

1-29-02 Do Pass

3/14/02 UNFINISHED BUSINESS CALENDAR

LOW 18 2002
LABOR & INDUSTRIAL RELATIONS

HOUSE FILE 2090

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ARNOLD, BAUDLER, TEIG, VAN FOSSEN,
and HOVERSTEN

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

HF 2090

A BILL FOR

1 An Act prohibiting public contracting entities from entering into
2 certain labor-related agreements for public works projects,
3 and providing an effective date.

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

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HOUSE FILE 2090

H-8283

1 Amend the amendment, H-8223, to House File 2090, as
2 follows:

3 1. Page 1, line 8, by inserting after the word
4 "procedure," the following: "which contract
5 authorizes the expenditure of twenty-five thousand
6 dollars or more in public funds,".

By DOTZLER of Black Hawk

H-8283 FILED MARCH 13, 2002

1 Section 1. Section 12.72, subsection 1, Code Supplement
2 2001, is amended to read as follows:

3 1. A vision Iowa fund is created and established as a
4 separate and distinct fund in the state treasury. The moneys
5 in the fund are appropriated to the vision Iowa board for
6 purposes of the vision Iowa program established in section
7 15F.302. Moneys in the fund shall not be subject to
8 appropriation for any other purpose by the general assembly,
9 but shall be used only for the purposes of the vision Iowa
10 fund. The treasurer of state shall act as custodian of the
11 fund and disburse moneys contained in the fund as directed by
12 the vision Iowa board, including automatic disbursements of
13 funds received pursuant to the terms of bond indentures and
14 documents and security provisions to trustees. The fund shall
15 be administered by the vision Iowa board which shall make
16 expenditures from the fund consistent with the purposes of the
17 vision Iowa program without further appropriation. An
18 applicant under the vision Iowa program shall not receive more
19 than seventy-five million dollars in financial assistance from
20 the fund. Moneys in the fund shall be considered public funds
21 for purposes of compliance with the requirements of section
22 72.6.

23 Sec. 2. NEW SECTION. 72.6 PROJECT LABOR AGREEMENTS --
24 PROHIBITED -- CIVIL REMEDIES.

25 1. DEFINITIONS. As used in this section, unless the
26 context otherwise requires:

27 a. "Public contracting entity" means a person that has
28 authority to enter into an agreement that expends public funds
29 relating to a public works project.

30 b. "Public works" means a public building or other public
31 construction work, including a public improvement as defined
32 in section 384.37.

33 c. "Public works project" includes the construction,
34 maintenance, or repair of a public works, or the manufacture
35 or procurement of products or services concerning a public

1 works, which is paid for in whole or in part by public funds.

2 2. PROHIBITED ACTIVITIES. A public contracting entity
3 shall not do any of the following relating to a public works
4 project:

5 a. Require that any person execute, adhere to, enforce, or
6 otherwise become a party to any agreement, including a project
7 labor agreement, collective bargaining agreement, prehire
8 agreement, or agreement with any labor organization, which
9 requires a person to do any of the following as a condition of
10 bidding, negotiating, being awarded, or performing work on a
11 public works project:

12 (1) Become a member of or affiliated with a labor
13 organization.

14 (2) Be required to be subjected to a referral screening
15 process through a labor organization.

16 (3) Pay dues or fees, including health, welfare or pension
17 fund dues or fees, to a labor organization.

18 b. Require that any person enter into any agreement with
19 any labor organization as a condition of bidding, negotiating,
20 being awarded, or performing work on a public works project.

21 c. Discriminate against any person for refusing or failing
22 to remain a party to any agreement otherwise prohibited by
23 this subsection or who brings a civil action to enforce this
24 section.

25 3. CIVIL REMEDIES. This section may be enforced through a
26 civil action. A public contracting entity who violates this
27 section or who aids in the violation of this section is liable
28 to an aggrieved person for damages, or any other equitable
29 relief, as the court deems appropriate. In addition, when a
30 public contracting entity commits, is committing, or proposes
31 to commit, an act in violation of this section, an injunction
32 may be granted through an action in district court to prohibit
33 the public contracting entity from continuing such acts. Any
34 aggrieved person, which shall include any taxpayer of this
35 state, has standing to bring a civil action to enforce this

1 section, including an action for injunctive relief, in the
2 district court for the county in which the aggrieved person is
3 a resident. A public contracting entity found to have
4 violated this section shall be required to pay the fees and
5 other expenses, as defined in section 625.28, relating to the
6 civil action to enforce this section.

7 Sec. 3. EFFECTIVE DATE. This Act, being deemed of
8 immediate importance, takes effect upon enactment.

9 EXPLANATION

10 This bill establishes a new Code section which prohibits a
11 public contracting entity from entering into certain labor-
12 related agreements for the purposes of a public works project.
13 The bill defines a public contracting entity as any person
14 that has the authority to enter into an agreement that expends
15 public funds relating to a public works project. A public
16 works project is defined as the construction, maintenance, or
17 repair of a public works, or the manufacture or procurement of
18 products or services concerning a public works which is paid
19 for, in whole or in part, by public funds. Public works is
20 defined as any public building, public construction work, or
21 public improvement.

22 The bill amends Code section 12.72 to provide that moneys
23 in the vision Iowa fund are considered public funds to which
24 new Code section 72.6 applies.

