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INSERT 3A:

Finally, if DOA sells or leases state-owned property to a public utility, or contracts with a public utility for operation of a function on state-owned property that DOA leases to the public utility, the bill exempts the purchase, lease, or contract from requirements that may apply under current law for the Public Service Commission (PSC) to approve the purchase, lease, or contract. The bill also provides that such a purchase, lease, or contract is considered to be in the public interest and to comply with criteria for PSC certification that may apply under current law.

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INSERT 7-9:

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Notwithstanding ss. 196.49 and 196.80, if the department sells or leases

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state-owned property under this subsection to a public utility, as defined in s. 196.01

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(5), no approval or certification of the public service commission is necessary for the

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public utility to purchase or lease the property, or contract for operation of any

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function performed by the state on property that is leased to the public utility under

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this subsection, and any such purchase, lease, or contract is considered to be in the

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public interest and to comply with the criteria for certification of a project under s.

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196.49 (3) (b).



INS 15-12



Section #. 20.507 (1) (h) of the statutes is amended to read:

20.507 (1) (h) *Trust lands and investments — general program operations.* The amounts in the schedule for the general program operations of the board as provided under ss. 24.04, 24.09 ~~(1) (b)~~⁽³⁾, 24.53 and 24.62 (1). All amounts deducted from the gross receipts of the appropriate funds as provided under ss. 24.04, 24.09 ~~(1) (b)~~⁽³⁾, 24.53 and 24.62 (1) shall be credited to this appropriation account. Notwithstanding s. 20.001 (3) (a), the unencumbered balance at the end of each fiscal year shall be transferred to the trust funds, as defined under s. 24.60 (5). The amount transferred to each trust fund, as defined under s. 24.60 (5), shall bear the same proportion to the total amount transferred to the trust funds that the gross receipts of that trust fund bears to the total gross receipts credited to this appropriation account during that fiscal year.

~~History 1997 a. 27 ss. 693, 693m, 708 to 711; 1999 a. 9~~



INS 18-5

(1), (4), (5), (7), (9), and (10)

Section #. 24.01 of the statutes is amended to read:

~~24.01 Definitions and classification. In chs. 23 to 29, unless the context requires otherwise, or unless otherwise defined:~~

(1) "Agricultural college lands" embraces all lands granted to the state by an act of congress entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, as well as any land received under s. 24.09 (1) (b) ⁽³⁾ in exchange for such land.

~~(2) "Board" means the board of commissioners of public lands, except that this definition does not apply to ch. 25.~~

~~(3) "Department" means department of natural resources.~~

(4) "Marathon County lands" embraces all lands acquired by the state pursuant to chapter 22 of the general laws of 1867, as well as any land received under s. 24.09 (1) (b) ⁽³⁾ in exchange for such land.

(5) "Normal school lands" embraces all parcels of said "swamp lands" which the legislature has declared or otherwise decided, or may hereafter declare or otherwise decide, were not or are not needed for the drainage or reclamation of the same or other lands, as well as any land received under s. 24.09 (1) (b) ⁽³⁾ in exchange for such land.

~~(6) "Public lands" embraces all lands and all interests in lands owned by the state either as proprietor or as trustee which constitute any part of the lands defined or specified in this section.~~

(7) "School lands" embraces all lands made a part of "the school fund" by article X, section 2, of the constitution, as well as any land received under s. 24.09 (1) (b) ⁽³⁾ in exchange for such land.

~~(8) "Secretary" means secretary of natural resources.~~

(9) "Swamp lands" embraces all lands which have been or may be transferred to the state pursuant to an act of congress entitled "An act to enable the state of Arkansas and other states to reclaim the swamp lands within their limits," approved September 28, 1850, or pursuant to an act of congress entitled "An act for the relief of purchasers and locators of swamp and overflowed lands," approved March 2, 1855, as well as any land received under s. 24.09 ~~(1) (b)(1)~~ (3) in exchange for such land.

(10) "University lands" embraces all lands the proceeds of which are denominated "the university fund" by article X, section 6, of the constitution, as well as any land received under s. 24.09 ~~(1) (b)(1)~~ (3) in exchange for such land.

