

Jensen, Redwine, Flynn

SSB 3157  
Commerce

Succeeded by  
(SF) HF 2292

SENATE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON COMMERCE  
BILL BY CHAIRPERSON JENSEN)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the provision of construction management  
2 services on public works projects.

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

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1 Section 1. NEW SECTION. 72.6 CONSTRUCTION MANAGEMENT  
2 SERVICES.

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

5 a. "Construction management services" means all of the  
6 following:

7 (1) Services provided in the planning and design phases of  
8 a public works project including, but not limited to, the  
9 following:

10 (a) Consulting with, advising, assisting, and making  
11 recommendations to a public owner or architect, engineer, or  
12 registered landscape architect employed by the public owner on  
13 any aspect of planning for a public works project.

14 (b) Reviewing all plans and specifications for the public  
15 works project as they are developed and making recommendations  
16 concerning construction feasibility, availability of material  
17 and labor, time requirements for procurement and construction,  
18 and projected costs.

19 (c) Making, reviewing, and refining budget estimates for  
20 the public works project based on the public owner's plans and  
21 specifications and other available information.

22 (d) Making recommendations to the public owner or the  
23 architect or engineer on the public works project regarding  
24 the division of work in the plans and specifications to  
25 facilitate bidding on and the award of contracts.

26 (e) Soliciting the interest of capable bidders and  
27 assisting the public owner in taking bids on the public works  
28 project.

29 (f) Analyzing the bids received from contractors and  
30 awarding contracts for the public works project.

31 (g) Preparing and monitoring a progress schedule during  
32 the design phase of the project.

33 (h) Preparing a proposed construction schedule for the  
34 public works project.

35 (2) Services provided in the construction phase of the

1 public works project including, but not limited to, the  
2 following:

3 (a) Maintaining competent supervisory staff to coordinate  
4 and provide general direction of the work and progress of the  
5 contractors on the public works project.

6 (b) Observing work on the public works project as it is  
7 performed for general conformity with working drawings and  
8 specifications.

9 (c) Establishing procedures for coordinating the work of  
10 the public owner, architect, engineer, contractors, and the  
11 construction manager on all aspects of the public works  
12 project and implementing such procedures.

13 (d) Maintaining job site records and making appropriate  
14 progress reports.

15 (e) Reviewing the safety programs of each contractor on  
16 the public works project for conformity with the public  
17 owner's safety policies and making recommendations regarding  
18 such programs.

19 (f) Reviewing and processing all applications for payment  
20 by contractors and material suppliers on the public works  
21 project in accordance with the terms of the contract.

22 (g) Making recommendations for and processing requests for  
23 changes in work on the public works project and maintaining  
24 records of change orders.

25 (h) Scheduling and conducting job meetings to ensure  
26 orderly progress of work on the public works project.

27 (i) Developing and monitoring a progress schedule for the  
28 public works project, coordinating and expediting the work of  
29 all contractors on the project, and providing periodic status  
30 reports to the public owner and the architect or engineer.

31 (j) Establishing and maintaining a cost control system for  
32 the public works project and conducting meetings to review  
33 costs.

34 b. "Construction manager" means any person, firm, or  
35 corporation that provides construction management services to

1 a public owner. For purposes of this section, a construction  
2 manager is not a "contractor" as defined in section 91C.1.

3 c. "General conditions work" means work that is not  
4 permanently incorporated into a public works project.

5 d. "Public owner" means a public body including the state  
6 of Iowa, an officer, official, agency, authority, board, or  
7 commission of the state or of a political subdivision or an  
8 institution supported in whole or in part by public funds.

9 e. "Public works" means a permanent building or other  
10 construction work constructed for public use or benefit and  
11 paid for in whole or in part with public funds, including a  
12 public improvement as defined in section 73A.1, 331.341,  
13 384.37, or 384.95, and including any work performed directly  
14 by a public utility as defined in section 368.1 when performed  
15 by a public utility pursuant to an order of a public authority  
16 or commission whether or not the work is performed under  
17 public supervision or direction or paid for in whole or in  
18 part with public funds. "Public works" does not include any  
19 work done by or on behalf of a drainage or levee district.

20 f. "Public works project" or "project" means the  
21 construction, maintenance, or repair of public works.

22 2. USE OF CONSTRUCTION MANAGER. A public owner may engage  
23 a construction manager when planning, designing, or  
24 constructing a public works, or when improving, altering, or  
25 repairing a public works. A public owner may engage a  
26 construction manager in the preconstruction phase of a public  
27 works project or in both the preconstruction and construction  
28 phases of the project.

29 3. SOLICITATION OF BIDS. When the estimated cost of  
30 construction management services for a public works project  
31 exceeds twenty-five thousand dollars, a public owner shall  
32 solicit bids on the proposed construction management services  
33 contract by publishing an advertisement in a print format.  
34 The advertisement shall appear in two publications in a  
35 newspaper with circulation throughout the state. The first

1 advertisement for bids appearing in a newspaper shall be not  
2 less than fifteen days prior to the date set for receiving  
3 bids. The public owner may publish an advertisement in an  
4 electronic format as an additional method of soliciting bids  
5 under this subsection.

6 4. EVALUATION AND SELECTION OF BIDDERS.

7 a. SELECTION PROCESS. A public owner shall evaluate a bid  
8 for provision of construction management services and select a  
9 construction manager by using a selection process as follows:

10 (1) Send requests for proposals to not less than three  
11 construction managers and solicit bids as required by  
12 subsection 3.

13 (2) Score the proposals received from construction  
14 managers using the selection criteria contained in paragraph  
15 "b".

16 (3) Conduct interviews of construction managers with the  
17 highest preliminary scores based on the selection criteria as  
18 set forth in paragraph "c".

19 (4) Rescore each proposal of a construction manager  
20 interviewed based on the construction manager's proposal and  
21 the interview of the construction manager using the selection  
22 criteria contained in paragraph "b".

23 (5) Require each construction manager that is interviewed  
24 to submit the construction manager's fee requirements to the  
25 public owner in a separate sealed envelope following the  
26 interview of the construction manager.

