

Freeman, Schuerer, Fraise

Succeeded By
(SF) HF 2048

SSB 3025
Business + Labor

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
BUSINESS AND LABOR
RELATIONS BILL BY
CHAIRPERSON FREEMAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act prohibiting disbursements of moneys from the vision Iowa
2 fund to entities entering into certain labor-related
3 agreements, and providing an effective date.

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

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1 Section 1. VISION IOWA FUND DISBURSEMENTS -- PROHIBITION.

2 1. DEFINITIONS. As used in this section, unless the
3 context otherwise requires:

4 a. "Public contracting entity" means a person that has
5 authority to enter into an agreement that expends public funds
6 relating to a public works project.

7 b. "Public works" means a public building or other public
8 construction work, including a public improvement as defined
9 in section 384.37.

10 c. "Public works project" includes the construction,
11 maintenance, or repair of a public works, or the manufacture
12 or procurement of products or services concerning a public
13 works, which is paid for in whole or in part by moneys from
14 the vision Iowa fund created in section 12.72.

15 2. Notwithstanding any provision of the Code to the
16 contrary, moneys shall not be disbursed from the vision Iowa
17 fund created in section 12.72 to any public contracting entity
18 for purposes of a public works project if the public
19 contracting entity does any of the following relating to the
20 public works project:

21 a. Requires that any person execute, adhere to, enforce,
22 or otherwise become a party to any agreement, including a
23 project labor agreement, collective bargaining agreement,
24 prehire agreement, or agreement with any labor organization,
25 which requires a person to do any of the following as a
26 condition of bidding, negotiating, being awarded, or
27 performing work on a public works project:

28 (1) Become a member of or affiliated with a labor
29 organization.

30 (2) Be required to be subjected to a referral screening
31 process through a labor organization.

32 (3) Pay dues or fees, including health, welfare or pension
33 fund dues or fees, to a labor organization.

34 b. Requires that any person enter into any agreement with
35 any labor organization as a condition of bidding, negotiating,

1 being awarded, or performing work on a public works project.

2 c. Discriminates against any person for refusing or
3 failing to remain a party to any agreement otherwise
4 prohibited by this subsection or who brings a civil action to
5 enforce this section.

6 3. CIVIL REMEDIES. This section may be enforced through a
7 civil action. A person who violates this section or who aids
8 in the violation of this section is liable to an aggrieved
9 person for damages, or any other equitable relief, as the
10 court deems appropriate. In addition, when a person commits,
11 is committing, or proposes to commit an act in violation of
12 this section, an injunction may be granted through an action
13 in district court to prohibit the person from continuing such
14 acts. Any aggrieved person, which shall include any taxpayer
15 of this state, has standing to bring a civil action to enforce
16 this section, including an action for injunctive relief, in
17 the district court for the county in which the aggrieved
18 person is a resident. A person found to have violated this
19 section shall be required to pay the fees and other expenses,
20 as defined in section 625.28, relating to the civil action to
21 enforce this section.

22 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
23 immediate importance, takes effect upon enactment.

24 EXPLANATION

25 This bill prohibits any disbursements of funds from the
26 vision Iowa fund to any public contracting entity that has
27 entered into certain labor-related agreements for the purposes
28 of a public works project.

29 The bill defines a public contracting entity as any person
30 that has the authority to enter into an agreement that expends
31 public funds relating to a public works project. A public
32 works project is defined as the construction, maintenance, or
33 repair of a public works, or the manufacture or procurement of
34 products or services concerning a public works which is paid
for, in whole or in part, by moneys from the vision Iowa fund.

1 The bill prohibits the disbursement of moneys from the
2 vision Iowa fund to any public contracting entity that
3 requires any person to become a member of a labor
4 organization, to be required to use a referral screening
5 process through a labor organization, or to pay dues or fees
6 to a labor organization as a condition for being eligible to
7 be a party to or work on a public works project. The bill
8 also prohibits the disbursement of moneys from the vision Iowa
9 fund to a public contracting entity that requires a person to
10 enter into any agreement with a labor organization as a
11 condition of being involved in a public works project. The
12 bill also prohibits the disbursement of moneys from the vision
13 Iowa fund to any public contracting entity that discriminates
14 against any person for refusing or failing to remain a party
15 to any labor agreement as referenced in this bill or for
16 bringing a civil action to enforce this bill.

17 The new section provides that the section can be enforced
18 through a civil action, including injunctive relief. The bill
19 provides that any aggrieved person, including any taxpayer of
20 the state, has standing to bring a civil action to enforce the
21 new Code section in the district court for the county in which
22 the aggrieved person is a resident. A person found to have
23 violated this section shall be required to pay attorney fees,
24 expert witness expenses, and court costs relating to the civil
25 action.

26 The bill takes effect upon enactment.

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Substitutes for AF 2091

3-13-02

(P. 775)

REPRINTED

FILED JAN 24 2002

SENATE FILE 2048
BY COMMITTEE ON BUSINESS
AND LABOR RELATIONS

(SUCCESSOR TO SSB 3025)

(COMPANION TO HF 2091)

Passed Senate, Date 2-6-02 (P. 208) Passed House, Date 3-13-02 (P. 778)

Vote: Ayes 28 Nays 19 Vote: Ayes 54 Nays 40

Approved 3/21/02
~~Vetoed~~

A BILL FOR

1 An Act prohibiting disbursements of moneys from the vision Iowa
2 fund to entities entering into certain labor-related
3 agreements, and providing an effective date.

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

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SF 2048

1 Section 1. VISION IOWA FUND DISBURSEMENTS -- PROHIBITION.

2 1. DEFINITIONS. As used in this section, unless the
3 context otherwise requires:

4 a. "Public contracting entity" means a person that has
5 authority to enter into an agreement that expends public funds
6 relating to a public works project.

7 b. "Public works" means a public building or other public
8 construction work, including a public improvement as defined
9 in section 384.37.

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11 maintenance, or repair of a public works, or the manufacture
12 or procurement of products or services concerning a public
13 works, which is paid for in whole or in part by moneys from
14 the vision Iowa fund created in section 12.72.

15 2. Notwithstanding any provision of the Code to the
16 contrary, moneys shall not be disbursed from the vision Iowa
17 fund created in section 12.72 to any public contracting entity
18 for purposes of a public works project if the public
19 contracting entity does any of the following relating to the
20 public works project:

21 a. Requires that any person execute, adhere to, enforce,
22 or otherwise become a party to any agreement, including a
23 project labor agreement, collective bargaining agreement,
24 prehire agreement, or agreement with any labor organization,
25 which requires a person to do any of the following as a
26 condition of bidding, negotiating, being awarded, or
27 performing work on a public works project:

28 (1) Become a member of or affiliated with a labor
29 organization.

30 (2) Be required to be subjected to a referral screening
31 process through a labor organization.

