

Reprinted

MAR 9 1992

HOUSE FILE 2417
BY COMMITTEE ON ENERGY AND
ENVIRONMENTAL PROTECTION

Place On Calendar

(SUCCESSOR TO HSB 708)

Passed House, Date 3/20/92 (p. 730) Passed Senate, Date 4/29/92 (P. 1702)
Vote: Ayes 87 Nays 4 Vote: Ayes 49 Nays 1
Approved May 19, 1992

A BILL FOR

1 An Act requiring all contracts with the underground storage tank
2 board to be publicly bid, and restricting the board's
3 authority for certain expenditures from the underground
4 storage tank fund.

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

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HF 2417

1 Section 1. Section 455G.4, Code Supplement 1991, is
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 4. PUBLIC BID. All contracts entered
4 into by the board shall be awarded on a competitive basis to
5 the maximum extent practical.

6 Sec. 2. Section 455G.5, unnumbered paragraph 1, Code 1991,
7 is amended to read as follows:

8 The board shall administer the fund. A contract to retain
9 a person under this section ~~may-be-individually-negotiated,~~
10 ~~and-is-not~~ shall be subject to public bidding requirements
11 bid.

12 Sec. 3. Section 455G.6, subsection 15, Code 1991, is
13 amended to read as follows:

14 15. Subject to the terms of any bond documents, moneys in
15 the fund or fund accounts may be expended for administration
16 expenses, civil penalties, or moneys paid under an agreement,
17 stipulation, or settlement, ~~and-for-the-costs-of-any-other~~
18 ~~activities-as-the-board-may-determine-are-necessary-and~~
19 ~~convenient-to-facilitate-compliance-with-and-to-implement-the~~
20 ~~intent-of-federal-laws-and-regulations-and-this-chapter.~~

21 Sec. 4. Section 455G.9, subsection 1, paragraph e, Code
22 Supplement 1991, is amended by striking the paragraph.

23 Sec. 5. Section 455G.11, subsection 8, Code Supplement
24 1991, is amended to read as follows:

25 8. Account expenditures. Moneys in the insurance account
26 may be expended ~~for-the-following-purposes:~~

27 a. ~~To~~ to take corrective action for and to compensate a
28 third party for damages, including but not limited to payment
29 of a judgment for bodily injury or property damage caused by a
30 release from a tank, where coverage has been provided to the
31 owner or operator from the insurance account, up to the limits
32 of coverage extended. A personal injury is not a compensable
33 third-party liability damage.

34 b. ~~For-the-costs-of-any-other-activities-as-the-board-may~~
35 ~~determine-are-necessary-and-convenient-to-facilitate~~

1 ~~compliance-with-and-to-implement-the-intent-of-federal-laws~~
2 ~~and-regulations-and-this-chapter-~~

3 EXPLANATION

4 This bill requires the Iowa comprehensive petroleum
5 underground storage tank board to publicly bid all contracts.
6 In addition, the bill removes authority from the board to
7 expend moneys from the Iowa comprehensive petroleum
8 underground storage tank fund if the board determines that the
9 expenditure is necessary and convenient.

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HOUSE FILE 2417
FISCAL NOTE

A fiscal note for House File 2417 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2417 requires the Underground Storage Tank (UST) Board to award contracts on a competitive bid basis to the extent practical, requires the contract for the Administrator of the UST Program to be competitively bid, and deletes language granting authority to the UST Board to expend UST funds on any activity the Board may determine is necessary and convenient to implement the Program.

Fiscal Effect:

The Administrator of the Iowa UST Program indicates that the provisions of the bill which delete the "necessary and convenient" language would seriously impact the ability of the Board to engage in "community remediation," and would increase the cost of the Program by \$32 million. Community remediation is the concept of addressing a group of leaking tanks as opposed to each tank individually.

The Administrator states that the additional costs to the Program would be the result of the Program's inability to expend funds on contaminated sites that do not qualify for benefits under the Program. At present, several Iowa communities have many contaminated sites, some which qualify for benefits under the Program, some of which do not. The Administrator states that paying for the cleanup of all sites in such situations, whether they qualify or not, is less expensive than paying for only those sites that have met the criteria for inclusion as specified in the Code of Iowa.

The Administrator indicates that deletion of the "necessary and convenient" language would also cause the Board to be unable and unwilling to look at new or alternative remedial technologies. The Administrator states that "the Board would not be able to approve expenditures on a process which looks good, but is not proven, until it has been proven elsewhere." The Administrator indicates that this situation would raise costs to the Program by \$4.2 million. However, it would appear that given that the Board has the authority to remediate a site which qualifies for inclusion in the Program, the Board would also have the power to remediate that site in the manner the Board deems most cost effective. For this reason, the deletion of the language would not impact the use of alternative technologies.

-2-

Finally, the Administrator indicates that deletion of the "necessary and convenient" language from the Board powers associated with the Insurance Account would cost the Program \$4.2 million. The Administrator states that deletion of the language would alter the Board's ability to establish alternative methods to qualify for insurance. This is not the case, as the Board's authority to establish premiums and determine the tank owner or operator's qualifications for inclusion in the insurance program is established elsewhere in Chapter 455G.11. The Board's ability to expend Program funds for releases from a tank covered under the insurance program is established in Chapter 455G.11(8)(a) and is not impacted by the deletion of this language.

