

House File 458 - Introduced

HOUSE FILE 458
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 10)

A BILL FOR

1 An Act concerning the retention of funds due to contractors on
2 public improvements.

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

1 Section 1. Section 573.1, Code 2011, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 2A. "*Principal contractor*" means those
4 persons, firms, or corporations having contracts directly with
5 the public corporation.

6 NEW SUBSECTION. 6. "*Subcontractor*" shall include every
7 person, firm, or corporation performing labor for or furnishing
8 materials to a public improvement, except those persons, firms,
9 or corporations having contracts directly with the public
10 corporation.

11 Sec. 2. Section 573.15, Code 2011, is amended by striking
12 the section and inserting in lieu thereof the following:

13 **573.15 Exception.**

14 1. A person, firm, or corporation performing labor for or
15 furnishing materials to a subcontractor shall not be entitled
16 to a claim against the retainage or bond under this chapter
17 unless the person, firm, or corporation performing the labor or
18 furnishing the materials does all of the following:

19 a. Notifies the principal contractor in writing within
20 forty-five calendar days of first performing the labor or
21 furnishing the materials for the public improvement. The
22 notice shall contain the name, mailing address, and telephone
23 number of the person, firm, or corporation performing the labor
24 or furnishing the materials and the name of the subcontractor
25 for whom the labor was performed or to whom the materials
26 were furnished. Additional labor performed, or materials
27 furnished by the same person, firm, or corporation to the same
28 subcontractor for the public improvement shall be covered by
29 this notice.

30 b. Supports the claim with a certified statement that the
31 principal contractor was notified in writing with a notice
32 containing the name, mailing address, and telephone number
33 of the person, firm, or corporation performing the labor or
34 furnishing the materials and the name of the subcontractor for
35 whom the labor was performed or to whom the materials were

1 furnished, within forty-five calendar days after the labor
2 was performed or the materials were furnished, pursuant to
3 paragraph "a".

4 2. Notwithstanding any other provision of this chapter, a
5 principal contractor shall not be prohibited from requesting
6 information from a subcontractor or from a person, firm, or
7 corporation performing labor for or furnishing materials to a
8 subcontractor regarding payments made or payments to be made
9 to a person, firm, or corporation performing labor for or
10 furnishing materials to a subcontractor.

11 3. This section does not apply to claims for labor
12 filed by employees of principal contractors or employees of
13 subcontractors.

14 4. A public corporation shall not retain any part of the
15 unpaid fund due to the contractor as provided in this chapter
16 because of the commencement of any action by the contractor
17 against the state department of transportation under authority
18 granted in section 613.11.

19 EXPLANATION

20 Current law provides an exception to the requirement that a
21 public corporation retain a portion of funds due a contractor
22 on a public improvement project in a fund for the payment
23 of claims for materials furnished and labor performed. The
24 exception provides that a public corporation need only retain
25 funds due a supplier of material to a general contractor if
26 the supplier provides the general contractor with one of two
27 permitted types of notice after the materials are supplied.

28 This bill provides that the exception shall apply to both
29 claims for labor and claims for material. The bill also amends
30 the notice requirement to provide that a supplier of labor
31 or material to a general contractor must give only one type
32 of notice, along with a certified statement that such notice
33 was given. The bill provides that a principal contractor, as
34 defined in the bill, shall not be prohibited from requesting
35 information from a subcontractor or from an entity performing

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1 labor for or furnishing materials to a subcontractor regarding
2 payments made to the entity from the subcontractor for labor or
3 materials. The bill provides that the bill does not apply to
4 claims for labor filed by employees of principal contractors
5 or employees of subcontractors.