

Business Labor Relations Act 3/22 (p. 947)
H. Labor 3/23 To Com 3/25 (p. 5915)

FILED MAR 22 1988

SENATE FILE **2318**
BY HUTCHINS and HULTMAN

Passed Senate, Date 3/20/88 (p. 948) ^{Failed} Passed House, Date 3/31/88 (p. 1292)
Vote: Ayes 37 Nays 11 Vote: Ayes 49 Nays 46
Approved May 5, 1988

Reconsidered (p. 1306)
Passed House (p. 1207)
60-34

A BILL FOR

1 An Act relating to the registration of construction contractors;
2 providing for administration and enforcement of a system of
3 registration by the labor commissioner; providing for
4 administrative penalties; providing an effective date; and
5 providing other properly related matters.

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

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Conference Committee Appointed 4/11/88
Senators: Boonick (Chair), Wells, Mann, Kistler, Johnson
Representatives: Sherman (Chair), Banning, Blamer, Corey, & Pleasant

Passed per Conference Committee Report
Senate 4/12/88 (p. 1464) House 4/12/88 (p. 1801)
29-14 55-44

SF 2318

1 Section 1. Section 96.11, Code Supplement 1987, is amended
2 by adding the following new subsection:

3 NEW SUBSECTION. 14. For purposes of contractor
4 registration under chapter 549, the division of job service
5 shall provide for the issuance of special contractor numbers
6 to contractors for whom employer accounts are not required
7 under this chapter. A contractor who is not in compliance
8 with the requirements of this chapter shall not be issued a
9 special contractor number.

10 Sec. 2. NEW SECTION. 549.1 DEFINITION -- EXEMPTION.

11 1. As used in this chapter, unless the context otherwise
12 requires, "contractor" means a person who engages in the
13 business of construction, as the term "construction" is
14 defined in section 345-3.82 (96), Iowa Administrative Code,
15 for purposes of the Iowa employment security law.

16 2. If a person's registration application shows that the
17 person is self-employed, does not employ other persons in the
18 business, and does not work with or for other persons in the
19 same phases of construction, the person is exempt from further
20 requirements under this chapter.

21 Sec. 3. NEW SECTION. 549.2 REGISTRATION REQUIRED --
22 CONDITIONS.

23 A contractor doing business in this state shall register
24 with the labor commissioner and shall meet both of the
25 following requirements as a condition of registration:

26 1. The contractor shall be in compliance with the laws of
27 this state relating to workers' compensation insurance and
28 shall provide evidence of workers' compensation insurance
29 coverage, of relief from the insurance requirement pursuant to
30 section 87.11, or of compliance with the notice provision of
31 section 87.2.

32 2. The contractor shall possess an employer account number
33 or a special contractor number issued by the division of job
34 service of the department of employment services pursuant to
35 the Iowa employment security law.

1 Sec. 4. NEW SECTION. 549.3 APPLICATION -- INFORMATION TO
2 BE PROVIDED.

3 The registration application shall be in the form
4 prescribed by the labor commissioner, shall be accompanied by
5 the registration fee prescribed pursuant to section 549.4, and
6 shall contain information which is substantially complete and
7 accurate. In addition to the information determined by the
8 labor commissioner to be necessary for purposes of section
9 549.2, the application shall include information as to each of
10 the following:

11 1. The name, principal place of business in this state,
12 address, and telephone number of the contractor.

13 2. The name, address, telephone number, and position of
14 each officer of the contractor, if the contractor is a
15 corporation, or each owner if the contractor is not a
16 corporation.

17 3. A description of the business, including the principal
18 products and services provided.

19 Any change in the information provided shall be reported
20 promptly to the labor commissioner.

21 Sec. 5. NEW SECTION. 549.4 FEES.

22 The labor commissioner shall prescribe the fee for
23 registration, which fee shall not exceed twenty-five dollars.
24 All fees collected shall be deposited in the general fund of
25 the state.

26 Sec. 6. NEW SECTION. 549.5 PUBLIC REGISTRATION NUMBER --
27 RECORDS.

28 The labor commissioner shall issue to each registered
29 contractor an identifying public registration number and shall
30 compile records showing the names and public registration
31 numbers of all contractors registered in the state. These
32 records and the complete registration information provided by
33 each contractor are public records and the labor commissioner
34 shall take steps as necessary to facilitate access to the
35 information by governmental agencies and the general public.