Source: UST Program Administrator

(LSB 6188hv, JWR)

FILED MARCH 18, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2417

H-5244

- 1 Amend House File 2417 as follows:
- 2 1. Page 1, line 5, by inserting after the word
- 3 "practical." the following: "This subsection applies
- 4 only to contracts entered into on or after July 1,
- 5 1992."

By LUNDBY of Linn

H-5244 FILED MARCH 11, 1992

Adopted 3/10 (p. 724)

HOUSE FILE 2417

H-5352

- 1 Amend House File 2417 as follows:
- 2 1. Page 1, line 16, by striking the word "or".
- 3 2. Page 1, by striking lines 17 through 20 and
- 4 inserting the following: "stipulation, or settlement,
- 5 and for the costs ~~of any other~~ and activities
- 6 associated with community remediation or contracts
- 7 entered into with a state agency or university as the
- 8 board may determine are necessary and convenient to
- 9 facilitate compliance with and to implement the intent
- 10 of federal laws and regulations and this chapter."

By OSTERBERG of Linn

H-5352 FILED MARCH 17, 1992

w/pl

HOUSE FILE 2417

H-5408

- 1 Amend House File 2417 as follows:
- 2 1. Page 1, line 4, by inserting after the word
- 3 "board" the following: ", including contracts
- 4 relating to community remediation,".
- 5 2. Page 1, by line 16, by striking the word "or".
- 6 3. Page 1, by striking lines 17 through 20 and
- 7 inserting the following: "stipulation, or settlement,
- 8 ~~and for the costs of any other activities as the board~~
- 9 ~~may determine are necessary and convenient to~~
- 10 ~~facilitate compliance with and to implement the intent~~
- 11 ~~of federal laws and regulations and this chapter~~
- 12 associated with sites within a community remediation
- 13 project which have not qualified for remedial account
- 14 benefits, for costs related to contracts entered into
- 15 with a state agency or university, or for the costs of
- 16 any other activities specifically authorized by this
- 17 chapter."

By OSTERBERG of Linn

H-5408 FILED MARCH 19, 1992

Adopted 3/16 (p. 729)

Reconsidered 7/20

Adopted as amended 3/20 (p. 730)

HOUSE FILE 2417

H-5429

1 Amend amendment H-5408, to House File 2417, as
2 follows:
3 1. Page 1, line 5, by striking the words "by
4 line" and inserting the word "line".

By OSTERBERG of Linn

H-5429 FILED MARCH 20, 1992

ADOPTED BY UNANIMOUS CONSENT (sp 729)

HOUSE FILE 2417
H-5352 TO HF2417
FISCAL NOTE

A fiscal note for Amendment H-5352 to House File 2417 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the legislative Fiscal Bureau to members of the Legislature upon request.

Amendment H-5352 to House File 2417 adds the costs associated with community remediation and contracts entered into with State agencies and Universities as specific uses of the Underground Storage Tank (UST) Program funds.

Fiscal Effect:

House File 2417 deletes language from the Code of Iowa which allows the UST Board to expend Program funds on any activity the Board deems as "necessary and convenient" for the implementation of the Program. The UST Administrator indicates that the deletion of this language would increase the costs associated with community remediation of contaminated areas by \$32 million.

Amendment H-5352 would eliminate this potential fiscal impact by including community remediation as a specific use of the monies in the UST Funds.

(LSB 6188hv.2, JWR)

FILED MARCH 18, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

Gen. Energy & Env. Util. 3/24, No Pass 3/25

HOUSE FILE 2417
BY COMMITTEE ON ENERGY AND
ENVIRONMENTAL PROTECTION

(SUCCESSOR TO HSB 708)

(As Amended and Passed by the House March 20, 1992)

Re-Passed House, Date 5/1/92 (p.1997) Passed Senate, Date 4/29/92 (p.1762)
Vote: Ayes 94 Nays 2 Vote: Ayes 47 Nays 1
Approved May 19 1992

*Re-Passed Senate 5/2 (p.1760)
Ayes 47 Nays 1*

A BILL FOR

54531 An Act requiring all contracts with the underground storage tank
2 board to be publicly bid, and restricting the board's
3 authority for certain expenditures from the underground
4 storage tank fund.

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

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House Amendments _____
Deleted Language ✕

54537

1 Section 1. Section 455G.4, Code Supplement 1991, is
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 4. PUBLIC BID. All contracts entered
4 into by the board, including contracts relating to community
5 remediation, shall be awarded on a competitive basis to the
6 maximum extent practical. This subsection applies only to
7 contracts entered into on or after July 1, 1992.

8 Sec. 2. Section 455G.5, unnumbered paragraph 1, Code 1991,
9 is amended to read as follows:

10 The board shall administer the fund. A contract to retain
11 a person under this section ~~may be individually negotiated,~~
12 ~~and is not~~ shall be subject to public bidding requirements
13 bid.

