

Senate Amendment 3155

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1 1 Amend House File 740, as amended, passed, and
1 2 reprinted by the House, as follows:
1 3 #1. Page 1, by inserting after line 29 the
1 4 following:
1 5 <Sec. _____. Section 12B.10C, Code 2005, is amended
1 6 by adding the following new subsection:
1 7 NEW SUBSECTION. 10. The state board of regents
1 8 governed by chapter 262.
1 9 Sec. _____. Section 73A.1, subsection 2, Code 2005,
1 10 is amended to read as follows:
1 11 2. "Municipality" as used in this chapter means
1 12 township, school corporation, and state fair board,
~~1 13 and state board of regents.~~
1 14 #2. Page 4, by inserting after line 3 the
1 15 following:
1 16 <Sec. _____. Section 262.9, subsection 7, Code 2005,
1 17 is amended to read as follows:
1 18 7. ~~With the approval of the executive council,~~
~~1 19 acquire~~ Acquire real estate for the proper uses of
1 20 ~~said~~ institutions under its control, and dispose of
1 21 real estate belonging to ~~said~~ the institutions when
1 22 not necessary for their purposes. ~~A~~ The disposal of
1 23 ~~such~~ real estate shall be made upon such terms,
1 24 conditions, and consideration as the board may
1 25 recommend ~~and subject to the approval of the executive~~
~~1 26 council.~~ If real estate subject to sale hereunder has
1 27 been purchased or acquired from appropriated funds,
1 28 the proceeds of such sale shall be deposited with the
1 29 treasurer of state and credited to the general fund of
1 30 the state. There is hereby appropriated from the
1 31 general fund of the state a sum equal to the proceeds
1 32 so deposited and credited to the general fund of the
1 33 state to the state board of regents, ~~which, with the~~
~~1 34 prior approval of the executive council,~~ may be used
1 35 to purchase other real estate and buildings, and for
1 36 the construction and alteration of buildings and other
1 37 capital improvements. All transfers shall be by state
1 38 patent in the manner provided by law. The board is
1 39 also authorized to grant easements for rights-of-way
1 40 over, across, and under the surface of public lands
1 41 under its jurisdiction when in the board's judgment
1 42 such easements are desirable and will benefit the
1 43 state of Iowa.
1 44 Sec. _____. Section 262.9, subsection 15, unnumbered
1 45 paragraph 2, Code 2005, is amended by striking the
1 46 unnumbered paragraph.
1 47 Sec. _____. Section 262.10, unnumbered paragraph 1,
1 48 Code 2005, is amended to read as follows:
1 49 No sale or purchase of real estate shall be made
1 50 save upon the order of the board, made at a regular
2 1 meeting, or one called for that purpose, and then in
2 2 such manner and under such terms as the board may
2 3 prescribe ~~and only with the approval of the executive~~
~~2 4 council.~~ No member of the board or any of its
2 5 committees, offices or agencies nor any officer of any
2 6 institution, shall be directly or indirectly
2 7 interested in such purchase or sale.
2 8 Sec. _____. Section 262.33A, Code 2005, is amended
2 9 to read as follows:
2 10 262.33A FIRE AND ENVIRONMENTAL SAFETY == REPORT ==
2 11 EXPENDITURES.
2 12 It is the intent of the general assembly that each
2 13 institution of higher education under the control of
2 14 the state board of regents shall, in consultation with
2 15 the state fire marshal, identify and correct all
2 16 critical fire and environmental safety deficiencies.
~~2 17 The state fire marshal shall report annually to the~~
~~2 18 joint subcommittee on education appropriations. The~~
~~2 19 report shall include, but is not limited to, the~~
~~2 20 identified deficiencies in fire and environmental~~
~~2 21 safety at the institutions, and plans for correction~~
~~2 22 of the deficiencies and for compliance with this~~
~~2 23 section.~~ Commencing July 1, 1993, each institution
2 24 under the control of the state board of regents shall

