

ILLINOIS POLLUTION CONTROL BOARD
July 20, 1995

MEDICAL DISPOSAL SERVICES, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 95-75
)	PCB 95-76
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	(Permit Appeals-Air, Land)
)	(Consolidated)
Respondent.)	

DISSENTING OPINION (by J. Theodore Meyer):

I respectfully dissent from the majority order in this matter because I continue to believe that siting approvals are freely transferable. However, even if a new interpretation of the local authority's power is warranted, based upon fundamental fairness, Medical Disposal Services, Inc. (MDS) in this case deserved notice of this new interpretation. Notice was not given and MDS reasonably relied on the Illinois Environmental Protection Agency (Agency)'s actions, including issuance of a draft permit. Therefore, the doctrine of equitable estoppel prevents the Board from denying the transfer of the local siting approval to MDS. As such, I would have granted MDS's motion for reconsideration, reversed the Board's May 4, 1995 order and granted summary judgment in favor of MDS.

Based upon the plain language of Sections 39(c) and 39.2 of the Illinois Environmental Act (Act), local siting approval for a pollution control facility is location-specific. Section 39(c) requires that a permit applicant submit proof of local siting approval as part of the permit application process. (415 ILCS 5/39(c)(1992).) This requirement is mentioned four times and each time it refers to "the location of the facility". (Id.)

The language throughout section 39.2 also emphasizes the location of a proposed facility. In particular, subsection (a) lists 9 criteria which must be met in order for a local authority to consider granting local siting. (415 ILCS 5/39.2(a).) The criteria focuses on, among other factors, the location of the proposed facility, but do not mention the applicant. (Id.) The last paragraph of Section 39.2, which allows a local authority to consider the applicant's history in the field of waste management, is not a criterion; rather, it is a discretionary matter. In other words, a local siting authority cannot base its decision solely on the applicant's history. Using the same logic precludes a local authority from withdrawing a local siting approval when the only change is the owner, a non-criterion factor.

Further proof that the last paragraph in Section 39.2(a) carries less weight than the majority gives it can be found in sections 39.2(m) and 39.2(f). Subsection (m) states:

An applicant may not file a request for local siting approval which is substantially the same as a request which was disapproved pursuant to a finding against the applicant under any of criteria 1 through 9 of subsection (a) of this Section within the preceding 2 years.

(415 ILCS 39.2(m) (emphasis added).) If one owner is denied siting approval, then within two years transfers the proposed site to another, that new owner is barred from applying for siting approval because the only fact that changed is ownership, a non-criterion. Conversely, if one owner obtained siting approval because the location met all nine criteria, a subsequent owner of the same location should be able to retain siting approval because none of the nine criteria had changed. To hold otherwise would render this subsection inconsistent with the rest of Section 39.2.

The third paragraph in section 39.2(f) states, in part:

If a first development permit for a municipal waste incineration facility expires. . . any associated local siting approval granted for the facility under this Section may be used to fulfill the local siting approval requirement upon application for a second development permit for the same site, provided that the proposal in the new application is materially the same, with respect to the criteria in subsection (a). . .

(415 ILCS 39.2(f) (emphasis added).) The last two lines of this subsection indicate that the material issue in siting approval is location because, again, the criteria in section 39.2(a) involves the requirements of the location, not the applicant.

Taken as a whole, Section 39.2 treats siting approval as location-specific. In the name of consistency, efficiency and economics, then, siting approval should be transferable at any point after it is obtained.

A close look at the transcripts of the Illinois legislature during debate of Senate Bill 172, the bill involving pollution control facilities, reveals a legislative intent to consider local siting approval to be location-specific. The words "location" and "site" were mentioned 41 times during deliberations, while "applicant", or reference thereto, was only mentioned twice. (S.B. 172, 82nd Gen. Assembly, 3rd reading (1981) (See Attachment A).) Also, consider the following quote from Representative Breslin:

"The things that the county board or the municipality are to consider in making their judgement would be, first of all, the public convenience at that location. Secondly, that it is located so that the public health, safety and welfare will be protected. That it will not cause substantial injury to the property values in the neighborhood and fourth, that the site is located outside the boundary of the 100-year flood plain, as determined by the Illinois Department of Transportation. These are all issues that the local units of government are familiar with. They are not to make technical decisions as to the suitability of the site, rather that power lies in the Environmental Protection Agency."

(*Id.* at June 17, 1981, p.56.) Nowhere is there mention of the site applicant, or its history. Granted, the last paragraph of Section 39.2(a) was added after this discourse, but it was not made part of the nine criteria. I therefore maintain my belief that it was the legislature's intent to consider siting approval to be location-specific.

In addition, having been Chairman of the House of Representatives' Environmental Committee during that time, and Chairman of the Conference Committee which created SB 172, I know that local siting approval was considered location-specific by the framers of the bill. Six of the criteria in Section 39.2(a) were adopted directly from Chicago's zoning ordinances. Zoning ordinances are premised on real property law which abhors restraints on alienation. Thus, zoning permits run with the land and are transferrable upon issuance. Reliance on these premises is positive proof that local siting approval is location-specific, runs with the land and is therefore transferable.

In further support of my position, I would again point to Christian County Landfill, Inc. v. Christian County Board, PCB No. 89-92 October 18, 1989 Board Order. In unequivocal terms the Board stated that "[n]owhere in the criteria is there any reference to future transfer of ownership of the proposed site. (*Id.* at 14.) The Board then construed this silence "as indicative of an intent by the General Assembly to limit the authority of a local unit of government only to reviewing the merits of the initial application." (*Id.* (emphasis added).) Once that process is complete, the local government's authority "is exhausted" and the "operational aspects" of the facility will be reviewed by the Agency to assure compliance with the Act and Board regulations. (*Id.*) Transfer of ownership of a facility is an operational aspect and thus an Agency concern. (Landfill, Inc. v. Pollution Control Board, 74 Ill.2d 541, 387 N.E.2d 258, 264 (Ill. 1979).) To hold otherwise, as the Board anticipated, would "create havoc in the state's system of waste disposal." (PCB No. 89-92, October 18, 1989 Board Order at 15.)

Another concern worth reiterating involves the inevitable digression from the well-established principle that an interpretation of law should not lead to illogical or absurd results. (Croissant v. Joliet Park District, 141 Ill.2d 449, 566 N.E.2d 248 (1990), Mulligan v. Joliet Regional Park District, 123 Ill. App.2d 303, 527 N.E.2d 1264 (1988).) In the the four months since debate began in this appeal, nine possible scenarios have been proffered as examples of illogical or absurd results from the majority opinion in this matter. (See MDS's Memorandum in Support of Motion for Summary Judgment, p.13; MDS's Motion for Reconsideration, p.15-16; Industrial Fuels and Resources/ Illinois, Inc.'s Memorandum of Law in Support of Petitioner's Motion for Reconsideration, p.10; and, Illinois Chapter of the National Solid Wastes Management Association's Brief as Amicus Curiae, p.17.)

Perhaps the most disturbing example of illogical results is the effect on financial transactions in the field of pollution control facility development. As I mentioned in my first dissent, if siting approval can be revoked prior to the issuance of development permits, a financial institution will perceive any investment in the facility at that point as purely speculative. If financing becomes more difficult, the cost of building pollution control facilities rises, as will the cost of disposing those materials accepted by a given facility. The rise in disposal costs will be ultimately born by the Illinois taxpayer without benefit of an additionally-protected environment. This result contradicts the intent of the Act, especially in light of the fact that there are other safeguards in place to protect both the siting approval decision of the local body of government, and the environment.

First, responsibility for protecting that decision lies with the Agency through investigation, enforcement and revocation of permits. Section 39(i) creates the Agency's statutory right "to deny permits based on the operator's prior history of violations established through a record of enforcement actions." (ESG Watts, Inc. v. Illinois Environmental Protection Agency, PCB 92-54 at 9 (October 29, 1992) quoting Waste Management v. IEPA, PCB 84-45, 84-61 and 84-68 (consolidated) at 38.) Even so, it is important in the context of this case to note that *alleged* prior conduct cannot be relied upon solely to deny a permit even within the context of Section 39(i). (ESG Watts, Inc. v. Illinois Environmental Protection Agency, PCB 92-54 at 9 (October 29, 1992) citing Martell v. Mauzy, 511 F.Supp. 729, 738-43 (N.D Ill. 1981).

