

5-3/28/02 Do Pass

Commerce

4/1/02

UNFINISHED BUSINESS CALENDAR

REPRINTED

FILED MAR 27 2002

SENATE FILE 2324
BY IVERSON and GRONSTAL

Passed Senate, ^(P. 894) Date 4-2-02 Passed House, Date _____
Vote: Ayes 43 Nays 6 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

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

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

SF 2324
COMMERCE

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 services provided in the planning, design, and construction
7 phases of a public works project.

8 "Construction management services" does not include
9 architectural services provided within the practice of
10 architecture as defined in section 544A.16, engineering
11 services provided within the practice of engineering as
12 defined in section 542B.2, or landscape architectural services
13 provided within the practice of landscape architecture as
14 defined in section 544B.1.

15 b. "Construction manager" means any person, firm, or
16 corporation that provides construction management services to
17 a public owner.

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

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

24 e. "Public works" means a building or other construction
25 work which is constructed under the control of a public owner
26 and is paid for in whole or in part with funds of a public
27 owner. "Public works" does not include any work done by or on
28 behalf of a drainage or levee district or any work funded by
29 federal funds where federal procurement policy applicable to
30 the use of the federal funds is inconsistent with the
31 requirements of this section.

32 f. "Public works project" or "project" means the
33 construction, maintenance, or repair of public works.

34 2. USE OF CONSTRUCTION MANAGER. A public owner may engage
35 a construction manager when planning, designing, or

1 constructing a public works, or when improving, altering, or
2 repairing a public works. A public owner may engage a
3 construction manager in the preconstruction phase of a public
4 works project or in both the preconstruction and construction
5 phases of the project.

6 3. SOLICITATION OF CONSTRUCTION MANAGEMENT SERVICES. If a
7 public owner makes an initial determination to engage a
8 construction manager and the estimated cost of construction
9 management services for a public works project to be provided
10 by the construction manager exceeds twenty-five thousand
11 dollars, a public owner shall solicit a proposed construction
12 management services contract by publishing an advertisement in
13 a newspaper published at least once weekly and having general
14 circulation in the city or county where the public works
15 project is located. The notice must be published at least
16 once, not less than twenty nor more than forty-five days
17 before the date set by the public owner for submission of
18 proposals. The notice shall contain a statement that the
19 public owner reserves the right to reject any or all proposals
20 and seek additional proposals or may in its discretion not
21 seek additional proposals. If the public owner rejects all
22 proposals and does not seek any additional proposals, the
23 public owner may proceed with the public works project without
24 engaging a construction manager or terminate the public works
25 project, as deemed appropriate and in the public interest by
26 the public owner. The public owner may publish an
27 advertisement in an electronic format as an additional method
28 of soliciting proposals under this subsection.

29 4. SELECTION CRITERIA. In a request for proposals for
30 construction management services, a public owner shall include
31 a description of the scope of construction management services
32 desired and the selection criteria to be used in evaluating
33 proposals for construction management services and shall
34 require a construction manager making a proposal to propose
35 significant efficiencies or improvements in the quality of the

1 public works project, as determined by the public owner.

2 5. CONSTRUCTION MANAGEMENT SERVICES CONTRACT. A
3 construction management services contract for a public works
4 project shall provide that the construction manager shall do
5 all of the following:

6 a. Furnish skill and judgment in cooperation with, and in
7 reliance on, the services of the public works project
8 architect, engineer, and general contractor.

9 b. Furnish business administration services, management of
10 the construction process, and other specified services in an
11 economical and expeditious manner consistent with the
12 interests of the public owner.

13 c. Refrain from entering into an arrangement that violates
14 subsection 6 and refrain from bidding on or performing actual
15 construction or general conditions work on a public works
16 project on which the construction manager is performing
17 construction management services.

18 d. Obtain professional liability insurance at the public
19 owner's request. A construction manager shall also be
20 required to obtain a performance bond as required pursuant to
21 chapter 573 for services performed. A professional engineer
22 licensed pursuant to chapter 542B, or a registered architect
23 licensed pursuant to chapter 544A, who performs construction
24 management services, is not required to obtain a performance
25 bond as required pursuant to chapter 573 for services
26 performed.

27 e. Recommend contracts or change orders to a public owner
28 but a construction manager shall not authorize contracts or
29 change orders.

30 A contract for construction management services shall be a
31 public document and shall be available to the public for the
32 reasonable cost of reproduction of the contract.

33 6. CONFLICTS PROHIBITED. A construction management
34 services contract for a public works project shall not be
35 awarded by a public owner to a construction manager that

1 controls, is controlled by, shares common ownership or control
2 with, or is related to the owner of another construction
3 contractor, construction subcontractor, or construction
4 supplier on the public works project; that assumes financial
5 responsibility for the work of others on the project; that
6 guarantees a maximum price for the work of others on the
7 project; or that furnishes or guarantees a performance or
8 payment bond for another contractor on the project. For
9 purposes of this subsection, "related" means a relative as
10 defined in section 42.1.

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

15 Sec. 2. Section 390.3, unnumbered paragraph 2, Code 2001,
16 is amended to read as follows:

17 However, in the performance of a joint agreement, the
18 governing body is not subject to statutes generally applicable
19 to public contracts, including hearings on plans,
20 specifications, form of contracts, costs, notice and
21 competitive bidding required under sections 384.95 through
22 384.103, and construction management services as provided in
23 section 72.6, unless all parties to the joint agreement are
24 cities located within the state of Iowa.

25 Sec. 3. IMPLEMENTATION OF ACT. Section 25B.2, subsection
26 3, shall not apply to this Act.

27 Sec. 4. APPLICABILITY. This Act does not apply to
28 construction management contracts entered into prior to the
29 effective date of this Act.

30 Sec. 5. PUBLIC WORKS PROJECTS INTERIM STUDY. The
31 legislative council is requested to authorize an interim study
32 committee to study the professional relationships among public
33 owners, contractors, construction managers, architects,
34 engineers, and landscape architects and to review issues
35 concerning bid comparisons on multiple contracts, the merits

1 of limiting the number of contracts, the professional
2 responsibilities of a public owner, contractor, construction
3 manager, architect, engineer, and landscape architect on a
4 public works project, and any other issue raised by the
5 members of the interim study committee. The interim study
6 shall include making recommendations for a clear chain of
7 command on public works projects and proposing guidelines for
8 the interrelationship of public owners, contractors,
9 construction managers, architects, engineers, and landscape
10 architects on public works projects. The study committee
11 shall be composed of representatives of organizations
12 including but not limited to associated builders and
13 contractors of Iowa, master builders of Iowa, and
14 organizations representing construction managers, Iowa general
15 contractors for competitive bidding, architects, engineers,
16 Iowa rural water association, Iowa public airports
17 association, Iowa association of municipal utilities, and
18 public owners. Appointments to the committee shall be made no
19 later than August 1, 2002. Staffing for the committee shall
20 be provided by the legislative service bureau. The study
21 committee shall submit a report of its findings and
22 recommendations, including proposed legislation, if any, to
23 the general assembly on or before January 13, 2003.

24 EXPLANATION

25 This bill regulates contracts for construction management
26 services for public works projects. "Construction management
27 services" means all of the services provided during the
28 planning and design phases of a public works project as well
29 as in the construction phase of the project. A "public owner"
30 is any public body including the state, an officer, agency,
31 authority, board, or commission of the state or of a political
32 subdivision, or any institution supported in whole or in part
33 by public funds. A "public works project" is a building or
34 other construction work paid for in whole or in part with
35 funds of a public owner with the exception of work done by or

1 for a drainage or levee district or work funded by federal
2 funds and subject to federal procurement policies inconsistent
3 with this new Code section.

