

Assembly Bill 868... relating to: the siting and expansion of certain livestock facilities, local zoning ordinances relating to livestock facilities, creating a Livestock Facility Siting Review Board, and granting rule-making authority.

<p>BILL SPONSORS</p>	<p>Introduced by Senators Schultz, Brown, M. Meyer, Harsdorf, Jauch, S. Fitzgerald, Kanavas and Zien.</p> <p>Cosponsored by Representative <i>(only include the lead Assembly sponsor)</i></p>
<p>BILL HISTORY</p>	<p>Assembly Bill 868 was introduced on 02-19-04 and referred to the Assembly Committee on Agriculture.</p> <p>A Joint public hearing was held on 02-23-04. By the Assembly and Senate Agriculture Committees</p> <p>On 02-26-04. Executive action taken was taken and Assembly substitute amendment 1 offered by committee on Agriculture. On 02-27-04. Report Assembly Substitute Amendment 1 adoption was recommended by the Assembly committee on Agriculture, Ayes 15, Noes 02-27-04. Passage as amended was recommended by the Assembly committee on Agriculture, Ayes 15, Noes 0</p> <p>On 03-02-04, Assembly Bill 828 was read a third time and passed by the Assembly Ayes 76, Noes 20</p> <p>On 03-03-04. The Senate Committee on Agriculture, Financial Institutions and Insurance took Executive action.</p> <p>The committee recommended AB 868 for passage on a vote; Ayes 3 Noes 2 (Hansen, Lassa)</p>
<p>LRB ANALYSIS</p>	<p>This bill relates to siting and expanding livestock facilities. A livestock facility is a feedlot or other facility where animals used to produce food, fiber, or other animal products are kept, except that pastures and aquaculture facilities are not livestock facilities. Some of the provisions of the bill depend on the size of a new or expanded livestock facility, measured by animal units. An animal unit is a measure related to the amount of waste produced by different kinds of animals. A beef steer is one animal unit, while a sow is 0.4 animal unit, and a turkey is 0.018 animal unit.</p> <p>This bill relates to siting and expanding livestock facilities. A livestock facility is a feedlot or other facility where animals used to produce food, fiber, or other animal products are kept, except that pastures and aquaculture facilities are not livestock facilities. Some of the provisions of the bill depend on the size of a new or expanded livestock facility, measured by animal units. An animal unit is a measure related to the amount of waste produced by different kinds of animals. A beef steer is one animal unit, while a sow is 0.4 animal unit, and a turkey is 0.018 animal unit.</p> <p>The bill prohibits a city, village, town, or county (political subdivision) from disapproving or prohibiting a livestock facility from being sited or expanded unless at least one of the following conditions applies:</p> <ol style="list-style-type: none"> 1. The site is located in a zoning district that is not agricultural. 2. The site is located in an agricultural zoning district in which the livestock facility is prohibited. 3. The proposed new or expanded livestock facility will have 500 or more animal units and violates a state standard promulgated by DATCP under the bill that is incorporated in the political subdivision's ordinances.

4. The proposed new or expanded livestock facility will have 500 or more animal units and violates a local requirement that is more stringent than a state standard if the political subdivision adopts the requirement by ordinance before the operator asks for approval of the siting or expansion and bases the requirement on scientific findings of fact that show that the requirement is necessary to protect public health or safety.

5. The proposed new or expanded livestock facility will have 500 or more animal units and violates a local setback requirement that is less stringent than a setback requirement in the state standards.

6. The proposed new or expanded livestock facility will have fewer than 500 animal units, but will exceed a size threshold for requiring a special exception or conditional use permit that the political subdivision adopted before July 19, 2003, and violates a state standard promulgated by DATCP under the bill that is incorporated in the political subdivision's ordinances.