1 Sec. 7. NEW SECTION. 549.6 RULES.

2 The labor commissioner shall adopt rules, pursuant to
3 chapter 17A, determined to be reasonably necessary for the
4 administration and enforcement of the system of contractor
5 registration established by this chapter.

6 Sec. 8. NEW SECTION. 549.7 STATE CONTRACTS.

7 A contractor who is not registered with the labor
8 commissioner as required by this chapter shall not be awarded
9 a contract to perform work for the state or an agency of the
10 state.

11 Sec. 9. NEW SECTION. 549.8 INVESTIGATIONS -- ENFORCEMENT
12 -- ADMINISTRATIVE PENALTIES.

13 1. The labor commissioner and inspectors of the division
14 of labor services of the department of employment services
15 have jurisdiction for investigation and enforcement in cases
16 where contractors may be in violation of the requirements of
17 this chapter or rules adopted pursuant to this chapter.

18 2. If, upon investigation, the labor commissioner or the
19 commissioner's authorized representative believes that a
20 contractor has violated either of the following, the
21 commissioner shall with reasonable promptness issue a citation
22 to the contractor:

23 a. The requirement that a contractor be registered.

24 b. The requirement that the contractor's registration
25 information be substantially complete and accurate.

26 Each citation shall be in writing and shall describe with
27 particularity the nature of the violation, including a
28 reference to the provision of the statute alleged to have been
29 violated.

30 If a citation is issued, the commissioner shall, within
31 seven days, notify the contractor by certified mail of the
32 administrative penalty, if any, proposed to be assessed and
33 that the contractor has fifteen working days within which to
34 notify the commissioner that the employer wishes to contest
35 the citation or proposed assessment of penalty.

1 The administrative penalties which may be imposed under
2 this section shall be not more than five hundred dollars in
3 the case of a first violation and not more than five thousand
4 dollars for each violation in the case of a second or
5 subsequent violation. All administrative penalties collected
6 pursuant to this chapter shall be deposited in the general
7 fund of the state.

8 If, within fifteen working days from the receipt of the
9 notice, the contractor fails to notify the commissioner that
10 the contractor intends to contest the citation or proposed
11 assessment of penalty, the citation and the assessment, as
12 proposed, shall be deemed a final order of the employment
13 appeal board and not subject to review by any court or agency.

14 If the contractor notifies the commissioner that the
15 contractor intends to contest the citation or proposed
16 assessment of penalty, the commissioner shall immediately
17 advise the employment appeal board established by section
18 10A.601. The employment appeal board shall review the action
19 of the commissioner and shall thereafter issue an order, based
20 on findings of fact, affirming, modifying, or vacating the
21 commissioner's citation or proposed penalty or directing other
22 appropriate relief, and the order shall become final sixty
23 days after its issuance.

24 The labor commissioner shall notify the department of
25 revenue and finance upon final agency action regarding the
26 citation and assessment of penalty against a registered
27 contractor.

28 Judicial review of any order of the employment appeal board
29 issued pursuant to this section may be sought in accordance
30 with the terms of chapter 17A. If no petition for judicial
31 review is filed within sixty days after service of the order
32 of the employment appeal board, the appeal board's findings of
33 fact and order shall be conclusive in connection with any
34 petition for enforcement which is filed by the commissioner
35 after the expiration of the sixty-day period. In any such

1 case, the clerk of court, unless otherwise ordered by the
2 court, shall forthwith enter a decree enforcing the order and
3 shall transmit a copy of the decree to the employment appeal
4 board and the contractor named in the petition.

5 Sec. 10. Section 10A.601, subsections 1 and 7, Code 1987,
6 are amended to read as follows:

7 1. A full-time employment appeal board is created within
8 the department of inspections and appeals to hear and decide
9 contested cases under chapters 19A, 80, 88, 96, 97B, and 104,
10 and 549.

