

MAR 29 2002  
WAYS AND MEANS

HOUSE FILE 2611  
BY SHEY

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to contracts with the state or political  
2 subdivisions of the state for the sale of goods and services  
3 and plans, specifications, and contracts for public  
4 improvements of certain public entities.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2611

1 Section 1. Section 68B.2A, Code 2001, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 4. For purposes of this section,  
4 "employed by" or "employment" includes persons who are under  
5 contract to sell goods or services to the state or a political  
6 subdivision of the state.

7 Sec. 2. Section 68B.3, Code 2001, is amended by adding the  
8 following new subsection:

9 NEW SUBSECTION. 3. A person contracting with a state  
10 agency to sell goods or services to such state agency shall  
11 not sell goods to the state agency or provide a service to the  
12 state agency beyond what is included in the terms of the  
13 contract unless the sale is made pursuant to a separate  
14 contract let after public notice and competitive bidding.

15 Sec. 3. Section 73A.3, Code 2001, is amended to read as  
16 follows:

17 73A.3 OBJECTIONS -- HEARING -- DECISION.

18 At such hearing, any person interested may appear and file  
19 objections to the proposed plans, specifications, or proposed  
20 form of contract for, or cost of such improvement. The  
21 governing body of the municipality proposing to enter into  
22 such contract shall hear said objections and any evidence for  
23 or against the same, and forthwith immediately enter of record  
24 its decision thereon.

25 If an appeal pursuant to section 73A.4 is not filed, the  
26 municipality may proceed to advertise for bids to let the  
27 contract.

28 Sec. 4. Section 73A.4, unnumbered paragraph 2, Code 2001,  
29 is amended to read as follows:

30 The notice shall be in writing and shall set forth the  
31 objections to such decision and the grounds for such  
32 objections; provided that at least three of the persons  
33 signing said notice shall have appeared at the hearing and  
34 made objection, either general or specific, to the adoption of  
35 the proposed plans, specifications, or proposed form of

1 contract for, or cost of such improvement.

2 Sec. 5. Section 73A.5, subsections 2 and 5, Code 2001, are  
3 amended to read as follows:

4 2. A copy of the proposed form of contract.

5 5. A copy of the objections, if any, which have been urged  
6 by any taxpayer against the proposed plans, specifications, or  
7 proposed form of contract for, or the cost of such  
8 improvement.

9 Sec. 6. Section 73A.6, unnumbered paragraph 2, Code 2001,  
10 is amended to read as follows:

11 ~~The~~ A hearing on proposed plans, specifications, or  
12 proposed forms of contracts for the state institutions and  
13 state fair board shall be at the seat of government.

14 Sec. 7. Section 73A.7, Code 2001, is amended to read as  
15 follows:

16 73A.7 HEARING AND DECISION.

17 At such hearing, the appellants and any other interested  
18 person may appear and be heard. The appeal board shall  
19 examine, with the aid of competent assistants, the entire  
20 record, and if it shall find that the form of contract is  
21 suitable for the improvement proposed, that the improvement  
22 and the method of providing for payment therefor is for the  
23 best interests of the municipality and the taxpayers therein,  
24 and that such improvements can be made within the estimates  
25 therefor, it shall approve the same. Otherwise, it may reject  
26 the same as a whole or, it shall recommend such modifications  
27 of the plans, specifications, or form of contract, as in its  
28 judgment shall be for the public benefit, and if such  
29 modifications are so made, it shall approve the same.

30 The appeal board shall certify its decision to the  
31 governing body proposing to enter into such contract ~~unless it~~  
32 ~~shall have rejected the same as a whole, whereupon.~~ After the  
33 decision has been certified to the governing body, the  
34 municipality shall advertise for bids and let the contract  
35 subject to the approval of the appeal board which shall at

1 once render its final decision thereon and transmit the same  
2 to the municipality.

3 Sec. 8. NEW SECTION. 73A.22 SPECIFIC PRODUCTS IN PLANS  
4 OR SPECIFICATIONS PROHIBITED.

5 1. Plans or specifications for a public improvement shall  
6 not specify, endorse, or recommend the use of a specific  
7 product or brand of product unless the plans or specifications  
8 state the test or standard by which the product is  
9 demonstrated to be superior or unless equivalent products or  
10 brands are also listed in the plans or specifications, or  
11 unless a separate performance specification is prepared.

12 2. For purposes of this section, "public improvement"  
13 means a public improvement as defined in section 73A.1 and  
14 includes road construction, reconstruction, and maintenance  
15 projects.

16 3. This section applies to the state, its agencies, and  
17 any political subdivisions of the state.

18 4. If it is determined that application of this section  
19 may cause denial of federal funds that would otherwise be  
20 available, or would otherwise be inconsistent with  
21 requirements of federal law, this section shall be suspended,  
22 but only to the extent necessary to prevent denial of the  
23 funds or to eliminate the inconsistency with federal  
24 requirements.

25 EXPLANATION

26 This bill makes changes to the law relating to contracts  
27 with the state and political subdivisions of the state for the  
28 sale of goods and services and plans, specifications, and  
29 contracts for public improvements.

30 The bill amends Code section 68B.2A on conflicts of  
31 interest to include persons contracting with the state or a  
32 political subdivision of the state within the scope of persons  
33 prohibited from having certain conflicts of interest with the  
34 state or political subdivision. The bill amends Code section  
35 68B.3 to provide that a person contracting with a state agency

1 for the sale of goods or services cannot provide goods or  
2 services beyond the terms of the contract unless a separate  
3 contract has been let after public notice and competitive  
4 bidding.

5 The bill amends Code chapter 73A to provide that a  
6 municipality may not advertise for bids to let a contract for  
7 a public improvement until after the public hearing and the  
8 10-day time limit for appeal on the proposed plans,  
9 specifications, and proposed form of contract. If there is an  
10 appeal, the municipality may not advertise for bids to let the  
11 contract until the appeal board has certified a decision to  
12 the governing body of the municipality. "Municipality" is  
13 defined as a township, school corporation, the state fair  
14 board, and the state board of regents.

15 The bill also amends Code chapter 73A to provide that plans  
16 or specifications for a public improvement shall not specify,  
17 endorse, or recommend a specific product or brand unless the  
18 test or standard demonstrating the product or brand to be  
19 superior is also included, or unless equivalent products or  
20 brands are also listed, or unless a separate performance  
21 specification is prepared. The bill provides that this  
22 amendment applies to the state, its agencies, and any  
23 political subdivisions of the state and that a "public  
24 improvement" for purposes of the amendment includes road  
25 construction, reconstruction, and maintenance projects.

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