

FEB 1 6 2005  
STATE GOVERNMENT

HOUSE FILE 321  
BY HUTTER

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

**A BILL FOR**

1 An Act changing the bid threshold requirement for certain public  
2 improvement contracts.

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

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HF 321

1 Section 1. Section 8A.311, subsection 9, paragraph a, Code  
2 2005, is amended to read as follows:

3 a. When the estimated total cost of construction,  
4 erection, demolition, alteration, or repair of a public  
5 improvement exceeds ~~twenty-five~~ fifty thousand dollars, the  
6 department shall solicit bids on the proposed improvement by  
7 publishing an advertisement in a print format. The  
8 advertisement shall appear in two publications in a newspaper  
9 published in the county in which the work is to be done. The  
10 first advertisement for bids appearing in a newspaper shall be  
11 not less than fifteen days prior to the date set for receiving  
12 bids. The department may publish an advertisement in an  
13 electronic format as an additional method of soliciting bids  
14 under this paragraph.

15 Sec. 2. Section 8A.311, subsection 16, Code 2005, is  
16 amended to read as follows:

17 16. The department shall not award a contract to a bidder  
18 for a construction, reconstruction, demolition, or repair  
19 project or improvement with an estimated cost that exceeds  
20 ~~twenty-five~~ fifty thousand dollars in which the bid requires  
21 the use of inmate labor supplied by the department of  
22 corrections, but not employed by private industry pursuant to  
23 section 904.809, to perform the project or improvement.

24 Sec. 3. Section 35A.10, subsection 2, Code 2005, is  
25 amended to read as follows:

26 2. The commandant and the commission shall have plans and  
27 specifications prepared by the department of administrative  
28 services for authorized construction, repair, or improvement  
29 projects in excess of ~~twenty-five~~ fifty thousand dollars. An  
30 appropriation for a project shall not be expended until the  
31 department of administrative services has adopted plans and  
32 specifications and has completed a detailed estimate of the  
33 cost of the project, prepared under the supervision of a  
34 registered architect or registered professional engineer.

35 Sec. 4. Section 35A.10, subsection 3, Code 2005, is

1 amended to read as follows:

2 3. The director of the department of administrative  
3 services shall, in writing, let all contracts for authorized  
4 improvements in excess of ~~twenty-five~~ fifty thousand dollars  
5 in accordance with chapter 8A, subchapter III. The director  
6 of the department of administrative services shall not  
7 authorize payment for construction purposes until satisfactory  
8 proof has been furnished by the proper officer or supervising  
9 architect that the parties have complied with the contract.

10 Sec. 5. Section 73A.2, Code 2005, is amended to read as  
11 follows:

12 73A.2 NOTICE OF HEARING.

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

22 Sec. 6. Section 73A.18, Code 2005, is amended to read as  
23 follows:

24 73A.18 WHEN BIDS REQUIRED -- ADVERTISEMENT -- DEPOSIT.

25 When the estimated total cost of construction, erection,  
26 demolition, alteration or repair of a public improvement  
27 exceeds ~~twenty-five~~ fifty thousand dollars, the municipality  
28 shall advertise for bids on the proposed improvement by two  
29 publications in a newspaper published in the county in which  
30 the work is to be done. The first advertisement for bids  
31 shall be not less than fifteen days prior to the date set for  
32 receiving bids. The municipality shall let the work to the  
33 lowest responsible bidder submitting a sealed proposal.  
34 However, if in the judgment of the municipality bids received  
35 are not acceptable, all bids may be rejected and new bids

1 requested. A bid shall be accompanied, in a separate  
2 envelope, by a deposit of money or a certified check or credit  
3 union certified share draft in an amount to be named in the  
4 advertisement for bids as security that the bidder will enter  
5 into a contract for the doing of the work. The municipality  
6 shall fix the bid security in an amount equal to at least five  
7 percent, but not more than ten percent of the estimated total  
8 cost of the work. The checks, share drafts or deposits of  
9 money of the unsuccessful bidders shall be returned as soon as  
10 the successful bidder is determined, and the check, share  
11 draft or deposit of money of the successful bidder shall be  
12 returned upon execution of the contract documents. This  
13 section does not apply to the construction, erection,  
14 demolition, alteration or repair of a public improvement when  
15 the contracting procedure for the doing of the work is  
16 provided for in another provision of law.

