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PUBLIC SAFETY

HOUSE FILE 432
BY SWAIM

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

A BILL FOR

1 An Act relating to the establishment of multicounty jails, and
2 making an appropriation.

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

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DIVISION I
MULTICOUNTY JAIL

Section 1. NEW SECTION. 356B.1 MULTICOUNTY JAILS --
ESTABLISHMENT.

The department of corrections and the multicounty jail board created in section 356B.2 shall establish and administer a multicounty jail program. The program shall encourage counties to establish, construct, renovate, or repair facilities for use as a multicounty jail. A multicounty jail means a facility established, operated, and maintained as a jail pursuant to an agreement between two or more counties pursuant to chapter 28E. A county that enters into a chapter 28E agreement pursuant to section 356B.3 to establish, operate, and maintain a multicounty jail is deemed to have met the requirement to furnish a place for the confinement of prisoners pursuant to section 331.381, subsection 17, paragraph "a", and section 903.4. A multicounty jail shall comply with the provisions of chapter 356 and shall be considered a jail, except as provided in this chapter.

Sec. 2. NEW SECTION. 356B.2 MULTICOUNTY JAIL BOARD.

1. A multicounty jail board is created within the department of corrections. The board shall have five members appointed as follows:

- a. One member appointed by the board of corrections.
- b. One member appointed by the governor from a list of county supervisors recommended by the Iowa state association of counties.
- c. One member appointed by the governor from persons recommended by the Iowa state sheriffs and deputies association.
- d. Two members of the general public appointed by the governor subject to confirmation by the senate.

2. The board members shall serve staggered three-year terms beginning and ending as provided in section 69.19. The governor shall appoint initial members to serve for less than

1 three years to ensure that members serve staggered terms. A
2 vacancy in membership shall be filled in the same manner as
3 the original appointment. Each member of the board shall be
4 reimbursed for actual and necessary expenses incurred in the
5 discharge of the member's official duties.

6 3. The duties of the board shall consist of advising the
7 department of corrections regarding administrative rules
8 necessary for implementation and administration of the
9 multicounty jail program. The board shall also serve as the
10 policymaking body responsible for implementing the multicounty
11 jail program.

12 Sec. 3. NEW SECTION. 356B.3 MULTICOUNTY JAIL COMMISSION
13 -- COMMISSION AGREEMENT PURSUANT TO CHAPTER 28E.

14 1. Two or more counties may establish a multicounty jail
15 commission to enter into an agreement pursuant to chapter 28E
16 to establish, operate, and maintain a multicounty jail in
17 which the participating counties and sheriffs of the
18 participating counties delegate the authority to operate a
19 county jail to the commission. The commission agreement shall
20 include but is not limited to the following:

21 a. The number of members each county shall be allocated
22 for membership on the commission.

23 b. A plan for establishing, constructing, renovating, or
24 repairing a facility for use as a multicounty jail.

25 c. A plan for operating the multicounty jail and for the
26 allocation of costs between each county.

27 d. The conditions under which a county may join or
28 withdraw from the agreement and the procedures for joining or
29 withdrawing from the agreement.

30 e. The term and effective date.

31 2. The commission agreement must be approved by the board
32 of supervisors and the county sheriff of each county that is a
33 party to the agreement.

34 3. Upon approval of the commission agreement, the board of
35 supervisors of each county that is a party to the agreement

1 shall designate the multicounty jail as a place for
2 confinement of prisoners pursuant to section 331.381.

3 4. Upon approval of the commission agreement, the sheriff
4 of each county that is a party to the agreement shall delegate
5 the sheriff's authority and responsibility to provide board
6 and care for inmates in the sheriff's custody to the
7 commission.

8 5. A certified copy of the commission agreement shall be
9 recorded pursuant to chapter 28E, and a copy of the agreement
10 shall be provided to the department of corrections.