25 The bill creates new Code section 72.6 to prohibit a public
26 contracting entity from requiring any person to become a
27 member of a labor organization, to be required to use a
28 referral screening process through a labor organization, or to
29 pay dues or fees to a labor organization as a condition for
30 being eligible to be a party to or work on a public works
31 project. The bill prohibits a public contracting entity from
32 requiring a person to enter into any agreement with a labor
33 organization as a condition of being involved in a public
34 works project. The bill also prohibits a public contracting
35 entity from discriminating against any person for refusing or

1 failing to remain a party to any agreement prohibited by this
2 new Code section or for bringing a civil action to enforce
3 this new Code section.

4 The new Code section provides that the section can be
5 enforced through a civil action, including injunctive relief.
6 The bill provides that any aggrieved person, including any
7 taxpayer of the state, has standing to bring a civil action to
8 enforce the new Code section in the district court for the
9 county in which the aggrieved person is a resident. A public
10 contracting entity found to have violated this section shall
11 be required to pay attorney fees, expert witness expenses, and
12 court costs relating to the civil action.

13 The bill takes effect upon enactment.

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HOUSE FILE 2090

H-8196

1 Amend House File 2090 as follows:

2 1. Page 2, line 1, by inserting after the word
3 "funds." the following: "As used in this paragraph,
4 public funds include moneys expended from the school
5 district sales and use tax fund created in section
6 293.1, as enacted in this Act, and moneys collected
7 through a local sales and services tax for school
8 infrastructure as provided in chapter 422E."

9 2. Page 3, by striking lines 7 and 8 and
10 inserting the following:
11 "Sec. 500. NEW SECTION. 293.1 SCHOOL DISTRICT
12 SALES AND USE TAX FUND.

13 1. A school district sales and use tax fund is
14 created as a separate and distinct fund in the state
15 treasury under the control of the department of
16 revenue and finance. Moneys in the fund include
17 revenues credited to the fund pursuant to section
18 422.69, subsection 2, and section 423.24, subsection
19 2A, appropriations made to the fund, and other moneys
20 deposited into the fund. The moneys credited in a
21 fiscal year to the fund shall be distributed as
22 follows:

23 a. (1) A school district located in whole or in
24 part in a county that had in effect on March 31, 2002,
25 the local sales and services tax for school
26 infrastructure purposes under chapter 422E shall
27 receive an amount equal to its guaranteed school
28 infrastructure amount as calculated under subsection 2
29 if the board of directors notifies the director of
30 revenue and finance that the school district wants to
31 receive its guaranteed school infrastructure amount.
32 The notification shall be provided by July 1, 2002.
33 If notification is not received by July 1, 2002, the
34 school district shall receive moneys pursuant to
35 paragraph "b". Nothing in this chapter shall prevent
36 a school district from using its guaranteed school
37 infrastructure amount to pay principal and interest on
38 obligations issued pursuant to section 422E.4.

39 (2) A school district receiving moneys pursuant to
40 subparagraph (1) shall cease to receive its guaranteed
41 school infrastructure amount and shall receive moneys
42 pursuant to paragraph "b" starting with the fiscal
43 year immediately following the fiscal year in which
44 occurs the end of the original ten-year period or the
45 date listed on the original ballot proposition,
46 whichever is the earlier, as provided in chapter 422E.
47 A school district may adopt a plan, as provided in
48 section 293.2, subsection 2, to anticipate moneys it
49 will receive pursuant to paragraph "b". A school
50 district receiving moneys pursuant to subparagraph (1)

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1 may elect to receive moneys pursuant to paragraph "b"
2 by providing notification to receive moneys pursuant
3 to paragraph "b" to the director of revenue and
4 finance and the director of the department of
5 management by February 15 preceding the fiscal year
6 for which the election will apply. Once a school
7 district makes this election it is irrevocable.

8 b. (1) Moneys remaining after computations made
9 pursuant to paragraph "a" shall be distributed to
10 school districts not receiving moneys under paragraph
11 "a" on a per student basis calculated by the director
12 of revenue and finance by dividing the moneys
13 available during the fiscal year by the combined
14 actual enrollment for all school districts receiving
15 distributions under this paragraph.

16 (2) The combined actual enrollment for school
17 districts, for purposes of subparagraph (1), shall be
18 calculated by adding together the actual enrollment
19 for each school district receiving distributions under
20 subparagraph (1) as determined by the department of
21 management based on the actual enrollment figures
22 reported by October 1 to the department of management
23 by the department of education pursuant to section
24 257.6, subsection 1. The combined actual enrollment
25 count shall be forwarded to the director of revenue
26 and finance by March 1, annually, for purposes of
27 supplying estimated tax payment figures and making
28 estimated tax payments pursuant to subsection 3 for
29 the following fiscal year.

30 2. a. For purposes of distributions under
31 subsection 1, paragraph "a", the school district's
32 guaranteed school infrastructure amount shall be
33 calculated according to the following formula:

34 The district's guaranteed school infrastructure
35 amount equals the product of the county guaranteed
36 school infrastructure amount times the district's
37 county actual enrollment divided by the county
38 combined actual enrollment.

39 b. For purposes of the formula in paragraph "a":

40 (1) "Base year" means the fiscal year beginning
41 July 1, 2001.

42 (2) "Base year county taxable sales percentage"
43 means the percentage that the taxable sales in the
44 county during the base year is of the total state
45 taxable sales during the base year.

46 (3) "County combined actual enrollment" means the
47 actual enrollment figures determined by the department
48 of management for the county based on the actual
49 enrollment figures reported by October 1 to the
50 department of management by the department of

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1 education pursuant to section 257.6, subsection 1.