2 25 expend annually for fire safety and deferred
2 26 maintenance at least the amount budgeted for these
2 27 purposes for the fiscal year beginning July 1, 1992,
2 28 in addition to any moneys appropriated from the
2 29 general fund for these purposes in succeeding years.
2 30 Sec. _____. Section 262.34, Code 2005, is amended to
2 31 read as follows:
2 32 262.34 IMPROVEMENTS == ADVERTISEMENT FOR BIDS ==
2 33 DISCLOSURES == PAYMENTS.
2 34 1. When the estimated cost of construction,
2 35 repairs, or improvement of buildings or grounds under
2 36 charge of the state board of regents exceeds ~~twenty-~~
~~2 37 five one hundred~~ thousand dollars, the board shall
2 38 advertise for bids for the contemplated improvement or
2 39 construction and shall let the work to the lowest
2 40 responsible bidder. However, if in the judgment of
2 41 the board bids received are not acceptable, the board
2 42 may reject all bids and proceed with the construction,
2 43 repair, or improvement by a method as the board may
2 44 determine. All plans and specifications for repairs
2 45 or construction, together with bids on the plans or
2 46 specifications, shall be filed by the board and be
2 47 open for public inspection. All bids submitted under
2 48 this section shall be accompanied by a deposit of
2 49 money, a certified check, or a credit union certified
2 50 share draft in an amount as the board may prescribe.
3 1 2. A bidder awarded a contract shall disclose the
3 2 names of all subcontractors, who will work on the
3 3 project being bid, within forty-eight hours after the
3 4 award of the contract. If a subcontractor named by a
3 5 bidder awarded a contract is replaced, or if the cost
3 6 of work to be done by a subcontractor is reduced, the
3 7 bidder shall disclose the name of the new
3 8 subcontractor or the amount of the reduced cost.
3 9 3. Payments made by the board for the construction
3 10 of public improvements shall be made in accordance
3 11 with the provisions of chapter 573 except that:
3 12 a. Payments may be made without retention until
3 13 ninety-five percent of the contract amount has been
3 14 paid. The remaining five percent of the contract
3 15 amount shall be paid as provided in section 573.14,
3 16 except that:
3 17 (1) At any time after all or any part of the work
3 18 is substantially completed in accordance with
3 19 paragraph "c", the contractor may request the release
3 20 of all or part of the retainage owed. Such request
3 21 shall be accompanied by a waiver of claim rights under
3 22 the provisions of chapter 573 from any person, firm,
3 23 or corporation who has, under contract with the
3 24 principal contractor or with subcontractors performed
3 25 labor, or furnished materials, service, or
3 26 transportation in the construction of that portion of
3 27 the work for which release of the retainage is
3 28 requested.
3 29 (2) Upon receipt of the request, the board shall
3 30 release all or part of the unpaid funds. Retainage
3 31 that is approved as payable shall be paid at the time
3 32 of the next monthly payment or within thirty days,
3 33 whichever is sooner. If partial retainage is released
3 34 pursuant to a contractor's request, no retainage shall
3 35 be subsequently held based on that portion of the
3 36 work. If within thirty days of when payment becomes
3 37 due the board does not release the retainage due,
3 38 interest shall accrue on the retainage amount due as
3 39 provided in section 573.14 until that amount is paid.
3 40 (3) If at the time of the request for the
3 41 retainage there are remaining or incomplete minor
3 42 items, an amount equal to two hundred percent of the
3 43 value of each remaining or incomplete item, as
3 44 determined by the board's authorized contract
3 45 representative, may be withheld until such item or
3 46 items are completed.
3 47 (4) An itemization of the remaining or incomplete
3 48 items, or the reason that the request for release of
3 49 the retainage was denied, shall be provided to the
3 50 contractor in writing within thirty calendar days of
4 1 the receipt of the request for release of retainage.
4 2 b. For purposes of this section, "authorized
4 3 contract representative" means the architect or
4 4 engineer who is in charge of the project and chosen by
4 5 the board to represent its interests, or if there is

4 6 no architect or engineer, then such other contract
4 7 representative or officer as designated in the
4 8 contract documents as the party representing the
4 9 board's interest regarding administration and
4 10 oversight of the project.

4 11 c. For purposes of this section, "substantially
4 12 completed" means the first date on which any of the
4 13 following occurs:

4 14 (1) Completion of the project or when the work has
4 15 been substantially completed in general accordance
4 16 with the terms and provisions of the contract.

4 17 (2) The work or the portion designated is
4 18 sufficiently complete in accordance with the
4 19 requirements of the contract so the board can occupy
4 20 or utilize the work for its intended purpose.

4 21 (3) The project is certified as having been
4 22 substantially completed by either of the following:

4 23 (a) The architect or engineer authorized to make
4 24 such certification.

4 25 (b) The contracting authority representing the
4 26 board.

4 27 4. Each contractor or subcontractor shall withhold
4 28 retainage, if at all, in the same manner as retainage
4 29 is withheld from the contractor or subcontractor; and
4 30 each subcontractor shall pass through all retainage
4 31 payments to lower tier subcontractors in accordance
4 32 with the provisions of chapter 573.