11 Sec. 4. NEW SECTION. 356B.4 MULTICOUNTY JAIL FUND.

12 1. A multicounty jail fund is created in the state
13 treasury. The fund shall be administered by the department of
14 corrections and the multicounty jail board. The moneys in the
15 fund shall be used to provide grants and loans to multicounty
16 jail commissions for establishing, constructing, renovating,
17 or repairing facilities to be operated and maintained as
18 multicounty jails, and to defray expenses incurred by the
19 department of corrections in administering the multicounty
20 jail program.

21 2. The fund shall consist of moneys appropriated by the
22 general assembly for deposit in the fund, and other moneys
23 available to and obtained or accepted by the department of
24 corrections for placement in the fund. Moneys in the fund are
25 appropriated to the department of corrections to be
26 distributed as grants and loans as provided in this chapter.

27 3. Payments of interest, repayments of moneys loaned
28 pursuant to this chapter, and recaptures of loans shall be
29 deposited in the fund.

30 4. Moneys in the fund are not subject to section 8.33.
31 Notwithstanding section 12C.7, interest or earnings on moneys
32 in the fund shall be credited to the fund.

33 5. Moneys in the fund are subject to an annual audit by
34 the auditor of state. The fund is subject to warrants written
35 by the director of revenue, drawn upon the written requisition

1 of the department of corrections.

2 Sec. 5. NEW SECTION. 356B.5 APPLICATION FOR GRANT OR
3 LOAN.

4 1. A multicounty jail commission may apply to the
5 multicounty jail board for a grant or loan for a proposed
6 multicounty jail. The department of corrections may provide
7 technical assistance to assist an applicant in developing a
8 proposal.

9 2. An application shall include but is not limited to the
10 following:

11 a. A copy of the commission agreement.

12 b. The confinement needs addressed by the agreement.

13 c. A proposed budget for planning and developing the
14 multicounty jail.

15 d. A proposed operating budget for the first four years of
16 operating the jail.

17 e. The amount of the grant or loan requested by the
18 multicounty jail.

19 f. A copy of any agreement entered into by the multicounty
20 jail commission or by a county that is a party to the
21 commission agreement with another jurisdiction to provide for
22 the confinement of inmates, including inmates detained or
23 committed by authority of the courts of the United States.

24 3. The application may be required to be on a form
25 prescribed by the multicounty jail board.

26 4. The multicounty jail board shall adopt rules pursuant
27 to chapter 17A establishing criteria for awarding a grant or
28 loan to a multicounty jail commission. The criteria
29 established pursuant to rules adopted by the board shall
30 include but not be limited to the following:

31 a. A need for additional or replacement beds in all
32 counties participating in the commission agreement.

33 b. A willingness to confine state inmates.

34 c. The cost of the proposal, which shall not exceed
35 fifteen million dollars.

1 d. The term of the loan shall be repaid in a manner
2 approved by the multicounty jail board; however, the term of
3 repayment shall not exceed twenty-five years.

4 The reasons for acceptance or denial of an application for
5 a grant or loan shall be specifically stated in the minutes of
6 the multicounty jail board meeting at which the application is
7 accepted or denied.

8 Sec. 6. NEW SECTION. 356B.6 REMITTANCE IF REPEALED.

9 Upon the repeal of sections 356B.2, 356B.4, and 356B.5,
10 pursuant to section 356B.7, the department of corrections
11 shall remit repayments of moneys loaned, payments of interest,
12 and recaptures of loans pursuant to this chapter or rules
13 adopted pursuant to this chapter to the treasurer of state for
14 deposit in the rebuild Iowa infrastructure fund created in
15 section 8.57.

16 Sec. 7. NEW SECTION. 356B.7 FUTURE REPEAL.

17 Sections 356B.2, 356B.4, and 356B.5 are repealed June 30,
18 2012. However, any commission agreement, grant, or loan in
19 existence on June 30, 2012, shall continue to be valid and
20 each party to such agreement, grant, or loan is obligated to
21 perform as required under the agreement, grant, or loan.

22 DIVISION II

23 CODE CHANGES

24 Sec. 8. Section 331.381, subsection 17, paragraph a, Code
25 2005, is amended to read as follows:

26 a. Furnish a place for the confinement of prisoners as
27 required in section 903.4, and in accordance with chapter 356,
28 ~~or 356A,~~ or 356B.

