an application for departmental approval under this
35 subsection, the department shall determine if the application

1 complies with all permit requirements. The process of
2 approving or disapproving a permit shall be as follows:

3 (1) If a county has not adopted a confinement feeding
4 operations review ordinance, the department shall not approve
5 the application or issue a construction permit until thirty
6 days following delivery of the application to the county board
7 of supervisors. The department shall consider comments from
8 the county board of supervisors, regarding compliance by the
9 applicant with the legal requirements for the construction of
10 the confinement feeding operation structure as provided in
11 this chapter, and rules adopted by the department pursuant to
12 this chapter, if the comments are delivered to the department
13 within fourteen days after receipt of the application by the
14 county board of supervisors.

15 (2) If a county has adopted a confinement feeding
16 operations review ordinance, the department shall not approve
17 the application unless the department receives the approval of
18 the application from the county pursuant to section 455B.173A.

19 f. Prior to granting a permit to a person for the
20 construction of an animal feeding operation, the department
21 may require the installation and operation of a hydrological
22 monitoring system for an exclusively earthen manure storage
23 structure, if, after an on-site inspection, the department
24 determines that the site presents an extraordinary potential
25 for groundwater pollution.

26 g. A person shall not obtain a permit for the construction
27 of a confinement feeding operation, unless the person develops
28 a manure management plan as provided in section 455B.203.

29 h. The department shall not issue a permit to a person
30 under this subsection if an enforcement action by the
31 department, relating to a violation of this chapter concerning
32 a confinement feeding operation in which the person has an
33 interest, is pending. The department shall not issue a permit
34 to a person under this subsection for five years after the
35 date of the last violation committed by a person or

1 confinement feeding operation in which the person holds a
2 controlling interest during which the person or operation was
3 classified as a habitual violator under section 455B.191. The
4 department shall conduct an annual review of each confinement
5 feeding operation which is a habitual violator and each
6 confinement feeding operation in which a habitual violator
7 holds a controlling interest. The department shall notify
8 persons classified as habitual violators of their
9 classification, additional restrictions imposed upon the
10 persons pursuant to the classification, and special civil
11 penalties that may be imposed upon the persons. The notice
12 shall be sent to the persons by certified mail.

13 Sec. 5. NEW SECTION. 455B.173A CONFINEMENT FEEDING
14 OPERATIONS REVIEW ORDINANCE.

15 1. A county may adopt a confinement feeding operations
16 review ordinance, pursuant to section 331.302. The purpose of
17 the ordinance shall be to provide a county with a method and
18 procedure to approve or disapprove a construction permit
19 application for a confinement feeding operation structure,
20 including a confinement building or related manure storage
21 structure, prior to approval by the department pursuant to
22 section 455B.173.

23 2. The purpose of the ordinance shall be to ensure that
24 confinement feeding operations, including confinement feeding
25 buildings and related manure storage structures are located
26 and constructed in the county in order to preserve and protect
27 natural resources, including soil and water; lessen congestion
28 and overcrowding of an intensive agricultural use; and to
29 protect the health and welfare of the public.

30 3. An ordinance adopted by a county under this section
31 shall not apply to a confinement feeding operation which
32 confines cattle exclusively or which provides for the storage
33 of manure exclusively in a dry form.

34 4. a. The county shall receive a permit application,
35 required to be approved by the department for the construction

1 of a confinement feeding operation pursuant to section
2 455B.173, from either the applicant or the department as
3 required by the department. However, the application shall be
4 filed with the county in the manner prescribed by the county.
5 The county may require the applicant to submit a filing fee.

6 b. Within sixty days from the filing of the application
7 with the county, the county board of supervisors shall approve
8 or disapprove the permit application; endorse its approval or
9 disapproval on the application; and forward the application to
10 the department, as required by the department. An application
11 required to be approved or disapproved by the county which is
12 not received by the department in a timely manner shall be
13 deemed to be approved by the county. Disapproval of an
14 application by a county must carry out the purpose of the
15 ordinance and may be based on design criteria required by the
16 county engineer or requirements or standards included in this
17 chapter or rules adopted by the department pursuant to this
18 chapter which regulate confinement feeding operations. If the
19 county disapproves an application, the application shall be
20 forwarded to the department. The department shall maintain a
21 record of all applications which have been disapproved. A
22 county may approve or disapprove any number of applications.
23 Once approved or disapproved, the county shall notify the
24 applicant of the decision by certified mail.