~~(11) "Warden" means conservation warden, and includes county, special and deputy conservation wardens.~~

~~History: 1977 c. 9; 1981 c. 390; 1983 a. 189, 192; 1987 a. 119; 1997 a. 27; 1999 a. 83.~~

INS 19-15

renumbered 24.09 (2) and

Section #. 24.09 (1) (b) of the statutes is amended to read:

(B)

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24.09 (1) (b) Lands required for federal, state, county, city, village, town, or school district use may be ~~sold at the appraised value to,~~ or exchanged for land of approximately equivalent value with, the federal government, other state departments, boards or commissions, counties, cities, villages, towns, or school districts.

History: ~~1983 a. 423, 1987 a. 76, 1997 a. 27; 2005 a. 149, 352.~~

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INS 22-15



Section #. 24.28 (2) of the statutes is amended to read:

24.28 (2) In the event of a forfeiture of lands under sub. (1), the board may take immediate possession of ~~and resell~~ the forfeited lands as provided under ss. ~~24.29 to~~ 24.33.

~~History: 1991 a. 316, 2005 a. 149.~~

24.30 and





Section #. 24.57 of the statutes is amended to read:

24.57 Report of board. The board shall include in any report submitted under s. 15.07 (6) a report of its official proceedings for the period since the proceedings reported in the most recent report, showing the quantity of land ~~sold or~~ leased and the amount received therefor, the amount of interest moneys accrued or received and a specific account of the several investments made by them, stating in all cases of loans, the name of each borrower, the sum borrowed and a description of the property mortgaged. The report also shall include such other matters as it thinks proper to communicate or as the legislature requires.

~~History: 1979 c. 34 s. 699g; Stats. 1979 s. 24.57; 1983 a. 27.~~



Section #. 45.03 (5) (a) 1. of the statutes is amended to read:

45.03 (5) (a) 1. "Existing building" in relation to any ~~conveyance~~, lease, or sublease made under par. (c) 1. means all detention, treatment, administrative, recreational, infirmary, hospital, vocational, and academic buildings; all dormitories and cottages; all storage facilities, heating plants, sewage disposal plants, and other buildings, structures, facilities, and permanent improvements that in the judgment of the board are needed or useful for the purposes of the department, and all equipment for them and all improvements and additions to them that were erected, constructed, or installed prior to the making of the ~~conveyance~~, lease, or sublease.

History: ~~2005 a. 22, 25, 468; 2007 a. 20 ss. 782m, 783, 9121 (6) (a); 2007 a. 46, 200; 2009 a. 28; 2011 a. 32, 36.~~

Section #. 45.03 (5) (a) 2. of the statutes is amended to read:

45.03 (5) (a) 2. "New building" in relation to any ~~conveyance~~, lease, or sublease made under par. (c) 1. means all detention, treatment, administrative, recreational, infirmary, hospital, vocational, and academic buildings; all dormitories and cottages; all storage facilities, heating plants, sewage disposal plants, and other buildings, structures, facilities, and permanent improvements as in the judgment of the board are needed or useful for the purposes of the department, and all equipment for them and all improvements and additions to them that are erected, constructed, or installed after the making of the ~~conveyance~~, lease, or sublease.

~~History: 2005 a. 22, 25, 468; 2007 a. 20 ss. 782m, 783, 9121 (6) (a); 2007 a. 46, 200; 2009 a. 28; 2011 a. 32, 36.~~

(end insert)



Section #. 46.03 (30) (a) of the statutes is amended to read:

46.03 (30) (a) To provide for an orderly reduction of state institutional primary psychiatric services the department may approve the institutes entering into contracts with county departments under s. 51.42 for providing primary psychiatric care. If excess capacity exists at state operated mental health institutes, the department shall, subject to s. 16.848, explore the possible ~~sale or~~ lease of such excess facilities to a county department under s. 51.42.