27 (6) Review the separate fee proposals submitted by the  
28 construction managers interviewed and rescore each proposal of  
29 a construction manager as set forth in paragraph "c".

30 (7) Award a contract for construction management services  
31 as set forth in paragraph "d". After the contract for  
32 construction management services is awarded, all results of  
33 the scoring process shall be made public by the public owner.

34 b. SELECTION CRITERIA. A public owner shall include a  
35 description of the scope of construction management services

1 desired and the selection criteria contained in this paragraph  
2 "b" in a request for proposals for construction management  
3 services and in a solicitation of bids required under  
4 subsection 3. A public owner shall disclose the scoring  
5 ranges for each of the selection criteria in the request for  
6 proposals, but a public owner may, in its discretion, vary the  
7 point ranges and include additional subcategories from those  
8 set forth in this paragraph "b" for the required selection  
9 criteria. The required criteria for selecting a construction  
10 manager are as follows:

11 (1) History (ten to twenty maximum point range) including  
12 all of the following:

13 (a) Name, address, telephone number, and federal  
14 identification number.

15 (b) Qualifications.

16 (c) Efficiency and financial condition.

17 (d) Familiarity with the local market where the public  
18 works project will be constructed.

19 (2) Composition of the construction manager's proposed  
20 project team (twenty to thirty maximum point range) including  
21 a description of the project team including resumes and  
22 references of each project team member and an organizational  
23 chart of the construction manager.

24 (3) Information describing the experience of the  
25 construction manager (twenty-five to thirty-five maximum point  
26 range) including the following:

27 (a) Description of previous experience.

28 (b) References.

29 (c) Performance of previous construction management of  
30 public works projects comparable in design, scope, and  
31 complexity to the public works project being bid on.

32 (d) Evidence of ability to meet established construction  
33 schedules.

34 (e) Previous projects managed.

35 (f) Demonstration of successful management systems for

1 estimating, project management, scheduling, and cost controls.

2 (4) Construction management approach utilized (ten to  
3 fifteen maximum point range) including a narrative of the  
4 construction manager's philosophy of construction management.

5 (5) Fee proposal (fifteen to twenty maximum point range)  
6 including all of the following:

7 (a) Overhead and profit.

8 (b) Description of services.

9 (c) Policy concerning costs of change work orders.

10 (d) Reimbursement costs for reimbursable items as defined  
11 in the request for proposals.

12 c. INTERVIEW OF BIDDERS. A public owner shall interview  
13 at least three construction managers who receive the highest  
14 preliminary scores for the proposals submitted in response to  
15 the public owner's request for proposals and solicitation of  
16 bids based on the selection criteria required in paragraph  
17 "b", or less if fewer than three proposals are submitted.  
18 During each interview, the public owner shall assess the  
19 qualifications of the construction manager's proposed project  
20 team, obtain additional information concerning the proposal,  
21 and assess the construction manager's competence to provide  
22 construction management services for the public works project.  
23 Following the interviews, the public owner shall reevaluate  
24 and rescore each proposal submitted based on the selection  
25 criteria set forth in paragraph "b" including the scores of  
26 the written proposal and the interview. A public owner shall  
27 then open and evaluate each separate fee proposal submitted by  
28 a construction manager interviewed using the selection  
29 criteria contained in paragraph "b" and again rescore each  
30 proposal submitted based on the scores of the proposal,  
31 interview, and fee proposal.

32 d. AWARD OF CONTRACT. A public owner shall award a  
33 contract for construction management services on a public  
34 works project to the construction manager with the highest  
35 score based on the required selection criteria unless the

1 public owner is unable to establish an agreement with that  
2 construction manager for the type of construction management  
3 services desired by the public owner. In that event, the  
4 public owner shall award the contract for construction  
5 management services to the construction manager with the next  
6 highest score on the required selection criteria that can  
7 reach an agreement with the public owner for the type of  
8 construction management services desired by the public owner.

9 5. CONSTRUCTION MANAGEMENT CONTRACT. A construction  
10 management services contract for a public works project shall  
11 provide that the construction manager shall do all of the  
12 following:

13 a. Furnish skill and judgment in cooperation with, and in  
14 reliance on, the services of the public works project  
15 architect or engineer.

16 b. Furnish business administration, management of the  
17 construction process, and other specified services in an  
18 economical and expeditious manner consistent with the  
19 interests of the public owner.

20 c. Provide or perform general conditions work at the  
21 request of the public owner, if the provision of such work is  
22 in the best interest of the public owner.

23 d. Not bid on or perform actual construction on a public  
24 works project on which the construction manager is performing  
25 construction management services.

26 e. Obtain a performance bond as required in chapter 573  
27 for services performed.

28 f. At the public owner's request, obtain professional  
29 liability insurance.

30 6. CONFLICTS PROHIBITED. A construction management  
31 services contract for a public works project shall not be  
32 awarded by a public owner to a construction manager that  
33 controls, is controlled by, or shares common ownership or  
34 control with another contractor on the public works project;  
35 that assumes financial responsibility for the work of others

1 on the project; that guarantees a maximum price for the work  
2 of others on the project; or that furnishes or guarantees a  
3 performance or payment bond for another contractor on the  
4 project.

5 A public owner shall not accept a bid from or award a  
6 contract on a public works project to a contractor that  
7 controls, is controlled by, or shares common ownership with or  
8 control of the construction manager on the public works  
9 project.

10 7. APPLICABILITY. This section does not apply to the  
11 planning, design, construction, maintenance, repair, or other  
12 work done for or on behalf of a public owner by employees of a  
13 public owner.

14 Sec. 2. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
15 3, shall not apply to this Act.

16 EXPLANATION

17 This bill regulates contracts for construction management  
18 services for public works projects. "Construction management  
19 services" includes consulting, advising, and making  
20 recommendations to a public owner during the planning and  
21 design phases of a public works project as well as in the  
22 construction phase of the project. A "public owner" is any  
23 public body including the state, an officer, agency,  
24 authority, board, or commission of the state or of a political  
25 subdivision, or any institution supported in whole or in part  
26 by public funds. A "public works project" is a permanent  
27 building or other construction work constructed for public use  
28 or benefit and paid for in whole or in part with public funds  
29 with the exception of work done by or for a drainage or levee  
30 district.

