

FILED FEB 26 1988

SENATE FILE 2240
BY COMMITTEE ON BUSINESS
AND LABOR RELATIONS

formerly SSB 2147

Amended
Passed Senate, Date 3/17/88 (y 213) Passed House, Date _____

Vote: Ayes 22 Nays 25 Vote: Ayes _____ Nays _____

Approved _____

*Senate Bill 2240 (y 213)
Senate Bill 2147 (y 920)*

A BILL FOR

1 An Act relating to the registration of construction contractors;
2 providing for administration of the system of registration by
3 the secretary of state; requiring display of the registration
4 number; requiring as a condition of registration that the
5 contractor be insured for general liability or be bonded, be
6 in compliance with workers' compensation laws, and possess an
7 account number for purposes of unemployment compensation;
8 prohibiting the award of state contracts to nonregistered
9 contractors; providing for investigations and enforcement by
10 the labor commissioner; providing for administrative
11 penalties; providing for the formation of a coordinating
12 group; providing an effective date; and providing other
13 properly related matters.

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

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SF 2240

1 Section 1. Section 96.11, Code Supplement 1987, is amended
2 by adding the following new subsection:

3 NEW SUBSECTION. 14. For purposes of contractor
4 registration under chapter 549, the division of job service
5 shall provide for the issuance of special contractor numbers
6 to contractors for whom employer accounts are not required
7 under this chapter. A contractor who is not in compliance
8 with the requirements of this chapter shall not be issued a
9 special contractor number.

10 Sec. 2. NEW SECTION. 549.1 DEFINITION.

11 As used in this chapter, unless the context otherwise
12 requires, "contractor" means a person who engages in the
13 business of construction, as the term "construction" is
14 defined in rules adopted by the job service commissioner for
15 purposes of the Iowa employment security law, and whose annual
16 gross receipts from the business of construction for the prior
17 and current calendar year each total more than five thousand
18 dollars.

19 Sec. 3. NEW SECTION. 549.2 REGISTRATION REQUIRED --
20 GENERAL LIABILITY INSURANCE -- OTHER CONDITIONS.

21 1. A contractor doing business in this state shall
22 register annually with the secretary of state and shall meet
23 all of the following requirements as a condition of
24 registration:

25 a. The contractor shall either be insured for general
26 liability and provide information concerning the name and
27 address of the insurer and the limits of coverage or submit
28 proof of a performance or maintenance bond as required by a
29 public improvement contract governed by chapter 573 or submit
30 proof that the contractor is bonded for department of
31 transportation purposes.

32 b. The contractor shall be in compliance with the laws of
33 this state relating to workers' compensation insurance and
34 shall provide evidence of workers' compensation insurance
35 coverage, of relief from the insurance requirement pursuant to

1 section 87.11, or of compliance with the notice provision of
2 section 87.2.

3 c. The contractor shall possess an employer account number
4 or a special contractor number issued by the division of job
5 service of the department of employment services pursuant to
6 the Iowa employment security law and shall provide the number
7 for the registration records.

8 2. A person shall not be granted an exemption from the
9 registration requirement on the ground that the person's
10 annual gross receipts from construction are five thousand
11 dollars or less unless the person submits proof of such annual
12 gross receipts from construction for the prior and current
13 calendar year.

14 Sec. 4. NEW SECTION. 549.3 APPLICATION -- INFORMATION TO
15 BE PROVIDED.

16 The registration application shall be in the form
17 prescribed by the secretary of state, shall be accompanied by
18 the registration fee prescribed pursuant to section 549.4, and
19 shall contain information which is substantially complete and
20 accurate. In addition to the information determined by the
21 secretary of state to be necessary for purposes of section
22 549.2, the application shall include information as to each of
23 the following:

24 1. The name, principal place of business in this state,
25 address, and telephone number of the contractor.

26 2. The name, address, telephone number, and position of
27 each officer of the contractor, if the contractor is a
28 corporation, or each owner if the contractor is not a
29 corporation.

30 3. A description of the business, including the principal
31 products and services provided and all places of business in
32 this state in addition to the principal place of business.

33 Any change in the information provided shall be reported
34 promptly to the secretary of state.

35 Sec. 5. NEW SECTION. 549.4 FEES.

1 The secretary of state, after consultation with the labor
2 commissioner, shall prescribe fees for registration and
3 renewal of registration, and other fees as necessary. The
4 fees shall not exceed two hundred dollars annually and shall
5 be based upon the costs of administration and enforcement of
6 the contractor registration system established by this
7 chapter. All fees collected shall be deposited in the general
8 fund of the state.