7. The proposed new or expanded livestock facility will have fewer than 500 animal units, but will exceed a size threshold for requiring a special exception or conditional use permit that the political subdivision adopted before July 19, 2003, and violates a local requirement that is more stringent than a state standard if the political subdivision adopts the requirement by ordinance before the operator asks for approval of the siting or expansion and bases the requirement on scientific findings of fact that show that the requirement is necessary to protect public health or safety.

8. The proposed new or expanded livestock facility will have fewer than 500 animal units, but will exceed a size threshold for requiring a special exception or conditional use permit that the political subdivision adopted before July 19, 2003, and violates a local setback requirement that is less stringent than a setback requirement in the state standards.

9. The proposed new or expanded livestock facility violates a shoreland, construction site erosion control and stormwater management, or floodplain zoning ordinance.

10. The proposed new or expanded livestock facility violates a state or local building or sanitary code or other generally applicable ordinance.

The bill provides that a political subdivision may not prohibit a type of livestock facility in an agricultural zoning district based on number of animal units if smaller facilities of the same type are allowed in the district, unless the political subdivision also has an agricultural zoning district in which that type of facility is allowed without respect to size. The bill also prohibits a political subdivision from enacting or enforcing a zoning ordinance with a category of agricultural district in which livestock facilities are prohibited unless the political subdivision bases the prohibition on findings of fact related to health and safety.

Conditions for conditional use permits

The bill provides generally that if a political subdivision requires a conditional use permit for the siting or expansion of certain livestock facilities it must require compliance with the applicable state standards as a condition of issuing the conditional use permit. The livestock facilities to which this requirement applies are those that will have more than 500 animal units and those that will have fewer than 500 animal units but that will exceed a size threshold for obtaining a conditional use permit that was incorporated into the political subdivision's ordinances before July 19, 2003. A political subdivision may condition the issuance of the permit on a local setback requirement that is less stringent than a setback requirement in the state standards.

A political subdivision may apply a more stringent requirement than the state standards if the political subdivision adopts the requirement by ordinance before the operator asks for approval of the siting or expansion and bases the requirement on scientific findings of fact that show that the requirement is necessary to protect public health or safety.

Political subdivision procedure

The bill requires that, within 45 days after a person applies to site or expand a livestock facility, the political subdivision notify the applicant whether the application is complete and, if not, what additional information is needed to complete the application. A political subdivision is required to make a record of its decision making on an application, including a recording of any hearing held on the application. The bill requires the political subdivision to base its decision on an application to site or expand a livestock facility on written findings of fact and to make its decision within 90 days after the application is complete, although this period may be extended for good cause.

Review of siting decisions

The bill creates a livestock facility siting review board (LFSRB) with members appointed by the secretary of agriculture, trade and consumer protection, with the advice and consent of the state senate. An aggrieved person may challenge the decision of a political subdivision on an application for approval of a livestock facility siting or expansion on the grounds that the political subdivision incorrectly applied the state standards promulgated by DATCP that are applicable to the siting or expansion or that the political subdivision violated the provisions described above related to siting and expansion of livestock facilities, by requesting LFSRB to review the decision. An aggrieved person is a person who applied for approval of a livestock facility siting or expansion, a person who lives within two miles of the proposed livestock facility site, or a person who owns land within two miles of the site. LFSRB determines whether the challenge is valid based on the evidence in the record made by the political subdivision. An aggrieved person may appeal LFSRB's decision to circuit court and the court also reviews the decision based on the evidence in the record made by the political subdivision. The bill requires the Department of Justice to represent LFSRB in any appeal.

Major Impact: Applies consistency to livestock operation siting

FISCAL EFFECT

DATCP noted fiscal effect is indeterminate.

