

8A.321 Physical resources and facility management — director duties — appropriation.

In managing the physical resources of government, the director shall perform all of the following duties:

1. Provide for supervision over the custodians and other employees of the department in and about the state laboratories facility in Ankeny and in and about the capitol and other state buildings at the seat of government, except the buildings and grounds referred to in section 216B.3, subsection 6.

2. Institute, in the name of the state, and with the advice and consent of the attorney general, civil and criminal proceedings against any person for injury or threatened injury to any public property, including but not limited to intangible and intellectual property, under the person's control.

3. Under the direction of the governor, provide, furnish, and pay for public utilities service, heat, maintenance, minor repairs, and equipment in operating and maintaining the official residence of the governor of Iowa.

4. Contract, with the approval of the executive council, for the repair, remodeling, or, if the condition warrants, demolition of all buildings and grounds of the state at the seat of government, at the state laboratories facility in Ankeny, and the institutions of the department of human services and the department of corrections for which no specific appropriation has been made, if the cost of repair, remodeling, or demolition will not exceed one hundred thousand dollars when completed. The cost of repair projects for which no specific appropriation has been made shall be paid as an expense authorized by the executive council as provided in section 7D.29.

5. Dispose of all personal property of the state under the director's control as provided by section 8A.324 when it becomes unnecessary or unfit for further use by the state. If the director concludes that the personal property is contaminated, contains hazardous waste, or is hazardous waste, the director may charge the state agency responsible for the property for removal and disposal of the personal property. The director shall adopt rules establishing the procedures for inspecting, selecting, and removing personal property from state agencies or from state storage.

6. a. Lease all buildings and office space necessary to carry out the provisions of this subchapter or necessary for the proper functioning of any state agency wherever located throughout the state. For state agencies at the seat of government, the director may lease buildings and office space in Polk county or in a county contiguous to Polk county. If no specific appropriation has been made, the proposed lease shall be submitted to the executive council for authorization and if authorized lease expense shall be paid from the appropriations addressed in section 7D.29. An office space lease shall not be terminated at a time when either contract damages or early termination penalties may be applicable for doing so. Additionally, the director shall also develop cooperative relationships with the state board of regents in order to promote colocation of state agencies.

b. When the general assembly is not in session, the director may request an expense authorization from the executive council for moving state agencies from one location to another. The request may include moving costs, telecommunications costs, repair costs, or any other costs relating to the move. The executive council may authorize the expenses and may authorize the expenses to be paid from the appropriations addressed in section 7D.29 if it determines the agency or department does not have funds available for these expenses.

c. (1) The department shall annually issue a request for proposals for leasing privately owned office space for state employees in the downtown area of the city of Des Moines. Prior to replacing or renovating publicly owned buildings or relocating any state agencies to any space in publicly owned buildings, the department shall use such proposals to compare the costs of privately owned space to publicly owned space. The department shall locate state employees in office space in the most cost-efficient manner possible. In determining cost efficiency, the department shall consider all costs of the publicly owned space, the costs of the original acquisition of the publicly owned space, the costs of tenant improvements to the publicly owned space, and the anticipated economic and useful life of the publicly owned building space.

(2) Subparagraph (1) shall not apply when emergency circumstances exist. Actions taken

during an emergency which would otherwise violate subparagraph (1) shall be limited in scope and duration to meet the emergency. An emergency includes but is not limited to a condition that does any of the following:

- (a) Threatens public health, welfare, or safety.
- (b) In which there is a need to protect the health, welfare, or safety of persons occupying or visiting a public improvement or property located adjacent to the public improvement.
- (c) In which the department or agency must act to preserve critical services or programs.
- (d) In which the need is a result of events or circumstances not reasonably foreseeable.

7. Unless otherwise provided by law, coordinate the location, design, plans and specifications, construction, and ultimate use of the real or personal property to be purchased by a state agency for whose benefit and use the property is being obtained.

a. If the purchase of real or personal property is to be financed pursuant to section 12.28, the department shall cooperate with the treasurer of state in providing the information necessary to complete the financing of the property.

b. A contract for acquisition, construction, erection, demolition, alteration, or repair by a private person of real or personal property to be lease-purchased by the treasurer of state pursuant to section 12.28 is exempt from section 8A.311, subsections 1 and 11, unless the lease-purchase contract is funded in advance by a deposit of the lessor's moneys to be administered by the treasurer of state under a lease-purchase contract which requires rent payments to commence upon delivery of the lessor's moneys to the lessee.

