

S-2/26/98 Do Pass  
S-3/26/98 UNFINISHED BUSINESS CALENDAR

FEB 10 1998  
Place On Calendar

HOUSE FILE 2211  
BY COMMITTEE ON LOCAL  
GOVERNMENT

(SUCCESSOR TO HSB 516)

Passed House, <sup>(p.323)</sup> Date 2/23/98 Passed Senate, <sup>(p.975)</sup> Date 3/31/98  
Vote: Ayes 92 Nays 0 Vote: Ayes 50 Nays 0  
Approved April 13, 1998

(p.1241)

Passed 4-3-98  
Vote 95-0

A BILL FOR

1 An Act relating to the liability for and payment of medical costs  
2 and other expenses incurred by certain prisoners and escapees.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2211

1 Section 1. Section 804.28, Code 1997, is amended to read  
2 as follows:

3 804.28 DEPARTMENT OF PUBLIC SAFETY PRISONERS.

4 The sheriff of any county shall accept for custody in the  
5 county jail of the sheriff's respective county any person  
6 handed over to the sheriff for safekeeping and lodging by any  
7 member of the department of public safety. The county shall  
8 not be liable for medical treatment for injuries incurred by a  
9 person before the person is transferred to the custody of the  
10 sheriff. Any expenses payable by the state pursuant to this  
11 section shall be paid out of any moneys in the state treasury  
12 not otherwise appropriated. The expenses shall be paid on  
13 claims filed with the department of revenue and finance.

14 Sec. 2. NEW SECTION. 904.507A LIABILITY FOR ESCAPEE  
15 EXPENSES.

16 If a person escapes from a state correctional institution  
17 including but not limited to those institutions listed in  
18 section 904.102, all necessary and legal expenses incurred by  
19 that person while absent from the state institution shall be  
20 paid out of any moneys in the state treasury not otherwise  
21 appropriated. The expenses shall be paid on claims filed with  
22 the department of revenue and finance.

23 EXPLANATION

24 This bill provides that a county is not responsible for the  
25 cost of medical treatment for injuries to a person which are  
26 incurred before the person is transferred to the custody of  
27 the sheriff. Any costs payable by the state shall be paid out  
28 of any moneys in the state treasury not otherwise  
29 appropriated. The bill also provides that the state is  
30 responsible for all necessary and legal expenses incurred by  
31 an escapee from a state correctional institution. The costs  
32 and expenses shall also be paid from any moneys in the state  
33 treasury not otherwise appropriated.

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HOUSE FILE 2211  
FISCAL NOTE

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A fiscal note for House File 2211 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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House File 2211 provides that a county is not responsible for medical treatment for injuries to a person incurred before the person is transferred to the custody of the sheriff. The Bill also provides that the State is responsible for all necessary and legal expenses incurred for an escapee from a state correctional institution. These costs are to be paid out of moneys in the State Treasury not otherwise appropriated.

ASSUMPTIONS

1. The injuries covered by this Bill do not include intoxication by drugs or alcohol and subsequent detoxification treatment is not a recoverable cost.
2. Correctional institutions are prisons and associated farms and camps. Community-Based Corrections District Department facilities are not correctional institutions under this Bill.

FISCAL IMPACT

There is insufficient information from which to estimate the fiscal impact of this Bill. Medical and legal costs can vary greatly so the costs for any given incident could be significant.

SOURCES

Department of Corrections  
Department of Revenue and Finance  
Iowa State Sheriffs and Deputies Association  
Department of Public Safety

(LSB 3634hv, MDF)

FILED FEBRUARY 12, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR

21 under the jurisdiction of the department of nu  
22 services or the Iowa department of corrections,  
23 employees of the commission of veterans affairs,  
24 to be considered employees of the state, whether  
25 personnel are employed on a full-time basis or ren  
26 services on a part-time basis on a fee schedule or  
27 other arrangement. Criminal defendants while  
28 performing unpaid community service ordered by the  
29 district court, board of parole, or judicial district  
30 department of correctional services, or an inmate  
31 providing services pursuant to a chapter 23E agreemen  
32 entered into pursuant to section 904.703, and persons  
33 supervising those inmates under and according to the  
34 terms of the chapter 23E agreement, are to be  
35 considered employees of the state.

36 Sec. \_\_\_\_ . Section 669.21, Code 1997, is amended t  
37 read as follows:

38 669.21 EMPLOYEES DEFENDED AND INDEMNIFIED.

