

**Senate File 2005 - Introduced**

SENATE FILE 2005

BY BARTZ

**A BILL FOR**

1 An Act relating to the duties, authority, and operations of  
2 governmental entities and certain governmental enforcement  
3 actions.

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

1 Section 1. SHORT TITLE AND INTENT.

2 1. This Act shall be known as the "Restructure or Eliminate  
3 Frivolous, Obsolete, and Redundant Mandates in Governments  
4 Act".

5 2. It is the intent of the general assembly to examine all  
6 frivolous, obsolete, and redundant mandates in all levels of  
7 government and take all necessary actions to restructure or  
8 eliminate such mandates to create more efficient governments.

9 Sec. 2. Section 26.3, subsection 2, Code 2011, is amended  
10 to read as follows:

11 2. A governmental entity shall have an engineer licensed  
12 under chapter 542B, a landscape architect licensed under  
13 chapter 544B, or an architect registered under chapter 544A  
14 prepare plans and specifications, and calculate the estimated  
15 total cost of a proposed public improvement. A governmental  
16 entity shall ensure that a sufficient number of paper copies  
17 of the project's contract documents, including all drawings,  
18 plans, specifications, and estimated total costs of the  
19 proposed public improvement are made available for distribution  
20 ~~at no charge~~ to prospective bidders, subcontractor bidders,  
21 suppliers, and contractor plan room services. If a deposit is  
22 required as part of a paper contract documents distribution  
23 policy by the public owner, the deposit shall not exceed two  
24 hundred fifty dollars per set which shall be refunded upon  
25 return of the contract documents within fourteen days after  
26 award of the project. If the contract documents are not  
27 returned in a timely manner and in a reusable condition, the  
28 deposit shall be forfeited. The governmental entity shall  
29 reimburse the landscape architect, architect, or professional  
30 engineer for the actual costs of preparation and distribution  
31 of plans and specifications.

32 Sec. 3. Section 29B.59, Code 2011, is amended to read as  
33 follows:

34 **29B.59 Execution of confinement.**

35 1. A sentence of confinement adjudged by a military court,

1 whether or not the sentence includes discharge or dismissal,  
2 and whether or not the discharge or dismissal has been  
3 executed, may be carried into execution by confinement in any  
4 place of confinement under the control of any of the forces  
5 of the state military forces or in any jail, penitentiary,  
6 or prison designated for that purpose. Persons so confined  
7 in a jail, penitentiary, or prison are subject to the same  
8 discipline and treatment as persons confined or committed to  
9 the jail, penitentiary, or prison by the courts of the state or  
10 of any political subdivision ~~thereof~~ of the state.

11 2. The omission of the words "hard labor" from any sentence  
12 or punishment of a court-martial adjudging confinement does not  
13 deprive the authority executing that sentence or punishment of  
14 the power to require hard labor as a part of the punishment.

15 3. The keepers, officer, and wardens of city or county jails  
16 and of other jails, penitentiaries, or prisons shall receive  
17 persons ordered into confinement before trial and persons  
18 committed to such confinement by a military court and shall  
19 confine them according to law. ~~No such~~ A keeper, officer, or  
20 warden may require payment of any a reasonable fee or charge  
21 for so receiving or confining a person.

22 Sec. 4. Section 142.3, Code 2011, is amended to read as  
23 follows:

24 **142.3 Notification of department.**

25 Every county medical examiner, funeral director or embalmer,  
26 and the managing officer of every public asylum, hospital,  
27 county care facility, penitentiary, or reformatory, as soon  
28 as any dead body shall come into the person's custody which  
29 may be used for scientific purposes as provided in sections  
30 142.1 and 142.2, shall at once notify the nearest relative  
31 or friend of the deceased, if known, and the Iowa department  
32 of public health by ~~telegram~~ a secure notification format  
33 approved by the department, and hold such body unburied for  
34 forty-eight hours. Upon receipt of such ~~telegram~~ notification,  
35 the department shall ~~telegraph~~ transmit instructions relative

1 to the disposition to be made of ~~said~~ the body. Complete  
2 jurisdiction over said bodies is vested exclusively in the Iowa  
3 department of public health. No autopsy or post mortem, except  
4 as are legally ordered by county medical examiners, shall be  
5 performed on any of said bodies prior to their delivery to the  
6 medical schools.

