

Local Government: O'Kane, Chair; Cooper and Renken.

MAR 7 1985

LOCAL GOVERNMENT

HOUSE FILE 523

To Pass 3/14/85

See Local Govt 3/27 D. Pass 4/4 (p. 1223)
House File 523

BY O'KANE

LOCAL GOVERNMENT, Wells, Chair; Lind and A. Miller

Passed House, Date 3-25-85 (p. 1034) Passed Senate, Date 4-15-85 (p. 1371)

Vote: Ayes 95 Nays 0 Vote: Ayes 38 Nays 7

Approved May 20 1985
Repassed House 4-25-85 (p. 1890) Repassed Senate 4-29-85 (p. 1726)
95-0 44-0

A BILL FOR

- 1 An Act related to the right of cities to lease or lease-
- 2 purchase real and personal property.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 523

H-3427

- 1 Amend House File 523 as follows:
- 2 1. Page 2, line 2, by striking the numeral "503" and
- 3 inserting the numeral "682".

H-3427 FILED MARCH 25, 1985 BY O'KANE of Woodbury
ADOPTED BY UNANIMOUS CONSENT

(p. 1034)

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523

1 Section 1. Section 364.4, Code 1985, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 4. Enter into leases or lease-purchase
4 contracts for real and personal property in accordance with
5 the following terms and procedures:

6 a. A city shall lease or lease-purchase real or personal
7 property only for a term which does not exceed the economic
8 life of the property, as determined by the council.

9 b. A lease or lease-purchase contract entered into by a
10 city may contain provisions similar to those sometimes found
11 in leases between private parties, including the obligation of
12 the lessee to pay any of the costs of operation or ownership
13 of the leased property, and the right to purchase the leased
14 property.

15 c. A provision of a lease or lease-purchase contract which
16 stipulates that a portion of the rent payments be applied as
17 interest is subject to chapter 74A. Other laws relating to
18 interest rates do not apply.

19 d. When a city proposes to enter into a lease or lease-
20 purchase contract, the terms of which would either require
21 payments to be made from the city's debt service fund, or
22 would result in the total of all lease and lease-purchase
23 payments of the city from the general fund exceeding ten
24 percent of the city's most recent general fund budget, the
25 governing body shall authorize the lease or lease-purchase
26 contract by the same authorization procedures outlined in
27 section 384.26. In all other cases, including but not limited
28 to payments to exercise purchase options and payments for the
29 expenses of operation or ownership of the property, the
30 authorization procedures outlined in section 384.25 apply. A
31 city utility or city enterprise is a separate entity for
32 purposes of this section, whether or not it is otherwise
33 subject to the city's governing body.

34 e. A lease or lease-purchase contract to which a city is a
35 party or in which a city has a participatory interest, is an

1 obligation of a political subdivision of this state for the
2 purposes of chapters 502 and 503, and is a lawful investment
3 for banks, trust companies, building and loan associations,
4 savings and loan associations, investment companies, insurance
5 companies, insurance associations, executors, guardians,
6 trustees and any other fiduciaries responsible for the
7 investment of funds.

8 f. Property that is lease-purchased by a city is exempt
9 under section 427.1, subsection 2.

10 g. A contract for construction by a private party of prop-
11 erty to be leased or lease-purchased by a city is not a
12 contract for a public improvement under section 384.95,
13 subsection 1, except for purposes of section 384.102.
14 However, if a lease-purchase contract is funded in advance by
15 means of the lessor depositing moneys to be administered by a
16 city, with the city's obligation to make rent payments
17 commencing with its receipt of moneys, a contract for
18 construction of the property in question awarded by the city
19 is a public improvement and is subject to division VI of
20 chapter 384.

21 EXPLANATION

22 This bill makes explicit a city's right to lease or lease-
23 purchase real or personal property, and spells out the terms
24 and procedures which will apply when the right is exercised.

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1 Amend House File 523 as amended and passed by the
 2 House as follows:
 3 1. Page 2, by inserting after line 20 the
 4 following:
 5 "Sec. 2. Section 331.301, Code 1985, is amended by
 6 adding the following new subsection:
 7 NEW SUBSECTION. 10. A county may enter into
 8 leases or lease-purchase contracts for real and
 9 personal property in accordance with the terms and
 10 procedures set forth in section 364.4, subsection 4,
 11 provided that the references to cities shall be to
 12 counties, the reference to section 384.26 shall be to
 13 section 331.442, the reference to section 384.25 shall
 14 be to section 331.443, the reference to section
 15 384.95, subsection 1 shall be to section 331.341,
 16 subsection 1, the reference to division VI of chapter
 17 384 shall be to part 3 of chapter 331, and reference
 18 to the council shall be to the board.
 19 Sec. 3. This Act, being deemed of immediate
 20 importance, takes effect from and after its
 21 publication in The Clinton Herald, a newspaper
 22 published in Clinton, Iowa, and in The Dubuque Leader,
 23 a newspaper published in Dubuque, Iowa.
 24 2. Title page, line 1, by inserting after the
 25 word "cities" the words "and counties".

