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FILED MAR 4 1996

SENATE FILE 2387

BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SSB 2210)

Passed Senate, ^(P. 797) Date 3/14/96

Passed House, ^(P. 1292) Date 4/2/96

Vote: Ayes 48 Nays 1

Vote: Ayes 98 Nays 0

Approved April 10, 1996

A BILL FOR

1 An Act relating to the department of general services, by
2 providing for the sale or disposal of unwanted state personal
3 property, for the terms and conditions of state lease-purchase
4 agreements, and by establishing a monument maintenance
5 account.

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

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SENATE FILE 2387

S-5251

1 Amend Senate File 2387 as follows:

2 1. By striking page 2, line 14, through page 5,
3 line 32.

4 2. Title page, lines 3 and 4, by striking the
5 words ", for the terms and conditions of state lease-
6 purchase agreements,".

7 3. By renumbering as necessary.

By BILL FINK

S-5251 FILED MARCH 11, 1996

Adapted 3/14/96 (P. 797)

S.F. 2387

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1 Section 1. Section 18.8, unnumbered paragraph 1, Code
2 1995, is amended to read as follows:

3 The director shall provide necessary voice or data
4 communications, including telephone, and telegraph, lighting,
5 fuel, and water services for the state buildings and grounds
6 located at the seat of government, except the buildings and
7 grounds referred to in section 216B.3, subsection 6.

8 Sec. 2. Section 18.12, subsection 3, Code Supplement 1995,
9 is amended to read as follows:

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

16 Sec. 3. Section 18.12, subsection 8, Code Supplement 1995,
17 is amended to read as follows:

18 8. Dispose of all personal property of the state under the
19 director's control when it becomes unnecessary or unfit for
20 further use by the state. ~~If the director concludes that the~~
21 ~~property has little value, the director may dispose of the~~
22 ~~personal property by means other than by sale.~~ If the
23 director concludes that the personal property is contaminated,
24 contains hazardous waste, or is hazardous waste, the director
25 may charge the state agency responsible for the property for
26 removal and disposal of the personal property.

27 The director may dispose of personal property by any of the
28 following means:

29 a. The director may dispose of unfit or unnecessary
30 personal property by sale. Proceeds from the sale of personal
31 property shall be deposited in the state general fund of the
32 state.

33 b. If the director concludes that the personal property
34 has little or no value, the director may enter into an
35 agreement with a not-for-profit organization or governmental

1 agency to dispose of the personal property. The not-for-
2 profit organization or governmental agency may charge the
3 state agency in control of the property with the cost of
4 removing and transporting the property. Title to the personal
5 property shall transfer when the personal property is in the
6 possession of the not-for-profit organization or governmental
7 agency. If a governmental agency adds value to the property
8 transferred to it and sells it, the proceeds from the sale
9 shall be deposited with the governmental agency and not in the
10 general fund of the state.

11 The director shall adopt rules establishing the procedures
12 for inspecting, selecting, and removing personal property from
13 state agencies or from state storage.

14 Sec. 4. Section 18.12, subsection 10, Code Supplement
15 1995, is amended to read as follows:

16 10. On behalf of the department, enter into lease-purchase
17 contracts agreements for real or personal property, wherever
18 located within the state, to be used for buildings,
19 facilities, and structures, or for additions or improvements
20 to existing buildings, facilities, and structures, to carry
21 out the provisions of this section or for the proper use and
22 benefit of the state and its state agencies on the following
23 terms and conditions:

24 a. The director shall coordinate the location, design,
25 plans and specifications, construction, and ultimate use of
26 the real or personal property lease-purchased with the state
27 agency for whose benefit and use the property is being
28 obtained and the terms and conditions of the lease-purchase
29 contract agreement with both the state agency for whose
30 benefit and use the property is being obtained and the
31 treasurer of state. Upon awarding the contract for
32 construction of a building or for site development, the
33 director shall have sole authority to administer the contract.

