

H-8374

1 Amend the amendment, H-8315, to House File 2473 as
2 follows:

3 1. Page 22, after line 21 by inserting:

4 <DIVISION
5 PERSONNEL SETTLEMENT AGREEMENTS

6 Sec. ____ . NEW SECTION. 70A.35 Personnel settlement
7 agreements — public employers.

8 1. For purposes of this section:

9 a. "Personnel settlement agreement" means a binding
10 legal agreement between an employee and the employee's
11 state employer to resolve a personnel dispute including
12 but not limited to a grievance. "Personnel settlement
13 agreement" does not include an initial decision by an
14 employee's immediate supervisor concerning a personnel
15 dispute or grievance.

16 b. "State employer" means any of the following:

17 (1) The executive branch of state government,
18 to include a unit of state government, which is an
19 authority, board, commission, committee, council,
20 department, or independent agency as defined in section
21 7E.4, including but not limited to each principal
22 central department enumerated in section 7E.5; the
23 office of the governor; and the office of an elective
24 constitutional or statutory officer.

25 (2) The general assembly, or any office or unit
26 under its administrative authority.

27 (3) The judicial branch, as provided in section
28 602.1102.

29 2. a. For personnel settlement agreements with an
30 employee of the executive branch, excluding an employee
31 of the state board of regents or institution under the
32 control of the state board of regents, the personnel
33 settlement agreement shall, to the extent consistent
34 with any provision of an applicable collective
35 bargaining agreement, be reviewed and approved as
36 to form by the attorney general or by the attorney
37 general's designee, and approved by the director of
38 the department of management, the director of the
39 department of administrative services, and the head of
40 the agency involved with the matter at issue.

41 b. For personnel settlement agreements with an
42 employee of the state board of regents or institution
43 under the control of the state board of regents,
44 the personnel settlement agreement shall, to the
45 extent consistent with any provision of an applicable
46 collective bargaining agreement, be reviewed and
47 approved as to form by the attorney general or by
48 the attorney general's designee, and approved by the
49 executive director of the state board of regents and
50 the head of the institution involved with the matter

1 at issue. Any costs or payments associated with the
2 personnel settlement agreement shall be authorized by
3 the state appeal board established in section 24.26,
4 and paid as a claim under chapter 25.

5 c. For personnel settlement agreements with
6 an employee of the judicial branch, the personnel
7 settlement agreement shall, to the extent consistent
8 with any provision of an applicable collective
9 bargaining agreement, be approved by the state court
10 administrator.

11 d. For personnel settlement agreements with an
12 employee of the general assembly, the personnel
13 settlement agreement shall be approved by the
14 legislative council or the appropriate committee of the
15 senate or house of representatives.

16 e. For personnel settlement agreements with an
17 employee subject to review and approval pursuant to
18 the requirements of a collective bargaining agreement
19 that are inconsistent with the requirements of this
20 subsection, a report on the personnel settlement
21 agreement shall be provided to those persons who would
22 otherwise review or approve the personnel settlement
23 agreement for that employee.

24 3. Personnel settlement agreements shall not
25 contain any confidentiality or nondisclosure provision
26 that attempts to prevent the disclosure of the
27 personnel settlement agreement. A confidentiality
28 or nondisclosure provision in a personnel settlement
29 agreement is void and unenforceable.

30 4. All personnel settlement agreements shall be
31 made easily accessible to the public on an internet
32 site maintained as follows:

33 a. For personnel settlement agreements with an
34 employee of the executive branch, excluding an employee
35 of the state board of regents or institution under
36 the control of the state board of regents, by the
37 department of administrative services.

38 b. For personnel settlement agreements with an
39 employee of the state board of regents or institution
40 under the control of the state board of regents, by the
41 state board of regents.

42 c. For personnel settlement agreements with an
43 employee of the judicial branch, by the judicial
44 branch.

45 d. For personnel settlement agreements with an
46 employee of the general assembly, by the general
47 assembly.

