

Senate File 506

Bill Text

PAG LIN

1 1 Section 1. NEW SECTION. 335.1A DEFINITIONS.
1 2 As used in this chapter, unless the context otherwise
1 3 requires:
1 4 1. "Animal feeding operation structure" means the same as
1 5 defined in section 455B.161.
1 6 2. "Animal weight capacity" means the same as defined in
1 7 section 455B.161.
1 8 3. "Manure storage structure" means a formed or unformed
1 9 manure storage structure as defined in section 455B.161.
1 10 Sec. 2. Section 335.2, Code 2001, is amended to read as
1 11 follows:
1 12 335.2

~~FARMS EXEMPT~~

~~- FARM OPERATIONS EXEMPTION.~~

1 13 1. Except

~~to the extent required to implement section~~

~~-~~
1 14

~~335.27, no~~

~~- as provided in subsection 2, an ordinance adopted~~
1 15 under this chapter

~~applies~~

~~- shall not apply to~~

~~land, farm~~

~~-~~
1 16 farming operations, including farmland and related structures
1 17 such as houses,

~~farm~~

~~- barns,~~

~~farm~~

~~- or~~ outbuildings

~~or other~~

~~-~~
1 18

~~buildings or structures~~

~~- which are primarily adapted, by reason~~
1 19 of nature and area, for

~~use for~~

~~- agricultural purposes~~

~~, while~~

~~-~~
1 20

~~so used~~

~~-.~~

~~However, the ordinances~~

1 21 2. A county board of supervisors may

~~apply to any~~

~~adopt an~~

1 22 ordinance under this chapter which applies to any of the

1 23 following:

1 24 a. The implementation of an agricultural land preservation
1 25 ordinance, as provided in section 335.27.

1 26 b. A structure, building, dam, obstruction, deposit, or
1 27 excavation in or on the flood plains of

~~any~~

~~a river or stream.~~

1 28 c. The siting of an animal feeding operation, as provided
1 29 in section 335.2A.

1 30 Sec. 3. NEW SECTION. 335.2A ANIMAL FEEDING OPERATIONS
1 31 SITING ORDINANCE.

1 32 1. Notwithstanding section 331.304A, a county may adopt an
1 33 animal feeding operation siting ordinance which shall be part
1 34 of other regulations provided in this chapter. The ordinance
1 35 shall regulate the siting of animal feeding operations and
2 1 related structures, including manure storage structures. The
2 2 ordinance may be adopted by the county board of supervisors,
2 3 upon recommendation by the county's zoning commission as
2 4 provided in section 335.8. The county board of supervisors
2 5 shall adopt the ordinance in the same manner as other
2 6 regulations adopted pursuant to this chapter. The ordinance
2 7 shall apply to the siting of an animal feeding operation or
2 8 related structure, if after construction the animal weight
2 9 capacity of the animal feeding operation would be one million
2 10 two hundred fifty thousand pounds or more.

2 11 2. The ordinance shall include a plan for mediation in
2 12 order to resolve a dispute between the person proposing to
2 13 construct an animal feeding operation and a related structure
2 14 and a person who objects to the construction as provided in
2 15 section 335.2B. The mediation shall be conducted by the farm
2 16 mediation service. The procedural requirements of mediation
2 17 shall be based to every extent practicable on chapter 654A.
2 18 The mediation shall be conducted by the farm mediation
2 19 service.

2 20 3. The ordinance shall include a siting plan as follows:

2 21 a. The plan shall do all of the following:

2 22 (1) Preserve the availability of farmland reserved for
2 23 animal feeding operations.

2 24 (2) Encourage efficient urban development patterns that do
2 25 not burden farmland reserved under the plan for animal feeding
2 26 operations. The plan shall attempt to prevent congestion and
2 27 overcrowding of animal feeding operations, especially near
2 28 cities.

2 29 (3) Preserve and protect natural resources, including
2 30 water sources, fragile environmental locations, and public use
2 31 areas.

