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Agriculture

HOUSE FILE 549

BY SCHRADER, WHITEAD, WEIGEL, LARKIN,
PARMENTER, BUKTA, TAYLOR, MASCHER,
KUHN, OSTERHAUS, HUSER, FREVERT,
MURPHY, RICHARDSON, WARNSTADT, FOEGE,
MUNDIE, DODERER, JOCHUM, BURNETT,
REYNOLDS, DOTZLER, CONNORS, MYERS,
FALLON, STEVENS, CHAPMAN, SCHERRMAN,
SHOULTZ, and HOLVECK

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

A BILL FOR

1 An Act regulating the siting of confinement feeding operations by
2 counties.

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

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HF 549

1 Section 1. NEW SECTION. 335.1A DEFINITIONS.

2 As used in this section, unless the context otherwise
3 requires:

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

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

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

10 4. "Egg washwater storage structure" means the same as
11 defined in section 455B.161.

12 5. "Farm operation" means a condition or activity which
13 occurs on farmland relating to the production of farm products
14 which may include but are not limited to any of the following:
15 the raising, harvesting, drying, or storage of crops; the care
16 or feeding of livestock; the handling or transportation of
17 crops or livestock; the storage, treatment, transportation,
18 application, or disposal of livestock manure or wastes; the
19 operation of farm machinery and irrigation pumps; ground and
20 aerial seeding and spraying; and the application of chemical
21 fertilizers, conditioners, insecticides, pesticides, and
22 herbicides.

23 6. "Farm product" means a product produced from a farm
24 operation.

25 7. "Farmland" means land and buildings used in the
26 commercial production of farm products.

27 8. "Manure storage structure" means a formed or unformed
28 manure storage structure as defined in section 455B.161.

29 9. "Small animal feeding operation" means the same as
30 defined in section 455B.161.

31 Sec. 2. Section 335.2, Code 1999, is amended to read as
32 follows:

33 335.2 PARMS-EXEMPT FARM OPERATIONS EXEMPTION.

34 1. ~~Except to the extent required to implement section~~
35 ~~335-277, no~~ as provided in subsection 2, an ordinance adopted

1 under this chapter applies shall not apply to land-farm
2 farming operations, including farmland and related structures
3 such as houses, farm barns, farm or outbuildings or other
4 buildings-or-structures which are primarily adapted, by reason
5 of nature and area, for use-for agricultural purposes, while
6 so-used. However, the ordinances

7 2. A county board of supervisors may apply-to-any adopt an
8 ordinance under this chapter which applies to any of the
9 following:

10 a. The implementation of an agricultural land preservation
11 ordinance, as provided in section 335.27.

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

14 c. The siting of a confinement feeding operation, as
15 provided in section 335.2A.

16 Sec. 3. NEW SECTION. 335.2A CONFINEMENT FEEDING
17 OPERATIONS.

18 1. Notwithstanding section 331.304A, a county may adopt a
19 confinement feeding operations siting ordinance which shall be
20 part of other regulations provided in this chapter. The
21 ordinance shall regulate the siting of confinement feeding
22 operation buildings and related manure storage structures.
23 The ordinance shall be subject to adoption by the county board
24 of supervisors, upon recommendation by the county's zoning
25 commission as provided in section 335.8. The county board of
26 supervisors shall adopt the ordinance in the same manner as
27 other regulations adopted pursuant to this chapter.

28 2. The ordinance shall include a siting plan as follows:

29 a. The plan shall do all of the following:

30 (1) Preserve the availability of farmland reserved for
31 confinement feeding operations.

32 (2) Encourage efficient urban development patterns that do
33 not burden farmland reserved under the plan for confinement
34 feeding operations. The plan shall attempt to prevent

35 congestion and overcrowding of confinement feeding operations,

1 especially near cities.

2 (3) Preserve and protect natural resources, including
3 water sources, fragile environmental locations, and
4 recreational areas.

5 b. The plan may provide different regulations for
6 confinement feeding operations based on all of the following:

7 (1) The animal weight capacity of the confinement feeding
8 operation.

9 (2) The type of animal feeding operation structure.

10 (3) The proximity of land for the application of manure
11 which originates from the confinement feeding operation.

12 3. The ordinance shall not apply to any of the following:

13 a. A small animal feeding operation.

14 b. A confinement feeding operation which stores manure as
15 dry matter.

16 c. An egg washwater storage structure.

17 4. a. The ordinance shall not violate any requirement of
18 chapter 455B, or rules adopted by the department of natural
19 resources pursuant to that chapter. However, the ordinance
20 may provide for separation distance requirements that exceed
21 the requirements of chapter 455B, division II, part 2, or
22 section 455B.204. The separation distance requirement may be
23 based on guidelines established by the department of natural
24 resources pursuant to sections 455B.165 and 455.204 and shall
25 to every extent practicable be based on the methodology
26 established by the department pursuant to those sections.

27 b. The ordinance shall be consistent with the county's
28 comprehensive plan as required by section 335.5, and other
29 regulations adopted pursuant to this chapter.

30 c. The ordinance shall not prohibit the operation of
31 confinement feeding operations constructed prior to the
32 effective date of the ordinance.

33 5. The ordinance shall provide for review and approval or
34 disapproval of proposals to construct confinement feeding
35 operations, including the construction of a confinement

1 building or related manure storage structures.

2 a. The ordinance shall provide for methods and procedures
3 required for timely submission, review, and approval or
4 disapproval of proposals.

