

Senate Study Bill 1219

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL BY
CO=CHAIRPERSON SHULL)

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

A BILL FOR

1 An Act relating to certain bid threshold requirements for certain
2 public works projects.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 3046XC 81
5 eg/cf/24

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1 1 Section 1. Section 8A.311, subsection 9, paragraph a, Code
1 2 2005, is amended to read as follows:
1 3 a. When the estimated total cost of construction,
1 4 erection, demolition, alteration, or repair of a public
1 5 improvement exceeds ~~twenty-five~~ one hundred thousand dollars,
1 6 the department shall solicit bids on the proposed improvement
1 7 by publishing an advertisement in a print format. The
1 8 advertisement shall appear in two publications in a newspaper
1 9 published in the county in which the work is to be done. The
1 10 first advertisement for bids appearing in a newspaper shall be
1 11 not less than fifteen days prior to the date set for receiving
1 12 bids. The department may publish an advertisement in an
1 13 electronic format as an additional method of soliciting bids
1 14 under this paragraph.
1 15 Sec. 2. Section 8A.311, subsection 16, Code 2005, is
1 16 amended to read as follows:
1 17 16. The department shall not award a contract to a bidder
1 18 for a construction, reconstruction, demolition, or repair
1 19 project or improvement with an estimated cost that exceeds
1 20 ~~twenty-five~~ one hundred thousand dollars in which the bid
1 21 requires the use of inmate labor supplied by the department of
1 22 corrections, but not employed by private industry pursuant to
1 23 section 904.809, to perform the project or improvement.
1 24 Sec. 3. Section 35A.10, subsection 2, Code 2005, is
1 25 amended to read as follows:
1 26 2. The commandant and the commission shall have plans and
1 27 specifications prepared by the department of administrative
1 28 services for authorized construction, repair, or improvement
1 29 projects in excess of ~~twenty-five~~ one hundred thousand
1 30 dollars. An appropriation for a project shall not be expended
1 31 until the department of administrative services has adopted
1 32 plans and specifications and has completed a detailed estimate
1 33 of the cost of the project, prepared under the supervision of
1 34 a registered architect or registered professional engineer.
1 35 Sec. 4. Section 35A.10, subsection 3, Code 2005, is
2 1 amended to read as follows:
2 2 3. The director of the department of administrative
2 3 services shall, in writing, let all contracts for authorized
2 4 improvements in excess of ~~twenty-five~~ one hundred thousand
2 5 dollars in accordance with chapter 8A, subchapter III. The
2 6 director of the department of administrative services shall
2 7 not authorize payment for construction purposes until
2 8 satisfactory proof has been furnished by the proper officer or
2 9 supervising architect that the parties have complied with the
2 10 contract.
2 11 Sec. 5. Section 73A.2, Code 2005, is amended to read as
2 12 follows:
2 13 73A.2 NOTICE OF HEARING.
2 14 Before any municipality shall enter into any contract for
2 15 any public improvement to cost ~~twenty-five~~ one hundred
2 16 thousand dollars or more, the governing body proposing to make

2 17 the contract shall adopt proposed plans and specifications and
2 18 proposed form of contract, fix a time and place for hearing at
2 19 the municipality affected or other nearby convenient place,
2 20 and give notice by publication in at least one newspaper of
2 21 general circulation in the municipality at least ten days
2 22 before the hearing.

2 23 Sec. 6. Section 73A.18, Code 2005, is amended to read as
2 24 follows:

2 25 73A.18 WHEN BIDS REQUIRED == ADVERTISEMENT == DEPOSIT.