2 32 b. The plan may provide different regulations for animal
2 33 feeding operations based on all of the following:

2 34 (1) The animal weight capacity of the animal feeding
2 35 operation.

3 1 (2) The type of animal feeding operation structure.

3 2 (3) The proximity of land for the application of manure
3 3 which originates from the animal feeding operation.

3 4 4. a. The ordinance shall not violate any requirement of
3 5 chapter 455B, or rules adopted by the department of natural
3 6 resources pursuant to that chapter. However, the ordinance
3 7 may provide for separation distance requirements that exceed
3 8 the requirements of chapter 455B, division II, part 2, or

3 9 section 455B.204. The separation distance requirement may be
3 10 based on guidelines established by the department of natural
3 11 resources pursuant to sections 455B.165 and 455B.204 and shall
3 12 to every extent practicable be based on the methodology
3 13 established by the department pursuant to those sections.

3 14 b. The ordinance shall be consistent with the county's
3 15 comprehensive plan as required by section 335.5, and other
3 16 regulations adopted pursuant to this chapter.

3 17 c. The ordinance shall not prohibit the operation of
3 18 animal feeding operations constructed prior to the effective
3 19 date of the ordinance.

3 20 5. The ordinance shall provide for review and approval or
3 21 disapproval of proposals to construct animal feeding
3 22 operations, including the construction of a confinement
3 23 building or related manure storage structures.

3 24 a. The ordinance shall provide for methods and procedures
3 25 required for timely submission, review, and approval or
3 26 disapproval of proposals.

3 27 b. The planning and zoning commission shall review each
3 28 proposal and recommend to the board of supervisors that the
3 29 proposal be approved or disapproved. The board of supervisors
3 30 shall approve or disapprove the proposal after considering all
3 31 relevant information, including the commission's
3 32 recommendation. The commission's recommendation and the
3 33 board's decision shall be based solely on whether the proposal
3 34 satisfies the requirements of the ordinance.

3 35 Sec. 4. NEW SECTION. 335.2B PUBLIC NOTICE AND MEDIATION
4 1 REQUIRED.

4 2 1. A person shall not construct an animal feeding
4 3 operation or related structure subject to an animal feeding
4 4 operation siting ordinance as provided in section 335.2A or
4 5 apply for a permit to construct the animal feeding operation
4 6 under section 455B.200A, unless the person participates in
4 7 mediation as provided in this section.

4 8 2. The person proposing to construct the animal feeding
4 9 operation shall notify the planning and zoning commission, in
4 10 a manner and according to procedures required by the
4 11 commission. Within ten days following receipt of the notice,
4 12 the commission shall mail a notice to each person residing
4 13 within one mile of the proposed construction site. A person
4 14 required to receive the notice may file a request for
4 15 mediation with the farm mediation service as provided in the
4 16 animal feeding operation siting ordinance within sixty days
4 17 following the date the notice is delivered. The parties shall
4 18 participate in mediation as provided in the animal feeding
4 19 operation siting ordinance. The mediator may call mediation
4 20 meetings during the mediation period, which shall be up to
4 21 forty-two days after the farm mediation service received the
4 22 mediation request. However, if all parties consent, mediation
4 23 may continue after the end of the mediation period.

4 24 3. If the parties sign a mediation agreement, the terms
4 25 and conditions of the mediation agreement shall govern the
4 26 operation of the animal feeding operation parties. The
4 27 mediation agreement becomes effective only upon recording the
4 28 agreement in the office of the recorder of deeds where the
4 29 objecting person resides. If the parties do not sign a
4 30 mediation agreement, the mediator shall sign and shall issue a
4 31 mediation release. After issuance of the release, the county
4 32 zoning board shall consider the proposal to construct the
4 33 animal feeding operation or related structure pursuant to the
4 34 animal feeding operation siting ordinance.

4 35 Sec. 5. Section [335.8](#), Code 2001, is amended to read as
5 1 follows:

5 2 335.8 ZONING COMMISSION

5 3 1.