Second, facility owners usually have to post a bond as insurance for clean-up costs from possible accidents at the site. A bond issuer often requires details of the owner's experience in the field. Posting a bond, therefore, is yet another safeguard in protecting local citizens and the environment. The City of

Harvey's concern regarding a lack of opportunity to protect its decision and examine a facility operator is unfounded.

Even if I were inclined to agree with the majority opinion, that is, hold that siting approval is applicant-specific and therefore non-transferable prior to obtaining permits from the Agency, I would still dissent based on the well-established principle that an administrative agency cannot change an interpretation of law without notice to those parties that will be affected by that change. "[A]dministrative bodies are bound by prior custom and practice in interpreting their rules and may not arbitrarily disregard them." (Alton Packaging Corp. v. Pollution Control Board, 145 Ill. App. 3d 1090, 497 N.E.2d 864 (5th Dist. 1986).) This policy is enforced to achieve the Act's overall objective of uniform results where there has been no change in applicable legislation. Thus, a change in transferability requires legislative action, especially since there are no standards regarding which transferees can keep siting approval and which ones have to reapply.

In the case at bar, there is evidence in the record that the Agency has allowed transfers of local siting approval prior to the issuance of permits. (See MDS's petition at Exhibit P.)¹ In fact, by its own admission to MDS, the Agency stated in a January 10, 1994 letter:

"Consistent with previous interpretations in similar situations, the Agency policy remains that siting approval is location specific and remains with the land upon sale of an approved parcel."

(See Pet. at Exhibit C.) Therefore, the Agency is bound by these prior practices to interpret the present case in the same manner. To hold otherwise subjects MDS to an arbitrary interpretation of section 39, and creates an inconsistent result.

As a final note, I find it inherently unfair that the majority opinion did not choose to apply the doctrine of equitable estoppel in this case. Six elements must be shown in order for the doctrine of equitable estoppel to apply: (1) Words or conduct by the party against whom the estoppel is alleged constituting either a misrepresentation or concealment of material facts; (2) knowledge on the part of the party against whom the estoppel is alleged that representations made were untrue; (3) the party claiming the benefit of an estoppel must not have known the representations to be false either at the time they were made or at the time they were acted upon; (4) the party estopped must either intend or expect that his conduct or

¹MDS's petition is hereinafter referred to as "Pet. at ___."

representations will be acted upon by the party asserting the estoppel; (5) the party seeking the estoppel must have relied or acted upon the representations; and, (6) the party claiming the benefit of the estoppel must be in a position of prejudice if the party against whom the estoppel is alleged is permitted to deny the truth of the representations made. (City of Mendota v. Pollution Control Board, 112 Ill. Dec. 752, 756 (1987).)

Although the Board has rarely applied the doctrine of estoppel, in those cases where we have applied it, the Agency was found to have affirmatively misled a party and then sought enforcement against that party for acting on the Agency's recommendation. (People of the State of Illinois v. Freedom Oil Company, PCB 93-59, (May 5, 1994) at 5.) (See also IEPA v. Jack Wright, AC 89-227 (August 30, 1990), In the Matter of: Piolet Brothers' Trading, Inc., AC 88-51 (July 13, 1989).)

In the case at bar, the Agency communicated to MDS by letter that its previous practice was to allow transfer of siting approval to a new owner prior to issuance of any permits for the property. (Pet. at Exhibit C.) MDS spent nine months and considerable resources preparing for its facility, and even received a draft permit from the Agency to begin development. (Pet. at Exhibit D.) By a letter dated October 14, 1994, the Attorney General notified the Agency that it had misled MDS in its interpretation of siting approval transfers. (Pet. at Exhibit G.) The Agency thereafter began proceedings to remove siting approval status from MDS's property.

This is a classic scenario for which equitable estoppel applies. To deny MDS this protection allows the Agency, and the City of Harvey, to use denial of transferability of siting approval as an enforcement tool for alleged violations of the Act, a clearly forbidden activity. (See Centralia Environmental Services, Inc. v. Illinois Environmental Protection Agency, PCB 89-170 at 13 (October 25, 1990), citing Waste Management, Inc. v. IEPA, (consolidated) at 36-38; Frink's Industrial Waste, Inc. v. IEPA, PCB 83-10 at 13 (October 1, 1984).) At the very least, the Board should conclude that the two-year siting approval period is tolled as of September 12, 1994, the date on which MDS first learned the Attorney General did not find a grant of local siting approval by the City of Harvey. (Pet. at Exhibit E.)

For these reasons, I respectfully dissent.



 J. Theodore Meyer
 Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above dissenting opinion was filed on the 21st day of July, 1995.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

1. Senate Bill 171 having received the required constitutional
2. majority is declared passed. Senate Bill 172, Senator Demuzio.
3. Read the bill, Mr. Secretary, please.

4. SECRETARY:

5. Senate Bill 172.

6. (Secretary reads title of bill)

7. 3rd reading of the bill.

8. PRESIDING OFFICER: (SENATOR BRUCE)

9. Senator Demuzio.

10. SENATOR DEMUZIO:

11. Thank you,...very much, Mr. President and Ladies and Gentle-
12. men of the Senate. Senate Bill 172 bears the name of several
13. individuals on both sides of the aisle. It was agreed to in
14. committee that all of the landfill bills would be put into a
15. ...into one bill and, in fact, they are...all repose in Senate Bill
16. 172 at the current time. To be brief and...then ask...or be
17. able to answer any questions, let me just say that the thrust
18. of this bill indicates that there are no permits that will be
19. ...no permits for the development or construction of any pol-
20. lution control facilities will be granted by the agency unless
21. the applicant submits proof to the agency that the location
22. of the facility has been approved by the county board of the
23. county or the governing board of a municipality in which the
24. facility is to be located. Notice provisions to members
25. of the Illinois General Assembly are still embedded in this
26. bill as...at the request of Senator Mahar and...I would ask
27. for support of the Senate today and...stand ready to answer
28. any questions that the membership may have.

29. PRESIDING OFFICER: (SENATOR BRUCE)

30. Is there discussion? Is there discussion? Senator
31. Nimrod.

32. SENATOR NIMROD:

33. Yeah. A...a question of the sponsor, Mr. President.

MEYER DISSSENT, ATTACHMENT "A"

1. PRESIDING OFFICER: (SENATOR BRUCE)

2. Indicates he will yield. Senator Nimrod.

3. SENATOR NIMROD:

4. Senator, can you tell me what the opposition here seems
5. to be from even EPA...of a company such as Caterpillar, which
6. I do not consider a polluter,...waste management groups, the Illinois
7. Manufacturers' Association,...and then there is a statement
8. here from a professional engineer? What's their opposition
9. to this particular bill if it seems to be so good?

10. PRESIDING OFFICER: (SENATOR BRUCE)

11. Senator Demuzio.

12. SENATOR DEMUZIO:

13. Well, Senator, no one has contacted me in relationship to
14. their opposition to this bill. It is my understanding that
15. the EPA is in support of such a measure and...perhaps you
16. might want to...look to some of your colleagues on your side
17. of the aisle and...and...and ask them. But as of this moment,
18. I have not had any communications from any of those to which
19. you refer in opposition to this legislation.

20. PRESIDING OFFICER: (SENATOR BRUCE)

21. Further questions, Senator Nimrod?

22. SENATOR NIMROD:

23. Yeah. I understand that they were...opposed to the bill
24. before it was amended, but there's been no comment of whether
25. or not they're opposed to it since then and...I would assume
26. then that there's still opposition...it seems a bill like this
27. of this magnitude should not be hanging this way indicating these
28. ...this kind of opposition to the bill.