4 The bill provides that a public owner shall solicit bids
5 when the provision of construction management services is
6 estimated to exceed \$25,000, by publishing an advertisement in
7 a newspaper published at least once weekly and having general
8 circulation in the city or county where the public works
9 project is located.

10 The bill prohibits a construction manager on a public works
11 project from bidding on or performing actual construction on a
12 public works project. A construction management services
13 contract cannot be awarded to a construction manager that
14 controls, or is controlled by, or is related to, or otherwise
15 has financial responsibility or makes guarantees for other
16 participants on the public works project.

17 The bill amends Code section 390.3 to provide that the
18 construction management services provisions of the new Code
19 section do not apply to certain joint agreements involving
20 city electrical utilities.

21 The bill may include a state mandate as defined in Code
22 section 25B.3. The bill makes inapplicable Code section
23 25B.2, subsection 3, which would relieve a political
24 subdivision from complying with a state mandate if funding for
25 the cost of the state mandate is not provided or specified.
26 Therefore, political subdivisions are required to comply with
27 any state mandate included in the bill.

28 The bill provides that it does not apply to planning,
29 design, construction, maintenance, repair, or other work done
30 for or on behalf of a public owner by employees of a public
31 owner. The bill also does not apply to construction
32 management contracts entered into prior to the effective date
33 of this bill, if enacted.

34 The bill requests that the legislative council appoint an
35 interim study committee no later than August 1, 2002, to study

1 the professional relationships and responsibilities among
2 public owners, contractors, construction managers, architects,
3 engineers, and landscape architects and to review issues
4 concerning bids and contracts on public works projects. The
5 bill provides that the interim study committee shall be
6 composed of representatives of organizations including but not
7 limited to associated builders and contractors of Iowa, master
8 builders of Iowa, and organizations representing construction
9 managers, Iowa general contractors for competitive bidding,
10 architects, engineers, rural water, public airports, municipal
11 utilities, and public owners. The bill requires the interim
12 study committee to submit a report of its findings and
13 recommendations to the general assembly on or before January
14 13, 2003.

15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 2324

S-5290

- 1 Amend Senate File 2324 as follows:
2 1. By striking everything after the enacting
3 clause and inserting the following:
4 "Section 1. PUBLIC WORKS PROJECTS INTERIM STUDY.
5 The legislative council is requested to authorize an
6 interim study committee to study the professional
7 relationships among public owners, contractors,
8 construction managers, architects, engineers, and
9 landscape architects and to review issues concerning
10 bid comparisons on multiple contracts, the merits of
11 limiting the number of contracts, the professional
12 responsibilities of a public owner, contractor,
13 construction manager, architect, engineer, and
14 landscape architect on a public works project, and any
15 other issue raised by the members of the interim study
16 committee. The interim study shall include making
17 recommendations for a clear chain of command on public
18 works projects and proposing guidelines for the
19 interrelationship of public owners, contractors,
20 construction managers, architects, engineers, and
21 landscape architects on public works projects. The
22 study committee shall be composed of representatives
23 of organizations including but not limited to the
24 associated builders and contractors of Iowa, master
25 builders of Iowa, and organizations representing
26 construction managers, Iowa general contractors for
27 competitive bidding, architects, engineers, Iowa rural
28 water association, Iowa public airports association,
29 Iowa association of municipal utilities, Iowa state
30 association of counties, league of cities, state board
31 of regents, Iowa association of school boards, and
32 public owners. Appointments to the committee shall be
33 made no later than August 1, 2002. Staffing for the
34 committee shall be provided by the legislative service
35 bureau. The study committee shall submit a report of
36 its findings and recommendations, including proposed
37 legislation, if any, to the general assembly on or
38 before January 13, 2003."
39 2. Title page, line 1, by inserting after the
40 word "Act" the following: "requesting the
41 establishment of an interim study committee".
42 3. By renumbering as necessary.

By ROBERT E. DVORSKY
JOE BOLKCOM
JOHNIE HAMMOND

S-5290 FILED APRIL 1, 2002

Last (P 892)
4-2-02

SENATE FILE 2324**S-5299**

1 Amend Senate File 2324 as follows:

2 1. Page 4, by inserting after line 14 the
3 following:4 "8. REMEDIES. In addition to any other available
5 remedy at law, a taxpayer or public owner may bring an
6 action against a construction manager that commits an
7 unlawful act under this section to recover either of
8 the following:9 a. The amount of monies or property acquired by
10 the construction manager from the public owner by
11 committing an unlawful act under this section,
12 including reasonable costs and attorney fees incurred.13 b. The amount of monies a losing bidder would have
14 received if the losing bidder had been awarded a
15 contract for services on a public works project that
16 was wrongfully awarded to another person due to an
17 unlawful act under this section committed by the
18 construction manager, including reasonable costs and
19 attorney fees incurred."

By THOMAS FIEGEN

S-5299 FILED APRIL 2, 2002

LOST

(p. 843)

SENATE FILE 2324**S-5300**

1 Amend Senate File 2324 as follows:

2 1. Page 3, by inserting after line 29 the
3 following:4 "f. Refrain from payment for duplicative services
5 that have been contracted to be provided by or will be
6 contracted to be provided by other participants on the
7 public works project, including general contractors,
8 architects, or engineers, unless the public owner has
9 been fully informed by the construction manager and
10 acknowledges to the construction manager that the
11 public owner is aware that duplicative services will
12 be paid and has determined that there is a need for
13 such duplicative services."

By THOMAS FIEGEN

S-5300 FILED APRIL 2, 2002

LOST

(p. 892)

SENATE FILE 2324**S-5309**

1 Amend Senate File 2324 as follows:

2 1. Page 2, line 6, by inserting after the word
3 "SERVICES." the following: "A public owner is not
4 required to engage a construction manager."

By STEVE KING

TOM FLYNN

JOHN W. JENSEN

KEN VEENSTRA

S-5309 FILED APRIL 2, 2002

ADOPTED

(p. 872)

H- 4/2/02 Commerce Reg.
H- 4/10/02 Amended/Do Pass
W/H- 8596

SENATE FILE **2324**
BY IVERSON and GRONSTAL

(AS AMENDED AND PASSED BY THE SENATE APRIL 2, 2002)
_____ - New Language by the Senate

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

A BILL FOR

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

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

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

S.F. 2324

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 services provided in the planning, design, and construction
7 phases of a public works project.

8 "Construction management services" does not include
9 architectural services provided within the practice of
10 architecture as defined in section 544A.16, engineering
11 services provided within the practice of engineering as
12 defined in section 542B.2, or landscape architectural services
13 provided within the practice of landscape architecture as
14 defined in section 544B.1.

15 b. "Construction manager" means any person, firm, or
16 corporation that provides construction management services to
17 a public owner.

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

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

24 e. "Public works" means a building or other construction
25 work which is constructed under the control of a public owner
26 and is paid for in whole or in part with funds of a public
27 owner. "Public works" does not include any work done by or on
28 behalf of a drainage or levee district or any work funded by
29 federal funds where federal procurement policy applicable to
30 the use of the federal funds is inconsistent with the
31 requirements of this section.

32 f. "Public works project" or "project" means the
33 construction, maintenance, or repair of public works.

34 2. USE OF CONSTRUCTION MANAGER. A public owner may engage
35 a construction manager when planning, designing, or

1 constructing a public works, or when improving, altering, or
2 repairing a public works. A public owner may engage a
3 construction manager in the preconstruction phase of a public
4 works project or in both the preconstruction and construction
5 phases of the project.

