

# Senate File 356 - Introduced

SENATE FILE \_\_\_\_\_  
BY ZAUN

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act establishing contractor qualifications for bidding on  
2 public works projects and specifying criteria prohibited from  
3 being required of contractors on public works or public road  
4 projects.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
6 TLSB 1919XS 82  
7 ec/cf/24

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1 1 Section 1. NEW SECTION. 72.6 PUBLIC WORKS PROJECTS ==  
1 2 CONTRACTOR QUALIFICATIONS.  
1 3 1. DEFINITIONS. As used in this section, unless the  
1 4 context otherwise provides:  
1 5 a. "Public owner" means a public body, including the state  
1 6 and a political subdivision of the state, an officer,  
1 7 official, agency, authority, board, or commission of the state  
1 8 or of a political subdivision of the state, or an institution  
1 9 supported in whole or in part by public funds.  
1 10 b. "Public road project" means a project under the control  
1 11 of a public owner for the construction, maintenance, or repair  
1 12 of a road or street that is funded, in whole or in part, by  
1 13 moneys from the road use tax fund.  
1 14 c. "Public works" means a building or other construction  
1 15 work which is constructed under the control of a public owner  
1 16 and is paid for in whole or in part with funds of a public  
1 17 owner. "Public works" does not include any work done by or on  
1 18 behalf of a drainage or levee district or any work funded by  
1 19 federal funds where federal procurement policy applicable to  
1 20 the use of the federal funds is inconsistent with the  
1 21 requirements of this section.  
1 22 d. "Public works project" or "project" means the  
1 23 construction, maintenance, or repair of public works.  
1 24 However, "public works project" does not mean a public road  
1 25 project.  
1 26 2. QUALIFICATIONS OF BIDDERS. Prior to awarding a  
1 27 contract to perform a public works project pursuant to a  
1 28 competitive bidding procedure, which contract authorizes the  
1 29 expenditure of one hundred thousand dollars or more in public  
1 30 funds, a public owner shall tabulate all bids received and  
1 31 shall determine who is the lowest responsible bidder by  
1 32 considering, in addition to the amount of the bid, all of and  
1 33 only the following:  
1 34 a. The past experience of the bidder in the performance of  
1 35 similar projects.  
2 1 b. The qualifications of the bidder to perform the type of  
2 2 work required by the contract.  
2 3 c. The bidder's record of reliability and timely  
2 4 completion of past projects.  
2 5 d. Proof of the financial responsibility of the bidder.  
2 6 3. PROHIBITED CRITERIA. In determining who is the lowest  
2 7 responsible bidder for purposes of awarding a contract to  
2 8 perform a public works project or a public road project, a  
2 9 public owner shall not do any of the following:  
2 10 a. Select a bidder based in whole or in part on a  
2 11 consideration of whether the bidder's employees belong to or  
2 12 are represented by a labor union or a labor organization.  
2 13 b. Require that the bidder selected enter into an  
2 14 agreement that directly or indirectly limits or requires the  
2 15 bidder to recruit, train, or hire employees from a particular  
2 16 source to perform work on the public works project or the  
2 17 public road project.  
2 18 c. Require that the bidder selected enter into an

2 19 agreement that directly or indirectly requires the bidder to  
2 20 offer particular types or amounts of health insurance, life  
2 21 insurance, or disability insurance coverage or retirement  
2 22 benefits to employees hired by the bidder to perform work on  
2 23 the public works project or the public road project.  
2 24 4. BIDDING DOCUMENTS. The criteria described in this  
2 25 section that are required to be considered by the public owner  
2 26 in determining who is the lowest responsible bidder shall be  
2 27 included in any document requesting or inviting bids on public  
2 28 works projects subject to this section.

2 29 EXPLANATION

2 30 This bill establishes contractor qualifications on public  
2 31 works projects. The bill applies to the award of a contract  
2 32 by a public owner to perform a public works project pursuant  
2 33 to a competitive bidding procedure, when the contract  
2 34 authorizes the expenditure of \$100,000 or more in public  
2 35 funds.

3 1 The bill provides that a public owner shall tabulate all  
3 2 bids received and determine who is the lowest responsible  
3 3 bidder by only considering, in addition to the amount of the  
3 4 bid, the past experience of the bidder in performing similar  
3 5 projects; the qualifications of the bidder to perform the type  
3 6 of work required by the contract; the bidder's record of  
3 7 reliability and timely completion of past projects; and proof  
3 8 of the financial responsibility of the bidder.

3 9 The bill also provides that a public owner, in making a  
3 10 determination of who is the lowest responsible bidder for  
3 11 purposes of awarding a contract to perform a public works  
3 12 project or a public road project, is prohibited from  
3 13 considering whether a bidder's employees belong to a labor  
3 14 union or organization; requiring that the bidder selected must  
3 15 enter into an agreement that directly or indirectly requires  
3 16 the bidder to recruit, train, or hire employees from a  
3 17 particular source to perform work on the public works project  
3 18 or a public road project; or requiring that the bidder  
3 19 selected must enter into an agreement that directly or  
3 20 indirectly requires the bidder to offer particular types or  
3 21 amounts of health insurance, life insurance, or disability  
3 22 insurance coverage or retirement benefits to employees hired  
3 23 by the bidder to perform work on the public works project or a  
3 24 public road project.

3 25 In addition, the bill requires that all bidding documents  
3 26 requesting or inviting bids on a public works project indicate  
3 27 what criteria shall be considered in awarding a contract to  
3 28 the lowest responsible bidder.

3 29 The bill defines "public owner" as a public body, including  
3 30 the state, a political subdivision of the state, an officer,  
3 31 agency, authority, board, or commission of the state or of a  
3 32 political subdivision, or an institution supported in whole or  
3 33 in part by public funds.

3 34 The bill defines "public works" as a building or other  
3 35 construction work which is constructed under the control of a  
4 1 public owner and is paid for in whole or in part with funds of  
4 2 a public owner. The bill provides that "public works" does  
4 3 not include any work done by or on behalf of a drainage or  
4 4 levee district or any work funded by federal funds where  
4 5 federal procurement policy applicable to the use of the  
4 6 federal funds is inconsistent with the requirements of this  
4 7 bill.

4 8 The bill defines "public works project" or "project" as the  
4 9 construction, maintenance, or repair of public works but does  
4 10 not include a public road project.

4 11 LSB 1919XS 82

4 12 ec:sc/cf/24