

February 7, 1963.

Passed on File.

Amended by House 2-7, Pass 2-14
Passed Senate, Date 2-20-63

Vote: Ayes 48 Nays 0

Senate File 148

By O'MALLEY and DYKHOUSE.

Passed House, Date 3-22-63

Vote: Ayes 92 Nays 0

Approved 3-29-63

*Amended by House
concurrent by Senate 3/26
aye 50 nays 0*

*Amended by House
Do Pass 12/28*

A BILL FOR

An Act to waive immunity of the State of Iowa from any action at law or in equity brought to enforce, or to determine a controversy rising out of any contract in which the Iowa State Highway Commission is a party and to prescribe the venue, the manner of service of notice thereof and the time limitation for instituting action.

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

1 Section 1. The State of Iowa hereby waives immunity from
2 suit and consents to the jurisdiction of any court in which an
3 action is brought against the Iowa State Highway Commission re-
4 specting any claim, right, or controversy arising out of the
5 work performed, or by virtue of the provisions of any construc-
6 tion contract entered into by the Iowa State Highway Commission.
7 Such action shall be heard and determined pursuant to rules other-
8 wise applicable to civil actions brought in the particular court
9 having jurisdiction of the suit and the parties to the suit shall
10 have the right of appeal from any judgment, decree, or decision
11 of the trial court to the appropriate appellate court under ap-
12 plicable rules of appeal.

1 Sec. 2. Any such action shall name the Iowa State Highway
2 Commission as defendant and the venue for trial shall be in the
3 county, or in the federal court district, where all or part of
4 the construction work was performed.

1 Sec. 3. Service upon the State of Iowa shall be made by
2 serving an original notice or summons, with a copy of the pe-

3 tition attached, upon any member of the Iowa State Highway Com-
4 mission in the manner provided for the service of original
5 notices in actions brought in the district courts of the State
6 of Iowa, or by serving summonses upon any member of the Iowa
7 State Highway Commission in the manner provided for service of
8 summons in actions brought in United States district courts, ex-
9 cept only that the state shall be required to appear within
10 thirty (30) days after the day such notice or summons is served
11 upon a member of the Iowa State Highway Commission.

1 Sec. 4. Actions against the State of Iowa authorized un-
2 der the provisions of Section 1 may be instituted within three
3 (3) years from the date of the completion or acceptance of the
4 work, whichever date is later.

1 Sec. 5. Section six hundred thirteen point ten (613.10),
2 Code 1962, is repealed and the following adopted in lieu thereof:
3 "After compliance with sections one (1) and two (2) of this
4 Act and sections six hundred thirteen point eight (613.8) and
5 six hundred thirteen point nine (613.9), Code 1962, the State
6 of Iowa shall have the same standing as any other plaintiff or
7 defendant and any and all orders, judgments, or decrees ren-
8 dered and entered in any such action shall be binding on the
9 State of Iowa in the same manner and degree as any other party
10 to an action against whom such an order, judgment, or decree
11 is entered, and the State of Iowa shall have the same rights in
12 respect to the trial of such cause and in respect to any orders,
13 judgments, or decrees entered therein, together with all rights
14 of appeal, as any other similarly situated party would have."

1 Sec. 6. Section five hundred seventy-three point fourteen

2 (573.14), Code 1962, is amended by adding the following: "No
 3 part of said fund shall be retained by the Iowa State Highway
 4 Commission because of the commencement of any action by any
 5 party against the State of Iowa by virtue of the provisions of
 6 this Act."

SENATE FILE 148

1 Amend Senate File 148, section 4, by striking the period (.)
 2 in line 3 after the word "later" and inserting the following:
 3 " , except that this would not apply to contracts completed
 4 and accepted previous to the enactment of this act."

Filed

February 18, 1963.

Adopted 2/20

By WILEY.

1 Amend Senate File 148 by striking all of section 6 and in-
 2 serting in lieu thereof the following:
 3 "Sec. 6. Section five hundred seventy-three point fifteen
 4 (573.15), Code 1962, is amended by inserting in line thirteen
 5 (13) after the word "improvement" the following: ', and no part
 6 of such unpaid fund due the contractor shall be retained as
 7 provided in this chapter because of the commencement of any ac-
 8 tion by the contractor against the Iowa state highway commission
 9 under authority granted in section one (1) of this Act'".

Filed - *adopted 2-20*

February 19, 1963.

By O'MALLEY.

1 Amend Senate File 148, section 4, by striking the
 2 period in line 4 after the word "later" and inserting the
 3 following: " , except that this should not apply to
 4 contracts completed and accepted previous to the enactment
 5 of this act."

Filed - *Withdrawn 2/20*

February 19, 1963.

By WILEY.

1 Amend Senate File 148, section 4, by striking all after the
 2 word "accepted" in line five (5) and inserting in lieu thereof
 3 the following: "and for which final payment was made previous
 4 to the enactment of this Act."

Filed

February 28, 1963.

Senate concurred 3/26
adopted 3/27

SWISHER of Johnson.