7 Sec. 5. Section 144.32, unnumbered paragraph 1, Code 2011,  
8 is amended to read as follows:

9 If a person other than a funeral director, medical examiner,  
10 or emergency medical service assumes custody of a dead body  
11 or fetus, the person shall secure a burial transit permit.  
12 To be valid, the burial transit permit must be issued by the  
13 county medical examiner, or a funeral director, ~~or the county~~  
14 ~~registrar of the county where the certificate of death or fetal~~  
15 ~~death was filed.~~ The permit shall be obtained prior to the  
16 removal of the body or fetus from the place of death and the  
17 permit shall accompany the body or fetus to the place of final  
18 disposition.

19 Sec. 6. Section 191.7, Code 2011, is amended to read as  
20 follows:

21 **191.7 Enforcement of oleomargarine law.**

22 It shall be the duty of the secretary of agriculture and the  
23 secretary's agents to enforce this chapter ~~and of the county~~  
24 ~~attorneys~~ and of the attorney general of the state to cooperate  
25 with the secretary in the enforcement of this chapter.

26 Sec. 7. Section 217.32, Code 2011, is amended to read as  
27 follows:

28 **217.32 Office space in county.**

29 Where the department of human services assigns personnel to  
30 an office located in a county for the purpose of performing in  
31 that county designated duties and responsibilities assigned by  
32 law to the department, it shall be the responsibility of the  
33 county to provide and maintain the necessary office space and  
34 office supplies and equipment for the personnel so assigned  
35 in the same manner as if they were employees of the county.

1 The department shall at least annually, or more frequently if  
2 the department so elects, reimburse the county for a ~~portion,~~  
3 ~~designated by law,~~ of the cost of maintaining office space and  
4 providing supplies and equipment as required by this section,  
5 and also for a ~~similar portion~~ of the cost of providing the  
6 necessary office space if in order to do so it is necessary  
7 for the county to lease office space outside the courthouse or  
8 any other building owned by the county. ~~The portion of the~~  
9 ~~foregoing costs reimbursed to the county under this section~~  
10 ~~shall be equivalent to the proportion of those costs which the~~  
11 ~~federal government authorizes to be paid from available federal~~  
12 ~~funds, unless the general assembly directs otherwise when~~  
13 ~~appropriating funds for support of the department.~~

14 Sec. 8. Section 297.26, Code 2011, is amended to read as  
15 follows:

16 **297.26 Sale by department.**

17 Any school building or any school site, the title of which  
18 is vested in the state of Iowa by reason of it having been  
19 provided by state mining camp funds for schools in mining  
20 camps, ~~shall~~ may be sold at public or private sale by the  
21 department when the director of the department of education  
22 determines it is no longer needed for school purposes.

23 Sec. 9. Section 331.302, subsection 10, paragraph a,  
24 subparagraph (2), Code 2011, is amended to read as follows:

25 (2) If a proposed code of ordinances contains a proposed new  
26 ordinance or amendment, the board shall hold a public hearing  
27 on the proposed code before adoption. The auditor shall  
28 publish notice of the hearing as provided in section 331.305.  
29 Copies of the proposed code of ordinances shall be available at  
30 the auditor's office or on the auditor's internet site, and the  
31 notice shall so state. Within thirty days after the hearing,  
32 the board may adopt the proposed code of ordinances which  
33 becomes law upon publication of the ordinance adopting it. If  
34 the board substantially amends the proposed code of ordinances  
35 after a hearing, notice and hearing shall be repeated.