14 Sec. 3. Section 455G.6, subsection 15, Code 1991, is
15 amended to read as follows:

16 15. Subject to the terms of any bond documents, moneys in
17 the fund or fund accounts may be expended for administration
* 18 expenses, civil penalties, moneys paid under an agreement,
19 stipulation, or settlement, ~~and for the costs of any other~~
20 ~~activities as the board may determine are necessary and~~
21 ~~convenient to facilitate compliance with and to implement the~~
22 ~~intent of federal laws and regulations and this chapter~~
23 associated with sites within a community remediation project
24 which have not qualified for remedial account benefits, for
25 costs related to contracts entered into with a state agency or
26 university, or for the costs of any other activities
27 specifically authorized by this chapter.

28 Sec. 4. Section 455G.9, subsection 1, paragraph e, Code
29 Supplement 1991, is amended by striking the paragraph.

30 Sec. 5. Section 455G.11, subsection 8, Code Supplement
31 1991, is amended to read as follows:

32 8. Account expenditures. Moneys in the insurance account
33 may be expended ~~for the following purposes:~~

34 ~~a. -- To~~ to take corrective action for and to compensate a
35 third party for damages, including but not limited to payment

1 of a judgment for bodily injury or property damage caused by a
2 release from a tank, where coverage has been provided to the
3 owner or operator from the insurance account, up to the limits
4 of coverage extended. A personal injury is not a compensable
5 third-party liability damage.

6 ~~b.---For-the-costs-of-any-other-activities-as-the-board-may~~
7 ~~determine-are-necessary-and-convenient-to-facilitate~~
8 ~~compliance-with-and-to-implement-the-intent-of-federal-laws~~
9 ~~and-regulations-and-this-chapter-~~

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HOUSE FILE 2417

S-5724

1 Amend House File 2417, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting before line 1, the
4 following:

5 "Section. 200. Section 424.2, subsections 5, 9,
6 and 12, Code Supplement 1991, are amended to read as
7 follows:

8 5. "Depositor" means the person who deposits
9 petroleum into an underground storage tank subject to
10 regulation under chapter 455G or an aboveground
11 petroleum storage tank as defined in section 101.21,
12 located at a retail motor vehicle fuel outlet if the
13 aboveground storage tank is physically connected
14 directly to pumps which dispense petroleum that is
15 sold at the motor vehicle fuel outlet on a retail
16 basis.

17 9. "Owner or operator" means "owner or operator"
18 of an underground storage tank as used in chapter 455G
19 or the "owner" or "operator" of an aboveground
20 petroleum storage tank as defined in section 101.21,
21 located at a retail motor vehicle fuel outlet if the
22 aboveground storage tank is physically connected
23 directly to pumps which dispense petroleum that is
24 sold at the motor vehicle fuel outlet on a retail
25 basis.

26 12. "Tank" means an underground storage tank
27 subject to regulation under chapter 455G or an
28 aboveground petroleum storage tank as defined in
29 section 101.21, located at a retail motor vehicle fuel
30 outlet if the aboveground storage tank is physically
31 connected directly to pumps which dispense petroleum
32 that is sold at the motor vehicle fuel outlet on a
33 retail basis.

34 2. Page 2, by inserting after line 9, the
35 following:

36 "Sec. ____ . Section 200 of this Act, being deemed
37 of immediate importance, takes effect upon enactment."

38 3. Title page, line 4, by inserting after the
39 word "fund" the following: "and relating to payment
40 of the environmental protection charge by aboveground
41 storage tanks and providing an effective date".

42 4. By renumbering as necessary.

By DALE TIEDEN
EMIL HUSAK

S-5724 FILED APRIL 16, 1992

Placed o/s 4/29

HOUSE FILE 2417

S-5453

1 Amend House File 2417, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting before line 1, the
4 following:

5 "Sec. 100. Section 258A.1, subsection 6, paragraph
6 x, Code 1991, is amended to read as follows:

7 x. The director of the department of natural
8 resources in certifying water treatment operators as
9 provided in sections 455B.211 through 455B.224 or
10 registering groundwater professionals as provided in
11 section 455G.18."

12 2. Page 2, by inserting after line 9, the
13 following:

14 "Sec. ____ . Section 100 of this Act, relating to
15 groundwater professionals, being deemed of immediate
16 importance, takes effect upon enactment."

17 3. Title page, line 1, by inserting after the
18 word "Act" the following: "relating to groundwater
19 professionals and".

20 4. Title page, line 4, by inserting after the
21 word "fund" the following: "and providing an
22 effective date".

By EMIL HUSAK

S-5453 FILED MARCH 31, 1992

Classified 0/0 4/1/92

HOUSE FILE 2417

S-5588

1 Amend House File 2417, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting before line 1, the
4 following:

5 "Section 100. Section 422.43, subsection 11,
6 unnumbered paragraph 3, as enacted by 1992 Iowa Acts,
7 Senate File 2116, section 406, is amended to read as
8 follows:

9 For purposes of this subsection, "consultant
10 services" means services provided, except as otherwise
11 stated in this paragraph, by a person who purports to
12 give expert or professional advice on any subject
13 including, but not limited to, advice on audiovisual,
14 business, computer and data processing, insurance,
15 management, marketing, security, and weather and
16 meteorology. "Consultant services" does not mean
17 services provided by a person licensed, registered, or
18 certified by boards listed in section 258A.1, or
19 licensed under chapter 80A, 152A, 154C, 522, or 602,
20 article 10, or registered under section 455G.18, if
21 the services provided come within the purview of such
22 person's license, registration, or certification."