2 (4) "County guaranteed school infrastructure
3 amount" means an amount equal to the product of the
4 county's chapter 422E proportionate share times the
5 amount deposited in the school district sales and use
6 tax fund for the current year times the current year
7 county taxable sales percentage divided by the base
8 year county taxable sales percentage.

9 (5) "County's chapter 422E proportionate share"
10 means the percentage that the annualized revenues
11 received in the county under chapter 422E for the base
12 year is of one-fifth of the total state sales and use
13 tax revenues collected for deposit into the general
14 fund of the state for the base year.

15 (6) "Current year" means the fiscal year for which
16 distributions under this section are being made.

17 (7) "Current year county taxable sales percentage"
18 means the percentage that the taxable sales in the
19 county during the current fiscal year is of the total
20 state taxable sales during the current fiscal year.

21 (8) "District's county actual enrollment" means
22 the actual enrollment of the school district that
23 attends school in the county for which the county
24 combined actual enrollment is determined.

25 (9) "Taxable sales" means sales subject to the
26 state sales and services tax under chapter 422,
27 division IV.

28 3. a. The director of revenue and finance by
29 August 15 of each fiscal year shall send to each
30 school district an estimate of the amount of tax
31 moneys each school district will receive for the year
32 and for each quarter of the year. At the end of each
33 quarter, the director may revise the estimates for the
34 year and remaining quarters.

35 b. The director shall remit ninety-five percent of
36 the estimated tax receipts for the school district to
37 the school district on or before September 30 of the
38 fiscal year and on or before the last day of each
39 following quarter.

40 c. The director shall remit a final payment of the
41 remainder of tax moneys due for the fiscal year before
42 November 10 of the next fiscal year. If an
43 overpayment has resulted during the previous fiscal
44 year, the November payment shall be adjusted to
45 reflect any overpayment.

46 d. If the distributions are to school districts
47 described in subsection 1, paragraph "a", the payments
48 to these school districts shall be made on a monthly
49 basis beginning with the month of September.

50 Sec. 501. NEW SECTION. 293.2 USE OF SCHOOL

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1 DISTRICT SALES AND USE TAX FUND MONEYS.

2 1. A school district receiving moneys from the
3 school district sales and use tax fund under section
4 293.1, subsection 1, paragraph "a", shall use the
5 moneys as provided on the original ballot proposition
6 pursuant to chapter 422E, for the payment of principal
7 and interest on general obligation bonds issued
8 pursuant to chapter 296, or section 298.20 or loan
9 agreements under section 297.36, for payments made
10 pursuant to lease or lease-purchase agreements, or for
11 payment of principal and interest on bonds issued
12 under sections 293.3 and 422E.4.

13 2. a. Moneys received by a school district from
14 the school district sales and use tax fund under
15 section 293.1, subsection 1, paragraph "b", shall be
16 spent for infrastructure purposes only according to a
17 plan developed by the board of directors. The plan
18 may apply to more than one fiscal year. Prior to
19 adoption of the plan, the board of directors shall
20 hold a public hearing on the question of approval of
21 the proposed plan. The board shall set forth its
22 proposal and shall publish the notice of the time and
23 place of a public hearing on the proposed plan.
24 Notice of the time and place of the public hearing
25 shall be published not less than ten nor more than
26 twenty days before the public hearing in a newspaper
27 which is a newspaper of general circulation in the
28 school district. At the hearing, or no later than
29 thirty days after the date of the hearing, the board
30 shall take action to adopt the proposed plan.

31 b. If the board adopts the plan, moneys received
32 shall be used according to the plan unless within
33 twenty-eight days following the action of the board,
34 the secretary of the board receives a petition
35 containing signatures of registered voters equal in
36 number to five percent of the voters in the school
37 district who voted at the last general election,
38 asking that an election be called to approve or
39 disapprove the action of the board. The board shall
40 either rescind its action or direct the county
41 commissioner of elections to submit the question to
42 the registered voters of the school district at the
43 next following regular school election or a special
44 election. If a majority of those voting on the
45 question at the election favors disapproval of the
46 action of the board, the district shall use the moneys
47 received as provided in paragraph "c" for the fiscal
48 year.

49 At the expiration of the twenty-eight day period,
50 if no petition is filed, the board shall use the

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1 moneys received according to the plan for the duration
2 of the plan. However, the board may, at anytime,
3 expend a greater share of moneys received for property
4 tax relief than otherwise specified in the plan.

5 c. If an election is held and the plan is
6 disapproved, as provided in paragraph "b", or if a
7 plan is not approved by the board, moneys received by
8 a school district shall be used for the fiscal year to
9 reduce the following levies in the following order:

10 (1) Bond levies under sections 298.18 and 298.18A
11 and other debt levies until the moneys received or the
12 levies are reduced to zero.

13 (2) The physical plant and equipment levy under
14 section 298.2, until the moneys received or the levy
15 is reduced to zero.

16 (3) The schoolhouse tax levy under section 278.1,
17 subsection 7, Code 1989, until the moneys received or
18 the levy is reduced to zero.

19 Any money remaining after the reduction of the
20 levies specified in this paragraph may be used for any
21 lawful infrastructure purpose of the school district.

22 d. For purposes of this subsection,
23 "infrastructure purposes" means those purposes for
24 which a school district is authorized to contract
25 indebtedness and issue general obligation bonds under
26 chapter 296 or to expend tax revenues under section
27 298.3, the payment of principal and interest on
28 general obligation bonds issued under chapter 296 or
29 section 298.20 or loan agreements under section
30 297.36, payments made pursuant to a lease or lease-
31 purchase agreement, or the payment of principal and
32 interest on bonds issued under section 293.3 or
33 422E.4.