1     Sec. 10. Section 331.302, subsection 10, paragraph b, Code  
2 2011, is amended to read as follows:

3     *b.* Ordinances and amendments which become effective  
4 after adoption of a code of ordinances may be compiled as a  
5 supplement to the code, and upon adoption of the supplement by  
6 resolution, become part of the code of ordinances. In lieu of  
7 other publication, the supplement under this paragraph may be  
8 made available on the auditor's internet site.

9     Sec. 11. Section 331.302, subsection 10, Code 2011, is  
10 amended by adding the following new paragraph:

11     NEW PARAGRAPH. *d.* The compilation of the code of ordinances  
12 required under this subsection may be accomplished by the use  
13 of electronic means and electronic publication.

14     Sec. 12. Section 331.602, subsection 27, Code 2011, is  
15 amended by striking the subsection.

16     Sec. 13. Section 331.653, subsection 27, Code 2011, is  
17 amended to read as follows:

18     27. Give notice of the time and place of making an  
19 appraisal of unneeded school land as provided in ~~sections~~  
20 section 297.17 and 297.28.

21     Sec. 14. Section 331.756, subsection 36, Code Supplement  
22 2011, is amended by striking the subsection.

23     Sec. 15. Section 331.802, subsection 3, paragraph e, Code  
24 2011, is amended to read as follows:

25     *e.* Death that has occurred ~~unexpectedly or~~ from an  
26 unexplained cause.

27     Sec. 16. Section 356.49, Code 2011, is amended to read as  
28 follows:

29     **356.49 Jail report.**

30     A county sheriff shall file, on a monthly basis, a ~~written~~  
31 report with the director of the department of corrections.  
32 The report shall include, but not be restricted to, the total  
33 number of men, women, and juveniles held in the jail for  
34 the reporting month. The director shall adopt and provide  
35 a uniform reporting form to be utilized by county sheriffs.

1 The director may require electronic filing of such reports by  
2 county sheriffs.

3 Sec. 17. Section 380.8, subsection 1, paragraph b, Code  
4 2011, is amended to read as follows:

5 b. A city may maintain a code of ordinances either by  
6 compiling at least annually a supplement to the code of  
7 ordinances consisting of all new ordinances and amendments to  
8 ordinances which became effective during the previous year and  
9 adopting the supplement by resolution or by adding at least  
10 annually new ordinances and amendments to ordinances to the  
11 code of ordinances itself. In lieu of other publication, the  
12 supplement under this paragraph may be made available on the  
13 city's internet site.

14 Sec. 18. Section 380.8, subsection 2, paragraph b, Code  
15 2011, is amended to read as follows:

16 b. If a proposed code of ordinances contains a new ordinance  
17 or an amendment to existing ordinances, the council shall  
18 hold a public hearing on the proposed code before adoption.  
19 The clerk shall publish notice of the hearing as provided in  
20 section 362.3. Copies of the proposed code of ordinances  
21 must be available at the city clerk's office or on the city's  
22 internet site, and the notice must so state. Within thirty  
23 days after the hearing, the council may adopt the proposed  
24 code of ordinances. A new ordinance or an amendment to an  
25 existing ordinance becomes effective upon publication of the  
26 ordinance adopting the code of ordinances unless a subsequent  
27 effective date is provided within an ordinance. If the council  
28 substantially amends the proposed code of ordinances after the  
29 hearing, notice and hearing must be repeated before the code  
30 may be adopted.

31 Sec. 19. Section 380.8, Code 2011, is amended by adding the  
32 following new subsection:

33 NEW SUBSECTION. 4. The compilation of the code of  
34 ordinances required under this section may be accomplished by  
35 the use of electronic means and electronic publication.

1     Sec. 20. Section 380.10, subsections 1 and 3, Code 2011, are  
2 amended to read as follows:

3     1. A city may adopt the provisions of any statewide or  
4 nationally recognized standard code or portions of any such  
5 code by an ordinance which identifies the code by subject  
6 matter, source and date, and which incorporates the provisions  
7 of the code or portions of the code by reference without  
8 setting them forth in full. Copies of the proposed code or  
9 portions of such code shall be available at the office of the  
10 city clerk or on the city's internet site.