2 26 When the estimated total cost of construction, erection,
2 27 demolition, alteration or repair of a public improvement
2 28 exceeds ~~twenty-five~~ one hundred thousand dollars, the
2 29 municipality shall advertise for bids on the proposed
2 30 improvement by two publications in a newspaper published in
2 31 the county in which the work is to be done. The first
2 32 advertisement for bids shall be not less than fifteen days
2 33 prior to the date set for receiving bids. The municipality
2 34 shall let the work to the lowest responsible bidder submitting
2 35 a sealed proposal. However, if in the judgment of the
3 1 municipality bids received are not acceptable, all bids may be
3 2 rejected and new bids requested. A bid shall be accompanied,
3 3 in a separate envelope, by a deposit of money or a certified
3 4 check or credit union certified share draft in an amount to be
3 5 named in the advertisement for bids as security that the
3 6 bidder will enter into a contract for the doing of the work.
3 7 The municipality shall fix the bid security in an amount equal
3 8 to at least five percent, but not more than ten percent of the
3 9 estimated total cost of the work. The checks, share drafts or
3 10 deposits of money of the unsuccessful bidders shall be
3 11 returned as soon as the successful bidder is determined, and
3 12 the check, share draft or deposit of money of the successful
3 13 bidder shall be returned upon execution of the contract
3 14 documents. This section does not apply to the construction,
3 15 erection, demolition, alteration or repair of a public
3 16 improvement when the contracting procedure for the doing of
3 17 the work is provided for in another provision of law.

3 18 Sec. 7. Section 161C.2, subsection 1, paragraph b, Code
3 19 2005, is amended to read as follows:

3 20 b. Any work project with an estimated cost of ~~twenty-five~~
3 21 one hundred thousand dollars or more, shall be undertaken as a
3 22 public contract as provided in chapters 73A and 573. The
3 23 local contracting organization shall designate a contracting
3 24 officer and shall establish procedures to manage the contract,
3 25 approve bills for payment, and review proposed change orders
3 26 or amendments to the contract.

3 27 Sec. 8. Section 218.58, subsections 2 and 4, Code 2005,
3 28 are amended to read as follows:

3 29 2. The director shall have plans and specifications
3 30 prepared by the department of administrative services for
3 31 authorized construction, repair, or improvement projects
3 32 costing over ~~twenty-five~~ one hundred thousand dollars. An
3 33 appropriation for a project shall not be expended until the
3 34 department of administrative services has adopted plans and
3 35 specifications and has completed a detailed estimate of the
4 1 cost of the project, prepared under the supervision of a
4 2 registered architect or registered professional engineer.
4 3 Plans and specifications shall not be adopted and a project
4 4 shall not proceed if the project would require an expenditure
4 5 of money in excess of the appropriation.

4 6 4. If the director of the department of human services and
4 7 the director of the department of administrative services
4 8 determine that emergency repairs or improvements estimated to
4 9 cost more than ~~twenty-five~~ one hundred thousand dollars are
4 10 necessary to assure the continued operation of a departmental
4 11 institution, the requirements of subsections 2 and 3 for
4 12 preparation of plans and specifications and competitive
4 13 procurement procedures are waived. A determination of
4 14 necessity for waiver by the director of the department of
4 15 human services and the director of the department of
4 16 administrative services shall be in writing and shall be
4 17 entered in the project record for emergency repairs or
4 18 improvements. Emergency repairs or improvements shall be
4 19 accomplished using plans and specifications and competitive
4 20 procurement procedures to the greatest extent possible,
4 21 considering the necessity for rapid completion of the project.
4 22 A waiver of the requirements of subsections 2 and 3 does not
4 23 authorize an expenditure in excess of an amount otherwise
4 24 authorized for the repair or improvement.

4 25 Sec. 9. Section 262.34, unnumbered paragraph 1, Code 2005,
4 26 is amended to read as follows:

4 27 When the estimated cost of construction, repairs, or

4 28 improvement of buildings or grounds under charge of the state
4 29 board of regents exceeds ~~twenty-five~~ one hundred thousand
4 30 dollars, the board shall advertise for bids for the
4 31 contemplated improvement or construction and shall let the
4 32 work to the lowest responsible bidder. However, if in the
4 33 judgment of the board bids received are not acceptable, the
4 34 board may reject all bids and proceed with the construction,
4 35 repair, or improvement by a method as the board may determine.

