

1 AMENDMENT TO HOUSE BILL 917

2 AMENDMENT NO. _____. Amend House Bill 917 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended
5 by changing Section 39.2 as follows:

6 (415 ILCS 5/39.2) (from Ch. 111 1/2, par. 1039.2)
7 Sec. 39.2. Local siting review.

8 (a) The county board of the county or the governing body
9 of the municipality, as determined by paragraph (c) of
10 Section 39 of this Act, shall approve or disapprove the
11 request for local siting approval for each pollution control
12 facility which is subject to such review. An applicant for
13 local siting approval shall submit sufficient details
14 describing the proposed facility to demonstrate compliance,
15 and local siting approval shall be granted only if the
16 proposed facility meets the following criteria:

17 (i) the facility is necessary to accommodate the
18 waste needs of the area it is intended to serve;

19 (ii) the facility is so designed, located and
20 proposed to be operated that the public health, safety
21 and welfare will be protected;

22 (iii) the facility is located so as to minimize

1 incompatibility with the character of the surrounding
2 area and to minimize the effect on the value of the
3 surrounding property;

4 (iv) (A) for a facility other than a sanitary
5 landfill or waste disposal site, the facility is located
6 outside the boundary of the 100 year flood plain or the
7 site is flood-proofed; (B) for a facility that is a
8 sanitary landfill or waste disposal site, the facility is
9 located outside the boundary of the 100-year floodplain,
10 or if the facility is a facility described in subsection
11 (b)(3) of Section 22.19a, the site is flood-proofed;

12 (v) the plan of operations for the facility is
13 designed to minimize the danger to the surrounding area
14 from fire, spills, or other operational accidents;

15 (vi) the traffic patterns to or from the facility
16 are so designed as to minimize the impact on existing
17 traffic flows;

18 (vii) if the facility will be treating, storing or
19 disposing of hazardous waste, an emergency response plan
20 exists for the facility which includes notification,
21 containment and evacuation procedures to be used in case
22 of an accidental release;

23 (viii) if the facility is to be located in a county
24 where the county board has adopted a solid waste
25 management plan consistent with the planning requirements
26 of the Local Solid Waste Disposal Act or the Solid Waste
27 Planning and Recycling Act, the facility is consistent
28 with that plan; and

29 (ix) if the facility will be located within a
30 regulated recharge area, any applicable requirements
31 specified by the Board for such areas have been met.

32 The county board or the governing body of the
33 municipality may also consider as evidence the previous
34 operating experience and past record of convictions or

1 admissions of violations of the applicant (and any subsidiary
2 or parent corporation) in the field of solid waste management
3 when considering criteria (ii) and (v) under this Section.

4 (a-5) If a proposed transfer station would be located
5 (i) in an unincorporated area of DuPage County and
6 immediately adjacent to a municipality or (ii) within a
7 municipality in DuPage County, then the local siting approval
8 may not be granted unless approved by resolution of the
9 municipality.

10 (b) No later than 14 days before the date on which the
11 county board or governing body of the municipality receives a
12 request for site approval, the applicant shall cause written
13 notice of such request to be served either in person or by
14 registered mail, return receipt requested, on the owners of
15 all property within the subject area not solely owned by the
16 applicant, and on the owners of all property within 250 feet
17 in each direction of the lot line of the subject property,
18 said owners being such persons or entities which appear from
19 the authentic tax records of the County in which such
20 facility is to be located; provided, that the number of all
21 feet occupied by all public roads, streets, alleys and other
22 public ways shall be excluded in computing the 250 feet
23 requirement; provided further, that in no event shall this
24 requirement exceed 400 feet, including public streets, alleys
25 and other public ways.

26 Such written notice shall also be served upon members of
27 the General Assembly from the legislative district in which
28 the proposed facility is located and shall be published in a
29 newspaper of general circulation published in the county in
30 which the site is located.

31 Such notice shall state the name and address of the
32 applicant, the location of the proposed site, the nature and
33 size of the development, the nature of the activity proposed,
34 the probable life of the proposed activity, the date when the

1 request for site approval will be submitted, and a
2 description of the right of persons to comment on such
3 request as hereafter provided.