48 Sec. _____. EFFECTIVE UPON ENACTMENT. This division
49 of this Act, being deemed of immediate importance,
50 takes effect upon enactment.

1 DIVISION _____

2 PERSONNEL SETTLEMENT AGREEMENTS EXAMINATION

3 Sec. _____. AUDITOR OF STATE EXAMINATION — PERSONNEL
4 SETTLEMENT AGREEMENTS. The auditor of state shall
5 expend such amount as is necessary for purposes
6 of conducting an examination concerning personnel
7 settlement agreements made by the state with terminated
8 state employees since January 2011 that were not
9 approved by the state appeal board or decided by the
10 public employment relations board. The examination
11 shall include the nature of the positions subject to
12 termination, the payments provided and the funding
13 source of the payments, and the identity and authority
14 of the person or persons signing the personnel
15 settlement agreement on behalf of the state. A report
16 on the results of the examination shall be submitted to
17 the general assembly by December 1, 2014. The auditor
18 of state shall be authorized to charge the department
19 of administrative services for costs associated with
20 the examination.

21 Sec. _____. EFFECTIVE UPON ENACTMENT. This division
22 of this Act, being deemed of immediate importance,
23 takes effect upon enactment.

24 DIVISION _____

25 SERVICE CONTRACTS

26 Sec. _____. Section 8.47, subsection 1, unnumbered
27 paragraph 1, Code 2014, is amended to read as follows:

28 The department of administrative services, in
29 cooperation with the office of attorney general and
30 the department of management, shall adopt uniform
31 terms and conditions for service contracts executed
32 by a department or establishment benefiting from
33 service contracts which terms and conditions shall be
34 consistent with the contractual requirements of chapter
35 8F. The terms and conditions shall include but are not
36 limited to all of the following:

37 Sec. _____. Section 8F.3, subsection 3, Code 2014, is
38 amended to read as follows:

39 3. Prior to entering into a service contract with a
40 recipient entity, the oversight agency shall ~~determine~~
41 do all of the following:

42 a. Determine whether the recipient entity can
43 reasonably be expected to comply with the requirements
44 of the service contract. If the oversight entity is
45 unable to determine whether the recipient entity can
46 reasonably be expected to comply with the requirements
47 of the service contract, the oversight entity shall
48 request such information from the recipient entity as
49 described in subsection 1 to make a determination. If
50 the oversight agency determines from the information

1 provided that the recipient entity cannot reasonably be
2 expected to comply with the requirements of the service
3 contract, the oversight agency shall not enter into the
4 service contract.

5 b. Perform a cost comparison establishing whether
6 the contract costs from the proposed service contract
7 are less than the costs of having the services provided
8 by an agency. Contract costs shall include direct
9 costs, including salaries and fringe benefits, indirect
10 overhead costs, including the contractor's proportional
11 share of existing administrative salaries and benefits,
12 rent and equipment costs, utilities, and materials.
13 Additionally, transition costs, including unemployment
14 compensation, shall be included in the analysis of
15 contract costs. If the oversight agency determines
16 from the information provided that the contract costs
17 of the recipient entity are not less than the costs
18 of having the services provided by an agency, the
19 oversight agency shall not enter into the service
20 contract.

21 c. If the proposed service contract may result in
22 reduced public employment by an agency in an area,
23 perform an economic impact analysis to consider the
24 impact of the service contract on the possible loss of
25 employment or income in the affected area, impact on
26 social services to include public assistance programs,
27 economic impact on local businesses, any possible
28 changes in tax revenue for the affected area, and any
29 environmental impacts that may result from the service
30 contract.

31 Sec. ____. Section 8F.3, Code 2014, is amended by
32 adding the following new subsection:

33 NEW SUBSECTION. 4. A service contract with a
34 recipient entity shall include the following terms and
35 conditions:

36 a. Specific performance criteria and cost
37 parameters with termination provisions for failure to
38 meet the performance criteria and cost parameters.