SUPPORT

The following person/people appeared in favor of this bill: (1) Rep. Dave Ward, 37th, Assembly District, Madison, (2) Sen. Dale Schultz, 17th State Senate District, Madison Sec. (3) Rod Nilsestuen, WI Dept. of Ag, Trade & Consumer Protection, Madison. (4) Nicholas Neher, WI Dept. of Ag, Trade & Consumer Protection, Madison. (5) RF (Dick) Hauser, Wisconsin Cattleman's Association, Richland Center. (6) Ron Buholzer, WI Cheesemakers Association, Monroe. (7) John Umhoefer, WI Cheesemakers Assn., Madison. (8) Mark O'Connell, WI Counties Assn., Madison. (9) Dick Gorder, WI Farm Bureau, Mineral Point. (10) Sue Beitlick, Wisconsin Farmers Union, Chippewa Falls. (11) Bill Oemichen, WI Federation of Cooperatives, Madison. (12) John Lader, WI Pork Producers Assn., Janesville. (13) Jerry Derr, WI Towns Assn., Columbus. (14) Kent Woods, WI Towns Assn., ?. Greg Steele, Agstar Financial Services, River Falls. (15) Karen Endres, Dairy Business Association, Waunakee. (16) Gary Sipiorski, Citizens State Bank of Loyal, Abbotsford. (17) John Voster, Dairy Business Assn, Kaukauna. (18) Norval Dvorak, Dvorak Beef Farms, Manitowoc. (9) Kyle Gordon. Gordondale Farms, Nelsonville. (20) Kenneth Buelow.

Holsum Dairy, Hilbert. (21) Brian Gerrits, Lake Breese Dairy, DePere. Mike Larson, Larson Acres, Evansville. (22) John Haskins, Majestic View Dairy, Lancaster. (23) Scott & Carrie Matsche, Matsche Farms Inc., Birnamwood. (24) Dan Rasmussen, Modern Dairy Systems LLC., Kaukauna. (25) Don Hamm, National Farmers Organizaton, Fredonia. (26) Case Jorresteyn, New Horizons Agriculture, Madison. (27) John Pagel, Pagels Ponderosa Dairy, Kewaunee. (29) Doug Simon, Trega Foods Inc., Weyauwega. (30) Dan Brick, Town of Holland, Greenleaf. (31) Ken Heiman, ?, Marshfield. (32) Dennis Schopf, ?, Sturgeon Bay. (33) John Vrieze, ?, Baldwin. (34) John Rosenow, ?, Cochrane. (35) Larry Dufek, ?, New Franken. (36) Jerrold Meissner, ?, Chili. (37) Bill Pielsticker, DATCP Ag Siting Committee, Lodi. (38) Cris Peterson, ?, Grantsburg. (39) Kenneth Levzow, ?, Rio. (40) Milt Hassemmer, ?, Whitelaw. (41) Paul Hutterer, ?, Whitehall. (42) Lisa uelleman, ?, Mt. Horeb.