9 Sec. 6. NEW SECTION. 549.5 REGISTRATION NUMBERS --
10 DISPLAY.

11 The secretary of state shall issue to each registered
12 contractor an identifying registration number. The contractor
13 shall display the registration number at each place of
14 business, on each vehicle and major item of equipment as
15 defined by rule of the secretary of state, and in all public
16 advertising. The secretary of state may provide by rule for
17 the issuance of registration certificates, cards, stickers, or
18 stencils as appropriate for the display of the contractor's
19 registration number.

20 Sec. 7. NEW SECTION. 549.6 RECORDS.

21 The secretary of state shall compile records showing the
22 names and registration numbers of all contractors registered
23 in the state. These records and the complete registration
24 information provided by each contractor are public records and
25 the secretary of state shall take steps as necessary to
26 facilitate access to the information by the labor
27 commissioner, other governmental agencies, and the general
28 public.

29 Sec. 8. NEW SECTION. 549.7 RULES.

30 The secretary of state shall adopt rules, pursuant to
31 chapter 17A, determined to be reasonably necessary to
32 administer the system of contractor registration established
33 by this chapter. The secretary of state shall consult with
34 the labor commissioner in developing proposed rules for this
35 purpose, and may adopt rules jointly with the labor

1 commissioner if joint rules are deemed desirable.

2 Sec. 9. NEW SECTION. 549.8 STATE CONTRACTS.

3 A contractor who is not registered with the secretary of
4 state as required by this chapter shall not be awarded a
5 contract to perform work for the state or an agency of the
6 state.

7 Sec. 10. NEW SECTION. 549.9 INVESTIGATIONS -- ENFORCE-
8 MENT -- ADMINISTRATIVE PENALTIES.

9 1. The labor commissioner and inspectors of the division
10 of labor services of the department of employment services
11 have jurisdiction for investigation and enforcement in cases
12 where contractors may be in violation of the requirements of
13 this chapter or rules adopted pursuant to this chapter. The
14 secretary of state and the labor commissioner shall cooperate
15 to the fullest extent possible for the purpose of
16 administration and enforcement of this chapter.

17 2. If, upon investigation, the labor commissioner or the
18 commissioner's authorized representative believes that a
19 contractor has violated any of the following, the commissioner
20 shall with reasonable promptness issue a citation to the
21 contractor:

22 a. The requirement that a contractor be registered.

23 b. The requirement that the contractor's registration
24 information be substantially complete and accurate.

25 c. The requirement that the contractor's registration
26 number be displayed at each place of business, on each vehicle
27 or major item of equipment, and in all public advertising.
28 However, failure to include the registration number in public
29 advertising in a classified directory is not an enforceable
30 violation until January 1, 1990.

31 Each citation shall be in writing and shall describe with
32 particularity the nature of the violation, including a
33 reference to the provision of the statute alleged to have been
34 violated.

35 If a citation is issued, the commissioner shall, within a

1 reasonable time thereafter, notify the contractor by certified
2 mail of the administrative penalty, if any, proposed to be
3 assessed and that the contractor has fifteen working days
4 within which to notify the commissioner that the employer
5 wishes to contest the citation or proposed assessment of
6 penalty.

7 The administrative penalties which may be imposed under
8 this section shall be not more than five hundred dollars in
9 the case of a first violation and not more than five thousand
10 dollars for each violation in the case of a second or
11 subsequent violation. All administrative penalties collected
12 pursuant to this chapter shall be deposited in the general
13 fund of the state.

14 If, within fifteen working days from the receipt of the
15 notice, the contractor fails to notify the commissioner that
16 the contractor intends to contest the citation or proposed
17 assessment of penalty, the citation and the assessment, as
18 proposed, shall be deemed a final order of the employment
19 appeal board and not subject to review by any court or agency.

20 If the contractor notifies the commissioner that the
21 contractor intends to contest the citation or proposed
22 assessment of penalty, the commissioner shall immediately
23 advise the employment appeal board established by section
24 10A.601. The employment appeal board shall review the action
25 of the commissioner and shall thereafter issue an order, based
26 on findings of fact, affirming, modifying, or vacating the
27 commissioner's citation or proposed penalty or directing other
28 appropriate relief, and the order shall become final sixty
29 days after its issuance.

30 Judicial review of any order of the employment appeal board
31 issued pursuant to this section may be sought in accordance
32 with the terms of chapter 17A. If no petition for judicial
33 review is filed within sixty days after service of the order
34 of the employment appeal board, the appeal board's findings of
35 fact and order shall be conclusive in connection with any

1 petition for enforcement which is filed by the commissioner
2 after the expiration of the sixty-day period. In any such
3 case, the clerk of court, unless otherwise ordered by the
4 court, shall forthwith enter a decree enforcing the order and
5 shall transmit a copy of the decree to the employment appeal
6 board and the contractor named in the petition.