34 b. The lease-purchase contract agreement may provide for
35 ultimate ownership of the property by the state. Title to all

1 property acquired in this manner shall be taken and held in
2 the name of the state. The state shall be the lessee or
3 contracting party under all lease-purchase contracts
4 agreements entered into pursuant to this section. The lease-
5 purchase contract may contain provisions similar to provisions
6 customarily found in lease-purchase contracts between private
7 persons, including, but not limited to, provisions prohibiting
8 the acquisition or use by the lessee of competing property or
9 property in substitution for the lease-purchased property,
10 obligating the lessee to pay costs of operation, maintenance,
11 insurance, and taxes relating to the property, and permitting
12 the lessor to retain a security interest in the property
13 lease-purchased, until title passes to the state, which may be
14 assigned or pledged by the lessor. The lease-purchase
15 agreement may contain provisions providing for interest, the
16 term of the agreement, and payment obligations on the lease-
17 purchase agreement beyond the current budget year. For the
18 purpose of funding the state's obligation to pay moneys under
19 the lease-purchase agreements created in this subsection, the
20 treasurer of state may enter into master lease agreements to
21 borrow moneys to purchase property, equipment, and services
22 for state agencies. The obligations in a master lease
23 agreement may be in such form, for such term, bearing such
24 interest, and containing such provisions as the director, with
25 the assistance of the treasurer of state, deems necessary or
26 appropriate. The director may contract for additional
27 security or liquidity for a lease-purchase contract agreement
28 and may enter into agreements for letters of credit, lines of
29 credit, insurance, or other forms of security with respect to
30 rental and other payments due under a lease-purchase contract
31 agreement. Fees for the costs of additional security or
32 liquidity are a cost of entering into the lease-purchase
33 contract agreement and may be paid from funds annually
34 appropriated by the general assembly to the state agency for
35 which the property is being obtained or from other funds

1 legally available. The lease-purchase contract agreement may
2 include the costs of entering into the lease-purchase contract
3 agreement as a cost of the lease-purchased property. The
4 provision of a lease-purchase contract agreement which
5 provides that a portion of the periodic rental payment be
6 applied as interest is subject to chapter 74A. Other laws
7 relating to interest rates do not apply. Chapter 75 does not
8 apply to lease-purchase contracts agreements entered into
9 pursuant to this section subsection. Rental and other costs
10 due under lease-purchase contracts agreements entered into
11 pursuant to this section subsection shall be payable from
12 funds annually appropriated by the general assembly to the
13 state agency for which the property is being obtained or from
14 other funds legally available. Funds remaining after the
15 payment of all obligations concerning a lease-purchase
16 agreement shall be paid into the general fund of the state.

17 c. A lease-purchase contract agreement to which the state
18 is a party is an obligation of a the state for purposes of
19 chapters 502 and 636, and is a lawful investment for banks,
20 trust companies, building and loan associations, savings and
21 loan associations, investment companies, insurance companies,
22 insurance associations, executors, guardians, trustees, and
23 other fiduciaries responsible for the investment of funds.

24 d. (1) The director shall not enter into lease-purchase
25 contracts-pursuant-to-this-section an agreement for the lease-
26 purchase or improvement of property, equipment, or services in
27 an amount greater than one million dollars without prior
28 authorization by a constitutional majority of each house of
29 the general assembly or approval by the legislative council if
30 the general assembly is not in session and approval by the
31 governor of the use, location, and maximum cost, not including
32 interest expense, of the real or personal property to be
33 lease-purchased.

34 (2) ~~However,~~ The director shall not enter into a
35 lease-purchase contract agreement for real or personal

1 property which is to be constructed for use as a prison or
2 prison-related facility without prior authorization by a
3 constitutional majority of each house of the general assembly
4 and approval by the governor of the use, location, and maximum
5 cost, not including interest expense, of the real or personal
6 property to be lease-purchased and with the construction in
7 accordance with space needs as established by an independent
8 study of space needs authorized by the general assembly.

9 e. d. A contract for acquisition, construction, erection,
10 demolition, alteration, or repair by a private person of real
11 or personal property to be lease-purchased by the director
12 pursuant to this ~~section~~ subsection is exempt from section
13 18.6, subsections 1 and 9, unless the lease-purchase ~~contract~~
14 agreement is funded in advance by a deposit of the lessor's
15 moneys to be administered by the director under a lease-
16 purchase ~~contract agreement~~ which requires rent payments to
17 commence upon delivery of the lessor's moneys to the lessee.