34 Sec. ____ . NEW SECTION. 293.3 BONDING.

35 A school district may anticipate the amount of
36 moneys to be received pursuant to section 293.1 as
37 provided in this section.

38 The board of directors of a school district may
39 issue negotiable, interest-bearing school bonds,
40 without election, and utilize tax receipts derived
41 from the school district sales and use tax fund for
42 principal and interest repayment. Proceeds of the
43 bonds issued pursuant to this section shall be
44 utilized solely for infrastructure purposes as defined
45 in section 293.2, subsection 2.

46 Bonds issued under this section may be sold at
47 public sale as provided in chapter 75. Notice shall
48 be given and a hearing shall be held as provided in
49 section 73A.12. Bonds may bear dates, bear interest
50 at rates not exceeding that permitted by chapter 74A,

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1 mature in one or more installments, be in either
2 coupon or registered form, carry registration and
3 conversion privileges, be payable as to principal and
4 interest at times and places, be subject to terms of
5 redemption prior to maturity with or without premium,
6 and be in one or more denominations, all as provided
7 by the resolution of the board of directors
8 authorizing their issuance. The resolution may also
9 prescribe additional provisions, terms, conditions,
10 and covenants which the board of directors deems
11 advisable, including provisions for creating and
12 maintaining reserve funds, the issuance of additional
13 bonds ranking on a parity with such bonds and
14 additional bonds junior and subordinate to such bonds,
15 and that such bonds shall rank on a parity with or be
16 junior and subordinate to any bonds which may be then
17 outstanding. Bonds may be issued to refund
18 outstanding and previously issued bonds under this
19 section. Bonds are a contract between the school
20 district and holders, and the resolution issuing the
21 bonds and pledging tax revenues to be received from
22 the school district sales and use tax fund to the
23 payment of principal and interest on the bonds is a
24 part of the contract. Bonds issued pursuant to this
25 section shall not constitute indebtedness within the
26 meaning of any constitutional or statutory debt
27 limitation or restriction, and shall not be subject to
28 any other law relating to the authorization, issuance,
29 or sale of bonds.

30 A school district may enter into a chapter 28E
31 agreement with one or more cities or a county whose
32 boundaries encompass all or a part of the area of the
33 school district. A city or cities entering into a
34 chapter 28E agreement may expend its designated
35 portion of the tax revenues to be received from the
36 school district sales and use tax fund for any valid
37 purpose permitted in this chapter or authorized by the
38 governing body of the city. A county entering into a
39 chapter 28E agreement with a school district may
40 expend its designated portion of the tax revenues to
41 be received from the school district sales and use tax
42 fund to provide property tax relief within the
43 boundaries of the school district located in the
44 county. A school district may also enter into a
45 chapter 28E agreement with another school district
46 which is located partially or entirely in or is
47 contiguous to the county. The school district shall
48 only expend its designated portion of tax revenues to
49 be received from the school district sales and use tax
50 fund.

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1 The governing body of a city may authorize the
2 issuance of bonds which are payable from its
3 designated portion of the tax revenues to be received
4 from the school district sales and use tax fund, and
5 not from property tax, by following the authorization
6 procedures set forth for cities in section 384.83. A
7 city may pledge irrevocably any amount derived from
8 its designated portion of the tax revenues to be
9 received from the school district sales and use tax
10 fund to the support or payment of such bonds.

11 Sec. _____. Section 298.18, unnumbered paragraph 4,
12 Code Supplement 2001, is amended to read as follows:

13 The amount estimated and certified to apply on
14 principal and interest for any one year may exceed two
15 dollars and seventy cents per thousand dollars of
16 assessed value by the amount approved by the voters of
17 the school corporation, but not exceeding four dollars
18 and five cents per thousand of the assessed value of
19 the taxable property within any school corporation,
20 provided that the registered voters of such school
21 corporation have first approved such increased amount
22 at a special election, which ~~may be~~ was held at the
23 ~~same time as the regular school election prior to July~~
24 1, 2002. The proposition submitted to the voters at
25 ~~such special election shall be in substantially the~~
26 ~~following form:~~

27 Sec. _____. Section 298.18, unnumbered paragraphs 5
28 and 6, Code Supplement 2001, are amended by striking
29 the unnumbered paragraphs.

30 Sec. _____. Section 298.18, unnumbered paragraph 8,
31 Code Supplement 2001, is amended to read as follows:

32 The ability of a school corporation to exceed two
33 dollars and seventy cents per thousand dollars of
34 assessed value to service principal and interest
35 payments on bonded indebtedness is limited and
36 conferred only to those school corporations engaged in
37 the administration of elementary and secondary
38 education and whose registered voters have voted to
39 exceed that levy limitation prior to July 1, 2002.

