

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 within 5 miles of a municipality, then the local siting
6 approval may not be granted unless approved by resolution of
7 the municipality.

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

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

29 Such notice shall state the name and address of the
30 applicant, the location of the proposed site, the nature and
31 size of the development, the nature of the activity proposed,
32 the probable life of the proposed activity, the date when the
33 request for site approval will be submitted, and a
34 description of the right of persons to comment on such

1 request as hereafter provided.

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

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

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

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

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

32 At any time prior to completion by the applicant of the
33 presentation of the applicant's factual evidence and an
34 opportunity for cross-questioning by the county board or

1 governing body of the municipality and any participants, the
2 applicant may file not more than one amended application upon
3 payment of additional fees pursuant to subsection (k); in
4 which case the time limitation for final action set forth in
5 this subsection (e) shall be extended for an additional
6 period of 90 days.

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

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

1 or governing body.

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

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

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

29 (g) The siting approval procedures, criteria and appeal
30 procedures provided for in this Act for new pollution control
31 facilities shall be the exclusive siting procedures and rules
32 and appeal procedures for facilities subject to such
33 procedures. Local zoning or other local land use requirements
34 shall not be applicable to such siting decisions.

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

5 (i) (Blank.)

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

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

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

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

30 (m) An applicant may not file a request for local siting
31 approval which is substantially the same as a request which
32 was disapproved pursuant to a finding against the applicant
33 under any of criteria (i) through (ix) of subsection (a) of
34 this Section within the preceding 2 years.

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

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

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

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

21 Section 99. Effective date. This Act takes effect upon
22 becoming law."