4 33 Sec. ____ Section 262.57, unnumbered paragraph 1,
4 34 Code 2005, is amended to read as follows:

4 35 To pay all or any part of the cost of carrying out
4 36 any project at any institution the board is authorized
4 37 to borrow money and to issue and sell negotiable bonds
4 38 or notes and to refund and refinance bonds or notes
4 39 heretofore issued or as may be hereafter issued for
4 40 any project or for refunding purposes at a lower rate,
4 41 the same rate or a higher rate or rates of interest
4 42 and from time to time as often as the board shall find
4 43 it to be advisable and necessary so to do. Such bonds
4 44 or notes may be sold by said board at public sale in
4 45 the manner prescribed by chapter 75 but if the board
4 46 shall find it to be advantageous and in the public
4 47 interest to do so, such bonds or notes may be sold by
4 48 the board at private sale without published notice of
4 49 any kind and without regard to the requirements of
4 50 chapter 75 in such manner and upon such terms as may
5 1 be prescribed by the resolution authorizing the same;

~~5 2 but such bonds or notes shall in any event be sold
5 3 upon terms of not less than par plus accrued interest.~~

5 4 Bonds or notes issued to refund other bonds or notes
5 5 heretofore or hereafter issued by the board for
5 6 residence hall or dormitory purposes at any
5 7 institution, including dining or other facilities and
5 8 additions, or heretofore or hereafter issued for
5 9 refunding purposes, may either be sold in the manner
5 10 hereinbefore specified and the proceeds thereof
5 11 applied to the payment of the obligations being
5 12 refunded, or the refunding bonds or notes may be
5 13 exchanged for and in payment and discharge of the
5 14 obligations being refunded, and a finding by the board
5 15 in the resolution authorizing the issuance of such
5 16 refunding bonds or notes that the bonds or notes being
5 17 refunded were issued for a purpose specified in this
5 18 division and constitute binding obligations of the
5 19 board shall be conclusive and may be relied upon by
5 20 any holder of any refunding bond or note issued under
5 21 the provisions of this division. The refunding bonds
5 22 or notes may be sold or exchanged in installments at
5 23 different times or an entire issue or series may be
5 24 sold or exchanged at one time. Any issue or series of
5 25 refunding bonds or notes may be exchanged in part or
5 26 sold in parts in installments at different times or at
5 27 one time. The refunding bonds or notes may be sold or
5 28 exchanged at any time on, before, or after the
5 29 maturity of any of the outstanding notes, bonds or
5 30 other obligations to be refinanced thereby and may be
5 31 issued for the purpose of refunding a like or greater
5 32 principal amount of bonds or notes, except that the
5 33 principal amount of the refunding bonds or notes may
5 34 exceed the principal amount of the bonds or notes to
5 35 be refunded to the extent necessary to pay any premium
5 36 due on the call of the bonds or notes to be refunded

5 37 or to fund interest in arrears or about to become due.
5 38 Sec. _____. Section 262.78, subsection 6, Code 2005,
5 39 is amended by striking the subsection.

5 40 Sec. _____. Section 262A.5, unnumbered paragraph 1,
5 41 Code 2005, is amended to read as follows:

5 42 The board is authorized to borrow money under this
5 43 chapter, and the board may issue and sell negotiable
5 44 bonds to pay all or any part of the cost of carrying
5 45 out any project at any institution and may refund and
5 46 refinance bonds issued for any project or for
5 47 refunding purposes at the same rate or at a higher or
5 48 lower rate or rates of interest. Bonds issued under
5 49 the provisions of this chapter shall be sold by said
5 50 board at public sale on the basis of sealed proposals
6 1 received pursuant to a notice specifying the time and
6 2 place of sale and the amount of bonds to be sold which
6 3 shall be published at least once not less than seven
6 4 days prior to the date of sale in a newspaper
6 5 published in the state of Iowa and having a general
6 6 circulation in said state. The provisions of chapter
6 7 75 shall ~~not~~ apply to bonds issued under authority
6 8 contained in this chapter, ~~but such bonds shall be~~
~~6 9 sold upon terms of not less than par plus accrued~~
~~6 10 interest to the extent not in conflict with this~~
6 11 chapter. Bonds issued to refund other bonds issued
6 12 under the provisions of this chapter may either be
6 13 sold in the manner hereinbefore specified and the
6 14 proceeds thereof applied to the payment of the
6 15 obligations being refunded, or the refunding bonds may
6 16 be exchanged for and in payment and discharge of the
6 17 obligations being refunded. The refunding bonds may
6 18 be sold or exchanged in installments at different
6 19 times or an entire issue or series may be sold or
6 20 exchanged at one time. Any issue or series of
6 21 refunding bonds may be exchanged in part or sold in
6 22 parts in installments at different times or at one
6 23 time. The refunding bonds may be sold or exchanged at
6 24 any time on, before, or after the maturity of any of
6 25 the outstanding bonds or other obligations to be
6 26 refinanced thereby and may be issued for the purpose
6 27 of refunding a like or greater principal amount of
6 28 bonds, except that the principal amount of the
6 29 refunding bonds may exceed the principal amount of the
6 30 bonds to be refunded to the extent necessary to pay
6 31 any premium due on the call of the bonds to be
6 32 refunded or to fund interest in arrears or which is to
6 33 become due.