History: 1971 c. 270 s. 104; 1973 c. 90; 1973 c. 284 ss. 2, 32; 1973 c. 333; 1975 c. 39, 82; 1975 c. 189 s. 99 (1), (2); 1975 c. 224, 377, 413, 422; 1977 c. 29, 193; 1977 c. 196 s. 131; 1977 c. 203, 205, 271, 354; 1977 c. 418/ ss. 287 to 289m, 924 (18) (d); 1977 c. 447, 449; 1979 c. 32 s. 92 (1); 1979 c. 34; 1979 c. 175 s. 46; 1979 c. 221, 331, 352; 1981 c. 20, 81; 1981 c. 314 s. 144; 1981 c. 390; 1983 a. 27, 193; 1983 a. 435 s. 7; 1983 a. 447, 474; 1983 a. 532 s. 36; 1985 a. 19, 29, 120, 176, 234, 285, 328, 331; 1985 a. 332 s. 251 (3); 1987 a. 3, 5, 27, 161, 186, 307, 339, 385, 399, 403, 413; 1989 a. 31 ss. 938m to 951, 2909g, 2909i; 1989 a. 56, 105, 107, 122; 1991 a. 39, 277; 1993 a. 16 ss. 851 to 859, 3072d; 1993 a. 98, 377, 385, 446, 481; 1995 a. 27 ss. 2026m to 2038b, 9126 (19); 1995 a. 77, 201, 225, 352, 370, 404, 448; 1997 a. 3, 27, 111, 283, 292; 1999 a. 9, 83; 2001 a. 16, 59, 61, 109; 2003 a. 33; 2005 a. 25, 293, 406; 2005 a. 443 s. 265; 2007 a. 20 ss. 800 to 823, 9121 (6) (a); 2007 a. 96, 104; 2009 a. 28, 180, 280; 2011 a. 32.



Section #. 84.40^{(2) (f)} of the statutes is amended to read:
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84.40 Department; relation to nonprofit corporations. (1) As used in this section, unless the context requires otherwise:

(a) "Existing highways and other improvements," in relation to any conveyance, lease or sublease made under sub. (2) (a), (b) and (c), means any portion of the national system of interstate and defense highways in this state, including all bridges, tunnels, overpasses, underpasses, interchanges, lighting, approaches, signing, weighing stations, administration, storage and other buildings, facilities or appurtenances which in the judgment of the department are needed or useful for interstate highway purposes, and all improvements and additions thereto which were erected, constructed or installed prior to the making of such conveyance, lease or sublease.

(b) "New highways and other improvements," in relation to any conveyance, lease or sublease made under sub. (2) (a), (b) and (c), means any portion of the national system of interstate and defense highways in this state, including all bridges, tunnels, overpasses, underpasses, interchanges, lighting, approaches, signing, weighing stations, administration, storage and other buildings, facilities or appurtenances which in the judgment of the department are needed or useful for interstate highway purposes, and all improvements and additions thereto or to existing interstate highways and other improvements which are erected, constructed or installed after the making of such conveyance, lease or sublease.

(c) "Nonprofit-sharing corporation" means a nonstock corporation which was in existence on May 1, 1967 and was organized under ch. 181 or corresponding prior general corporation laws.

(2) In order to provide new highways or improve existing highways and to enable the construction and financing thereof, to refinance any indebtedness created by a nonprofit corporation for new highways or making additions or improvements to existing highways located on public

right-of-way available for highway purposes or on lands owned by the nonprofit corporation, or for any one or more of said purposes, but for no other purpose unless authorized by law, the department:

(a) May sell and convey to a nonprofit-sharing corporation any public right-of-way available for highway purposes and any existing highways or other improvements thereon owned by the state or under the jurisdiction of the department for such consideration and upon such terms and conditions as the department deems in the public interest.

(b) May lease to a nonprofit-sharing corporation, for terms not exceeding 30 years each, any public right-of-way available for highway purposes and any existing highways or improvements thereon owned by the state or under the jurisdiction of the department upon such terms, conditions and rentals as the department deems in the public interest.

(c) May lease or sublease from such nonprofit-sharing corporation, and make available for public use, any such public right-of-way available for highway purposes and existing highways and other improvements conveyed or leased to such corporations under pars. (a) and (b), and any new highways or other improvements constructed upon such public right-of-way available for highway purposes or upon any other land owned by such corporation, upon such terms, conditions and rentals, subject to available appropriations, as the department deems in the public interest. With respect to any property conveyed to such corporation under par. (a), such lease from such corporation may be subject or subordinated to one or more mortgages of such property granted by such corporation.

(d) Shall enter into lease and sublease agreements under par. (c) for highway projects only when the projects meet the department's standard specifications for road and bridge construction and when arrangements are made that all construction be under the direct supervision of the department.

(e) May establish, operate and maintain highways and other improvements leased or sub-leased under par. (c).

84.40 (2) (f) Shall submit the plans and specifications for all such new highways or other improvements and all ~~conveyances~~, leases and subleases and purchase agreements made under this subsection to the governor for approval before they are finally adopted, executed and delivered.

