

Senate Study Bill 2210

Conference Committee Text

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1 1 Section 1. Section 18.8, unnumbered paragraph 1, Code
1 2 1995, is amended to read as follows:
1 3 The director shall provide necessary voice or data
1 4 communications, including telephone

~~and~~ telegraph, lighting,
1 5 fuel, and water services for the state buildings and grounds
1 6 located at the seat of government, except the buildings and
1 7 grounds referred to in section 216B.3, subsection 6.
1 8 Sec. 2. Section [18.12](#), subsection 3, Code Supplement 1995,
1 9 is amended to read as follows:
1 10 3. Institute, in the name of the state, and with the
1 11 advice and consent of the attorney general, civil and criminal
1 12 proceedings against any person for injury or threatened injury
1 13 to any public property, including but not limited to
1 14 intangible and intellectual property, under the person's
1 15 control.
1 16 Sec. 3. Section [18.12](#), subsection 8, Code Supplement 1995,
1 17 is amended to read as follows:
1 18 8. Dispose of all personal property of the state under the
1 19 director's control when it becomes unnecessary or unfit for
1 20 further use by the state.

~~If the director concludes that the~~

1 21

~~property has little value, the director may dispose of the~~

1 22

~~personal property by means other than by sale.~~

~~If the~~

1 23 director concludes that the personal property is contaminated,
1 24 contains hazardous waste, or is hazardous waste, the director
1 25 may charge the state agency responsible for the property for
1 26 removal and disposal of the personal property.

1 27 The director may dispose of personal property by any of the
1 28 following means:

1 29 a. The director may dispose of unfit or unnecessary
1 30 personal property by sale. Proceeds from the sale of personal
1 31 property shall be deposited in the

~~state~~

~~general fund of the~~

1 32 state.

1 33 b. If the director concludes that the personal property
1 34 has little or no value, the director may enter into an
1 35 agreement with a not-for-profit organization or governmental
2 1 agency to dispose of the personal property. The not-for-
2 2 profit organization or governmental agency may charge the
2 3 state agency in control of the property with the cost of
2 4 removing and transporting the property. Title to the personal
2 5 property shall transfer when the personal property is in the
2 6 possession of the not-for-profit organization of governmental

2 7 agency. If a governmental agency adds value to the property
2 8 transferred to it and sells it, the proceeds from the sale
2 9 shall be deposited with the governmental agency and not in the
2 10 general fund of the state.
2 11 The director shall adopt rules establishing the procedures
2 12 for inspecting, selecting, and removing personal property from
2 13 state agencies or from state storage.
2 14 Sec. 4. Section 18.12, subsection 10, Code Supplement
2 15 1995, is amended to read as follows:
2 16 10. On behalf of the department, enter into lease-purchase
2 17

~~contracts~~

- agreements for real or personal property, wherever
2 18 located within the state, to be used for buildings,
2 19 facilities, and structures, or for additions or improvements
2 20 to existing buildings, facilities, and structures, to carry
2 21 out the provisions of this section or for the proper use and
2 22 benefit of the state and its state agencies on the following
2 23 terms and conditions:
2 24 a. The director shall coordinate the location, design,
2 25 plans and specifications, construction, and ultimate use of
2 26 the real or personal property lease-purchased with the state
2 27 agency for whose benefit and use the property is being
2 28 obtained and the terms and conditions of the lease-purchase
2 29

~~contract~~

- agreement with both the state agency for whose
2 30 benefit and use the property is being obtained and the
2 31 treasurer of state. Upon awarding the contract for
2 32 construction of a building or for site development, the
2 33 director shall have sole authority to administer the contract.
2 34 b. The lease-purchase

~~contract~~

- agreement may provide for
2 35 ultimate ownership of the property by the state. Title to all
3 1 property acquired in this manner shall be taken and held in
3 2 the name of the state. The state shall be the lessee or
3 3 contracting party under all lease-purchase

~~contracts~~

-
3 4 agreements entered into pursuant to this section.

~~The lease~~

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3 5
~~purchase contract may contain provisions similar to provisions~~
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3 6
~~customarily found in lease purchase contracts between private~~
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3 7
~~persons, including, but not limited to, provisions prohibiting~~
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3 8
~~the acquisition or use by the lessee of competing property or~~
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3 9
~~property in substitution for the lease purchased property,~~