11 7. An application for rehearing before the appeal board
12 shall be filed pursuant to section 17A.16, unless otherwise
13 provided in chapter 19A, 80, 88, 96, 97B, or 104, or 549. A
14 petition for judicial review of a decision of the appeal board
15 shall be filed pursuant to section 17A.19. The appeal board
16 may be represented in any such judicial review by an attorney
17 who is a regular salaried employee of the appeal board or who
18 has been designated by the appeal board for that purpose, or
19 at the appeal board's request, by the attorney general.
20 Notwithstanding the petitioner's residency requirement in
21 section 17A.19, subsection 2, a petition for judicial review
22 may be filed in the district court of the county in which the
23 petitioner was last employed or resides, provided that if the
24 petitioner does not reside in this state, the action shall be
25 brought in the district court of Polk county, Iowa, and any
26 other party to the proceeding before the appeal board shall be
27 named in the petition. Notwithstanding the thirty-day
28 requirement in section 17A.19, subsection 6, the appeal board
29 shall, within sixty days after filing of the petition for
30 judicial review or within a longer period of time allowed by
31 the court, transmit to the reviewing court the original or a
32 certified copy of the entire records of a contested case. The
33 appeal board may also certify to the court, questions of law
34 involved in any decision by the appeal board. Petitions for
35 judicial review and the questions so certified shall be given

1 precedence over all other civil cases except cases arising
2 under the workers' compensation law of this state. No bond
3 shall be required for entering an appeal from any final order,
4 judgment, or decree of the district court to the supreme
5 court.

6 Sec. 11. EFFECTIVE DATE. This Act takes effect July 1,
7 1988, for purposes of rulemaking and administrative
8 preparation and January 1, 1989, for all other purposes.

9 EXPLANATION

10 This bill would require the registration of every person
11 engaged in business as a construction contractor in this
12 state. A contractor could not be registered unless the
13 contractor is in compliance with the laws on workers'
14 compensation insurance and possesses an employer account
15 number issued for unemployment compensation purposes.
16 Provision is made for special contractor numbers from the
17 division of job service for contractors not required to have
18 employer accounts.

19 If a person's registration application shows that the
20 person is self-employed, does not employ other persons, and
21 does not work with or for others in the same phases of
22 construction, the person is exempt from further requirements.

23 Registration information, together with a fee, would be
24 filed with the labor commissioner, who would issue an
25 identifying public registration number to each contractor.
26 The numbers and information would be matters of public record.

27 The labor commissioner would have jurisdiction for
28 investigation and enforcement in cases of suspected violation.
29 Provisions are included for the issuance of citations and the
30 imposition of administrative penalties, subject to review by
31 the employment appeal board followed by judicial review.

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FILED MAR 25 1988

STATE OF IOWA

FISCAL NOTE

SENATE FILE 2318

LSB No. 8463s

Staff ID. JEM

In compliance with a written request received March 24, 1988, a fiscal note for **SENATE FILE 2318** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Explanation

Senate File 2318 would require the registration of every person engaged in business as a construction contractor in Iowa. Registration information and a one time fee would be filed with the labor commissioner who would issue an identifying public registration number to each contractor. The labor commission would have jurisdiction for investigation and enforcement in cases where the contractor failed to register or comply with the registration requirements.

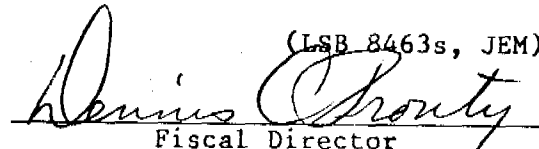
Assumption

1. A one time registration fee of \$25.00 will be charged.
2. Approximately 10,000 contractors would register with the state.
3. Approximately 100 additional contractors would register and pay a fee in future fiscal years.

FISCAL IMPACT

Approximately \$250,000 will be collected in revenues during the first year of contractor registration and it is estimated that \$2,500 would be generated in future fiscal years. The expenditure needed to register and regulate contractors is estimated to be \$113,673 for the first year of operation and approximately the same amount in future years. The division would use most of the funding for the registration of construction contractors during the first year and would expend additional funds in future years for investigations and enforcement.

(LSB 8463s, JEM)



Fiscal Director

Legislative Fiscal Bureau

Date: 3/24/88

SENATE FILE 2318

H-6007

1 Amend Senate File 2318, as passed by the Senate, as
2 follows:

3 1. Page 6, by inserting after line 5 the
4 following:

5 "Sec. ____ . NEW SECTION. 550.1 RECIPROCITY IN
6 LICENSING.

7 1. As used in this section, "commissioner" means
8 the labor commissioner.

9 2. The commissioner shall adopt rules for a
10 program requiring reciprocity among governmental
11 subdivisions in the licensing of persons to perform
12 building contracting work. The program shall be
13 consistent with the requirements of this section.