29 Sec. 9. Section 331.424, subsection 1, paragraph g, Code
30 2005, is amended to read as follows:

31 g. The maintenance and operation of the courts, including
32 but not limited to the salary and expenses of the clerk of the
33 district court and other employees of the clerk's office, and
34 bailiffs, court costs if the prosecution fails or if the costs
35 cannot be collected from the person liable, costs and expenses

1 of prosecution under section 189A.17, salaries and expenses of
2 juvenile court officers under chapter 602, court-ordered costs
3 in domestic abuse cases under section 236.5, the county's
4 expense for confinement of prisoners under ~~chapter~~ chapters
5 356A and 356B, temporary assistance to the county attorney,
6 county contributions to a retirement system for bailiffs,
7 reimbursement for judicial magistrates under section 602.6501,
8 claims filed under section 622.93, interpreters' fees under
9 section 622B.7, uniform citation and complaint supplies under
10 section 805.6, and costs of prosecution under section 815.13.

11 Sec. 10. Section 331.653, subsection 35, Code 2005, is
12 amended to read as follows:

13 35. Have charge of the county jails in the county and
14 custody of the prisoners committed to the jails as provided in
15 chapter 356, except if authority has been delegated to a
16 multicounty jail commission under chapter 356B.

17 Sec. 11. Section 356.1, subsection 1, unnumbered paragraph
18 1, Code 2005, is amended to read as follows:

19 The jails in the several counties in the state shall be in
20 the charge of the respective sheriffs, or multicounty jail
21 commissions as provided in chapter 356B, and used as prisons:

22 Sec. 12. Section 356.1, Code 2005, is amended by adding
23 the following new subsection:

24 NEW SUBSECTION. 3. The provisions of this chapter extend
25 to a multicounty jail established pursuant to chapter 356B.
26 If a county is a party to a multicounty jail commission
27 agreement, references in this chapter to a county, a county
28 sheriff, or a county jail shall be deemed to be references to
29 the multicounty jail commission or the multicounty jail, as
30 applicable.

31 Sec. 13. Section 356.2, Code 2005, is amended to read as
32 follows:

33 356.2 DUTY.

34 The sheriff shall have charge and custody of the prisoners
35 in the jail or other prisons of the sheriff's county, except

1 if authority has been delegated to a multicounty jail
2 commission under chapter 356B, and shall receive those
3 lawfully committed, and keep them until discharged by law.

4 Sec. 14. Section 356.37, Code 2005, is amended to read as
5 follows:

6 356.37 CONFINEMENT AND DETENTION REPORT -- DESIGN
7 PROPOSALS.

8 The division of criminal and juvenile justice planning of
9 the department of human rights, in consultation with the
10 department of corrections, the Iowa county attorneys
11 association, the Iowa state sheriff's association, the Iowa
12 association of chiefs of police and peace officers, a
13 statewide organization representing rural property taxpayers,
14 the Iowa league of cities, and the Iowa board of supervisors
15 association, shall prepare a report analyzing the confinement
16 and detention needs of jails and facilities established
17 pursuant to chapters 356, and 356A, and 356B. The report for
18 each type of jail or facility shall include but is not limited
19 to an inventory of prisoner space, daily prisoner counts,
20 options for detention of prisoners with mental illness or
21 substance abuse service needs, and the compliance status under
22 section 356.36 for each jail or facility. The report shall
23 contain an inventory of recent jail or facility construction
24 projects in which voters have approved the issuance of general
25 obligation bonds, essential county purpose bonds, revenue
26 bonds, or bonds issued pursuant to chapter 423B. The report
27 shall be revised periodically as directed by the administrator
28 of the division of criminal and juvenile justice planning.
29 The first submission of the report shall include
30 recommendations on offender data needed to estimate jail space
31 needs in the next two, three, and five years, on a county,
32 geographic region, and statewide basis, which may be based
33 upon information submitted pursuant to section 356.49.