39 The state shall defend any employee, and shall  
40 indemnify and hold harmless an employee against any  
41 claim as defined in section 669.2, subsection 3,  
42 paragraph "b", including claims arising under the  
43 Constitution, statutes, or rules of the United States  
44 or of any state. The duty to indemnify and hold  
45 harmless shall not apply and the state shall be  
46 entitled to restitution from an employee if the  
47 employee fails to cooperate in the investigation or  
48 defense of the claim, as defined in this section, or  
49 if, in an action commenced by the state against the  
50 employee, it is determined that the conduct of the

E-8828

Page 2

1 employee upon which a tort claim or demand was based  
2 constituted a willful and wanton act or omission or  
3 malfeasance in office.

4 Sec. \_\_\_\_ Section 669.22, Code 1997, is amended to  
5 read as follows:

6 669.22 ACTIONS IN FEDERAL COURT.

7 The state shall defend any employee, and shall  
8 indemnify and hold harmless an employee of the state  
9 in any action commenced in federal court under section  
10 1963, Title 42, United States Code, against the  
11 employee for acts of the employee while acting in the  
12 scope of employment. The duty to indemnify and hold  
13 harmless shall not apply and the state shall be  
14 entitled to restitution from an employee if the  
15 employee fails to cooperate in the investigation or  
16 defense of the claim or demand, or if, in an action  
17 commenced by the state against the employee, it is  
18 determined that the conduct of the employee upon which  
19 the claim or demand was based constituted a willful  
20 and wanton act or omission or malfeasance in office."

21 3. Page 1, by inserting after line 22 the  
22 following:

23 "Sec. \_\_\_\_ Section 904.703, Unnumbered paragraph  
24 3, Code 1997, is amended to read as follows:

25 The director may enter into a chapter 28B agreement  
26 with a county board of supervisors or county  
27 conservation board to provide forate services for  
28 environmental maintenance including but not limited to  
29 brush and weed cutting, tree planting, and erosion

30 control. The board of supervisors and certain  
31 board members shall have the authority to enter into  
32 for the following purposes: (a) to enter into  
33 the supervision, security, and transportation of  
34 inmates pursuant to the chapter 28B agreement  
35 shall be provided by the department of corrections."

36 4. Title page, line 1, by striking the word  
37 "medical" and inserting the following: "certain".

38 4. Title page, line 2, by striking the words  
39 "incurred by certain prisoners" and inserting the  
40 following: "relating to certain inmates, prisoners,".

RECEIVED FROM THE SENATE

E-8828 FILED MARCH 31, 1998

House Concurrent  
4-3-98 (p.1240)

## HOUSE FILE 2211

S-5374

Amend House File 2211, as passed by the House, as follows:

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

"Section 1. Section 669.2, subsection 4, unnumbered paragraph 1, Code Supplement 1997, is amended to read as follows:

"Employee of the state" includes any one or more officers, agents, or employees of the state or any state agency, including members of the general assembly, and persons acting on behalf of the state or any state agency in any official capacity, temporarily or permanently in the service of the state of Iowa, whether with or without compensation, but does not include a contractor doing business with the state. Professional personnel, including physicians, osteopathic physicians and surgeons, osteopathic physicians, optometrists, dentists, nurses, physician assistants, and other medical personnel, who render services to patients or inmates of state institutions under the jurisdiction of the department of human services or the Iowa department of corrections, and employees of the commission of veterans affairs, are to be considered employees of the state, whether the personnel are employed on a full-time basis or render services on a part-time basis on a fee schedule or other arrangement. Criminal defendants while performing unpaid community service ordered by the district court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 904.703, and persons supervising those inmates under and according to the terms of the chapter 28E agreement, are to be considered employees of the state.

Sec. \_\_\_\_ . Section 659.21, Code 1997, is amended to read as follows:

669.21 EMPLOYEES DEFENDED AND INDEMNIFIED.

The state shall defend any employee, and shall indemnify and hold harmless an employee against any claim as defined in section 669.2, subsection 3, paragraph "b", including claims arising under the Constitution, statutes, or rules of the United States or of any state. The duty to indemnify and hold harmless shall not apply and the state shall be entitled to restitution from an employee if the employee fails to cooperate in the investigation or defense of the claim, as defined in this section, or, if, in an action commenced by the state against the employee, it is determined that the conduct of the

S-5374

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ployee upon which a tort claim or demand was based  
2 constituted a willful and wanton act or omission or  
3 malfeasance in office.

