

JAN 25 1982

LOCAL GOVERNMENT

HOUSE FILE

2082

BY HEATON

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to public bidding procedures for certain
2 contracts for services for counties and cities.

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

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HF 2082

1 Section 1. Section 331.341, subsection 1, Code 1997, is
2 amended to read as follows:

3 1. When the estimated cost of a public improvement or
4 contractual service, other than improvements which may be paid
5 for from the secondary road fund, exceeds the amount specified
6 in section 309.40, the board shall follow the contract letting
7 procedures provided for cities in sections 384.95 to 384.103.
8 However, in following those sections the board shall
9 substitute the word "county" for the word "city", section
10 331.305 for section 362.3, shall consider "governing body" to
11 mean the board, and shall exclude references to a city
12 utility, utility board of trustees, or public utilities. As
13 used in this section, "public improvement" means and
14 "contractual service" mean the same as defined in section
15 384.95 as modified by this subsection.

16 Sec. 2. Section 331.342, subsection 9, Code 1997, is
17 amended to read as follows:

18 9. A contract made by competitive bid, publicly invited
19 and opened, in which a member of a county board, commission,
20 or administrative agency has an interest, if the member is not
21 authorized by law to participate in the awarding of the
22 contract. The competitive bid qualification of this
23 subsection does not apply to a contract for professional
24 services not customarily required to be awarded by competitive
25 bid.

26 Sec. 3. Section 331.471, subsection 9, Code 1997, is
27 amended to read as follows:

28 9. A commission is subject to section 331.341, subsection:
29 1, 2, 4 and 5, and section 331.342, in contracting for public
30 improvements and is subject to section 331.341, subsection 1,
31 and section 331.342, in contracting for contractual services
32 as defined in section 384.95.

33 Sec. 4. Section 384.95, Code 1997, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 3. "Contractual service" means all acts

1 or services rendered, furnished, or performed for a city on
2 behalf of citizens of the city and at the direction of the
3 city council, either on its own motion or as directed by
4 statute, and to be paid for in whole or in part by the use of
5 funds of the city, regardless of sources, including services
6 provided jointly with any other public or private agency.

7 Sec. 5. Section 384.96, Code 1997, is amended to read as
8 follows:

9 384.96 SEALED BIDS.

10 When the estimated total cost to a city of a public
11 improvement or the estimated total cost to a city of a
12 contractual service exceeds the sum of twenty-five thousand
13 dollars, the governing body shall advertise for sealed bids
14 for the proposed improvement or contractual service by
15 publishing a notice to bidders as provided in section 362.3,
16 except that the notice to bidders may be published more than
17 twenty days but not more than forty-five days before the date
18 for filing bids.

19 Sec. 6. Section 384.97, Code 1997, is amended to read as
20 follows:

21 384.97 NOTICE TO BIDDERS.

22 The notice to bidders must state the following items:

- 23 1. The time and place for filing sealed proposals.
- 24 2. The time and place sealed proposals will be opened and
25 considered on behalf of the governing body.
- 26 3. The general nature of the public improvement or
27 contractual service on which bids are requested.
- 28 4. In general terms when the work must be commenced and
29 when it must be completed or, in the case of a contractual
30 service, the duration of the contract.
- 31 5. That each bidder shall accompany the bid with a bid
32 security as defined in this subsection and as specified by the
33 governing body, as security that the successful bidder will
34 enter into a contract for the work bid upon and will furnish
35 after the award of contract a corporate surety bond,

1 acceptable to the governing body, for the faithful performance
2 of the contract, in an amount equal to one hundred percent of
3 the amount of the contract. However, a bidder awarded a
4 contract for a contractual service shall not be required to
5 furnish a corporate surety bond. The bidder's security shall
6 be in an amount fixed by the governing body, and shall be in
7 the form of a cashier's or certified check drawn on a bank in
8 Iowa or a bank chartered under the laws of the United States,
9 or a certified share draft drawn on a credit union in Iowa or
10 chartered under the law of the United States, or the governing
11 body may provide for a bidder's bond with corporate surety
12 satisfactory to the governing body. The bid bond shall
13 contain no condition except as provided in this section.

14 6. Any further information which the governing body deems
15 pertinent.

16 The In the case of a public improvement, the notice to
17 bidders may provide that bids will be received for the
18 furnishing of all labor and materials and furnishing or
19 installing equipment under one contract, or for parts thereof
20 in separate sections.

