

291.13 GENERAL AND SCHOOLHOUSE FUNDS.

The money ~~collected by~~ received from the regular and voter-approved physical plant and equipment levies ~~or, the levy for public educational and recreational activities imposed under chapter 300,~~ the proceeds of the sale of bonds authorized by law ~~or, and~~ the proceeds of a tax estimated and certified by the board for the purpose of paying interest and principal on lawful bonded indebtedness shall be deposited in the schoolhouse fund and, except when authorized by the electors, ~~may shall~~ be used only for the purpose for which originally authorized or certified. The money ~~collected by~~ received from the district management levy shall be deposited in a subfund of the general fund of the school district. All other moneys received for any other purpose shall be deposited in the general fund of the school district. The treasurer shall keep a separate account for each fund, and shall not pay an order that fails to state the fund upon which it is drawn and the specific use to which it is to be applied.

Sec. 11. 1989 Iowa Acts, chapter 135, section 125, is amended to read as follows:

SEC. 125. If the electors of a school district have approved, prior to March 15, 1991, the schoolhouse tax levy to provide for the lease-purchase of school buildings or other authorized school district tax levy, the tax levy so approved shall continue in effect until the expiration of the period for which it was approved. For the duration of that schoolhouse tax levy, a school district may anticipate the collection of the tax by loan agreement as provided in section 297.36.

Sec. 12. 1989 Iowa Acts, chapter 135, section 127, is amended to read as follows:

SEC. 127. Notwithstanding the election requirements of section 442.14, subsection 2, if the board of directors of a school district held an election prior to February 15, 1989, for approval to raise an additional enrichment amount ~~for commencing with the school year beginning July 1, 1990~~ 1989, and the proposition failed, the board may resubmit ~~the~~ a proposition for approval to raise an additional enrichment amount commencing with the school year beginning July 1, 1990, at an election held not later than July 1, 1989.

Sec. 13.

Section 12 of this Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to May 5, 1989.

Approved April 24, 1990

CHAPTER 1191

SOLID WASTE DISPOSAL

H.F. 2534

AN ACT relating to waste disposal, providing a retroactive applicability date, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION. 455B.305A LOCAL APPROVAL OF SANITARY LANDFILL AND INFECTIOUS WASTE INCINERATOR PROJECTS.**

1. Prior to the siting of a proposed, new sanitary landfill or infectious waste incinerator, a city, county, or private agency, with the exception of a private agency disposing of waste which the agency generates on property owned by the agency as of January 1, 1990, shall submit a request for local siting approval to the city council or county board of supervisors which governs the city or county in which the proposed site is to be located. The city council or county board of supervisors shall approve or disapprove the site for each sanitary landfill or infectious waste incinerator.

2. An applicant for siting approval shall submit information to the city council or county board of supervisors to demonstrate compliance with the requirements prescribed by this chapter regarding a sanitary landfill or infectious waste incinerator. Siting approval shall be granted only if the proposed project meets all of the following criteria:

a. The project is necessary to accommodate the solid waste management needs of the area which the project is intended to serve.

b. The project is designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.

c. The project is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property. The city council or county board of supervisors shall consider the advice of the appropriate planning and zoning commission regarding the application.

d. The plan of operations for the project is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents.

e. The traffic patterns to or from the project are designed in order to minimize the impact on existing traffic flows.

f. Information regarding the previous operating experience of a private agency applicant and its subsidiaries or parent corporation in the area of solid waste management or related activities are made available to the city council or county board of supervisors.

g. The department of natural resources has been consulted by the city council or board of supervisors prior to the approval.

3. No later than fourteen days prior to a request for siting approval, the applicant shall cause written notice of the request to be served either in person or by restricted certified mail on the owners of all property within the proposed local site area not solely owned by the applicant, and on the owners of all property within one thousand feet in each direction of the lot line of the proposed local site property if the proposed local site is within the city limits, or within two miles in each direction of the lot line of the proposed local site property if the proposed local site is outside of the city limits. The owners shall be identified based upon the authentic tax records of the county in which the project is to be located.

Written notice shall be published in the official newspaper of the county in which the site is located. The notice shall state the name and address of the applicant, the location of the proposed site, the nature and size of the development, the nature of the activity proposed, the probable life of the proposed activity, the date when the request for site approval will be submitted, and a description of the right of persons to comment on the request.

4. An applicant shall file a copy of its request with the department and with the city council or the county board of supervisors in which the proposed site is located. The request shall include the substance of the applicant's proposal and all documents, if any, submitted as of that date to the department pertaining to the proposed project. All documents or other materials pertaining to the proposed project on file with the city council or county board of supervisors shall be made available for public inspection at the office of the city council or county board of supervisors and may be copied upon payment of the actual cost of reproduction.

Any person may file written comment with the city council or county board of supervisors concerning the appropriateness of the proposed site for its intended purpose. The city council or county board of supervisors shall consider any comment received or postmarked not later than thirty days after the date of the last public hearing.

5. At least one public hearing shall be held by the city council or county board of supervisors no sooner than ninety days but no later than one hundred twenty days from receipt of the request for siting approval. A hearing shall be preceded by published notice in an official newspaper of the county of the proposed site, including in any official newspaper located in the city of the proposed site. The public hearing shall develop a record sufficient to form the basis of an appeal of the decision.