31 The bill provides that a public owner shall solicit bids  
32 when the provision of construction management services is  
33 estimated to exceed \$25,000, by publishing an advertisement in  
34 two publications of a newspaper with statewide circulation not  
35 less than 15 days before the date the bids are due.

1 The bill sets forth an evaluation and selection process for  
2 a public owner to select a construction manager that includes  
3 preparing requests for proposals containing specific required  
4 selection criteria and the weight given to each of the  
5 criteria, conducting interviews of construction managers who  
6 submit proposals with the highest preliminary scores based on  
7 the selection criteria, scoring the written proposals,  
8 interviews, and fee proposals of each construction manager  
9 interviewed, and awarding a contract for construction  
10 management services on a public works project to the  
11 construction manager with the highest score based on the  
12 selection criteria. However, if the public owner is unable to  
13 establish an agreement with the construction manager with the  
14 highest score for the type of construction management services  
15 desired by the public owner, the public owner shall award the  
16 contract to the construction manager with the next highest  
17 score that can reach an agreement with the public owner for  
18 the type of construction management services desired.

19 The bill prohibits a construction manager on a public works  
20 project from bidding on or performing actual construction on a  
21 public works project. A construction management services  
22 contract cannot be awarded to a construction manager that  
23 controls, or is controlled by, or otherwise has financial  
24 responsibility or makes guarantees for other participants on  
25 the public works project.

26 The bill may include a state mandate as defined in Code  
27 section 25B.3. The bill makes inapplicable Code section  
28 25B.2, subsection 3, which would relieve a political  
29 subdivision from complying with a state mandate if funding for  
30 the cost of the state mandate is not provided or specified.  
31 Therefore, political subdivisions are required to comply with  
32 any state mandate included in the bill.

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FILED FEB 25 2002

SENATE FILE 2292  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3157)

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

**A BILL FOR**

1 An Act relating to the provision of construction management  
2 services on public works projects.

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

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SF 2292

1 Section 1. NEW SECTION. 72.6 CONSTRUCTION MANAGEMENT  
2 SERVICES.

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

5 a. "Construction management services" means all of the  
6 following:

7 (1) Services provided in the planning and design phases of  
8 a public works project including, but not limited to, the  
9 following:

10 (a) Consulting with, advising, assisting, and making  
11 recommendations to a public owner or architect, engineer, or  
12 registered landscape architect employed by the public owner on  
13 any aspect of planning for a public works project.

14 (b) Reviewing all plans and specifications for the public  
15 works project as they are developed and making recommendations  
16 concerning construction feasibility, availability of material  
17 and labor, time requirements for procurement and construction,  
18 and projected costs.

19 (c) Making, reviewing, and refining budget estimates for  
20 the public works project based on the public owner's plans and  
21 specifications and other available information.

22 (d) Making recommendations to the public owner or the  
23 architect or engineer on the public works project regarding  
24 the division of work in the plans and specifications to  
25 facilitate bidding on and the award of contracts.

26 (e) Soliciting the interest of capable bidders and  
27 assisting the public owner in taking bids on the public works  
28 project.

29 (f) Analyzing the bids received from contractors and  
30 awarding contracts for the public works project.

31 (g) Preparing and monitoring a progress schedule during  
32 the design phase of the project.

33 (h) Preparing a proposed construction schedule for the  
34 public works project.

35 (2) Services provided in the construction phase of the

1 public works project including, but not limited to, the  
2 following:

3 (a) Maintaining competent supervisory staff to coordinate  
4 and provide general direction of the work and progress of the  
5 contractors on the public works project.

6 (b) Observing work on the public works project as it is  
7 performed for general conformity with working drawings and  
8 specifications.

9 (c) Establishing procedures for coordinating the work of  
10 the public owner, architect, engineer, contractors, and the  
11 construction manager on all aspects of the public works  
12 project and implementing such procedures.

13 (d) Maintaining job site records and making appropriate  
14 progress reports.

15 (e) Reviewing the safety programs of each contractor on  
16 the public works project for conformity with the public  
17 owner's safety policies and making recommendations regarding  
18 such programs.

19 (f) Reviewing and processing all applications for payment  
20 by contractors and material suppliers on the public works  
21 project in accordance with the terms of the contract.

22 (g) Making recommendations for and processing requests for  
23 changes in work on the public works project and maintaining  
24 records of change orders.

25 (h) Scheduling and conducting job meetings to ensure  
26 orderly progress of work on the public works project.

27 (i) Developing and monitoring a progress schedule for the  
28 public works project, coordinating and expediting the work of  
29 all contractors on the project, and providing periodic status  
30 reports to the public owner and the architect or engineer.

31 (j) Establishing and maintaining a cost control system for  
32 the public works project and conducting meetings to review  
33 costs.

34 b. "Construction manager" means any person, firm, or  
35 corporation that provides construction management services to

1 a public owner. For purposes of this section, a construction  
2 manager is not a "contractor" as defined in section 91C.1.

3 c. "General conditions work" means work that is not  
4 permanently incorporated into a public works project.

5 d. "Public owner" means a public body including the state  
6 of Iowa, an officer, official, agency, authority, board, or  
7 commission of the state or of a political subdivision or an  
8 institution supported in whole or in part by public funds.

9 e. "Public works" means a permanent building or other  
10 construction work constructed for public use or benefit and  
11 paid for in whole or in part with public funds, including a  
12 public improvement as defined in section 73A.1, 331.341,  
13 384.37, or 384.95, and including any work performed directly  
14 by a public utility as defined in section 368.1 when performed  
15 by a public utility pursuant to an order of a public authority  
16 or commission whether or not the work is performed under  
17 public supervision or direction or paid for in whole or in  
18 part with public funds. "Public works" does not include any  
19 work done by or on behalf of a drainage or levee district.