5 b. The planning and zoning commission shall review each
6 proposal and recommend to the board of supervisors that the
7 proposal be approved or disapproved. The board of supervisors
8 shall approve or disapprove the proposal after considering all
9 relevant information, including the commission's
10 recommendation. The commission's recommendation and the
11 board's decision shall be based solely on whether the proposal
12 satisfies the requirements of the ordinance.

13 Sec. 4. Section 335.8, Code 1999, is amended to read as
14 follows:

15 335.8 ZONING COMMISSION APPOINTED.

16 1. In order to avail itself of the powers conferred by
17 this chapter, the The board of supervisors shall appoint
18 establish a zoning commission, a. The board shall appoint
19 members to the commission. A majority of whose the members
20 shall reside within the county but outside the corporate
21 limits of any city, to be known as the county zoning
22 commission, to recommend. The zoning commission shall do all
23 of the following:

24 a. Recommend the boundaries of the various original
25 districts, and appropriate regulations and restrictions to be
26 enforced therein within those districts. Such The commission
27 shall, with due diligence, prepare a preliminary report and
28 hold public hearings thereon on the preliminary report before
29 submitting its final report; and the. The board of
30 supervisors shall not hold its public hearings or take action
31 until it has received the final report of such commission.
32 After the adoption of such regulations, restrictions, and
33 boundaries of districts, the zoning commission may, from time
34 to time, recommend to the board of supervisors amendments,
35 supplements, changes, or modifications.

1 b. Provide for the siting of confinement feeding
2 operations as follows:

3 (1) The zoning commission shall prepare a confinement
4 feeding operations siting ordinance including a plan for
5 siting for recommendation to the board of supervisors as
6 provided in section 335.2A. The zoning commission shall
7 prepare and recommend the ordinance or any amendments,
8 supplements, changes, or modifications to the ordinance, in
9 the same manner as other regulations pursuant to paragraph
10 "a". The zoning commission shall not make a recommendation
11 without holding a public hearing in the same manner as
12 provided in section 335.6.

13 (2) The zoning commission shall review and recommend the
14 approval or disapproval of a proposal for the construction of
15 a confinement feeding operation as provided in section 335.2A
16 based on compliance with the confinement feeding operations
17 siting ordinance.

18 2. The zoning commission, with the approval of the board
19 of supervisors, may contract with professional consultants,
20 regional planning commissions, the Iowa department of economic
21 development, the department of natural resources, or the
22 federal government, for local planning assistance.

23 Sec. 5. Section 455B.165, Code 1999, is amended by adding
24 the following new subsection:

25 NEW SUBSECTION. 9. A separation distance requirement that
26 is provided in a confinement feeding operations siting
27 ordinance adopted by a county board of supervisors pursuant to
28 section 335.2A. The ordinance shall not include a requirement
29 providing a lesser separation distance than is provided for in
30 this part. If requested by a county, the department shall
31 provide recommendations with guidelines for increasing
32 required separation distances based on a methodology which
33 considers topographic, hydrologic, climatic, or demographic
34 factors.

35 Sec. 6. Section 455B.204, subsection 3, Code 1999, is

1 amended by adding the following new paragraph:

2 NEW PARAGRAPH. c. A separation distance requirement that
3 is provided in a confinement feeding operations siting
4 ordinance adopted by a county board of supervisors pursuant to
5 section 335.2A. The ordinance shall not include a requirement
6 providing a closer separation distance than is provided for in
7 subsection 2. Upon request by a county, the department shall
8 provide recommendations to the county as provided in section
9 455B.165.

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EXPLANATION

11 This bill amends provisions in Code chapter 335, which
12 provides for county zoning. Code section 335.2 provides that
13 county zoning does not apply to farming operations. This bill
14 amends that section to provide that county zoning does apply
15 to the siting of confinement feeding operations. The bill
16 provides that a county may adopt a confinement feeding
17 operations siting ordinance, including a siting plan, as part
18 of its zoning regulations. The plan must preserve the
19 availability of farmland reserved for confinement feeding
20 operations; encourage efficient urban development patterns;
21 lessen congestion and overcrowding of confinement feeding
22 operations, especially near cities; and preserve and protect
23 natural resources, including water sources, fragile
24 environmental locations, and recreational areas.

25 The plan may provide different regulations for confinement
26 feeding operations based on the animal weight capacity of the
27 confinement feeding operation, the type of animal feeding
28 operation structure, and the proximity of land for the
29 application of manure which originates from the confinement
30 feeding operation. The bill provides that the ordinance does
31 not apply to small animal feeding operations, confinement
32 feeding operations that store manure as dry matter, or egg
33 washwater storage structures. The bill provides that an
34 ordinance cannot prohibit the operation of a confinement
35 feeding operation constructed prior to the effective date of

1 the ordinance.

2 The bill also provides that the ordinance cannot violate
3 any requirement of Code chapter 455B regulating confinement
4 feeding operations by the department of natural resources.
5 However, the bill provides that the ordinance may provide for
6 distance requirements that exceed the requirements of Code
7 chapter 455B. The separation distances may be based on
8 guidelines established by the department and to every extent
9 practicable must be based on methodology established by the
10 department. Upon request by a county, the department is
11 required to provide the county with guidelines based on a
12 methodology which analyzes relevant factors relating to
13 topographic, climatic, demographic, or hydrologic conditions.

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