34 Sec. 15. Section 805.16, subsection 1, Code 2005, is
35 amended to read as follows:

1 1. Except as provided in subsection 2 of this section, a
2 peace officer shall issue a police citation or uniform
3 citation and complaint, in lieu of making a warrantless
4 arrest, to a person under eighteen years of age accused of
5 committing a simple misdemeanor under chapter 321, 321G, 321I,
6 461A, 461B, 462A, 481A, 481B, 483A, 484A, 484B, or a local
7 ordinance not subject to the jurisdiction of the juvenile
8 court, and shall not detain or confine the person in a
9 facility regulated under chapter 356, ~~or~~ 356A, or 356B.

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11 DIVISION III
12 APPROPRIATION

13 Sec. 16. APPROPRIATION. There is appropriated from the
14 rebuild Iowa infrastructure fund to the department of
15 corrections, for the fiscal year beginning July 1, 2005, and
16 ending June 30, 2006, the following amount, or so much thereof
17 as is necessary, to be used for the purpose designated:

18 For deposit in the multicounty jail fund to be used for
19 multicounty jail grants or loans as provided in chapter 356B:
20 \$ 15,000,000

21 EXPLANATION

22 This bill relates to the creation of multicounty jails and
23 makes an appropriation.

24 The bill provides that two or more counties may establish a
25 multicounty jail. The bill provides that if a county enters
26 into an agreement with one or more other counties to
27 establish, operate, and maintain a multicounty jail, the
28 county is not required to maintain a separate place for the
29 confinement of prisoners. However, the bill provides that a
30 multicounty jail shall comply with the provisions of Code
31 chapter 356, relating to jails and municipal holding
32 facilities, and shall be considered a jail, except as provided
33 in this bill.

34 The bill establishes a multicounty jail board in the
35 department of corrections which shall be responsible for

1 making policy and implementing a multicounty jail program and
2 advising the department of corrections on administrative
3 rules. The board shall consist of five members, with one
4 member being appointed by the board of corrections, one member
5 appointed by the governor shall be from a list of county
6 supervisors recommended by the Iowa state association of
7 counties, one member appointed by the governor from persons
8 recommended by the Iowa state sheriffs and deputies
9 association, and two members of the general public appointed
10 by the governor.

11 The bill provides that if two or more counties want to
12 establish a multicounty jail, the counties shall create a
13 multicounty jail commission, and enter into a commission
14 agreement pursuant to Code chapter 28E to share responsibility
15 for establishing, operating, and maintaining the multicounty
16 jail. The bill provides that the commission agreement shall
17 include the allocation of members on the commission and the
18 procedure for joining and withdrawing from the agreement, and
19 a plan of operation, including the allocation of operating
20 costs and the effective date of the agreement.

21 The bill requires that the commission agreement be approved
22 by the county board of supervisors and the county sheriff.
23 The bill provides that upon approval of the commission
24 agreement by the county sheriff, the sheriff shall delegate to
25 the commission the sheriff's authority to provide housing and
26 care for inmates in the custody of the sheriff.

27 The bill creates a multicounty jail fund in the state
28 treasury. The bill provides that the department of
29 corrections and the multicounty jail board shall administer
30 the fund. The bill appropriates \$15 million to the department
31 of corrections for deposit in the fund. The bill provides
32 that moneys in the fund shall be used to provide for grants
33 and loans to multicounty jail commissions for establishing a
34 multicounty jail.

35 The bill provides that a commission may apply to the

1 multicounty jail board for a grant or loan, and that the
2 department of corrections may provide technical assistance to
3 a commission in developing a proposal to present to the board.

4 The bill provides that a grant or loan shall be awarded to
5 a commission based upon the following factors: a need for
6 additional or replacement beds, a willingness to confine state
7 inmates, the cost of the proposal, and the manner in which any
8 moneys are to be repaid.

9 The bill's provisions relating to the multicounty jail
10 board, the multicounty jail fund, and the application process
11 to receive moneys from the fund are repealed on June 30, 2012.
12 However, any agreement, grant, or loan in existence on June
13 30, 2012, shall continue to be valid and each party to such
14 agreement, grant, or loan is obligated to perform as required
15 under the agreement, grant, or loan.

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