(g) May pledge and assign, subject to available appropriations, all moneys provided by law for the purpose of the payment of rentals pursuant to leases and subleases entered into under par. (c) as security for the payment of rentals due and to become due under any lease or sublease of such highways and other improvements made under par. (c).

(h) Shall, upon receipt of notice of any assignment by any such corporation of any lease or sublease made under par. (c), or of any of its rights under any such lease or sublease, recognize and give effect to such assignments, and pay to the assignee thereof rentals or other payments then due or which may become due under any such lease or sublease which has been so assigned by such corporation.

(i) May purchase and acquire from such nonprofit-sharing corporation any right-of-way available for highway purposes and any new highways and other improvements for which leases and subleases have been executed pursuant to par. (c) upon such terms and conditions as the department deems in the public interest.

(3) All lease and sublease agreements executed under this section and all contracts entered into pursuant to the lease and sublease agreements shall be processed, governed by and performed in accordance with all applicable state and federal laws and regulations. Sections 66.0901, 84.015, 84.03 and 84.06 are applicable to all contractual instruments for the construction of highway projects subject to lease and sublease in the same manner as they are applicable to the department.

(4) All ~~conveyances~~; leases and subleases made under this section shall be made, executed and delivered in the name of the department and signed by the secretary or the secretary's designees.

History: 1977 c. 29 ss. 948, 1654 (8) (a); 1981 c. 314; 1993 a. 490; 1999 a. 150 s. 672.

PWS 40-10

Section #. 114.33 (6) (a) of the statutes is amended to read:

114.33 (6) (a) For the purposes of carrying out this section and ss. 114.35 and 114.37, the secretary may acquire by gift, devise, purchase or condemnation any lands for establishing, protecting, laying out, enlarging, extending, constructing, reconstructing, improving and maintaining airports, or interests in lands in and about airports. After completion of the improvements, the secretary may convey as provided in this subsection lands that were acquired under this subsection, but were not necessary for the airport improvements. ^{but shall not sell the lands} The conveyances may be made with reservations concerning the future use and occupation of those lands so as to protect the airports and improvements and their environs and to preserve the view, appearance, light, air and usefulness of the airports.

History: 1971 c. 192; 1973 c. 241; 1977 c. 29; 1979 c. 221; 1981 c. 20 s. 2202(51) (d); 1987 a. 27; 1991 a. 39; 1997 a. 253, 282; 1999 a. 32; 2003 a. 33; 2005 a. 335; 2007 a. 20; 2011 a. 32.

chs 43-9

Section #. 301.235 (2) (d) of the statutes is amended to read:

301.235 (2) (d) All ~~conveyances~~, leases and subleases made under this section shall be made, executed and delivered in the name of the department and shall be signed by the secretary and sealed with the seal of the department.

History: 1989 a. 31; 1997 a. 79; ~~2005 a. 25.~~

(1)
Section #. 84.09 of the statutes is amended to read:

84.09 Acquisition of lands and interests therein. (1) The department may acquire by gift, devise, purchase or condemnation any lands for establishing, laying out, widening, enlarging, extending, constructing, reconstructing, improving and maintaining highways and other transportation related facilities, or interests in lands in and about and along and leading to any or all of the same; and after establishment, layout and completion of such improvements, the department may convey such lands thus acquired and not necessary for such improvements, with reservations concerning the future use and occupation of such lands so as to protect such public works and improvements and their environs and to preserve the view, appearance, light, air and usefulness of such public works. Whenever the department deems it necessary to acquire any such lands or interests therein for any transportation related purpose, it shall so order and in such order or on a map or plat show the old and new locations and the lands and interests required, and shall file a copy of the order and map with the county clerk and county highway committee of each county in which such lands or interests are required or, in lieu of filing a copy of the order and map, may file or record a plat in accordance with s. 84.095. For the purposes of this section the department may acquire private or public lands or interests in such lands. When so provided in the department's order, such land shall be acquired in fee simple. Unless it elects to proceed under sub. (3), the department shall endeavor to obtain easements or title in fee simple by conveyance of the lands or interests required at a price, including any damages, deemed reasonable by the department. The instrument of conveyance shall name the state as grantee and shall be recorded in the office of the register of deeds. The purchase or acquisition of lands or interests therein under this section is excepted and exempt from s. 20.914 (1). The department may purchase or accept donations of remnants of tracts or parcels of land existing at the time or after it has acquired portions of such tracts or parcels by purchase or condemnation for transportation

purposes where in the judgment of the department such action would assist in making whole the landowner, a part of whose lands have been taken for transportation purposes and would serve to minimize the overall costs of such taking by the public. ~~This subsection does not apply to lands that are sold under s. 16.848.~~

(2) If any of the needed lands or interests therein cannot be purchased expeditiously for a price deemed reasonable by the department, the department may acquire the same by condemnation under ch. 32.