23 2. Page 2, by inserting after line 9, the
24 following:

25 "Sec. _____. Section 100 of this Act, relating to
26 groundwater professionals, being deemed of immediate
27 importance, takes effect upon enactment."

28 3. Title page, line 1, by inserting after the
29 word "Act" the following: "relating to groundwater
30 professionals and".

31 4. Title page, line 4, by inserting after the
32 word "fund" the following: "and providing an
33 effective date".

By EMIL HUSAK

S-5588 FILED APRIL 7, 1992

Exec-2 1/10

HOUSE FILE 2417

S-5903

1 Amend House File 2417, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting before line 1, the
4 following:

5 "Section 100. Section 422.43, subsection 11,
6 unnumbered paragraph 3, as enacted by 1992 Iowa Acts,
7 Senate File 2116, section 406, is amended to read as
8 follows:

9 For purposes of this subsection, "consultant
10 services" means services provided, except as otherwise
11 stated in this paragraph, by a person who purports to
12 give expert or professional advice on any subject
13 including, but not limited to, advice on audiovisual,
14 business, computer and data processing, insurance,
15 management, marketing, security, and weather and
16 meteorology. "Consultant services" does not mean
17 services provided by a person licensed, registered, or
18 certified by boards listed in section 258A.1, or
19 licensed under chapter 80A, 152A, 154C, 522, or 602,
20 article 10, or registered under section 455G.18, if
21 the services provided come within the purview of such
22 person's license, registration, or certification.

23 Sec. 101. Section 424.2, subsections 5, 9, and 12,
24 Code Supplement 1991, are amended to read as follows:

25 5. "Depositor" means the person who deposits
26 petroleum into an underground storage tank subject to
27 regulation under chapter 455G or an aboveground
28 petroleum storage tank as defined in section 101.21,
29 located at a retail motor vehicle fuel outlet if the
30 aboveground storage tank is physically connected
31 directly to pumps which dispense petroleum that is
32 sold at the motor vehicle fuel outlet on a retail
33 basis.

34 9. "Owner or operator" means "owner or operator"
35 of an underground storage tank as used in chapter 455G
36 or the "owner" or "operator" of an aboveground
37 petroleum storage tank as defined in section 101.21,
38 located at a retail motor vehicle fuel outlet if the
39 aboveground storage tank is physically connected
40 directly to pumps which dispense petroleum that is
41 sold at the motor vehicle fuel outlet on a retail
42 basis.

43 12. "Tank" means an underground storage tank
44 subject to regulation under chapter 455G or an
45 aboveground petroleum storage tank as defined in
46 section 101.21, located at a retail motor vehicle fuel
47 outlet if the aboveground storage tank is physically
48 connected directly to pumps which dispense petroleum
49 that is sold at the motor vehicle fuel outlet on a
50 retail basis.

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Page 2

1 Sec. ____ . Section 455G.4, subsection 1, Code
2 Supplement 1991, is amended by adding the following
3 new paragraph:

4 NEW PARAGRAPH. e. The director of the legislative
5 fiscal bureau, or the director's designee. The
6 director under this paragraph shall not participate as
7 a voting member of the board and shall be prohibited
8 from attending closed sessions of the board."

9 2. Page 1, line 2, by striking the word
10 "subsection" and inserting the following:
11 "subsections".

12 3. Page 1, line 6, by inserting after the word
13 "practical." the following: "In those situations
14 where it is determined that public bidding is not
15 practical, the basis for the determination of
16 impracticability shall be documented by the board or
17 its designee."

18 4. Page 1, by inserting after line 7 the
19 following:

20 "NEW SUBSECTION. 5. CONTRACT APPROVAL.

21 a. The board shall approve any contract entered
22 into pursuant to this chapter if the cost of the
23 contract exceeds seventy-five thousand dollars.

24 b. A listing of all contracts entered into
25 pursuant to this chapter shall be presented at each
26 board meeting and shall be made available to the
27 public. The listing shall state the interested
28 parties to the contract, the amount of the contract,
29 and the subject matter of the contract.

30 c. The board shall be required to review and
31 approve or disapprove the administrator's failure to
32 approve a contract under section 455G.12A. Review by
33 the board shall not be required for cancellation or
34 replacement of a contract for a site included in a
35 community remediation project or when an emergency
36 situation exists."

37 5. Page 1, by striking lines 8 through 13 and
38 inserting the following:

39 "Sec. ____ . Section 455G.5, unnumbered paragraph 1,
40 Code 1991, is amended by striking the paragraph and
41 inserting in lieu thereof the following:

42 The board shall administer the fund. A contract
43 entered into on or after July 1, 1992, to retain a
44 person to act as the administrator of the fund shall
45 be subject to public bid. All other contracts to
46 retain a person under this section shall be in
47 compliance with the public bidding requirements of
48 section 455G.4, subsection 4."