32 (3) Pay dues or fees, including health, welfare or pension
33 fund dues or fees, to a labor organization.

34 b. Requires that any person enter into any agreement with
35 any labor organization as a condition of bidding, negotiating,

1 being awarded, or performing work on a public works project.

2 c. Discriminates against any person for refusing or
3 failing to remain a party to any agreement otherwise
4 prohibited by this subsection or who brings a civil action to
5 enforce this section.

6 3. CIVIL REMEDIES. This section may be enforced through a
7 civil action. A person who violates this section or who aids
8 in the violation of this section is liable to an aggrieved
9 person for damages, or any other equitable relief, as the
10 court deems appropriate. In addition, when a person commits,
11 is committing, or proposes to commit an act in violation of
12 this section, an injunction may be granted through an action
13 in district court to prohibit the person from continuing such
14 acts. Any aggrieved person, which shall include any taxpayer
15 of this state, has standing to bring a civil action to enforce
16 this section, including an action for injunctive relief, in
17 the district court for the county in which the aggrieved
18 person is a resident. A person found to have violated this
19 section shall be required to pay the fees and other expenses,
20 as defined in section 625.28, relating to the civil action to
21 enforce this section.

22 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
23 immediate importance, takes effect upon enactment.

24 EXPLANATION

25 This bill prohibits any disbursements of funds from the
26 vision Iowa fund to any public contracting entity that has
27 entered into certain labor-related agreements for the purposes
28 of a public works project.

29 The bill defines a public contracting entity as any person
30 that has the authority to enter into an agreement that expends
31 public funds relating to a public works project. A public
32 works project is defined as the construction, maintenance, or
33 repair of a public works, or the manufacture or procurement of
34 products or services concerning a public works which is paid
35 for, in whole or in part, by moneys from the vision Iowa fund.

1 The bill prohibits the disbursement of moneys from the
2 vision Iowa fund to any public contracting entity that
3 requires any person to become a member of a labor
4 organization, to be required to use a referral screening
5 process through a labor organization, or to pay dues or fees
6 to a labor organization as a condition for being eligible to
7 be a party to or work on a public works project. The bill
8 also prohibits the disbursement of moneys from the vision Iowa
9 fund to a public contracting entity that requires a person to
10 enter into any agreement with a labor organization as a
11 condition of being involved in a public works project. The
12 bill also prohibits the disbursement of moneys from the vision
13 Iowa fund to any public contracting entity that discriminates
14 against any person for refusing or failing to remain a party
15 to any labor agreement as referenced in this bill or for
16 bringing a civil action to enforce this bill.

17 The new section provides that the section can be enforced
18 through a civil action, including injunctive relief. The bill
19 provides that any aggrieved person, including any taxpayer of
20 the state, has standing to bring a civil action to enforce the
21 new Code section in the district court for the county in which
22 the aggrieved person is a resident. A person found to have
23 violated this section shall be required to pay attorney fees,
24 expert witness expenses, and court costs relating to the civil
25 action.

26 The bill takes effect upon enactment.

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SENATE FILE 2048

S-5018

1 Amend Senate File 2048 as follows:
 2 1. Page 2, by inserting after line 21 the
 3 following:
 4 "4. STATE REIMBURSEMENT. If a public contracting
 5 entity entered into a nonqualifying agreement prior to
 6 the effective date of this Act, and the public
 7 contracting entity rescinds or modifies that agreement
 8 in order to receive moneys from the vision Iowa fund,
 9 the state shall reimburse the public contracting
 10 entity for all costs incurred by the public
 11 contracting entity due to the completion of the public
 12 works project beyond the time period that was
 13 originally specified in the nonqualifying agreement.
 14 For purposes of this subsection, a nonqualifying
 15 agreement is an agreement that does anything specified
 16 in subsection 2."
 17 2. By renumbering as necessary.

By MATT McCOY JACK HOLVECK
 JOHNIE HAMMOND DENNIS H. BLACK
 ROBERT E. DVORSKY MARK SHEARER

S-5018 FILED FEBRUARY 6, 2002

LOST

(P. 203)

SENATE FILE 2048

S-5019

1 Amend Senate File 2048 as follows:
 2 1. Page 2, by striking lines 22 and 23 and
 3 inserting the following:
 4 "Sec. 2. EFFECTIVE DATE. This Act takes effect
 5 thirty days following the date Polk county and the
 6 Polk county board of supervisors prevail in the action
 7 filed in Polk county district court entitled Master
 8 Builders of Iowa, Inc., Associated Building
 9 Contractors of Iowa Inc., The Des Moines Construction
 10 Council and the Associated General Contractors of Iowa
 11 v. Polk County and the Polk County Board of
 12 Supervisors."
 13 2. By renumbering as necessary.

By DICK L. DEARDEN
 JACK HOLVECK
 MARK SHEARER

S-5019 FILED FEBRUARY 6, 2002

LOST

(P. 204)

FEBRUARY 7, 2002

SENATE FILE 2048

S-5023

- 1 Amend Senate File 2048 as follows:
 - 2 1. Page 1, line 1, by inserting before the word
 - 3 "VISION" the following: "NEW SECTION. 12.72A".
- By** MARY LOU FREEMAN

S-5023 FILED FEBRUARY 6, 2002
ADOPTED

(P.202)

SENATE FILE 2048

S-5025

- 1 Amend Senate File 2048 as follows:
- 2 1. Page 2, by striking lines 16 through 18 and
- 3 inserting the following: "this section, including an
- 4 action for injunctive relief. A person found to have
- 5 violated this".

By MARY LOU FREEMAN

S-5025 FILED FEBRUARY 6, 2002
ADOPTED

(P.207)

SENATE FILE 2048
BY COMMITTEE ON BUSINESS
AND LABOR RELATIONS

(SUCCESSOR TO SSB 3025)

(COMPANION TO HF 2091)

(AS AMENDED AND PASSED BY THE SENATE FEBRUARY 6, 2002)

_____ - New Language by the Senate

Passed Senate, Date _____ Passed House, Date 3-13-02
Vote: Ayes _____ Nays _____ Vote: Ayes 54 Nays 40
~~Approved~~ 3/21/02
Vetoed

A BILL FOR

1 An Act prohibiting disbursements of moneys from the vision Iowa
2 fund to entities entering into certain labor-related
3 agreements, and providing an effective date.

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

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S.F. 2048

1 Section 1. NEW SECTION. 12.72A VISION IOWA FUND
2 DISBURSEMENTS -- PROHIBITION.

3 1. DEFINITIONS. As used in this section, unless the
4 context otherwise requires:

5 a. "Public contracting entity" means a person that has
6 authority to enter into an agreement that expends public funds
7 relating to a public works project.

8 b. "Public works" means a public building or other public
9 construction work, including a public improvement as defined
10 in section 384.37.

