

1-30-97 Agriculture

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SENATE FILE 89  
BY KIBBIE, JUDGE, and FRAISE

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

A BILL FOR

1 An Act relating to confinement feeding operations by providing  
2 for the siting of certain operations, and imposing  
3 requirements relating to construction permits.

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

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S.F. 89

1 Section 1. NEW SECTION. 331.309 CONFINEMENT FEEDING  
2 OPERATIONS -- SITING ORDINANCE.

3 1. As used in this section:

4 a. "Animal feeding operation structure" means the same as  
5 defined in section 455B.161.

6 b. "Animal weight capacity" means the same as defined in  
7 section 455B.161.

8 c. "Confinement feeding operation" means the same as  
9 defined in section 455B.161.

10 2. a. Notwithstanding section 335.2, a county may adopt a  
11 confinement feeding operations siting ordinance, pursuant to  
12 section 331.302. The purpose of the ordinance shall be to  
13 allow approval of the siting of a confinement feeding  
14 operation regardless of whether the county has adopted an  
15 ordinance under chapter 335. The ordinance shall authorize a  
16 county to approve the site of the construction or expansion of  
17 a confinement feeding operation, including confinement feeding  
18 operation buildings and related animal feeding operation  
19 structures in order to preserve and protect natural resources,  
20 including water sources and fragile environmental locations;  
21 lessen congestion and overcrowding of confinement feeding  
22 operations, especially near cities; and to protect the health  
23 and welfare of the public.

24 b. The ordinance shall provide for methods and procedures  
25 required for submission of proposals, review of proposals, and  
26 approval of a site. In administering the ordinance, the  
27 county shall establish a confinement feeding operations siting  
28 commission which shall review each proposal for the  
29 construction or expansion of a confinement feeding operation,  
30 and recommend to the county board of supervisors that the  
31 board approve or disapprove the proposal. The board shall  
32 appoint five members of the commission. Four members shall  
33 not reside in a city, and one member shall reside in a city.  
34 At least three of the members shall be persons who are or were  
35 actively engaged in animal agriculture. The commission shall

1 make its recommendation to the board within forty-five days  
2 after the date that the board received a complete proposal.  
3 The board shall approve or disapprove a proposal within forty-  
4 five days after the date that the board receives the  
5 commission's recommendation.

6 c. A confinement feeding operations siting ordinance shall  
7 not apply to a proposed confinement feeding operation or to  
8 the proposed expansion of a confinement feeding operation, if  
9 either of the following apply:

10 (1) Only bovine or avian animals are to be confined in the  
11 confinement feeding operation.

12 (2) The confinement feeding operation is to have an animal  
13 weight capacity of less than three hundred thousand pounds.

14 Sec. 2. Section 455B.173, subsection 13, Code 1997, is  
15 amended to read as follows:

16 13. a. Adopt, modify, or repeal rules relating to the  
17 construction, including the expansion, of animal feeding  
18 operations, or the operation of animal feeding operations.  
19 The rules shall include, but are not limited to, minimum  
20 manure control requirements, requirements for obtaining  
21 permits, and departmental evaluations of animal feeding  
22 operations. ~~The department shall not require that a person~~  
23 ~~obtain a permit for the construction of an animal feeding~~  
24 ~~operation structure; if~~ A person must obtain a construction  
25 permit to construct an animal feeding operation structure  
26 which is part of or connected to a confinement feeding  
27 operation, unless the structure is part of a small an animal  
28 feeding operation which has an animal weight capacity of less  
29 than three hundred thousand pounds. However, unless otherwise  
30 required by departmental rule, this paragraph does not require  
31 a person to obtain a construction permit to construct an  
32 animal feeding operation structure which is part of or  
33 connected to and used exclusively by a confinement feeding  
34 operation in which only bovine or avian animals are confined.

35 b. The department shall collect an indemnity fee as

1 provided in section 204.3 prior to the issuance of a  
2 construction permit. The department shall deposit indemnity  
3 fees in the manure storage indemnity fund created in section  
4 204.2.