~~In order to avail itself of the powers conferred by~~

5 4

~~this chapter, the~~

~~The board of supervisors shall~~

~~appoint~~

5 5 establish a zoning commission

~~, a~~

~~The board shall appoint~~

5 6 members to the commission. A majority of

~~whose~~

~~the members~~

5 7 shall reside within the county but outside the corporate

5 8 limits of any city

~~, to be known as the county zoning~~

5 9

~~commission, to recommend~~

~~The zoning commission shall do all~~

5 10 of the following:

5 11 a. Recommend the boundaries of

~~the various~~

~~original~~

5 12 districts, and appropriate regulations and restrictions to be

5 13 enforced

~~therein~~

~~within those districts.~~

~~Such~~

~~The commission~~

5 14 shall, with due diligence, prepare a preliminary report and

5 15 hold public hearings

~~thereon~~

~~on the preliminary report~~ before

5 16 submitting

~~its~~

~~a final report~~

~~; and the~~

~~The board of~~

5 17 supervisors shall not hold

~~its~~

~~public hearings or take action~~

5 18 until

~~it~~

~~the board~~ has received the final report

~~of such~~

5 19

~~commission~~

- . After the adoption of such regulations,
5 20 restrictions, and boundaries of districts, the zoning
5 21 commission may, from time to time, recommend to the board of
5 22 supervisors amendments, supplements, changes, or
5 23 modifications.
5 24 b. Provide for the siting of animal feeding operations as
5 25 follows:
5 26 (1) The zoning commission shall prepare an animal feeding
5 27 operation siting ordinance, including a siting plan, for
5 28 recommendation to the board of supervisors as provided in
5 29 section 335.2A. The zoning commission shall prepare and
5 30 recommend the ordinance or any amendments, supplements,
5 31 changes, or modifications to the ordinance, in the same manner
5 32 as other regulations pursuant to paragraph "a". The zoning
5 33 commission shall not make a recommendation without holding a
5 34 public hearing in the same manner as provided in section
5 35 335.6.
6 1 (2) The zoning commission shall review and recommend the
6 2 approval or disapproval of proposals for the construction of
6 3 animal feeding operations as provided in section 335.2A based
6 4 on compliance with the animal feeding operation siting
6 5 ordinance.
6 6 2. The zoning commission, with the approval of the board
6 7 of supervisors, may contract with professional consultants,
6 8 regional planning commissions, the

~~Iowa~~

- department of economic
6 9 development, the department of natural resources, or the
6 10 federal government, for local planning assistance.
6 11 Sec. 6. Section [455B.165](#), Code 2001, is amended by adding
6 12 the following new subsection:
6 13 NEW SUBSECTION. 9. A separation distance requirement that
6 14 is provided in an animal feeding operation siting ordinance
6 15 adopted by a county board of supervisors pursuant to section
6 16 335.2A, provided that the ordinance shall not include a
6 17 requirement providing a lesser separation distance than is
6 18 provided for in this part. If requested by a county, the
6 19 department shall provide recommendations with guidelines for
6 20 increasing required separation distances based on a
6 21 methodology which considers topographic, hydrologic, climatic,
6 22 or demographic factors.
6 23 Sec. 7. Section [455B.200A](#), Code 2001, is amended by adding
6 24 the following new subsection:
6 25 NEW SUBSECTION. 8A. The department shall not approve a
6 26 permit for the construction of an animal feeding operation or
6 27 any related structure that is part of an animal feeding
6 28 operation, if after construction the animal feeding operation
6 29 would have an animal weight capacity of one million two
6 30 hundred and fifty thousand pounds or more unless the
6 31 application certifies that the construction satisfies the
6 32 requirements of section 455B.200B. The department may require
6 33 that the applicant provide a statement from the planning and
6 34 zoning commission where the animal feeding operation is
6 35 proposed to be constructed verifying that the animal feeding
7 1 operation complies with the animal feeding operation siting
7 2 ordinance adopted as provided in section 335.2A.
7 3 Sec. 8. NEW SECTION. 455B.200B SITING OF ANIMAL FEEDING
7 4 OPERATIONS COUNTY PLANNING AND ZONING COMMISSION.
7 5 A person shall not construct an animal feeding operation or
7 6 any related structure, if after construction the animal
7 7 feeding operation would have an animal weight capacity of one
7 8 million two hundred fifty thousand pounds or more unless the
7 9 person complies with the animal feeding operation siting
7 10 ordinance adopted as provided in section 335.2A governing the
7 11 location where the animal feeding operation structure is
7 12 located.