11 c. "Public works project" includes the construction,
12 maintenance, or repair of a public works, or the manufacture
13 or procurement of products or services concerning a public
14 works, which is paid for in whole or in part by moneys from
15 the vision Iowa fund created in section 12.72.

16 2. Notwithstanding any provision of the Code to the
17 contrary, moneys shall not be disbursed from the vision Iowa
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19 for purposes of a public works project if the public
20 contracting entity does any of the following relating to the
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22 a. Requires that any person execute, adhere to, enforce,
23 or otherwise become a party to any agreement, including a
24 project labor agreement, collective bargaining agreement,
25 prehire agreement, or agreement with any labor organization,
26 which requires a person to do any of the following as a
27 condition of bidding, negotiating, being awarded, or
28 performing work on a public works project:

29 (1) Become a member of or affiliated with a labor
30 organization.

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32 process through a labor organization.

33 (3) Pay dues or fees, including health, welfare or pension
34 fund dues or fees, to a labor organization.

35 b. Requires that any person enter into any agreement with

1 any labor organization as a condition of bidding, negotiating,
2 being awarded, or performing work on a public works project.

3 c. Discriminates against any person for refusing or
4 failing to remain a party to any agreement otherwise
5 prohibited by this subsection or who brings a civil action to
6 enforce this section.

7 3. CIVIL REMEDIES. This section may be enforced through a
8 civil action. A person who violates this section or who aids
9 in the violation of this section is liable to an aggrieved
10 person for damages, or any other equitable relief, as the
11 court deems appropriate. In addition, when a person commits,
12 is committing, or proposes to commit an act in violation of
13 this section, an injunction may be granted through an action
14 in district court to prohibit the person from continuing such
15 acts. Any aggrieved person, which shall include any taxpayer
16 of this state, has standing to bring a civil action to enforce
17 this section, including an action for injunctive relief. A
18 person found to have violated this section shall be required
19 to pay the fees and other expenses, as defined in section
20 625.28, relating to the civil action to enforce this section.

21 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
22 immediate importance, takes effect upon enactment.

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SENATE FILE 2048

H-8041

1 Amend Senate File 2048, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 2, by inserting after line 20 the
 4 following:
 5 "4. STATE REIMBURSEMENT. If a public contracting
 6 entity entered into a nonqualifying agreement prior to
 7 the effective date of this Act, and the public
 8 contracting entity rescinds or modifies that agreement
 9 in order to receive moneys from the vision Iowa fund,
 10 the state shall reimburse the public contracting
 11 entity for all costs incurred by the public
 12 contracting entity due to the completion of the public
 13 works project beyond the time period that was
 14 originally specified in the nonqualifying agreement.
 15 For purposes of this subsection, a nonqualifying
 16 agreement is an agreement that does anything specified
 17 in subsection 2."
 18 2. By renumbering as necessary.

By DOTZLER of Black Hawk

H-8041 FILED FEBRUARY 7, 2002

W/D
3-13-02 (p.777)

SENATE FILE 2048

H-8194

1 Amend Senate File 2048, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 1, line 1, by striking the words and
 4 figure "12.72A VISION IOWA" and inserting the
 5 following: "72.6 PUBLIC".
 6 2. Page 1, by inserting after line 7 the
 7 following:
 8 "___ . "Public funds" means moneys from the vision
 9 Iowa fund created in section 12.72 and moneys
 10 collected through a local sales and services tax for
 11 school infrastructure as provided in chapter 422E."
 12 3. Page 1, by striking line 15 and inserting the
 13 following: "public funds."
 14 4. Page 1, by striking lines 17 and 18 and
 15 inserting the following: "contrary, public funds
 16 shall not be disbursed to any public contracting
 17 entity".
 18 5. Title page, lines 1 and 2, by striking the
 19 words "moneys from the vision Iowa fund" and inserting
 20 the following: "public funds".
 21 6. By renumbering as necessary.

By RICHARDSON of Warren

H-8194 FILED MARCH 5, 2002

W/D
3-13-02
(p.777)

SENATE FILE 2048

H-8200

1 Amend the amendment, H-8194, to Senate File 2048,
2 as amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, line 9, by inserting after the figure
5 "12.72" the following: ", moneys expended from the
6 school district sales and use tax fund created in
7 section 293.1, as enacted in this Act,".

8 2. Page 1, by inserting after line 17 the
9 following:

10 "____. Page 2, by striking lines 21 and 22 and
11 inserting the following:

12 "Sec. 101. NEW SECTION. 293.1 SCHOOL DISTRICT
13 SALES AND USE TAX FUND.

14 1. A school district sales and use tax fund is
15 created as a separate and distinct fund in the state
16 treasury under the control of the department of
17 revenue and finance. Moneys in the fund include
18 revenues credited to the fund pursuant to section
19 422.69, subsection 2, and section 423.24, subsection
20 2A, appropriations made to the fund, and other moneys
21 deposited into the fund. The moneys credited in a
22 fiscal year to the fund shall be distributed as
23 follows:

24 a. (1) A school district located in whole or in
25 part in a county that had in effect on March 31, 2002,
26 the local sales and services tax for school
27 infrastructure purposes under chapter 422E shall
28 receive an amount equal to its guaranteed school
29 infrastructure amount as calculated under subsection 2
30 if the board of directors notifies the director of
31 revenue and finance that the school district wants to
32 receive its guaranteed school infrastructure amount.
33 The notification shall be provided by July 1, 2002.
34 If notification is not received by July 1, 2002, the
35 school district shall receive moneys pursuant to
36 paragraph "b". Nothing in this chapter shall prevent
37 a school district from using its guaranteed school
38 infrastructure amount to pay principal and interest on
39 obligations issued pursuant to section 422E.4.

40 (2) A school district receiving moneys pursuant to
41 subparagraph (1) shall cease to receive its guaranteed
42 school infrastructure amount and shall receive moneys
43 pursuant to paragraph "b" starting with the fiscal
44 year immediately following the fiscal year in which
45 occurs the end of the original ten-year period or the
46 date listed on the original ballot proposition,
47 whichever is the earlier, as provided in chapter 422E.
48 A school district may adopt a plan, as provided in
49 section 293.2, subsection 2, to anticipate moneys it
50 will receive pursuant to paragraph "b". A school

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Page 2

1 district receiving moneys pursuant to subparagraph (1)
2 may elect to receive moneys pursuant to paragraph "b"
3 by providing notification to receive moneys pursuant
4 to paragraph "b" to the director of revenue and
5 finance and the director of the department of
6 management by February 15 preceding the fiscal year
7 for which the election will apply. Once a school
8 district makes this election it is irrevocable.

9 b. (1) Moneys remaining after computations made
10 pursuant to paragraph "a" shall be distributed to
11 school districts not receiving moneys under paragraph
12 "a" on a per student basis calculated by the director
13 of revenue and finance by dividing the moneys
14 available during the fiscal year by the combined
15 actual enrollment for all school districts receiving
16 distributions under this paragraph.