3 10

~~obligating the lessee to pay costs of operation, maintenance,~~

3 11

~~insurance, and taxes relating to the property, and permitting~~

3 12

~~the lessor to retain a security interest in the property~~

3 13

~~lease purchased, until title passes to the state, which may be~~

3 14

~~assigned or pledged by the lessor.~~

~~The lease-purchase~~

3 15 agreement may contain provisions providing for interest, the

3 16 term of the agreement, and payment obligations on the lease-

3 17 purchase agreement beyond the current budget year. For the

3 18 purpose of funding the state's obligation to pay moneys under

3 19 the lease-purchase agreements created in this subsection, the

3 20 treasurer of state may enter into master lease agreements to

3 21 borrow moneys to purchase property, equipment, and services

3 22 for state agencies. The obligations in a master lease

3 23 agreement may be in such form, for such term, bearing such

3 24 interest, and containing such provisions as the director, with

3 25 the assistance of the treasurer of state, deems necessary or

3 26 appropriate. The director may contract for additional

3 27 security or liquidity for a lease-purchase

~~contract~~

~~agreement~~

3 28 and may enter into agreements for letters of credit, lines of

3 29 credit, insurance, or other forms of security with respect to

3 30 rental and other payments due under a lease-purchase

~~contract~~

3 31 agreement. Fees for the costs of additional security or

3 32 liquidity are a cost of entering into the lease-purchase

3 33

~~contract~~

~~agreement~~ and may be paid from funds annually

3 34 appropriated by the general assembly to the state agency for

3 35 which the property is being obtained or from other funds

4 1 legally available. The lease-purchase

~~contract~~

~~agreement~~ may

4 2 include the costs of entering into the lease-purchase

~~contract~~

4 3 agreement as a cost of the lease-purchased property. The

4 4 provision of a lease-purchase

~~contract~~

~~agreement~~ which

4 5 provides that a portion of the periodic rental payment be

4 6 applied as interest is subject to chapter 74A. Other laws

4 7 relating to interest rates do not apply. Chapter 75 does not

4 8 apply to lease-purchase

~~contracts~~

- agreements entered into
4 9 pursuant to this

~~section~~

- subsection. Rental and other costs
4 10 due under lease-purchase

~~contracts~~

- agreements entered into
4 11 pursuant to this

~~section~~

- subsection shall be payable from
4 12 funds annually appropriated by the general assembly to the
4 13 state agency for which the property is being obtained or from
4 14 other funds legally available. Funds remaining after the
4 15 payment of all obligations concerning a lease-purchase
4 16 agreement shall be paid into the general fund of the state.
4 17 c. A lease-purchase

~~contract~~

- agreement to which the state
4 18 is a party is an obligation of a state for purposes of
4 19 chapters 502 and 636, and is a lawful investment for banks,
4 20 trust companies, building and loan associations, savings and
4 21 loan associations, investment companies, insurance companies,
4 22 insurance associations, executors, guardians, trustees, and
4 23 other fiduciaries responsible for the investment of funds.
4 24

~~d.~~

- (1) The director shall not enter into

~~lease purchase~~

-
4 25

~~contracts pursuant to this section~~

- an agreement for the lease-
4 26 purchase or improvement of property, equipment, or services in
4 27 an amount greater than one million dollars without prior
4 28 authorization by a constitutional majority of each house of
4 29 the general assembly or approval by the legislative council if
4 30 the general assembly is not in session and approval by the
4 31 governor of the use, location, and maximum cost, not including
4 32 interest expense, of the real or personal property to be
4 33 lease-purchased.
4 34 (2)

~~However, the~~

- The director shall not enter into a
4 35 lease-purchase

~~contract~~

- agreement for real or personal
5 1 property which is to be constructed for use as a prison or
5 2 prison-related facility without prior authorization by a
5 3 constitutional majority of each house of the general assembly
5 4 and approval by the governor of the use, location, and maximum
5 5 cost, not including interest expense, of the real or personal
5 6 property to be lease-purchased and with the construction in
5 7 accordance with space needs as established by an independent
5 8 study of space needs authorized by the general assembly.
5 9

~~e.~~

- d. A contract for acquisition, construction, erection,
5 10 demolition, alteration, or repair by a private person of real
5 11 or personal property to be lease-purchased by the director
5 12 pursuant to this

~~section~~

- subsection is exempt from section
5 13 18.6, subsections 1 and 9, unless the lease-purchase

~~contract~~

- 5 14 agreement is funded in advance by a deposit of the lessor's
5 15 moneys to be administered by the director under a lease-
5 16 purchase

~~contract~~

- agreement which requires rent payments to
5 17 commence upon delivery of the lessor's moneys to the lessee.
5 18 This subsection provides an alternative and independent
5 19 method for carrying out projects under this chapter and for
5 20 entering into lease-purchase

~~contracts~~

- agreements in
5 21 connection with the projects, without reference to any other
5 22 statute, and is not an amendment of or subject to the
5 23 provision of any other law. No publication of any notice,
5 24 whether under section 73A.12 or otherwise, and no other or
5 25 further proceedings with respect to the lease-purchase
5 26