39 b. A requirement that the compensation paid to
40 employees of a recipient entity pursuant to the service
41 contract shall be comparable to the compensation paid
42 to public employees performing similar work or the
43 average private sector wage in this state for similar
44 work, whichever is less.

45 c. A provision prohibiting the automatic renewal of
46 the terms of a service contract without complying with
47 the requirements of this section prior to renewing the
48 service contract.

49 d. A provision prohibiting the payment for services
50 under the service contract regardless of whether the

1 services are actually provided.

2 Sec. _____. Section 8F.4, Code 2014, is amended by
3 adding the following new subsection:

4 NEW SUBSECTION. 4. An oversight agency shall make
5 information described in section 8F.3, subsection 3,
6 paragraphs "b" and "c", and information required to be
7 reported by a recipient agency pursuant to this section
8 available to the public.

9 Sec. _____. Section 8G.3, subsection 3, paragraph
10 a, Code 2014, is amended by adding the following new
11 subparagraph:

12 NEW SUBPARAGRAPH. (10) A recipient entity as
13 defined in section 8F.2.

14 Sec. _____. Section 8G.4, subsection 2, Code 2014, is
15 amended by adding the following new paragraph:

16 NEW PARAGRAPH. *0j.* Information required to be
17 provided pursuant to chapter 8F.

18 DIVISION

19 STATE EMPLOYMENT HIRING PROCEDURES

20 Sec. _____. NEW SECTION. 70A.21 **State employment —**
21 **designation of ineligibility procedures — penalty.**

22 1. A board, commission, agency, or department of
23 the state that seeks to designate an individual as
24 ineligible to apply for; to be considered, referred, or
25 approved for; or to be appointed to employment by the
26 state or any of its boards, commissions, agencies, or
27 departments, shall do all of the following:

28 *a.* Maintain documentation of the designation
29 of ineligibility, to include signatures from the
30 individual's immediate supervisor and the applicable
31 head of the board, commission, agency, or department,
32 the extent of the individual's ineligibility for state
33 employment, proof of notification of the individual,
34 and any information concerning any appeals regarding
35 the designation.

36 *b.* Notify the individual prior to or within ten
37 days of discharge of the designation of ineligibility
38 and the extent of the individual's ineligibility for
39 state employment. The notification shall include
40 information on the process for an individual to appeal,
41 remove, or modify the designation of ineligibility.

42 2. Each board, commission, agency, or department
43 of the state shall establish a process for an
44 individual to appeal, remove, or modify a designation
45 of ineligibility. Following a final determination by
46 the board, commission, agency or department within
47 the executive branch of the state relative to an
48 appeal or attempt to remove or modify a designation
49 of ineligibility by an individual, the individual
50 may appeal to the public employment relations board

1 created in section 20.5, for individuals subject to the
2 jurisdiction of the board, and to an administrative law
3 judge employed by the department of inspections and
4 appeals, for all other individuals.

5 Sec. ____ . NEW SECTION. 70A.22 **State employee**
6 **hiring requirements.**

7 An employer of state employees shall establish
8 procedures providing for the hiring of employees by
9 the employer. The procedures shall provide for the
10 public announcement of vacancies of the employer
11 at least ten days in advance of the date fixed for
12 the filing of applications for the vacancies and
13 for the advertisement of the vacancies through the
14 communications media.

15 DIVISION
16 STATE EMPLOYEE BONUSES

17 Sec. ____ . NEW SECTION. 22.13B **Executive branch**
18 **bonuses — disclosure.**

19 1. For purposes of this section:

20 a. "*Bonus pay*" means any additional remuneration
21 in an amount exceeding two hundred dollars provided
22 an employee in the form of a bonus, including but
23 not limited to a retention bonus, recruitment bonus,
24 exceptional job performance pay, extraordinary
25 job performance pay, exceptional performance pay,
26 extraordinary duty pay, or extraordinary or special
27 duty pay, and any extra benefit not otherwise provided
28 to other similarly situated employees.