6. Decisions of the city council or the county board of supervisors shall be in writing, specifying the reasons for the decision. The written decision of the city council or the county board

of supervisors shall be available for public inspection at the office of the city council or county board of supervisors and may be copied upon payment of the actual cost of reproduction. Final action shall be taken by the city council or the county board of supervisors within one hundred eighty days after the filing of the request for site approval.

At any time prior to completion by the applicant of the presentation of the applicant's factual evidence and an opportunity for questioning by the city council or the county board of supervisors and members of the public, the applicant may file not more than one amended application upon payment of additional fees pursuant to subsection 9. The time limitation for final action on an amended application shall be extended for an additional ninety days.

7. Construction of a project which is granted local siting approval under this section shall commence within one calendar year from the date upon which it was granted or the permit shall be nullified. If the local siting decision is appealed, the one-year period shall begin on the date upon which the appeal process is concluded.

8. The local siting approval, criteria, and appeal procedures provided for in this section and in section 455B.305B are the exclusive local siting procedures and appeal procedures. Local zoning, ordinances, or other local land use requirements may be considered in such siting decisions.

9. A city council or a county board of supervisors shall charge an applicant for siting approval, under this section, a fee to cover the reasonable and necessary costs incurred by the city or county in the siting approval process.

10. An applicant shall not file a request for local siting approval which is substantially the same as a request which was denied within the preceding two years pursuant to a finding against the applicant under the established criteria.

Sec. 2. NEW SECTION. 455B.305B APPEAL FROM DECISION.

1. If the city council or the county board of supervisors does not approve a siting request under section 455B.305A, the applicant, within sixty days of notice of the decision, may petition for a hearing before the commission or the commission's designee to contest the decision. The city council or the county board of supervisors shall appear as respondent in the hearing. At the hearing, the burden of proof shall be on the petitioner. In making its orders and determinations under this section, the commission or the commission's designee shall consider the written decision and reasons for the decision of the city council or the county board of supervisors and the transcribed record of the hearing held pursuant to section 455B.305A. The commission or the commission's designee shall transmit a copy of its decision to the office of the city council or the county board of supervisors where it shall be available for public inspection and copied upon payment of the actual cost of reproduction. Final action by the commission or the commission's designee shall be taken within one hundred twenty days.

2. If the city council or the county board of supervisors grants approval under section 455B.305A, a third party other than the applicant who participated in the public hearing conducted by the city council or the county board of supervisors, may petition the commission or the commission's designee within sixty days of filing of the written decision at the office of the city council or county board of supervisors for a hearing to contest the approval. Unless the commission or the commission's designee determines that the petition is duplicitous or frivolous, the commission or the commission's designee shall hear the petition in accordance with the procedures of subsection 1. The burden of proof shall be on the petitioner, and the city council or the county board of supervisors and the applicant shall be named as correspondents.

The commission or the commission's designee shall transmit a copy of its decision to the office of the city council or the county board of supervisors where it shall be available for public inspection and may be copied upon payment of the actual cost of reproduction.

3. Any person who files a petition to contest a decision of the city council or the county board of supervisors shall pay a reasonable filing fee.

4. Judicial review may be sought of actions of the commission or the commission's designee in accordance with chapter 17A.

Sec. 3. NEW SECTION. 455B.315 RADIOACTIVE MATERIALS – PROHIBITED DEPOSIT IN SANITARY LANDFILLS.

A person shall not dispose of, and a sanitary landfill shall not accept for final disposal, radioactive materials, as defined as of January 1, 1990, pursuant to section 136C.1.

Sec. 4. Section 455D.9, subsection 2, Code Supplement 1989, is amended to read as follows:

2. The department shall assist local communities in the development of collection systems for yard waste generated from residences and shall assist in the establishment of local composting facilities. By July 1, 1990, Within one hundred twenty days of the adoption of rules by the department regarding yard waste, each city and county shall, by ordinance, require persons within the city or county to separate yard waste from other solid waste generated. Municipalities which provide a collection system for solid waste shall provide for a collection system for yard waste which is not composted.

Sec. 5. MORATORIUM – COMMERCIAL INFECTIOUS WASTE INCINERATORS.

The department of natural resources shall not grant a permit for the construction or operation of a commercial infectious waste incinerator prior to July 1, 1991. The moratorium does not apply to a hospital licensed pursuant to chapter 135B which accepts waste from other infectious waste generators if the total amount of infectious waste accepted from other generators is less than sixty-six percent of the infectious waste incinerated.

Sec. 6. DEAD ANIMAL DISPOSAL – RULES – REPORT REQUIRED.

1. The disposal of dead animals is an issue of great importance to the state both in terms of protection of animal populations from the transmission of diseases and the protection of groundwater from contamination. The preference for the disposal of dead animals is rendering. If rendering is not possible, or the operator is unwilling to accept dead animals, then land disposal is an acceptable option.

2. The department of natural resources shall provide the Iowa state university of science and technology extension service with copies of the rules related to the on-farm disposal of dead animals. The department of natural resources shall also cooperate in the preparation and circulation of information which explains how to comply with the rules and encourages the practice as an alternative to disposal of dead animals at a landfill.

At the October 1990 meeting of the administrative rules review committee of the legislative council, the department of natural resources shall provide a report on the implementation of the rules and shall report on changes which are being made to address problems which have been identified.

Sec. 7. RETROACTIVITY.

Section 5 of this Act is retroactively applicable to January 1, 1990.

Sec. 8. REPEAL.

Section 2 of this Act is repealed effective June 30, 1991.

Sec. 9. EFFECTIVE DATE.

This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 24, 1990