

Senate File 2264 - Introduced

SENATE FILE 2264

BY D. JOHNSON

A BILL FOR

1 An Act authorizing counties to adopt county legislation
2 relating to the regulation of confinement feeding operations
3 to preserve drinking water sources, and including effective
4 date provisions.

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

1 Section 1. Section 331.304A, subsection 2, Code 2018, is
2 amended to read as follows:

3 2. a. A county shall not adopt or enforce county
4 legislation regulating a condition or activity occurring
5 on land used for the production, care, feeding, or housing
6 of animals unless the regulation of the production, care,
7 feeding, or housing of animals is expressly authorized by
8 state law. County legislation adopted in violation of this
9 section is void and unenforceable and any enforcement activity
10 conducted in violation of **this section** is void. A condition
11 or activity occurring on land used for the production, care,
12 feeding, or housing of animals includes but is not limited to
13 the construction, operation, or management of an animal feeding
14 operation, an animal feeding operation structure, or aerobic
15 structure, and to the storage, handling, or application of
16 manure or egg washwater.

17 b. Paragraph "a" does not apply to a special confinement
18 feeding operations ordinance as provided in section 459.305A.

19 Sec. 2. Section 335.2, Code 2018, is amended to read as
20 follows:

21 **335.2 Farms exempt.**

22 1. Except to the extent required to implement section
23 335.27, no ordinance adopted under **this chapter** applies to
24 land, farm houses, farm barns, farm outbuildings or other
25 buildings or structures which are primarily adapted, by reason
26 of nature and area, for use for agricultural purposes, while
27 so used. However, the ordinances may apply to any structure,
28 building, dam, obstruction, deposit or excavation in or on the
29 flood plains of any river or stream.

30 2. Subsection 1 does not apply to a special confinement
31 feeding operations ordinance as provided in section 459.305A.

32 Sec. 3. NEW SECTION. **459.305A Special confinement feeding**
33 **operations ordinance.**

34 1. A county may adopt a special confinement feeding
35 operations ordinance. The purpose of the ordinance is to

1 allow the county board of supervisors to regulate the siting
2 and operation of a confinement feeding operation that may
3 impact the sources of drinking water accessed by residences
4 of the county. The ordinance shall include findings of fact
5 that support the board of supervisors' conclusion that the
6 ordinance is necessary to protect its drinking water sources.
7 The ordinance may include greater or additional restrictions on
8 the construction, including expansion, of a confinement feeding
9 operation structure, or the application of manure in the county
10 that originates from the confinement feeding operation, than
11 otherwise provided in this subchapter, including rules adopted
12 by the department pursuant to this subchapter. The ordinance
13 nor any action taken by a board of supervisors under this
14 section is subject to review or approval by the department.

15 2. A person shall not construct, including expand, a
16 confinement feeding operation structure in a county that has
17 adopted a special confinement feeding operations ordinance
18 until the county board of supervisors has approved the location
19 of the confinement feeding operation in a manner and according
20 to procedures required in the ordinance.

21 a. The county board of supervisors may subject its approval
22 to conditions for the construction of the confinement feeding
23 operation structure, the operation of the confinement feeding
24 operation, or the application of manure originating from the
25 confinement feeding operation.

26 b. A person required to be issued a permit by the department
27 for the construction of a confinement feeding operation
28 structure as provided in section 459.303 must be issued such
29 permit prior to obtaining approval by the county board of
30 supervisors under this section.

31 c. A county board of supervisors may base its approval or
32 disapproval on factors other than factors considered by the
33 department when approving or disapproving an application to
34 construct the confinement feeding operation.

35 Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate

1 importance, takes effect upon enactment.

2

EXPLANATION

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The inclusion of this explanation does not constitute agreement with
4 the explanation's substance by the members of the general assembly.

5

This bill in part amends provisions in Code chapter 459
6 which authorize the department of natural resources to regulate
7 confinement feeding operations, including by issuing permits
8 for the construction or expansion of structures associated with
9 a confinement feeding operation (e.g., a building or manure
10 storage structure).

11

The bill provides that a county may adopt a special
12 confinement feeding operations ordinance which allows a county
13 board of supervisors to regulate the siting and operation
14 of the confinement feeding operation, which may including
15 approving the site where the construction is to occur. The
16 ordinance may include provisions that are more restrictive
17 than otherwise provided under state law. The board may place
18 conditions on site approval if the conditions relate to the
19 construction or operation of the confinement feeding operation
20 or to manure application.

21

The bill provides that the county may adopt the ordinance
22 notwithstanding provisions in Code section 331.304A which
23 prohibits a county from adopting legislation that regulates
24 animal agriculture and Code section 335.2 which prohibits a
25 county from adopting an ordinance that provides for the zoning
26 of farm structures.

27

The bill would take effect upon enactment.