49 6. Page 1, by striking lines 16 through 27 and
50 inserting the following:

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Page 3

1 "15. a. Subject to the terms of any bond
2 documents, moneys in the fund or fund accounts may be
3 expended for administration expenses, civil penalties,
4 moneys paid under an agreement, stipulation, or
5 settlement, and for the costs associated with sites
6 within a community remediation project, for costs
7 related to contracts entered into with a state agency
8 or university, costs for activities relating to
9 litigation, or for the costs of any other activities
10 as the board may determine are necessary and
11 convenient to facilitate compliance with and to
12 implement the intent of federal laws and regulations
13 and this chapter.

14 b. The authority granted under this subsection
15 which allows the board to expend fund moneys on an
16 activity the board determines is necessary and
17 convenient to facilitate compliance with and to
18 implement the intent of federal laws and regulations
19 and this chapter, shall only be used in accordance
20 with the following:

21 (1) Prior board approval shall be required before
22 expenditure of moneys pursuant to this authority shall
23 be made.

24 (2) If the expenditure of fund moneys pursuant to
25 this authority would result in the board establishing
26 a policy which would substantially affect the
27 operation of the program, rules shall be adopted
28 pursuant to chapter 17A prior to the board or the
29 administrator taking any action pursuant to this
30 proposed policy."

31 7. Page 2, by inserting after line 9 the
32 following:

33 "Sec. ____ . **NEW SECTION. 455G.20 FINAL APPROVAL.**

34 Notwithstanding any other provision to the
35 contrary, the department of natural resources shall
36 have final approval for a determination as to when
37 remediation shall begin on a site.

38 Sec. 102. The department of revenue and finance
39 shall refund the amount of the environmental
40 protection charge on petroleum diminution paid
41 pursuant to chapter 424, as authorized by 1991 Iowa
42 Acts, chapter 252, section 2, for aboveground storage
43 tanks located at retail motor vehicle fuel outlets
44 that are not physically connected directly to pumps
45 which dispense petroleum that is sold at the motor
46 vehicle fuel outlet on a retail basis.

47 Sec. ____ . Sections 100, 101, and 102 of this Act,
48 being deemed of immediate importance, take effect upon
49 enactment."

50 8. Title page, by striking lines 1 through 4 and

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Page 4

1 inserting the following: "An Act relating to
2 groundwater professionals, exempting certain
3 aboveground tanks from payment of the environmental
4 protection charge and providing a refund, relating to
5 the underground storage tank fund board and the
6 board's authority for certain expenditures from the
7 fund, relating to underground storage tank contracts
8 by requiring public bid and board approval of certain
9 contracts, relating to remedial authority of the
10 department of natural resources, and providing an
11 effective date."

12 9. By numbering, renumbering, and correcting
13 internal references as necessary.

By RALPH ROSENBERG

MICHAEL GRONSTAL

RICHARD DRAKE

DERRYL MCLAREN

EMIL J. HUSAK

S-5903 FILED APRIL 29, 1992

ADOPTED (p. 1702)

SENATE AMENDMENT TO HOUSE FILE 2417

H-6077

1 Amend House File 2417, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting before line 1, the
4 following:

5 "Section 100. Section 422.43, subsection 11,
6 unnumbered paragraph 3, as enacted by 1992 Iowa Acts,
7 Senate File 2116, section 406, is amended to read as
8 follows:

9 For purposes of this subsection, "consultant
10 services" means services provided, except as otherwise
11 stated in this paragraph, by a person who purports to
12 give expert or professional advice on any subject
13 including, but not limited to, advice on audiovisual,
14 business, computer and data processing, insurance,
15 management, marketing, security, and weather and
16 meteorology. "Consultant services" does not mean
17 services provided by a person licensed, registered, or
18 certified by boards listed in section 258A.1, or
19 licensed under chapter 80A, 152A, 154C, 522, or 602,
20 article 10, or registered under section 455G.18, if
21 the services provided come within the purview of such
22 person's license, registration, or certification.

23 Sec. 101. Section 424.2, subsections 5, 9, and 12,
24 Code Supplement 1991, are amended to read as follows:

25 5. "Depositor" means the person who deposits
26 petroleum into an underground storage tank subject to
27 regulation under chapter 455G or an aboveground
28 petroleum storage tank as defined in section 101.21,
29 located at a retail motor vehicle fuel outlet if the
30 aboveground storage tank is physically connected
31 directly to pumps which dispense petroleum that is
32 sold at the motor vehicle fuel outlet on a retail
33 basis.

34 9. "Owner or operator" means "owner or operator"
35 of an underground storage tank as used in chapter 455G
36 or the "owner" or "operator" of an aboveground
37 petroleum storage tank as defined in section 101.21,
38 located at a retail motor vehicle fuel outlet if the
39 aboveground storage tank is physically connected
40 directly to pumps which dispense petroleum that is
41 sold at the motor vehicle fuel outlet on a retail
42 basis.