(3) (a) The department may order that all or certain parts of the required land or interests therein be acquired by the county highway committee. When so ordered, the committee and the department shall appraise and agree on the maximum price, including damages, considered reasonable for the lands or interests to be so acquired. The committee shall endeavor to obtain easements or title in fee simple by conveyance of the lands or interests required, as directed in the department's order. The instrument of conveyance shall name the county as grantee, shall be subject to approval by the department, and shall be recorded in the office of the register of deeds and filed with the department. If the needed lands or interests therein cannot be purchased expeditiously within the appraised price, the county highway committee may acquire them by condemnation under ch. 32.

(b) Any property of whatever nature acquired in the name of the county pursuant to this section or any predecessor shall be conveyed to the state without charge by the county highway committee and county clerk in the name of the county when so ordered by the department.

(c) The county highway committee when so ordered by the department is authorized and empowered to sell and shall sell at public or private sale, subject to such conditions and terms authorized by the department, any and all buildings, structures, or parts thereof, and any other fixtures or personalty acquired in the name of the county under this section or any predecessor. Any instrument in the name of the county, transferring title to the property mentioned in the fore-

going sentence, shall be executed by the county highway committee and the county clerk. The proceeds from such sale shall be deposited with the state in the appropriate transportation fund and the expense incurred in connection with such sale shall be paid from such fund.

(d) Section 59.52 (6) (c) shall not apply to any conveyance or transfer made under this section.

(3m) The department may order that all or certain parts of the required land or interest therein be acquired for the department by a board, commission or department of the city, village or town within whose limits the land is located. The city board or city, village or town commission or department shall be created or selected by the common council, village board or town board subject to the approval of the department. When so ordered, the board, commission or department created or selected and the department shall appraise and agree on the maximum price, including damages, considered reasonable for the lands or interests to be so acquired. The city, village or town board, commission or department shall endeavor to obtain easements or title in fee simple by conveyance of the lands or interests required, as directed in the department's order. The instrument of conveyance shall name the state as grantee and shall be recorded in the office of the register of deeds. If the needed lands or interests therein cannot be purchased expeditiously within the appraised price, the city, village or town board, commission or department may, subject to approval by the department, acquire them by condemnation in the name of the state under ch. 32. The city, village or town attorney may act as counsel in any proceedings brought under authority of this subsection. Special counsel may be employed with the consent of the governor and the secretary. The city, village or town, upon agreement with the department, may pay for the land or interests acquired from city, village or town funds made available for such purpose or not otherwise appropriated, as an advance subject to reimbursement by the department or as part of the city's, village's or town's contribution toward the cost of the improvement.

(4) The cost of the lands and interests acquired and damages allowed pursuant to this section, expenses incidental thereto, expenses of the county highway committee incurred in performing

duties under this section and the county highway committee's customary per diem, or a per diem not to exceed the lawful rate permitted for members of county boards if the highway committee members receive an annual salary, are paid out of the available improvement or maintenance funds. Members of a highway committee who receive an annual salary shall be entitled to the per diem paid, as compensation for their services, in addition to their annual salary fixed pursuant to s. 59.10 (3) (i).

(5) (a) Subject to pars. (b) and (c) and to the approval of the governor, the department may sell at public or private sale property of whatever nature owned by the state and under the jurisdiction of the department when the department determines that the property is no longer necessary for the state's use for transportation purposes and, if real property, the real property is not the subject of a petition under s. 16.310 (2). The department shall present to the governor a full and complete report of the property to be sold, the reason for the sale, and the minimum price for which the same should be sold, together with an application for the governor's approval of the sale. The governor shall thereupon make such investigation as he or she may deem necessary and approve or disapprove the application. Upon such approval and receipt of the full purchase price, the department shall by appropriate deed or other instrument transfer the property to the purchaser. The approval of the governor is not required for public or private sale of property having an appraised value at the time of sale of not more than \$15,000, for the transfer of surplus state real property to the department of administration under s. 16.310, or for the transfer of surplus state personal property to the department of tourism under sub. (5s). The funds derived from sales under this subsection shall be deposited in the transportation fund, and the expense incurred by the department in connection with the sale shall be paid from such fund.