40 Sec. _____. Section 422.43, subsections 1, 2, 4, 5,
41 6, 7, 10, and 12, Code Supplement 2001, are amended to
42 read as follows:

43 1. There is imposed a tax of ~~five~~ six percent upon
44 the gross receipts from all sales of tangible personal
45 property, consisting of goods, wares, or merchandise,
46 except as otherwise provided in this division, sold at
47 retail in the state to consumers or users; a like rate
48 of tax upon the gross receipts from the sales,
49 furnishing, or service of gas, electricity, water,
50 heat, pay television service, and communication

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1 service, including the gross receipts from such sales
2 by any municipal corporation or joint water utility
3 furnishing gas, electricity, water, heat, pay
4 television service, and communication service to the
5 public in its proprietary capacity, except as
6 otherwise provided in this division, when sold at
7 retail in the state to consumers or users; a like rate
8 of tax upon the gross receipts from all sales of
9 tickets or admissions to places of amusement, fairs,
10 and athletic events except those of elementary and
11 secondary educational institutions; a like rate of tax
12 on the gross receipts from an entry fee or like charge
13 imposed solely for the privilege of participating in
14 an activity at a place of amusement, fair, or athletic
15 event unless the gross receipts from the sales of
16 tickets or admissions charges for observing the same
17 activity are taxable under this division; and a like
18 rate of tax upon that part of private club membership
19 fees or charges paid for the privilege of
20 participating in any athletic sports provided club
21 members.

22 2. There is imposed a tax of ~~five~~ six percent upon
23 the gross receipts derived from the operation of all
24 forms of amusement devices and games of skill, games
25 of chance, raffles, and bingo games as defined in
26 chapter 99B, operated or conducted within the state,
27 the tax to be collected from the operator in the same
28 manner as for the collection of taxes upon the gross
29 receipts of tickets or admission as provided in this
30 section. The tax shall also be imposed upon the gross
31 receipts derived from the sale of lottery tickets or
32 shares pursuant to chapter 99E. The tax on the
33 lottery tickets or shares shall be included in the
34 sales price and distributed to the general fund as
35 provided in section 99E.10.

36 4. There is imposed a tax of ~~five~~ six percent upon
37 the gross receipts from the sales of engraving,
38 photography, retouching, printing, and binding
39 services. For the purpose of this division, the sales
40 of engraving, photography, retouching, printing, and
41 binding services are sales of tangible property.

42 5. There is imposed a tax of ~~five~~ six percent upon
43 the gross receipts from the sales of vulcanizing,
44 recapping, and retreading services. For the purpose
45 of this division, the sales of vulcanizing, recapping,
46 and retreading services are sales of tangible
47 property.

48 6. There is imposed a tax of ~~five~~ six percent upon
49 the gross receipts from the sales of optional service
50 or warranty contracts, except residential service

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1 contracts regulated under chapter 523C, which provide
2 for the furnishing of labor and materials and require
3 the furnishing of any taxable service enumerated under
4 this section. The gross receipts are subject to tax
5 even if some of the services furnished are not
6 enumerated under this section. For the purpose of
7 this division, the sale of an optional service or
8 warranty contract, other than a residential service
9 contract regulated under chapter 523C, is a sale of
10 tangible personal property. Additional sales,
11 services, or use taxes shall not be levied on
12 services, parts, or labor provided under optional
13 service or warranty contracts which are subject to tax
14 under this section.

15 If the optional service or warranty contract is a
16 computer software maintenance or support service
17 contract and there is no separately stated fee for the
18 taxable personal property or for the nontaxable
19 service, the tax of ~~five~~ six percent imposed by this
20 subsection shall be imposed on fifty percent of the
21 gross receipts from the sale of such contract. If the
22 contract provides for technical support services only,
23 no tax shall be imposed under this subsection. The
24 provisions of this subsection also apply to the tax
25 imposed by chapter 423.

26 7. There is imposed a tax of ~~five~~ six percent upon
27 the gross receipts from the renting of rooms,
28 apartments, or sleeping quarters in a hotel, motel,
29 inn, public lodging house, rooming house, manufactured
30 or mobile home which is tangible personal property, or
31 tourist court, or in any place where sleeping
32 accommodations are furnished to transient guests for
33 rent, whether with or without meals. "Renting" and
34 "rent" include any kind of direct or indirect charge
35 for such rooms, apartments, or sleeping quarters, or
36 their use. For the purposes of this division, such
37 renting is regarded as a sale of tangible personal
38 property at retail. However, this tax does not apply
39 to the gross receipts from the renting of a room,
40 apartment, or sleeping quarters while rented by the
41 same person for a period of more than thirty-one
42 consecutive days.

43 10. There is imposed a tax of ~~five~~ six percent
44 upon the gross receipts from the rendering,
45 furnishing, or performing of services as defined in
46 section 422.42.

47 12. A tax of ~~five~~ six percent is imposed upon the
48 gross receipts from the sales of prepaid telephone
49 calling cards and prepaid authorization numbers. For
50 the purpose of this division, the sales of prepaid

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1 telephone calling cards and prepaid authorization
2 numbers are sales of tangible personal property.

3 Sec. _____. Section 422.43, subsection 13, paragraph
4 a, unnumbered paragraph 1, Code Supplement 2001, is
5 amended to read as follows:

6 A tax of ~~five~~ six percent is imposed upon the gross
7 receipts from the sales, furnishing, or service of
8 solid waste collection and disposal service.

9 Sec. _____. Section 422.43, subsections 16 and 17,
10 Code Supplement 2001, are amended to read as follows:

11 16. a. A tax of ~~five~~ six percent is imposed upon
12 the gross receipts from sales of bundled services
13 contracts. For purposes of this subsection, a
14 "bundled services contract" means an agreement
15 providing for a retailer's performance of services,
16 one or more of which is a taxable service enumerated
17 in this section and one or more of which is not, in
18 return for a consumer's or user's single payment for
19 the performance of the services, with no separate
20 statement to the consumer or user of what portion of
21 that payment is attributable to any one service which
22 is a part of the contract.