25 5. a. The confinement feeding operations review ordinance
26 shall only apply after the county conducts an analysis of the
27 total amount of manure originating from manure storage
28 structures which are part of animal feeding operations located
29 in the county, and determines that the total amount of manure
30 stored in manure storage structures during any period of
31 twelve consecutive months would provide eighty-five percent or
32 more of the eligible cropland located in the county with
33 nutrients sufficient to produce optimum crop yields in the
34 county. Cropland includes but is not limited to land used to
35 raise wheat, durum, spelt, triticale, oats, rye, corn, barley,

1 buckwheat, flaxseed, safflower, sunflower seed, soybeans,
2 sorghum grains, peas, beans, hay, straw, or stover.
3 Information to complete the required calculations must account
4 for the soil types used to produce crops, the number of acres
5 used to produce crops, and the types of crops produced in the
6 county.

7 b. The calculations used by the county board of
8 supervisors in its analysis shall be based upon rules adopted
9 by the department of natural resources, in cooperation with
10 Iowa state university and the department of agriculture and
11 land stewardship. The rules shall provide that the
12 calculations may be based on conclusions by sources determined
13 credible by the department of natural resources.

14 6. If the amount of the manure would provide seventy
15 percent or more but less than eighty-five percent of the
16 eligible land located in the county with nutrients sufficient
17 to produce optimum crop yields in the county, as provided in
18 subsection 5, the ordinance shall apply only if a county board
19 of review appointed pursuant to this subsection determines
20 that an ordinance is required in order to carry out the
21 purpose provided in subsection 2. In addition, the county
22 board of review shall consider the character of the county,
23 its suitability for the construction of more confinement
24 feeding operations or related manure storage structures, and
25 the degree to which the county can support additional
26 confinement feeding operations or related manure storage
27 structures absent the ordinance. The county board of review
28 shall be appointed by the board of supervisors and shall be
29 composed of the following:

30 a. A person engaged in agricultural finance. A preference
31 shall be provided to a person who is an active member of the
32 Iowa bankers association.

33 b. A person who is a commissioner of a soil and water
34 conservation district as provided in chapter 161A located in
35 the county.

- 1 c. The county engineer for the county.
- 2 d. The mayor of a city located in the county, or the
- 3 mayor's designee.
- 4 e. A member of the county board of supervisors.

5 EXPLANATION

6 This bill relates to animal feeding operations as provided
7 in chapter 455B, and as enacted during the last session of the
8 General Assembly in 1995 Iowa Acts, chapter 195 (House File
9 519). The bill provides that property on which there is
10 located an anaerobic lagoon or earthen manure storage basin
11 must be assessed at the same rate as a confinement building
12 having the same construction costs. The bill exempts from
13 property taxes for five years a confinement feeding operation
14 having a formed manure storage structure.

15 The bill provides that a county may adopt a confinement
16 feeding operations review ordinance. A county that adopts an
17 ordinance may approve or disapprove a construction permit for
18 a confinement feeding operation or a related building or
19 manure storage structure. The bill provides that a county can
20 adopt an ordinance after the county conducts an analysis of
21 the total amount of manure originating from manure storage
22 structures which are part of animal feeding operations located
23 in the county, and determines that the total amount of manure
24 stored in manure storage structures during any period of 12
25 consecutive months would provide 85 percent or more of the
26 eligible cropland located in the county with nutrients
27 sufficient to produce optimum crop yields in the county. If
28 the amount of the manure would provide 70 percent or more but
29 less than 85 percent of the eligible land located in the
30 county with nutrients sufficient to produce optimum crop
31 yields in the county, the ordinance applies only if a county
32 board of review determines that an ordinance is required.

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