6 3. SOLICITATION OF CONSTRUCTION MANAGEMENT SERVICES. A
7 public owner is not required to engage a construction manager.
8 If a public owner makes an initial determination to engage a
9 construction manager and the estimated cost of construction
10 management services for a public works project to be provided
11 by the construction manager exceeds twenty-five thousand
12 dollars, a public owner shall solicit a proposed construction
13 management services contract by publishing an advertisement in
14 a newspaper published at least once weekly and having general
15 circulation in the city or county where the public works
16 project is located. The notice must be published at least
17 once, not less than twenty nor more than forty-five days
18 before the date set by the public owner for submission of
19 proposals. The notice shall contain a statement that the
20 public owner reserves the right to reject any or all proposals
21 and seek additional proposals or may in its discretion not
22 seek additional proposals. If the public owner rejects all
23 proposals and does not seek any additional proposals, the
24 public owner may proceed with the public works project without
25 engaging a construction manager or terminate the public works
26 project, as deemed appropriate and in the public interest by
27 the public owner. The public owner may publish an
28 advertisement in an electronic format as an additional method
29 of soliciting proposals under this subsection.

30 4. SELECTION CRITERIA. In a request for proposals for
31 construction management services, a public owner shall include
32 a description of the scope of construction management services
33 desired and the selection criteria to be used in evaluating
34 proposals for construction management services and shall
35 require a construction manager making a proposal to propose

1 significant efficiencies or improvements in the quality of the
2 public works project, as determined by the public owner.

3 5. CONSTRUCTION MANAGEMENT SERVICES CONTRACT. A
4 construction management services contract for a public works
5 project shall provide that the construction manager shall do
6 all of the following:

7 a. Furnish skill and judgment in cooperation with, and in
8 reliance on, the services of the public works project
9 architect, engineer, and general contractor.

10 b. Furnish business administration services, management of
11 the construction process, and other specified services in an
12 economical and expeditious manner consistent with the
13 interests of the public owner.

14 c. Refrain from entering into an arrangement that violates
15 subsection 6 and refrain from bidding on or performing actual
16 construction or general conditions work on a public works
17 project on which the construction manager is performing
18 construction management services.

19 d. Obtain professional liability insurance at the public
20 owner's request. A construction manager shall also be
21 required to obtain a performance bond as required pursuant to
22 chapter 573 for services performed. A professional engineer
23 licensed pursuant to chapter 542B, or a registered architect
24 licensed pursuant to chapter 544A, who performs construction
25 management services, is not required to obtain a performance
26 bond as required pursuant to chapter 573 for services
27 performed.

28 e. Recommend contracts or change orders to a public owner
29 but a construction manager shall not authorize contracts or
30 change orders.

31 A contract for construction management services shall be a
32 public document and shall be available to the public for the
33 reasonable cost of reproduction of the contract.

34 6. CONFLICTS PROHIBITED. A construction management
35 services contract for a public works project shall not be

1 awarded by a public owner to a construction manager that
2 controls, is controlled by, shares common ownership or control
3 with, or is related to the owner of another construction
4 contractor, construction subcontractor, or construction
5 supplier on the public works project; that assumes financial
6 responsibility for the work of others on the project; that
7 guarantees a maximum price for the work of others on the
8 project; or that furnishes or guarantees a performance or
9 payment bond for another contractor on the project. For
10 purposes of this subsection, "related" means a relative as
11 defined in section 42.1.

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

16 Sec. 2. Section 390.3, unnumbered paragraph 2, Code 2001,
17 is amended to read as follows:

18 However, in the performance of a joint agreement, the
19 governing body is not subject to statutes generally applicable
20 to public contracts, including hearings on plans,
21 specifications, form of contracts, costs, notice and
22 competitive bidding required under sections 384.95 through
23 384.103, and construction management services as provided in
24 section 72.6, unless all parties to the joint agreement are
25 cities located within the state of Iowa.

26 Sec. 3. IMPLEMENTATION OF ACT. Section 25B.2, subsection
27 3, shall not apply to this Act.

28 Sec. 4. APPLICABILITY. This Act does not apply to
29 construction management contracts entered into prior to the
30 effective date of this Act.

31 Sec. 5. PUBLIC WORKS PROJECTS INTERIM STUDY. The
32 legislative council is requested to authorize an interim study
33 committee to study the professional relationships among public
34 owners, contractors, construction managers, architects,
35 engineers, and landscape architects and to review issues

1 concerning bid comparisons on multiple contracts, the merits
2 of limiting the number of contracts, the professional
3 responsibilities of a public owner, contractor, construction
4 manager, architect, engineer, and landscape architect on a
5 public works project, and any other issue raised by the
6 members of the interim study committee. The interim study
7 shall include making recommendations for a clear chain of
8 command on public works projects and proposing guidelines for
9 the interrelationship of public owners, contractors,
10 construction managers, architects, engineers, and landscape
11 architects on public works projects. The study committee
12 shall be composed of representatives of organizations
13 including but not limited to associated builders and
14 contractors of Iowa, master builders of Iowa, and
15 organizations representing construction managers, Iowa general
16 contractors for competitive bidding, architects, engineers,
17 Iowa rural water association, Iowa public airports
18 association, Iowa association of municipal utilities, and
19 public owners. Appointments to the committee shall be made no
20 later than August 1, 2002. Staffing for the committee shall
21 be provided by the legislative service bureau. The study
22 committee shall submit a report of its findings and
23 recommendations, including proposed legislation, if any, to
24 the general assembly on or before January 13, 2003.

25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 2324

H-8591

1 Amend Senate File 2324, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 4, by inserting after line 15 the
4 following:

5 "Sec. ____ . NEW SECTION. 72.7 PUBLIC WORKS
6 PROJECTS -- COMPETITIVE BIDDING REQUIREMENTS.

7 Prior to awarding a contract to perform work on a
8 public works project pursuant to a competitive bidding
9 procedure, which contract authorizes the expenditure
10 of twenty-five thousand dollars or more in public
11 funds, a public owner as defined in section 72.6 shall
12 consider, in determining whether a bidder is
13 responsible, the bidder's record of reliability and
14 timely completion of past projects, the qualifications
15 of the bidder and its employer and subcontractors to
16 properly perform the type of work required by the
17 contract, and the past experience of the bidder and
18 its subcontractors on projects of the same or similar
19 nature. In addition, for a bid to be considered a
20 responsible bid, the bidder and its subcontractors
21 shall possess a documented record of reliability and
22 timely completion of past projects of the same or
23 similar scope of work and a sufficient number of
24 qualified and trained employees to properly perform
25 the type and nature of work required under the
26 contract. Proof of a sufficient number of qualified
27 and trained employees shall not be required if the
28 bidder and its subcontractors can establish its
29 payment of the prevailing wage for the work to be
30 performed as determined by the department of workforce
31 development based upon wage determinations established
32 by the United States department of labor for similar
33 work pursuant to 29 C.F.R. § 1.5 and 29 C.F.R. §
34 1.6(b)."

35 2. Title page, line 2, by inserting after the
36 word "projects" the following: "and providing for
37 certain competitive bidding procedures for public
38 owners".

39 3. By renumbering, redesignating, and correcting
40 internal references as necessary.

By T. TAYLOR of Linn

H-8591 FILED APRIL 11, 2002

SENATE FILE 2324**H-8592**

1 Amend Senate File 2324, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, line 27, by inserting after the word
4 "owner" the following: "or with proceeds from a local
5 option sales and services tax for school
6 infrastructure purposes imposed pursuant to chapter
7 422E".

By BRUNKHORST of Bremer

H-8592 FILED APRIL 11, 2002**SENATE FILE 2324****H-8593**

1 Amend Senate File 2324, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 3, by inserting after line 30 the
4 following:
5 "f. Evaluate the benefits and potential cost
6 savings of utilizing and entering into a project labor
7 agreement on the public works project."

By DOTZLER of Black Hawk

H-8593 FILED APRIL 11, 2002**SENATE FILE 2324****H-8594**

1 Amend Senate File 2324, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 2, line 5, by inserting after the word
4 "project." the following: "A construction manager
5 shall be permitted to enter into a project labor
6 agreement on any public works project."

