

SEN STATE GOVT
DO PASS per amend. 3563 4-5-89 (p. 1263)

MAR 16 1989

HOUSE FILE 643

Place On Calendar

BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 293)

Passed House, Date 3-22-89 (p. 935) Passed Senate, Date 4-13-89 (p. 1421)
Vote: Ayes 94 Nays 0 Vote: Ayes 47 Nays 0

Approved May 29, 1989

Repassal House 4-25-89 (p. 1858) Repassed Senate 5-1-89
Ayes 95 Nays 0 A BILL FOR (p. 1778)
Ayes 49 Nays 0

1 An Act relating to the filing of a bond by out-of-state
2 contractors.

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

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HF 643

3563 amends all -

1 Section 1. Section 103A.24, unnumbered paragraph 1, Code
2 1989, is amended to read as follows:

3 An out-of-state contractor, before commencing a contract in
4 excess of five thousand dollars in value in Iowa, shall file a
5 bond with the ~~office-of-the-secretary-of-state~~ division of
6 labor services of the department of employment services, with
7 sureties to be approved by the ~~secretary-of-state's-office~~
8 division of labor services. The bond shall be in the sum of
9 the greater of the following:

10 EXPLANATION

11 This bill provides that an out-of-state contractor doing
12 business in Iowa shall file a bond with the division of labor
13 services of the department of employment services, rather than
14 with the secretary of state.

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SENATE AMENDMENT TO HOUSE FILE 643

H-4050

1 Amend House File 643 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 91C.7, Code 1989, is amended
5 to read as follows:

6 91C.7 STATE CONTRACTS.

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

11 2. An out-of-state contractor, before commencing a
12 contract in excess of five thousand dollars in value
13 in Iowa, shall file a bond with the division of labor
14 services of the department of employment services,
15 with sureties to be approved by the division of labor
16 services. The bond shall be in the sum of the greater
17 of the following:

18 a. One thousand dollars.

19 b. Five percent of the contract price.

20 Release of the bond shall be conditioned upon the
21 payment of all taxes, including contributions due
22 under the unemployment compensation insurance system,
23 penalties, interest, and related fees, which may
24 accrue to the state of Iowa or its subdivisions on
25 account of the execution and performance of the
26 contract. If at any time during the term of the bond
27 the department of revenue and finance determines that
28 the amount of the bond is not sufficient to cover the
29 tax liabilities accruing to the state of Iowa or its
30 subdivisions, the department shall require the bond to
31 be increased by an amount the department deems
32 sufficient to cover the tax liabilities accrued and to
33 accrue under the contract. The department shall adopt
34 rules for the collection of the forfeiture. Notice
35 shall be provided to the surety and to the contractor.
36 Notice to the contractor shall be mailed to the
37 contractor's last known address and to the
38 contractor's registered agent for service of process,
39 if any, within the state. The contractor or surety
40 shall have the opportunity to apply to the director of
41 revenue and finance for a hearing within thirty days
42 after the giving of such notice. Upon the failure to
43 timely request a hearing, the bond shall be forfeited.
44 If, after the hearing upon timely request, the
45 department of revenue and finance finds that the
46 contractor has failed to pay the total of all taxes
47 payable, the department shall order the bond
48 forfeited. The amount of the forfeiture shall be the
49 amount of taxes payable or the amount of the bond.
50 The surety shall not have standing to contest the

1 amount of any taxes payable. For purposes of this
2 section "taxes payable" means all tax, penalties,
3 interest, and fees that the department of revenue and
4 finance has previously determined to be due to the
5 state or a subdivision of the state by assessment or
6 in an appeal of an assessment, including contributions
7 to the unemployment compensation insurance system.

8 If it is determined that this subsection may cause
9 denial of federal funds which would otherwise be
10 available, or would otherwise be inconsistent with
11 requirements of federal law, this subsection shall be
12 suspended, but only to the extent necessary to prevent
13 denial of the funds or to eliminate the inconsistency
14 with federal requirements.

15 Sec. 2. Section 91C.8, subsection 2, unnumbered
16 paragraph 1, Code 1989, is amended to read as follows:

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

22 Sec. 3. Section 91C.8, subsection 2, Code 1989, is
23 amended by adding the following new paragraph:

24 NEW PARAGRAPH. c. The requirement that an out-of-
25 state contractor file a bond with the division of
26 labor services.