~~contracts~~

- agreements referred to in this

~~section~~

- subsection
5 27 are required except as set forth in this

~~section~~

- subsection,
5 28 any provisions of other statutes of the state to the contrary
5 29 notwithstanding.
5 30 For purposes of this subsection and subsection 12, "state
5 31 agency" means a board, commission, bureau, division, office,
5 32 department, or branch of state government.
5 33 Sec. 5. Section [18.12](#), Code Supplement 1995, is amended by
5 34 adding the following new subsection:
5 35 NEW SUBSECTION. 18A. Establish a maintenance account in
6 1 the state treasury under the control of the department. Funds
6 2 for the maintenance of a state monument, whether received by
6 3 gift, devise, bequest, or otherwise, shall be deposited in the
6 4 account. Funds in the account shall be deposited in an
6 5 interest-bearing account. Notwithstanding section 12C.7,
6 6 interest earned on the account shall be deposited in the
6 7 account and shall be used to maintain the designated monument.
6 8 Any maintenance funds for a state monument held by the state
6 9 as of the date of the enactment of this provision shall
6 10 immediately be transferred to the account and the funds and
6 11 interest earned on the funds shall be used to maintain the
6 12 designated monument. Notwithstanding section 8.33,
6 13 unencumbered or unobligated receipts in the maintenance
6 14 account at the end of a fiscal year shall not revert to the
6 15 general fund of the state.
6 16 Sec. 6. Section [18.115](#), subsection 11, Code 1995, is
6 17 amended to read as follows:

6 18 11. The state vehicle dispatcher is responsible for
6 19 insuring motor vehicles owned by the state. Insurance
6 20 coverage may be through a self-insurance program administered
6 21 by the

~~division~~

- department or purchased from an insurer. If
6 22 the determination is made to utilize a self-insurance program
6 23 the vehicle dispatcher shall maintain loss and exposure data
6 24 for the vehicles under the dispatcher's jurisdiction. Each
6 25 agency shall provide to the

~~division~~

- department all requested
6 26 motor vehicle loss and loss exposure information.
6 27 EXPLANATION
6 28 This bill makes several changes to Code provisions dealing
6 29 with the department of general services.
6 30 Section 3 of the bill provides the director of the
6 31 department with additional authority concerning the disposal
6 32 of unwanted personal property of the state. The bill allows
6 33 the director to charge the state agency in control of the
6 34 personal property for costs associated with the removal and
6 35 disposal of personal property that is contaminated or
7 1 otherwise hazardous waste. The bill also permits disposal of
7 2 the personal property to not-for-profit and other governmental
7 3 organizations.
7 4 Section 4 provides changes regarding lease-purchase
7 5 agreements entered into with the department of general
7 6 services. The bill allows the treasurer of state to enter
7 7 into master lease-purchase agreements in order to borrow
7 8 moneys to provide for lease-purchase agreements. The bill
7 9 also allows the director to enter into lease-purchase
7 10 agreements for up to \$1 million without seeking legislative
7 11 approval.
7 12 Section 5 allows the director to establish a monument
7 13 maintenance fund in the state treasury to be held in interest-
7 14 bearing accounts upon receipt of funds for the maintenance of
7 15 a monument.

7 16 BACKGROUND STATEMENT
7 17 SUBMITTED BY THE AGENCY

7 18 This bill does several things:
7 19 Section 1 updates the Code section to reflect changing
7 20 communication technologies. The department is currently
7 21 responsible for coordinating voice and data transmissions on
7 22 the capitol complex.
7 23 Section 2 reflects changes in technology. It clarifies the
7 24 department's rights to protect electronic and intellectual
7 25 property of the state.
7 26 Section 3 revises the methods by which the director can
7 27 dispose of surplus property. It allows the director to
7 28 exercise certain options in connection with the property. A
7 29 unique aspect of this provision allows the director to
7 30 contract with Iowa prison industries to take control of
7 31 certain portions of state surplus property. Iowa prison
7 32 industries would then refurbish or add value to the surplus
7 33 and resell it with the proceeds deposited in the Iowa prison
7 34 industries account. Additionally, the department is allowed
7 35 to charge fee for surplus property pickup if Iowa prison
8 1 industries picks up the surplus property. The provision also
8 2 allows the director to enter into agreements with other
8 3 nonprofit or governmental organization to dispose of surplus
8 4 property. Finally, the provision allows the director to
8 5 dispose of hazardous or contaminated waste. The agency
8 6 generating the waste will be charge for its disposal.
8 7 Section 4 allows the director to enter into lease-purchase
8 8 agreements to purchase permanent fixtures for various state

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

8 15 Section 5 allows the department to establish a monument
8 16 maintenance account with the department of revenue and finance
8 17 where monument maintenance funds are held in interest-bearing
8 18 accounts. The department has ongoing responsibilities
8 19 regarding monument maintenance after the monument becomes
8 20 property of the state. If the money is put at interest, the
8 21 department can preserve the principal and use the interest
8 22 earned to offset the cost of maintenance for the monument.

8 23 Section 6 reflects the current organization of the
8 24 department. It clarifies current organizational structure.

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