14 3. A person who is licensed by a governmental
15 subdivision having a population of ten thousand or
16 over to perform electrical, plumbing, heating,
17 refrigeration, sewage, or other building contracting
18 work may register with the commissioner for
19 participation in the reciprocal licensing program if
20 the governmental subdivision required, as a
21 prerequisite to obtaining the license, passage of an
22 examination which the commissioner determines
23 adequately measures the ability of a person to perform
24 the work covered by the license and if the person
25 files with the commissioner all of the following:

26 a. A copy of each license the person desires to
27 register for reciprocity, together with fees and
28 supporting information as required by the
29 commissioner.

30 b. A surety bond in the amount of twenty-five
31 thousand dollars conditioned on the faithful
32 performance by the person of contracts to perform work
33 within the scope of the person's license or licenses
34 registered pursuant to this section.

35 c. Proof acceptable to the commissioner of the
36 person's ability to respond in damages for liability
37 arising out of the performance of work within the
38 scope of the person's license or licenses registered
39 pursuant to this section.

40 4. A license registered pursuant to this section
41 shall be accepted by a governmental subdivision in
42 lieu of an independent requirement for examination and
43 licensure by the governmental subdivision. The
44 governmental subdivision shall not require an
45 additional surety bond or additional proof of ability
46 to respond in damages for liability.

47 5. Complaints concerning the performance of a
48 person whose license is registered pursuant to this
49 section shall be forwarded to the commissioner and the
50 commissioner shall notify the person of the contents

H-6007

Page 2

1 of the complaint and the possibility of revocation of
2 the registration and cancellation of the bond. After
3 notice and hearing the commissioner may revoke the
4 registration if the commissioner finds that the person
5 has violated the applicable building code, has
6 fraudulently obtained the registration, or has been
7 convicted of a felony. The commissioner may by rule
8 set forth other acts, related to the suitability and
9 competence of the person to perform building
10 contracting work, which constitute cause for
11 revocation. The decision to revoke is subject to
12 review pursuant to chapter 17A."

13 2. Title page, line 4, by inserting after the
14 word "penalties;" the following: "providing for
15 reciprocity in licensing for certain persons
16 performing building contracting work;"

17 3. By renumbering as necessary.

By VAN CAMP of Scott

H-6007 FILED MARCH 28, 1988

w/rt 3/20 (p 1230)

SENATE FILE 2318

H-6010

1 Amend Senate File 2318, as passed by the Senate, as
2 follows:

3 1. Page 2, by inserting after line 35 the
4 following:

5 "The contractor shall display the public
6 registration number at each place of business, on each
7 vehicle and major item of equipment as defined by rule
8 of the labor commissioner, and in all public
9 advertising. The labor commissioner may provide by
10 rule for the issuance of registration certificates,
11 cards, stickers, or stencils as appropriate for the
12 display of the contractor's public registration
13 number."

14 2. Page 3, by inserting after line 25 the
15 following:

16 "c. The requirement that the contractor's public
17 registration number be displayed at each place of
18 business, on each vehicle or major item of equipment,
19 and in all public advertising. However, failure to
20 include the public registration number in public
21 advertising in a classified directory is not an
22 enforceable violation until January 1, 1990."

By VAN CAMP of Scott

H-6010 FILED MARCH 29, 1988

Font 3/30 (p 1230)

SENATE FILE 2318

H-6008

1 Amend Senate File 2318, as passed by the Senate, as
2 follows:

3 1. Page 2, by striking lines 22 and 23 and
4 inserting the following:

5 "The labor commissioner shall prescribe and collect
6 an initial registration fee, which fee shall not
7 exceed twenty-five dollars, and shall also prescribe
8 and collect an annual fee to be paid by each
9 registered contractor, which fee shall not exceed
10 twenty-five dollars per year."

By VAN CAMP of Scott

H-6008 FILED MARCH 29, 1988

Adopted 3/30 (p 1228)
Reconsidered Font (p 1231)