The following person/people registered in favor of this bill: Sen. Ted Kanavas, Madison Christopher Sosnay, WI Bankers Assn., Madison. Bob Oleson, Wisconsin Corn Growers Assc. , Palmyra. Brad Legred, WI Dairy Products Assn, Middleton. Paul Zimmerman, Wisconsin Farm Bureau, Madison. Darla Sikora, Agricultural Lending , Cornell. Dr. James Metz, Animart, Beaver Dam. John Blaska, B-Farms, Inc, Marshall. Robert Bauduin, Bauduin's Grandview Dairy, Casco. Karen Bauduin, Bauduin's Grandview Dairy, Casco. Walter Meinholz, Blue Star Dairy Farms, DeForest. Dale Olson, Burnett Dairy Cooperative, Cushing. Sandi Cihlar, Cihlar Farms, Mosinee. Mike Cornette, Cornette Farm Supply, Greenleaf. William Eberle, Dairy Business Association, Omro. Spence Driver, Dairy Business Association, Iola. Laurie Fischer, Dairy Business Association, Madison. Andrew Nytes, Dairy Business Association, Oregon. Troy Schneider, Dairy Business Association, Chilton. Eric Olstad, East Central Select Sires, Stoughton. Rita Buhr, Emerald-Baldwin Dairy, Emerald. Lee Jensen, Five Star Dairy, Elk Mound. Jim Wittenberger, Foremost Farms USA, Reedsburg. Howard Mack, Foremost Farms USA, Baraboo. Gary Peterson, Four Cubs Farms, Grantsburg. Beu Peterson, Four Cubs Farms, Grantsburg. Corey Geiger, Hoards Dairyman Magazine, Fort Atkinson. Lance Schmitt, Hubbard Feeds Inc., Hortonville. Dean Doornink, Jon-De Farm, Baldwin. Allan Kutz, Kutz Dairy Farm & DBA, Jefferson. Ronald Kutz, Dairy Business Association, Jefferson. Bernie Ford, Land O' Lakes, Wausau. Sandy Trustem, Larson Acres, Evansville. Terri Abing, Majestic View Dairy, Lancaster. Annette Goetsch, Pfizer Animal Health, Sheboygan Falls. Steve Pederson, Royal Flush Dairy, Westby. Dan Monson, Spring Grove Dairy, Brodhead. Eugene Abraham, Town of Jordan, Monroe. Pat Faessler, Town of Spring Grove, Juda. Jim Harsdorf, Trim-Bel Valley Dairy, Beldenville. Katie Boyke, Vir-Clar Farms, Madison. Doug Olsen, Vita-Plus, Wisconsin Rapids. Richard Wagner, Wagner Dairy, Middleton. Mark Wiese, Wiese Brothers Farms, Greenleaf. Jerome Wagner, Wagner Dairy Farm, Middleton. Robert Gonring, West Bend Elevator, Campbellsport. Ralph Levzow, ?, Rio. Jean Dvorak, ?, Manitowoc. Lynn Sedelbauer, ?, Hixton. Ron Abing, ?, Lancaster. Skip Nordahl, ?, Hixton. Jeff Montsma, ?, Fond du Lac. Chuck Ripp, ?, Dane Randall Greenfield, ?, Sun Prairie. Caroline Peterson, ?, Grantsburg. Gary Tauchen, ?, Bonduel. Laura Daniels, ?, Mineral Point. Becky Levzow, ?, Rio Grant. Grinstead, ?, Madison. Linda Bochert, ?, Madison. Nate Wagner, ?, Middleton. Douglas Braun, ?, Sussex. Michelle Philbeck, ?, DePere. Dan Hahn, ?, Chilton.

The Community Bankers of WI, WI Builders Assn. and WI Realtors, registered their support for the bill with the State Ethics Board, but did not testify or register at the public hearing.

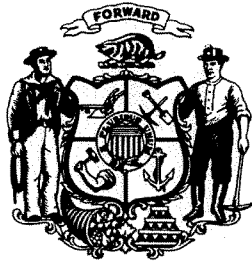
The following organizations registered their intention to lobby on SB868 but did not take a position on the bill: (1) 1000 Friends of WI. (2) Waukesha County (3) WI Land & Water Conservation Assn.

OPPOSITION

□ **The following person/people appeared in opposition to this bill:** Tony Ends, Churches Center for Land & People, Brodhead. Janice Tetzlaff, Citizens for Responsible Agriculture & Clean Environment, Maribel. Michael Taddy, Citizens for Responsible Agriculture & Clean Environment, Maribel. Ann Zelinski, Citizens for Responsible Agriculture & Clean Environment, Maribel. Shirley Mecha, Citizens for Responsible Agriculture & Clean Environment, Maribel. Jack Simono, Citizens for Responsible Agriculture & Clean Environment, Two Rivers. Joyce Cisler, Citizens for Responsible Agriculture & Clean Environment, Whitelaw. John Peck, Family Farm Defenders, Madison. Andrew Hanson, Midwest Environmental Advocates, Madison. Betty Wolcott, The Woodlands: Sisters of St. Francis Assisi, Osseo. Sarah Lloyd, ?, Cambria. Hiroshi & Arlene Kanno, ?, Wisconsin Dells. Katrina Becker, ?, Madison. Marilyn Berick, ?, Cleveland. Shelly Hamel, ?, Westfield. Tony Schultz, ?, Athens. Tom Hermann, ?, Egg Harbor. David Engel, ?, Soldiers Grove. Steve Books, ?, Mt. Horeb. Anita Nelson, ?, Wisconsin Dells. Donald Nelson, ?, Wisconsin Dells. Russ Tooley, ?, Cleveland. Maureen Blaney-Flietner, ?, Hilbert. Harvey Zeman, ?, Maribel. Lester Cherney, ?, Whitelaw.