7 3. The labor commissioner shall adopt rules, pursuant to
8 chapter 17A, determined to be reasonably necessary for the
9 investigation of violations and imposition of administrative
10 penalties for violations of this chapter. The labor
11 commissioner shall consult with the secretary of state in
12 developing rules for this purpose, and may adopt rules jointly
13 with the secretary of state if joint rules are deemed
14 desirable.

15 Sec. 11. NEW SECTION. 549.10 CONTRACTOR REGISTRATION
16 COORDINATING GROUP.

17 The secretary of state shall form a contractor registration
18 coordinating group whose membership shall include
19 representatives as follows:

20 1. Two representatives selected by the Iowa building and
21 construction trades council.

22 2. Two representatives selected by the associated general
23 contractors of Iowa, master builders of Iowa, and home
24 builders of Iowa.

25 3. One representative selected by the department of
26 revenue and finance.

27 4. One representative selected by the division of job
28 service of the department of employment services.

29 5. One representative selected by the division of
30 industrial services of the department of employment services.

31 6. Representatives of other state departments or agencies
32 whose enforcement efforts may be enhanced through the system
33 of contractor registration. The coordinating group shall meet
34 quarterly with the secretary of state and the labor
35 commissioner for the purpose of reviewing, coordinating,

1 evaluating, and making improvements in the operation of the
2 contractor registration system.

3 Sec. 12. Section 10A.601, subsections 1 and 7, Code 1987,
4 are amended to read as follows:

5 1. A full-time employment appeal board is created within
6 the department of inspections and appeals to hear and decide
7 contested cases under chapters 19A, 80, 88, 96, 97B, and 104,
8 and 549.

9 7. An application for rehearing before the appeal board
10 shall be filed pursuant to section 17A.16, unless otherwise
11 provided in chapter 19A, 80, 88, 96, 97B, or 104, or 549. A
12 petition for judicial review of a decision of the appeal board
13 shall be filed pursuant to section 17A.19. The appeal board
14 may be represented in any such judicial review by an attorney
15 who is a regular salaried employee of the appeal board or who
16 has been designated by the appeal board for that purpose, or
17 at the appeal board's request, by the attorney general.
18 Notwithstanding the petitioner's residency requirement in
19 section 17A.19, subsection 2, a petition for judicial review
20 may be filed in the district court of the county in which the
21 petitioner was last employed or resides, provided that if the
22 petitioner does not reside in this state, the action shall be
23 brought in the district court of Polk county, Iowa, and any
24 other party to the proceeding before the appeal board shall be
25 named in the petition. Notwithstanding the thirty-day
26 requirement in section 17A.19, subsection 6, the appeal board
27 shall, within sixty days after filing of the petition for
28 judicial review or within a longer period of time allowed by
29 the court, transmit to the reviewing court the original or a
30 certified copy of the entire records of a contested case. The
31 appeal board may also certify to the court, questions of law
32 involved in any decision by the appeal board. Petitions for
33 judicial review and the questions so certified shall be given
34 precedence over all other civil cases except cases arising
35 under the workers' compensation law of this state. No bond

1 shall be required for entering an appeal from any final order,
2 judgment, or decree of the district court to the supreme
3 court.

4 Sec. 13. EFFECTIVE DATE. This Act takes effect July 1,
5 1988, for purposes of rulemaking and administrative
6 preparation and January 1, 1989, for all other purposes.

7 EXPLANATION

8 This bill would require the registration of every person
9 engaged in business as a construction contractor in this
10 state. An exemption is provided for persons whose annual
11 gross receipts from contracting are \$5,000 or less. A
12 contractor could not be registered unless the contractor is
13 insured for general liability or submits proof of a
14 performance or maintenance bond, is in compliance with the
15 laws on workers' compensation insurance, and possesses an
16 employer account number issued for unemployment compensation
17 purposes. Provision is made for special contractor numbers
18 from the division of job service for contractors not required
19 to have employer accounts.

20 Registration information, together with a fee, would be
21 filed with the secretary of state. The secretary of state
22 would maintain the information for the use of other
23 governmental agencies and the general public.

24 The secretary of state would issue an identifying
25 registration number to each contractor and the contractor
26 would be required to display the number at each place of
27 business, on vehicles and equipment, and in public
28 advertising.