8. With the authorization of a constitutional majority of each house of the general assembly and approval by the governor, dispose of real property belonging to the state and its state agencies upon terms, conditions, and consideration as the director may recommend. If real property subject to sale under this subsection has been purchased or acquired from appropriated funds, the proceeds of the sale shall be deposited with the treasurer of state and credited to the general fund of the state or other fund from which appropriated. There is appropriated from that same fund, with the prior approval of the executive council and in cooperation with the director, a sum equal to the proceeds so deposited and credited to the state agency to which the disposed real property belonged or by which it was used, for purposes of the state agency.

9. a. With the approval of the executive council pursuant to section 7D.29 or pursuant to other authority granted by law, acquire real property to be held by the department in the name of the state as follows:

- (1) By purchase, lease, option, gift, grant, bequest, devise, or otherwise.
- (2) By exchange of real property belonging to the state for property belonging to another person.

b. If real property acquired by the department in the name of the state is subject to a lease in effect at the time of acquisition, the director may honor and maintain the existing lease subject to the following requirements:

(1) The lease shall not be renewed beyond the term of the existing lease including any renewal periods under the lease that are solely at the discretion of the lessee.

(2) The lease shall not be renewed by the department as the lessor if the lessor has discretion to not renew under the existing lease.

(3) The lease shall not be maintained for a period in excess of ten years from the date of acquisition of the real property, including any renewal periods, without the approval of the executive council.

(4) The lease shall not be maintained if the lessee at the time of the acquisition ceases to occupy the leased property.

10. Subject to the selection procedures of section 12.30, employ financial consultants, banks, insurers, underwriters, accountants, attorneys, and other advisors or consultants necessary to implement the provisions of subsection 7.

11. Prepare annual status reports for all capital projects in progress of the department, and submit the status reports to the legislative services agency and the department of management on or before January 15 of each year.

12. In carrying out the requirements of section 64.6, purchase an individual or a blanket surety bond insuring the fidelity of state officers. The department may self-assume or

self-insure fidelity exposures for state officials and employees. A state official is deemed to have furnished surety if the official has been covered by a program of insurance or self-insurance established by the department. To the extent possible, all bonded state employees shall be covered under one or more blanket bonds or position schedule bonds.

13. Review the management of state property loss exposures and state liability risk exposures for the capitol complex. Insurance coverage may include self-insurance or any type of insurance protection sold by insurers, including, but not limited to, full coverage, partial coverage, coinsurance, reinsurance, and deductible insurance coverage.

14. Establish a monument maintenance account in the state treasury under the control of the department. Funds for the maintenance of a state monument, whether received by gift, devise, bequest, or otherwise, shall be deposited in the account. Funds in the account shall be deposited in an interest-bearing account. Notwithstanding section 12C.7, interest earned on the account shall be deposited in the account and shall be used to maintain the designated monument. Any maintenance funds for a state monument held by the state and interest earned on the funds shall be used to maintain the designated monument. Notwithstanding section 8.33, funds in the monument maintenance account at the end of a fiscal year shall not revert to the general fund of the state.

2003 Acts, ch 145, §36; 2004 Acts, ch 1101, §7; 2006 Acts, ch 1179, §36; 2006 Acts, ch 1182, §56; 2007 Acts, ch 115, §7; 2007 Acts, ch 219, §31; 2008 Acts, ch 1032, §201; 2009 Acts, ch 28, §1; 2011 Acts, ch 122, §9, 10; 2011 Acts, ch 127, §35, 89; 2011 Acts, ch 131, §16, 17, 158; 2011 Acts, ch 133, §23, 50

[T] See Code editor's note on simple harmonization

[T] Subsection 4 amended

[T] Subsection 6, paragraphs a and b amended and former paragraph c stricken

[T] Subsection 6, NEW paragraph c