The following person/people registered in opposition to this bill: (1) George Morgan, Centerville Cares, Cleveland. Claudia Ends, Citizens Against Factory Farming, Broadhead. Darlene Massen, Citizens Against Factory Farming, Broadhead. Mary Ann Taddy, Citizens for Responsible Agriculture & Clean Environment, Maribel. Marcella Straka, Citizens for Responsible Agriculture & Clean Environment, Mishicot. Rita Kliment, Citizens for Responsible Agriculture & Clean Environment, Whitelaw. Vernon Kliment, Citizens for Responsible Agriculture & Clean Environment, Whitelaw. Mike Herzog, Citizens for Responsible Agriculture & Clean Environment, Manitowoc. Irene Hessel, Citizens for Responsible Agriculture & Clean Environment, Manitowoc. Mike Zelinski, Citizens for Responsible Agriculture & Clean Environment, Maribel. Al Matano, Dane County Board, Madison. Bill Hallstrom, Green-Rock Audubon Society, Beloit. Felicia Lin, Midwest Environmental Advocates, Madison. Josh Healey, Student Labor Action Coalition, Madison. Catherine Parks-Snider, Town of Dunn, Oregon. Arnold Junk, Town of Manitowoc Rapids, Manitowoc. Micha Ends, ?, Broadhead Donna Hammond, ?, Cleveland. Wayne Cisler, ?, Whitelaw. Wayne Cisler, ?, Whitelaw Robert Rasmussen, ?, Mishicot. Paul Flietner, ?, Hilbert. Ruth Simpson, ?, Madison. Lee Brown, ?, Madison. Jeff Hassemer, ?, Maribel. Lonna Brooks, ?, Rio. Verne Wilke, ?, Broadhead. David Hamel, ?, Westfield. Wayne Schuette, ?, Cleveland. Betty Koenig, ?, Mishicot. Geraldine Zeman, ?, Maribel. Michael O'Brien, ?, Madison. Wanda Ashman, ?, Madison. Stacy Taeuber, ?, Madison. Ann Hassemer, ?, Whitelaw. Lloyd Shoulak, ?, Mishicot. Garth Hammond, ?, Cleveland. James Rasmussen, ?, Mishicot. Helen Rasmussen, ?, Mishicot. David Bender, ?, Prairie du Sac. Carol Enseki, ?, Madison. Diane Milligan, ?, Madison. Cara Coburn, ?, Madison. Jeff Leicht, ?, Cleveland. Donald Reif, ?, Two Rivers. Robert Peroutka, ?, Two Rivers. Frank Hlinak, ?, Madison. John Tebo, ?, Whitelaw. Michael Orr, ?, Waupaca. John Shafer, ?, Spring Valley. Richard Massen, ?, Broadhead. Carl Scheuers, ?, New Holstein. Diane Schutte, ?, Cleveland.

	No one registered their opposition for the bill with the State Ethics Board, who did not testify or register at the public hearing.
CONTACT	John O'Brien, Clerk Sen. Comm. on Ag. Fin. Inst. & Insurance
DATE	March 10, 2004



**Senate Committee on Agriculture, Financial Institutions
and Insurance**

Room 18 South State Capitol, PO Box 7882, Madison WI 53707-7882
(608) 266-0703

Senator Dale W. Schultz, Chairman
Committee Clerk. John O'Brien

COMMITTEE BALLOT

Senator Julie Lassa
Room 3 South
State Capitol
Madison, WI 53707-7882

From;
Senator Dale Schultz, Chairman

Dear Senator Lassa,

On Monday February 23rd, 2004 our committee held a Joint Public Hearing with the Assembly Agriculture Committee on Assembly Bill 868, related to the siting and expansion of certain livestock facilities.

