

FEB 25 2005

LOCAL GOVERNMENT

HOUSE FILE 449  
BY S. OLSON

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

A BILL FOR

1 An Act relating to certain bid threshold requirements for certain  
2 public works projects.

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

HF 449

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

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 one hundred thousand dollars,  
6 the department shall solicit bids on the proposed improvement  
7 by 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 one hundred thousand dollars in which the bid  
21 requires 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 one hundred thousand  
30 dollars. An appropriation for a project shall not be expended  
31 until the department of administrative services has adopted  
32 plans and specifications and has completed a detailed estimate  
33 of the cost of the project, prepared under the supervision of  
34 a 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~~ one hundred thousand  
5 dollars in accordance with chapter 8A, subchapter III. The  
6 director of the department of administrative services shall  
7 not authorize payment for construction purposes until  
8 satisfactory proof has been furnished by the proper officer or  
9 supervising architect that the parties have complied with the  
10 contract.

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

13 73A.2 NOTICE OF HEARING.

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

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

25 73A.18 WHEN BIDS REQUIRED -- ADVERTISEMENT -- DEPOSIT.

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

S.F. \_\_\_\_\_

H.F. 449

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

18 Sec. 7. Section 161C.2, subsection 1, paragraph b, Code  
19 2005, is amended to read as follows:

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

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

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

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

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

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

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

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

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

9 297.8 EMERGENCY REPAIRS.

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

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

22 330A.12 AWARD OF CONTRACT.

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

33 Sec. 12. Section 331.341, subsection 1, Code 2005, is  
34 amended to read as follows:

35 1. When the estimated cost of a public improvement, other

1 than improvements which may be paid for from the secondary  
2 road fund, exceeds ~~the amount specified in section 389.40~~ one  
3 hundred thousand dollars, the board shall follow the contract  
4 letting procedures provided for cities in sections 384.95 to  
5 384.103. However, in following those sections the board shall  
6 substitute the word "county" for the word "city", and section  
7 331.305 for section 362.3, shall consider "governing body" to  
8 mean the board, and shall exclude references to a city  
9 utility, utility board of trustees, or public utilities. As  
10 used in this section, "public improvement" means the same as  
11 defined in section 384.95 as modified by this subsection.

12 Sec. 13. Section 380.4, unnumbered paragraph 1, Code 2005,  
13 is amended to read as follows:

14 Passage of an ordinance, amendment, or resolution requires  
15 a majority vote of all of the members of the council, except  
16 when the mayor may vote to break a tie vote in a city with an  
17 even number of council members, as provided in section 372.4.  
18 Passage of a motion requires a majority vote of a quorum of  
19 the council. A resolution must be passed to spend public  
20 funds in excess of ~~twenty-five~~ one hundred thousand dollars on  
21 any one project, or to accept public improvements and  
22 facilities upon their completion. Each council member's vote  
23 on a measure must be recorded. A measure which fails to  
24 receive sufficient votes for passage shall be considered  
25 defeated.

26 Sec. 14. Section 384.96, Code 2005, is amended to read as  
27 follows:

28 384.96 SEALED BIDS.

29 When the estimated total cost to a city of a public  
30 improvement exceeds the sum of ~~twenty-five~~ one hundred  
31 thousand dollars, the governing body shall advertise for  
32 sealed bids for the proposed improvement by publishing a  
33 notice to bidders as provided in section 362.3, except that  
34 the notice to bidders may be published more than twenty days  
35 but not more than forty-five days before the date for filing

1 bids.

2 Sec. 15. Section 384.102, Code 2005, is amended to read as  
3 follows:

4 384.102 WHEN HEARING NECESSARY.

5 When the estimated total cost of a public improvement  
6 exceeds the sum of ~~twenty-five~~ one hundred thousand dollars,  
7 the governing body shall not enter into a contract for the  
8 improvement until it has held a public hearing on the proposed  
9 plans, specifications, and form of contract, and estimated  
10 cost for the improvement. Notice of the hearing must be  
11 published as provided in section 362.3. At the hearing any  
12 interested person may appear and file objections to the  
13 proposed plans, specifications, contract, or estimated cost of  
14 the improvement. After hearing objections, the governing body  
15 shall by resolution enter its decision on the plans,  
16 specifications, contract, and estimated cost.

17 Sec. 16. Section 573.2, unnumbered paragraph 1, Code 2005,  
18 is amended to read as follows:

19 Contracts for the construction of a public improvement  
20 shall, when the contract price equals or exceeds ~~twenty-five~~  
21 one hundred thousand dollars, be accompanied by a bond, with  
22 surety, conditioned for the faithful performance of the  
23 contract, and for the fulfillment of other requirements as  
24 provided by law. The bond may also be required when the  
25 contract price does not equal that amount. However, if a  
26 contractor provides a performance or maintenance bond as  
27 required by a public improvement contract governed by this  
28 chapter and subsequently the surety company becomes insolvent  
29 and the contractor is required to purchase a new bond, the  
30 contractor may apply for reimbursement from the governmental  
31 agency that required a second bond and the claims shall be  
32 reimbursed from funds allocated for road construction  
33 purposes.

34 Sec. 17. Section 904.314, unnumbered paragraph 1, Code  
35 2005, is amended to read as follows:

1 The director shall cause plans and specifications to be  
2 prepared by the department of administrative services for all  
3 improvements authorized and costing over twenty-five one  
4 hundred thousand dollars. An appropriation for any  
5 improvement costing over twenty-five one hundred thousand  
6 dollars shall not be expended until the adoption of suitable  
7 plans and specifications, prepared by a competent architect  
8 and accompanied by a detailed statement of the amount,  
9 quality, and description of all material and labor required  
10 for the completion of the improvement.

11 Sec. 18. Section 904.315, Code 2005, is amended to read as  
12 follows:

13 904.315 CONTRACTS FOR IMPROVEMENTS.

14 The director of the department of administrative services  
15 shall, in writing, let all contracts for authorized  
16 improvements costing in excess of twenty-five one hundred  
17 thousand dollars under chapter 8A, subchapter III. Upon prior  
18 authorization by the director, improvements costing five  
19 thousand dollars or less may be made by the superintendent of  
20 any institution.

21 A contract is not required for improvements at a state  
22 institution where the labor of inmates is to be used if the  
23 contract is not for a construction, reconstruction,  
24 demolition, or repair project or improvement with an estimated  
25 cost in excess of twenty-five one hundred thousand dollars.

26 EXPLANATION

27 This bill relates to certain bid requirements for certain  
28 public improvements.

29 The bill changes the threshold requirement for advertising  
30 for bids for a contract for the construction of a public  
31 improvement from a cost of \$25,000 to a minimum cost of  
32 \$100,000. This increase in the threshold applies to contracts  
33 entered into by the state department of administrative  
34 services; the department of human services; the veterans  
35 affairs commission; municipalities, including townships;

1 school corporations; the state fair board; the state board of  
2 regents; soil and water conservation districts; aviation  
3 authorities; counties; cities; and the state department of  
4 corrections. The bill applies the threshold amount  
5 requirement to the bond requirement for construction of public  
6 improvements by the state and major political subdivisions  
7 pursuant to Code section 573.2.

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35