18 This subsection provides an alternative and independent
19 method for carrying out projects under this chapter and for
20 entering into lease-purchase ~~contracts agreements~~ in
21 connection with the projects, without reference to any other
22 statute, and is not an amendment of or subject to the
23 provision of any other law. No publication of any notice,
24 whether under section 73A.12 or otherwise, and no other or
25 further proceedings with respect to the lease-purchase
26 ~~contracts agreements~~ referred to in this section subsection
27 are required except as set forth in this ~~section subsection~~,
28 any provisions of other statutes of the state to the contrary
29 notwithstanding.

30 For purposes of this subsection and subsection 12, "state
31 agency" means a board, commission, bureau, division, office,
32 department, or branch of state government.

33 Sec. 5. Section 18.12, Code Supplement 1995, is amended by
34 adding the following new subsection:

35 NEW SUBSECTION. 18A. Establish a monument maintenance

1 account in the state treasury under the control of the
2 department. Funds for the maintenance of a state monument,
3 whether received by gift, devise, bequest, or otherwise, shall
4 be deposited in the account. Funds in the account shall be
5 deposited in an interest-bearing account. Notwithstanding
6 section 12C.7, interest earned on the account shall be
7 deposited in the account and shall be used to maintain the
8 designated monument. Any maintenance funds for a state
9 monument held by the state as of the date of the enactment of
10 this provision shall immediately be transferred to the account
11 and the funds and interest earned on the funds shall be used
12 to maintain the designated monument. Notwithstanding section
13 8.33, unencumbered or unobligated receipts in the monument
14 maintenance account at the end of a fiscal year shall not
15 revert to the general fund of the state.

16 Sec. 6. Section 18.115, subsection 11, Code 1995, is
17 amended to read as follows:

18 11. The state vehicle dispatcher is responsible for
19 insuring motor vehicles owned by the state. Insurance
20 coverage may be through a self-insurance program administered
21 by the division department or purchased from an insurer. If
22 the determination is made to utilize a self-insurance program
23 the vehicle dispatcher shall maintain loss and exposure data
24 for the vehicles under the dispatcher's jurisdiction. Each
25 agency shall provide to the division department all requested
26 motor vehicle loss and loss exposure information.

27 EXPLANATION

28 This bill makes several changes to Code provisions dealing
29 with the department of general services.

30 Section 3 of the bill provides the director of the
31 department with additional authority concerning the disposal
32 of unwanted personal property of the state. The bill allows
33 the director to charge the state agency in control of the
34 personal property for costs associated with the removal and
35 disposal of personal property that is contaminated or

1 otherwise hazardous waste. The bill also permits disposal of
2 the personal property to not-for-profit and other governmental
3 organizations.

4 Section 4 provides changes regarding lease-purchase
5 agreements entered into with the department of general
6 services. The bill allows the treasurer of state to enter
7 into master lease-purchase agreements in order to borrow
8 moneys to provide for lease-purchase agreements. The bill
9 also allows the director to enter into lease-purchase
10 agreements for up to \$1 million without seeking legislative
11 approval.

12 Section 5 allows the director to establish a monument
13 maintenance fund in the state treasury to be held in interest-
14 bearing accounts upon receipt of funds for the maintenance of
15 a monument.

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H-3/21/96 Do Pass

SENATE FILE 2387
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SSB 2210)

(AS AMENDED AND PASSED BY THE SENATE MARCH 14, 1996)

* - Language Stricken by the Senate

Passed Senate, Date _____ Passed House, ^(p.1292) Date 4/2/96
Vote: Ayes _____ Nays _____ Vote: Ayes 98 Nays 0
Approved April 10, 1996

A BILL FOR

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S.F. 2387

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3 The director shall provide necessary voice or data
4 communications, including telephone, and telegraph, lighting,
5 fuel, and water services for the state buildings and grounds
6 located at the seat of government, except the buildings and
7 grounds referred to in section 216B.3, subsection 6.

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10 3. Institute, in the name of the state, and with the
11 advice and consent of the attorney general, civil and criminal
12 proceedings against any person for injury or threatened injury
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14 intangible and intellectual property, under the person's
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Fink
Dearden
McLaren

SSB-2210
State Government

Succeeded By
SF/HF 2387

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
GENERAL SERVICES BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

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32 state.