20 f. "Public works project" or "project" means the  
21 construction, maintenance, or repair of public works.

22 2. USE OF CONSTRUCTION MANAGER. A public owner may engage  
23 a construction manager when planning, designing, or  
24 constructing a public works, or when improving, altering, or  
25 repairing a public works. A public owner may engage a  
26 construction manager in the preconstruction phase of a public  
27 works project or in both the preconstruction and construction  
28 phases of the project.

29 3. SOLICITATION OF BIDS. When the estimated cost of  
30 construction management services for a public works project  
31 exceeds twenty-five thousand dollars, a public owner shall  
32 solicit bids on the proposed construction management services  
33 contract by publishing an advertisement in a print format.  
34 The advertisement shall appear in two publications in a  
35 newspaper with circulation throughout the state. The first

1 advertisement for bids appearing in a newspaper shall be not  
2 less than fifteen days prior to the date set for receiving  
3 bids. The public owner may publish an advertisement in an  
4 electronic format as an additional method of soliciting bids  
5 under this subsection.

6 4. EVALUATION AND SELECTION OF BIDDERS.

7 a. SELECTION PROCESS. A public owner shall evaluate a bid  
8 for provision of construction management services and select a  
9 construction manager by using a selection process as follows:

10 (1) Send requests for proposals to not less than three  
11 construction managers and solicit bids as required by  
12 subsection 3.

13 (2) Score the proposals received from construction  
14 managers using the selection criteria contained in paragraph  
15 "b".

16 (3) Conduct interviews of construction managers with the  
17 highest preliminary scores based on the selection criteria as  
18 set forth in paragraph "c".

19 (4) Rescore each proposal of a construction manager  
20 interviewed based on the construction manager's proposal and  
21 the interview of the construction manager using the selection  
22 criteria contained in paragraph "b".

23 (5) Require each construction manager that is interviewed  
24 to submit the construction manager's fee requirements to the  
25 public owner in a separate sealed envelope following the  
26 interview of the construction manager.

27 (6) Review the separate fee proposals submitted by the  
28 construction managers interviewed and rescore each proposal of  
29 a construction manager as set forth in paragraph "c".

30 (7) Award a contract for construction management services  
31 as set forth in paragraph "d". After the contract for  
32 construction management services is awarded, all results of  
33 the scoring process shall be made public by the public owner.

34 b. SELECTION CRITERIA. A public owner shall include a  
35 description of the scope of construction management services

1 desired and the selection criteria contained in this paragraph  
2 "b" in a request for proposals for construction management  
3 services and in a solicitation of bids required under  
4 subsection 3. A public owner shall disclose the scoring  
5 ranges for each of the selection criteria in the request for  
6 proposals, but a public owner may, in its discretion, vary the  
7 point ranges and include additional subcategories from those  
8 set forth in this paragraph "b" for the required selection  
9 criteria. The required criteria for selecting a construction  
10 manager are as follows:

11 (1) History (ten to twenty maximum point range) including  
12 all of the following:

13 (a) Name, address, telephone number, and federal  
14 identification number.

15 (b) Qualifications.

16 (c) Efficiency and financial condition.

17 (d) Familiarity with the local market where the public  
18 works project will be constructed.

19 (2) Composition of the construction manager's proposed  
20 project team (twenty to thirty maximum point range) including  
21 a description of the project team including resumes and  
22 references of each project team member and an organizational  
23 chart of the construction manager.

24 (3) Information describing the experience of the  
25 construction manager (twenty-five to thirty-five maximum point  
26 range) including the following:

27 (a) Description of previous experience.

28 (b) References.

29 (c) Performance of previous construction management of  
30 public works projects comparable in design, scope, and  
31 complexity to the public works project being bid on.

32 (d) Evidence of ability to meet established construction  
33 schedules.

34 (e) Previous projects managed.

35 (f) Demonstration of successful management systems for

1 estimating, project management, scheduling, and cost controls.

2 (4) Construction management approach utilized (ten to  
3 fifteen maximum point range) including a narrative of the  
4 construction manager's philosophy of construction management.

5 (5) Fee proposal (fifteen to twenty maximum point range)  
6 including all of the following:

7 (a) Overhead and profit.

8 (b) Description of services.

9 (c) Policy concerning costs of change work orders.

10 (d) Reimbursement costs for reimbursable items as defined  
11 in the request for proposals.

12 c. INTERVIEW OF BIDDERS. A public owner shall interview  
13 at least three construction managers who receive the highest  
14 preliminary scores for the proposals submitted in response to  
15 the public owner's request for proposals and solicitation of  
16 bids based on the selection criteria required in paragraph  
17 "b", or less if fewer than three proposals are submitted.

18 During each interview, the public owner shall assess the  
19 qualifications of the construction manager's proposed project  
20 team, obtain additional information concerning the proposal,  
21 and assess the construction manager's competence to provide  
22 construction management services for the public works project.  
23 Following the interviews, the public owner shall reevaluate  
24 and rescore each proposal submitted based on the selection  
25 criteria set forth in paragraph "b" including the scores of  
26 the written proposal and the interview. A public owner shall  
27 then open and evaluate each separate fee proposal submitted by  
28 a construction manager interviewed using the selection  
29 criteria contained in paragraph "b" and again rescore each  
30 proposal submitted based on the scores of the proposal,  
31 interview, and fee proposal.

32 d. AWARD OF CONTRACT. A public owner shall award a  
33 contract for construction management services on a public  
34 works project to the construction manager with the highest  
35 score based on the required selection criteria unless the

1 public owner is unable to establish an agreement with that  
2 construction manager for the type of construction management  
3 services desired by the public owner. In that event, the  
4 public owner shall award the contract for construction  
5 management services to the construction manager with the next  
6 highest score on the required selection criteria that can  
7 reach an agreement with the public owner for the type of  
8 construction management services desired by the public owner.

9 5. CONSTRUCTION MANAGEMENT CONTRACT. A construction  
10 management services contract for a public works project shall  
11 provide that the construction manager shall do all of the  
12 following:

13 a. Furnish skill and judgment in cooperation with, and in  
14 reliance on, the services of the public works project  
15 architect or engineer.