11     3. Copies of any portions of the Code of Iowa to be adopted  
12 by reference shall be available at the city clerk's office or  
13 on the city's internet site. The council shall hold a public  
14 hearing on any proposed standard code or on the portions of any  
15 standard code to be adopted by reference. The council shall  
16 hold a public hearing on any portion of the Code of Iowa to  
17 be adopted by reference. The clerk shall publish notice of  
18 the hearing as provided in section 362.3. The notice must  
19 state that copies of the proposed standard code or portions  
20 thereof, or of the portion of the Iowa Code, are available at  
21 the city clerk's office or on the city's internet site. If  
22 the council substantially amends the proposed code after the  
23 hearing, notice and hearing must be repeated before the code  
24 may be adopted. Within thirty days after the hearing, the  
25 council by ordinance may adopt the proposed code which becomes  
26 effective upon publication of the ordinance adopting it, unless  
27 a subsequent effective date is provided within the adopting  
28 ordinance.

29     Sec. 21. Section 455B.103A, subsection 1, paragraph b, Code  
30 2011, is amended to read as follows:

31     *b.* Following the effective date of a general permit, a  
32 person proposing to conduct activities covered by the general  
33 permit shall provide a notice of intent to conduct a covered  
34 activity on a form provided by the department. ~~A person shall~~  
35 ~~also provide public notice of intent to conduct activities~~

~~1 covered under the general permit by publishing notice in two  
2 newspapers with the largest circulation in the area in which  
3 the facility is located. Notice of the discontinuation of a  
4 permitted activity shall be provided in the same manner.~~

5 Sec. 22. Section 459.312, subsection 4, Code Supplement  
6 2011, is amended by adding the following new paragraph:

7 NEW PARAGRAPH. c. A manure management plan required to be  
8 delivered to a board of supervisors by the department or by the  
9 person submitting the manure management plan may be delivered  
10 electronically.

11 Sec. 23. Section 468.14, Code 2011, is amended to read as  
12 follows:

13 **468.14 Notice of hearing.**

14 When any plan and report of the engineer has been approved  
15 by the board, such approval shall be entered of record in its  
16 proceedings as a tentative plan only for the establishment  
17 of said improvement. Thereupon it shall enter an order  
18 fixing a date for the hearing upon the petition not less  
19 than forty days from the date of the order of approval, and  
20 directing the auditor immediately to cause notice to be given  
21 to the owner of each tract of land or lot within the proposed  
22 levee or drainage district as shown by the transfer books  
23 of the auditor's office, including railway companies having  
24 right-of-way in the proposed district and to all lienholders  
25 or encumbrancers of any land within the proposed district  
26 without naming them, and also to all other persons whom it may  
27 concern, and without naming individuals all actual occupants of  
28 the land in the proposed district, of the pendency and prayer  
29 of the said petition, including a statement describing the  
30 favorable report thereon by the engineer, and that such report  
31 may be amended before final action, the approval thereof by  
32 the board as a tentative plan, and the day and the hour set  
33 for hearing on said petition and report, and that all claims  
34 for damages except claims for land required for right-of-way,  
35 and all objections to the establishment of said district for

1 any reason must be made in writing and filed in the office  
2 of the auditor at or before the time set for such hearing.  
3 The notice required under this section shall also include a  
4 statement describing the location and times that the engineer's  
5 report may be reviewed at either a county office or on a county  
6 internet site.

7 Sec. 24. Section 600B.23, Code 2011, is amended to read as  
8 follows:

9 **600B.23 Costs payable by county.**

10 If the finding of the court be in favor of the defendant the  
11 costs of the action shall be paid by the complainant, unless  
12 the complainant is deemed indigent by the court, then the costs  
13 of the action shall be paid by the county.