29. PRESIDING OFFICER: (SENATOR BRUCE)

30. Senator Mahar.

31. SENATOR MAHAR:

32. Thank you, Mr. President and members of the Senate. I rise
33. in support of this legislation as one who has worked for some

1. period of time trying to get some local control in landfill
2. siting. I think some of the opposition that may be...evi-
3. dence...of the previous speaker is some that...might have been
4. before the Supreme Court made the decision, which said that...
5. in home rule communities, home rule counties and...and
6. municipalities that there is concurrent jurisdiction in the
7. siting of landfills. This bill, I think, is a composite
8. of the thinking of several members of the General Assembly.
9. It is a result of a great deal of discussion between the EPA,
10. between the...municipalities and between the Municipal League and
11. ...I think we've arrived at a conclusion that we've been long
12. seeking and that we should get some support and I know that
13. many towns, particularly in...in my area and throughout the
14. State of Illinois, are going to be very much concerned about
15. having this type of legislation on the books. I urge your
16. support.

17. PRESIDING OFFICER: (SENATOR BRUCE)

18. Senator Berning.

19. SENATOR BERNING:

20. Just one question of the sponsor. Senator, what would be
21. the situation with a recalcitrant county board's continual re-
22. fusal to approve a site? The disposition then of waste becomes
23. something of a problem. Is there any kind of...forced arbi-
24. tration or some sort of penalty that would...mandate a de-
25. cision...or...underwriting of a decision to move the waste
26. to a neighboring county? How would you...address that?

27. PRESIDING OFFICER: (SENATOR BRUCE)

28. Senator Demuzio.

29. SENATOR DEMUZIO:

30. On page 10 of the amendment it indicates that...if there
31. is no final action by the county board or of the municipality
32. in which the site is to be located...then after one hundred
33. and twenty days the filing of the request for the site approval

1. that the application is then deemed to be considered...approved.
2. PRESIDING OFFICER: (SENATOR BRUCE)
3. Senator Berning.
4. SENATOR BERNING:
5. Thank you. I did not have the amendment. I didn't realize
6. there was anything more than the...original two pages of the
7. bill.
8. PRESIDING OFFICER: (SENATOR BRUCE)
9. Senator DeAngelis. May we have some order please, Ladies
10. and Gentlemen? Senator DeAngelis.
11. SENATOR DEANGELIS:
12. Thank you, Mr. President. A question of the sponsor please.
13. PRESIDING OFFICER: (SENATOR BRUCE)
14. Indicates he will yield. Senator DeAngelis.
15. SENATOR DEANGELIS:
16. Senator Demuzio, this is an "or" situation, it is not an "and"
17. situation. Correct?
18. PRESIDING OFFICER: (SENATOR BRUCE)
19. Senator Demuzio.
20. SENATOR DEMUZIO:
21. That is correct.
22. SENATOR DEANGELIS:
23. Well,...where is that different than from today? Do not
24. the landfills require some kind of permit, whether from the
25. municipality or from the...local governing body?
26. PRESIDING OFFICER: (SENATOR BRUCE)
27. Senator Demuzio.
28. SENATOR DEMUZIO:
29. Well, the...home rule municipalities exercise concurrent
30. jurisdiction, whereby non-home rule municipalities do not. By
31. ...by the Supreme Court decision.
32. PRESIDING OFFICER: (SENATOR BRUCE)
33. Senator DeAngelis.

1. SENATOR DEANGELIS:

2. Well, maybe I'm a little confused, but...home...non-home
3. rule units have zoning permits also.

4. PRESIDING OFFICER: (SENATOR BRUCE)

5. May we have some order? Senator Demuzio.

6. SENATOR DEMUZIO:

7. But local zoning does not apply.

8. PRESIDING OFFICER: (SENATOR BRUCE)

9. Senator DeAngelis.

10. SENATOR DEANGELIS:

11. Well, I'm just reading through this amendment, but...it
12. states in there specifically, somewhere in this amendment, that
13. they have to have zoning approval by either the municipal
14. government or the county government.

15. PRESIDING OFFICER: (SENATOR BRUCE)

16. Alright. Further discussion? Senator Geo-Karis.

17. SENATOR GEO-KARIS:

18. Mr. President and Ladies and Gentlemen of the Senate, there
19. was a case that was...decided by a divided opinion Worth...
20. the City of Worth versus Carlson. And in that case, by just
21. one vote more in the Supreme Court it said that the EPA could
22. get the...grant the permit even if the local authorities did
23. not grant it. This happened in my area, where...a very nice
24. residential area was used for a waste landfill. It's deplor-
25. able, it's a mess and they've taken waste from out of State,
26. I think this is a very good bill and I urge your favorable support.

27. PRESIDING OFFICER: (SENATOR BRUCE)

28. Further discussion? Senator Jerome Joyce,

29. SENATOR JEROME JOYCE:

30. Thank you, Mr. President. As chairman of the committee
31. that this bill went through, I'd like to commend the...the
32. sponsors of the various bills in the committee...for their
33. cooperation in...in developing this one comprehensive bill

1. that is sorely needed in the State of Illinois. I think
2. they...all of them are to be commended for working together
3. to...to put out this one effort and I would urge a favorable
4. vote.

5. PRESIDING OFFICER: (SENATOR BRUCE)

6. Further discussion? Senator DeAngelis, did you have
7. your question answered? Do you have further questions?
8. Alright. Further discussion? Senator Demuzio may close.

9. SENATOR DEMUZIO:

10. Well, thank you, Mr....President and Ladies and Gentlemen
11. of the Senate. I think Senator Joyce put it very well in his
12. summation of the efforts of everyone that was involved in de-
13. veloping this legislation. Obviously, perhaps some more...
14. refinement needs to be made. If...if it needs to be made,
15. let's do it in the House and ask for your favorable support
16. today. Thank you.

17. PRESIDING OFFICER: (SENATOR BRUCE)

18. The question is, shall Senate Bill 172 pass? Those in
19. favor vote Aye. Those opposed vote Nay. The voting is open.
20. Have all voted who wish? Have all voted who wish? Take the
21. record. On that question, the Ayes are 55, the Nays are none,
22. none Voting Present. Senate Bill 172 having received the re-
23. quired constitutional majority is declared passed.. Senate Bill
24. 176, Senator Hall. Read the bill, Mr. Secretary, please.

25. SECRETARY:

26. Senate Bill 176.

27. (Secretary reads title of bill)

28. 3rd reading of the bill.

29. PRESIDING OFFICER: (SENATOR BRUCE)

30. Senator Hall.

31. SENATOR HALL:

32. Thank you, Mr. President and Ladies and Gentlemen of the
33. Senate. This bill, 176, has to do with an Act relating to a tax



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behappy to talk to him about the matter."

Speaker Daniels: "Who's the author of that Amendment?"

Hannig: "Representative Meyer, I believe."

Speaker Daniels: "Representative Meyer."

Meyer (Ted): "Mr. Speaker, this is the first I've heard of this..."

Speaker Daniels: "Take this Bill out of the record and Representative Hannig and Meyer will you discuss this with each other? Out of the record. Senate Bill 172, Representative Breslin. Read the Bill. Representative Oblinger. Read the Bill, Mr. Clerk."

Clerk O'Brien: "Senate Bill 172, a Bill for an Act relating to location of sanitary land fills and hazardous waste disposal sites. Third Reading of the Bill."

Speaker Daniels: "Representative Oblinger."

Oblinger: "Mr. Speaker and Members of the General Assembly, we would like permission to return this to Second Reading for the purpose of a technical Amendment required by federal law."

Speaker Daniels: "Representative Oblinger, there has not been an Amendment filed."

Oblinger: "Pardon?"

Speaker Daniels: "There is no Amendment filed."

Oblinger: "Oh, yes there is. We had it up there. It's been distributed. I've had this for three days."

Speaker Daniels: "What number is the Amendment, Representative Oblinger?"

Oblinger: "Number five."