43 12. "Tank" means an underground storage tank
44 subject to regulation under chapter 455G or an
45 aboveground petroleum storage tank as defined in
46 section 101.21, located at a retail motor vehicle fuel
47 outlet if the aboveground storage tank is physically
48 connected directly to pumps which dispense petroleum
49 that is sold at the motor vehicle fuel outlet on a
50 retail basis.

H-6077

H-6077

Page 2

1 Sec. _____. Section 455G.4, subsection 1, Code
2 Supplement 1991, is amended by adding the following
3 new paragraph:

4 NEW PARAGRAPH. e. The director of the legislative
5 fiscal bureau, or the director's designee. The
6 director under this paragraph shall not participate as
7 a voting member of the board and shall be prohibited
8 from attending closed sessions of the board."

9 2. Page 1, line 2, by striking the word
10 "subsection" and inserting the following:
11 "subsections".

12 3. Page 1, line 6, by inserting after the word
13 "practical." the following: "In those situations
14 where it is determined that public bidding is not
15 practical, the basis for the determination of
16 impracticability shall be documented by the board or
17 its designee."

18 4. Page 1, by inserting after line 7 the
19 following:

20 "NEW SUBSECTION. 5. CONTRACT APPROVAL.

21 a. The board shall approve any contract entered
22 into pursuant to this chapter if the cost of the
23 contract exceeds seventy-five thousand dollars.

24 b. A listing of all contracts entered into
25 pursuant to this chapter shall be presented at each
26 board meeting and shall be made available to the
27 public. The listing shall state the interested
28 parties to the contract, the amount of the contract,
29 and the subject matter of the contract.

30 c. The board shall be required to review and
31 approve or disapprove the administrator's failure to
32 approve a contract under section 455G.12A. Review by
33 the board shall not be required for cancellation or
34 replacement of a contract for a site included in a
35 community remediation project or when an emergency
36 situation exists."

37 5. Page 1, by striking lines 8 through 13 and
38 inserting the following:

39 "Sec. _____. Section 455G.5, unnumbered paragraph 1,
40 Code 1991, is amended by striking the paragraph and
41 inserting in lieu thereof the following:

42 The board shall administer the fund. A contract
43 entered into on or after July 1, 1992, to retain a
44 person to act as the administrator of the fund shall
45 be subject to public bid. All other contracts to
46 retain a person under this section shall be in
47 compliance with the public bidding requirements of
48 section 455G.4, subsection 4."

49 6. Page 1, by striking lines 16 through 27 and
50 inserting the following:

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E-6077

Page 3

1 "15. a. Subject to the terms of any bond
 2 documents, moneys in the fund or fund accounts may be
 3 expended for administration expenses, civil penalties,
 4 moneys paid under an agreement, stipulation, or
 5 settlement, and for the costs associated with sites
 6 within a community remediation project, for costs
 7 related to contracts entered into with a state agency
 8 or university, costs for activities relating to
 9 litigation, or for the costs of any other activities
 10 as the board may determine are necessary and
 11 convenient to facilitate compliance with and to
 12 implement the intent of federal laws and regulations
 13 and this chapter.

14 b. The authority granted under this subsection
 15 which allows the board to expend fund moneys on an
 16 activity the board determines is necessary and
 17 convenient to facilitate compliance with and to
 18 implement the intent of federal laws and regulations
 19 and this chapter, shall only be used in accordance
 20 with the following:

21 (1) Prior board approval shall be required before
 22 expenditure of moneys pursuant to this authority shall
 23 be made.

24 (2) If the expenditure of fund moneys pursuant to
 25 this authority would result in the board establishing
 26 a policy which would substantially affect the
 27 operation of the program, rules shall be adopted
 28 pursuant to chapter 17A prior to the board or the
 29 administrator taking any action pursuant to this
 30 proposed policy."

31 7. Page 2, by inserting after line 9 the
 32 following:

33 "Sec. ____ . NEW SECTION. 455G.20 FINAL APPROVAL.

34 Notwithstanding any other provision to the
 35 contrary, the department of natural resources shall
 36 have final approval for a determination as to when
 37 remediation shall begin on a site.

38 Sec. 102. The department of revenue and finance
 39 shall refund the amount of the environmental
 40 protection charge on petroleum diminution paid
 41 pursuant to chapter 424, as authorized by 1991 Iowa
 42 Acts, chapter 252, section 2, for aboveground storage
 43 tanks located at retail motor vehicle fuel outlets
 44 that are not physically connected directly to pumps
 45 which dispense petroleum that is sold at the motor
 46 vehicle fuel outlet on a retail basis.

47 Sec. ____ . Sections 100, 101, and 102 of this Act,
 48 being deemed of immediate importance, take effect upon
 49 enactment."

50 8. Title page, by striking lines 1 through 4 and

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Page 4

1 inserting the following: "An Act relating to
 2 groundwater professionals, exempting certain
 3 aboveground tanks from payment of the environmental
 4 protection charge and providing a refund, relating to
 5 the underground storage tank fund board and the
 6 board's authority for certain expenditures from the
 7 fund, relating to underground storage tank contracts
 8 by requiring public bid and board approval of certain
 9 contracts, relating to remedial authority of the
 10 department of natural resources, and providing an
 11 effective date."

12 9. By numbering, renumbering, and correcting
 13 internal references as necessary.

