

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 or immediately adjacent to the municipality, then the  
6 local siting approval may not be granted unless approved by  
7 resolution of 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."