Speaker Daniels: "Amendment #5. We're checking it out. Lady asks permission to return Senate Bill 172 to the Order of Second Reading. Does she have leave? Leave is granted."



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Second Reading. Mr. Clerk, are there any Floor Amendments filed?"

Clerk O'Brien: "Amendment #5, Breslin-Oblinger..."

Speaker Daniels: "Representative Oblinger, Amendment #5."

Oblinger: "This amends a Bill in two places. The first part of the Amendment clarifies what we mean by the word 'facility'. The second part is required by the Federal Government to exempt telephone companies and electrical utility companies from the Bill because they do have PCB's which are collected and buried on their own private property. So they have to be exempted specifically from this Bill, and that's what the Amendment does."

Speaker Daniels: "Lady moves the adoption of Amendment #5. I there any discussion? Gentleman from Cook, Representative Getty."

Getty: "Does this include the Metropolitan Sanitary District?"

Oblinger: "No, it does not. That's what the first part of the Amendment addresses. It was very specific that a sanitary district is omitted from this Bill. Mrs. Breslin thought of that."

Getty: "Okay. So that there's no impact on the Chicago Metropolitan Sanitary District."

Oblinger: "That's right."

Getty: "Thank you."

Speaker Daniels: "Gentleman from Cook, Representative Yourell."

Yourell: "Yes, would the Lady yield for a question?"

Speaker Daniels: "She indicates she will."

Oblinger: "Pardon?"

Yourell: "This has to do with the PCB's. Is that correct?"

Oblinger: "The exemption in the second part required by the Federal Government, yes. It has to do with PCB's from



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electric utility companies and telephone companies that are collected and buried on their own private sites. They are exempted from a regional facility."

Speaker Daniels: "Any further discussion?"

Oblinger: "I have one further favor to ask of this General Assembly. When this Bill was drafted, it says part 761 of the federal law. It should have .42 after it."

Speaker Daniels: "Would you want the Amendment adopted first?"

Oblinger: "Alright. Fine. Thank you."

Speaker Daniels: "Lady has moved for the adoption of Amendment #5 to Senate Bill 172. All those in favor will signify by saying 'aye', opposed by saying 'no'. 'Ayes' have it. Amendment is adopted. Representative Oblinger."

Oblinger: "I would now like permission to amend the Amendment on its face by adding .42 which was omitted when this Bill was drafted. That would be on line 16, page four. It would then read, 'that entity and waste storage sites regulated under 40CFR part 761.42 are not regional waste disposal facilities'."

Speaker Daniels: "That's on Amendment #5?"

Oblinger: "Yes."

Speaker Daniels: "What is it that you're correcting on its face?"

Oblinger: "They omitted to put .42 after the federal statute that they quoted. Where it says, 'part 761' it should have also..."

Speaker Daniels: "So line 12 ..."

Oblinger: "Should read..."

Speaker Daniels: "... would read '40 CFR, part 761.42 are not regional waste disposal facilities'."

Oblinger: "That's right?"

Speaker Daniels: "Is that correct?"



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Oblinger: "Yes."

Speaker Daniels: "That's how it would be amended?"

Oblinger: "Yes."

Speaker Daniels: "Does the Lady have leave to amend the Amendment on its face? Leave is... Representative Getty."

Getty: "I believe that there's a little bit too much confusion here and I have had staff that think that it may do just exactly the opposite of what the Lady intends to do. I think we ought to take it out of the record now. Take a look and be sure it's right before we put it on so we'll save time later."

Speaker Daniels: "Representative Getty, does she have leave to correct the Amendment on its face and if we grant that leave we'll leave it on Second Reading per your request."

Getty: "Yes."

Speaker Daniels: "With that understanding. Does the Lady have leave to make the correction on line 12 of Amendment #5 as requested? Okay. Once again, the Lady has requested that line 12 of Amendment #5 be corrected to read 761.42. Add the .42 after 761. Does everyone understand? Okay. Bingo. Does the Lady have leave? No objections, leave is granted. The Bill will remain on Second Reading. Representative Oblinger, would you please talk to Representative Getty and Representative Breslin to work it out. The Amendment was adopted. That is correct, Mr. Clerk. Okay. Senate Bill 172 remains on Second Reading. Senate Bill 176, Representative Cissy Stiehl. Read the Bill, Mr. Clerk."

Clerk O'Brien: "Senate Bill 176, a Bill for an Act to amend Sections of an Act relating to alcoholic liquors. Third Reading of the Bill."



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could arise in that time. It's not something that's going to affect businesses next year or tomorrow or any time in the near future. But the ideas that we'd like to get on the books, some legislation which we believe in the future, would protect Illinois from environmental dumps. Now, we have a problem, as I said, in my district, in Wilsonville. I certainly would not want that to reoccur in any other district, throughout the State of Illinois. I think that this Bill as amended, it should be acceptable to all factions and I would certainly urge for a favorable vote."

Speaker Peters: "Question is 'shall Senate Bill 171 pass?' Those in favor will signify by voting 'aye', those opposed by voting 'nay'. Mr. Clerk, the voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record, Mr. Clerk. On this question there are 98 voting 'aye', 22 voting 'nay', 6 voting 'present' and this Bill having received the Constitutional Majority is hereby declared passed. Senate Bill 172, Representative Breslin. Read the Bill, Mr. Clerk."

Clerk Leone: "Senate Bill 172, a Bill for an Act relating to the location of sanitary landfills and hazardous waste disposal sites, Third Reading of the Bill."

Speaker Peters: "Representative Breslin."

Breslin: "Thank you, Mr. Speaker, Ladies and Gentleman, this Bill proposes a new method for siting areas that are to be used for waste disposal. Presently, sites for waste disposal are determined exclusively by the Environmental Protection Agency. This Bill would allow county boards or the governing body of a municipality to give approval for the siting of those facilities. There is an appeal process built into the Bill for the applicant of the disposal site.



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or any interested third party that participates in the hearing before the county board or the governing body of the municipality. That appeal process would go to the Pollution Control Board and then to the Appellate Court. The things that the county board or the municipality are to consider in making their judgement would be, first of all, the public convenience at that location. Secondly, that it is located so that the public health, safety and welfare will be protected. That it will not cause substantial injury to the property values in the neighborhood and fourth, that the site is located outside the boundy of the 100 year flood plane, as determined by the Illinois Department of Transportation. These are all issues that the local units of government are familiar with. They are not to make technical decisions as to the suitability of the site, rather that power still lies in the Environmental Protection Agency. This Bill passed out of the Senate unanimously in Committee. It passed out of the Senate on Third Reading, unanimously, and it had substantial support in the House Committee. Those people who filed as proponents of the Bill, included the Environmental Council, the Environmental Protection Agency, the Illinois Municipal League, the Illinois Farm Bureau, Waste Management Corporation, Save the Land Incorporated, and the Township Officials of Illinois. It is a new concept. It is something that I think treats a very difficult issue in a very reasonable way. I would be happy to answer any questions. Representative Oblinger is the hyphenated Cosponsor of this Bill and will close."

Speaker Peters: "Any discussion? There being none, the question is, 'shall Senate Bill 172 pass?' Those in favor will



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signify by voting 'aye', those opposed by voting 'nay'.
Mr. Clerk, voting is open. Have all voted who wish? Have
all voted who wish? Have all voted who wish? Take the
record, Mr. Clerk. This question there are 157 voting
'aye', none voting 'nay', none voting 'present'. This Bill
having received the Constitutional Majority is hereby
declared passed. Representative Mulcahey. For what
purpose do you arise, Sir?"

Mulcahey: "Mr. Speaker, I was off the floor a few minutes ago,
and not by my own request, and I was wondering if I could
have leave of the House to be recorded as voting 'yes' on
Senate Bill 171?"

Speaker Peters: "The Gentleman asks unanimous consent to be
recorded as voting 'yes' on Senate Bill 171, is there
objection? There being none, the Clerk will so indicate."

Mulcahey: "Thank you."

