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SENATE FILE
BY ANGELO

2335

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 generally accepted agricultural management practices, and
3 making penalties applicable.

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

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SF 2335
AGRICULTURE

1 Section 1. Section 335.2, Code 1999, is amended to read as
2 follows:

3 335.2 FARMS EXEMPT.

4 1. Except to the extent required to implement section
5 335.27, no as provided in subsection 2, an ordinance adopted
6 under this chapter applies shall not apply to land, farm and
7 related structures including but not limited to houses, farm
8 barns, farm or outbuildings or other buildings or structures
9 which are primarily adapted, by reason of nature and area, for
10 use for agricultural purposes, while so used. However, the
11 ordinances

12 2. A county board of supervisors may apply to any adopt an
13 ordinance under this chapter which applies to any of the
14 following:

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

17 b. A structure, building, dam, obstruction, deposit, or
18 excavation in or on the flood-plains floodplains of any a
19 river or stream.

20 c. The siting of a confinement feeding operation,
21 according to a generally accepted agricultural management
22 practices ordinance adopted pursuant to section 335.2A.

23 Sec. 2. NEW SECTION. 335.2A GENERALLY ACCEPTED
24 AGRICULTURAL MANAGEMENT PRACTICES ORDINANCE.

25 Notwithstanding section 331.304A, a county may adopt a
26 generally accepted agricultural management practices ordinance
27 which shall be part of other regulations provided in this
28 chapter. The ordinance shall regulate the siting of animal
29 feeding operation structures which are part of confinement
30 feeding operations as defined in section 455B.161. The
31 ordinance shall be subject to adoption by the county board of
32 supervisors in the same manner as other regulations adopted
33 pursuant to this chapter. For purposes of this section, an
34 amendment to a generally accepted agricultural management
35 practices ordinance shall be considered a new ordinance.

1 1. The ordinance shall apply to animal feeding operation
2 structures constructed or expanded on and after the effective
3 date of this Act. The ordinance may provide for different
4 regulations for confinement feeding operations based on the
5 animal weight capacity of the confinement feeding operation.
6 However, the ordinance must be consistent with the county's
7 comprehensive plan as required by section 335.5; and other
8 regulations adopted pursuant to this chapter. The ordinance
9 shall provide special requirements because of conditions that
10 exist in that county. The ordinance shall not provide for
11 less stringent requirements for siting than required in
12 chapter 455B, including section 455B.118. The ordinance may
13 provide for separation distance requirements that exceed the
14 requirements of chapter 455B, division II, part 2, or section
15 455B.204.

16 2. The ordinance shall not become effective until it is
17 approved by the department of natural resources as provided in
18 section 455B.118. The county shall submit the ordinance to
19 the department in a manner and according to procedures
20 required by the department. The county shall include with the
21 submitted ordinance an explanation of its provisions and a
22 rationale for why it is necessary in order to carry out the
23 purposes of section 455B.118.

24 Sec. 3. NEW SECTION. 455B.118 GENERALLY ACCEPTED
25 AGRICULTURAL MANAGEMENT PRACTICES.

26 1. The purpose of this section is to develop generally
27 accepted agricultural management practices in siting
28 confinement feeding operations and associated animal feeding
29 operation structures as defined in section 455B.161, for
30 purposes of preserving the outdoor atmosphere and the quality
31 of the state's surface and subsurface waters from substances
32 which may be injurious to human, animal, or plant life; or
33 which may unreasonably interfere with the enjoyment of life
34 and property. The practices shall accommodate the need to
35 preserve the availability of farmland reserved for confinement

1 feeding operations.

2 2. The department shall establish the practices by rules
3 adopted pursuant to chapter 17A in conformity with this
4 section. The department shall establish the rules after
5 consultation with the generally accepted agricultural
6 management practices council as provided in section 455B.119.
7 The generally accepted agricultural management practices shall
8 provide for siting confinement feeding operations in
9 conformance with the purpose of this section based on criteria
10 used for the siting as provided in sections 455B.161B and
11 455B.200. The rules shall apply to the animal feeding
12 operation structures constructed or expanded on and after the
13 effective date of this Act. The department may require
14 compliance pursuant to rule or as a condition to issuing a
15 permit pursuant to section 455B.200A.