7 13 Sec. 9. Section [455B.204](#), subsection 3, Code 2001, is
7 14 amended by adding the following new paragraph:
7 15 NEW PARAGRAPH. c. A separation distance requirement that
7 16 is provided in a confinement feeding operation siting
7 17 ordinance adopted by a county board of supervisors pursuant to
7 18 section 335.2A. The ordinance shall not include a requirement
7 19 providing a closer separation distance than is provided for in
7 20 subsection 2. Upon request by a county, the department shall
7 21 provide recommendations to the county as provided in section
7 22 455B.165.

7 23 EXPLANATION

7 24 This bill amends provisions in Code chapter 335, which
7 25 provides for county zoning. Code section 335.2 provides that
7 26 county zoning does not apply to farming operations. This bill
7 27 amends that section to provide that county zoning does apply
7 28 to the siting of animal feeding operations. The bill provides
7 29 that a county may adopt an animal feeding operation siting
7 30 ordinance. The ordinance applies to the construction of
7 31 animal feeding operations with an animal weight capacity of
7 32 1,250,000 pounds or more.

7 33 The ordinance must also provide for a plan for mediation in
7 34 order to resolve a dispute between the owner of the proposed
7 35 animal feeding operation and a person who objects to the
8 1 construction. The bill provides that the person proposing to
8 2 construct the animal feeding operation must participate in
8 3 mediation if a person residing within one mile of the
8 4 construction files a mediation request with the farm mediation
8 5 service. The parties must participate in mediation as
8 6 provided in the animal feeding operation siting ordinance. If
8 7 the parties sign a mediation agreement, the terms and
8 8 conditions of the mediation agreement shall govern the
8 9 parties. If the parties do not sign a mediation agreement,
8 10 the mediator must sign and issue a mediation release. The
8 11 county zoning commission must then consider the proposal
8 12 according to a siting plan.

8 13 The siting plan must preserve the availability of farmland
8 14 reserved for confinement feeding operations; encourage
8 15 efficient urban development patterns; lessen congestion and
8 16 overcrowding of confinement feeding operations, especially
8 17 near cities; and preserve and protect natural resources,
8 18 including water sources, fragile environmental locations, and
8 19 recreational areas.

8 20 The plan may provide different regulations for animal
8 21 feeding operations based on the animal weight capacity of the
8 22 animal feeding operation, the type of animal feeding operation
8 23 structure, and the proximity of land for the application of
8 24 manure which originates from the animal feeding operation.
8 25 The bill provides that an ordinance cannot prohibit the
8 26 operation of an animal feeding operation constructed prior to
8 27 the effective date of the ordinance.

8 28 The bill also provides that the ordinance cannot violate
8 29 any requirement of Code chapter 455B regulating confinement
8 30 feeding operations by the department of natural resources.
8 31 However, the bill provides that the ordinance may provide for
8 32 distance requirements that exceed the requirements of Code
8 33 chapter 455B. The separation distances may be based on
8 34 guidelines established by the department and, to every extent
8 35 practicable, must be based on methodology established by the
9 1 department. Upon request by a county, the department is
9 2 required to provide the county with guidelines based on a
9 3 methodology which analyzes relevant factors relating to
9 4 topographic, climatic, demographic, or hydrologic conditions.