Speaker Peters: "Senate Bill 180, Representative Ropp. Read the
Bill, Mr. Clerk."

Clerk O'Brien: "Senate Bill 180, a Bill for an Act to amend the
Uniform Commercial Code, Third Reading of the Bill."

Speaker Peters: "Representative Ropp."

Ropp: "Thank you, Mr. Speaker and Members of the House. Senate
Bill 180 provides that the implied warranty for the
merchantability and the sale of livestock is not necessary
provided the individual seller has met the requirements
pertaining to health regulations set out by the State of
Illinois and the United States Department of Agriculture.
This is a Bill that is needed to bring the Uniform
Commercial Code into line. There have been a number of
court cases where this particular position has made it
difficult to rule. And I urge your favorable support of



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opposed 'no'. The 'ayes' have it and the House nonconcur in Senate Amendment #1. Supplemental #2, Senate Bill 172, Representative Breslin. Read the Bill, Mr. Clerk."

Clerk Leone: "Senate Bill 172, a Bill for an Act relating to location of sanitary land fills and hazardous waste disposal sites together with House Amendments #1, 2, 3, and 5."

Speaker Daniels: "Representative Breslin."

Breslin: "I move not to recede from Senate Amendments or House Amendments #1, and 2 and to recede from House Amendments 3 and 5, and I request a Conference Committee. This deals with the siting of waste land fills."

Speaker Daniels: "Could you explain the Amendments so the members will understand what they're voting on?"

Breslin: "Okay. As I recall, #1 dealt with a distinction between home rule and non-home rule units. I do not believe that that is in debate. Number 2 dealt with procedural problems on how a county board is to conduct its hearings in determining where the siting shall be. Number 3 dealt with the exclusion of the City of Chicago and the Metropolitan Sanitary District and #5 dealt with a technical exclusion of the Metropolitan Sanitary District and also an exclusion of those items which are presently stored by public utilities and those items are PCB's and they are presently governed under the Federal law."

Speaker Daniels: "Any discussion? Being none, the Lady moves that the House refuse to recede from Senate Amendments #1 and 2 and a Conference Committee be appointed. All those in favor signify by saying 'aye', opposed 'no'. The 'ayes' have it and the House refuses to recede from Senate Amendments #1 and 2. Also on Senate Bill 172, the Lady



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moves that the House recede from House Amendments #3 and 5. Is that correct? All those in favor will signify by voting 'aye', opposed by voting 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On Amendments #3 and 5 there are 123 'ayes', 9 'no' and 1 'present' and on this question the House recedes from House Amendments #3 and 5 to Senate Bill 172. There will be a Conference Committee appointed. Senate Bill 543, Representative Sam Wolf. Read the Bill, Mr. Clerk."

Clerk Leone: "Senate Bill 543, a Bill for an Act to amend the Illinois Vehicle Code together with House Amendment #1."

Speaker Daniels: "Representative Sam Wolf."

Wolf: "Thank you, Mr. Speaker and Members of the House. I would now move that the House not recede from House Amendment # to Senate Bill 543 and that a Conference Committee be appointed."

Speaker Daniels: "Gentleman moves that the House refuse to recede. Would you please explain the Amendment, Sir, that you're... Representative Wolf, explain the Amendment, Sir?"

Wolf: "Senate Bill 543 is a Bill that provides several technical changes in the Motor Vehicle Code providing for a reduced fees for newly acquired vehicles. House Amendment #1 to this same Bill is the Bill... House Amendment #1 is the Amendment that provides for load extensions up to three foot on the front, four feet in the rear for all auto transit carriers provided that they acquire a limited continuous permit under the present statutes and I would request that a Conference Committee be appointed."

Speaker Daniels: "Any discussion? Being none, the Gentleman moves that the House refuse to recede from House Amendment



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House. At this time I'd like to yield to the Chairman of the Honorary Order of Spearcarrriers, Representative Huff."

Speaker Daniels: "Representative Huff."

Huff: "Well, thank you, Mr. Speaker. I'm a little tired as I know most of us here are but as the Spokesman for the Royal Order of Spearcarrriers we'd just like to thank all of those men and women of La Mancha, who have struggled with us in the impossible dream. Thank you."

Speaker Daniels: "Supplemental Calendar number three. Senate Bill 172. Read the Bill, Mr. Clerk."

Clerk Leone: "Senate Bill 172, a Bill for an Act relating to location of sanitary landfills and hazardous waste disposal sites, Conference Committee Report #1."

Speaker Daniels: "The Lady, Representative Breslin, moves to suspend the provisions of Rule 68E and asks for leave to use Roll Call #2. Does the Lady have leave? Hearing no objections, leave is granted. On Senate Bill 172, Representative Breslin."

Breslin: "Thank you, Mr. Speaker. Ladies and Gentlemen, this is the Bill that gives counties and local units of government the authority to site waste disposal facilities, better known as new regional pollution control facilities under the Bill. The Conference Committee Report does basically clarify that the Metropolitan Sanitary District is exempt and it eliminates the distinction between homerule and nonhomerule units. In the County of Cook, the incorporated...the unincorporated areas are still exempt under this Bill but it does apply to incorporated areas of Cook. There is...this is an exclusive siting procedure and that's one of the major advantages of this Bill, is that we will have standardized criteria used throughout the State



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and standardized appeal procedures so that we ought to be able to handle the problems of siting, waste disposal facilities both hazardous and nonhazardous in the State of Illinois. Appreciate a favorable Roll Call."

Speaker Daniels: "Any discussion? The Gentleman from Cook, Representative Ted Meyer."

Ted Meyer: "Thank you, Mr. Speaker. I'd just like to point that this Conference Committee was signed by all ten conferees, ranging from Senator Mahar to Representative Breslin to Representative Collins and myself. It's a good Bill...it's a good report and it should be adopted. Thank you."

Speaker Daniels: "Further discussion? Representative Mulcahey."

Mulcahey: "Would the Sponsor yield?"

Speaker Daniels: "Indicates she will."

Mulcahey: "Representative Breslin, we've had Amendments attached to this Bill in Committee. We've had Committee Bills that have come before this House on Second Reading to try to resolve a problem that exists in my district and I believe in Representative Schraeder's district. A very serious problem we had with the EPA, with licensing and so on and so forth. I think you're familiar with that problem. I would like to know what does this Conference Committee Report if it's adopted in its final form, what is it going to do resolve the problem of Cherry Valley in Winnebago County?"

Breslin: "I am not familiar with the present status of Cherry Valley in particular. But what it does is, as to all facilities that have not been granted a permit by the Environmental Protection Agency as of today's date, July 1, 1981. They must before getting a permit from the EPA, first secure the permit from the county or the local unit



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of government in which they lie. If they lie totally within a municipality then they get it from the municipality, if they lie in the county, in the unincorporated area then they get the permission from the county, if they overlap they get it from both. And this must be granted prior to the EPA going ahead with its siting approval."

Mulcahey: "Okay, now in this particular case we have property that's already been purchased in Winnebago County. It's been lying there for ten years. It's owned by the City of Rockford. In order to grant...in order for the EPA to grant a permit to the City of Rockford for this particular site, the City Council and in this case, the Winnebago County Board would have to also give their permission, is that correct?"

Breslin: "It's outside the boundaries of the city?"

Mulcahey: "Yes, it is."

Breslin: "Yes. Yes."

Mulcahey: "Thank you."

Speaker Daniels: "Further discussion? Representative Jim Kelley."

Kelley: "Yes, I believe Representative Mulcahey asked the questions that I was going to. We have a problem in Winnebago County. I didn't follow the last question he asked you, Representative...was this land has been purchased and laying there. Does that still come under your Bill, that they can not get a permit to dump if they haven't done so by the first?"

Speaker Daniels: "Representative Breslin."

Breslin: "If the EPA has not granted them a permit by the time this Bill is signed then the siting provisions of this Bill



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will apply to them. Okay? Regardless of when the land was purchased or how long it's been there or who owns it?"