6 34 Sec. _____. Section 266.39F, subsection 2,
6 35 unnumbered paragraph 2, Code 2005, is amended to read
6 36 as follows:

6 37 The provisions of section 262.9, subsection 7, ~~and~~
~~6 38 section 262.10,~~ shall not apply to the sale of any
6 39 portion of land to be sold in accordance with this
6 40 section or to the use of the proceeds from the sale of
6 41 the land.>

6 42 #3. Page 12, by inserting after line 13 the
6 43 following:

6 44 <Sec. _____. Section 573.12, subsection 1,
6 45 unnumbered paragraph 1, Code 2005, is amended to read
6 46 as follows:

6 47 Payments made under contracts for the construction
6 48 of public improvements, unless provided otherwise by
6 49 law, shall be made on the basis of monthly estimates
6 50 of labor performed and material delivered, as
7 1 determined by the project architect or engineer. The
7 2 public corporation shall retain from each monthly
7 3 payment not more than five percent of that amount
7 4 which is determined to be due according to the
7 5 estimate of the architect or engineer. ~~However,~~
~~7 6 institutions governed pursuant to chapter 262 may, on~~
~~7 7 contracts where a bond is required under section~~
~~7 8 573.2, make payments under this section without~~
~~7 9 retention until ninety-five percent of the contract~~
~~7 10 amount has been paid and the remaining five percent of~~
~~7 11 the contract amount shall be paid as provided under~~
~~7 12 section 573.14.~~

7 13 Sec. _____. Section 573.14, unnumbered paragraph 2,
7 14 Code 2005, is amended to read as follows:

7 15 The public corporation shall order payment of any
7 16 amount due the contractor to be made in accordance
7 17 with the terms of the contract. Except as provided in

7 18 section 573.12 for progress payments, failure to make
7 19 payment pursuant to this section, of any amount due
7 20 the contractor, within forty days, unless a greater
7 21 time period not to exceed fifty days is specified in
7 22 the contract documents, after the work under the
7 23 contract has been completed and if the work has been
7 24 accepted and all required materials, certifications,
7 25 and other documentations required to be submitted by
7 26 the contractor and specified by the contract have been
7 27 furnished the awarding public corporation by the
7 28 contractor, shall cause interest to accrue on the
7 29 amount unpaid to the benefit of the unpaid party.
7 30 Interest shall accrue during the period commencing the
7 31 thirty-first day following the completion of work and
7 32 satisfaction of the other requirements of this
7 33 paragraph and ending on the date of payment. The rate
7 34 of interest shall be determined by the period of time
7 35 during which interest accrues, and shall be the same
7 36 as the rate of interest that is in effect under
7 37 section 12C.6, as of the day interest begins to
7 38 accrue, for a deposit of public funds for a comparable
7 39 period of time. However, for institutions governed
7 40 pursuant to chapter 262, the rate of interest shall be
7 41 determined by the period of time during which interest
7 42 accrues, and shall be calculated as the prime rate
7 43 plus one percent per year as of the day interest
7 44 begins to accrue. This paragraph does not abridge any
7 45 of the rights set forth in section 573.16. Except as
7 46 provided in sections 573.12 and 573.16, interest shall
7 47 not accrue on funds retained by the public corporation
7 48 to satisfy the provisions of this section regarding
7 49 claims on file. This chapter does not apply if the
7 50 public corporation has entered into a contract with
8 1 the federal government or accepted a federal grant
8 2 which is governed by federal law or rules that are
8 3 contrary to the provisions of this chapter. For
8 4 purposes of this unnumbered paragraph, "prime rate"
8 5 means the prime rate charged by banks on short-term
8 6 business loans, as determined by the board of
8 7 governors of the federal reserve system and published
8 8 in the federal reserve bulletin.>
8 9 #4. Page 12, by striking line 14, and inserting
8 10 the following:
8 11 <Sec. _____. Sections 262.64A, 262.67, 262A.3,
8 12 262A.6A, 263A.11, 265.6, 282.1A, 297.13, and 473.12,
8 13 Code 2005, are>.
8 14 #5. By renumbering as necessary.
8 15
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8 17
8 18 JEFF DANIELSON
8 19 HF 740.304 81
8 20 kh/cf/2413B