16 3. a. The department shall review a county generally
17 accepted agricultural management practices ordinance adopted
18 by a county pursuant to section 335.2A. The department shall
19 approve the ordinance, if the county demonstrates that in
20 order to carry out the purposes of this section, the county
21 must adopt special requirements that apply to the siting of
22 confinement feeding operations. The department may require
23 that the ordinances be based on guidelines adopted by the
24 department which utilize a methodology for siting based on
25 special circumstances.

26 b. The department shall approve or disapprove the
27 ordinance within sixty days following its submission as
28 required by rules adopted by the department. The department
29 may consult with interested persons, including the generally
30 accepted agricultural management practices council, the Iowa
31 department of public health, or other local or state agencies.
32 The department shall conduct a public hearing regarding the
33 proposed ordinance in order to receive comments from members
34 of the public.

35 Sec. 4. NEW SECTION. 455B.119 GENERALLY ACCEPTED

1 AGRICULTURAL MANAGEMENT PRACTICES COUNCIL.

2 1. A generally accepted agricultural management practices
3 council is established within the department. The members
4 shall be electors of the state and have knowledge of
5 confinement feeding operations as provided in this chapter and
6 relevant regulations affecting confinement feeding operations.
7 The appointments shall be based upon the training, experience,
8 and capacity of the appointees, and not based upon political
9 considerations, other than as provided in section 69.16.

10 2. The council shall be composed of five persons appointed
11 by the governor, subject to confirmation by the senate, who
12 shall include all of the following:

13 a. A person actively engaged in confinement feeding
14 operations.

15 b. A person who is interested in animal agriculture and
16 its relationship with environmental quality.

17 c. Two persons who are interested in animal agriculture
18 and county land use planning.

19 d. One person who is interested in animal agriculture and
20 its effect upon the public health.

21 3. The council shall be staffed by departmental personnel.

22 4. The members shall serve three-year terms beginning and
23 ending as provided in section 69.19. However, the governor
24 shall provide that some initial members serve for less than
25 three years to ensure that members serve staggered terms. A
26 vacancy on the council shall be filled for the unexpired
27 portion of the regular term in the same manner as regular
28 appointments are made.

29 5. The council shall elect a chairperson and meet on a
30 regular basis and at the call of the chairperson or upon the
31 written request to the chairperson of two or more members.

32 6. The members are entitled to receive a per diem and
33 expenses as specified in section 7E.6.

34 7. Three members constitute a quorum and the affirmative
35 vote of a majority of the members present is necessary for any

1 substantive action to be taken by the council. The majority
2 shall not include any member who has a conflict of interest
3 and a statement by a member that the member has a conflict of
4 interest is conclusive for this purpose. A vacancy in the
5 membership does not impair the duties of the council.

6 8. The council shall advise the department in adopting
7 generally accepted agricultural management practices and when
8 approving generally accepted agricultural management practices
9 ordinances pursuant to section 455B.118.

10 Sec. 5. NEW SECTION. 455B.161B REQUIREMENTS FOR
11 GENERALLY ACCEPTED AGRICULTURAL MANAGEMENT PRACTICES -- AIR
12 QUALITY.

13 1. Generally accepted agricultural management practices as
14 provided in section 455B.118 shall provide for siting of
15 confinement feeding operations, based on all of the following:

16 a. The need to prevent the congestion of confinement
17 feeding operations especially near populated areas.

18 b. The availability of land for the application of manure
19 originating from the confinement feeding operation.

20 c. The need to preserve areas of natural, scenic,
21 historic, or cultural importance.