21 On public improvements to be financed wholly or partially
22 by special assessments against benefited property, the
23 governing body, in the notice to bidders, may request
24 aggregate bids for all projects included in any resolution of
25 necessity, notwithstanding variations in the sizes of the
26 improvements and notwithstanding that some parts of the
27 improvements are assessable and some nonassessable, and may
28 award the contract to the lowest responsible bidder submitting
29 the lowest aggregate bid.

30 Sec. 7. Section 384.98, Code 1997, is amended to read as
31 follows:

32 384.98 BID SECURITY.

33 The amount of bid security must be fixed by the governing
34 body prior to ordering publication of the notice to bidders
35 and must equal at least five percent, but may not exceed ten

1 percent of either the estimated total contract cost of the
2 public improvement or contractual service, or the amount of
3 each bid.

4 Sec. 8. Section 384.99, Code 1997, is amended to read as
5 follows:

6 384.99 AWARD OF CONTRACT.

7 The contract for the public improvement or contractual
8 service must be awarded to the lowest responsible bidder,
9 provided, however, that contracts relating to public utilities
10 or extensions or improvements thereof, as described in
11 division V of this chapter, may be awarded by the governing
12 body as it deems to be in the best interests of the city.

13 Sec. 9. Section 384.100, unnumbered paragraph 1, Code
14 1997, is amended to read as follows:

15 The governing body shall open, announce the amount of the
16 bids, and file all proposals received, at the time and place
17 specified in the notice to bidders. The governing body may,
18 by resolution, award the contract for the public improvement
19 or contractual service to the bidder submitting the best bid,
20 determined as provided in section 384.99, or it may reject all
21 bids received, fix a new date for receiving bids, and order
22 publication of a new notice to bidders. The bid security
23 furnished by the successful bidder must be retained by the
24 governing body until the approved contract form has been
25 executed, and, in the case of a public improvement, a bond is
26 filed by the bidder guaranteeing the performance of the
27 contract, and the contract and bond, have been approved by the
28 governing body. The provisions of chapter 573, where
29 applicable, apply to contracts awarded under this division.

30 Sec. 10. Section 384.101, Code 1997, is amended to read as
31 follows:

32 384.101 DELEGATION OF AUTHORITY.

33 When bids or proposals are required to be taken in
34 connection with any public improvement or contractual service,
35 the governing body may delegate, by ordinance or resolution,

1 to the city manager, clerk, engineer, or other public officer,
2 the duty of receiving and opening bids and announcing the
3 results. The officer shall report the results of the bidding
4 with the officer's recommendations thereon to the governing
5 body at its next meeting.

6 Sec. 11. Section 384.102, Code 1997, is amended to read as
7 follows:

8 384.102 WHEN HEARING NECESSARY.

9 When the estimated total cost of a public improvement or
10 contractual service exceeds the sum of twenty-five thousand
11 dollars, the governing body shall not enter into a contract
12 for the improvement or service until it has held a public
13 hearing on the proposed plans, specifications, and form of
14 contract, and estimated cost for the improvement or service.
15 Notice of the hearing must be published as provided in section
16 362.3. At the hearing any interested person may appear and
17 file objections to the proposed plans, specifications,
18 contract, or estimated cost of the improvement or service.
19 After hearing objections, the governing body shall by
20 resolution enter its decision on the plans, specifications,
21 contract, and estimated cost.

22

EXPLANATION

23 This bill requires that city and county contracts for
24 services are subject to the same public bidding requirements
25 as contracts for public improvements. Current law provides
26 that, for cities, contracts for public improvements exceeding
27 \$25,000 must be let through a public bidding process. For
28 counties, the public bidding requirement applies to contracts
29 for public improvements exceeding \$50,000. The bill provides
30 that these same limits will apply to contracts for services.

31 Under the public bidding requirements a city or county is
32 required to advertise for bids and give notice to bidders by
33 publication between 20 and 45 days before the date for filing
34 bids. A bond paid as bid security is required of both bidders
35 for a public improvement and those for a contractual service.

1 However, only those bidders awarded contracts for public
2 improvements are required to pay a corporate surety bond after
3 the contract is awarded to ensure faithful performance of the
4 contract. With limited exceptions, the governing body of a
5 city or county is required to award the contract to the lowest
6 responsible bidder. A city or county must hold a public
7 hearing before a public improvement or service contract is
8 awarded if the cost of the contract will exceed \$25,000.

9 This bill may impose a state mandate under Code chapter
10 25B.

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