4 (c) An applicant shall file a copy of its request with
5 the county board of the county or the governing body of the
6 municipality in which the proposed site is located. The
7 request shall include (i) the substance of the applicant's
8 proposal and (ii) all documents, if any, submitted as of that
9 date to the Agency pertaining to the proposed facility,
10 except trade secrets as determined under Section 7.1 of this
11 Act. All such documents or other materials on file with the
12 county board or governing body of the municipality shall be
13 made available for public inspection at the office of the
14 county board or the governing body of the municipality and
15 may be copied upon payment of the actual cost of
16 reproduction.

17 Any person may file written comment with the county board
18 or governing body of the municipality concerning the
19 appropriateness of the proposed site for its intended
20 purpose. The county board or governing body of the
21 municipality shall consider any comment received or
22 postmarked not later than 30 days after the date of the last
23 public hearing.

24 (d) At least one public hearing is to be held by the
25 county board or governing body of the municipality no sooner
26 than 90 days but no later than 120 days after the date on
27 which it received the request for site approval. No later
28 than 14 days prior to such hearing, notice shall be published
29 in a newspaper of general circulation published in the county
30 of the proposed site, and delivered by certified mail to all
31 members of the General Assembly from the district in which
32 the proposed site is located, to the governing authority of
33 every municipality contiguous to the proposed site or
34 contiguous to the municipality in which the proposed site is

1 to be located, to the county board of the county where the
2 proposed site is to be located, if the proposed site is
3 located within the boundaries of a municipality, and to the
4 Agency. Members or representatives of the governing
5 authority of a municipality contiguous to the proposed site
6 or contiguous to the municipality in which the proposed site
7 is to be located and, if the proposed site is located in a
8 municipality, members or representatives of the county board
9 of a county in which the proposed site is to be located may
10 appear at and participate in public hearings held pursuant to
11 this Section. The public hearing shall develop a record
12 sufficient to form the basis of appeal of the decision in
13 accordance with Section 40.1 of this Act. The fact that a
14 member of the county board or governing body of the
15 municipality has publicly expressed an opinion on an issue
16 related to a site review proceeding shall not preclude the
17 member from taking part in the proceeding and voting on the
18 issue.

19 (e) Decisions of the county board or governing body of
20 the municipality are to be in writing, specifying the reasons
21 for the decision, such reasons to be in conformance with
22 subsection (a) of this Section. In granting approval for a
23 site the county board or governing body of the municipality
24 may impose such conditions as may be reasonable and necessary
25 to accomplish the purposes of this Section and as are not
26 inconsistent with regulations promulgated by the Board. Such
27 decision shall be available for public inspection at the
28 office of the county board or governing body of the
29 municipality and may be copied upon payment of the actual
30 cost of reproduction. If there is no final action by the
31 county board or governing body of the municipality within 180
32 days after the date on which it received the request for site
33 approval, the applicant may deem the request approved.

34 At any time prior to completion by the applicant of the

1 presentation of the applicant's factual evidence and an
2 opportunity for cross-questioning by the county board or
3 governing body of the municipality and any participants, the
4 applicant may file not more than one amended application upon
5 payment of additional fees pursuant to subsection (k); in
6 which case the time limitation for final action set forth in
7 this subsection (e) shall be extended for an additional
8 period of 90 days.

9 If, prior to making a final local siting decision, a
10 county board or governing body of a municipality has
11 negotiated and entered into a host agreement with the local
12 siting applicant, the terms and conditions of the host
13 agreement, whether written or oral, shall be disclosed and
14 made a part of the hearing record for that local siting
15 proceeding. In the case of an oral agreement, the disclosure
16 shall be made in the form of a written summary jointly
17 prepared and submitted by the county board or governing body
18 of the municipality and the siting applicant and shall
19 describe the terms and conditions of the oral agreement.

20 (e-5) Siting approval obtained pursuant to this Section
21 is transferable and may be transferred to a subsequent owner
22 or operator. In the event that siting approval has been
23 transferred to a subsequent owner or operator, that
24 subsequent owner or operator assumes and takes subject to any
25 and all conditions imposed upon the prior owner or operator
26 by the county board of the county or governing body of the
27 municipality pursuant to subsection (e). However, any such
28 conditions imposed pursuant to this Section may be modified
29 by agreement between the subsequent owner or operator and the
30 appropriate county board or governing body. Further, in the
31 event that siting approval obtained pursuant to this Section
32 has been transferred to a subsequent owner or operator, that
33 subsequent owner or operator assumes all rights and
34 obligations and takes the facility subject to any and all

1 terms and conditions of any existing host agreement between
2 the prior owner or operator and the appropriate county board
3 or governing body.