RECEIVED FROM THE SENATE

H-6077 FILED APRIL 29, 1992

House concurred 5/1 (p. 1797)

HOUSE FILE 2417

H-6088

1 Amend the Senate amendment, H-6077, to House File
 2 2417, as amended, passed, and reprinted by the House,
 3 as follows:

4 1. Page 2, by striking lines 7 and 8 and insert-
 5 ing the following: "a voting member of the board."

By OSTERBERG of Linn

H-6088 FILED MAY 1, 1992

ADOPTED *(p. 1800)*

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 2417

S-5937

1 Amend the Senate amendment, H-6077, to House File
 2 2417, as amended, passed, and reprinted by the House,
 3 as follows:

4 1. Page 2, by striking lines 7 and 8 and insert-
 5 ing the following: "a voting member of the board."

RECEIVED FROM THE HOUSE

S-5937 FILED MAY 1, 1992

Senate concurred 5/2 (p. 1760)

NSB 708

ENERGY AND ENVIRONMENTAL PROTECTION

Now
HOUSE FILE 2417

BY (PROPOSED COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION BILL BY CHAIRPERSON OSTERBERG)

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

A BILL FOR

1 An Act requiring underground storage tank board approval of
2 certain contracts, requiring that all contracts with the board
3 be publicly bid, and restricting the board's authority for
4 certain expenditures from the underground storage tank fund.

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

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SUB COMMITTEE ASSIGNMENTS
CHAIR: *Osterberg*
COMMITTEE: *Energy*
3-3-92

S.F. _____ H.F. _____

1 Section 1. Section 455G.4, Code Supplement 1991, is
2 amended by adding the following new subsections:

3 NEW SUBSECTION. 4. CONTRACT APPROVAL. The board shall
4 approve any contract entered into pursuant to this chapter if
5 the costs of the contract exceed twenty-five thousand dollars.

6 NEW SUBSECTION. 5. PUBLIC BID. All contracts entered
7 into by the board shall be awarded on a competitive basis to
8 the maximum extent practical.

9 Sec. 2. Section 455G.5, unnumbered paragraph 1, Code 1991,
10 is amended to read as follows:

11 The board shall administer the fund. A contract to retain
12 a person under this section ~~may-be-individually-negotiated,~~
13 ~~and-is-not~~ shall be subject to public bidding-requirements
14 bid.

15 Sec. 3. Section 455G.6, subsection 15, Code 1991, is
16 amended to read as follows:

17 15. Subject to the terms of any bond documents, moneys in
18 the fund or fund accounts may be expended for administration
19 expenses, civil penalties, or moneys paid under an agreement,
20 stipulation, or settlement, ~~-and-for-the-costs-of-any-other~~
21 ~~activities-as-the-board-may-determine-are-necessary-and~~
22 ~~convenient-to-facilitate-compliance-with-and-to-implement-the~~
23 ~~intent-of-federal-laws-and-regulations-and-this-chapter.~~

24 Sec. 4. Section 455G.9, subsection 1, paragraph e, Code
25 Supplement 1991, is amended by striking the paragraph.

26 EXPLANATION

27 This bill requires the Iowa comprehensive petroleum
28 underground storage tank board to publicly bid all contracts
29 and to approve all contracts in excess of \$25,000. In
30 addition, the bill removes authority from the board to expend
31 moneys from the Iowa comprehensive petroleum underground
32 storage tank fund if the board determines that the expenditure
33 is necessary and convenient.

34
35

HOUSE FILE 2417

AN ACT

RELATING TO GROUNDWATER PROFESSIONALS, EXEMPTING CERTAIN ABOVE-GROUND TANKS FROM PAYMENT OF THE ENVIRONMENTAL PROTECTION CHARGE AND PROVIDING A REFUND, RELATING TO THE UNDERGROUND STORAGE TANK FUND BOARD AND THE BOARD'S AUTHORITY FOR CERTAIN EXPENDITURES FROM THE FUND, RELATING TO UNDERGROUND STORAGE TANK CONTRACTS BY REQUIRING PUBLIC BID AND BOARD APPROVAL OF CERTAIN CONTRACTS, RELATING TO REMEDIAL AUTHORITY OF THE DEPARTMENT OF NATURAL RESOURCES, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 422.43, subsection 11, unnumbered paragraph 3, as enacted by 1992 Iowa Acts, Senate File 2116, section 406, is amended to read as follows:

For purposes of this subsection, "consultant services" means services provided, except as otherwise stated in this paragraph, by a person who purports to give expert or professional advice on any subject including, but not limited to, advice on audiovisual, business, computer and data processing, insurance, management, marketing, security, and weather and meteorology. "Consultant services" does not mean services provided by a person licensed, registered, or certified by boards listed in section 258A.1, or licensed under chapter 80A, 152A, 154C, 522, or 602, article 10, or registered under section 455G.18, if the services provided come within the purview of such person's license, registration, or certification.