4 Sec. \_\_\_\_\_. Section 669.22, Code 1997, is amended to  
5 read as follows:

6 669.22 ACTIONS IN FEDERAL COURT.

7 The state shall defend any employee, and shall  
8 indemnify and hold harmless an employee of the state  
9 in any action commenced in federal court under section  
10 1983, Title 42, United States Code, against the  
11 employee for acts of the employee while acting in the  
12 scope of employment. The duty to indemnify and hold  
13 harmless shall not apply and the state shall be  
14 entitled to restitution from an employee if the  
15 employee fails to cooperate in the investigation or  
16 defense of the claim or demand, or if, in an action  
17 commenced by the state against the employee, it is  
18 determined that the conduct of the employee upon which  
19 the claim or demand was based constituted a willful  
20 and wanton act or omission or malfeasance in office."

21 2. Page 1, by inserting after line 22 the  
22 following:

23 "Sec. \_\_\_\_\_. Section 904.703, unnumbered paragraph  
24 3, Code 1997, is amended to read as follows:

25 The director may enter into a chapter 28E agreement  
26 with a county board of supervisors or county  
27 conservation board to provide inmate services for  
28 environmental maintenance including but not limited to  
29 brush and weed cutting, tree planting, and erosion  
30 control. ~~The board of supervisors or conservation~~  
31 ~~board shall reimburse the department of corrections~~  
32 ~~for the allowance paid the inmates by the director.~~  
33 ~~The supervision, security, and transportation of~~  
34 ~~inmates used pursuant to the chapter 28E agreement~~  
35 ~~shall be provided by the department of corrections."~~

36 3. Title page, line 1, by striking the word  
37 "medical" and inserting the following: "certain".

38 4. Title page, line 2, by striking the words  
39 "incurred by certain prisoners" and inserting the  
40 following: "relating to certain inmates, prisoners,".

By MERLIN E. BARTZ  
EUGENE S. FRAISE

S-5374 FILED MARCH 25, 1998

*Adapted*  
*3/31/98*  
*(p. 974)*

Vande Hoef, Ch  
Van Maanen  
Mundie

HSB 516

LOCAL GOVERNMENT

Succeeded By

SF (HF) 2211

HOUSE FILE

BY (PROPOSED COMMITTEE ON

LOCAL GOVERNMENT BILL BY

CHAIRPERSON VANDE HOEF)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

### A BILL FOR

1 An Act relating to the liability for and payment of medical costs  
2 and other expenses incurred by certain prisoners and escapees.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 804.28, Code 1997, is amended to read  
2 as follows:

3 804.28 DEPARTMENT OF PUBLIC SAFETY PRISONERS.

4 The sheriff of any county shall accept for custody in the  
5 county jail of the sheriff's respective county any person  
6 handed over to the sheriff for safekeeping and lodging by any  
7 member of the department of public safety. The county shall  
8 not be liable for medical treatment for injuries incurred by a  
9 person before the person is transferred to the custody of the  
10 sheriff. Any expenses payable by the state pursuant to this  
11 section shall be paid out of any moneys in the state treasury  
12 not otherwise appropriated. The expenses shall be paid on  
13 claims filed with the department of revenue and finance.

14 Sec. 2. NEW SECTION. 904.507A LIABILITY FOR ESCAPEE  
15 EXPENSES.

16 If a person escapes from a state correctional institution  
17 including but not limited to those institutions listed in  
18 section 904.102, all necessary and legal expenses incurred by  
19 that person while absent from the state institution shall be  
20 paid out of any moneys in the state treasury not otherwise  
21 appropriated. The expenses shall be paid on claims filed with  
22 the department of revenue and finance.

23 EXPLANATION

24 This bill provides that a county is not responsible for the  
25 cost of medical treatment for injuries to a person which are  
26 incurred before the person is transferred to the custody of  
27 the sheriff. Any costs payable by the state shall be paid out  
28 of any moneys in the state treasury not otherwise  
29 appropriated. The bill also provides that the state is  
30 responsible for all necessary and legal expenses incurred by  
31 an escapee from a state correctional institution. The costs  
32 and expenses shall also be paid from any moneys in the state  
33 treasury not otherwise appropriated.