SENATE FILE 2318

H-6139

- 1 Amend Senate File 2318 as passed by the Senate as
2 follows:
- 3 1. Page 1, line 15, by inserting after the word
4 "law." the following: "However, a person who earns
5 less than one thousand dollars annually or who
6 performs work or has work performed on the person's
7 own property is not a contractor for purposes of this
8 chapter."
- 9 2. Page 1, by striking lines 16 through 20 and
10 inserting the following:
11 "2. If a contractor's registration application
12 shows that the contractor is self-employed, does not
13 pay more than one thousand dollars annually to employ
14 other persons in the business, and does not work with
15 or for other contractors in the same phases of
16 construction, the contractor is exempt from the fee
17 requirements under this chapter."
- 18 3. Page 1, line 29, by inserting after the word
19 "coverage" the following: "annually".
- 20 4. Page 1, line 31, by inserting after the figure
21 "87.2." the following: "Notice of a policy's
22 cancellation shall be provided to the labor
23 commissioner by the insurance company."
- 24 5. Page 2, line 23, by inserting after the word
25 "dollars." the following: "A contractor who is in
26 compliance with the requirements listed in section
27 549.2 shall be exempt from this fee."
- 28 6. Page 2, by inserting after line 35 the
29 following:
30 "When soliciting or performing work, the
31 contractor's public registration number shall be
32 prominently displayed."
- 33 7. Page 3, by inserting after line 25 the
34 following:
35 "c. The requirement that a contractor prominently
36 display the public registration number."
- 37 8. Page 6, line 8, by striking the word "January"
38 and inserting the following: "April".

By PLASIER of Sioux
VAN CAMP of Scott
LUNDBY of Linn

H-6139 FILED MARCH 31, 1988
LOST, THEN RECONSIDERED AND ADOPTED
(3/30/88)

HOUSE AMENDMENT TO
SENATE FILE 2318

S-5772

1 Amend Senate File 2318 as passed by the Senate as
2 follows:

3 1. Page 1, line 15, by inserting after the word
4 "law." the following: "However, a person who earns
5 less than one thousand dollars annually or who
6 performs work or has work performed on the person's
7 own property is not a contractor for purposes of this
8 chapter."

9 2. Page 1, by striking lines 16 through 20 and
10 inserting the following:

11 "2. If a contractor's registration application
12 shows that the contractor is self-employed, does not
13 pay more than one thousand dollars annually to employ
14 other persons in the business, and does not work with
15 or for other contractors in the same phases of
16 construction, the contractor is exempt from the fee
17 requirements under this chapter."

18 3. Page 1, line 29, by inserting after the word
19 "coverage" the following: "annually".

20 4. Page 1, line 31, by inserting after the figure
21 "87.2." the following: "Notice of a policy's
22 cancellation shall be provided to the labor
23 commissioner by the insurance company."

24 5. Page 2, line 23, by inserting after the word
25 "dollars." the following: "A contractor who is in
26 compliance with the requirements listed in section
27 549.2 shall be exempt from this fee."

28 6. Page 2, by inserting after line 35 the
29 following:

30 "When soliciting or performing work, the
31 contractor's public registration number shall be
32 prominently displayed."

33 7. Page 3, by inserting after line 25 the
34 following:

35 "c. The requirement that a contractor prominently
36 display the public registration number."

37 8. Page 6, line 8, by striking the word "January"
38 and inserting the following: "April".

S-5772

Filed April 5, 1988

RECEIVED FROM THE HOUSE

Amendment to Senate File 2318 (p. 1654)
House inserted 4/11 (p. 1654)

REPORT OF THE CONFERENCE COMMITTEE ON
SENATE FILE 2318

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to resolve the differences between the Senate and the House of Representatives on Senate File 2318, a bill for an Act relating to the registration of construction contractors; providing for administration and enforcement of a system of registration by the labor commissioner; providing for administrative penalties; providing an effective date; and providing other properly related matters, respectfully make the following report:

1. That the House recede from its amendment, S-5772, to Senate File 2318, as amended, passed, and reprinted by the Senate.

2. That Senate File 2318, as amended, passed, and reprinted by the Senate, be amended as follows:

1. Page 1, line 15, by inserting after the word "law." the following: "However, a person who earns less than one thousand dollars annually or who performs work or has work performed on the person's own property is not a contractor for purposes of this chapter."

2. Page 1, by striking lines 16 through 20 and inserting the following:

"2. If a contractor's registration application shows that the contractor is self-employed, does not pay more than one thousand dollars annually to employ other persons in the business, and does not work with or for other contractors in the same phases of construction, the contractor is exempt from the fee requirements under this chapter."

3. Page 1, line 29, by inserting after the word "coverage" the following: "annually".

4. Page 1, line 31, by inserting after the figure "87.2." the following: "Notice of a policy's cancellation shall be

provided to the labor commissioner by the insurance company."

5. Page 2, line 23, by striking the words "twenty-five dollars" and inserting the following: "twelve dollars and fifty cents".