27 Sec. 4. Section 103A.24, Code 1989, is repealed."

RECEIVED FROM THE SENATE

H-4050 FILED APRIL 17, 1989

House concurred 4-25-89 (p. 857)
Senate concurred 5-1-89 (p. 1777)

HOUSE FILE 643

H-4104

1 Amend the Senate amendment, H-4050, to House File
2 643 as follows:
3 1. Page 1, line 14, by striking the words
4 "employment services," and inserting the following:
5 "employment services."
6 2. Page 1, by striking lines 15 through 17 and
7 inserting the following: "The surety bond shall be
8 executed by a surety company authorized to do business
9 in this state, and the bond shall continue until
10 canceled by the surety with not less than thirty days'
11 written notice to the contractor and to the division
12 of labor services of the department of employment
13 services indicating the surety's desire to cancel the
14 bond. The bond shall be in the sum of the greater of
15 the following:"
16 3. By striking page 1, line 49 through page 2,
17 line 1, and inserting the following: "amount of taxes
18 payable or the amount of the bond, whichever is less.
19 For purposes of this".

By TYRRELL of Iowa

H-4104 FILED APRIL 19, 1989

withdrawn 4-25-89 (p.1857)

HOUSE FILE 643

H-4137

1 Amend the Senate amendment, H-4050, to House File
2 643 as follows:
3 1. Page 1, line 14, by striking the words
4 "employment services," and inserting the following:
5 "employment services."
6 2. Page 1, by striking lines 15 through 17 and
7 inserting the following: "The surety bond shall be
8 executed by a surety company authorized to do business
9 in this state, and the bond shall be continuous in
10 nature until canceled by the surety with not less than
11 thirty days' written notice to the contractor and to
12 the division of labor services of the department of
13 employment services indicating the surety's desire to
14 cancel the bond. The bond shall be in the sum of the
15 greater of the following:"
16 3. By striking page 1, line 49 through page 2,
17 line 1, and inserting the following: "amount of taxes
18 payable or the amount of the bond, whichever is less.
19 For purposes of this".

By TYRRELL of Iowa

H-4137 FILED APRIL 20, 1989

Adopted 4-25-89 (p.1857)

HOUSE FILE 643

S-3563

1 Amend House File 643 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 91C.7, Code 1989, is amended
5 to read as follows:

6 91C.7 STATE CONTRACTS.

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

11 2. An out-of-state contractor, before commencing a
12 contract in excess of five thousand dollars in value
13 in Iowa, shall file a bond with the division of labor
14 services of the department of employment services,
15 with sureties to be approved by the division of labor
16 services. The bond shall be in the sum of the greater
17 of the following:

18 a. One thousand dollars.

19 b. Five percent of the contract price.

20 Release of the bond shall be conditioned upon the
21 payment of all taxes, including contributions due
22 under the unemployment compensation insurance system,
23 penalties, interest, and related fees, which may
24 accrue to the state of Iowa or its subdivisions on
25 account of the execution and performance of the
26 contract. If at any time during the term of the bond
27 the department of revenue and finance determines that
28 the amount of the bond is not sufficient to cover the
29 tax liabilities accruing to the state of Iowa or its
30 subdivisions, the department shall require the bond to
31 be increased by an amount the department deems
32 sufficient to cover the tax liabilities accrued and to
33 accrue under the contract. The department shall adopt
34 rules for the collection of the forfeiture. Notice
35 shall be provided to the surety and to the contractor.
36 Notice to the contractor shall be mailed to the
37 contractor's last known address and to the
38 contractor's registered agent for service of process,
39 if any, within the state. The contractor or surety
40 shall have the opportunity to apply to the director of
41 revenue and finance for a hearing within thirty days
42 after the giving of such notice. Upon the failure to
43 timely request a hearing, the bond shall be forfeited.
44 If, after the hearing upon timely request, the
45 department of revenue and finance finds that the
46 contractor has failed to pay the total of all taxes
47 payable, the department shall order the bond
48 forfeited. The amount of the forfeiture shall be the
49 amount of taxes payable or the amount of the bond.
50 The surety shall not have standing to contest the

S-3562

Page 2

1 amount of any taxes payable. For purposes of this
2 section "taxes payable" means all tax, penalties,
3 interest, and fees that the department of revenue and
4 finance has previously determined to be due to the
5 state or a subdivision of the state by assessment or
6 in an appeal of an assessment, including contributions
7 to the unemployment compensation insurance system.

8 If it is determined that this subsection may cause
9 denial of federal funds which would otherwise be
10 available, or would otherwise be inconsistent with
11 requirements of federal law, this subsection shall be
12 suspended, but only to the extent necessary to prevent
13 denial of the funds or to eliminate the inconsistency
14 with federal requirements.

15 Sec. 2. Section 91C.8, subsection 2, unnumbered
16 paragraph 1, Code 1989, is amended to read as follows:

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

22 Sec. 3. Section 91C.8, subsection 2, Code 1989, is
23 amended by adding the following new paragraph:

24 NEW PARAGRAPH. c. The requirement that an out-of-
25 state contractor file a bond with the division of
26 labor services.