33 b. If the director concludes that the personal property
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21 out the provisions of this section or for the proper use and
22 benefit of the state and its state agencies on the following
23 terms and conditions:

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25 plans and specifications, construction, and ultimate use of
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27 agency for whose benefit and use the property is being
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S.F. _____ H.F. _____

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3 contracting party under all lease-purchase contracts
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5 ~~purchase-contract-may-contain-provisions-similar-to-provisions~~
6 ~~customarily-found-in-lease-purchase-contracts-between-private~~
7 ~~persons,-including,-but-not-limited-to,-provisions-prohibiting~~
8 ~~the-acquisition-or-use-by-the-lessee-of-competing-property-or~~
9 ~~property-in-substitution-for-the-lease-purchased-property,-~~
10 ~~obligating-the-lessee-to-pay-costs-of-operation,-maintenance,-~~
11 ~~insurance,-and-taxes-relating-to-the-property,-and-permitting~~
12 ~~the-lessor-to-retain-a-security-interest-in-the-property~~
13 ~~lease-purchased,-until-title-passes-to-the-state,-which-may-be~~
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33 Sec. 5. Section 18.12, Code Supplement 1995, is amended by
34 adding the following new subsection:

35 NEW SUBSECTION. 18A. Establish a maintenance account in

1 the state treasury under the control of the department. Funds
2 for the maintenance of a state monument, whether received by
3 gift, devise, bequest, or otherwise, shall be deposited in the
4 account. Funds in the account shall be deposited in an
5 interest-bearing account. Notwithstanding section 12C.7,
6 interest earned on the account shall be deposited in the
7 account and shall be used to maintain the designated monument.
8 Any maintenance funds for a state monument held by the state
9 as of the date of the enactment of this provision shall
10 immediately be transferred to the account and the funds and
11 interest earned on the funds shall be used to maintain the
12 designated monument. Notwithstanding section 8.33,
13 unencumbered or unobligated receipts in the maintenance
14 account at the end of a fiscal year shall not revert to the
15 general fund of the state.

16 Sec. 6. Section 18.115, subsection 11, Code 1995, is
17 amended to read as follows:

18 11. The state vehicle dispatcher is responsible for
19 insuring motor vehicles owned by the state. Insurance
20 coverage may be through a self-insurance program administered
21 by the ~~division~~ department or purchased from an insurer. If
22 the determination is made to utilize a self-insurance program
23 the vehicle dispatcher shall maintain loss and exposure data
24 for the vehicles under the dispatcher's jurisdiction. Each
25 agency shall provide to the ~~division~~ department all requested
26 motor vehicle loss and loss exposure information.

27 EXPLANATION

28 This bill makes several changes to Code provisions dealing
29 with the department of general services.

30 Section 3 of the bill provides the director of the
31 department with additional authority concerning the disposal
32 of unwanted personal property of the state. The bill allows
33 the director to charge the state agency in control of the
34 personal property for costs associated with the removal and
35 disposal of personal property that is contaminated or

1 otherwise hazardous waste. The bill also permits disposal of
2 the personal property to not-for-profit and other governmental
3 organizations.

4 Section 4 provides changes regarding lease-purchase
5 agreements entered into with the department of general
6 services. The bill allows the treasurer of state to enter
7 into master lease-purchase agreements in order to borrow
8 moneys to provide for lease-purchase agreements. The bill
9 also allows the director to enter into lease-purchase
10 agreements for up to \$1 million without seeking legislative
11 approval.

12 Section 5 allows the director to establish a monument
13 maintenance fund in the state treasury to be held in interest-
14 bearing accounts upon receipt of funds for the maintenance of
15 a monument.

16 BACKGROUND STATEMENT

17 SUBMITTED BY THE AGENCY

18 This bill does several things:

19 Section 1 updates the Code section to reflect changing
20 communication technologies. The department is currently
21 responsible for coordinating voice and data transmissions on
22 the capitol complex.

23 Section 2 reflects changes in technology. It clarifies the
24 department's rights to protect electronic and intellectual
25 property of the state.