29 b. "*Executive branch employee*" means an employee
30 of the executive branch of state government, which
31 includes any unit of state government, including
32 but not limited to an authority, board, commission,
33 committee, council, department, or independent
34 agency as defined in section 7E.4, and each principal
35 central department enumerated in section 7E.5; the
36 office of the governor; and the office of an elective
37 constitutional or statutory officer.

38 2. A decision to provide bonus pay to an executive
39 branch employee, including the amount paid and the
40 documented reasons and rationale for the bonus paid,
41 shall be a public record.

42 3. All decisions to provide bonus pay to an
43 executive branch employee, including information
44 described in subsection 2, shall be made easily
45 accessible to the public on an internet site maintained
46 as follows:

47 a. For decisions to provide bonus pay to an
48 employee of the executive branch, excluding an employee
49 of the state board of regents or institution under
50 the control of the state board of regents, by the

1 department of administrative services.

2 *b.* For decisions to provide bonus pay to an
3 employee of the state board of regents or institution
4 under the control of the state board of regents, by the
5 state board of regents.

6 DIVISION _____
7 WHISTLEBLOWER PROTECTION

8 Sec. _____. Section 8A.417, subsection 4, Code 2014,
9 is amended by striking the subsection and inserting in
10 lieu thereof the following:

11 4. *a.* For purposes of this subsection, "*a*
12 *disclosure of information permitted by this section*"
13 includes any of the following:

14 (1) A disclosure of any information by the employee
15 to a member or employee of the general assembly if the
16 information can be used by the member or employee of
17 the general assembly in the performance of the member's
18 or employee's duties, regardless of whether the member
19 or employee requested the information.

20 (2) A disclosure of information to any appropriate
21 person if the employee reasonably believes the
22 information evidences a violation of law or rule,
23 mismanagement, a gross abuse of funds, an abuse of
24 authority, or a substantial and specific danger to
25 public health or safety.

26 *b.* A person shall not do any of the following as a
27 reprisal against an employee in a position in a merit
28 system administered by, or subject to approval of,
29 the director, who makes a disclosure of information
30 permitted by this section or who fails to inform
31 the person that the employee made a disclosure of
32 information permitted by this section:

33 (1) Discharge, suspend, or demote the employee, or
34 take any other adverse employment action resulting in
35 a reduction of the employee's pay.

36 (2) Fail to appoint or promote the employee to a
37 position in the merit system or fail to take action
38 regarding an advantage to the employee.

39 *c.* However, an employee may be required to inform
40 the person that the employee made a disclosure of
41 information permitted by this section if the employee
42 represented that the disclosure was the official
43 position of the employee's immediate supervisor or
44 employer.

45 *d.* An employer subject to the requirements of this
46 subsection shall inform the employer's employees on a
47 regular basis of their rights to disclose information
48 as provided in this subsection.

49 *e.* This subsection does not apply if the disclosure
50 of the information is prohibited by statute.

1 Sec. _____. Section 8F.3, subsection 1, paragraph d,
2 Code 2014, is amended to read as follows:
3 d. Information regarding any policies adopted
4 by the governing body of the recipient entity that
5 ensure compliance with section 70A.29 and that prohibit
6 taking adverse employment action against employees of
7 the recipient entity who disclose information about a
8 service contract to the oversight agency, the auditor
9 of state, the office of the attorney general, or
10 the office of ombudsman and that state whether those
11 policies are substantially similar to the protection
12 provided to state employees under section 70A.28. The
13 information provided shall state whether employees of
14 the recipient entity are informed on a regular basis
15 of their rights pursuant to section 70A.29 and of
16 their rights to disclose information to the oversight
17 agency, the office of ombudsman, the auditor of state,
18 or the office of the attorney general and the telephone
19 numbers of those organizations.