Kelley: "Could I speak, just for a second, to the Bill, Mr. Speaker?"

Speaker Daniels: "Proceed, Sir."

Kelley: "I would certainly urge everybody on this side of the aisle and both sides of the aisle to vote for this Bill because you never know when you're going to be next and have one in your backyard."

Speaker Daniels: "Representative McMaster."

McMaster: "Thank you, Mr. Speaker. Would the Sponsor yield?"

Speaker Daniels: "Indicates she will."

McMaster: "Miss Breslin, I questioned Teddy Meyer on the previous Bill in regards to the Metropolitan Sanitary District in Fulton County. As I understand, you are exempting Fulton County in this Bill. Is that correct? I mean, not Fulton County...you are exempting the MSD in this Bill."

Breslin: "That is correct. Right now the Metropolitan Sanitary District has separate enabling powers that are separate and apart and different from any other sanitary district in the State of Illinois. Because of that we have left them operate under their own enabling legislation. They are totally exempt under this legislation and that is the reason why."

McMaster: "That is what concerns me, Miss Breslin. That we are making all kinds of arrangements to protect other areas of the State but as far as Fulton County is concerned with the ground that is owned by the Metropolitan Sanitary District in that county, the MSD can come in there and do anything they please without responsibility to anyone, are they even responsible to the Environmental Protection Agency?"

1. Well, thank you, Mr. President and Ladies and Gentlemen of
2. the Senate. This is the...the landfill bill. The Governor
3. made some...clarifying language changes to indicate that the
4. bill did not apply to on-site waste storage treatment or disposal
5. facilities. And also took out the provision which was in House
6. Bill 847, which would have provided the..by local ordinances,
7. that the EPA would not...adopt pollution control ordinances
8. that were more stringent than the EPA, or rather the municipality.
9. And then also provided some additional criteria changes for the
10. site location, some of which there seems to be a minor dispute
11. with, and then also providing that there will be, in clarifying
12. language, no additional evidence to be heard by the Pollution
13. Control Board once the case is appealed. I don't know of any
14. known opposition and it's not totally the way we would like to
15. have...I would like to have it, but at this particular time,
16. I respectfully ask for a favorable vote.

17. PRESIDENT:

18. Any discussion? If not, the question is, shall the Senate
19. accept the Specific Recommendations of the Governor as to
20. Senate Bill 172 in the manner and form just stated by Senator
21. Demuzio. Those in favor will vote Aye. Those opposed will
22. vote Nay. The voting is open. Have all voted who wish?
23. Have all voted who wish? Have all voted who wish? Take the
24. record. On that question, the Ayes are 58, the Nays are none,
25. none Voting Present. The Specific Recommendations of the
26. Governor as to Senate Bill 172, having received the required
27. constitutional majority vote of Senators elected are declared
28. accepted. 257, Senator Davidson. Motion in Writing filed
29. with respect to Senate Bill 257. Mr. Secretary.

30. ACTING SECRETARY: (MR. FERNANDES)

31. I move to accept the...Specific Recommendations of the
32. Governor as to Senate Bill 257 in the manner and form as follows.
33. Signed, Senator Davidson.



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Breslin: "That is covered by the enabling legislation of the Metropolitan Sanitary District, Representative."

McMaster: "You missed my question. Are they responsible to the Environmental Protection Agency? Are they or are they not?"

Breslin: "I believe they are but I am not an expert on that, Representative. And it is certainly not in the Bill. I think, basically, what we tried to do is take care of all of the other areas. I think that if are going to change the powers and the duties of the Metropolitan Sanitary District, we should do it in and under their own enabling legislation, and I would be happy to study that with you at any time."

McMaster: "And I think in the future this is what we're going to have to do because I think the local government of Fulton County deserves a little more say in the operation of the MSD project within that county. Thank you."

Speaker Daniels: "Further discussion? Representative Krska."

Krska: "I move the previous question, Mr. Speaker."

Speaker Daniels: "The question is, 'Shall the main question be put?' All those in favor signify by saying 'aye', opposed 'no'. The 'ayes' have it. Representative Breslin to close."

Breslin: "I ask for a favorable Roll Call."

Speaker Daniels: "Lady moves for the passage of Senate Bill 172 through the adoption of Conference Committee Report #1. All those in favor will signify by voting 'aye', opposed by voting 'no'. The voting is open. Have all those voted who wish? Have all those voted who wish? Have all those voted who wish? Take the record. On this question there's 152 'aye', no 'nay' and none voting 'present'. Conference



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Committee Report is hereby adopted and Senate Bill 172 is hereby declared passed. Senate Bill.... Representative Jones we have Senate Bill 650 on the Calendar but that's already been approved, hasn't it? Yes. Senate Bill 1168, Representative Terzich. Read the Bill, Mr. Clerk."

Clerk O'Brien: "Senate Bill 1168, a Bill for an Act to amend an Act relating to the State Fire Marshal, second Conference Committee Report."

Speaker Daniels: "Representative Terzich, we've already suspended the rules of 68E, the provisions, have we not, Sir?"

Terzich: "Yes, Mr. Speaker, I move that we concur with the second Conference Committee Report to Senate Bill 1168. It provides that the peace officer status be given to...on an optional basis to local units of government, to arson investigators after they've completed the law enforcement training course as well as the fire-arson investigative course, and also has in it, it contains clean-up language for the State Fire Marshal's Act and I would move for adoption of Senate...."

Speaker Daniels: "Any discussion? The Lady from Cook Representative Pullen."

Pullen: "I'd like to ask the Sponsor a question or two."

Speaker Daniels: "Indicates he'll yield."

Pullen: "What does granting peace officer status to firemen who are arson investigators mean?"

Terzich: "It gives them the peace officer status where they make investigation and arrests in the performance of their arson investigation. They have to attend the police training, the same as a police officer."

Pullen: "You said they may make arrests if they are peace officers?"

SB 172

1. problem on the first bills that came over, we took it out and
2. we absolutely have it where there can be no use of any available
3. funds. If the Title 20 funding runs out, then this goes kaput,
4. no State funds are involved and there's no guidelines...
5. State Board. I'd recommend an Aye vote.

6. PRESIDING OFFICER: (SENATOR SAVICKAS)

7. Is there further discussion? If not, the question is,
8. shall the Senate adopt the Conference Committee report on
9. Senate Bill 62 and...those in favor will vote Aye. Those
10. opposed vote Nay. The voting is open. Have all voted who
11. wish? Have all voted who wish? Have all voted who wish?
12. Take the record. On that question, the Ayes are 55, the Nays
13. are none, none Voting Present. The Senate does adopt the
14. Conference Committee Report on Senate Bill 62, and the bill
15. having received the affirmative vote of three-fifths of the
16. members elected is effective immediately upon it's becoming
17. a law. Senate Bill 172, Senator Demuzio. Senator Demuzio.

18. SENATOR DEMUZIO:

19. Thank...thank you, Mr. Chairman...Mr. President and Ladies
20. and Gentlemen of the Senate. Senate Bill 172 is the siting
21. bill and after some very, very, hard bargaining, we have managed to,
22. I think, please everyone that has been involved in this question.
23. All ten members of the Conference Committee on both sides of
24. aisle...both of the rotunda had signed the Conference
25. Committee Report. It just clarifies some language on the
26. Regional Pollution Control Facilites to include sewers and
27. sewerage treatment plants, and also clarifies that third
28. parties have the appeal..right to appeal if they are involved
29. in the initial siting hearings and I don't know of any known
30. opposition to this bill, at this time, and would ask for concurrence.