Sec. 2. Section 424.2, subsections 5, 9, and 12, Code Supplement 1991, are amended to read as follows:

5. "Depositor" means the person who deposits petroleum into an underground storage tank subject to regulation under chapter 455G or an aboveground petroleum storage tank as defined in section 101.21, located at a retail motor vehicle

fuel outlet if the aboveground storage tank is physically connected directly to pumps which dispense petroleum that is sold at the motor vehicle fuel outlet on a retail basis.

9. "Owner or operator" means "owner or operator" of an underground storage tank as used in chapter 455G or the "owner" or "operator" of an aboveground petroleum storage tank as defined in section 101.21, located at a retail motor vehicle fuel outlet if the aboveground storage tank is physically connected directly to pumps which dispense petroleum that is sold at the motor vehicle fuel outlet on a retail basis.

12. "Tank" means an underground storage tank subject to regulation under chapter 455G or an aboveground petroleum storage tank as defined in section 101.21, located at a retail motor vehicle fuel outlet if the aboveground storage tank is physically connected directly to pumps which dispense petroleum that is sold at the motor vehicle fuel outlet on a retail basis.

Sec. 3. Section 455G.4, subsection 1, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The director of the legislative fiscal bureau, or the director's designee. The director under this paragraph shall not participate as a voting member of the board.

Sec. 4. Section 455G.4, Code Supplement 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 4. PUBLIC BID. All contracts entered into by the board, including contracts relating to community remediation, shall be awarded on a competitive basis to the maximum extent practical. In those situations where it is determined that public bidding is not practical, the basis for the determination of impracticability shall be documented by the board or its designee. This subsection applies only to contracts entered into on or after July 1, 1992.

NEW SUBSECTION. 5. CONTRACT APPROVAL.

a. The board shall approve any contract entered into pursuant to this chapter if the cost of the contract exceeds seventy-five thousand dollars.

b. A listing of all contracts entered into pursuant to this chapter shall be presented at each board meeting and shall be made available to the public. The listing shall state the interested parties to the contract, the amount of the contract, and the subject matter of the contract.

c. The board shall be required to review and approve or disapprove the administrator's failure to approve a contract under section 455G.12A. Review by the board shall not be required for cancellation or replacement of a contract for a site included in a community remediation project or when an emergency situation exists.

Sec. 5. Section 455G.5, unnumbered paragraph 1, Code 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

The board shall administer the fund. A contract entered into on or after July 1, 1992, to retain a person to act as the administrator of the fund shall be subject to public bid. All other contracts to retain a person under this section shall be in compliance with the public bidding requirements of section 455G.4, subsection 4.

Sec. 6. Section 455G.6, subsection 15, Code 1991, is amended to read as follows:

15. a. Subject to the terms of any bond documents, moneys in the fund or fund accounts may be expended for administration expenses, civil penalties, moneys paid under an agreement, stipulation, or settlement, and for the costs associated with sites within a community remediation project, for costs related to contracts entered into with a state agency or university, costs for activities relating to litigation, or for the costs of any other activities as the board may determine are necessary and convenient to facilitate compliance with and to implement the intent of federal laws and regulations and this chapter.

b. The authority granted under this subsection which allows the board to expend fund moneys on an activity the board determines is necessary and convenient to facilitate compliance with and to implement the intent of federal laws

and regulations and this chapter, shall only be used in accordance with the following:

(1) Prior board approval shall be required before expenditure of moneys pursuant to this authority shall be made.

(2) If the expenditure of fund moneys pursuant to this authority would result in the board establishing a policy which would substantially affect the operation of the program, rules shall be adopted pursuant to chapter 17A prior to the board or the administrator taking any action pursuant to this proposed policy.

Sec. 7. Section 455G.9, subsection 1, paragraph e, Code Supplement 1991, is amended by striking the paragraph.

Sec. 8. Section 455G.11, subsection 8, Code Supplement 1991, is amended to read as follows:

8. Account expenditures. Moneys in the insurance account may be expended ~~for the following purposes:~~

~~a. To take corrective action for and to compensate a third party for damages, including but not limited to payment of a judgment for bodily injury or property damage caused by a release from a tank, where coverage has been provided to the owner or operator from the insurance account, up to the limits of coverage extended. A personal injury is not a compensable third-party liability damage.~~

~~b. For the costs of any other activities as the board may determine are necessary and convenient to facilitate compliance with and to implement the intent of federal laws and regulations and this chapter.~~

Sec. 9. NEW SECTION. 455G.20 FINAL APPROVAL.

Notwithstanding any other provision to the contrary, the department of natural resources shall have final approval for a determination as to when remediation shall begin on a site.

Sec. 10. The department of revenue and finance shall refund the amount of the environmental protection charge on petroleum diminution paid pursuant to chapter 424, as authorized by 1991 Iowa Acts, chapter 252, section 2, for aboveground storage tanks located at retail motor vehicle fuel

outlets that are not physically connected directly to pumps which dispense petroleum that is sold at the motor vehicle fuel outlet on a retail basis.

Sec. 11. Sections 1, 2, and 10 of this Act, being deemed of immediate importance, take effect upon enactment.

ROBERT C. ARNOULD
Speaker of the House

MICHAEL E. GRONSTAL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2417, Seventy-fourth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 19, 1992

TERRY E. BRANSTAD
Governor

HF 2417