20 Sec. _____. Section 70A.28, subsection 1, Code 2014,
21 is amended to read as follows:

22 1. A person who serves as the head of a state
23 department or agency or otherwise serves in a
24 supervisory capacity within the executive or
25 legislative branch of state government shall not
26 prohibit an employee of the state from making a
27 disclosure of information permitted by this section or
28 require an employee of the state to inform the person
29 that the employee made a disclosure of information
30 permitted by this section and shall not prohibit an
31 employee of the state from disclosing any information
32 to a member or employee of the general assembly or from
33 disclosing information to any other public official
34 or law enforcement agency if the employee reasonably
35 believes the information evidences a violation of
36 law or rule, mismanagement, a gross abuse of funds,
37 an abuse of authority, or a substantial and specific
38 danger to public health or safety. However, an
39 employee may be required to inform the person that the
40 employee made a disclosure of information permitted
41 by this section if the employee represented that the
42 disclosure was the official position of the employee's
43 immediate supervisor or employer.

44 Sec. _____. Section 70A.28, subsection 2, Code 2014,
45 is amended by striking the subsection and inserting in
46 lieu thereof the following:

47 2. a. A person shall not do any of the following
48 as a reprisal against an employee in a position in a
49 state employment system administered by, or subject to
50 approval of, a state agency, who makes a disclosure of

1 information permitted by this section or who fails to
2 inform the person that the employee made a disclosure
3 of information permitted by this section:

4 (1) Discharge, suspend, or demote the employee, or
5 take any other adverse employment action resulting in
6 a reduction of the employee's pay.

7 (2) Fail to appoint or promote the employee to a
8 position in the state employment system or fail to take
9 action regarding an advantage to the employee.

10 b. However, an employee may be required to inform
11 the person that the employee made a disclosure of
12 information permitted by this section if the employee
13 represented that the disclosure was the official
14 position of the employee's immediate supervisor or
15 employer.

16 Sec. _____. Section 70A.28, Code 2014, is amended by
17 adding the following new subsection:

18 NEW SUBSECTION. 2A. For purposes of this section,
19 "*a disclosure of information permitted by this section*"
20 includes any of the following:

21 a. A disclosure of any information by the employee
22 to a member or employee of the general assembly if the
23 information can be used by the member or employee of
24 the general assembly in the performance of the member's
25 or employee's duties, regardless of whether the member
26 or employee requested the information.

27 b. A disclosure of information to any appropriate
28 person if the employee reasonably believes the
29 information evidences a violation of law or rule,
30 mismanagement, a gross abuse of funds, an abuse of
31 authority, or a substantial and specific danger to
32 public health or safety.

33 Sec. _____. Section 70A.28, subsection 5, paragraph
34 a, Code 2014, is amended to read as follows:

35 a. A person who violates subsection 2 is liable to
36 an aggrieved employee for affirmative relief including
37 reinstatement, with or without back pay, actual
38 damages, or any other equitable relief the court deems
39 appropriate, including attorney fees and costs.

40 Sec. _____. Section 70A.29, Code 2014, is amended by
41 adding the following new subsection:

42 NEW SUBSECTION. 01. For purposes of this section,
43 unless the context otherwise requires:

44 a. "*Disclosure of information permitted by this*
45 *section*" includes any of the following:

46 (1) A disclosure of any information by the employee
47 to a member or employee of the general assembly if the
48 information can be used by the member or employee of
49 the general assembly in the performance of the member's
50 or employee's duties, regardless of whether the member

1 or employee requested the information.
2 (2) A disclosure of information to any appropriate
3 person if the employee reasonably believes the
4 information evidences a violation of law or rule,
5 mismanagement, a gross abuse of funds, an abuse of
6 authority, or a substantial and specific danger to
7 public health or safety.