26 Section 3 revises the methods by which the director can
27 dispose of surplus property. It allows the director to
28 exercise certain options in connection with the property. A
29 unique aspect aspect of this provision allows the director to
30 contract with Iowa prison industries to take control of
31 certain portions of state surplus property. Iowa prison
32 industries would then refurbish or add value to the surplus
33 and resell it with the proceeds deposited in the Iowa prison
34 industries account. Additionally, the department is allowed
35 to charge fee for surplus property pickup if Iowa prison

1 industries picks up the surplus property. The provision also
2 allows the director to enter into agreements with other
3 nonprofit or governmental organization to dispose of surplus
4 property. Finally, the provision allows the director to
5 dispose of hazardous or contaminated waste. The agency
6 generating the waste will be charge for its disposal.

7 Section 4 allows the director to enter into lease-purchase
8 agreements to purchase permanent fixtures for various state
9 agencies. This financing vehicle allows the agencies to meet
10 their public service requirements and protect the health and
11 well-being of the constituents. It adds oversight by the
12 treasurer and allows the director to enter into lease
13 agreements for up to \$1 million without seeking prior
14 legislative approval.

15 Section 5 allows the department to establish a monument
16 maintenance account with the department of revenue and finance
17 where monument maintenance funds are held in interest-bearing
18 accounts. The department has ongoing responsibilities
19 regarding monument maintenance after the monument becomes
20 property of the state. If the money is put at interest, the
21 department can preserve the principal and use the interest
22 earned to offset the cost of maintenance for the monument.

23 Section 6 reflects the current organization of the
24 department. It clarifies current organizational structure.

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SENATE FILE 2387

AN ACT
RELATING TO THE DEPARTMENT OF GENERAL SERVICES, BY PROVIDING
FOR THE SALE OR DISPOSAL OF UNWANTED STATE PERSONAL PROPERTY
AND BY ESTABLISHING A MONUMENT MAINTENANCE ACCOUNT.

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

Section 1. Section 18.8, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The director shall provide necessary voice or data communications, including telephone, and telegraph, lighting, fuel, and water services for the state buildings and grounds located at the seat of government, except the buildings and grounds referred to in section 216B.3, subsection 6.

Sec. 2. Section 18.12, subsection 3, Code Supplement 1995, is amended to read as follows:

3. 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.

Sec. 3. Section 18.12, subsection 8, Code Supplement 1995, is amended to read as follows:

8. Dispose of all personal property of the state under the director's control when it becomes unnecessary or unfit for further use by the state. ~~If the director concludes that the property has little value, the director may dispose of the personal property by means other than by sale.~~ 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 may dispose of personal property by any of the following means:

a. The director may dispose of unfit or unnecessary personal property by sale. Proceeds from the sale of personal property shall be deposited in the state general fund of the state.

b. If the director concludes that the personal property has little or no value, the director may enter into an agreement with a not-for-profit organization or governmental agency to dispose of the personal property. The not-for-profit organization or governmental agency may charge the state agency in control of the property with the cost of removing and transporting the property. Title to the personal property shall transfer when the personal property is in the possession of the not-for-profit organization or governmental agency. If a governmental agency adds value to the property transferred to it and sells it, the proceeds from the sale shall be deposited with the governmental agency and not in the general fund of the state.

The director shall adopt rules establishing the procedures for inspecting, selecting, and removing personal property from state agencies or from state storage.

Sec. 4. Section 18.12, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 18A. 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 as of the date of the enactment of this provision shall immediately be transferred to the account and the funds and interest earned on the funds shall be used to maintain the designated monument. Notwithstanding section 8.33, unencumbered or unobligated receipts in the monument maintenance account at the end of a fiscal year shall not revert to the general fund of the state.

Sec. 5. Section 18.115, subsection 11, Code 1995, is amended to read as follows:

11. The state vehicle dispatcher is responsible for insuring motor vehicles owned by the state. Insurance coverage may be through a self-insurance program administered by the division department or purchased from an insurer. If the determination is made to utilize a self-insurance program the vehicle dispatcher shall maintain loss and exposure data for the vehicles under the dispatcher's jurisdiction. Each agency shall provide to the division department all requested motor vehicle loss and loss exposure information.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2387, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 10, 1996

TERRY E. BRANSTAD
Governor