S-3582 Filed By MURPHY
 April 1, 1985
Adopted 4/15/85 (p 1270)

1 Amend House File 523 as amended and passed by the
 2 House as follows:
 3 1. Page 1, by inserting before line 1, the
 4 following:
 5 "Section 1. Section 331.430, subsection 2, Code
 6 1985, is amended by adding the following new lettered
 7 paragraph:
 8 c. Payments required to be made from the debt
 9 service fund under a lease or lease-purchase
 10 agreement."
 11 2. Page 2, by inserting after line 20 the
 12 following:
 13 "Sec. ____ . Section 384.4, Code 1985, is amended by
 14 adding the following new subsection:
 15 NEW SUBSECTION. 3. Payments required to be made
 16 from the debt service fund under a lease or lease-
 17 purchase agreement."
 18 3. By renumbering as necessary.

S-3699 Filed April 11, 1985 By WELLS
A - Adopted 4/15 (p 1370)
B - Adopted (p 1371)

HOUSE AMENDMENT TO
SENATE AMENDMENT TO
HOUSE FILE 523

1 Amend the Senate amendment, H-3790 to House File
2 523 as amended, and passed by the House as follows:

3 1. Page 1, by inserting after line 10 the
4 following:

5 " . Page 1, by striking lines 19 through 33 and
6 inserting the following:

7 "d. The governing body must follow substantially
8 the same authorization procedure required for the
9 issuance of general obligation bonds issued for the
10 same purpose to authorize a lease or a lease-purchase
11 agreement made payable from the debt service fund, or
12 to authorize any lease or lease-purchase contract
13 which would result in the total of annual lease and
14 lease-purchase payments of the city due from the
15 general fund of the city in any future year for lease
16 or lease-purchase contracts in force on the date of
17 the authorization, excluding payments to exercise
18 purchase options or to pay the expenses of operation
19 or ownership of the property, to exceed ten percent of
20 the last certified general fund budget amount. In all
21 other cases, the authorization procedures of section
22 384.25 shall apply. Chapter 75 shall not be
23 applicable. A city utility is a separate entity under
24 the provisions of this section whether it is governed
25 by the council or another governing body."

26 2. By renumbering as necessary.

S-4039 Filed April 26, 1985

RECEIVED FROM THE HOUSE

Senate concurred 4-29-85 (p. 1730)

SENATE AMENDMENT TO HOUSE FILE 523

H-3790

1 Amend House File 523 as amended and passed by the
2 House as follows:

3 1. Page 1, by inserting before line 1, the
4 following:

5 "Section 1. Section 331.430, subsection 2, Code
6 1985, is amended by adding the following new lettered
7 paragraph:

8 c. Payments required to be made from the debt
9 service fund under a lease or lease-purchase
10 agreement."

11 2. Page 2, by inserting after line 20 the
12 following:

13 "Sec. ____ . Section 384.4, Code 1985, is amended by
14 adding the following new subsection:

15 NEW SUBSECTION. 3. Payments required to be made
16 from the debt service fund under a lease or lease-
17 purchase agreement."

18 3. Page 2, by inserting after line 20 the
19 following:

20 "Sec. 2. Section 331.301, Code 1985, is amended by
21 adding the following new subsection:

22 NEW SUBSECTION. 10. A county may enter into
23 leases or lease-purchase contracts for real and
24 personal property in accordance with the terms and
25 procedures set forth in section 364.4, subsection 4,
26 provided that the references to cities shall be to
27 counties, the reference to section 384.26 shall be to
28 section 331.442, the reference to section 384.25 shall
29 be to section 331.443, the reference to section
30 384.95, subsection 1 shall be to section 331.341,
31 subsection 1, the reference to division VI of chapter
32 384 shall be to part 3 of chapter 331, and reference
33 to the council shall be to the board.

34 Sec. 3. This Act, being deemed of immediate
35 importance, takes effect from and after its
36 publication in The Clinton Herald, a newspaper
37 published in Clinton, Iowa, and in The Dubuque Leader,
38 a newspaper published in Dubuque, Iowa."

39 4. Title page, line 1, by inserting after the
40 word "cities" the words "and counties".

41 5. By renumbering, relettering, or redesignating
42 and correcting internal references as necessary.