17 (2) The combined actual enrollment for school
18 districts, for purposes of subparagraph (1), shall be
19 calculated by adding together the actual enrollment
20 for each school district receiving distributions under
21 subparagraph (1) as determined by the department of
22 management based on the actual enrollment figures
23 reported by October 1 to the department of management
24 by the department of education pursuant to section
25 257.6, subsection 1. The combined actual enrollment
26 count shall be forwarded to the director of revenue
27 and finance by March 1, annually, for purposes of
28 supplying estimated tax payment figures and making
29 estimated tax payments pursuant to subsection 3 for
30 the following fiscal year.

31 2. a. For purposes of distributions under
32 subsection 1, paragraph "a", the school district's
33 guaranteed school infrastructure amount shall be
34 calculated according to the following formula:

35 The district's guaranteed school infrastructure
36 amount equals the product of the county guaranteed
37 school infrastructure amount times the district's
38 county actual enrollment divided by the county
39 combined actual enrollment.

40 b. For purposes of the formula in paragraph "a":

41 (1) "Base year" means the fiscal year beginning
42 July 1, 2001.

43 (2) "Base year county taxable sales percentage"
44 means the percentage that the taxable sales in the
45 county during the base year is of the total state
46 taxable sales during the base year.

47 (3) "County combined actual enrollment" means the
48 actual enrollment figures determined by the department
49 of management for the county based on the actual
50 enrollment figures reported by October 1 to the

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H-8200

Page 3

1 department of management by the department of
2 education pursuant to section 257.6, subsection 1.

3 (4) "County guaranteed school infrastructure
4 amount" means an amount equal to the product of the
5 county's chapter 422E proportionate share times the
6 amount deposited in the school district sales and use
7 tax fund for the current year times the current year
8 county taxable sales percentage divided by the base
9 year county taxable sales percentage.

10 (5) "County's chapter 422E proportionate share"
11 means the percentage that the annualized revenues
12 received in the county under chapter 422E for the base
13 year is of one-fifth of the total state sales and use
14 tax revenues collected for deposit into the general
15 fund of the state for the base year.

16 (6) "Current year" means the fiscal year for which
17 distributions under this section are being made.

18 (7) "Current year county taxable sales percentage"
19 means the percentage that the taxable sales in the
20 county during the current fiscal year is of the total
21 state taxable sales during the current fiscal year.

22 (8) "District's county actual enrollment" means
23 the actual enrollment of the school district that
24 attends school in the county for which the county
25 combined actual enrollment is determined.

26 (9) "Taxable sales" means sales subject to the
27 state sales and services tax under chapter 422,
28 division IV.

29 3. a. The director of revenue and finance by
30 August 15 of each fiscal year shall send to each
31 school district an estimate of the amount of tax
32 moneys each school district will receive for the year
33 and for each quarter of the year. At the end of each
34 quarter, the director may revise the estimates for the
35 year and remaining quarters.

36 b. The director shall remit ninety-five percent of
37 the estimated tax receipts for the school district to
38 the school district on or before September 30 of the
39 fiscal year and on or before the last day of each
40 following quarter.

41 c. The director shall remit a final payment of the
42 remainder of tax moneys due for the fiscal year before
43 November 10 of the next fiscal year. If an
44 overpayment has resulted during the previous fiscal
45 year, the November payment shall be adjusted to
46 reflect any overpayment.

47 d. If the distributions are to school districts
48 described in subsection 1, paragraph "a", the payments
49 to these school districts shall be made on a monthly
50 basis beginning with the month of September.

H-8200

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H-8200

Page 4

1 Sec. 102. NEW SECTION. 293.2 USE OF SCHOOL
2 DISTRICT SALES AND USE TAX FUND MONEYS.
3 1. A school district receiving moneys from the
4 school district sales and use tax fund under section
5 293.1, subsection 1, paragraph "a", shall use the
6 moneys as provided on the original ballot proposition
7 pursuant to chapter 422E, for the payment of principal
8 and interest on general obligation bonds issued
9 pursuant to chapter 296, or section 298.20 or loan
10 agreements under section 297.36, for payments made
11 pursuant to lease or lease-purchase agreements, or for
12 payment of principal and interest on bonds issued
13 under sections 293.3 and 422E.4.
14 2. a. Moneys received by a school district from
15 the school district sales and use tax fund under
16 section 293.1, subsection 1, paragraph "b", shall be
17 spent for infrastructure purposes only according to a
18 plan developed by the board of directors. The plan
19 may apply to more than one fiscal year. Prior to
20 adoption of the plan, the board of directors shall
21 hold a public hearing on the question of approval of
22 the proposed plan. The board shall set forth its
23 proposal and shall publish the notice of the time and
24 place of a public hearing on the proposed plan.
25 Notice of the time and place of the public hearing
26 shall be published not less than ten nor more than
27 twenty days before the public hearing in a newspaper
28 which is a newspaper of general circulation in the
29 school district. At the hearing, or no later than
30 thirty days after the date of the hearing, the board
31 shall take action to adopt the proposed plan.
32 b. If the board adopts the plan, moneys received
33 shall be used according to the plan unless within
34 twenty-eight days following the action of the board,
35 the secretary of the board receives a petition
36 containing signatures of registered voters equal in
37 number to five percent of the voters in the school
38 district who voted at the last general election,
39 asking that an election be called to approve or
40 disapprove the action of the board. The board shall
41 either rescind its action or direct the county
42 commissioner of elections to submit the question to
43 the registered voters of the school district at the
44 next following regular school election or a special
45 election. If a majority of those voting on the
46 question at the election favors disapproval of the
47 action of the board, the district shall use the moneys
48 received as provided in paragraph "c" for the fiscal
49 year.

50 At the expiration of the twenty-eight day period,

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1 if no petition is filed, the board shall use the
2 moneys received according to the plan for the duration
3 of the plan. However, the board may, at anytime,
4 expend a greater share of moneys received for property
5 tax relief than otherwise specified in the plan.

6 c. If an election is held and the plan is
7 disapproved, as provided in paragraph "b", or if a
8 plan is not approved by the board, moneys received by
9 a school district shall be used for the fiscal year to
10 reduce the following levies in the following order:

11 (1) Bond levies under sections 298.18 and 298.18A
12 and other debt levies until the moneys received or the
13 levies are reduced to zero.

14 (2) The physical plant and equipment levy under
15 section 298.2, until the moneys received or the levy
16 is reduced to zero.

17 (3) The schoolhouse tax levy under section 278.1,
18 subsection 7, Code 1989, until the moneys received or
19 the levy is reduced to zero.

20 Any money remaining after the reduction of the
21 levies specified in this paragraph may be used for any
22 lawful infrastructure purpose of the school district.