22 2. Except to the extent that a separation distance
23 requirement does not apply under section 455B.165, a generally
24 accepted agricultural management practice adopted pursuant to
25 section 455B.118 may require a separation distance that is
26 more stringent than provided under this part. The distance
27 requirement may apply between an animal feeding operation
28 structure and an object or location benefiting from the
29 separation distance requirement as provided in this part. The
30 accepted agricultural management practice shall not decrease a
31 separation distance requirement otherwise provided in this
32 part.

33 Sec. 6. Section 455B.162, unnumbered paragraph 1, Code
34 Supplement 1999, is amended to read as follows:

35 The Except to the extent that it is inconsistent with

1 generally accepted agricultural management practices as
2 provided in section 455B.161B, the following shall apply to
3 animal feeding operation structures:

4 Sec. 7. Section 455B.200, Code 1999, is amended to read as
5 follows:

6 455B.200 GENERAL COMMISSION AUTHORITY; GENERALLY ACCEPTED
7 AGRICULTURAL MANAGEMENT PRACTICES.

8 1. The commission shall establish by rule adopted pursuant
9 to chapter 17A, requirements relating to the construction,
10 including expansion, or operation of animal feeding
11 operations, including related animal feeding operation
12 structures. The requirements shall include but are not
13 limited to minimum manure control, the issuance of permits,
14 and departmental investigations, inspections, and testing.

15 2. a. Generally accepted agricultural management
16 practices shall provide requirements for the siting of a
17 confinement feeding operation based on criteria established to
18 carry out the purposes provided in section 455B.118. The
19 practices shall provide for siting of confinement feeding
20 operations, based on the all of the following:

21 (1) The suitability of soils and the hydrology of the
22 site.

23 (2) Whether the construction or expansion of a proposed
24 animal feeding operation structure will impede drainage
25 through established tile lines, laterals, or other
26 improvements which are constructed to facilitate the drainage
27 of land not owned by the person applying for the construction
28 permit.

29 (3) The proximity to fragile environmental areas.

30 (4) The proximity to drinking water supplies.

31 b. A generally accepted agricultural management practice
32 adopted by the department or a county pursuant to section
33 455B.118 may require a separation distance that is more
34 stringent than provided under this part. The distance
35 requirement may apply between an animal feeding operation

1 structure and an object or location benefiting from the
2 separation distance requirement as provided in this part. The
3 generally accepted agricultural management practice shall not
4 decrease a separation distance requirement otherwise provided
5 in this part.

6 Sec. 8. Section 455B.200A, subsections 1 and 7, Code 1999,
7 are amended to read as follows:

8 1. The department shall issue permits for the
9 construction, including the expansion, of animal feeding
10 operation structures, including structures which are part of
11 confinement feeding operations, as provided by rules adopted
12 pursuant to section 455B.200. The department shall issue a
13 permit to an animal feeding operation if an application is
14 submitted according to procedures required by the department
15 and the application meets standards established by the
16 department, regardless of whether the animal feeding operation
17 is required to obtain such a permit. The department shall not
18 issue a permit for the construction of a confinement feeding
19 operation unless it complies with generally accepted
20 agricultural management practices as provided in section
21 455B.118. The department shall not require that a person
22 obtain a permit for the construction of an animal feeding
23 operation structure if the structure is part of a small animal
24 feeding operation. For purposes of this section, an animal
25 feeding operation structure includes a manure storage
26 structure.

27 7. The department shall deliver a copy or require the
28 applicant to deliver a copy of the application for a
29 construction permit for the construction of a confinement
30 feeding operation or related animal feeding operation
31 structure, including the manure management plan and supporting
32 documents, to the county board of supervisors in the county
33 where the confinement feeding operation or related animal
34 feeding operation structure subject to the permit is proposed
35 to be constructed.

1 \$10,000, and a person who violates provisions of the chapter
2 regulating water quality is subject to a civil penalty of not
3 more than \$5,000. However, a person classified as a habitual
4 violator is subject to a civil penalty of not more than
5 \$25,000.

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