5 c. The department shall not approve a permit for the  
6 construction of three or more animal feeding operation  
7 structures unless the applicant files a statement approved by  
8 a professional engineer registered pursuant to chapter 542B  
9 certifying that the construction of the animal feeding  
10 operation structure will not impede the drainage through  
11 established drainage tile lines which cross property boundary  
12 lines unless measures are taken to reestablish the drainage  
13 prior to completion of construction. ~~The department shall~~  
14 ~~deposit moneys collected in indemnity fees in the manure~~  
15 ~~storage indemnity fund created in section 204.2.~~

16 d. The department shall issue a permit for an animal  
17 feeding operation, if an application is submitted according to  
18 procedures required by the department, and the application  
19 meets standards established by the department, regardless of  
20 whether the animal feeding operation is required to obtain  
21 such a permit. An applicant for a construction permit shall  
22 not begin construction at the location of a site planned for  
23 the construction of an animal feeding operation structure,  
24 until the person has been granted a permit for the  
25 construction of the structure by the department. The  
26 department shall make a determination regarding the approval  
27 or denial of a permit within sixty days from the date that the  
28 department receives a completed application for a permit.  
29 However, the sixty-day requirement shall not apply to an  
30 application, if the applicant is not required to obtain a  
31 permit in order to construct an animal feeding operation  
32 structure or to operate an animal feeding operation. The  
33 department shall deliver a copy or require the applicant to  
34 deliver a copy of the application for a construction permit to  
35 the county board of supervisors in the county where the

1 confinement feeding operation or confinement feeding operation  
2 structure subject to the permit is to be located. The  
3 department shall not approve the application or issue a  
4 construction permit until thirty days following delivery of  
5 the application to the county board of supervisors. The  
6 department shall consider comments from the county board of  
7 supervisors, regarding compliance by the applicant with the  
8 legal requirements for the construction of the confinement  
9 feeding operation structure as provided in this chapter, and  
10 rules adopted by the department pursuant to this chapter, if  
11 the comments are delivered to the department within fourteen  
12 days after receipt of the application by the county board of  
13 supervisors. Prior to granting a permit to a person for the  
14 construction of an animal feeding operation, the department  
15 may require the installation and operation of a hydrological  
16 monitoring system for an exclusively earthen manure storage  
17 structure, if, after an on-site inspection, the department  
18 determines that the site presents an extraordinary potential  
19 for groundwater pollution.

20 e. A person shall not obtain a permit for the construction  
21 of a confinement feeding operation, unless the person develops  
22 a manure management plan as provided in section 455B.203.

23 f. The department shall not issue a permit to a person  
24 under this subsection if an enforcement action by the  
25 department, relating to a violation of this chapter concerning  
26 a confinement feeding operation in which the person has an  
27 interest, is pending. The department shall not issue a permit  
28 to a person under this subsection for five years after the  
29 date of the last violation committed by a person or  
30 confinement feeding operation in which the person holds a  
31 controlling interest during which the person or operation was  
32 classified as a habitual violator under section 455B.191. The  
33 department shall conduct an annual review of each confinement  
34 feeding operation which is a habitual violator and each  
35 confinement feeding operation in which a habitual violator

1 holds a controlling interest. The department shall notify  
2 persons classified as habitual violators of their  
3 classification, additional restrictions imposed upon the  
4 persons pursuant to the classification, and special civil  
5 penalties that may be imposed upon the persons. The notice  
6 shall be sent to the persons by certified mail.

7 EXPLANATION

8 This bill amends several provisions relating to animal  
9 feeding operations. The bill creates new Code section  
10 331.309, which provides that a county may adopt a confinement  
11 feeding operations siting ordinance. The bill provides that  
12 the ordinance must provide for methods and procedures required  
13 for review and approval of site proposals. As part of this  
14 process, the county must establish a confinement feeding  
15 operations siting commission to review proposals for the  
16 construction or expansion of a confinement feeding operation.

17 The bill provides that a person must obtain a construction  
18 permit to construct an animal feeding operation structure  
19 which is part of or connected to a confinement feeding  
20 operation, unless the confinement feeding operation has an  
21 animal weight capacity of less than 300,000 pounds or the  
22 operation exclusively confines bovine or avian animals.

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