23 d. For purposes of this subsection,
24 "infrastructure purposes" means those purposes for
25 which a school district is authorized to contract
26 indebtedness and issue general obligation bonds under
27 chapter 296 or to expend tax revenues under section
28 298.3, the payment of principal and interest on
29 general obligation bonds issued under chapter 296 or
30 section 298.20 or loan agreements under section
31 297.36, payments made pursuant to a lease or lease-
32 purchase agreement, or the payment of principal and
33 interest on bonds issued under section 293.3 or
34 422E.4.

35 Sec. 103. NEW SECTION. 293.3 BONDING.

36 A school district may anticipate the amount of
37 moneys to be received pursuant to section 293.1 as
38 provided in this section.

39 The board of directors of a school district may
40 issue negotiable, interest-bearing school bonds,
41 without election, and utilize tax receipts derived
42 from the school district sales and use tax fund for
43 principal and interest repayment. Proceeds of the
44 bonds issued pursuant to this section shall be
45 utilized solely for infrastructure purposes as defined
46 in section 293.2, subsection 2.

47 Bonds issued under this section may be sold at
48 public sale as provided in chapter 75. Notice shall
49 be given and a hearing shall be held as provided in
50 section 73A.12. Bonds may bear dates, bear interest

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1 at rates not exceeding that permitted by chapter 74A,
2 mature in one or more installments, be in either
3 coupon or registered form, carry registration and
4 conversion privileges, be payable as to principal and
5 interest at times and places, be subject to terms of
6 redemption prior to maturity with or without premium,
7 and be in one or more denominations, all as provided
8 by the resolution of the board of directors
9 authorizing their issuance. The resolution may also
10 prescribe additional provisions, terms, conditions,
11 and covenants which the board of directors deems
12 advisable, including provisions for creating and
13 maintaining reserve funds, the issuance of additional
14 bonds ranking on a parity with such bonds and
15 additional bonds junior and subordinate to such bonds,
16 and that such bonds shall rank on a parity with or be
17 junior and subordinate to any bonds which may be then
18 outstanding. Bonds may be issued to refund
19 outstanding and previously issued bonds under this
20 section. Bonds are a contract between the school
21 district and holders, and the resolution issuing the
22 bonds and pledging tax revenues to be received from
23 the school district sales and use tax fund to the
24 payment of principal and interest on the bonds is a
25 part of the contract. Bonds issued pursuant to this
26 section shall not constitute indebtedness within the
27 meaning of any constitutional or statutory debt
28 limitation or restriction, and shall not be subject to
29 any other law relating to the authorization, issuance,
30 or sale of bonds.

31 A school district may enter into a chapter 28E
32 agreement with one or more cities or a county whose
33 boundaries encompass all or a part of the area of the
34 school district. A city or cities entering into a
35 chapter 28E agreement may expend its designated
36 portion of the tax revenues to be received from the
37 school district sales and use tax fund for any valid
38 purpose permitted in this chapter or authorized by the
39 governing body of the city. A county entering into a
40 chapter 28E agreement with a school district may
41 expend its designated portion of the tax revenues to
42 be received from the school district sales and use tax
43 fund to provide property tax relief within the
44 boundaries of the school district located in the
45 county. A school district may also enter into a
46 chapter 28E agreement with another school district
47 which is located partially or entirely in or is
48 contiguous to the county. The school district shall
49 only expend its designated portion of tax revenues to
50 be received from the school district sales and use tax

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1 fund.

2 The governing body of a city may authorize the
3 issuance of bonds which are payable from its
4 designated portion of the tax revenues to be received
5 from the school district sales and use tax fund, and
6 not from property tax, by following the authorization
7 procedures set forth for cities in section 384.83. A
8 city may pledge irrevocably any amount derived from
9 its designated portion of the tax revenues to be
10 received from the school district sales and use tax
11 fund to the support or payment of such bonds.

12 Sec. 104. Section 298.18, unnumbered paragraph 4,
13 Code Supplement 2001, is amended to read as follows:

14 The amount estimated and certified to apply on
15 principal and interest for any one year may exceed two
16 dollars and seventy cents per thousand dollars of
17 assessed value by the amount approved by the voters of
18 the school corporation, but not exceeding four dollars
19 and five cents per thousand of the assessed value of
20 the taxable property within any school corporation,
21 provided that the registered voters of such school
22 corporation have first approved such increased amount
23 at a special election, which ~~may be was held at the~~
24 ~~same time as the regular school election~~ prior to July
25 1, 2002. ~~The proposition submitted to the voters at~~
26 ~~such special election shall be in substantially the~~
27 ~~following form:~~

28 Sec. 105. Section 298.18, unnumbered paragraphs 5
29 and 6, Code Supplement 2001, are amended by striking
30 the unnumbered paragraphs.

31 Sec. 106. Section 298.18, unnumbered paragraph 8,
32 Code Supplement 2001, is amended to read as follows:

33 The ability of a school corporation to exceed two
34 dollars and seventy cents per thousand dollars of
35 assessed value to service principal and interest
36 payments on bonded indebtedness is limited and
37 conferred only to those school corporations engaged in
38 the administration of elementary and secondary
39 education and whose registered voters have voted to
40 exceed that levy limitation prior to July 1, 2002.

41 Sec. 107. Section 422.43, subsections 1, 2, 4, 5,
42 6, 7, 10, and 12, Code Supplement 2001, are amended to
43 read as follows:

44 1. There is imposed a tax of ~~five~~ six percent upon
45 the gross receipts from all sales of tangible personal
46 property, consisting of goods, wares, or merchandise,
47 except as otherwise provided in this division, sold at
48 retail in the state to consumers or users; a like rate
49 of tax upon the gross receipts from the sales,
50 furnishing, or service of gas, electricity, water,

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1 heat, pay television service, and communication
2 service, including the gross receipts from such sales
3 by any municipal corporation or joint water utility
4 furnishing gas, electricity, water, heat, pay
5 television service, and communication service to the
6 public in its proprietary capacity, except as
7 otherwise provided in this division, when sold at
8 retail in the state to consumers or users; a like rate
9 of tax upon the gross receipts from all sales of
10 tickets or admissions to places of amusement, fairs,
11 and athletic events except those of elementary and
12 secondary educational institutions; a like rate of tax
13 on the gross receipts from an entry fee or like charge
14 imposed solely for the privilege of participating in
15 an activity at a place of amusement, fair, or athletic
16 event unless the gross receipts from the sales of
17 tickets or admissions charges for observing the same
18 activity are taxable under this division; and a like
19 rate of tax upon that part of private club membership
20 fees or charges paid for the privilege of
21 participating in any athletic sports provided club
22 members.