29 The labor commissioner would have jurisdiction for
30 investigation and enforcement in cases of suspected violation.
31 Provisions are included for the issuance of citations and the
32 imposition of administrative penalties, subject to review by
33 the employment appeal board followed by judicial review.

34 The bill provides for the formation of a contractor
35 registration coordinating group of labor and industry

1 representatives and state officials concerned with enforcement
2 efforts in areas such as income tax withholding, unemployment
3 compensation, and workers' compensation. The coordinating
4 group would meet quarterly to review, coordinate, and evaluate
5 the operation of the contractor registration system.

6 SUCCESSOR TO SSB 2147 (LSB 7937SC)

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S-5210

- 1 Amend Senate File 2240 as follows:
2 1. Page 1, by striking lines 10 through 18 and
3 inserting the following:
4 "Sec. 2. NEW SECTION. 549.1 DEFINITIONS.
5 As used in this chapter, unless the context
6 otherwise requires:
7 1. "Business of construction" means engaging in
8 any of the following activities:
9 a. The building of residential housing.
10 b. The building of commercial and industrial
11 buildings.
12 c. Plumbing, heating and air conditioning work.
13 d. Electrical work.
14 e. Masonry, stone setting, and stonework.
15 f. Plastering, drywall, acoustical, and insulation
16 work.
17 g. Terrazzo, tile, marble, and mosaic work.
18 h. Carpentry work.
19 i. Floor laying and other floor work.
20 j. Roofing, siding and sheet metal work.
21 k. Concrete work.
22 l. Structural steel erection.
23 m. Glass and glazing work.
24 n. Excavating.
25 o. Wrecking and demolition.
26 p. Installation or erection of building equipment.
27 2. "Contractor" means a person who engages in the
28 business of construction, who employs other persons in
29 the conduct of that business, and whose annual gross
30 receipts from the business of construction for the
31 prior and current calendar year each total more than
32 ten thousand dollars.
33 "Contractor" also means a person while engaged in
34 any of the activities listed in subsection 1 for or on
35 behalf of another contractor but not as an employee of
36 that contractor."
37 2. Page 2, line 10, by striking the word "five"
38 and inserting the word "ten".

S-5210

Filed March 3, 1988

Amended by Senate File 2240

BY EDGAR H. HOLDEN

SENATE FILE 2240

S-5373

1 Amend Senate File 2240 as follows:

2 1. Page 1, by inserting after line 18 the
3 following:

4 "If a person engaged in the business of
5 construction is self-employed and does not employ
6 other persons in the business, the person is not a
7 "contractor" for purposes of this chapter.

8 If a person engaged in the business of construction
9 employs other persons in the business, the person is
10 not a "contractor" for purposes of this chapter if the
11 annual gross receipts from the business of construc-
12 tion for the prior and current calendar year each
13 total ten thousand dollars or less."

S-5373

Filed March 15, 1988

BY ROBERT M. CARR
EDGAR H. HOLDEN

SENATE FILE 2240

S-5434

1 Amend the amendment, S-5210, to Senate File 2240,
2 as follows:

3 1. Page 1, by striking lines 2 through 38, and
4 inserting the following:

5 "_____. Page 1, by striking lines 11 through 18 and
6 inserting the following:

7 "As used in this chapter, unless the context
8 otherwise requires, "contractor" means a person who
9 engages in the business of constructing, installing,
10 improving, repairing, altering, adding to, subtracting
11 from, moving, dismantling, wrecking, or demolishing
12 buildings, structures, erections, excavations,
13 projects, developments, or other internal or external
14 improvements to real estate or attachments to real
15 estate, including but not limited to bridges,
16 highways, roads, streets, airports, railroads, parking
17 facilities, dams, drainage ditches, sewers, water or
18 gas mains, tanks, towers, wells, pipelines, sidewalks,
19 and grounds and fences in connection with improved
20 real estate, and whose annual gross receipts from such
21 business for the prior and current calendar year each
22 total more than five thousand dollars.

23 "Contractor" includes a person who engages in the
24 business of providing one or more of these related
25 services to another contractor.

26 A person is exempt from chapter 549 compliance if
27 that person engaged in the business of construction is
28 self-employed, does not employ other persons in the
29 business, and does not work with or for other persons
30 in the same phases of construction."

S-5434

Filed March 17, 1988

ADOPTED

BY JIM RIORDAN

SENATE FILE 2240

S-5417

- 1 Amend Senate File 2240 as follows:
- 2 1. Page 3, line 4, by striking the words "two
- 3 hundred" and inserting the following: "twenty-five".