6. Page 6, line 8, by striking the word and figure "January 1" and inserting the following: "February 15".

ON THE PART OF THE SENATE:

ON THE PART OF THE HOUSE:

JAMES R. RIORDAN, Chairperson
LINN FUHRMAN
EDGAR H. HOLDEN
THOMAS MANN, Jr.
JAMES D. WELLS

GARY SHERZAN, Chairperson
PHIL BRAMMER
VIRGIL E. COREY
LEE J. PLASIER
RICHARD V. RUNNING

Filed April 12, 1988

Adopted (p. 1801)

SENATE FILE 2318

AN ACT

RELATING TO THE REGISTRATION OF CONSTRUCTION CONTRACTORS;
PROVIDING FOR ADMINISTRATION AND ENFORCEMENT OF A SYSTEM
OF REGISTRATION BY THE LABOR COMMISSIONER; PROVIDING FOR
ADMINISTRATIVE PENALTIES; PROVIDING AN EFFECTIVE DATE;
AND PROVIDING OTHER PROPERLY RELATED MATTERS.

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

Section 1. Section 96.11, Code Supplement 1987, is amended
by adding the following new subsection:

NEW SUBSECTION. 14. For purposes of contractor
registration under chapter 549, the division of job service
shall provide for the issuance of special contractor numbers
to contractors for whom employer accounts are not required
under this chapter. A contractor who is not in compliance
with the requirements of this chapter shall not be issued a
special contractor number.

Sec. 2. NEW SECTION. 549.1 DEFINITION -- EXEMPTION.

1. As used in this chapter, unless the context otherwise
requires, "contractor" means a person who engages in the

business of construction, as the term "construction" is
defined in section 345-3.82 (96), Iowa Administrative Code,
for purposes of the Iowa employment security law. However, a
person who earns less than one thousand dollars annually or
who performs work or has work performed on the person's own
property is not a contractor for purposes of this chapter.

2. If a contractor's registration application shows that
the contractor is self-employed, does not pay more than one
thousand dollars annually to employ other persons in the
business, and does not work with or for other contractors in
the same phases of construction, the contractor is exempt from
the fee requirements under this chapter.

Sec. 3. NEW SECTION. 549.2 REGISTRATION REQUIRED --
CONDITIONS.

A contractor doing business in this state shall register
with the labor commissioner and shall meet both of the
following requirements as a condition of registration:

1. The contractor shall be in compliance with the laws of
this state relating to workers' compensation insurance and
shall provide evidence of workers' compensation insurance
coverage annually, of relief from the insurance requirement
pursuant to section 87.11, or of compliance with the notice
provision of section 87.2. Notice of a policy's cancellation
shall be provided to the labor commissioner by the insurance
company.

2. The contractor shall possess an employer account number
or a special contractor number issued by the division of job
service of the department of employment services pursuant to
the Iowa employment security law.

Sec. 4. NEW SECTION. 549.3 APPLICATION -- INFORMATION TO
BE PROVIDED.

The registration application shall be in the form
prescribed by the labor commissioner, shall be accompanied by
the registration fee prescribed pursuant to section 549.4, and
shall contain information which is substantially complete and

accurate. In addition to the information determined by the labor commissioner to be necessary for purposes of section 549.2, the application shall include information as to each of the following:

1. The name, principal place of business in this state, address, and telephone number of the contractor.
2. The name, address, telephone number, and position of each officer of the contractor, if the contractor is a corporation, or each owner if the contractor is not a corporation.
3. A description of the business, including the principal products and services provided.

Any change in the information provided shall be reported promptly to the labor commissioner.

Sec. 5. NEW SECTION. 549.4 FEES.

The labor commissioner shall prescribe the fee for registration, which fee shall not exceed twelve dollars and fifty cents. All fees collected shall be deposited in the general fund of the state.

Sec. 6. NEW SECTION. 549.5 PUBLIC REGISTRATION NUMBER -- RECORDS.

The labor commissioner shall issue to each registered contractor an identifying public registration number and shall compile records showing the names and public registration numbers of all contractors registered in the state. These records and the complete registration information provided by each contractor are public records and the labor commissioner shall take steps as necessary to facilitate access to the information by governmental agencies and the general public.

Sec. 7. NEW SECTION. 549.6 RULES.