On February 27th, 2004, the Assembly Agriculture Committee held an Executive Session on AB 868 and adopted Assembly Substitute Amendment 1 to AB 868 on a vote of Ayes 15 Noes 0

A copy of the Legislative Council Staff Memorandum on ASA 1 to AB 868 is attached along with a copy of AB 868 as passed by the Assembly on March 2nd, 2004 as well as the record of the Assembly floor vote.

Based on the testimony received by the committee and your review of the attached materials, the Chair respectfully requests your vote on the following motions.

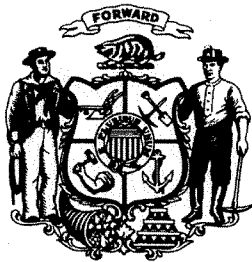
**PLEASE RETURN THIS BALLOT AS SOON AS POSSIBLE
BUT NO LATE THAN NOON TOMMORROW, MARCH 4TH, 2004**

Concurrence on Assembly Action on AB 868

Aye _____ Nay X

Julie M Lassa
State Senator Julie Lassa

3/4/04
Date



**Senate Committee on Agriculture, Financial Institutions
and Insurance**

Room 18 South State Capitol, PO Box 7882, Madison WI 53707-7882
(608) 266-0703

Senator Dale W. Schultz, Chairman

Committee Clerk. John O'Brien

COMMITTEE BALLOT

Senator Neal Kedzie
Room # 313 South
State Capitol
Madison, WI 53707-7882

From;
Senator Dale Schultz, Chairman

Dear Senator Kedzie,

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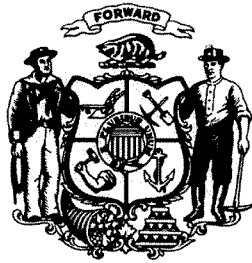
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Concurrence on Assembly Action on AB 868

Aye _____ Nay _____


State Senator Neal Kedzie

3/31/04
Date



**Senate Committee on Agriculture, Financial Institutions
and Insurance**

Room 18 South State Capitol, PO Box 7882, Madison WI 53707-7882
(608) 266-0703

Senator Dale W. Schultz, Chairman

Committee Clerk. John O'Brien

COMMITTEE BALLOT

Senator Ron Brown
Room # 104 South
State Capitol
Madison, WI 53707-7882

From;
Senator Dale Schultz, Chairman

Dear Senator Brown,

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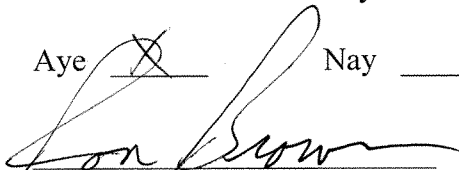
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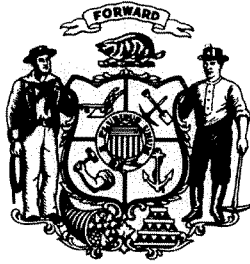
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Concurrence on Assembly Action on AB 868

Aye _____ Nay _____


State Senator Ron Brown

3/3/04
Date



**Senate Committee on Agriculture, Financial Institutions
and Insurance**

Room 18 South State Capitol, PO Box 7882, Madison WI 53707-7882
(608) 266-0703

Senator Dale W. Schultz, Chairman

Committee Clerk. John O'Brien

COMMITTEE BALLOT

Senator Dave Hansen
Room # 319 South
State Capitol
Madison, WI 53707-7882

From;
Senator Dale Schultz, Chairman

Dear Senator Hansen,

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Concurrence on Assembly Action on AB 868

Aye _____

Nay


State Senator Dave Hansen


Date