14 Sec. 25. Section 714.16, subsection 2, paragraph g, Code  
15 2011, is amended to read as follows:

16 *g.* (1) It is an unlawful practice for a person to acquire  
17 directly or indirectly an interest in a business which has  
18 either gone out of business or is going out of business  
19 and conduct or continue a going-out-of-business sale where  
20 additional merchandise has been added to the merchandise  
21 of the liquidating business for the purposes of the sale,  
22 unless the person provides a clear and conspicuous notice  
23 in all advertisements that merchandise has been added. The  
24 advertisement shall also state the customary retail price of  
25 the merchandise that has been added or brought in for the  
26 sale. The person acquiring the interest shall obtain a permit  
27 to hold the sale before commencing the sale. If the sale  
28 is to be held in a city which has an ordinance regulating  
29 going-out-of-business sales, then the permit shall be obtained  
30 from the city. ~~If the sale is to be located outside of a~~  
31 ~~city or in a city which does not have an ordinance regulating~~  
32 ~~going-out-of-business sales, then the permit shall be obtained~~  
33 ~~from the county in which the proposed sale is to be held. The~~  
34 ~~county board of supervisors shall prescribe the procedures~~  
35 ~~necessary to obtain the permit. The permit shall state the~~

1 percentage of merchandise for sale that was obtained from  
2 the liquidating business and the percentage of merchandise  
3 for sale that was added from other sources. The permit or  
4 an accurate reproduction of the permit shall be clearly and  
5 conspicuously posted at all entrances to the site of the sale  
6 and at all locations where sales are consummated. A person who  
7 violates this paragraph, including any misrepresentation of  
8 the presence and the percentage of additional merchandise that  
9 had been added to that of the liquidating company, is liable  
10 for a civil penalty of not to exceed one thousand dollars for  
11 each day of each violation. The civil penalties collected  
12 shall be deposited in the general fund of the ~~political entity~~  
13 city which prosecutes the violation. The civil penalty is  
14 in addition to and not in lieu of any criminal penalty. A  
15 ~~political entity~~ city enforcing this paragraph may obtain a  
16 preliminary injunction without posting a bond to enjoin a  
17 violation of paragraph "c" and this paragraph pending a hearing.

18 (2) This paragraph does not prohibit a city ~~or county~~  
19 from adopting an ordinance prohibiting the conducting of a  
20 going-out-of-business sale in which additional merchandise is  
21 added to the merchandise of the liquidating business for the  
22 purposes of the sale.

23 Sec. 26. REPEAL. Sections 207.11, 208.21, and sections  
24 297.27 through 297.32, Code 2011, are repealed.

25 EXPLANATION

26 This bill relates to certain duties and operations of  
27 governmental entities and related enforcement actions. The  
28 bill is designated as the "Restructure or Eliminate Frivolous,  
29 Obsolete, and Redundant Mandates in Governments Act". The  
30 bill states that it is the intent of the general assembly to  
31 examine all frivolous, obsolete, and redundant mandates in  
32 all levels of government and take all necessary actions to  
33 restructure or eliminate such mandates.

34 Under Code section 26.3 relating to competitive bidding  
35 for public improvements, a governmental entity is required

1 to provide a sufficient number of paper copies of the  
2 project's contract documents, including all drawings, plans,  
3 specifications, and estimated total costs. The bill strikes  
4 the prohibition on governmental entities charging for providing  
5 such items to prospective bidders, subcontractor bidders,  
6 suppliers, and contractor plan room services.

7 Current Code section 29B.59 provides that city or county  
8 jails and other jails, penitentiaries, or prisons must receive  
9 persons ordered into confinement by a military court and  
10 prohibits such jails, penitentiaries, or prisons from requiring  
11 payment of a fee or charge for receiving or confining the  
12 person. The bill allows such jails, penitentiaries, or prisons  
13 to require a reasonable fee or charge in such situations.

14 Current Code section 142.3 requires a county medical  
15 examiner, funeral director or embalmer, and the managing  
16 officer of every public asylum, hospital, county care facility,  
17 penitentiary, or reformatory, as soon as any dead body shall  
18 come into the person's custody which may be used for scientific  
19 purposes to notify the nearest relative or friend of the  
20 deceased, if known, and the Iowa department of public health  
21 by telegram. The bill allows such notification to occur by a  
22 secure notification format approved by the department of public  
23 health.