The labor commissioner shall adopt rules, pursuant to chapter 17A, determined to be reasonably necessary for the administration and enforcement of the system of contractor registration established by this chapter.

Sec. 8. NEW SECTION. 549.7 STATE CONTRACTS.

A contractor who is not registered with the labor commissioner as required by this chapter shall not be awarded a contract to perform work for the state or an agency of the state.

Sec. 9. NEW SECTION. 549.8 INVESTIGATIONS -- ENFORCEMENT -- ADMINISTRATIVE PENALTIES.

1. The labor commissioner and inspectors of the division of labor services of the department of employment services have jurisdiction for investigation and enforcement in cases where contractors may be in violation of the requirements of this chapter or rules adopted pursuant to this chapter.

2. If, upon investigation, the labor commissioner or the commissioner's authorized representative believes that a contractor has violated either of the following, the commissioner shall with reasonable promptness issue a citation to the contractor:

- a. The requirement that a contractor be registered.
- b. The requirement that the contractor's registration information be substantially complete and accurate.

Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the statute alleged to have been violated.

If a citation is issued, the commissioner shall, within seven days, notify the contractor by certified mail of the administrative penalty, if any, proposed to be assessed and that the contractor has fifteen working days within which to notify the commissioner that the employer wishes to contest the citation or proposed assessment of penalty.

The administrative penalties which may be imposed under this section shall be not more than five hundred dollars in the case of a first violation and not more than five thousand dollars for each violation in the case of a second or subsequent violation. All administrative penalties collected pursuant to this chapter shall be deposited in the general fund of the state.

If, within fifteen working days from the receipt of the notice, the contractor fails to notify the commissioner that the contractor intends to contest the citation or proposed assessment of penalty, the citation and the assessment, as proposed, shall be deemed a final order of the employment appeal board and not subject to review by any court or agency.

If the contractor notifies the commissioner that the contractor intends to contest the citation or proposed assessment of penalty, the commissioner shall immediately advise the employment appeal board established by section 10A.601. The employment appeal board shall review the action of the commissioner and shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the commissioner's citation or proposed penalty or directing other appropriate relief, and the order shall become final sixty days after its issuance.

The labor commissioner shall notify the department of revenue and finance upon final agency action regarding the citation and assessment of penalty against a registered contractor.

Judicial review of any order of the employment appeal board issued pursuant to this section may be sought in accordance with the terms of chapter 17A. If no petition for judicial review is filed within sixty days after service of the order of the employment appeal board, the appeal board's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the commissioner after the expiration of the sixty-day period. In any such case, the clerk of court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of the decree to the employment appeal board and the contractor named in the petition.

Sec. 10. Section 10A.601, subsections 1 and 7, Code 1987, are amended to read as follows:

1. A full-time employment appeal board is created within the department of inspections and appeals to hear and decide contested cases under chapters 19A, 80, 88, 96, 97B, and 104, and 549.

7. An application for rehearing before the appeal board shall be filed pursuant to section 17A.16, unless otherwise provided in chapter 19A, 80, 88, 96, 97B, or 104, or 549. A petition for judicial review of a decision of the appeal board shall be filed pursuant to section 17A.19. The appeal board may be represented in any such judicial review by an attorney who is a regular salaried employee of the appeal board or who has been designated by the appeal board for that purpose, or at the appeal board's request, by the attorney general. Notwithstanding the petitioner's residency requirement in section 17A.19, subsection 2, a petition for judicial review may be filed in the district court of the county in which the petitioner was last employed or resides, provided that if the petitioner does not reside in this state, the action shall be brought in the district court of Polk county, Iowa, and any other party to the proceeding before the appeal board shall be named in the petition. Notwithstanding the thirty-day requirement in section 17A.19, subsection 6, the appeal board shall, within sixty days after filing of the petition for judicial review or within a longer period of time allowed by the court, transmit to the reviewing court the original or a certified copy of the entire records of a contested case. The appeal board may also certify to the court, questions of law involved in any decision by the appeal board. Petitions for judicial review and the questions so certified shall be given precedence over all other civil cases except cases arising under the workers' compensation law of this state. No bond shall be required for entering an appeal from any final order, judgment, or decree of the district court to the supreme court.

Sec. 11. EFFECTIVE DATE. This Act takes effect July 1, 1988, for purposes of rulemaking and administrative preparation and February 15, 1989, for all other purposes.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2318, Seventy-second General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 5, 1988

TERRY E. BRANSTAD
Governor