5 1 All plans and specifications for repairs or construction,
5 2 together with bids on the plans or specifications, shall be
5 3 filed by the board and be open for public inspection. All
5 4 bids submitted under this section shall be accompanied by a
5 5 deposit of money, a certified check or a credit union
5 6 certified share draft in an amount as the board may prescribe.

5 7 Sec. 10. Section 297.8, Code 2005, is amended to read as
5 8 follows:

5 9 297.8 EMERGENCY REPAIRS.

5 10 When emergency repairs costing more than ~~twenty-five~~ one
5 11 hundred thousand dollars are necessary in order to prevent the
5 12 closing of any school, the provisions of the law with
5 13 reference to advertising for bids shall not apply, and in that
5 14 event the board may contract for such emergency repairs
5 15 without advertising for bids. However, before such emergency
5 16 repairs can be made to any schoolhouse, it shall be necessary
5 17 to procure a certificate from the area education agency
5 18 administrator that such emergency repairs are necessary to
5 19 prevent the closing of the school.

5 20 Sec. 11. Section 330A.12, Code 2005, is amended to read as
5 21 follows:

5 22 330A.12 AWARD OF CONTRACT.

5 23 All contracts entered into by an authority for the
5 24 construction, reconstruction, and improvement of aviation
5 25 facilities shall be entered into pursuant to and shall comply
5 26 with chapter 73A. However, where an authority determines an
5 27 emergency exists, it may enter into contracts obligating the
5 28 authority for not in excess of ~~twenty-five~~ one hundred
5 29 thousand dollars per emergency without regard to the
5 30 requirements of chapter 73A and the authority may proceed with
5 31 the necessary action as expeditiously as possible to the
5 32 extent necessary to resolve such emergency.

5 33 Sec. 12. Section 331.341, subsection 1, Code 2005, is
5 34 amended to read as follows:

5 35 1. When the estimated cost of a public improvement, other
6 1 than improvements which may be paid for from the secondary
6 2 road fund, exceeds ~~the amount specified in section 309.40~~ one
6 3 hundred thousand dollars, the board shall follow the contract
6 4 letting procedures provided for cities in sections 384.95 to
6 5 384.103. However, in following those sections the board shall
6 6 substitute the word "county" for the word "city", and section
6 7 331.305 for section 362.3, shall consider "governing body" to
6 8 mean the board, and shall exclude references to a city
6 9 utility, utility board of trustees, or public utilities. As
6 10 used in this section, "public improvement" means the same as
6 11 defined in section 384.95 as modified by this subsection.

6 12 Sec. 13. Section 380.4, unnumbered paragraph 1, Code 2005,
6 13 is amended to read as follows:

6 14 Passage of an ordinance, amendment, or resolution requires
6 15 a majority vote of all of the members of the council, except
6 16 when the mayor may vote to break a tie vote in a city with an
6 17 even number of council members, as provided in section 372.4.
6 18 Passage of a motion requires a majority vote of a quorum of
6 19 the council. A resolution must be passed to spend public
6 20 funds in excess of ~~twenty-five~~ one hundred thousand dollars on
6 21 any one project, or to accept public improvements and
6 22 facilities upon their completion. Each council member's vote
6 23 on a measure must be recorded. A measure which fails to
6 24 receive sufficient votes for passage shall be considered
6 25 defeated.

6 26 Sec. 14. Section 384.96, Code 2005, is amended to read as
6 27 follows:

6 28 384.96 SEALED BIDS.

6 29 When the estimated total cost to a city of a public
6 30 improvement exceeds the sum of ~~twenty-five~~ one hundred
6 31 thousand dollars, the governing body shall advertise for
6 32 sealed bids for the proposed improvement by publishing a
6 33 notice to bidders as provided in section 362.3, except that
6 34 the notice to bidders may be published more than twenty days
6 35 but not more than forty=~~five~~ days before the date for filing
7 1 bids.

7 2 Sec. 15. Section 384.102, Code 2005, is amended to read as
7 3 follows:

7 4 384.102 WHEN HEARING NECESSARY.