H-3790 FILED APRIL 15, 1985

RECEIVED FROM THE SENATE

House amended (4656) - concurred 4/25/85 (H. 1870)

HOUSE FILE 523

H-4056

1 Amend the Senate amendment, H-3790 to House File
2 523 as amended, and passed by the House as follows:

3 1. Page 1, by inserting after line 10 the
4 following:

5 "____. Page 1, by striking lines 19 through 33 and
6 inserting the following:

7 "d. The governing body must follow substantially
8 the same authorization procedure required for the
9 issuance of general obligation bonds issued for the
10 same purpose to authorize a lease or a lease-purchase
11 agreement made payable from the debt service fund, or
12 to authorize any lease or lease-purchase contract
13 which would result in the total of annual lease and
14 lease-purchase payments of the city due from the
15 general fund of the city in any future year for lease
16 or lease-purchase contracts in force on the date of
17 the authorization, excluding payments to exercise
18 purchase options or to pay the expenses of operation
19 or ownership of the property, to exceed ten percent of
20 the last certified general fund budget amount. In all
21 other cases, the authorization procedures of section
22 384.25 shall apply. Chapter 75 shall not be
23 applicable. A city utility is a separate entity under
24 the provisions of this section whether it is governed
25 by the council or another governing body."

26 2. By renumbering as necessary.

H-4056 FILED APRIL 25, 1985 BY O'KANE of Woodbury
ADOPTED (p 1890)

HOUSE FILE 523

AN ACT
RELATED TO THE RIGHT OF CITIES AND COUNTIES TO LEASE OR LEASE-
PURCHASE REAL AND PERSONAL PROPERTY.

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

Section 1. Section 331.301, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 10. A county may enter into leases or lease-purchase contracts for real and personal property in accordance with the terms and procedures set forth in section 364.4, subsection 4, provided that the references to cities shall be to counties, the reference to section 384.26 shall be to section 331.442, the reference to section 384.25 shall be to section 331.443, the reference to section 384.95,

subsection 1 shall be to section 331.341, subsection 1, the reference to division VI of chapter 384 shall be to part 3 of chapter 331, and reference to the council shall be to the board.

Sec. 2. Section 331.430, subsection 2, Code 1985, is amended by adding the following new lettered paragraph:

c. Payments required to be made from the debt service fund under a lease or lease-purchase agreement.

Sec. 3. Section 364.4, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Enter into leases or lease-purchase contracts for real and personal property in accordance with the following terms and procedures:

a. A city shall lease or lease-purchase real or personal property only for a term which does not exceed the economic life of the property, as determined by the council.

b. A lease or lease-purchase contract entered into by a city may contain provisions similar to those sometimes found in leases between private parties, including the obligation of the lessee to pay any of the costs of operation or ownership of the leased property, and the right to purchase the leased property.

c. A provision of a lease or lease-purchase contract which stipulates that a portion of the rent payments be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply.

d. The governing body must follow substantially the same authorization procedure required for the issuance of general obligation bonds issued for the same purpose to authorize a lease or a lease-purchase agreement made payable from the debt service fund, or to authorize any lease or lease-purchase contract which would result in the total of annual lease and lease-purchase payments of the city due from the general fund of the city in any future year for lease or lease-purchase contracts in force on the date of the authorization, excluding

payments to exercise purchase options or to pay the expenses of operation or ownership of the property, to exceed ten percent of the last certified general fund budget amount. In all other cases, the authorization procedures of section 384.25 shall apply. Chapter 75 shall not be applicable. A city utility is a separate entity under the provisions of this section whether it is governed by the council or another governing body.

e. A lease or lease-purchase contract to which a city is a party or in which a city has a participatory interest, is an obligation of a political subdivision of this state for the purposes of chapters 502 and 682, and is a lawful investment for banks, trust companies, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees and any other fiduciaries responsible for the investment of funds.

f. Property that is lease-purchased by a city is exempt under section 427.1, subsection 2.

g. A contract for construction by a private party of property to be leased or lease-purchased by a city is not a contract for a public improvement under section 384.95, subsection 1, except for purposes of section 384.102. However, if a lease-purchase contract is funded in advance by means of the lessor depositing moneys to be administered by a city, with the city's obligation to make rent payments commencing with its receipt of moneys, a contract for construction of the property in question awarded by the city is a public improvement and is subject to division VI of chapter 384.

Sec. 4. Section 384.4, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Payments required to be made from the debt service fund under a lease or lease-purchase agreement.

Sec. 5. This Act, being deemed of immediate importance, takes effect from and after its publication in The Clinton Herald, a newspaper published in Clinton, Iowa, and in The Dubuque Leader, a newspaper published in Dubuque, Iowa.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 523, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved *May 20*, 1985

TERRY E. BRANSTAD
Governor