

not be construed as granting the department authority which has been expressly granted to the utilities board to determine the route of utility installations. If the department requires a utility company permit, the department shall be required to act upon the permit application within thirty days of its filing. In cases of federal-aid highway projects on nonprimary highways, the local authority with jurisdiction over the highway and the department shall comply with all federal regulations and statutes regarding utility accommodation.

Sec. 2. Section 319.14, Code 1991, is amended to read as follows:

**319.14 PERMIT REQUIRED.**

A person shall not excavate, fill, or make ~~any~~ a physical change within the right of way of a public road or highway without obtaining a permit from the highway authority having jurisdiction of ~~such~~ the public road or highway. ~~Any work~~ Work performed under the permit shall be performed in conformity with the specifications prescribed by the highway authority. If the excavation, fill, or physical change within the right of way of a public road or highway does not conform to the specifications that accompany the permit the person shall be notified to make such conforming changes. If after twenty days the changes have not been made, the public road or highway authority may make the necessary changes and immediately send a statement of the cost to the responsible person ~~responsible for the work done not in conformance to the specifications~~. If within ~~ten~~ thirty days after sending the statement the cost is not paid, the highway authority may institute proceedings in the district court ~~system~~ to collect the cost of correction. ~~Utility~~ Except as provided in section 306A.3, utility companies are exempted from the provisions of this section.

Approved May 9, 1991

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## CHAPTER 148

### PUBLIC IMPROVEMENT CONTRACTS

*S.F. 346*

AN ACT relating to payments made pursuant to public contracts.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 573.12, subsection 2, Code 1991, is amended to read as follows:

2. Prompt payment.

a. (1) Interest shall be paid to the contractor on any progress payment that is approved as payable by the public corporation's project architect or engineer and remains unpaid for a period of fourteen days after receipt of the payment request at the place, or by the person, designated in the contract, or by the public corporation to first receive the request, or for a time period greater than fourteen days, unless a time period greater than fourteen days is specified in the contract documents, not to exceed thirty days, to afford the public corporation a reasonable opportunity to inspect the work and to determine the adequacy of the contractor's performance under the contract.

(2) Interest shall accrue during the period commencing the day after the expiration of the period defined in subparagraph (1) and ending on the date of payment. The rate of interest shall be determined as set forth in section 573.14.

b. A progress payment or final payment to a subcontractor for satisfactory performance of the subcontractor's work shall be made no later than one of the following, as applicable:

a.(1) Seven days after the contractor receives payment for that subcontractor's work.

b.(2) A reasonable time after the contractor could have received payment for the subcontractor's work, if the reason for nonpayment is not the subcontractor's fault.

A contractor's acceptance of payment for one subcontractor's work is not a waiver of claims, and does not prejudice the rights of the contractor, as to any other claim related to the contract or project.

Sec. 2. Section 573.14, Code 1991, is amended to read as follows:

**573.14 RETENTION OF UNPAID FUNDS.**

Said The fund provided for in section 573.13 shall be retained by the public corporation for a period of thirty days after the completion and final acceptance of the improvement. If at the end of said the thirty-day period claims are on file as herein provided the public corporation shall continue to retain from said the unpaid funds a sum not less than equal to double the total amount of all claims on file. The remaining balance of the unpaid fund, or if no claims are on file, the entire unpaid fund, shall be released and paid to the contractor.

The public corporation shall order payment of any amount due the contractor to be made in accordance with the terms of the contract. Failure Except as provided in section 573.12 for progress payments, failure to make payment pursuant to this section, of any amount due the contractor, within seventy forty days, unless a greater time period not to exceed fifty days is specified in the contract documents, after the work under the contract has been completed and if the work has been accepted and all required materials, certifications, and other documentations required to be submitted by the contractor and specified by the contract have been furnished the awarding public corporation by the contractor, shall cause interest to accrue on the amount unpaid to the benefit of the unpaid party. Interest shall accrue during the period commencing the thirty-first day following the completion of work and satisfaction of the other requirements of this paragraph and ending on the date of payment. The rate of interest shall be determined by the period of time during which interest accrues, and shall be the same as the rate of interest that is in effect under section 453.6, as of the day interest begins to accrue, for a deposit of public funds for a comparable period of time. Nothing contained in this This paragraph shall does not abridge any of the rights set forth in section 573.16. Except as provided in section sections 573.12 and 573.16, interest shall not accrue on funds retained by the public corporation to satisfy the provisions of this section regarding claims on file. The provisions of this This chapter shall does not apply if the public corporation has entered into a contract with the federal government or accepted a federal grant which is governed by federal law or rules that are contrary to the provisions of this chapter.

Sec. 3. Section 573.16, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Provided that upon Upon written demand of the contractor served, in the manner prescribed for original notices, on the person or persons filing said claims a claim, requiring the claimant to commence action in court to enforce the claim in the manner as prescribed for original notices, such an action shall be commenced within thirty days thereafter, otherwise such the retained and unpaid funds due the contractor shall be released; and it is further provided that, after. Unpaid funds shall be paid to the contractor within twenty days of the receipt by the public corporation of the release as determined pursuant to this section. Failure to make payment by that date shall cause interest to accrue on the unpaid amount. Interest shall accrue during the period commencing the twenty-first day after the date of release and ending on the date of the payment. The rate of interest shall be determined pursuant to section 573.14. such After an action is commenced, upon the general contractor filing with the public corporation or person withholding such the funds, a surety bond in double the amount of the claim in controversy, conditioned to pay any final judgment rendered for such the claims so filed, said the public corporation or person shall pay to the contractor the amount of such funds so withheld.

Sec. 4. Section 573.18, Code 1991, is amended to read as follows:

**573.18 ADJUDICATION – PAYMENT OF CLAIMS.**

The court shall adjudicate all claims for which an action is filed under section 573.16. Payments from said the retained percentage, if still in the hands of the public corporation, shall be made in the following order:

1. Costs of the action.
2. Claims for labor.
3. Claims for materials.
4. Claims of the public corporation.

Upon settlement or adjudication of a claim and after judgment is entered, unpaid funds retained with respect to the claim which are not necessary to satisfy the judgment shall be released and paid to the contractor within twenty days of receipt by the public corporation of evidence of entry of judgment or settlement of the claim. Failure to make payment by that date shall cause interest to accrue on the unpaid amount. Interest shall accrue during the period commencing on the twenty-first day after receipt by the public corporation of evidence of entry of judgment and ending on the date of payment. The rate of interest shall be determined as set forth in section 573.14.

Approved May 9, 1991

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## CHAPTER 149

### INCOME TAX CHECKOFF FOR OLYMPICS

*S.F. 403*

**AN ACT** relating to the state income tax refund checkoff for olympics.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 422.12A, unnumbered paragraph 5, Code 1991, is amended to read as follows:

On or before March 1 of each year, the department of revenue and finance shall pay one-half of the moneys in the fund to the United States Olympic committee on the condition that the United States Olympic committee return and shall retain one-half of the funds to ~~in~~ this state ~~to~~. Fifty percent of the funds retained by the state shall be spent in that year for local amateur sports, for which there is Olympic competition, with advice of the governor's council on physical fitness, and the remaining fifty percent shall be paid to Iowa special Olympics, incorporated, for special Olympic programs.

Approved May 9, 1991

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## CHAPTER 150

### DEREGULATION OF CERTAIN COMMUNICATIONS SERVICES

*S.F. 504*

**AN ACT** relating to the method of deregulation of communication services and facilities.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 476.1, unnumbered paragraph 8, Code 1991, is amended by striking the paragraph.