By DOTZLER of Black Hawk

H-8594 FILED APRIL 11, 2002

SENATE FILE 2324**H-8596**

1 Amend Senate File 2324, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 5 through 7 and
4 inserting the following:

5 "a. "Construction management services" means
6 advisory services contracted by a public owner in the
7 planning, design, or construction phases of a public
8 works project regarding cost control,
9 constructibility, scheduling, project management, or
10 construction."

11 2. Page 1, line 28, by inserting after the word
12 "district" the following: ", an electric utility
13 subject to the provisions of section 476.1A, or a gas
14 or electric rate-regulated public utility as defined
15 in section 476.1,".

16 3. Page 2, by striking lines 3 through 5 and
17 inserting the following: "construction manager in any
18 phase of a public works project."

19 4. Page 2, line 12 by striking the words "solicit
20 a proposed" and inserting the following: "seek
21 proposals for".

22 5. Page 2, line 13, by striking the word
23 "contract".

24 6. Page 3, by striking lines 5 through 13 and
25 inserting the following: "project shall provide that
26 the construction manager shall:"

27 7. Page 4, line 15, by inserting after the word
28 "owner." the following: "This section does not limit
29 the ability of a school corporation to hire
30 consultants."

31 8. Page 5, line 18, by inserting after the word
32 "utilities," the following: "Iowa association of
33 school boards, Iowa state association of counties,
34 Iowa league of cities,".

35 9. By renumbering as necessary.

By COMMITTEE ON COMMERCE AND REGULATION
HANSEN of Pottawattamie, Chairperson

H-8596 FILED APRIL 11, 2002

SENATE FILE 2324**H-8598**

1 Amend Senate File 2324, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 3, by inserting after line 30 the
4 following:
5 "___ . Perform construction management services for
6 the public owner for a fixed fee as set forth in the
7 construction management services contract with the
8 public owner. The fixed fee shall not be based on the
9 total cost of the public works project or established
10 as a percentage of the total cost of the public works
11 project."

By WISE of Lee

H-8598 FILED APRIL 11, 2002**SENATE FILE 2324****H-8600**

1 Amend Senate File 2324, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. By striking everything after the enacting
4 clause and inserting the following:
5 "Section 1. STUDY COMMITTEE. The legislative
6 council is requested to request representatives of
7 organizations, including but not limited to state and
8 local government public agencies, the associated
9 builders and contractors of Iowa, the master builders
10 of Iowa, and organizations representing construction
11 managers, general contractors, architects, and
12 engineers, and representatives of other public and
13 private agencies having an interest in the provision
14 of construction management services and bidding
15 procedures, to organize for the purpose of studying
16 proposed and current laws relating to bidding,
17 contracts, construction responsibilities, and
18 construction management proposals and principles. The
19 legislative council may request the private study
20 committee to provide periodic reports to the
21 legislative council regarding the progress of the
22 study committee. The legislative council may appoint
23 a committee composed of legislators to review the work
24 of the study committee or may refer the report of the
25 study committee to the standing committee on commerce
26 of the senate and the standing committee on commerce
27 and regulation of the house of representatives by
28 January 1, 2003."
29 2. Title page, by striking lines 1 and 2 and
30 inserting the following: "An Act providing that the
31 legislative council shall initiate and oversee a study
32 of contract management services and bidding
33 procedures."

By REYNOLDS of Van Buren

H-8600 FILED APRIL 11, 2002

SENATE FILE 2324**H-8601**

1 Amend Senate File 2324, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 4, by inserting after line 15 the
4 following:
5 "8. ALTERNATIVE PROCESS. This section does not
6 apply to institutions governed under chapter 262,
7 public airports, rural water districts incorporated
8 and organized pursuant to chapter 357A, or municipal
9 utilities established pursuant to chapter 388 that
10 have adopted an alternative process for solicitation,
11 selection, and awarding of a contract to a
12 construction manager."

By REYNOLDS of Van Buren

H-8601 FILED APRIL 11, 2002

SENATE FILE 2324**H-8602**

1 Amend Senate File 2324, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 3, by inserting after line 30 the
4 following:
5 "_. Provide construction management services for
6 a fixed fee as provided in the construction management
7 services contract. The construction manager shall
8 include the amount of the fixed fee in the proposal
9 submitted to the public owner pursuant to this
10 section. The proposed fixed fee is subject to
11 negotiations between the construction manager and the
12 public owner prior to entering into the construction
13 management services contract. A fee charged for
14 construction management services shall not be based on
15 the total cost of the public works project or based on
16 a percentage of the total cost of the public works
17 project."
18 2. By renumbering as necessary.

By REYNOLDS of Van Buren

H-8602 FILED APRIL 11, 2002

SENATE FILE 2324**H-8603**

1 Amend Senate File 2324, as amended, passed, and
2 reprinted by the Senate as follows:
3 1. Page 1, line 28, by striking the words "or
4 levee" and inserting the following: ", levee, or
5 rural water".

By REYNOLDS of Van Buren

H-8603 FILED APRIL 11, 2002

SENATE FILE 2324**H-8606**

1 Amend Senate File 2324, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 3, by striking lines 19 and 20 and
4 inserting the following:

5 "d. Maintain professional liability insurance. A
6 construction manager involved in the construction
7 phase of a public works project shall also be".

By BRADLEY of Clinton

H-8606 FILED APRIL 11, 2002**SENATE FILE 2324****H-8610**

1 Amend Senate File 2324, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 28, by inserting after the word
4 "district" the following: ", institutions governed
5 under chapter 262, public airports, rural water
6 districts incorporated and organized pursuant to
7 chapter 357A, municipal utilities established pursuant
8 to chapter 388,".

By CHIODO of Polk

H-8610 FILED APRIL 11, 2002**SENATE FILE 2324****H-8612**

1 Amend the amendment, H-8596, to Senate File 2324,
2 as amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, line 9, by striking the word
5 "constructibility" and inserting the following: "the
6 feasibility of construction".

By REYNOLDS of Van Buren

H-8612 FILED APRIL 11, 2002**SENATE FILE 2324****H-8624**

1 Amend Senate File 2324, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, line 27, by inserting after the word
4 "owner." the following: "A public owner shall give
5 preference to a proposal by a construction manager
6 that is a targeted small business as defined in
7 section 15.102."

By SHOULTZ of Black Hawk

H-8624 FILED APRIL 11, 2002

SENATE FILE 2324

H-8629

1 Amend Senate File 2324 as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. By striking page 1, line 3, through page 5,
4 line 24, and inserting the following:

5 "The state or an agency of the state may contract
6 for construction management services for public
7 improvement projects. Bids shall be received for
8 proposals for construction management services after
9 issuance of a request for proposals in the manner
10 provided for by competitive bidding rules adopted by
11 the appropriate state agency pursuant to chapter 17A.
12 The rules shall provide for the definition of
13 necessary terms in a request for proposals and any
14 resulting contract for construction management
15 services, including a definition of "construction
16 manager" and "construction management services" and
17 definitions of such other terms and provisions as
18 deemed necessary. A request for proposals shall
19 include provisions that the state or an agency of the
20 state reserves the right to reject any or all
21 proposals or to issue a new request for proposals,
22 that the construction manager shall obtain
23 professional liability insurance, and that the
24 construction manager shall be paid a fixed fee. A
25 request for proposals shall also define and prohibit
26 conflicts of interest between the construction manager
27 and any contractor that performs any service for the
28 public improvement project or any person that assumes
29 financial responsibility for the work of others on the
30 public improvement project.