23 b. For purposes of the administration of the tax
24 on bundled services contracts, the director may enter
25 into agreements of limited duration with individual
26 retailers, groups of retailers, or organizations
27 representing retailers of bundled services contracts.
28 Such an agreement shall impose the tax rate only upon
29 that portion of the gross receipts from a bundled
30 services contract which is attributable to taxable
31 services provided under the contract.

32 17. A tax of ~~five~~ six percent is imposed upon the
33 gross receipts from any mobile telecommunication
34 service which this state is allowed to tax by the
35 provisions of the federal Mobile Telecommunications
36 Sourcing Act, Pub. L. No. 106-252, 4 U.S.C. § 116 et
37 seq. For purposes of this subsection, taxes on mobile
38 telecommunications service, as defined under the
39 federal Mobile Telecommunications Sourcing Act, that
40 are deemed to be provided by the customer's home
41 service provider shall be paid to the taxing
42 jurisdiction whose territorial limits encompass the
43 customer's place of primary use, regardless of where
44 the mobile telecommunication service originates,
45 terminates, or passes through and shall in all other
46 respects be taxed in conformity with the federal
47 Mobile Telecommunications Sourcing Act. All other
48 provisions of the federal Mobile Telecommunications
49 Sourcing Act are adopted by the state of Iowa and
50 incorporated into this subsection by reference. With

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1 respect to mobile telecommunications service under the
2 federal Mobile Telecommunications Sourcing Act the
3 director shall, if requested, enter into agreements
4 consistent with the provisions of the federal Act.

5 Sec. _____. Section 422.47, Code Supplement 2001, is
6 amended by adding the following new subsection:

7 NEW SUBSECTION. 2. Construction contractors may
8 make application to the department for a refund of the
9 additional one percent tax paid under this division or
10 the additional one percent tax paid under chapter 423
11 by reason of the increase in the tax from five to six
12 percent for taxes paid on goods, wares, or merchandise
13 under the following conditions:

14 a. The goods, wares, or merchandise are
15 incorporated into an improvement to real estate in
16 fulfillment of a written contract fully executed prior
17 to July 1, 2002. The refund shall not apply to
18 equipment transferred in fulfillment of a mixed
19 construction contract.

20 b. The contractor has paid to the department or to
21 a retailer the full six percent tax.

22 c. The claim is filed on forms provided by the
23 department and is filed within one year of the date
24 the tax is paid.

25 A contractor who makes an erroneous application for
26 refund shall be liable for payment of the excess
27 refund paid plus interest at the rate in effect under
28 section 421.7. In addition, a contractor who
29 willfully makes a false application for refund is
30 guilty of a simple misdemeanor and is liable for a
31 penalty equal to fifty percent of the excess refund
32 claimed. Excess refunds, penalties, and interest due
33 under this subsection may be enforced and collected in
34 the same manner as the tax imposed by this division.

35 Sec. _____. Section 422.69, subsection 2, Code 2001,
36 is amended to read as follows:

37 2. a. Unless Except as provided in paragraph "b",
38 or as otherwise provided, the fees, taxes, interest,
39 and penalties collected under this chapter shall be
40 credited to the general fund.

41 b. One-sixth of the fees, taxes, interest, and
42 penalties collected pursuant to division IV shall be
43 credited to the school district sales and use tax fund
44 created in section 293.1.

45 Sec. _____. Section 422E.1, Code 2001, is amended by
46 adding the following new subsection:

47 NEW SUBSECTION. 4. a. This chapter does not
48 apply to any county after the effective date of this
49 Act.

50 b. In the case of a county that has in effect on

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1 March 31, 2002, a local sales and services tax for
2 school infrastructure purposes, the increase in the
3 state sales and services tax under chapter 422,
4 division IV, from five percent to six percent shall
5 replace the county's local sales and services tax for
6 school infrastructure purposes and to this extent the
7 local sales and services tax for school infrastructure
8 purposes is repealed.

9 Sec. _____. Section 423.2, Code 2001, is amended to
10 read as follows:

11 423.2 IMPOSITION OF TAX.

12 An excise tax is imposed on the use in this state
13 of tangible personal property, including aircraft
14 subject to registration under section 328.20,
15 purchased for use in this state, at the rate of ~~five~~
16 six percent of the purchase price of the property. An
17 excise tax is imposed on the use of manufactured
18 housing in this state at the rate of ~~five~~ six percent
19 of the purchase price if the manufactured housing is
20 sold in the form of tangible personal property and at
21 the rate of ~~five~~ six percent of the installed purchase
22 price if the manufactured housing is sold in the form
23 of realty. An excise tax is imposed on the use in
24 this state of vehicles subject to registration or
25 subject only to the issuance of a certificate of title
26 at the rate of five percent. An excise tax is imposed
27 on the use of leased vehicles at the rate of five
28 percent of the amount otherwise subject to tax as
29 calculated pursuant to section 423.7A. The excise tax
30 is imposed upon every person using the property within
31 this state until the tax has been paid directly to the
32 county treasurer or the state department of
33 transportation, to a retailer, or to the department.
34 An excise tax is imposed on the use in this state of
35 services enumerated in section 422.43 at the rate of
36 ~~five~~ six percent. This tax is applicable where
37 services are rendered, furnished, or performed in this
38 state or where the product or result of the service is
39 used in this state. This tax is imposed on every
40 person using the services or the product of the
41 services in this state until the user has paid the tax
42 either to an Iowa use tax permit holder or to the
43 department.