24 The bill removes the county registrar (county recorder) from  
25 the list of persons who may issue a burial transit permit.

26 The bill removes the county attorney from those persons  
27 required to enforce Code chapter 191 (oleomargarine law).

28 The bill repeals Code sections 207.11 and 208.21 relating to  
29 agencies, political subdivisions, and publicly owned utilities  
30 or corporations that engage in certain mining activities. Code  
31 sections 207.11 and 208.21 subject such entities that engage in  
32 mining to similar mining regulations as other mining entities.

33 Code section 217.32 requires the counties to provide  
34 and maintain necessary office space and office supplies and  
35 equipment for certain department of human services personnel

1 that are assigned to duties in the county. Code section 217.32  
2 further provides that the department of human services shall  
3 reimburse the county for a portion of such costs that is  
4 equivalent to the proportion of those costs which the federal  
5 government authorizes to be paid unless the general assembly  
6 directs otherwise. The bill requires reimbursement to the  
7 county of the total cost of maintaining the office space and  
8 providing supplies and equipment.

9 The bill repeals several Code sections relating to the  
10 disposition of certain state-owned buildings and school sites  
11 (provided by state mining camp funds for schools in mining  
12 camps). The bill provides that such property may be sold at  
13 public or private sale by the department of education when the  
14 director of the department of education determines that it is  
15 no longer needed for school purposes.

16 The bill amends provisions relating to the compilation of a  
17 code of ordinances by each county under Code section 331.302  
18 and each city under Code section 380.8. The bill allows such  
19 compilation and related supplements to be accomplished by the  
20 use of electronic means and electronic publication. The bill  
21 also permits cities and counties to make certain standards and  
22 codes adopted by reference available on the entity's internet  
23 site.

24 The bill strikes a requirement that the county recorder  
25 carry out duties relating to the recordation of articles of  
26 incorporation and other instruments for savings and loan  
27 associations as provided in Code chapter 534.

28 The bill strikes a provision classifying an unexpected death  
29 as a death which affects the public interest. If a death  
30 is classified as a death that affects the public interest,  
31 the state or county medical examiner must be notified and a  
32 preliminary investigation of the death must be conducted.

33 Code section 356.49 requires the county sheriff to file a  
34 monthly written report with the director of the department of  
35 corrections relating to the total number of persons held in

1 the jail. The bill allows the director of the department of  
2 corrections to require electronic filing of such reports.

3 As a condition of the general permit under Code section  
4 455B.103A, a person proposing to conduct activities covered  
5 by a general permit is required to provide notice of intent  
6 to conduct a covered activity to the department of natural  
7 resources. The bill strikes the additional notice requirement  
8 of publication in two newspapers with the largest circulation  
9 in the area and the requirement that such notices be provided  
10 and published when such activities are discontinued.

11 The bill allows certain manure management plans that are  
12 required to be delivered to a county board of supervisors under  
13 Code section 459.312(4) to be delivered electronically.

14 The bill specifies that notices provided by the county  
15 auditor under Code section 468.14, relating to the approval  
16 of a proposed levee and drainage district plan and engineer's  
17 report, must include a statement describing the favorable  
18 report of the engineer. Such notice must also include a  
19 statement describing the location and times that the engineer's  
20 report may be reviewed at either a county office or on a county  
21 internet site.

22 The bill provides that in proceedings under Code chapter  
23 600B (paternity and obligations for support) if the finding of  
24 the court is in favor of the defendant the costs of the action  
25 shall be paid by the complainant, unless the complainant is  
26 deemed indigent, then the costs of the action are paid by the  
27 county.

28 The bill strikes the requirement for counties to issue  
29 going-out-of-business sale permits for such sales occurring in  
30 a city that does not regulate going-out-of-business sales or in  
31 the unincorporated areas of the county. The bill also strikes  
32 other references to counties relating to the regulation of  
33 going-out-of-business sales.