27 Sec. 4. Section 103A.24, Code 1989, is repealed."

By COMMITTEE ON STATE GOVERNMENT

BOB M. CARR, Chairperson

S-3563 FILED APRIL 5, 1989

Adopted 4-13-89 (p. 1421)

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 643

S-3953

1 Amend the Senate amendment, H-4050, to House File
2 643 as follows:

3 1. Page 1, line 14, by striking the words
4 "employment services," and inserting the following:
5 "employment services."

6 2. Page 1, by striking lines 15 through 17 and
7 inserting the following: "The surety bond shall be
8 executed by a surety company authorized to do business
9 in this state, and the bond shall be continuous in
10 nature until canceled by the surety with not less than
11 thirty days' written notice to the contractor and to
12 the division of labor services of the department of
13 employment services indicating the surety's desire to
14 cancel the bond. The bond shall be in the sum of the
15 greater of the following:"

16 3. By striking page 1, line 49 through page 2,
17 line 1, and inserting the following: "amount of taxes
18 payable or the amount of the bond, whichever is less.
19 For purposes of this".

RECEIVED FROM THE HOUSE

S-3953 FILED APRIL 27, 1989

Senate concurred 5/1/89

HSB 293

STATE GOVERNMENT

HOUSE FILE 643
BY (PROPOSED COMMITTEE ON STATE GOVERNMENT BILL)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the filing of a bond by out-of-state
2 contractors.

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

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2 1989, is amended to read as follows:

3 An out-of-state contractor, before commencing a contract in
4 excess of five thousand dollars in value in Iowa, shall file a
5 bond with the ~~office-of-the-secretary-of-state~~ division of
6 labor services of the department of employment services, with
7 sureties to be approved by the ~~secretary-of-state's-office~~
8 division of labor services. The bond shall be in the sum of
9 the greater of the following:

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EXPLANATION

11 This bill provides that an out-of-state contractor doing
12 business in Iowa shall file a bond with the division of labor
13 services of the department of employment services, rather than
14 with the secretary of state.

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HOUSE FILE 643

AN ACT

RELATING TO THE FILING OF A BOND BY OUT-OF-STATE CONTRACTORS.

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

Section 1. Section 91C.7, Code 1989, is amended to read as follows:

91C.7 STATE CONTRACTS.

1. 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.

2. An out-of-state contractor, before commencing a contract in excess of five thousand dollars in value in Iowa, shall file a bond with the division of labor services of the department of employment services. The surety bond shall be executed by a surety company authorized to do business in this state, and the bond shall be continuous in nature until canceled by the surety with not less than thirty days' written notice to the contractor and to the division of labor services of the department of employment services indicating the surety's desire to cancel the bond. The bond shall be in the sum of the greater of the following:

- a. One thousand dollars.
- b. Five percent of the contract price.

Release of the bond shall be conditioned upon the payment of all taxes, including contributions due under the unemployment compensation insurance system, penalties, interest, and related fees, which may accrue to the state of Iowa or its subdivisions on account of the execution and performance of the contract. If at any time during the term of the bond the department of revenue and finance determines that the amount of the bond is not sufficient to cover the tax

liabilities accruing to the state of Iowa or its subdivisions, the department shall require the bond to be increased by an amount the department deems sufficient to cover the tax liabilities accrued and to accrue under the contract. The department shall adopt rules for the collection of the forfeiture. Notice shall be provided to the surety and to the contractor. Notice to the contractor shall be mailed to the contractor's last known address and to the contractor's registered agent for service of process, if any, within the state. The contractor or surety shall have the opportunity to apply to the director of revenue and finance for a hearing within thirty days after the giving of such notice. Upon the failure to timely request a hearing, the bond shall be forfeited. If, after the hearing upon timely request, the department of revenue and finance finds that the contractor has failed to pay the total of all taxes payable, the department shall order the bond forfeited. The amount of the forfeiture shall be the amount of taxes payable or the amount of the bond, whichever is less. For purposes of this section "taxes payable" means all tax, penalties, interest, and fees that the department of revenue and finance has previously determined to be due to the state or a subdivision of the state by assessment or in an appeal of an assessment, including contributions to the unemployment compensation insurance system.

If it is determined that this subsection may cause denial of federal funds which would otherwise be available, or would otherwise be inconsistent with requirements of federal law, this subsection shall be suspended, but only to the extent necessary to prevent denial of the funds or to eliminate the inconsistency with federal requirements.

Sec. 2. Section 91C.8, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If, upon investigation, the labor commissioner or the commissioner's authorized representative believes that a

contractor has violated either any of the following, the commissioner shall with reasonable promptness issue a citation to the contractor:

Sec. 3. Section 91C.8, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The requirement that an out-of-state contractor file a bond with the division of labor services.

Sec. 4. Section 103A.24, Code 1989, is repealed.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 643, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 29, 1989

TERRY E. BRANSTAD
Governor