

Freeman, Schuerer, Fraise

SSB 3026
Business & Labor
ce

SENATE FILE _____ (SF) / HF 2044
BY (PROPOSED COMMITTEE ON
BUSINESS AND LABOR
RELATIONS BILL BY
CHAIRPERSON FREEMAN)

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

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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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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FILED JAN 24 2002

SENATE FILE 2049
BY COMMITTEE ON BUSINESS
AND LABOR RELATIONS

(SUCCESSOR TO SSB 3026)

(COMPANION TO HF 2090)

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

A BILL FOR

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SF 2049

S.F. 2049 H.F. _____

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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

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SENATE FILE 2049

S-5020

1 Amend Senate File 2049 as follows:

2 1. Page 3, by striking lines 7 and 8 and
3 inserting the following:

4 "Sec. 2. EFFECTIVE DATE. This Act takes effect
5 thirty days following the date Polk county and the
6 Polk county board of supervisors prevail in the action
7 filed in Polk county district court entitled Master
8 Builders of Iowa, Inc., Associated Building
9 Contractors of Iowa Inc., The Des Moines Construction
10 Council and the Associated General Contractors of Iowa
11 v. Polk County and the Polk County Board of
12 Supervisors."

13 2. By renumbering as necessary.

By DICK L. DEARDEN

DENNIS H. BLACK

JACK HOLVECK

JOHNIE HAMMOND

MARK SHEARER

S-5020 FILED FEBRUARY 6, 2002

SENATE FILE 2049

S-5026

1 Amend Senate File 2049 as follows:

2 1. Page 2, lines 34 and 35, by striking the words
3 ", which shall include any taxpayer of this state,".

4 2. Page 3, by striking lines 1 through 3 and
5 inserting the following: "section, including an
6 action for injunctive relief. A public contracting
7 entity found to have".

8 3. Page 3, line 6, by inserting after the word
9 "section." the following: "For purposes of this
10 subsection, an aggrieved person shall be a resident of
11 this state."

By STEVEN D. HANSEN

S-5026 FILED FEBRUARY 7, 2002

FEBRUARY 7, 2002

SENATE FILE 2049

S-5021

1 Amend Senate File 2049 as follows:

2 1. Page 1, line 25, by inserting after the word
3 "section" the following: "and section 72.7".

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

6 "Sec. ____ . NEW SECTION. 72.7 PUBLIC WORKS
7 PROJECTS -- COMPETITIVE BIDDING REQUIREMENTS.

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

33 3. Title page, line 1, by inserting after the
34 word "Act" the following: "relating to public works
35 projects, by".

36 4. Title page, line 2, by inserting after the
37 word "projects," the following: "providing for
38 certain competitive bidding procedures for public
39 contracting entities,".

40 5. By renumbering as necessary.

By DICK L. DEARDEN
DENNIS H. BLACK
MATT MCCOY
MIKE CONNOLLY
JOHN P. KIBBIE
MARK SHEARER
JACK HOLVECK
THOMAS FIEGEN
STEVEN D. HANSEN

MICHAEL E. GRONSTAL
ROBERT E. DVORSKY
JOHNIE HAMMOND
PATRICIA HARPER
BILL FINK
JOE BOLKCOM
WALLY E. HORN
EUGENE S. FRAISE
BETTY A. SOUKUP