S-5417

Filed March 16, 1988
adoption 3/17 (y 870)

BY JIM RIORDAN

SENATE FILE 2240

S-5444

- 1 Amend Senate File 2240 as follows:
- 2 1. By striking page 3, line 33 through page 4,
- 3 line 1, and inserting the following: "by this
- 4 chapter."

S-5444

Filed March 17, 1988

ADOPTED
(y 871)

BY JIM LIND

SENATE FILE 2240

S-5445

- 1 Amend Senate File 2240 as follows:
- 2 1. Page 4, line 35, by striking the words "within
- 3 a" and inserting the following: "within".
- 4 2. Page 5, line 1, by striking the words
- 5 "reasonable time thereafter" and inserting the
- 6 following:—"seven days".

S-5445

Filed March 17, 1988

ADOPTED
(y 872)

BY JIM LIND

SENATE FILE 2240

S-5384

- 1 Amend Senate File 2240 as follows:
- 2 1. Page 3, by striking lines 9 through 19.
- 3 2. Renumber as necessary.

S-5384

Filed March 16, 1988
Adopted 3/17/88

BY CALVIN O. HULTMAN

SENATE FILE 2240

S-5385

- 1 Amend Senate File 2240 as follows:
- 2 1. Page 1, line 22, by striking the word
- 3 "annually".

S-5385

Filed March 16, 1988
Adopted 3/17/88

BY C. JOSEPH COLEMAN

SENATE FILE 2240

S-5409

- 1 Amend Senate File 2240 as follows:
- 2 1. Page 4, line 6, by inserting after the word
- 3 "state" the following: ", unless the contractor is
- 4 currently registered with the corporate division of
- 5 the office of the secretary of state or any other
- 6 agency of the state".

S-5409

Filed March 16, 1988
Adopted 3/17/88

BY LINN FUHRMAN
JOE J. WELSH

SENATE FILE 2240

S-5413

- 1 Amend Senate File 2240 as follows:
- 2 1. Page 2, by striking lines 31 and 32 and
- 3 inserting the following: "products and services
- 4 provided."

S-5413

Filed March 16, 1988
Adopted 3/17/88

BY BERL E. PRIEBE

SENATE FILE 2240

S-5414

- 1 Amend Senate File 2240 as follows:
- 2 1. By striking page 6, line 15 through page 7,
- 3 line 2.
- 4 2. Renumber as necessary.

S-5414

Filed March 16, 1988
Adopted 3/17/88

BY C. JOSEPH COLEMAN

SENATE FILE 2240

S-5434

1 Amend the amendment, S-5210, to Senate File 2240.
2 as follows:

3 1. Page 1, by striking lines 2 through 38, and
4 inserting the following:

5 " ". Page 1, by striking lines 11 through 18 and
6 inserting the following:

7 "As used in this chapter, unless the context
8 otherwise requires, "contractor" means a person who
9 engages in the business of constructing, installing,
10 improving, repairing, altering, adding to, subtracting
11 from, moving, dismantling, wrecking, or demolishing
12 buildings, structures, erections, excavations,
13 projects, developments, or other internal or external
14 improvements to real estate or attachments to real
15 estate, including but not limited to bridges,
16 highways, roads, streets, airports, railroads, parking
17 facilities, dams, drainage ditches, sewers, water or
18 gas mains, tanks, towers, wells, pipelines, sidewalks,
19 and grounds and fences in connection with improved
20 real estate, and whose annual gross receipts from such
21 business for the prior and current calendar year each
22 total more than five thousand dollars.

23 "Contractor" includes a person who engages in the
24 business of providing one or more of these related
25 services to another contractor.

26 A person is exempt from chapter 549 compliance if
27 that person engaged in the business of construction is
28 self-employed, does not employ other persons in the
29 business, and does not work with or for other persons
30 in the same phases of construction."

S-5434

Filed March 17, 1988

ADOPTED

BY JIM RIORDAN

SENATE FILE 2240

S-5501

1 Amend amendment S-5498 to Senate File 2240 as
2 follows:

3 1. Page 1, line 17, by striking the word "shall"
4 and inserting the following: "may".

S-5501

Filed March 21, 1988

BY CALVIN O. HULTMAN

SENATE FILE 2240

S-5498

1 Amend Senate File 2240 as follows:

2 1. Page 6, by inserting after line 14 the
3 following:

4 "Sec. . . . NEW SECTION. 549.11 TEMPORARY
5 EXEMPTION FOR GENERAL CONTRACTORS.

6 1. A general contractor is exempt from the
7 provisions of this chapter until January 1, 1990.

8 2. It is the intent of the general assembly that
9 beginning January 1, 1990, all general contractors
10 must comply with state requirements for licensure or
11 certification.