(b) Subject to the approval of the governor in the manner, scope, and form specified in par. (a), with respect to the sale of property acquired by the department for a project that is completed after May 25, 2006, the department shall, and with respect to the sale of property acquired by

the department for a project that is completed before May 25, 2006, the department may offer for sale or transfer ownership of the property that the department determines is no longer necessary for the state's use for transportation purposes, if the property is not the subject of a petition under s. 16.310 (2). This disposition process shall take place within 24 months of the completion of the transportation project for which the property was acquired. Except as provided in par. (c) 3., the department shall offer limited and general marketable properties at appraised value, as determined by a state-certified or licensed appraiser, for not less than 12 months. If the department does not sell the property at or above its appraised value, the department shall offer the property for sale by means of sealed bids or public auction. For the purposes of this paragraph, a project is completed when final payment is made under the contract for the project.

(c) 1. Prior to conducting a public sale on a generally marketable surplus land parcel under par. (b), the department shall contact the county, municipality, and the local school district where the land parcel is located and the department of natural resources to solicit interest in acquiring the parcel for public use. Upon notification from the department, the county, municipality, local school district, and department of natural resources must respond to the department, stating their interest in the land for public use, within 60 days. Failure to respond within 60 days constitutes noninterest in the land parcel.

2. Except as provided in subd. 2m. if a county, a municipality, a local school district, or the department of natural resources expresses interest in acquiring the land for public use, the department shall offer the county, municipality, local school district, or department of natural resources the property at its appraised value if all of the following are true:

a. The county, municipality, local school district, or department of natural resources provides a plan to the department identifying the proposed public use for the land parcel and the acreage involved in the public use.

b. The public use would benefit a cross-section of the population.

c. The land parcel will not be purchased for the generation of profit either through the sale price or its long-term intended public use.

2m. If a county, municipality, or a local school district expresses interest in acquiring the land for public use related to transportation or infrastructure, the department may offer the county, municipality, or the local school district the property, for less than the appraised value of the property, if all of the following are true:

a. The county, municipality, or local school district provides a plan to the department identifying the proposed use of the property for transportation or infrastructure purposes.

b. The county, municipality, or local school district agrees to a permanent restriction on the use of the land for the purpose identified.

3. If the conditions of subd. 2. are met, the department shall transfer ownership of the land parcel to the county, municipality, local school district, or department of natural resources upon receipt of the appraised value of the land parcel. If the conditions of subd. 2m. are met, the department shall transfer ownership of the land parcel to the county, municipality, or local school district upon receipt of the agreed purchase price of the land parcel. Ownership of the land parcel shall be transferred contingent upon the public use identified under subd. 2., and shall remain in the ownership of the public entity preserving the public use.

(5m) Subject to the approval of the governor in the manner, scope, and form provided by sub. (5) (a), the department may convey lands or interests therein acquired pursuant to this section and improvements installed thereon to municipalities within whose limits such lands or interests therein are located. The conveyance of said lands or interests therein and improvements shall restrict the use of the premises by the municipality to the uses for which they were acquired, except that said lands or interests therein declared by the department to be excess may be so conveyed without restrictions as to use. This subsection shall apply only to the sale of property acquired by the department for a project that is completed before May 25, 2006. The department

may sell property that is acquired by the department for a project that is completed after May 25, 2006, to a municipality under sub. (5) (c), as applicable.

(5r) In lieu of the sale or conveyance of property under sub. (5) or (5m), the department may, subject to the approval of the governor, donate real property that is adjacent to the veterans memorial site located at The Highground in Clark County and owned by the state and under the jurisdiction of the department to the Wisconsin Vietnam Veterans Memorial Project, Inc., for the purpose of the veterans memorial site located at The Highground in Clark County for the purpose of a memorial hall specified in s. 70.11 (9). The department may donate property under this subsection only when the department determines that the property is no longer necessary for the state's use for transportation purposes and is not the subject of a petition under s. 16.310 (2) and is transferred with a restriction that the donee may not subsequently transfer the real property to any person except to this state, which shall not be charged for any improvements thereon. Such restriction shall be recorded in the office of the register of deeds in the county in which the property is located. The department shall present to the governor a full and complete report of the property to be donated, the reason for the donation, and the minimum price for which the property could likely be sold under sub. (5), together with an application for the governor's approval of the donation. The governor shall thereupon make such investigation as he or she considers necessary and approve or disapprove the application. Upon such approval, the department shall by appropriate deed or other instrument transfer the property to the donee. The approval of the governor is not required for donation of property having an appraised value at the time of donation of not more than \$15,000. Any expense incurred by the department in connection with the donation shall be paid from the transportation fund.