16 b. Furnish business administration, management of the  
17 construction process, and other specified services in an  
18 economical and expeditious manner consistent with the  
19 interests of the public owner.

20 c. Provide or perform general conditions work at the  
21 request of the public owner if the provision of such work is  
22 in the best interest of the public owner.

23 d. Not bid on or perform actual construction on a public  
24 works project on which the construction manager is performing  
25 construction management services.

26 e. Obtain a performance bond as required in chapter 573  
27 for services performed.

28 f. At the public owner's request, obtain professional  
29 liability insurance.

30 6. CONFLICTS PROHIBITED. A construction management  
31 services contract for a public works project shall not be  
32 awarded by a public owner to a construction manager that  
33 controls, is controlled by, or shares common ownership or  
34 control with another contractor on the public works project;  
35 that assumes financial responsibility for the work of others

1 on the project; that guarantees a maximum price for the work  
2 of others on the project; or that furnishes or guarantees a  
3 performance or payment bond for another contractor on the  
4 project.

5 A public owner shall not accept a bid from or award a  
6 contract on a public works project to a contractor that  
7 controls, is controlled by, or shares common ownership with or  
8 control of the construction manager on the public works  
9 project.

10 7. APPLICABILITY. This section does not apply to the  
11 planning, design, construction, maintenance, repair, or other  
12 work done for or on behalf of a public owner by employees of a  
13 public owner.

14 Sec. 2. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
15 3, shall not apply to this Act.

16 EXPLANATION

17 This bill regulates contracts for construction management  
18 services for public works projects. "Construction management  
19 services" includes consulting, advising, and making  
20 recommendations to a public owner during the planning and  
21 design phases of a public works project as well as in the  
22 construction phase of the project. A "public owner" is any  
23 public body including the state, an officer, agency,  
24 authority, board, or commission of the state or of a political  
25 subdivision, or any institution supported in whole or in part  
26 by public funds. A "public works project" is a permanent  
27 building or other construction work constructed for public use  
28 or benefit and paid for in whole or in part with public funds  
29 with the exception of work done by or for a drainage or levee  
30 district.

31 The bill provides that a public owner shall solicit bids  
32 when the provision of construction management services is  
33 estimated to exceed \$25,000, by publishing an advertisement in  
34 two publications of a newspaper with statewide circulation not  
35 less than 15 days before the date the bids are due.

1 The bill sets forth an evaluation and selection process for  
2 a public owner to select a construction manager that includes  
3 preparing requests for proposals containing specific required  
4 selection criteria and the weight given to each of the  
5 criteria, conducting interviews of construction managers who  
6 submit proposals with the highest preliminary scores based on  
7 the selection criteria, scoring the written proposals,  
8 interviews, and fee proposals of each construction manager  
9 interviewed, and awarding a contract for construction  
10 management services on a public works project to the  
11 construction manager with the highest score based on the  
12 selection criteria. However, if the public owner is unable to  
13 establish an agreement with the construction manager with the  
14 highest score for the type of construction management services  
15 desired by the public owner, the public owner shall award the  
16 contract to the construction manager with the next highest  
17 score that can reach an agreement with the public owner for  
18 the type of construction management services desired.

19 The bill prohibits a construction manager on a public works  
20 project from bidding on or performing actual construction on a  
21 public works project. A construction management services  
22 contract cannot be awarded to a construction manager that  
23 controls, or is controlled by, or otherwise has financial  
24 responsibility or makes guarantees for other participants on  
25 the public works project.

26 The bill may include a state mandate as defined in Code  
27 section 25B.3. The bill makes inapplicable Code section  
28 25B.2, subsection 3, which would relieve a political  
29 subdivision from complying with a state mandate if funding for  
30 the cost of the state mandate is not provided or specified.  
31 Therefore, political subdivisions are required to comply with  
32 any state mandate included in the bill.

33  
34  
35

## SENATE FILE 2292

## S-5118

1 Amend Senate File 2292 as follows:

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

4 "Section 1. NEW SECTION. 72.6 CONSTRUCTION  
5 MANAGEMENT SERVICES.

6 1. DEFINITIONS. As used in this section, unless  
7 the context otherwise provides:

8 a. "Construction management services" means all of  
9 the following:

10 (1) Services provided in the planning and design  
11 phases of a public works project including, but not  
12 limited to, the following:

13 (a) Consulting with, advising, assisting, and  
14 making recommendations to a public owner or architect,  
15 engineer, or registered landscape architect employed  
16 by the public owner on any aspect of planning for a  
17 public works project.

18 (b) Reviewing all plans and specifications for the  
19 public works project as they are developed and making  
20 recommendations concerning construction feasibility,  
21 availability of material and labor, time requirements  
22 for procurement and construction, and projected costs.

23 (c) Making, reviewing, and refining budget  
24 estimates for the public works project based on the  
25 public owner's plans and specifications and other  
26 available information.

27 (d) Making recommendations to the public owner or  
28 the architect or engineer on the public works project  
29 regarding the division of work in the plans and  
30 specifications to facilitate bidding on and the award  
31 of contracts.

32 (e) Soliciting the interest of capable bidders and  
33 assisting the public owner in taking bids on the  
34 public works project.

35 (f) Analyzing the bids received from contractors  
36 and awarding contracts for the public works project.

37 (g) Preparing and monitoring a progress schedule  
38 during the design phase of the project.

39 (h) Preparing a proposed construction schedule for  
40 the public works project.

41 (2) Services provided in the construction phase of  
42 the public works project including, but not limited  
43 to, the following:

44 (a) Maintaining competent supervisory staff to  
45 coordinate and provide general direction of the work  
46 and progress of the contractors on the public works  
47 project.

48 (b) Observing work on the public works project as  
49 it is performed for general conformity with working  
50 drawings and specifications.