12 3. The legislative council shall establish a
13 committee on licensure or certification of general
14 contractors, which shall develop and report to the
15 Seventy-third General Assembly proposed legislation to
16 require the licensure or certification of general
17 contractors. The study shall include but need not be
18 limited to the following:

19 a. Establishment of a state board for the
20 licensure or certification of general contractors.

21 b. Criteria for licensure or certification of
22 general contractors.

23 c. Requirements for continuing education for
24 general contractors.

25 d. Establishment of a warranty program whereby new
26 construction by a general contractor is subject to a
27 ten-year warranty.

28 e. Provisions for dealing with the bankruptcy or
29 other financial failure of a general contractor,
30 including a provision for license revocation and a
31 requirement that there be a waiting period before a
32 general contractor or a principal in the business of a
33 general contractor may again be licensed.

34 The committee shall include, in addition to
35 legislative members, the following:

36 (1) Four representatives selected by the Iowa
37 building and construction trades council.

38 (2) Two representatives selected by the associated
39 general contractors of Iowa.

40 (3) Two representatives of the master builders of
41 Iowa.

42 (4) Two representatives of the home builders of
43 Iowa.

44 4. As used in this section, "general contractor"
45 means a contractor whose business operations require
46 the use of more than two unrelated building trades or
47 crafts whose work the contractor shall superintend or
48 do in whole or in part."

49 2. Title page, line 12, by inserting after the
50 word "group;" the following: "providing an exemption

Page 2

1 for general contractors and requiring a study,".

2 3. By renumbering as necessary.

S-5498

Filed March 21, 1988

BY JAMES RIORDAN

FILED MAR 8 1988

STATE OF IOWA

FISCAL NOTE

LSB No. 7937S

Staff ID. KNM

REQ. BY SENATOR WELLS

SENATE FILE 2240

In compliance with a written request received February 29, 1988, a fiscal note for **SENATE FILE 2240** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2240 requires the registration of all construction and business contractors in this state with gross annual income of \$5,000 from contracting business. A contractor could not be registered unless the contractor is insured for general liability or submits proof of a performance or maintenance bond, is in compliance with the laws on workers' compensation insurance, and possesses an employer account number issued for unemployment compensation purposes. Provision is made for special contract numbers from the division of job service for contractors not required to have employer accounts.

Registration information, together with a fee, would be filed with the Secretary of State. Annual registration fee shall be \$12.50 and shall be filed with the Secretary of State.

The Secretary of State would issue an identifying registration number to each contractor and the contractor would be required to display the number at each place of business, on vehicles and equipment, and in public advertising.

The labor commissioner would have jurisdiction for investigation and enforcement in cases of suspected violation. Provisions are included for the issuance of citations and the imposition of administrative penalties, subject to review by the employment appeal board followed by judicial review.

A contractor registration council group is established. Membership of the group shall include: Secretary of State, Department of Revenue and Finance, Employment Services, and construction industry. The coordinating group would meet quarterly to review, coordinate, and evaluate the operation of the contractor registration system.

ASSUMPTIONS:

1. 10,000 contractors are expected to apply.
2. Annual registration fee would be 12.50 per applicant.
3. The Division of Labor would establish procedures for implementing the statute, prepare rules, provide rules, conduct investigations, and make contact necessary to ensure that all aspects of the statute are followed.
4. The second year would be spent in compliance activity as anticipated by the statute. Succeeding years would cost a similar amount.
5. Travel to other states would be required to evaluate how similar laws are implemented and pitfalls to avoid in rule adoption and operations of the program.
6. The effective date for prosecutions would not begin until FY 1990.

STATE OF IOWA
FISCAL NOTE

LSB No. 7937S
Staff ID. KNM

REQ. BY SENATOR WELLS

SENATE FILE 2240

-2-

Source of Revenue and expenditure in the Office of Secretary of State and Division of Labor of the Department of Employment Services.

(dollars in thousands)

	Fiscal Year 1989			Fiscal Year 1990		
	Current Law	Proposed Law	Increase (Decrease)	Current Law	Proposed Law	Increase (Decrease)
REVENUE						
General Fund \$	0			\$ 0		\$ 0
Federal Funds	0			0		0
Fees	0	10,000 X 12.50 =		0		0
Other	0	\$ 125,000		0		0
Total \$	0	\$ 125,000	\$ 125,000	0	\$ 125,000	\$ 125,000