23 2. There is imposed a tax of five six percent upon
24 the gross receipts derived from the operation of all
25 forms of amusement devices and games of skill, games
26 of chance, raffles, and bingo games as defined in
27 chapter 99B, operated or conducted within the state,
28 the tax to be collected from the operator in the same
29 manner as for the collection of taxes upon the gross
30 receipts of tickets or admission as provided in this
31 section. The tax shall also be imposed upon the gross
32 receipts derived from the sale of lottery tickets or
33 shares pursuant to chapter 99E. The tax on the
34 lottery tickets or shares shall be included in the
35 sales price and distributed to the general fund as
36 provided in section 99E.10.

37 4. There is imposed a tax of five six percent upon
38 the gross receipts from the sales of engraving,
39 photography, retouching, printing, and binding
40 services. For the purpose of this division, the sales
41 of engraving, photography, retouching, printing, and
42 binding services are sales of tangible property.

43 5. There is imposed a tax of five six percent upon
44 the gross receipts from the sales of vulcanizing,
45 recapping, and retreading services. For the purpose
46 of this division, the sales of vulcanizing, recapping,
47 and retreading services are sales of tangible
48 property.

49 6. There is imposed a tax of five six percent upon
50 the gross receipts from the sales of optional service

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1 or warranty contracts, except residential service
2 contracts regulated under chapter 523C, which provide
3 for the furnishing of labor and materials and require
4 the furnishing of any taxable service enumerated under
5 this section. The gross receipts are subject to tax
6 even if some of the services furnished are not
7 enumerated under this section. For the purpose of
8 this division, the sale of an optional service or
9 warranty contract, other than a residential service
10 contract regulated under chapter 523C, is a sale of
11 tangible personal property. Additional sales,
12 services, or use taxes shall not be levied on
13 services, parts, or labor provided under optional
14 service or warranty contracts which are subject to tax
15 under this section.

16 If the optional service or warranty contract is a
17 computer software maintenance or support service
18 contract and there is no separately stated fee for the
19 taxable personal property or for the nontaxable
20 service, the tax of ~~five~~ six percent imposed by this
21 subsection shall be imposed on fifty percent of the
22 gross receipts from the sale of such contract. If the
23 contract provides for technical support services only,
24 no tax shall be imposed under this subsection. The
25 provisions of this subsection also apply to the tax
26 imposed by chapter 423.

27 7. There is imposed a tax of ~~five~~ six percent upon
28 the gross receipts from the renting of rooms,
29 apartments, or sleeping quarters in a hotel, motel,
30 inn, public lodging house, rooming house, manufactured
31 or mobile home which is tangible personal property, or
32 tourist court, or in any place where sleeping
33 accommodations are furnished to transient guests for
34 rent, whether with or without meals. "Renting" and
35 "rent" include any kind of direct or indirect charge
36 for such rooms, apartments, or sleeping quarters, or
37 their use. For the purposes of this division, such
38 renting is regarded as a sale of tangible personal
39 property at retail. However, this tax does not apply
40 to the gross receipts from the renting of a room,
41 apartment, or sleeping quarters while rented by the
42 same person for a period of more than thirty-one
43 consecutive days.

44 10. There is imposed a tax of ~~five~~ six percent
45 upon the gross receipts from the rendering,
46 furnishing, or performing of services as defined in
47 section 422.42.

48 12. A tax of ~~five~~ six percent is imposed upon the
49 gross receipts from the sales of prepaid telephone
50 calling cards and prepaid authorization numbers. For

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1 the purpose of this division, the sales of prepaid
2 telephone calling cards and prepaid authorization
3 numbers are sales of tangible personal property.

4 Sec. 108. Section 422.43, subsection 13, paragraph
5 a, unnumbered paragraph 1, Code Supplement 2001, is
6 amended to read as follows:

7 A tax of ~~five~~ six percent is imposed upon the gross
8 receipts from the sales, furnishing, or service of
9 solid waste collection and disposal service.

10 Sec. 109. Section 422.43, subsections 16 and 17,
11 Code Supplement 2001, are amended to read as follows:

12 16. a. A tax of ~~five~~ six percent is imposed upon
13 the gross receipts from sales of bundled services
14 contracts. For purposes of this subsection, a
15 "bundled services contract" means an agreement
16 providing for a retailer's performance of services,
17 one or more of which is a taxable service enumerated
18 in this section and one or more of which is not, in
19 return for a consumer's or user's single payment for
20 the performance of the services, with no separate
21 statement to the consumer or user of what portion of
22 that payment is attributable to any one service which
23 is a part of the contract.

24 b. For purposes of the administration of the tax
25 on bundled services contracts, the director may enter
26 into agreements of limited duration with individual
27 retailers, groups of retailers, or organizations
28 representing retailers of bundled services contracts.
29 Such an agreement shall impose the tax rate only upon
30 that portion of the gross receipts from a bundled
31 services contract which is attributable to taxable
32 services provided under the contract.

33 17. A tax of ~~five~~ six percent is imposed upon the
34 gross receipts from any mobile telecommunication
35 service which this state is allowed to tax by the
36 provisions of the federal Mobile Telecommunications
37 Sourcing Act, Pub. L. No. 106-252, 4 U.S.C. § 116 et
38 seq. For purposes of this subsection, taxes on mobile
39 telecommunications service, as defined under the
40 federal Mobile Telecommunications Sourcing Act, that
41 are deemed to be provided by the customer's home
42 service provider shall be paid to the taxing
43 jurisdiction whose territorial limits encompass the
44 customer's place of primary use, regardless of where
45 the mobile telecommunication service originates,
46 terminates, or passes through and shall in all other
47 respects be taxed in conformity with the federal
48 Mobile Telecommunications Sourcing Act. All other
49 provisions of the federal Mobile Telecommunications
50 Sourcing Act are adopted by the state of Iowa and

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1 incorporated into this subsection by reference. With
2 respect to mobile telecommunications service under the
3 federal Mobile Telecommunications Sourcing Act the
4 director shall, if requested, enter into agreements
5 consistent with the provisions of the federal Act.

6 Sec. 110. Section 422.47, Code Supplement 2001, is
7 amended by adding the following new subsection:

8 NEW SUBSECTION. 2. Construction contractors may
9 make application to the department for a refund of the
10 additional one percent tax paid under this division or
11 the additional one percent tax paid under chapter 423
12 by reason of the increase in the tax from five to six
13 percent for taxes paid on goods, wares, or merchandise
14 under the following conditions:

15 a. The goods, wares, or merchandise are
16 incorporated into an improvement to real estate in
17 fulfillment of a written contract fully executed prior
18 to July 1, 2002. The refund shall not apply to
19 equipment transferred in fulfillment of a mixed
20 construction contract.

21 b. The contractor has paid to the department or to
22 a retailer the full six percent tax.

23 c. The claim is filed on forms provided by the
24 department and is filed within one year of the date
25 the tax is paid.