44 Sec. _____. Section 423.24, Code 2001, is amended by
45 adding the following new subsection:

46 NEW SUBSECTION. 2A. One-sixth of all other
47 revenue arising under the operation of this chapter
48 shall be credited to the school district sales and use
49 tax fund created in section 293.1.

50 Sec. _____. Section 423.24, subsection 3, Code 2001,

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1 is amended to read as follows:

2 3. All other revenue arising under the operation
3 of this chapter not credited as specified in
4 subsections 1, 2, and 2A shall be credited to the
5 general fund of the state.

6 Sec. ____ . APPLICABILITY. This section applies in
7 regard to the increase in the state sales and use
8 taxes from five to six percent. The six percent rate
9 applies to all sales of taxable personal property,
10 consisting of goods, wares, or merchandise if delivery
11 occurs on or after July 1, 2002. The six percent use
12 tax rate applies to the use of property when the first
13 taxable use in this state occurs on or after July 1,
14 2002. The six percent rate applies to the gross
15 receipts from the sale, furnishing, or service of gas,
16 electricity, water, heat, pay television service, and
17 communication service if the date of billing the
18 customer is on or after July 1, 2002. In the case of
19 a service contract entered into prior to July 1, 2002,
20 which contract calls for periodic payments, the six
21 percent rate applies to those payments made or due on
22 or after July 1, 2002. This periodic payment applies,
23 but is not limited to, tickets or admissions, private
24 club membership fees, sources of amusement, equipment
25 rental, dry cleaning, reducing salons, dance schools,
26 and all other services subject to tax, except the
27 aforementioned utility services which are subject to a
28 special transitional rule. Unlike periodic payments
29 under service contracts, installment sales of goods,
30 wares, and merchandise are subject to the full amount
31 of sales or use tax when the sales contract is entered
32 into or the property is first used in Iowa.

33 Sec. ____ . Sections 1, 2, 500, and 501 of this Act,
34 amending section 12.72 and enacting sections 72.6,
35 293.1, and 293.2, being deemed of immediate
36 importance, take effect upon enactment."

37 3. By renumbering as necessary.

By RICHARDSON of Warren

H-8196 FILED MARCH 5, 2002

HOUSE FILE 2090

H-8216

1 Amend House File 2090 as follows:
2 1. Page 1, line 32, by inserting after the figure
3 "384.37." the following: "However, "public works"
4 does not include a memorial building or monument as
5 described in section 37.1."

By RICHARDSON of Warren

H-8216 FILED MARCH 8, 2002

HOUSE FILE 2090

H-8217

1 Amend House File 2090 as follows:
2 1. Page 2, line 1, by inserting after the word
3 "funds." the following: "As used in this paragraph,
4 public funds does not include moneys expended through
5 the community economic betterment program established
6 pursuant to section 15.317."

By RICHARDSON of Warren

H-8217 FILED MARCH 8, 2002

HOUSE FILE 2090

H-8218

1 Amend House File 2090 as follows:
2 1. Page 2, line 1, by inserting after the word
3 "funds." the following: "As used in this paragraph,
4 public funds does not include property tax revenues
5 collected by a municipality through a division of tax
6 revenues under section 403.19, subsection 2."

By RICHARDSON of Warren

H-8218 FILED MARCH 8, 2002

MARCH 11, 2002

HOUSE FILE 2090

H-8221

- 1 Amend House File 2090 as follows:
2 1. Page 1, by striking lines 1 through 22.
3 2. Page 1, line 23, by striking the figure
4 "72.6", and inserting the following: "730.6".
5 3. By striking page 1, line 25 through page 2,
6 line 4, and inserting the following:
7 "1. PROHIBITED ACTIVITIES. A person shall not do
8 any of the following:"
9 4. Page 2, lines 10 and 11, by striking the words
10 "on a public works project".
11 5. Page 2, line 20, by striking the words "on a
12 public works project".
13 6. Page 2, line 26, by striking the words "public
14 contracting entity", and inserting the following:
15 "person".
16 7. Page 2, line 30, by striking the words "public
17 contracting entity", and inserting the following:
18 "person".
19 8. Page 2, line 33, by striking the words "public
20 contracting entity", and inserting the following:
21 "person".
22 9. Page 3, line 3, by striking the words "public
23 contracting entity", and inserting the following:
24 "person".
25 10. Title page, line 1, by striking the words
26 "public contracting entities" and inserting the
27 following: "persons".
28 11. Title page, line 2, by striking the words
29 "for public works projects,".
30 12. By renumbering as necessary.

By RICHARDSON of Warren

H-8221 FILED MARCH 8, 2002

HOUSE FILE 2090

H-8470

- 1 Amend House File 2090 as follows:
2 1. Page 3, by striking lines 1 through 3 and
3 inserting the following: "section, including an
4 action for injunctive relief. A public contracting
5 entity found to have".