7 5 When the estimated total cost of a public improvement
7 6 exceeds the sum of ~~twenty-five~~ one hundred thousand dollars,
7 7 the governing body shall not enter into a contract for the
7 8 improvement until it has held a public hearing on the proposed
7 9 plans, specifications, and form of contract, and estimated
7 10 cost for the improvement. Notice of the hearing must be
7 11 published as provided in section 362.3. At the hearing any
7 12 interested person may appear and file objections to the
7 13 proposed plans, specifications, contract, or estimated cost of
7 14 the improvement. After hearing objections, the governing body
7 15 shall by resolution enter its decision on the plans,
7 16 specifications, contract, and estimated cost.

7 17 Sec. 16. Section 573.2, unnumbered paragraph 1, Code 2005,
7 18 is amended to read as follows:

7 19 Contracts for the construction of a public improvement
7 20 shall, when the contract price equals or exceeds ~~twenty-five~~
7 21 one hundred thousand dollars, be accompanied by a bond, with
7 22 surety, conditioned for the faithful performance of the
7 23 contract, and for the fulfillment of other requirements as
7 24 provided by law. The bond may also be required when the
7 25 contract price does not equal that amount. However, if a
7 26 contractor provides a performance or maintenance bond as
7 27 required by a public improvement contract governed by this
7 28 chapter and subsequently the surety company becomes insolvent
7 29 and the contractor is required to purchase a new bond, the
7 30 contractor may apply for reimbursement from the governmental
7 31 agency that required a second bond and the claims shall be
7 32 reimbursed from funds allocated for road construction
7 33 purposes.

7 34 Sec. 17. Section 904.314, unnumbered paragraph 1, Code
7 35 2005, is amended to read as follows:

8 1 The director shall cause plans and specifications to be
8 2 prepared by the department of administrative services for all
8 3 improvements authorized and costing over ~~twenty-five~~ one
8 4 hundred thousand dollars. An appropriation for any
8 5 improvement costing over ~~twenty-five~~ one hundred thousand
8 6 dollars shall not be expended until the adoption of suitable
8 7 plans and specifications, prepared by a competent architect
8 8 and accompanied by a detailed statement of the amount,
8 9 quality, and description of all material and labor required
8 10 for the completion of the improvement.

8 11 Sec. 18. Section 904.315, Code 2005, is amended to read as
8 12 follows:

8 13 904.315 CONTRACTS FOR IMPROVEMENTS.

8 14 The director of the department of administrative services
8 15 shall, in writing, let all contracts for authorized
8 16 improvements costing in excess of ~~twenty-five~~ one hundred
8 17 thousand dollars under chapter 8A, subchapter III. Upon prior
8 18 authorization by the director, improvements costing five
8 19 thousand dollars or less may be made by the superintendent of
8 20 any institution.

8 21 A contract is not required for improvements at a state
8 22 institution where the labor of inmates is to be used if the
8 23 contract is not for a construction, reconstruction,
8 24 demolition, or repair project or improvement with an estimated
8 25 cost in excess of ~~twenty-five~~ one hundred thousand dollars.

8 26 EXPLANATION

8 27 This bill relates to certain bid requirements for certain
8 28 public improvements.

8 29 The bill changes the threshold requirement for advertising
8 30 for bids for a contract for the construction of a public
8 31 improvement from a cost of \$25,000 to a minimum cost of
8 32 \$100,000. This increase in the threshold applies to contracts
8 33 entered into by the state department of administrative
8 34 services; the department of human services; the veterans
8 35 affairs commission; municipalities, including townships;
9 1 school corporations; the state fair board; the state board of
9 2 regents; soil and water conservation districts; aviation
9 3 authorities; counties; cities; and the state department of
9 4 corrections. The bill applies the threshold amount
9 5 requirement to the bond requirement for construction of public
9 6 improvements by the state and major political subdivisions
9 7 pursuant to Code section 573.2.

9 8 LSB 3046XC 81

9 9 eg:rj/cf/24