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HOUSE FILE 2211

AN ACT

RELATING TO THE LIABILITY FOR AND PAYMENT OF CERTAIN COSTS AND OTHER EXPENSES RELATING TO CERTAIN INMATES, PRISONERS, AND ESCAPEES.

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

Section 1. Section 669.2, subsection 4, unnumbered paragraph 1, Code Supplement 1997, is amended to read as follows:

"Employee of the state" includes any one or more officers, agents, or employees of the state or any state agency, including members of the general assembly, and persons acting on behalf of the state or any state agency in any official capacity, temporarily or permanently in the service of the state of Iowa, whether with or without compensation, but does not include a contractor doing business with the state. Professional personnel, including physicians, osteopathic physicians and surgeons, osteopathic physicians, optometrists, dentists, nurses, physician assistants, and other medical personnel, who render services to patients or inmates of state institutions under the jurisdiction of the department of human services or the Iowa department of corrections, and employees of the commission of veterans affairs, are to be considered employees of the state, whether the personnel are employed on a full-time basis or render services on a part-time basis on a fee schedule or other arrangement. Criminal defendants while performing unpaid community service ordered by the district

court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 904.703, and persons supervising those inmates under and according to the terms of the chapter 28E agreement, are to be considered employees of the state.

Sec. 2. Section 669.21, Code 1997, is amended to read as follows:

669.21 EMPLOYEES DEFENDED AND INDEMNIFIED.

The state shall defend any employee, and shall indemnify and hold harmless an employee against any claim as defined in section 669.2, subsection 3, paragraph "b", including claims arising under the Constitution, statutes, or rules of the United States or of any state. The duty to indemnify and hold harmless shall not apply and the state shall be entitled to restitution from an employee if the employee fails to cooperate in the investigation or defense of the claim, as defined in this section, or, if, in an action commenced by the state against the employee, it is determined that the conduct of the employee upon which a tort claim or demand was based constituted a willful and wanton act or omission or malfeasance in office.

Sec. 3. Section 669.22, Code 1997, is amended to read as follows:

669.22 ACTIONS IN FEDERAL COURT.

The state shall defend any employee, and shall indemnify and hold harmless an employee of the state in any action commenced in federal court under section 1983, Title 42, United States Code, against the employee for acts of the employee while acting in the scope of employment. The duty to indemnify and hold harmless shall not apply and the state shall be entitled to restitution from an employee if the employee fails to cooperate in the investigation or defense of the claim or demand, or if, in an action commenced by the state against the employee, it is determined that the conduct

of the employee upon which the claim or demand was based constituted a willful and wanton act or omission or malfeasance in office.

Sec. 4. Section 804.28, Code 1997, is amended to read as follows:

804.28 DEPARTMENT OF PUBLIC SAFETY PRISONERS.

The sheriff of any county shall accept for custody in the county jail of the sheriff's respective county any person handed over to the sheriff for safekeeping and lodging by any member of the department of public safety. The county shall not be liable for medical treatment for injuries incurred by a person before the person is transferred to the custody of the sheriff. Any expenses payable by the state pursuant to this section shall be paid out of any moneys in the state treasury not otherwise appropriated. The expenses shall be paid on claims filed with the department of revenue and finance.

Sec. 5. NEW SECTION. 904.507A LIABILITY FOR ESCAPEE EXPENSES.

If a person escapes from a state correctional institution including but not limited to those institutions listed in section 904.102, all necessary and legal expenses incurred by that person while absent from the state institution shall be paid out of any moneys in the state treasury not otherwise appropriated. The expenses shall be paid on claims filed with the department of revenue and finance.

Sec. 6. Section 904.103, unnumbered paragraph 3, Code 1997, is amended to read as follows:

The director may enter into a chapter 28E agreement with a county board of supervisors or county conservation board to provide inmate services for environmental maintenance including but not limited to brush and weed cutting, tree planting, and erosion control. ~~The board of supervisors or conservation board shall reimburse the department of corrections for the allowance paid the inmates by the director. The supervision, security, and transportation of~~

~~inmates used pursuant to the chapter 28E agreement shall be provided by the department of corrections.~~

\_\_\_\_\_  
RON J. CORBETT  
Speaker of the House

\_\_\_\_\_  
MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2211, Seventy-seventh General Assembly.

\_\_\_\_\_  
ELIZABETH ISAACSON  
Chief Clerk of the House

Approved April 13, 1998

\_\_\_\_\_  
TERRY E. BRANSTAD  
Governor