31. PRESIDING OFFICER: (SENATOR SAVICKAS)

32. Is there any discussion? Senator Rhoads.

33. SENATOR RHOADS:

1. Question of the sponsor.
2. PRESIDING OFFICER: (SENATOR SAVICKAS)
3. He indicates he'll yield.
4. SENATOR RHOADS:
5. On page 2, line 16, the county board of the county or
6. the governing body of the municipality as determined in
7. paragraph C, "shall approve the site location, suitability."
8. What...what kinds of counties are you speaking of, their
9. home rule units or...are we granting a new authority to a
10. County board that they didn't previously have?
11. PRESIDING OFFICER: (SENATOR SAVICKAS)
12. Senator Demuzio.
13. SENATOR DEMUZIO:
14. Yes.
15. PRESIDING OFFICER: (SENATOR SAVICKAS)
16. Senator...Rhoads.
17. SENATOR RHOADS:
18. And...and why?
19. SENATOR DEMUZIO:
20. Well, it has now been the, I guess the matter of policy,
21. of the Environmental Protection Agency that there would be
22. some local involvement in the siting question of various
23. landfills and, as a result, this language has been developed, and
24. I will yield to a Gentleman right behind you to your...to your
25. right, Senator Mahar for...any additional explanation.
26. PRESIDING OFFICER: (SENATOR SAVICKAS)
27. Senator Mahar.
28. SENATOR MAHAR:
29. Thank you, Mr. President and members of the Senate. I
30. just rise to concur with what you said. This brings in local
31. siting of landfills that the county in..the municipal level.
32. There's been a great deal of work done in this area and I would
33. urge your support.

1. PRESIDING OFFICER: (SENATOR SAVICKAS)

2. Is there further discussion? If not, the question is, shall
3. the Senate adopt the Conference Committee Report on Senate
4. Bill 172. Those in favor vote Aye. Those opposed vote Nay.
5. The voting is open. Have all voted who wish? Have all voted
6. who wish? Have all voted who wish? Take the record. On that
7. question, the Ayes are 52, the Nays are 2, 1 Voting Present.
8. The Senate does adopt the Conference Committee Report on Senate
9. Bill 172 and the bill, having received the affirmative vote
10. of three-fifths of the members elected, is effective immediately
11. upon its becoming a law. Senate Bill 345, Senator Schaffer.

12. SENATOR SCHAFFER:

13. Mr. President and members of the Senate. Senate Bill 345
14. is the new CDB appropriations. There are, I think, copies of...
15. a rack-up of all the...the additions. I don't know if they're
16. available throughout. I'll run through it very quickly. The
17. Senate concurs in the following amendments: three hundred and
18. forty-three thousand for the State...a building at the State
19. Fair two hundred and sixty...seven thousand for a building
20. at the Jacksonville Deaf School; two sixty-seven for the
21. Quincy Vet. laundry; eighty thousand for Shawnee College;
22. three hundred thousand for some SIU dormitories; three hundred
23. thousand for the Hennepin Canal, ninety-nine thousand for
24. Rend Lake nine hundred and fifty for the Chicago Port Authority;
25. three hundred and twenty-one for Conservation land acquisition;
26. 3.5 million for Space Needs land acquisition. Let's see, in
27. addition, the following additions have been put on. This, by
28. the way, is something that we've been working on, prisons.
29. We delete the one million dollar lump sum planning for prisons
30. for an unnamed...unspecified location. We add seven hundred thousand
31. for East Moline for a two hundred bed addition, that's the start
32. money, I might add. A million for start money at Sheridan for
33. an additional three hundred beds, start money at Venna...Vienna

1. Yes, thank you, Mr. President and members of the Senate. The
2. second part of the bill which granted taxicab drivers who were
3. victims of violent crimes, a special status is...absolutely
4. unneeded. Armed robbery of any person is a Class X felony, which
5. also disqualifies the offender from probation. If I had known
6. this, I'd never of put it in the bill. The second part, is one
7. of the changes now, according to the...Governor, would permit
8. judges conducting preliminary hearings to consider at the
9. same time, the State's application to revoke or increase the
10. defendants bail, after a defendant commits a forceable felony
11. while free on bail. This bill passed the House...passed the
12. Senate at 53 to nothing and it passed the House 144 to nothing.
13. I ask for your favorable support.

14. PRESIDENT:

15. Any discussion? If not, the question is, shall the Senate
16. accept the Specific Recommendations of the Governor as to Senate
17. Bill 27, in the manner and form just stated by Senator Nega.
18. Those in favor will vote Aye. Those opposed will vote Nay.
19. The voting is open. Have all voted who wish? Have all voted
20. who wish? Have all voted who wish? Take the record. On that
21. question, the Ayes are 55, the Nays are none, none Voting Present.
22. The Specific Recommendations of the Governor as to Senate Bill 27,
23. having received the required constitutional majority vote of
24. Senators elected are declared accepted. Senator Demuzio on
25. 172. On the Order of Motions in Writing, there's a motion filed
26. with respect to Senate Bill 172. Mr. Secretary.

27. ACTING SECRETARY: (MR. FERNANDES)

28. I move to accept the Specific Recommendations of the
29. Governor as to Senate Bill 172 in the manner and form as follows.
30. Signed, Senator Demuzio.

31. PRESIDENT:

32. Senator Demuzio.

33. SENATOR DEMUZIO:



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lab, the children, the students while they...to care for the infant while they are in classes. I think that the Governor was afraid that this was contained mandatory language and perhaps would have provided a drain on the Treasury. And so therefore, I would sustain...I would move that we all sustain, vote to sustain the Governor's veto because much of the Bill is still intact. As I said, I'm not satisfied, but at least our intent is there."

Speaker Ryan: "Is there any debate? The Lady from DuPage, Representative Karpiel? Well, your light's on, Representative. Okay. The question is...The question is, 'Shall the House accept the Governor's specific recommendations for change with respect to Senate Bill 62 by adoption of the Amendment?'. All in favor will signify by voting 'aye', all opposed by voting 'no'. Have all voted who wish? Have all voted who wish? Take the record, Mr. Clerk. On this question there are 157 voting 'aye', none voting 'no'. This Motion, having received the Constitutional Majority, prevails and the House accepts the Governor's specific recommendations for change regarding Senate Bill 62 by adoption of the Amendment. On the Calendar under Amendatory Vetoes appears Senate Bill 172. Representative Oblinger. (sic, Representative Meyer) Read the Motion, Mr. Clerk."

Clerk Leone: "I move that the House concur with the Senate in the acceptance of the Governor's specific recommendations for change to Senate Bill 172 by adoption of the following Amendment'. Representative Meyer."

Speaker Ryan: "Representative Meyer on the Motion."

Ted Meyer: "Thank you, Mr. Speaker. I move that the House accept the amendatory veto of the Governor. House Bill 172 (sic,



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Senate Bill 172) relates to landfill sitings. The Governor's amendatory veto made five changes in it. It clarified in ...what was a regional pollution control facility. It identified what the definition of 'new' was. It changed the criteria slightly. Additionally, it vetoed the language that was contained in House Bill 847 and clarified on appeal that no new evidence could be taken in front of the ...in front of the Pollution Control Board. I move its adoption."

Speaker Ryan: "Is there any debate? The Gentleman from Bureau, Representative Mautino."

Mautino: "Thank you very much, Mr. Speaker and Ladies and Gentlemen of the House. I find it very difficult and I would hope that the Representative could respond to the rationale for exempting from the legislation by amendatory veto the language that gave the municipalities and county boards the authority for siting. It seems to me that the amendatory veto if accepted would take the guts out of this Bill, even though it does define what 'new' facility is. It would give virtually no authority to the county boards or the local municipality where one of these sites are now located. It does not address the question as well as an expanded site for the regional. So I would like to have the Gentleman respond to me in that regard on those two questions."

Speaker Ryan: "Will the Gentleman respond?"

Ted Mayer: "Yes, Sir. First of all, if you're referring to the Journal-Register record article, that article was in error. This applies to any new site or old site that is expanded beyond its original bounds. If they apply for a permit to take in one extra acre, this Bill would apply. It in no



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way...The amendatory veto in no way, limits any of the authority of the county boards or municipalities."

Mautino: "Well, then, Sir, would you please tell me why the veto message addresses line 22 through line 35 on page 14?"

Ted Meyer: "I have on page 14, '...deletes lines 33 and 34 and inserts new language, zoning or other land use requirements shall not be...'"