31 Sec. 2. Section 73A.2, Code 2001, is amended by
32 adding the following new unnumbered paragraph:

33 NEW UNNUMBERED PARAGRAPH. Before any municipality
34 enters into a contract for construction management
35 services to cost twenty-five thousand dollars or more,
36 the municipality shall comply with the requirements of
37 this section and this chapter relating to public
38 improvements costing twenty-five thousand dollars or
39 more. The provisions of this chapter relating to
40 public improvements, shall, when applicable, apply to
41 a contract for construction management services when
42 the estimated cost of the construction management
43 services is twenty-five thousand dollars or more. The
44 request for proposals for construction management
45 services and any resulting contract shall include
46 descriptions and definitions relating to the
47 construction management services requested and
48 provisions providing that a municipality reserves the
49 right to reject any or all proposals or to issue a new
50 request for proposals, that the construction manager

H-8629

-1-

H-8629

Page 2

1 shall obtain professional liability insurance, and
2 that the construction manager shall be paid a fixed
3 fee. The request for proposals for construction
4 management services shall also define and prohibit
5 conflicts of interest between the construction manager
6 and any contractor that performs any service for the
7 public improvement project or any person that assumes
8 financial responsibility for the work of others
9 performing services on the public improvement project.

10 Sec. 3. NEW SECTION. 384.104 CONSTRUCTION
11 MANAGEMENT SERVICES.

12 If a governing body as defined in section 384.95,
13 subsection 2, makes a determination to engage a
14 construction manager for any public improvement and
15 the total cost for the construction management
16 services will cost twenty-five thousand dollars or
17 more, the governing body may follow the same
18 procedures set forth in sections 384.95 through
19 384.103 for contracts involving public improvements.
20 A request for proposals for construction management
21 services under this section shall include a definition
22 of "construction manager" and "construction management
23 services" and definitions of such other terms as
24 deemed necessary by the governing body. The request
25 for proposals for construction management services
26 shall include provisions that the governing body
27 reserves the right to reject any or all proposals or
28 to issue a new request for proposals, that the
29 construction manager shall obtain professional
30 liability insurance, and that the construction manager
31 shall be paid a fixed fee. The request for proposals
32 for construction management services shall also define
33 and prohibit conflicts of interest between the
34 construction manager and any contractor that performs
35 any service for the public improvement project or any
36 person that assumes financial responsibility for the
37 work of others performing services on the public
38 improvement project.

39 Sec. 4. STUDY COMMITTEE. The legislative council
40 is requested to request representatives of
41 organizations, including but not limited to state and
42 local government entities, public agencies or agents
43 of public agencies, the associated builders and
44 contractors of Iowa, and the master builders of Iowa,
45 and organizations representing construction managers,
46 general contractors, architects, and engineers, and
47 representatives of other public or private agencies
48 having an interest in the provision of construction
49 management services and bidding procedures, to
50 organize for the purpose of studying proposed and

H-8629

-2-

H-8629

Page 3

1 current laws relating to bidding, contracts,
2 construction responsibilities, and contract management
3 proposals and principles. The legislative council may
4 request the private study committee to provide
5 periodic reports to the legislative council regarding
6 the progress of the study committee and the
7 legislative council may communicate with the study
8 committee regarding the progress of the study. The
9 legislative council may appoint a committee composed
10 of legislators to review the work of the study
11 committee or may refer the report of the study
12 committee to the standing committee on commerce of the
13 senate and the standing committee on commerce and
14 regulation of the house of representatives by January
15 1, 2003."

16 2. Title page, line 2, by striking the word
17 "works" and inserting the following: "improvement".

18 3. By renumbering as necessary.

By HATCH of Polk

H-8629 FILED APRIL 11, 2002

SENATE FILE 2324**H-8631**

1 Amend Senate File 2324, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 3, by inserting after line 30 the
4 following:

5 "____. Ensure that small businesses and targeted
6 small businesses, as defined in section 15.102, are
7 hired to perform at least ten percent of the
8 construction work on a public works project for which
9 a construction manager provides construction
10 management services."

By SHOULTZ of Black Hawk

H-8631 FILED APRIL 11, 2002

SENATE FILE 2324**H-8634**

1 Amend the amendment, H-8592, to Senate File 2324 as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, by inserting after line 7 the
5 following:

6 "____". Page 4, by inserting after line 15 the
7 following:

8 "Sec. 103. NEW SECTION. 298B.1 SCHOOL DISTRICT
9 SALES TAX FUND.

10 1. A school district sales tax fund is created as
11 a separate and distinct fund in the state treasury
12 under the control of the department of revenue and
13 finance. Moneys in the fund include revenues credited
14 to the fund pursuant to section 422.69, subsection 2,
15 appropriations made to the fund, and other moneys
16 deposited into the fund. The moneys credited in a
17 fiscal year to the fund shall be distributed as
18 follows:

19 a. (1) A school district located in whole or in
20 part in a county that voted on and approved prior to
21 March 31, 2002, the local sales and services tax for
22 school infrastructure purposes under chapter 422E
23 shall receive an amount equal to its guaranteed school
24 infrastructure amount as calculated under subsection 2
25 if the board of directors notifies the director of
26 revenue and finance that the school district wants to
27 receive its guaranteed school infrastructure amount.
28 The notification shall be provided by July 1, 2003.
29 If notification is not received by July 1, 2003, the
30 school district shall receive moneys pursuant to
31 paragraph "b". Nothing in this chapter shall prevent
32 a school district from using its guaranteed school
33 infrastructure amount to pay principal and interest on
34 obligations issued pursuant to section 422E.4.

35 (2) A school district receiving moneys pursuant to
36 subparagraph (1) shall cease to receive its guaranteed
37 school infrastructure amount and shall receive moneys
38 pursuant to paragraph "b" starting with the calendar
39 quarter immediately following the calendar quarter in
40 which occurs the end of the original ten-year period
41 or the date listed on the original ballot proposition,
42 whichever is the earlier, as provided in chapter 422E.
43 However, a school district receiving moneys pursuant
44 to subparagraph (1) may elect at anytime to receive
45 moneys pursuant to paragraph "b" by providing
46 notification to receive moneys pursuant to paragraph
47 "b" to the director of revenue and finance and the
48 director of the department of management by the middle
49 of the fifth month preceding the calendar quarter for
50 which the election will apply. Once a school district

H-8634

H-8634

Page 2

1 makes this election it is irrevocable.

2 b. (1) Moneys remaining after computations made
3 pursuant to paragraph "a" shall be distributed to
4 school districts not receiving moneys under paragraph
5 "a" on a per student basis calculated by the director
6 of revenue and finance by dividing the moneys
7 available during the previous calendar quarter by the
8 combined actual enrollment for all school districts
9 receiving distributions under this paragraph.

10 (2) The combined actual enrollment for school
11 districts, for purposes of subparagraph (1), shall be
12 calculated by adding together the actual enrollment
13 for each school district receiving distributions under
14 subparagraph (1) as determined by the department of
15 management based on the actual enrollment figures
16 reported by October 1 to the department of management
17 by the department of education pursuant to section
18 257.6, subsection 1. The combined actual enrollment
19 count shall be forwarded to the director of revenue
20 and finance by January 1, annually, for purposes of
21 supplying estimated tax payment figures and making tax
22 payments pursuant to subsection 3 for the following
23 four calendar quarters.

24 2. a. For purposes of distributions under
25 subsection 1, paragraph "a", the school district's
26 guaranteed school infrastructure amount shall be
27 calculated according to the following formula:

28 The district's guaranteed school infrastructure
29 amount equals the product of the county guaranteed
30 school infrastructure amount times the district's
31 county actual enrollment divided by the county
32 combined actual enrollment.

33 b. For purposes of the formula in paragraph "a":

34 (1) "Base year" means the fiscal year beginning
35 July 1, 2001.

36 (2) "Base year county taxable sales percentage"
37 means the percentage that the taxable sales in the
38 county during the base year is of the total state
39 taxable sales during the base year.

40 (3) "County combined actual enrollment" means the
41 actual enrollment figures determined by the department
42 of management for the county based on the actual
43 enrollment figures reported by October 1 to the
44 department of management by the department of
45 education pursuant to section 257.6, subsection 1.