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- 1 (c) Establishing procedures for coordinating the  
2 work of the public owner, architect, engineer,  
3 contractors, and the construction manager on all  
4 aspects of the public works project and implementing  
5 such procedures.
- 6 (d) Maintaining job site records and making  
7 appropriate progress reports.
- 8 (e) Reviewing the safety programs of each  
9 contractor on the public works project for conformity  
10 with the public owner's safety policies and making  
11 recommendations regarding such programs.
- 12 (f) Reviewing and processing all applications for  
13 payment by contractors and material suppliers on the  
14 public works project in accordance with the terms of  
15 the contract.
- 16 (g) Making recommendations for and processing  
17 requests for changes in work on the public works  
18 project and maintaining records of change orders.
- 19 (h) Scheduling and conducting job meetings to  
20 ensure orderly progress of work on the public works  
21 project.
- 22 (i) Developing and monitoring a progress schedule  
23 for the public works project, coordinating and  
24 expediting the work of all contractors on the project,  
25 and providing periodic status reports to the public  
26 owner and the architect or engineer.
- 27 (j) Establishing and maintaining a cost control  
28 system for the public works project and conducting  
29 meetings to review costs.
- 30 "Construction management services" does not include  
31 architectural services provided within the practice of  
32 architecture as defined in section 544A.16 or  
33 engineering services provided within the practice of  
34 engineering as defined in section 542B.2.
- 35 b. "Construction manager" means any person, firm,  
36 or corporation that provides construction management  
37 services to a public owner. For purposes of this  
38 section, a construction manager is not a "contractor"  
39 as defined in section 91C.1.
- 40 c. "General conditions work" means work that is  
41 not permanently incorporated into a public works  
42 project.
- 43 d. "Public owner" means a public body including  
44 the state of Iowa, an officer, official, agency,  
45 authority, board, or commission of the state or of a  
46 political subdivision or an institution supported in  
47 whole or in part by public funds.
- 48 e. "Public works" means a permanent building or  
49 other construction work constructed for public use or  
50 benefit and paid for in whole or in part with public

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1 funds, including a public improvement as defined in  
2 section 73A.1, 331.341, 384.37, or 384.95, and  
3 including any work performed directly by a public  
4 utility as defined in section 368.1 when performed by  
5 a public utility pursuant to an order of a public  
6 authority or commission whether or not the work is  
7 performed under public supervision or direction or  
8 paid for in whole or in part with public funds.

9 "Public works" does not include any work done by or on  
10 behalf of a drainage or levee district.

11 f. "Public works project" or "project" means the  
12 construction, maintenance, or repair of public works.

13 2. USE OF CONSTRUCTION MANAGER. A public owner  
14 may engage a construction manager when planning,  
15 designing, or constructing a public works, or when  
16 improving, altering, or repairing a public works. A  
17 public owner may engage a construction manager in the  
18 preconstruction phase of a public works project or in  
19 both the preconstruction and construction phases of  
20 the project.

21 3. SOLICITATION OF CONSTRUCTION MANAGEMENT  
22 SERVICES. When the estimated cost of construction  
23 management services for a public works project exceeds  
24 twenty-five thousand dollars, a public owner shall  
25 solicit a proposed construction management services  
26 contract by publishing an advertisement in a newspaper  
27 published at least once weekly and having general  
28 circulation in the city or county where the public  
29 works project is located. The notice must be  
30 published at least once, not less than twenty nor more  
31 than forty-five days before the date set by the public  
32 owner for submission of proposals. The public owner  
33 may publish an advertisement in an electronic format  
34 as an additional method of soliciting proposals under  
35 this subsection.

36 4. CONSTRUCTION MANAGEMENT CONTRACT. A  
37 construction manager shall not bid on or perform  
38 actual construction on a public works project for  
39 which the construction manager is performing  
40 construction management services.

41 5. CONFLICTS PROHIBITED. A construction  
42 management services contract for a public works  
43 project shall not be awarded by a public owner to a  
44 construction manager that controls, is controlled by,  
45 or shares common ownership or control with another  
46 contractor on the public works project; that assumes  
47 financial responsibility for the work of others on the  
48 project; that guarantees a maximum price for the work  
49 of others on the project; or that furnishes or  
50 guarantees a performance or payment bond for another

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1 contractor on the project.  
2 A public owner shall not accept a bid from or award  
3 a contract on a public works project to a contractor  
4 that controls, is controlled by, or shares common  
5 ownership with or control of the construction manager  
6 on the public works project.

7 6. APPLICABILITY. This section does not apply to  
8 the planning, design, construction, maintenance,  
9 repair, or other work done for or on behalf of a  
10 public owner by employees of a public owner.

11 Sec. 2. IMPLEMENTATION OF ACT. Section 25B.2,  
12 subsection 3, shall not apply to this Act."

By JOHN W. JENSEN  
MICHAEL E. GRONSTAL

**S-5118** FILED MARCH 6, 2002

*w/d  
3/14/02  
(p. 626)*

SENATE FILE 2292

S-5163

1 Amend Senate File 2292 as follows:

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

4 "Section 1. NEW SECTION. 72.6 CONSTRUCTION  
5 MANAGEMENT SERVICES.

6 1. DEFINITIONS. As used in this section, unless  
7 the context otherwise provides:

8 a. "Construction management services" means all of  
9 the following:

10 (1) Services provided in the planning and design  
11 phases of a public works project may include, but are  
12 not limited to, the following:

13 (a) Consulting with, advising, assisting, and  
14 making recommendations to a public owner or architect,  
15 engineer, or registered landscape architect employed  
16 by the public owner.

17 (b) Reviewing all plans and specifications for the  
18 public works project as they are developed and making  
19 recommendations concerning construction feasibility,  
20 availability of material and labor, time requirements  
21 for procurement and construction, and projected costs.

22 (c) Making, reviewing, and refining budget  
23 estimates for the public works project based on the  
24 public owner's plans and specifications and other  
25 available information.

26 (d) Soliciting the interest of capable bidders and  
27 assisting the public owner in receiving proposals for  
28 the public works project.

29 (e) Analyzing the proposals received from  
30 contractors and recommending contracts for the public  
31 works project.

32 (f) Preparing and monitoring a progress schedule  
33 during the design phase of the project.