Mautino: "That's right. Now what that means, Representative, is you're taking away this sentence: 'Local zoning, other local land use requirements or local ordinances adopted pursuant to Section 7.2 of this Act shall not be applicable to such siting decisions'. That means that you are exempting sites from local control. I would like to address..."

Ted Meyer: "That's what the original Bill did. That's what the original language does. It says that local zoning shall not be applicable to this particular Section. It's just saying the same thing in different language."

Mautino: "Well, then, I would like to address the legislation and the Amendment, Mr. Speaker."

Speaker Ryan: "Proceed."

Mautino: "I don't happen to be an attorney, but what I do see is no reason for that specific change. The Sponsor of the legislation has not addressed the question. But it seems to me that the number one issue here is that we are exempting from this Statute local control for siting of new or existing hazardous landfill sites. It would seem to me, since no one has presented evidence otherwise, that this is not a step in the right direction. This is a step that will affect the Z,Y,X Corporation in Lee County. It will affect Pioneer Processing in LaSalle County and most



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certainly, the U.S. ecological site selection in Bureau County. In that regard, I am opposed to accepting the Governor's amendatory veto on that question because we are not giving the protection under this language to the communities in which those sites could be located or are now located. It seems to me that we should make it very clear that local governments have the control for siting selections of hazardous and low level nuclear waste. And I will not support this amendatory veto."

Speaker Ryan: "The Gentleman from Peoria, Representative Tuerk."

Tuerk: "Thank you, Mr. Speaker. Would the Sponsor yield?"

Speaker Ryan: "Indicates he will."

Ted Meyer: "Yes."

Tuerk: "Let's become more specific. We had a case up in Peoria County not too long ago where some developers wanted to establish a hazardous waste landfill. The County Board had no input at all into the site selection or any of the controls. It was all in the hands of the EPA and the PCB. Now, as I recall, House Bill 847 addressed itself to that specific problem or similar problem. I tend to agree with the previous speaker that the amendatory veto on Senate Bill 172 rather guts the intent of that proposal. Now, would you respond very simply whether or not, with Senate Bill 172 as amended, will give the county boards any input at all in the selection of sites for hazardous wastes?"

Ted Meyer: "Representative Tuerk, I will read you Section 39.1 of the new Bill, 172. It says, quote, 'The county board of the county or the governing body of the municipality as determined by Section C (sic, paragraph C) of Section 39 of this action..of this act shall approve the site location, shall approve the site location, suitability for such new



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regional pollution control facility only in accordance with the following criteria; A,B,C,D'."

Tuerk: "What you're saying is the language does give the county boards that authority."

Ted Meyer: "Yes, Sir, unequivocally."

Tuerk: "Thank you."

Speaker Ryan: "Have you completed, Representative Tuerk? The Gentlemen from Macon, Representative Dunn. John Dunn. No? The Gentleman from Cook, Representative Collins."

Collins: "Mr. Speaker, would the Gentleman yield for a question?"

Speaker Ryan: "Indicates he will."

Collins: "Representative Meyer, would you tell me, has Waste Management Corporation expressed a position one way or the other on this Amendment?"

Ted Meyer: "Pardon me?"

Collins: "Waste Management Corporation, what would their position be on your Motion?"

Ted Meyer: "I don't know. I haven't spoken to their representative concerning this Motion."

Collins: "You have not spoken to your..to their representative?"

Ted Meyer: "That's true."

Collins: "What would be your idea as to how they would feel on this Motion?"

Ted Meyer: "I wouldn't know, Sir. You may be in better contact with them than I am."

Collins: "No, I have...I have no use for those people. I understand that you have much more contact with them than I do. I would suggest that if they are in favor of your Motion, then this Motion would be to the detriment of the State of Illinois and its people. These are the people that have befouled my district and other districts."



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They're the ones who have proliferated landfills throughout this state and I wish we could get an answer to my ...to my question. Because if they're for it, well then, it is a very bad and indeed an insidious and evil Motion and I would suggest that it be rejected."

Speaker Ryan: "The Gentleman from Peoria, Representative Schraeder, on the evil Motion."

Schraeder: "Thank you, Mr. Speaker and Members of the House. This is a very serious Amendment by the Governor, the veto, and I would like to point out that this piece of legislation that was sent to the Governor was one that was reached after long and tiring hours by all peoples involved in the State of Illinois, including Members of the House and the Senate, even to a Conference Committee. It involved the people that would be attempting to establish sites. It was established through the assistance and help of the Municipal League and it certainly was the direct drafting of eight or ten Legislators who have similar types of legislation and problems within their Legislative District. It would seem to me that the proper thing to do would be to reject this Motion to accept the veto and send it back to the Senate for them to have another look at it. I would ask for a rejection of this Motion."

Speaker Ryan: "Is there any further discussion? The Gentleman from Whiteside, Representative Olson."

Olson: "I pass, Mr. Speaker."

Speaker Ryan: "Is there any further discussion? The Gentleman from Cook, Representative Meyer, to close."

Ted Meyer: "Well, Mr. Speaker, we're faced with a dilemma. If we don't accept the Governor's amendatory veto, the nonhome rule municipalities in this state are going to have nothing



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to say about the location of landfills. This gives them an opportunity to ...to participate and in fact approve the site selection. We're faced with the alternative of ...of the nonhome rule municipalities having nothing to say. I might again point out to you Section 39.1 and if again I could read it to you and say, 'The County Board of the county, or the governing body of any municipality, as determined according to paragraph C of this Act, shall approve the site location suitability for such....da, da, da, da, da, da.'. I urge the adoption of this amendatory veto."

Speaker Ryan: "The question is, 'Shall the House accept the ~~Governor's~~ specific recommendations for change with respect to Senate Bill 172 by adoption of the Amendment?'. All in favor will signify by voting 'aye', all opposed by voting 'no'. Representative Van Dyne to explain his vote."

Van Dyne: "Yes. As you can see, Mr. Speaker, thank you. I...There's rather a humorous line or part of a paragraph in the Governor's message here where he alludes to some allegation that the county boards wouldn't be fair. He says in the thing that the criteria should be given to local officials, all the necessary authorities, to reject a proposal which would threaten the health and the welfare of the citizens of the area. But then he goes on to say, but the criteria should also be fair to industry and not make it impossible to locate much needed disposal sites. I'm just...It's kind of humorous, as I said, because here we're talking about elected officials on a county board level that are just trying to get a 50-50 shake in this decision-making and he at least alleges that the bureaucratic agency, the Pollution Control Board, is much



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more idealistic and I think that's kind of funny."

Speaker Ryan: "Representative Yourell, did you care to explain your vote?"

Yourell: "Yes, briefly, Mr. Speaker. Ladies and Gentlemen of the House, for those of you who are voting 'aye' on this amendatory veto you must recognize the fact that it will do nothing for units of local government as far as local control of landfills are concerned. This guts the Bill and takes the teeth right out of the original legislation passed out of this House. So, just as long as you know what you're doing, why, a 'yes' vote is no local control over landfills."

Speaker Ryan: "Have all voted who wish? Take the record, Mr. Clerk. On this question there are 122 voting 'aye', 40 voting 'no' and 60 voting 'present'. This Motion, having received a Constitutional Majority, prevails and the House accepts the Governor's specific recommendations for change regarding Senate Bill 172 by the adoption of the Amendment. On the Calendar under Amendatory Vetoes appears Senate Bill 257. Read the Motion, Mr. Clerk. Representative Oblinger."

Clerk Leone: "I move that the House concur with the Senate in the acceptance of the Governor's specific recommendations for change to Senate Bill 257 by adoption of the following Amendment". Representative Oblinger."

Speaker Ryan: "The Lady from Sangamon, Representative Oblinger."

Oblinger: "Mr. Speaker and Members of the House, I move to accept the message of the Governor. The only change is, we put on an Amendment during the time that it was in the House - the Amendment was sponsored by Representative Rea - which had to do with rolling stock. In the Conference Committee this