46 (4) "County guaranteed school infrastructure
47 amount" means an amount equal to the product of the
48 county's chapter 422E proportionate share times the
49 amount deposited in the school district sales tax fund
50 for the current quarter times the current quarter

H-8634

-2-

H-8634

Page 3

1 county taxable sales percentage divided by the base
2 year county taxable sales percentage.

3 (5) "County's chapter 422E proportionate share"
4 means the percentage that the annualized revenues
5 received or which would have been received in the
6 county under chapter 422E for the base year is of one-
7 fifth of the total state sales tax revenues collected
8 for deposit into the general fund of the state for the
9 base year.

10 (6) "Current quarter" means the calendar quarter
11 for which distributions under this section are being
12 made.

13 (7) "Current quarter county taxable sales
14 percentage" means the percentage that the taxable
15 sales in the county during the current quarter is of
16 the total state taxable sales during the current
17 quarter.

18 (8) "District's county actual enrollment" means
19 the actual enrollment of the school district that
20 attends school in the county for which the county
21 combined actual enrollment is determined.

22 (9) "Taxable sales" means sales subject to the
23 state sales and services tax under chapter 422,
24 division IV.

25 3. a. The director of revenue and finance by
26 April 10 preceding each fiscal year shall send to each
27 school district an estimate of the amount of tax
28 moneys each school district will receive for the year
29 and for each quarter of the year. At the end of each
30 quarter, the director may revise the estimates for the
31 year and remaining quarters.

32 b. The director shall remit ninety-five percent of
33 the estimated tax receipts collected during the
34 previous calendar quarter for the school district to
35 the school district on or before the end of the
36 following calendar quarter. The first distributions
37 shall be made on or before July 1, 2003, of the
38 estimated tax receipts collected during the calendar
39 quarter beginning January 1, 2003, and ending March
40 31, 2003.

41 c. The director shall remit a final payment of the
42 remainder of tax moneys due for the fiscal year before
43 November 10 of the next fiscal year. If an
44 overpayment has resulted during the previous fiscal
45 year, the November payment shall be adjusted to
46 reflect any overpayment.

47 d. If the distributions are to school districts
48 described in subsection 1, paragraph "a", the payments
49 to these school districts shall be made on a monthly
50 basis beginning with the first distribution to be made

H-8634

H-8634

Page 4

1 in February 2003.

2 4. The department of revenue and finance has
3 rulemaking authority for purposes of carrying out the
4 provisions of this section.

5 Sec. 104. NEW SECTION. 298B.2 USE OF SCHOOL
6 DISTRICT SALES TAX FUND MONEYS.

7 1. a. A school district receiving moneys from the
8 school district sales tax fund under section 298B.1,
9 subsection 1, paragraph "a", shall use the moneys as
10 provided on the original ballot proposition pursuant
11 to chapter 422E, for the payment of principal and
12 interest on general obligation bonds issued pursuant
13 to chapter 296, or section 298.20 or loan agreements
14 under section 297.36, for payments made pursuant to
15 real property lease or lease-purchase agreements, or
16 for payment of principal and interest on bonds issued
17 under section 298B.3 or 422E.4.

18 b. If a school district that qualifies to receive
19 a guaranteed school infrastructure amount under
20 section 298B.1, subsection 1, paragraph "a", elects to
21 receive moneys under section 298B.1, subsection 1,
22 paragraph "b", the school district shall use the
23 moneys received, in an amount equal to its guaranteed
24 school infrastructure amount, for the purposes
25 provided in paragraph "a" of this subsection until the
26 fiscal year immediately following the fiscal year in
27 which occurs the end of the original ten-year period
28 or the date listed on the original ballot proposition,
29 whichever is the earlier, as provided in chapter 422E,
30 at which time all moneys received shall be used as
31 provided in subsection 2.

32 2. a. Moneys received by a school district from
33 the school district sales tax fund under section
34 298B.1, subsection 1, paragraph "b", except to the
35 extent provided in subsection 1, paragraph "b", of the
36 section, shall be spent for property tax relief or
37 infrastructure purposes according to an infrastructure
38 plan developed by the board of directors. The
39 infrastructure plan may apply to more than one fiscal
40 year, but shall be reviewed periodically by the board
41 of directors. Prior to adoption of the plan, the
42 board of directors shall hold a public hearing on the
43 question of approval of the proposed plan. The board
44 shall set forth its proposal and shall publish the
45 notice of the time and place of a public hearing on
46 the proposed plan. Notice of the time and place of
47 the public hearing shall be published not less than
48 ten nor more than twenty days before the public
49 hearing in a newspaper which is a newspaper of general
50 circulation in the school district. At the hearing,

H-8634

H-8634

Page 5

1 or no later than thirty days after the date of the
2 hearing, the board shall take action to adopt the
3 proposed plan.

4 b. If the board adopts the plan, the board shall
5 direct the county commissioner of elections to submit
6 the question of the approval or disapproval of the
7 infrastructure plan to the registered voters of the
8 school district at the next following regular school
9 election or a special election. If a majority of
10 those voting on the question favor the plan of the
11 board, the moneys received shall be used according to
12 the plan beginning with the first fiscal year
13 following that election until a change in the plan is
14 approved at a subsequent election by a majority of
15 those voting on the question. If a majority of those
16 voting on the question at the election does not favor
17 the plan of the board, the district shall use the
18 moneys received as provided in paragraph "c" for the
19 fiscal year.

20 If a plan is not approved at an election, the
21 question of the approval of the plan or any part of
22 that plan shall not be submitted to the registered
23 voters sooner than six months from the date the plan
24 or part of the plan was previously submitted.

25 c. If the infrastructure plan is not approved at
26 an election as provided in paragraph "b", or if a plan
27 is not approved by the board, moneys received by a
28 school district or moneys in excess of those needed
29 for infrastructure purposes according to an approved
30 plan shall be used for the fiscal year to reduce the
31 following levies including income surtax, if any, in
32 the order determined by the board:

33 (1) Bond levies under sections 298.18 and 298.18A
34 and all other debt levies until the moneys received or
35 the levies are reduced to zero.

36 (2) The regular physical plant and equipment levy
37 under section 298.2, until the moneys received or the
38 levy is reduced to zero.

39 (3) The voter-approved physical plant and
40 equipment levy and income surtax, if any, under
41 section 298.2, until the moneys received or the levy
42 and income surtax, if any, is reduced to zero.

43 (4) The district management levy under section
44 298.4, until the moneys received or the levy is
45 reduced to zero.

46 (5) The cash reserve levy under section 298.10,
47 until the moneys received or the levy is reduced to
48 zero.

49 (6) The budget adjustment levy under section
50 257.14, until the moneys received or the levy is

H-8634

H-8634

Page 6

1 reduced to zero.

2 (7) The playground and equipment levy under
3 section 300.2, until the moneys received or the levy
4 is reduced to zero.

5 d. For purposes of this subsection,
6 "infrastructure purposes" means those purposes for
7 which a school district is authorized to contract
8 indebtedness and issue general obligation bonds under
9 chapter 296 or to expend tax revenues under section
10 298.3, the payment of principal and interest on
11 general obligation bonds issued under chapter 296 or
12 section 298.20 or loan agreements under section
13 297.36, payments made pursuant to a real property
14 lease or lease-purchase agreement, or the payment of
15 principal and interest on bonds issued under section
16 298.3 or 422E.4.

17 e. Notwithstanding any other provision in this
18 subsection, moneys received by a school district from
19 the school district sales tax fund under section
20 298B.1, subsection 1, paragraph "b", during the fiscal
21 year beginning July 1, 2002, shall be dedicated for
22 property tax relief by reducing the levies specified
23 in paragraph "c" for taxes payable in the fiscal year
24 beginning July 1, 2003. However, if an infrastructure
25 plan is approved at an election by the required
26 majority of those voting prior to April 15, 2003, any
27 amount of such dedicated moneys may be used for the
28 purposes specified under the plan.