17 Sec. 7. Section 161C.2, subsection 1, paragraph b, Code  
18 2005, is amended to read as follows:

19 b. Any work project with an estimated cost of ~~twenty-five~~  
20 fifty thousand dollars or more shall be undertaken as a public  
21 contract as provided in chapters 73A and 573. The local  
22 contracting organization shall designate a contracting officer  
23 and shall establish procedures to manage the contract, approve  
24 bills for payment, and review proposed change orders or  
25 amendments to the contract.

26 Sec. 8. Section 218.58, subsections 2 and 4, Code 2005,  
27 are amended to read as follows:

28 2. The director shall have plans and specifications  
29 prepared by the department of administrative services for  
30 authorized construction, repair, or improvement projects  
31 costing over ~~twenty-five~~ fifty thousand dollars. An  
32 appropriation for a project shall not be expended until the  
33 department of administrative services has adopted plans and  
34 specifications and has completed a detailed estimate of the  
35 cost of the project, prepared under the supervision of a

1 registered architect or registered professional engineer.  
2 Plans and specifications shall not be adopted and a project  
3 shall not proceed if the project would require an expenditure  
4 of money in excess of the appropriation.

5 4. If the director of the department of human services and  
6 the director of the department of administrative services  
7 determine that emergency repairs or improvements estimated to  
8 cost more than ~~twenty-five~~ fifty thousand dollars are  
9 necessary to assure the continued operation of a departmental  
10 institution, the requirements of subsections 2 and 3 for  
11 preparation of plans and specifications and competitive  
12 procurement procedures are waived. A determination of  
13 necessity for waiver by the director of the department of  
14 human services and the director of the department of  
15 administrative services shall be in writing and shall be  
16 entered in the project record for emergency repairs or  
17 improvements. Emergency repairs or improvements shall be  
18 accomplished using plans and specifications and competitive  
19 procurement procedures to the greatest extent possible,  
20 considering the necessity for rapid completion of the project.  
21 A waiver of the requirements of subsections 2 and 3 does not  
22 authorize an expenditure in excess of an amount otherwise  
23 authorized for the repair or improvement.

24 Sec. 9. Section 262.34, unnumbered paragraph 1, Code 2005,  
25 is amended to read as follows:

26 When the estimated cost of construction, repairs, or  
27 improvement of buildings or grounds under charge of the state  
28 board of regents exceeds ~~twenty-five~~ fifty thousand dollars,  
29 the board shall advertise for bids for the contemplated  
30 improvement or construction and shall let the work to the  
31 lowest responsible bidder. However, if in the judgment of the  
32 board bids received are not acceptable, the board may reject  
33 all bids and proceed with the construction, repair, or  
34 improvement by a method as the board may determine. All plans  
35 and specifications for repairs or construction, together with

1 bids on the plans or specifications, shall be filed by the  
2 board and be open for public inspection. All bids submitted  
3 under this section shall be accompanied by a deposit of money,  
4 a certified check or a credit union certified share draft in  
5 an amount as the board may prescribe.

6 Sec. 10. Section 297.8, Code 2005, is amended to read as  
7 follows:

8 297.8 EMERGENCY REPAIRS.

9 When emergency repairs costing more than ~~twenty-five~~ fifty  
10 thousand dollars are necessary in order to prevent the closing  
11 of any school, the provisions of the law with reference to  
12 advertising for bids shall not apply, and in that event the  
13 board may contract for such emergency repairs without  
14 advertising for bids. However, before such emergency repairs  
15 can be made to any schoolhouse, it shall be necessary to  
16 procure a certificate from the area education agency  
17 administrator that such emergency repairs are necessary to  
18 prevent the closing of the school.

19 Sec. 11. Section 330A.12, Code 2005, is amended to read as  
20 follows:

21 330A.12 AWARD OF CONTRACT.

22 All contracts entered into by an authority for the  
23 construction, reconstruction, and improvement of aviation  
24 facilities shall be entered into pursuant to and shall comply  
25 with chapter 73A. However, where an authority determines an  
26 emergency exists, it may enter into contracts obligating the  
27 authority for not in excess of ~~twenty-five~~ fifty thousand  
28 dollars per emergency without regard to the requirements of  
29 chapter 73A and the authority may proceed with the necessary  
30 action as expeditiously as possible to the extent necessary to  
31 resolve such emergency.

32 Sec. 12. Section 380.4, unnumbered paragraph 1, Code 2005,  
33 is amended to read as follows:

34 Passage of an ordinance, amendment, or resolution requires  
35 a majority vote of all of the members of the council, except

1 when the mayor may vote to break a tie vote in a city with an  
2 even number of council members, as provided in section 372.4.  
3 Passage of a motion requires a majority vote of a quorum of  
4 the council. A resolution must be passed to spend public  
5 funds in excess of ~~twenty-five~~ fifty thousand dollars on any  
6 one project, or to accept public improvements and facilities  
7 upon their completion. Each council member's vote on a  
8 measure must be recorded. A measure which fails to receive  
9 sufficient votes for passage shall be considered defeated.