34 (2) Services provided in the construction phase of  
35 the public works project may include, but are not  
36 limited to, the following:

37 (a) Maintaining competent supervisory staff to  
38 coordinate and provide general direction of the work  
39 and progress of the contractors on the public works  
40 project.

41 (b) Establishing procedures for coordinating the  
42 work of the public owner, architect, engineer,  
43 contractors, and the construction manager on all  
44 aspects of the public works project and implementing  
45 such procedures.

46 (c) Maintaining job site records.

47 (d) Reviewing the safety programs of each  
48 contractor on the public works project for conformity  
49 with the public owner's safety policies and making  
50 recommendations regarding such programs.

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1 (e) Scheduling and conducting job meetings to  
2 ensure orderly progress of work on the public works  
3 project.

4 (f) Developing and monitoring a progress schedule  
5 for the public works project, coordinating and  
6 expediting the work of all contractors on the project,  
7 and providing periodic status reports to the public  
8 owner and the architect or engineer.

9 "Construction management services" does not include  
10 architectural services provided within the practice of  
11 architecture as defined in section 544A.16 or  
12 engineering services provided within the practice of  
13 engineering as defined in section 542B.2.

14 b. "Construction manager" means any person, firm,  
15 or corporation that provides construction management  
16 services to a public owner. For purposes of this  
17 section, a construction manager shall not perform the  
18 duties of the architect or engineer of record.

19 c. "Public owner" means a public body including  
20 the state of Iowa, an officer, official, agency,  
21 authority, board, or commission of the state or of a  
22 political subdivision or an institution supported in  
23 whole or in part by public funds.

24 d. "Public works" means a permanent building or  
25 other construction work constructed for public use or  
26 benefit and paid for in whole or in part with public  
27 funds, including a public improvement as defined in  
28 section 73A.1, 331.341, 384.37, or 384.95, and  
29 including any work performed directly by a public  
30 utility as defined in section 368.1 when performed by  
31 a public utility pursuant to an order of a public  
32 authority or commission whether or not the work is  
33 performed under public supervision or direction or  
34 paid for in whole or in part with public funds.  
35 "Public works" does not include any work done by or on  
36 behalf of a drainage or levee district.

37 e. "Public works project" or "project" means the  
38 construction, maintenance, or repair of public works.

39 2. USE OF CONSTRUCTION MANAGER. A public owner  
40 may engage a construction manager when planning,  
41 designing, or constructing a public works, or when  
42 improving, altering, or repairing a public works. A  
43 public owner may engage a construction manager in the  
44 preconstruction phase of a public works project or in  
45 both the preconstruction and construction phases of  
46 the project.

47 3. SOLICITATION OF CONSTRUCTION MANAGEMENT  
48 SERVICES. When the estimated cost of construction  
49 management services for a public works project exceeds  
50 twenty-five thousand dollars, a public owner shall

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1 solicit a proposed construction management services  
2 contract by publishing an advertisement in a newspaper  
3 published at least once weekly and having general  
4 circulation in the city or county where the public  
5 works project is located. The notice must be  
6 published at least once, not less than twenty nor more  
7 than forty-five days before the date set by the public  
8 owner for submission of proposals. The notice shall  
9 contain a statement that the public owner reserves the  
10 right to reject any or all proposals and seek  
11 additional proposals or may in its discretion not seek  
12 additional proposals. The public owner may publish an  
13 advertisement in an electronic format as an additional  
14 method of soliciting proposals under this subsection.

15 4. SELECTION CRITERIA. In a request for proposals  
16 for construction management services, a public owner  
17 shall include a description of the scope of  
18 construction management services desired and the  
19 selection criteria to be used in evaluating proposals  
20 for construction management services and shall require  
21 a construction manager making a proposal to propose  
22 significant efficiencies or improvements in the  
23 quality of the public works project, as determined by  
24 the public owner.

25 5. CONSTRUCTION MANAGEMENT SERVICES CONTRACT. A  
26 construction management services contract for a public  
27 works project shall provide that the construction  
28 manager shall do all of the following:

29 a. Furnish skill and judgment in cooperation with,  
30 and in reliance on, the services of the public works  
31 project architect, engineer, and general contractor.

32 b. Furnish business administration services,  
33 management of the construction process, and other  
34 specified services in an economical and expeditious  
35 manner consistent with the interests of the public  
36 owner.

37 c. Refrain from bidding on or perform actual  
38 construction or general conditions work on a public  
39 works project on which the construction manager is  
40 performing construction management services.

41 d. Obtain professional liability insurance at the  
42 public owner's request. A construction manager shall  
43 also be required to obtain a performance bond as  
44 required pursuant to chapter 573 for services  
45 performed. A professional engineer licensed pursuant  
46 to chapter 542B, or a registered architect licensed  
47 pursuant to chapter 544A, who performs construction  
48 management services, is not required to obtain a  
49 performance bond as required pursuant to chapter 573  
50 for services performed.

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1 e. Recommend contracts or change orders to a  
2 public owner but a construction manager shall not  
3 authorize contracts or change orders.

4 A contract for construction management services  
5 shall be a public document and shall be available to  
6 the public for the reasonable cost of reproduction of  
7 the contract.

8 6. CONFLICTS PROHIBITED. A construction  
9 management services contract for a public works  
10 project shall not be awarded by a public owner to a  
11 construction manager that controls, is controlled by,  
12 or shares common ownership or control with another  
13 contractor, subcontractor, or supplier on the public  
14 works project; that assumes financial responsibility  
15 for the work of others on the project; that guarantees  
16 a maximum price for the work of others on the project;  
17 or that furnishes or guarantees a performance or  
18 payment bond for another contractor on the project.

19 7. APPLICABILITY. This section does not apply to  
20 the planning, design, construction, maintenance,  
21 repair, or other work done for or on behalf of a  
22 public owner by employees of a public owner.

23 Sec. 2. IMPLEMENTATION OF ACT. Section 25B.2,  
24 subsection 3, shall not apply to this Act.

25 Sec. 3. APPLICABILITY. This Act does not apply to  
26 construction management contracts entered into prior  
27 to the effective date of this Act.