8 *b. "Eligible employer" means any of the following:*

9 (1) A political subdivision of this state.
10 (2) An entity organized under chapter 28E.
11 (3) A recipient entity as defined in section 8F.2.
12 Sec. _____. Section 70A.29, subsection 1, Code 2014,
13 is amended by striking the subsection and inserting in
14 lieu thereof the following:

15 1. *a.* A person shall not do any of the following
16 as a reprisal against an employee in a position in
17 employment by an eligible employer for a disclosure of
18 information permitted by this section:

19 (1) Discharge, suspend, or demote the employee, or
20 take any other adverse employment action resulting in
21 a reduction of the employee's pay.

22 (2) Fail to appoint or promote the employee to
23 a position in the employment or fail to take action
24 regarding an advantage to the employee.

25 *b.* This section does not apply if the disclosure of
26 the information is prohibited by statute.

27 Sec. _____. Section 70A.29, subsection 3, paragraph
28 a, Code 2014, is amended to read as follows:

29 *a.* A person who violates subsection 1 is liable to
30 an aggrieved employee for affirmative relief including
31 reinstatement, with or without back pay, actual
32 damages, or any other equitable relief the court deems
33 appropriate, including attorney fees and costs.

34 Sec. _____. Section 70A.29, Code 2014, is amended by
35 adding the following new subsection:

36 NEW SUBSECTION. 4. An eligible employer subject
37 to the requirements of this section shall inform the
38 employer's employees on a regular basis of their rights
39 to disclose information as provided in this section.

40 DIVISION _____

41 VERTICAL INFRASTRUCTURE ADVISORY COMMITTEE

42 Sec. _____. NEW SECTION. 8.57G Vertical
43 infrastructure advisory committee.

44 1. A vertical infrastructure advisory committee is
45 established consisting of seven members, appointed by
46 the governor, and subject to confirmation by the senate
47 pursuant to section 2.32. Committee members shall be
48 appointed in compliance with sections 69.16, 69.16A,
49 and 69.16C. Committee members shall reside in this
50 state.

1 2. The members of the committee shall serve for
2 staggered three-year terms which shall begin and end
3 pursuant to section 69.19. Members appointed shall
4 continue to serve until their respective successors
5 are appointed. Vacancies in the membership of the
6 committee shall be filled by the governor. Members
7 shall receive actual expenses incurred while serving in
8 their official capacity. Members may also be eligible
9 to receive compensation as provided in section 7E.6.
10 The governor shall designate the chairperson of the
11 committee.

12 3. The department of management and the department
13 of administrative services shall provide staff
14 assistance and support services to the committee.

15 4. The committee shall have the following duties:

16 a. Oversee the inventory and assessment of the
17 vertical infrastructure owned or under the control of
18 the state.

19 b. Develop and recommend methods for identifying,
20 evaluating, and prioritizing infrastructure needs.

21 c. Annually develop and submit to the governor and
22 the general assembly no later than December 15 of each
23 year, comprehensive five-year plans of recommendations,
24 including suggested lists of priority projects. The
25 priority listing of projects shall be developed to
26 assist the governor in establishing a priority listing
27 of priority projects to be submitted to the general
28 assembly pursuant to section 8.22. Recommendations
29 shall include the level of funding necessary to
30 complete each project recommended and a timetable for
31 completion of the project if the project is anticipated
32 to require more than one year to complete.>

33 2. By renumbering as necessary.

GAINES of Polk

LENSING of Johnson

ABDUL-SAMAD of Polk

ANDERSON of Polk

GASKILL of Wapello

HALL of Woodbury

HEDDENS of Story

HUNTER of Polk

ISENHART of Dubuque

JACOBY of Johnson

KEARNS of Lee

LYKAM of Scott

H. MILLER of Webster

MURPHY of Dubuque

OLDSON of Polk

OURTH of Warren

PRICHARD of Floyd

RUFF of Clayton

M. SMITH of Marshall

STAED of Linn

STUTSMAN of Johnson

T. TAYLOR of Linn

THEDE of Scott

THOMAS of Clayton

WINCKLER of Scott

WOLFE of Clinton

WOOD of Scott