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HOUSE REPUBLICAN STAFF ANALYSIS

Bill: Senate File 396
Committee: Commerce
Floor Manager: Representative Lance Horbach
Date: July 30, 2011
Staff: Brad Trow (1-3471)

Contractor Indemnification

Senate File 396 addresses the issue of contractor indemnification. Under current law, party A to a construction contract can force party B to the contract to cover party A's negligent action by including an indemnification clause. Senate File 396 would prevent these clauses from being enforced in Iowa, with certain exceptions.

Summary of Action

Committee Action – The Commerce Committee **PASSED** House Study Bill 80 on a vote of 22-0 on February 28, 2011.

Senate Action – The Senate **ADOPTED** Senate File 396 on a vote of 47-1 on March 22, 2011.

House Action – The House **ADOPTED** Senate File 396 on a vote of 84-12 on March 30, 2011.

Final Action – The Governor **SIGNED** Senate File 396 on April 7, 2011.

Section by Section Analysis

Section 1 – Indemnity Agreements – Construction Contracts – The section creates a new provision in the Code – section 537A.5 – governing indemnity agreements in construction contracts. The section defines what is to be considered a construction contract for the purposes of the bill. Public agreements relating to highways, roads, and streets are not covered.

The section voids provisions in a construction contract that requires one party (party A) to indemnify, hold harmless, or defend the other party (party B) to the contract against liability, damages, losses, or expenses (including attorney fees) to the extent that the liability was caused by the negligent act or omission of party B.

The section clarifies that the language of the bill does not apply to the indemnification related to a surety bond, insurance policy or agreement, borrower's obligation to a lender, or any obligation of strict liability already imposed by law.