4 (f) A local siting approval granted under this Section
5 shall expire at the end of 2 calendar years from the date
6 upon which it was granted, unless the local siting approval
7 granted under this Section is for a sanitary landfill
8 operation, in which case the approval shall expire at the end
9 of 3 calendar years from the date upon which it was granted,
10 and unless within that period the applicant has made
11 application to the Agency for a permit to develop the site.
12 In the event that the local siting decision has been
13 appealed, such expiration period shall be deemed to begin on
14 the date upon which the appeal process is concluded.

15 Except as otherwise provided in this subsection, upon the
16 expiration of a development permit under subsection (k) of
17 Section 39, any associated local siting approval granted for
18 the facility under this Section shall also expire.

19 If a first development permit for a municipal waste
20 incineration facility expires under subsection (k) of Section
21 39 after September 30, 1989 due to circumstances beyond the
22 control of the applicant, any associated local siting
23 approval granted for the facility under this Section may be
24 used to fulfill the local siting approval requirement upon
25 application for a second development permit for the same
26 site, provided that the proposal in the new application is
27 materially the same, with respect to the criteria in
28 subsection (a) of this Section, as the proposal that received
29 the original siting approval, and application for the second
30 development permit is made before January 1, 1990.

31 (g) The siting approval procedures, criteria and appeal
32 procedures provided for in this Act for new pollution control
33 facilities shall be the exclusive siting procedures and rules
34 and appeal procedures for facilities subject to such

1 procedures. Local zoning or other local land use requirements
2 shall not be applicable to such siting decisions.

3 (h) Nothing in this Section shall apply to any existing
4 or new pollution control facility located within the
5 corporate limits of a municipality with a population of over
6 1,000,000.

7 (i) (Blank.)

8 The Board shall adopt regulations establishing the
9 geologic and hydrologic siting criteria necessary to protect
10 usable groundwater resources which are to be followed by the
11 Agency in its review of permit applications for new pollution
12 control facilities. Such regulations, insofar as they apply
13 to new pollution control facilities authorized to store,
14 treat or dispose of any hazardous waste, shall be at least as
15 stringent as the requirements of the Resource Conservation
16 and Recovery Act and any State or federal regulations adopted
17 pursuant thereto.

18 (j) Any new pollution control facility which has never
19 obtained local siting approval under the provisions of this
20 Section shall be required to obtain such approval after a
21 final decision on an appeal of a permit denial.

22 (k) A county board or governing body of a municipality
23 may charge applicants for siting review under this Section a
24 reasonable fee to cover the reasonable and necessary costs
25 incurred by such county or municipality in the siting review
26 process.

27 (l) The governing Authority as determined by subsection
28 (c) of Section 39 of this Act may request the Department of
29 Transportation to perform traffic impact studies of proposed
30 or potential locations for required pollution control
31 facilities.

32 (m) An applicant may not file a request for local siting
33 approval which is substantially the same as a request which
34 was disapproved pursuant to a finding against the applicant

1 under any of criteria (i) through (ix) of subsection (a) of
2 this Section within the preceding 2 years.

3 (n) In any review proceeding of a decision of the county
4 board or governing body of a municipality made pursuant to
5 the local siting review process, the petitioner in the review
6 proceeding shall pay to the county or municipality the cost
7 of preparing and certifying the record of proceedings.
8 Should the petitioner in the review proceeding fail to make
9 payment, the provisions of Section 3-109 of the Code of Civil
10 Procedure shall apply.

11 In the event the petitioner is a citizens' group that
12 participated in the siting proceeding and is so located as to
13 be affected by the proposed facility, such petitioner shall
14 be exempt from paying the costs of preparing and certifying
15 the record.

16 (o) Notwithstanding any other provision of this Section,
17 a transfer station used exclusively for landscape waste,
18 where landscape waste is held no longer than 24 hours from
19 the time it was received, is not subject to the requirements
20 of local siting approval under this Section, but is subject
21 only to local zoning approval.

22 (Source: P.A. 91-588, eff. 8-14-99; 92-574, eff. 6-26-02.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law."