29 Sec. 105. NEW SECTION. 298B.3 BONDING.

30 A school district receiving moneys pursuant to
31 section 298B.1, subsection 1, paragraph "a", or a
32 school district receiving moneys pursuant to section
33 298B.1, subsection 1, paragraph "b", which has
34 approved by election the use of the moneys for
35 infrastructure purposes, may anticipate the amount of
36 moneys to be received pursuant to section 298B.1 as
37 provided in this section.

38 The board of directors of a school district may
39 issue negotiable, interest-bearing school bonds,
40 without an additional election, and utilize tax
41 receipts derived from the school district sales tax
42 fund for principal and interest repayment. Proceeds
43 of the bonds issued pursuant to this section shall be
44 utilized solely for infrastructure purposes as defined
45 in section 298B.2, subsection 2.

46 Bonds issued under this section may be sold at
47 public sale as provided in chapter 75. Notice shall
48 be given and a hearing shall be held as provided in
49 section 73A.12. Bonds may bear dates, bear interest
50 at rates not exceeding that permitted by chapter 74A,

H-8634

H-8634

Page 7

1 mature in one or more installments, be in either
2 coupon or registered form, carry registration and
3 conversion privileges, be payable as to principal and
4 interest at times and places, be subject to terms of
5 redemption prior to maturity with or without premium,
6 and be in one or more denominations, all as provided
7 by the resolution of the board of directors
8 authorizing their issuance. However, the maximum
9 period during which principal on the bonds is payable
10 shall not exceed the length of time the infrastructure
11 plan is valid. The resolution may also prescribe
12 additional provisions, terms, conditions, and
13 covenants which the board of directors deems
14 advisable, including provisions for creating and
15 maintaining reserve funds, the issuance of additional
16 bonds ranking on a parity with such bonds and
17 additional bonds junior and subordinate to such bonds,
18 and that such bonds shall rank on a parity with or be
19 junior and subordinate to any bonds which may be then
20 outstanding. Bonds may be issued to refund
21 outstanding and previously issued bonds under this
22 section. Bonds are a contract between the school
23 district and holders, and the resolution issuing the
24 bonds and pledging tax revenues to be received from
25 the school district sales tax fund to the payment of
26 principal and interest on the bonds is a part of the
27 contract. Bonds issued pursuant to this section shall
28 not constitute indebtedness within the meaning of any
29 constitutional or statutory debt limitation or
30 restriction, and shall not be subject to any other law
31 relating to the authorization, issuance, or sale of
32 bonds.

33 A school district may enter into a chapter 28E
34 agreement with another school district or other public
35 entity. The school district shall only expend its
36 designated portion of tax revenues to be received from
37 the school district sales tax fund.

38 Sec. 106. NEW SECTION. 298B.4 REPEAL.

39 This chapter is repealed July 1, 2022, for fiscal
40 years beginning on or after that date."

41 _____. Page 4, by inserting after line 25 the
42 following:

43 "Sec. 107. Section 422.43, subsections 1, 2, 4, 5,
44 6, 7, 10, and 12, Code Supplement 2001, are amended to
45 read as follows:

46 1. There is imposed a tax of ~~five~~ six percent upon
47 the gross receipts from all sales of tangible personal
48 property, consisting of goods, wares, or merchandise,
49 except as otherwise provided in this division, sold at
50 retail in the state to consumers or users; a like rate

H-8634

H-8634

Page 8

1 of tax upon the gross receipts from the sales,
2 furnishing, or service of gas, electricity, water,
3 heat, pay television service, and communication
4 service, including the gross receipts from such sales
5 by any municipal corporation or joint water utility
6 furnishing gas, electricity, water, heat, pay
7 television service, and communication service to the
8 public in its proprietary capacity, except as
9 otherwise provided in this division, when sold at
10 retail in the state to consumers or users; a like rate
11 of tax upon the gross receipts from all sales of
12 tickets or admissions to places of amusement, fairs,
13 and athletic events except those of elementary and
14 secondary educational institutions; a like rate of tax
15 on the gross receipts from an entry fee or like charge
16 imposed solely for the privilege of participating in
17 an activity at a place of amusement, fair, or athletic
18 event unless the gross receipts from the sales of
19 tickets or admissions charges for observing the same
20 activity are taxable under this division; and a like
21 rate of tax upon that part of private club membership
22 fees or charges paid for the privilege of
23 participating in any athletic sports provided club
24 members.

25 2. There is imposed a tax of ~~five~~ six percent upon
26 the gross receipts derived from the operation of all
27 forms of amusement devices and games of skill, games
28 of chance, raffles, and bingo games as defined in
29 chapter 99B, operated or conducted within the state,
30 the tax to be collected from the operator in the same
31 manner as for the collection of taxes upon the gross
32 receipts of tickets or admission as provided in this
33 section. The tax shall also be imposed upon the gross
34 receipts derived from the sale of lottery tickets or
35 shares pursuant to chapter 99E. The tax on the
36 lottery tickets or shares shall be included in the
37 sales price and distributed to the general fund as
38 provided in section 99E.10.

39 4. There is imposed a tax of ~~five~~ six percent upon
40 the gross receipts from the sales of engraving,
41 photography, retouching, printing, and binding
42 services. For the purpose of this division, the sales
43 of engraving, photography, retouching, printing, and
44 binding services are sales of tangible property.

45 5. There is imposed a tax of ~~five~~ six percent upon
46 the gross receipts from the sales of vulcanizing,
47 recapping, and retreading services. For the purpose
48 of this division, the sales of vulcanizing, recapping,
49 and retreading services are sales of tangible
50 property.

H-8634

H-8634

Page 9

1 6. There is imposed a tax of ~~five~~ six percent upon
2 the gross receipts from the sales of optional service
3 or warranty contracts, except residential service
4 contracts regulated under chapter 523C, which provide
5 for the furnishing of labor and materials and require
6 the furnishing of any taxable service enumerated under
7 this section. The gross receipts are subject to tax
8 even if some of the services furnished are not
9 enumerated under this section. For the purpose of
10 this division, the sale of an optional service or
11 warranty contract, other than a residential service
12 contract regulated under chapter 523C, is a sale of
13 tangible personal property. Additional sales,
14 services, or use taxes shall not be levied on
15 services, parts, or labor provided under optional
16 service or warranty contracts which are subject to tax
17 under this section.

18 If the optional service or warranty contract is a
19 computer software maintenance or support service
20 contract and there is no separately stated fee for the
21 taxable personal property or for the nontaxable
22 service, the tax of ~~five~~ six percent imposed by this
23 subsection shall be imposed on fifty percent of the
24 gross receipts from the sale of such contract. If the
25 contract provides for technical support services only,
26 no tax shall be imposed under this subsection. The
27 provisions of this subsection also apply to the tax
28 imposed by chapter 423.

29 7. There is imposed a tax of ~~five~~ six percent upon
30 the gross receipts from the renting of rooms,
31 apartments, or sleeping quarters in a hotel, motel,
32 inn, public lodging house, rooming house, manufactured
33 or mobile home which is tangible personal property, or
34 tourist court, or in any place where sleeping
35 accommodations are furnished to transient guests for
36 rent, whether with or without meals. "Renting" and
37 "rent" include any kind of direct or indirect charge
38 for such rooms, apartments, or sleeping quarters, or
39 their use. For the purposes of this division, such
40 renting is regarded as a sale of tangible personal
41 property at retail. However, this tax does not apply
42 to the gross receipts from the renting of a room,
43 apartment, or sleeping quarters while rented by the
44 same person for a period of more than thirty-one
45 consecutive days.