26 A contractor who makes an erroneous application for
27 refund shall be liable for payment of the excess
28 refund paid plus interest at the rate in effect under
29 section 421.7. In addition, a contractor who
30 willfully makes a false application for refund is
31 guilty of a simple misdemeanor and is liable for a
32 penalty equal to fifty percent of the excess refund
33 claimed. Excess refunds, penalties, and interest due
34 under this subsection may be enforced and collected in
35 the same manner as the tax imposed by this division.

36 Sec. 111. Section 422.69, subsection 2, Code 2001,
37 is amended to read as follows:

38 2. a. Unless Except as provided in paragraph "b",
39 or as otherwise provided, the fees, taxes, interest,
40 and penalties collected under this chapter shall be
41 credited to the general fund.

42 b. One-sixth of the fees, taxes, interest, and
43 penalties collected pursuant to division IV shall be
44 credited to the school district sales and use tax fund
45 created in section 293.1.

46 Sec. 112. Section 422E.1, Code 2001, is amended by
47 adding the following new subsection:

48 NEW SUBSECTION. 4. a. This chapter does not
49 apply to any county after the effective date of this
50 Act.

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1 b. In the case of a county that has in effect on
2 March 31, 2002, a local sales and services tax for
3 school infrastructure purposes, the increase in the
4 state sales and services tax under chapter 422,
5 division IV, from five percent to six percent shall
6 replace the county's local sales and services tax for
7 school infrastructure purposes and to this extent the
8 local sales and services tax for school infrastructure
9 purposes is repealed.

10 Sec. 113. Section 423.2, Code 2001, is amended to
11 read as follows:

12 423.2 IMPOSITION OF TAX.

13 An excise tax is imposed on the use in this state
14 of tangible personal property, including aircraft
15 subject to registration under section 328.20,
16 purchased for use in this state, at the rate of ~~five~~
17 six percent of the purchase price of the property. An
18 excise tax is imposed on the use of manufactured
19 housing in this state at the rate of ~~five~~ six percent
20 of the purchase price if the manufactured housing is
21 sold in the form of tangible personal property and at
22 the rate of ~~five~~ six percent of the installed purchase
23 price if the manufactured housing is sold in the form
24 of realty. An excise tax is imposed on the use in
25 this state of vehicles subject to registration or
26 subject only to the issuance of a certificate of title
27 at the rate of five percent. An excise tax is imposed
28 on the use of leased vehicles at the rate of five
29 percent of the amount otherwise subject to tax as
30 calculated pursuant to section 423.7A. The excise tax
31 is imposed upon every person using the property within
32 this state until the tax has been paid directly to the
33 county treasurer or the state department of
34 transportation, to a retailer, or to the department.
35 An excise tax is imposed on the use in this state of
36 services enumerated in section 422.43 at the rate of
37 ~~five~~ six percent. This tax is applicable where
38 services are rendered, furnished, or performed in this
39 state or where the product or result of the service is
40 used in this state. This tax is imposed on every
41 person using the services or the product of the
42 services in this state until the user has paid the tax
43 either to an Iowa use tax permit holder or to the
44 department.

45 Sec. 114. Section 423.24, Code 2001, is amended by
46 adding the following new subsection:

47 NEW SUBSECTION. 2A. One-sixth of all other
48 revenue arising under the operation of this chapter
49 shall be credited to the school district sales and use
50 tax fund created in section 293.1.

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1 Sec. 115. Section 423.24, subsection 3, Code 2001,
2 is amended to read as follows:

3 3. All other revenue arising under the operation
4 of this chapter not credited as specified in
5 subsections 1, 2, and 2A shall be credited to the
6 general fund of the state.

7 Sec. 116. APPLICABILITY. This section applies in
8 regard to the increase in the state sales and use
9 taxes from five to six percent. The six percent rate
10 applies to all sales of taxable personal property,
11 consisting of goods, wares, or merchandise if delivery
12 occurs on or after July 1, 2002. The six percent use
13 tax rate applies to the use of property when the first
14 taxable use in this state occurs on or after July 1,
15 2002. The six percent rate applies to the gross
16 receipts from the sale, furnishing, or service of gas,
17 electricity, water, heat, pay television service, and
18 communication service if the date of billing the
19 customer is on or after July 1, 2002. In the case of
20 a service contract entered into prior to July 1, 2002,
21 which contract calls for periodic payments, the six
22 percent rate applies to those payments made or due on
23 or after July 1, 2002. This periodic payment applies,
24 but is not limited to, tickets or admissions, private
25 club membership fees, sources of amusement, equipment
26 rental, dry cleaning, reducing salons, dance schools,
27 and all other services subject to tax, except the
28 aforementioned utility services which are subject to a
29 special transitional rule. Unlike periodic payments
30 under service contracts, installment sales of goods,
31 wares, and merchandise are subject to the full amount
32 of sales or use tax when the sales contract is entered
33 into or the property is first used in Iowa.

34 Sec. 117. Sections 1, 101, and 102 of this Act,
35 enacting sections 12.72A, 293.1, and 293.2, being
36 deemed of immediate importance, take effect upon
37 enactment.""

By RICHARDSON of Warren

H-8200 FILED MARCH 6, 2002

Lost

3-13-02

(p 778)

SENATE FILE 2048

H-8219

1 Amend Senate File 2048, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 1, by striking the words and
4 figure "12.72A VISION IOWA" and inserting the
5 following: "72.6 PUBLIC".

6 2. Page 1, by inserting after line 7 the
7 following:

8 "___". "Public funds" means moneys from the vision
9 Iowa fund created in section 12.72, moneys expended
10 through the community economic betterment program
11 established pursuant to section 15.317, and property
12 tax revenues collected by a municipality through a
13 division of tax revenues under section 403.19,
14 subsection 2."

15 3. Page 1, by striking line 15 and inserting the
16 following: "public funds."

17 4. Page 1, by striking lines 17 and 18 and
18 inserting the following: "contrary, public funds
19 shall not be disbursed to any public contracting
20 entity".

21 5. Title page, lines 1 and 2, by striking the
22 words "moneys from the vision Iowa fund" and inserting
23 the following: "public funds".

24 6. By renumbering as necessary.

By RICHARDSON of Warren

H-8219 FILED MARCH 8, 2002

W/P

3-13-02 (p.777)

SENATE FILE 2048

H-8220

1 Amend Senate File 2048, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 10, by inserting after the figure
4 "384.37." the following: "However, "public works"
5 does not include a memorial building or monument as
6 described in section 37.1."

By RICHARDSON of Warren

H-8220 FILED MARCH 8, 2002

Lost

3/13/02

(p.778)

SENATE FILE 2048

H-8222

1 Amend Senate File 2048, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 72.7 PUBLIC WORKS
6 PROJECTS -- COMPETITIVE BIDDING REQUIREMENTS.