EXPENDITURES: SECRETARY OF STATE'S OFFICE

Salaries \$	0	\$ 45,800	\$ 45,800	\$ 0	\$ 45,800	\$ 45,800
(FTE's)	(000.0)	(2.0)	(2.0)	(000.0)	(2.0)	(2.0)
Support	0	\$ 3,000	\$ 3,000	0	\$ 3,000	\$ 3,000
Capital Outlay		\$ 12,000	\$ 12,000			
Total \$	0	\$ 60,800	\$ 60,800	0	\$ 48,800	\$ 48,800

EXPENDITURES: DIVISION OF LABOR

Salaries \$	0	\$ 38,917	\$ 38,917	\$ 0	\$ 78,728	\$ 78,728
(FTE's)	(000.0)	(2.0)	(2.0)	(000.0)	(4.0)	(4.0)
Fringe	0	7,783	7,783	0	15,745	15,745
Travel		\$ 4,000	\$ 4,000		\$ 4,000	\$ 4,000
Computer		\$ 10,000	\$ 10,000		\$ 200	\$ 200
Office Supp.		\$ 3,000	\$ 3,000		\$ 1,200	\$ 1,200
Total \$	0	\$ 63,700	\$ 63,700	0	\$ 99,873	\$ 99,873

FISCAL IMPACT

Fiscal impact of the Senate File 2240 on the General Fund would be very little provided the yearly registration fee remain at 12.50 per contractor. The expenditure of the state agencies would be covered by the fees collected as stipulated in the bill.

Source: Secretary of State
Division of Labor

(LSB 7937S, KNM)
Dennis C. Probst
Fiscal Director
Legislative Fiscal Bureau
Date: 3/7/88

LSB

SSB 2147

Business & Labor Relations

new

SENATE FILE 2240

BY (PROPOSED COMMITTEE ON BUSINESS AND LABOR RELATIONS BILL)

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

A BILL FOR

1 An Act relating to the registration of construction contractors;
 2 providing for administration of the system of registration by
 3 the secretary of state; requiring display of the registration
 4 number; requiring as a condition of registration that the
 5 contractor be insured for general liability, be in compliance
 6 with workers' compensation laws, and possess an account number
 7 for purposes of unemployment compensation; prohibiting the
 8 award of state contracts to nonregistered contractors;
 9 providing for investigations and enforcement by the labor
 10 commissioner; providing for administrative penalties;
 11 providing for the formation of a coordinating group; and
 12 providing other properly related matters.

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

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1 Section 1. Section 96.11, Code Supplement 1987, is amended
2 by adding the following new subsection:

3 NEW SUBSECTION. For purposes of contractor registration
4 under chapter 549, the division of job service shall provide
5 for the issuance of special contractor numbers to contractors
6 for whom employer accounts are not required under this
7 chapter. A contractor who is not in compliance with the
8 requirements of this chapter shall not be issued a special
9 contractor number.

10 Sec. 2. NEW SECTION. 549.1 DEFINITION.

11 As used in this chapter, unless the context otherwise
12 requires, "contractor" means a person who engages in the
13 business of construction, as the term "construction" is
14 defined in rules adopted by the job service commissioner for
15 purposes of the Iowa employment security law, and whose annual
16 gross receipts from the business of construction for the prior
17 and current calendar year each total less than one thousand
18 dollars.

19 Sec. 3. NEW SECTION. 549.2 REGISTRATION REQUIRED --
20 GENERAL LIABILITY INSURANCE -- OTHER CONDITIONS.

21 A contractor doing business in this state shall register
22 annually with the secretary of state and shall meet all of the
23 following requirements as a condition of registration:

24 1. The contractor shall be insured for general liability
25 and shall provide information concerning the name and address
26 of the insurer and the limits of coverage.

27 2. The contractor shall be in compliance with the laws of
28 this state relating to workers' compensation insurance and
29 shall provide evidence of workers' compensation insurance
30 coverage, of relief from the insurance requirement pursuant to
31 section 87.11, or of compliance with the notice provision of
32 section 87.2.

33 3. The contractor shall possess an employer account number
34 or a special contractor number issued by the division of job
35 service of the department of employment services pursuant to

1 the Iowa employment security law and shall provide the number
2 for the registration records.

3 Sec. 4. NEW SECTION. 549.3 APPLICATION -- INFORMATION TO
4 BE PROVIDED.

5 The registration application shall be in the form
6 prescribed by the secretary of state, shall be accompanied by
7 the registration fee prescribed pursuant to section 549.4, and
8 shall contain information which is substantially complete and
9 accurate. In addition to the information determined by the
10 secretary of state to be necessary for purposes of section
11 549.2, the application shall include information as to each of
12 the following:

13 1. The name, principal place of business, address, and
14 telephone number of the contractor.