10 Sec. 13. Section 384.96, Code 2005, is amended to read as  
11 follows:

12 384.96 SEALED BIDS.

13 When the estimated total cost to a city of a public  
14 improvement exceeds the sum of ~~twenty-five~~ fifty thousand  
15 dollars, the governing body shall advertise for sealed bids  
16 for the proposed improvement by publishing a notice to bidders  
17 as provided in section 362.3, except that the notice to  
18 bidders may be published more than twenty days but not more  
19 than forty-five days before the date for filing bids.

20 Sec. 14. Section 384.102, Code 2005, is amended to read as  
21 follows:

22 384.102 WHEN HEARING NECESSARY.

23 When the estimated total cost of a public improvement  
24 exceeds the sum of ~~twenty-five~~ fifty thousand dollars, the  
25 governing body shall not enter into a contract for the  
26 improvement until it has held a public hearing on the proposed  
27 plans, specifications, and form of contract, and estimated  
28 cost for the improvement. Notice of the hearing must be  
29 published as provided in section 362.3. At the hearing any  
30 interested person may appear and file objections to the  
31 proposed plans, specifications, contract, or estimated cost of  
32 the improvement. After hearing objections, the governing body  
33 shall by resolution enter its decision on the plans,  
34 specifications, contract, and estimated cost.

35 Sec. 15. Section 573.2, unnumbered paragraph 1, Code 2005,

1 is amended to read as follows:

2 Contracts for the construction of a public improvement  
3 shall, when the contract price equals or exceeds ~~twenty-five~~  
4 fifty thousand dollars, be accompanied by a bond, with surety,  
5 conditioned for the faithful performance of the contract, and  
6 for the fulfillment of other requirements as provided by law.  
7 The bond may also be required when the contract price does not  
8 equal that amount. However, if a contractor provides a  
9 performance or maintenance bond as required by a public  
10 improvement contract governed by this chapter and subsequently  
11 the surety company becomes insolvent and the contractor is  
12 required to purchase a new bond, the contractor may apply for  
13 reimbursement from the governmental agency that required a  
14 second bond and the claims shall be reimbursed from funds  
15 allocated for road construction purposes.

16 Sec. 16. Section 904.314, unnumbered paragraph 1, Code  
17 2005, is amended to read as follows:

18 The director shall cause plans and specifications to be  
19 prepared by the department of administrative services for all  
20 improvements authorized and costing over ~~twenty-five~~ fifty  
21 thousand dollars. An appropriation for any improvement  
22 costing over ~~twenty-five~~ fifty thousand dollars shall not be  
23 expended until the adoption of suitable plans and  
24 specifications, prepared by a competent architect and  
25 accompanied by a detailed statement of the amount, quality,  
26 and description of all material and labor required for the  
27 completion of the improvement.

28 Sec. 17. Section 904.315, Code 2005, is amended to read as  
29 follows:

30 904.315 CONTRACTS FOR IMPROVEMENTS.

31 The director of the department of administrative services  
32 shall, in writing, let all contracts for authorized  
33 improvements costing in excess of ~~twenty-five~~ fifty thousand  
34 dollars under chapter 8A, subchapter III. Upon prior  
35 authorization by the director, improvements costing five

1 thousand dollars or less may be made by the superintendent of  
2 any institution.

3 A contract is not required for improvements at a state  
4 institution where the labor of inmates is to be used if the  
5 contract is not for a construction, reconstruction,  
6 demolition, or repair project or improvement with an estimated  
7 cost in excess of ~~twenty-five~~ fifty thousand dollars.

8 EXPLANATION

9 This bill changes the bid threshold requirement for  
10 advertising for bids for a contract for a public improvement  
11 from a cost of \$25,000 to a minimum cost of \$50,000. This  
12 increase in the threshold applies to contracts entered into by  
13 the state department of administrative services; the  
14 department of human services; the veterans affairs commission;  
15 municipalities, including townships; school corporations; the  
16 state fair board; the state board of regents; soil and water  
17 conservation districts; aviation authorities; counties;  
18 cities; and the state department of corrections. The bill  
19 applies the threshold amount requirement to the bond  
20 requirement for construction of public improvements by the  
21 state and major political subdivisions pursuant to Code  
22 section 573.2.

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