28 Sec. 4. PUBLIC WORKS PROJECTS INTERIM STUDY. The  
29 legislative council is requested to authorize an  
30 interim study committee to study the professional  
31 relationships between public owners, contractors,  
32 construction managers, architects, engineers, and  
33 landscape architects and to review issues concerning  
34 bid comparisons on multiple contracts, the merits of  
35 limiting the number of contracts, the professional  
36 responsibilities of a public owner, contractor,  
37 construction manager, architect, engineer, and  
38 landscape architect on a public works project, and any  
39 other issue raised by the members of the interim study  
40 committee. The interim study shall include making  
41 recommendations for a clear chain of command on public  
42 works projects and proposing guidelines for the  
43 interrelationship of public owners, contractors,  
44 construction managers, architects, engineers, and  
45 landscape architects on public works projects. The  
46 study committee shall be composed of representatives  
47 of organizations including but not limited to  
48 associated builders and contractors of Iowa, master  
49 builders of Iowa, and organizations representing  
50 construction managers, Iowa general contractors for

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1 competitive bidding, architects, engineers, rural  
2 water, and landscape architects. Appointments to the  
3 committee shall be made no later than August 1, 2002.  
4 Staffing for the committee shall be provided by the  
5 legislative service bureau. The study committee shall  
6 submit a report of its findings and recommendations,  
7 including proposed legislation, if any, to the general  
8 assembly on or before January 13, 2003."

**By** STEVE KING  
TOM FLYNN  
JOHN W. JENSEN

**S-5163** FILED MARCH 14, 2002  
DEFERRED

**SENATE FILE 2292****S-5164**

1 Amend the amendment, S-5163, to Senate File 2292,  
2 as follows:  
3 1. Page 2, by striking lines 35 and 36.

**By** THOMAS FIEGEN

**S-5164** FILED MARCH 14, 2002

**SENATE FILE 2292****S-5165**

1 Amend the amendment, S-5163, to Senate File 2292,  
2 as follows:  
3 1. Page 4, by inserting after line 22 the  
4 following:  
5 "\_\_\_\_. ALTERNATIVE PROCESS. Institutions governed  
6 under chapter 262 may adopt and use an alternative  
7 solicitation, selection, and award process than that  
8 set forth in this section provided that the  
9 alternative solicitation, selection, and award process  
10 is adopted by the governing body of such institutions  
11 in administrative rules adopted pursuant to chapter  
12 17A or in other published formal documents available  
13 to the general public."

**By** ROBERT E. DVORSKY

**S-5165** FILED MARCH 14, 2002

## SENATE FILE 2292

## S-5166

1 Amend the amendment, S-5163, to Senate File 2292,  
2 as follows:

3 1. Page 4, line 22 by inserting after the word  
4 "owner." the following: "This section does not apply  
5 to any public works project that receives any funding  
6 from sources other than state funds."

7 2. Page 4, line 22, by inserting after the word  
8 "owner." the following: "This section does not apply  
9 to school districts, community colleges governed under  
10 chapter 260C, or board of regents institutions  
11 governed under chapter 262."

12 3. Page 4, by inserting after line 22 the  
13 following:

14 "Sec. \_\_\_\_ . Section 73A.2, Code 2001, is amended to  
15 read as follows:

16 73A.2 NOTICE OF HEARING.

17 Before any municipality shall enter into any  
18 contract for any public improvement to cost ~~twenty-~~  
19 five one hundred thousand dollars or more, the  
20 governing body proposing to make the contract shall  
21 adopt proposed plans and specifications and proposed  
22 form of contract, fix a time and place for hearing at  
23 the municipality affected or other nearby convenient  
24 place, and give notice by publication in at least one  
25 newspaper of general circulation in the municipality  
26 at least ten days before the hearing.

27 Sec. \_\_\_\_ . Section 262.34, unnumbered paragraph 1,  
28 Code 2001, is amended to read as follows:

29 When the estimated cost of construction, repairs,  
30 or improvement of buildings or grounds under charge of  
31 the state board of regents exceeds ~~twenty-five~~ one  
32 hundred thousand dollars, the board shall advertise  
33 for bids for the contemplated improvement or  
34 construction and shall let the work to the lowest  
35 responsible bidder. However, if in the judgment of  
36 the board bids received are not acceptable, the board  
37 may reject all bids and proceed with the construction,  
38 repair, or improvement by a method as the board may  
39 determine. All plans and specifications for repairs  
40 or construction, together with bids on the plans or  
41 specifications, shall be filed by the board and be  
42 open for public inspection. All bids submitted under  
43 this section shall be accompanied by a deposit of  
44 money, a certified check or a credit union certified  
45 share draft in an amount as the board may prescribe."

46 4. Page 5, line 2, by striking the words "and  
47 landscape architects" and inserting the following:  
48 "landscape architects, and representatives of public  
49 owners subject to this Act".

By JOE BOLKCOM

# Legislative Fiscal Bureau

## Fiscal Note

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SF 2292 - Construction Management Services (LSB 6686 SV)  
Analyst: Dwayne Ferguson (Phone: (515) 281-6561) (dwayne.ferguson@legis.state.ia.us)  
Fiscal Note Version - New

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### Description

Senate File 2292 regulates contracts for construction management services for public works projects. The Bill requires a public owner to solicit bids by advertising in statewide newspapers when construction management services exceed \$25,000. An evaluation and selection process, criteria weighting, interviews with construction managers who submit proposals, scoring, and other aspects. The Bill prohibits a construction manager from bidding or performing actual construction on a project he or she is managing.

### Assumptions

1. The Bill applies to State and local governmental or political entities.
2. The Bill is not a State mandate since it notwithstanding Section 25B.3, Code of Iowa, regarding State mandates.

### Fiscal Impact

It is not known how many public works projects will contract for construction management services or how much the bidding and selection processes will cost.

### Sources

Department of General Service  
Iowa League of Cities

\_\_\_\_\_  
/s/ Dennis C Prouty

February 27, 2002

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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