15 2. The name, address, telephone number, and position of
16 each officer of the contractor, if the contractor is a
17 corporation, or each owner if the contractor is not a
18 corporation.

19 3. A description of the business, including the principal
20 products and services provided, all places of business in
21 addition to the principal place of business, and the gross
22 receipts of the business for the last preceding calendar year.

23 4. Such other information as the secretary of state
24 requires.

25 Any change in the information provided shall be reported
26 promptly to the secretary of state.

27 Sec. 5. NEW SECTION. 549.4 FEES.

28 The secretary of state, after consultation with the labor
29 commissioner, shall prescribe fees for registration and
30 renewal of registration, and other fees as necessary. The
31 fees shall not exceed two hundred dollars annually and shall
32 be based upon the costs of administration and enforcement of
33 the contractor registration system established by this
34 chapter. All fees collected shall be deposited in the general
35 fund of the state.

1 Sec. 6. NEW SECTION. 549.5 REGISTRATION NUMBERS --
2 DISPLAY.

3 The secretary of state shall issue to each registered
4 contractor an identifying registration number. The contractor
5 shall display the registration number at each place of
6 business, on each vehicle and major item of equipment as
7 defined by rule of the secretary of state, and in all
8 advertising. The secretary of state may provide by rule for
9 the issuance of registration certificates, cards, stickers, or
10 other items as appropriate for the display of the contractor's
11 registration number.

12 Sec. 7. NEW SECTION. 549.6 RECORDS.

13 The secretary of state shall compile records showing the
14 names and registration numbers of all contractors registered
15 in the state. These records and the complete registration
16 information provided by each contractor are public records and
17 the secretary of state shall take steps as necessary to
18 facilitate access to the information by the labor
19 commissioner, other governmental agencies, and the general
20 public.

21 Sec. 8. NEW SECTION. 549.7 RULES.

22 The secretary of state shall adopt rules, pursuant to
23 chapter 17A, determined to be reasonably necessary to
24 administer the system of contractor registration established
25 by this chapter. The secretary of state shall consult with
26 the labor commissioner in developing proposed rules for this
27 purpose, and may adopt rules jointly with the labor
28 commissioner if joint rules are deemed desirable.

29 Sec. 9. NEW SECTION. 549.8 STATE CONTRACTS.

30 A contractor who is not registered with the secretary of
31 state as required by this chapter shall not be awarded a
32 contract to perform work for the state or an agency of the
33 state.

34 Sec. 10. NEW SECTION. 549.9 INVESTIGATIONS -- ENFORCE-
35 MENT -- ADMINISTRATIVE PENALTIES.

1 1. The labor commissioner and inspectors of the division
2 of labor services of the department of employment services
3 have jurisdiction for investigation and enforcement in cases
4 where contractors may be in violation of the requirements of
5 this chapter or rules adopted pursuant to this chapter. The
6 secretary of state and the labor commissioner shall cooperate
7 to the fullest extent possible for the purpose of
8 administration and enforcement of this chapter.

9 2. If the labor commissioner finds, after notice and
10 opportunity for a hearing pursuant to chapter 17A, that a
11 contractor has violated any of the following, the labor
12 commissioner may impose upon the contractor an administrative
13 penalty of not more than five hundred dollars for each
14 violation in the case of a first violation and not more than
15 five thousand dollars in the case of a second or subsequent
16 violation:

- 17 a. The requirement that a contractor be registered.
18 b. The requirement that the contractor's registration
19 information be substantially complete and accurate.
20 c. The requirement that the contractor's registration
21 number be displayed at each place of business, on each vehicle
22 or major item of equipment, and in all advertising.

23 The decision of the labor commissioner under this
24 subsection constitutes final agency action for purposes of
25 judicial review.

26 All administrative penalties collected pursuant to this
27 chapter shall be deposited in the general fund of the state.

28 3. The labor commissioner may adopt rules, pursuant to
29 chapter 17A, determined to be reasonably necessary for the
30 investigation of violations and imposition of administrative
31 penalties for violations of this chapter. The labor
32 commissioner shall consult with the secretary of state in
33 developing rules for this purpose, and may adopt rules jointly
34 with the secretary of state if joint rules are deemed
35 desirable.

1 If the labor commissioner finds, after notice and hearing,
2 that a violation has occurred, administrative penalties may be
3 imposed against the contractor.

4 A contractor registration coordinating group of state
5 officials concerned with enforcement efforts in areas such as
6 income tax withholding, unemployment compensation, and
7 workers' compensation would be formed to review, coordinate,
8 and evaluate on a quarterly basis the operation of the
9 contractor registration system.

10 COMPANION TO LSB 7977HC

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