46 10. There is imposed a tax of ~~five~~ six percent
47 upon the gross receipts from the rendering,
48 furnishing, or performing of services as defined in
49 section 422.42.

50 12. A tax of ~~five~~ six percent is imposed upon the

H-8634

H-8634

Page 10

1 gross receipts from the sales of prepaid telephone
2 calling cards and prepaid authorization numbers. For
3 the purpose of this division, the sales of prepaid
4 telephone calling cards and prepaid authorization
5 numbers are sales of tangible personal property.
6 Sec. 108. Section 422.43, subsection 13, paragraph
7 a, unnumbered paragraph 1, Code Supplement 2001, is
8 amended to read as follows:

9 A tax of ~~five~~ six percent is imposed upon the gross
10 receipts from the sales, furnishing, or service of
11 solid waste collection and disposal service.

12 Sec. 109. Section 422.43, subsections 16 and 17,
13 Code Supplement 2001, are amended to read as follows:

14 16. a. A tax of ~~five~~ six percent is imposed upon
15 the gross receipts from sales of bundled services
16 contracts. For purposes of this subsection, a
17 "bundled services contract" means an agreement
18 providing for a retailer's performance of services,
19 one or more of which is a taxable service enumerated
20 in this section and one or more of which is not, in
21 return for a consumer's or user's single payment for
22 the performance of the services, with no separate
23 statement to the consumer or user of what portion of
24 that payment is attributable to any one service which
25 is a part of the contract.

26 b. For purposes of the administration of the tax
27 on bundled services contracts, the director may enter
28 into agreements of limited duration with individual
29 retailers, groups of retailers, or organizations
30 representing retailers of bundled services contracts.
31 Such an agreement shall impose the tax rate only upon
32 that portion of the gross receipts from a bundled
33 services contract which is attributable to taxable
34 services provided under the contract.

35 17. A tax of ~~five~~ six percent is imposed upon the
36 gross receipts from any mobile telecommunication
37 service which this state is allowed to tax by the
38 provisions of the federal Mobile Telecommunications
39 Sourcing Act, Pub. L. No. 106-252, 4 U.S.C. § 116 et
40 seq. For purposes of this subsection, taxes on mobile
41 telecommunications service, as defined under the
42 federal Mobile Telecommunications Sourcing Act, that
43 are deemed to be provided by the customer's home
44 service provider shall be paid to the taxing
45 jurisdiction whose territorial limits encompass the
46 customer's place of primary use, regardless of where
47 the mobile telecommunication service originates,
48 terminates, or passes through and shall in all other
49 respects be taxed in conformity with the federal
50 Mobile Telecommunications Sourcing Act. All other

H-8634

-10-

H-8634

Page 11

1 provisions of the federal Mobile Telecommunications
2 Sourcing Act are adopted by the state of Iowa and
3 incorporated into this subsection by reference. With
4 respect to mobile telecommunications service under the
5 federal Mobile Telecommunications Sourcing Act the
6 director shall, if requested, enter into agreements
7 consistent with the provisions of the federal Act.

8 Sec. 110. Section 422.43, Code Supplement 2001, is
9 amended by adding the following new subsection:

10 NEW SUBSECTION. 18. The sales tax rate of six
11 percent is reduced to five percent on July 1, 2022.

12 Sec. 111. Section 422.47, Code Supplement 2001, is
13 amended by adding the following new subsection:

14 NEW SUBSECTION. 2. Construction contractors may
15 make application to the department for a refund of the
16 additional one percent tax paid under this division by
17 reason of the increase in the tax from five to six
18 percent for taxes paid on goods, wares, or merchandise
19 under the following conditions:

20 a. The goods, wares, or merchandise are
21 incorporated into an improvement to real estate in
22 fulfillment of a written contract fully executed prior
23 to January 1, 2003. The refund shall not apply to
24 equipment transferred in fulfillment of a mixed
25 construction contract.

26 b. The contractor has paid to the department or to
27 a retailer the full six percent tax.

28 c. The claim is filed on forms provided by the
29 department and is filed within one year of the date
30 the tax is paid.

31 A contractor who makes an erroneous application for
32 refund shall be liable for payment of the excess
33 refund paid plus interest at the rate in effect under
34 section 421.7. In addition, a contractor who
35 willfully makes a false application for refund is
36 guilty of a simple misdemeanor and is liable for a
37 penalty equal to fifty percent of the excess refund
38 claimed. Excess refunds, penalties, and interest due
39 under this subsection may be enforced and collected in
40 the same manner as the tax imposed by this division.

41 Sec. 112. Section 422.69, subsection 2, Code 2001,
42 is amended to read as follows:

43 2. a. ~~Unless~~ Except as provided in paragraph "b",
44 or as otherwise provided, the fees, taxes, interest,
45 and penalties collected under this chapter shall be
46 credited to the general fund.

47 b. One-sixth of the fees, taxes, interest, and
48 penalties collected pursuant to division IV shall be
49 credited to the school district sales tax fund created
50 in section 298B.1. This paragraph is repealed July 1,

H-8634

H-8634

Page 12

1 2022.

2 Sec. 113. Section 422E.1, Code 2001, is amended by
3 adding the following new subsection:

4 NEW SUBSECTION. 4. a. This chapter does not
5 apply to any county after the effective date of this
6 section of this Act, except to the extent provided in
7 paragraph "b". Any election on the imposition of the
8 local sales and services tax scheduled to be held on
9 or after the effective date of this section of this
10 Act shall not be held.

11 b. A county that has voted on and approved prior
12 to March 31, 2002, a local sales and services tax for
13 school infrastructure purposes shall impose the tax
14 until December 31, 2002. However, the increase in the
15 state sales and services tax under chapter 422,
16 division IV, from five percent on January 1, 2003, to
17 six percent shall replace the county's local sales and
18 services tax for school infrastructure purposes and to
19 this extent the local sales and services tax for
20 school infrastructure purposes is repealed.

21 Sec. 114. APPLICABILITY. This section applies in
22 regard to the increase in the state sales tax from
23 five to six percent. The six percent rate applies to
24 all sales of taxable personal property, consisting of
25 goods, wares, or merchandise if delivery occurs on or
26 after January 1, 2003. The six percent rate applies
27 to the gross receipts from the sale, furnishing, or
28 service of gas, electricity, water, heat, pay
29 television service, and communication service if the
30 date of billing the customer is on or after January 1,
31 2003. In the case of a service contract entered into
32 prior to January 1, 2003, which contract calls for
33 periodic payments, the six percent rate applies to
34 those payments made or due on or after January 1,
35 2003. This periodic payment applies, but is not
36 limited to, tickets or admissions, private club
37 membership fees, sources of amusement, equipment
38 rental, dry cleaning, reducing salons, dance schools,
39 and all other services subject to tax, except the
40 aforementioned utility services which are subject to a
41 special transitional rule. Unlike periodic payments
42 under service contracts, installment sales of goods,
43 wares, and merchandise are subject to the full amount
44 of sales or use tax when the sales contract is entered
45 into.

46 Sec. 115. EFFECTIVE DATES.

47 1. Sections 103, 104, and 113 of this Act,
48 enacting sections 298B.1 and 298B.2 and section
49 422E.1, subsection 4, being deemed of immediate
50 importance, take effect upon enactment.

H-8634

-12-

1 2. Sections 107, 108, 109, 111, and 112 of this
2 Act, amending section 422.43, increasing the sales
3 tax, and sections 422.47 and 422.69, take effect
4 January 1, 2003."

5 _____. Title page, line 2, by inserting after the
6 word "projects" the following: "and the use of school
7 district moneys received from certain state sales tax
8 revenues for property tax relief and infrastructure
9 purposes if approved by the vote of the electorate,
10 providing a penalty, and including effective date
11 provisions".

By REYNOLDS of Van Buren

H-8634 FILED APRIL 11, 2002