

MAR 9 1978

Place On Calendar

HOUSE FILE 2323

BY COMMITTEE ON COMMERCE

HOUSE FILE 2323

Commerce
Hill of Jasper, Chairperson
Rodgers
Curtis

Passed House, Date 4-6-78 (p 1408) Passed Senate, Date _____

Vote: Ayes 89 Nays 0 Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to retention from payment on public contracts
2 and escrow agreements.

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

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HOUSE FILE 2323

S-5764

1 Amend House File 2323 as passed by the House as
2 follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:
5 "Section 1. Chapter five hundred seventy-three
6 (573), Code 1977, is amended by adding the following
7 new section:

8 NEW SECTION. Under any contract for a public
9 improvement made or awarded by a public corporation
10 the contractor shall be entitled to receive any
11 interest earned by the public corporation on amounts
12 retained by the public corporation under the provisions
13 of section five hundred seventy-three point twelve
14 (573.12) of the Code. Interest accruing to the
15 contractor under this section shall be paid at the
16 time of payment to the contractor of the retained
17 funds upon which the interest is earned."

18 2. Amend the title, lines 1 and 2, by striking
19 the words "contracts and escrow agreements." and
20 inserting in lieu thereof the word "contracts."

S-5764 FILED
MAY 2, 1978

BY COMMITTEE ON COMMERCE
EUGENE M. HILL, CHAIRPERSON

1 Section 1. Chapter five hundred seventy-three (573), Code
2 1977, is amended by adding the following new section:

3 NEW SECTION.

4 1. Under any contract for a public improvement made or
5 awarded by a public corporation, the contractor may withdraw
6 the whole or any amount retained from payments due the
7 contractor by entering into an escrow arrangement with a bank
8 and depositing with the bank money or securities, or both,
9 having a market value of not less than one hundred five percent
10 of the amounts withdrawn. The securities or money deposited,
11 or both, shall constitute the fund described in section five
12 hundred seventy-three point thirteen (573.13) of the Code.
13 If requested by the contractor, the public corporation shall
14 deposit with the bank the whole or any amount retained from
15 the payments due the contractor.

16 2. The escrow agreement shall provide for the deposit
17 of securities or money, or both, by the contractor for the
18 use and benefit of the public corporation. It shall be in
19 the form and contain provisions approved by the attorney
20 general. The securities deposited with the bank shall be
21 bonds or other evidences of indebtedness issued or guaranteed
22 by the federal government, the state, or one of its political
23 subdivisions if the obligations are valid and legally
24 authorized and issued.

25 3. The bank shall notify in writing the proper officials
26 of the public corporation for which the deposits are made,
27 stating the total current market value of the deposit and
28 that the deposits are held for the use and benefit of the
29 public corporation as a replacement for retained payments
30 due the contractor. The bank shall collect all interest or
31 income from the securities or monetary deposits, or both,
32 and shall pay it when collected to the contractor. The escrow
33 deposits provided in this section shall be in a bank which
34 has been approved as a depository for public funds as provided
35 in chapter four hundred fifty-three (453) of the Code.

SENATE CLIP SHEET

MAY 15, 1978

HOUSE FILE 2323

FISCAL NOTE

DATE: MAY 10, 1978
 REQUESTED BY: SENATOR EUGENE HILL

In compliance with a written request received May 3, 1978, there is hereby submitted a Fiscal Note for House File 2323 pursuant to Joint Rule 16. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature upon request.

House File 2323, An Act relating to retention from payment on public contracts and escrow agreements.

This bill deals with the retainage withheld from progress payments to contractors on public improvements. It permits the contractor to enter into an escrow arrangement with an approved bank for the deposit of securities or money, or both, for the use and benefit of the public corporation. Upon securing the escrow arrangement, the contractor can withdraw his or her retainage from the public corporation. This procedure does not alter the requirement that a contractor file a performance bond for the project.

	Est. Annual Contract Amt.	Additional Interest of 7%
Department of Transportation	\$ 70,000,000	\$ 294,000
Board of Regents	21,400,000	147,000
General Services	<u>7,766,667</u>	<u>167,294</u>
Total	<u>\$ 99,166,667</u>	<u>\$ 608,294</u>

The Iowa Association of Counties and League of Iowa Municipalities were unable to give an estimate on the fiscal effect of this bill.

SOURCES: DEPARTMENT OF TRANSPORTATION
 BOARD OF REGENTS
 GENERAL SERVICES
 IOWA ASSOCIATION OF COUNTIES
 LEAGUE OF IOWA MUNICIPALITIES

FILED:
 MAY 12, 1978

BY GERRY RANKIN, DIRECTOR
 LEGISLATIVE FISCAL BUREAU