By HORBACH of Tama

H-8470 FILED MARCH 28, 2002

HOUSE FILE 2090**H-8223**

1 Amend House File 2090 as follows:
2 1. By striking everything after the enacting
3 clause and inserting the following:
4 "Section 1. NEW SECTION. 72.7 PUBLIC WORKS
5 PROJECTS -- COMPETITIVE BIDDING REQUIREMENTS.
6 Prior to awarding a contract to perform work on a
7 public works project pursuant to a competitive bidding
8 procedure, a public contracting entity shall consider,
9 in determining whether a bidder is responsible, the
10 bidder's record of reliability and timely completion
11 of past projects, the qualifications of the bidder and
12 its employer and subcontractors to properly perform
13 the type of work required by the contract, and the
14 past experience of the bidder and its subcontractors
15 on projects of the same or similar nature. In
16 addition, for a bid to be considered a responsible
17 bid, the bidder and its subcontractors shall possess a
18 documented record of reliability and timely completion
19 of past projects of the same or similar scope of work
20 and a sufficient number of qualified and trained
21 employees to properly perform the type and nature of
22 work required under the contract. Proof of a
23 sufficient number of qualified and trained employees
24 shall not be required if the bidder and its
25 subcontractors can establish its payment of the
26 prevailing wage for the work to be performed as
27 determined by the department of workforce development
28 based upon wage determinations established by the
29 United States department of labor for similar work
30 pursuant to 29 C.F.R. § 1.5 and 29 C.F.R. § 1.6(b)."
31 2. Title page, by striking lines 1 through 3 and
32 inserting the following: "An Act providing for
33 certain competitive bidding procedures for public
34 contracting entities."

By DOTZLER of Black Hawk
T. TAYLOR of Linn
CONNORS of Polk
FORD of Polk
MYERS of Johnson

MURPHY of Dubuque
SMITH of Marshall
WINCKLER of Scott
SHOULTZ of Black Hawk
FOEGE of Linn

H-8223 FILED MARCH 8, 2002

HOUSE FILE 2090**H-8471**

1 Amend House File 2090 as follows:

2 1. Page 1, by striking lines 23 and 24 and
3 inserting the following:

4 "Sec. ____ . NEW SECTION. 72.6 PUBLIC WORKS
5 PROJECTS -- PROJECT LABOR AGREEMENTS PROHIBITED --
6 CONTRACTING PROCEDURES -- CIVIL REMEDIES."

7 2. Page 2, by inserting after line 24 the
8 following:

9 "3. CONTRACTING PROCEDURES.

10 a. In the award of a contract for a public works
11 project, the public contracting entity shall give due
12 consideration not only to the prices bid, but also to
13 the mechanical or other equipment and the financial
14 responsibility and experience of a bidder in the
15 performance of like or similar contracts. In seeking
16 the lowest responsible bid through the competitive bid
17 process, the public contracting entity may require a
18 successful bidder to provide reasonable assurances of
19 having available sufficient resources to complete the
20 project in a timely and quality manner according to
21 the plans and specifications of the public works
22 project. All contracts shall be in writing and shall
23 be secured by a bond for the faithful performance of
24 the contract as provided by law.

25 b. In the award of a contract for a public works
26 project, a public contracting entity may provide an
27 enhancement of payments upon early completion of the
28 public works project if the availability of the
29 enhancement payments is included in the notice to
30 bidders, the enhancement payments are competitively
31 neutral to potential bidders, the enhancement payments
32 are considered as a separate item in the public
33 hearing on the award of the contract, and the total
34 value of the enhanced payments does not exceed ten
35 percent of the value of the contract."

36 3. Page 2, line 25, by striking the figure "3."
37 and inserting the following: "4."

38 4. Title page, line 1, by inserting after the
39 word "Act" the following: "concerning public works
40 projects, by".

41 5. Title page, line 2, by inserting after the
42 word "projects," the following: "establishing certain
43 contracting procedures,".

44 6. By renumbering as necessary.

By HORBACH of Tama

H-8471 FILED MARCH 28, 2002

HOUSE FILE 2090

H-8521

1 Amend the amendment, H-8471, to House File 2090 as
2 follows:

3 1. Page 1, line 5, by striking the words "PROJECT
4 LABOR AGREEMENTS PROHIBITED --".

5 2. Page 1, by striking lines 7 through 24 and
6 inserting the following:

7 "___". Page 2, by striking lines 2 through 24 and
8 inserting the following:

9 "___". CONTRACTING PROCEDURES.

10 a. In the award of a contract which authorizes the
11 expenditure of twenty-five thousand dollars or more in
12 public funds for a public works project pursuant to a
13 competitive bidding procedure, a public contracting
14 entity shall consider, in determining whether a bidder
15 is responsible, the bidder's record of reliability and
16 timely completion of past projects, the qualifications
17 of the bidder and its employer and subcontractors to
18 properly perform the type of work required by the
19 contract, and the past experience of the bidder and
20 its subcontractors on projects of the same or similar
21 nature. In addition, for a bid to be considered a
22 responsible bid, the bidder and its subcontractors
23 shall possess a documented record of reliability and
24 timely completion of past projects of the same or
25 similar scope of work and a sufficient number of
26 qualified and trained employees to properly perform
27 the type and nature of work required under the
28 contract. Proof of a sufficient number of qualified
29 and trained employees shall not be required if the
30 bidder and its subcontractors can establish its
31 payment of the prevailing wage for the work to be
32 performed as determined by the department of workforce
33 development based upon wage determinations established
34 by the United States department of labor for similar
35 work pursuant to 29 C.F.R. § 1.5 and 29 C.F.R. §
36 1.6(b)."

37 3. Page 1, by striking lines 36 through 43 and
38 inserting the following:

39 "___". Title page, by striking lines 1 and 2 and
40 inserting the following: "An Act concerning public
41 works projects by establishing certain contracting
42 procedures".

43 4. By renumbering as necessary.

By DOTZLER of Black Hawk

BUKTA of Clinton

MYERS of Johnson

FOEGE of Linn

CONNORS of Polk

FORD of Polk

JOCHUM of Dubuque

MURPHY of Dubuque

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