7 Prior to awarding a contract to perform work on a
8 public works project pursuant to a competitive bidding
9 procedure, a public contracting entity shall consider,
10 in determining whether a bidder is responsible, the
11 bidder's record of reliability and timely completion
12 of past projects, the qualifications of the bidder and
13 its employer and subcontractors to properly perform
14 the type of work required by the contract, and the
15 past experience of the bidder and its subcontractors
16 on projects of the same or similar nature. In
17 addition, for a bid to be considered a responsible
18 bid, the bidder and its subcontractors shall possess a
19 documented record of reliability and timely completion
20 of past projects of the same or similar scope of work
21 and a sufficient number of qualified and trained
22 employees to properly perform the type and nature of
23 work required under the contract. Proof of a
24 sufficient number of qualified and trained employees
25 shall not be required if the bidder and its
26 subcontractors can establish its payment of the
27 prevailing wage for the work to be performed as
28 determined by the department of workforce development
29 based upon wage determinations established by the
30 United States department of labor for similar work
31 pursuant to 29 C.F.R. § 1.5 and 29 C.F.R. § 1.6(b)."

32 2. Title page, by striking lines 1 through 3 and
33 inserting the following: "An Act providing for
34 certain competitive bidding procedures for public
35 contracting entities."

By DOTZLER of Black Hawk

T. TAYLOR of Linn

CONNORS of Polk

FORD of Polk

MYERS of Johnson

MURPHY of Dubuque

SMITH of Marshall

WINCKLER of Scott

SHOULTZ of Black Hawk

FOEGE of Linn

H-8222 FILED MARCH 8, 2002

*Not Germane
Motion to suspend Rules lost
3-13-02 (p. 776)*

SENATE FILE 2048

H-8282

1 Amend the amendment, H-8222, to Senate File 2048,
2 as amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, line 9, by inserting after the word
5 "procedure," the following: "which contract
6 authorizes the expenditure of twenty-five thousand
7 dollars or more in public funds,".

By DOTZLER of Black Hawk

H-8282 FILED MARCH 13, 2002

adopted

3-13-02

(p. 776)



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

March 21, 2002

The Honorable Mary Kramer
President of the Senate
State Capitol Building
LOCAL

RECEIVED
MAR 22 2002
LEGISLATIVE SERVICE
BUREAU

Dear President Kramer:

I hereby transmit Senate File 2048, an Act prohibiting disbursements of moneys from the Vision Iowa fund to entities entering into certain labor-related agreements, and providing an effective date.

I am unable to approve Senate File 2048. This bill would deny public entities that receive funding from the Vision Iowa program the same tool private entities use regularly to ensure quality work and timely completion on a project. Denying this tool may result in taxpayers paying more for a project due to poor workmanship, incurring cost overruns and repairs following the completion of a project. Poor workmanship can also increase the likelihood of accidents and expose the public to additional liability. Public entities should have the ability to use project labor agreements as a tool if officials deem it to be in the citizens' best interest.

Furthermore, local governments are granted home rule power and authority under the Iowa Constitution to determine local affairs. Senate File 2048 restricts local governments' ability to enter into agreements even if such involvement benefits the public's interests. If project labor agreements were to be banned, public entities would need a legal framework that ensures minimum qualifications for workers guaranteeing the quality and timeliness of work performed on publicly funded projects.

Ensuring quality and timeliness is a function of the experience and training of workers involved. Experience and training are reflected in the wages paid to workers. I acknowledged early on in the debate that a level playing field must exist for bidding, and I worked to develop a framework with lawmakers that would provide for competitive bids while maintaining quality and timeliness of work. My plan would replace the current project labor agreement structure with a prevailing wage and minimum qualifications for workers on publicly funded projects. With such a plan, quality,

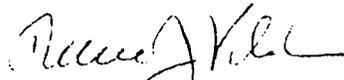


timeliness, competitive bidding, and wage concerns are all addressed. Unfortunately, the Legislature declined to address these concerns.

Iowa needs a system that focuses on the lowest qualified competitive bid to ensure that work is done properly, on-time, without increased maintenance and repair expenses, and without increased exposure to liability. Senate File 2048 does not accomplish this goal and, in fact, restricts it in some instances.

For the above reasons, I hereby respectfully disapprove Senate File 2048. Public entities will still have the ability to decide whether to use project labor agreements as a tool or not, depending on what is in the best public interest.

Sincerely,



Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House

SENATE FILE 2048

AN ACT

PROHIBITING DISBURSEMENTS OF MONEYS FROM THE VISION IOWA FUND TO ENTITIES ENTERING INTO CERTAIN LABOR-RELATED AGREEMENTS, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. NEW SECTION. 12.72A VISION IOWA FUND DISBURSEMENTS -- PROHIBITION.

1. DEFINITIONS. As used in this section, unless the context otherwise requires:

a. "Public contracting entity" means a person that has authority to enter into an agreement that expends public funds relating to a public works project.

b. "Public works" means a public building or other public construction work, including a public improvement as defined in section 384.37.

c. "Public works project" includes the construction, maintenance, or repair of a public works, or the manufacture or procurement of products or services concerning a public works, which is paid for in whole or in part by moneys from the vision Iowa fund created in section 12.72.

2. Notwithstanding any provision of the Code to the contrary, moneys shall not be disbursed from the vision Iowa fund created in section 12.72 to any public contracting entity for purposes of a public works project if the public contracting entity does any of the following relating to the public works project:

a. Requires that any person execute, adhere to, enforce, or otherwise become a party to any agreement, including a project labor agreement, collective bargaining agreement, prehire agreement, or agreement with any labor organization, which requires a person to do any of the following as a condition of bidding, negotiating, being awarded, or performing work on a public works project:

(1) Become a member of or affiliated with a labor organization.

(2) Be required to be subjected to a referral screening process through a labor organization.

(3) Pay dues or fees, including health, welfare or pension fund dues or fees, to a labor organization.

b. Requires that any person enter into any agreement with any labor organization as a condition of bidding, negotiating, being awarded, or performing work on a public works project.

c. Discriminates against any person for refusing or failing to remain a party to any agreement otherwise prohibited by this subsection or who brings a civil action to enforce this section.

3. CIVIL REMEDIES. This section may be enforced through a civil action. A person who violates this section or who aids in the violation of this section is liable to an aggrieved person for damages, or any other equitable relief, as the court deems appropriate. In addition, when a person commits, is committing, or proposes to commit an act in violation of this section, an injunction may be granted through an action in district court to prohibit the person from continuing such acts. Any aggrieved person, which shall include any taxpayer of this state, has standing to bring a civil action to enforce this section, including an action for injunctive relief. A person found to have violated this section shall be required to pay the fees and other expenses, as defined in section 625.28, relating to the civil action to enforce this section.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2048, Seventy-ninth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

~~Approved~~ ^{VETOED} 3/21, 2002

THOMAS J. VILSACK
Governor