(5s) In lieu of the sale or conveyance of personal property under sub. (5), the department of transportation may, upon the request of the department of tourism, transfer to the department of tourism, at no cost, personal property that is owned by the state and under the jurisdiction of the

department of transportation and that the department of transportation has determined is no longer necessary for the state's use for highway purposes.

(6) Lands held by any other state department or independent agency may, with the approval of the governor, be conveyed to the department in the manner prescribed by statute and, if none is prescribed, then by a conveyance authorized by appropriate order or resolution of the head of the department or independent agency concerned.

(7) When transportation funds or federal aid are involved in financing an expressway project under s. 59.84, the department, proceeding under the general authority in this section, may order that all or certain parts of the required land or interests therein shall be acquired by the county board or its designated standing committee. When so ordered, the county board or its designated standing committee and the department shall appraise and agree on the maximum price, including all damages recoverable in condemnation proceedings, considered reasonable for the lands or interests to be so acquired. The county board or its designated standing committee shall endeavor to obtain easements or title in fee simple by conveyance of the lands or interests required, to the county or the state as grantee, all as directed in the department's order. The instrument of conveyance shall be subject to approval by the department, and shall be recorded in the office of the register of deeds and filed with the department. If the needed lands or interests therein cannot be purchased expeditiously within the agreed appraised price, the county board or its designated standing committee may acquire them by condemnation under ch. 32, but any award by the county board or its designated standing committee in excess of the agreed appraisal price shall be subject to review by the department. For the purposes and in the manner provided in s. 59.84 (2) (d) 1., when so directed in the department's order, the county board or its designated standing committee may acquire remnants, and with the approval of the department the county board may dispose of remnants and may improve, use, maintain or lease lands and interests acquired and held in trust for the state until they are actually needed for expressway construc-

tion. The net proceeds of the sales or rentals shall be remitted to the state or retained and used for expressway purposes when so directed by the department.

(8) (a) In this subsection, "surplus land" means land under the jurisdiction of the department which is unused and not needed for department operations or included in the department's plan for construction or development.

(b) Biennially, beginning on January 1, 1984, the department shall submit to the state building commission and the joint committee on finance an inventory of surplus land containing a general description of the location and an estimated value of each parcel. For each inventory submitted after May 25, 2006, the inventory shall contain a report including the estimated marketable value totals, by marketable type, of the land parcels, the net gain and net sale of surplus properties in the previous 2-year period, and a summary of the 5 most recent reports submitted under this paragraph.

(9) Subsections (5), (5m), and (6) do not apply to state surplus property that is sold under s. 16.848.

History: 1971 c. 40; 1973 c. 118 s. 7; 1977 c. 29 ss. 936, 1654 (1), (8) (a), (b); 1977 c. 272, 418; 1979 c. 310; 1983 a. 27; 1991 a. 39; 1993 a. 246; 1995 a. 201, 406; 1997 a. 27, 35, 282; 1999 a. 83, 186; 2003 a. 33, 211, 327; 2005 a. 25, 392; 2007 a. 20; 2011 a. 32.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1130/1dn

JTK...:....

Leev

(date)

Sasha Bong:

INS PJW

- 2 1. Although this draft repeals s. 16.848 (2), stats., which exempts certain property from DOA's sales authority, I have included in this draft under the treatment of s. 16.848 (1), stats., an exclusion for property that is sold as a part of a procedure to enforce an obligation to this state. The reason I did this is because failure to exclude this type of sale would necessitate amendment of many more statutes and would illogically hamper the enforcement of various tax, veterans mortgage, and public assistance and benefit laws by preventing the state from recovering assets to which it is entitled. This did not seem to make sense. If you want to treat this matter further, please let me know. We may need to deal with other attorneys to accomplish that.
- 3 2. This draft repeals s. 16.848 (2) (d), ^{stats.} which exempts lands under the jurisdiction of the Board of Commissioners of Public Lands from DOA's sales authority under s. 16.848, stats. This repeal ^{stats.} touches off extensive changes to ch. 24, stats. in this draft ^{stats.} that ~~which~~ have the effect of eliminating the power of the board to sell lands under its jurisdiction. Because under art. X, secs. 2 and 5 to 8 of the state constitution there is no circumstance under which any of the proceeds of any sales of the board's lands could be used for any purpose other than the uses currently provided, the changes to these statutes in this draft are illogical and confusing. You could simplify the draft and eliminate the confusion by restoring the current exemption and deleting all of this language.
- 4 3. Per your instructions, this draft does not permit state agencies that currently have sales authority to exercise it concurrently with DOA's sales authority. Instead, it generally eliminates sales authority by agencies other than DOA. At this point, the draft generally retains leasing authority, except for Building Commission authority, because leases are generally for short terms and may be phased out if DOA decides to sell a particular parcel of leased property. The draft subordinates the leasing authority of the Board of Regents to the authority of DOA. If you want to completely eliminate leasing by all agencies except DOA, we will need to add quite a bit of language to the draft.
- 5 4. This draft repeals s. 16.848 (2) (h), stats., which prohibits DOA from selling leased property during the term of a lease until the lease expires or the lease is modified,

renewed, or extended, whichever first occurs, without consent of the lessee. While the repeal itself does not necessarily result in any legal problem, if DOA exercises its authority under the draft in such a way as to impair the rights of a lessee under a lease during the term of the lessee's lease without the consent of the lessee, the state could be liable for damages.

- 6 5. If this draft is intended to facilitate the sale, lease, or contractual operation of any heating, cooling, and power plants other than those specified in s. 16.84 (1), stats. [the capitol power plant and the plants serving state office buildings], we may need to treat s. 16.84 (1), stats.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1130/P1dni
JTK.....

INS P1dn

1. Because your instructions affect laws outside ch. 16, stats., I have made this draft preliminary and have sent it to all attorneys for their review. If any of the parts outside ch. 16 are not drafted correctly, they may need to make corrections.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1130/P1dn
JTK:eev:jm

January 29, 2013

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Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

Kuesel, Jeffery

To: Bong, Sasha E - DOA
Subject: RE: BB0350 (LRB-1130)

Sasha,

Regarding the Building Commission authority, I misunderstood our phone conversation. I will change the draft accordingly.

Also, in conferring with Mary Gibson-Glass, who handles the DNR for us, I think we will not need to amend ss. ~~20.917~~ (1) (fs) and 23.27 (7), stats. because there is no land sold under those provisions (they refer to other resources).

^{20.370} Mary also raises a concern about ss. 20.370 (7) (aq), 20.866 (1) (u), and 23.0917 (5m) (b), stats., which all relate to sales of certain stewardship land by DNR under s. 23.0917 (5m), stats. We are wondering whether all the sales under this subsection have already occurred, in which case we might simply repeal the subsection. Also, we assume that there is another funding source to retire the bonds referred to in this subsection. If so, we're OK. If not, we need to have some way to retire these bonds. I will place a ****NOTE under this item in the draft as a reminder that we may need to follow up.

Jeff

From: Bong, Sasha E - DOA [<mailto:SashaE.Bong@wisconsin.gov>]

Sent: Tuesday, January 29, 2013 3:30 PM

To: Kuesel, Jeffery

Subject: BB0350 (LRB-1130)

Jeff,

We received the draft for BB0350 (Sale or lease of state-owned real property) and will be consulting others involved with this language over the next few days.

One larger issue I wanted to clarify before then was the authority of the Building Commission to sell state-owned real property under s. 13.48. The intent of the request was not to eliminate the Building Commission's authority to sell state-owned real property altogether. Our intent with regard to the Building Commission was for it to retain the authority to sell state-owned real property unless notified by DOA in writing that the department received an offer to purchase a property, as is currently found in s. 13.48(14)(am).

Ultimately, only DOA or the Building Commission would have statutory authority to sell state-owned real property. The only change intended with regard to the Building Commission was to direct remaining net proceeds of a Building Commission state-owned real property sale in the same manner as a DOA state-owned real property sale [s. 16.848(4)(a)], not to the budget stabilization fund as is directed under current law.

Please call or email with any questions or clarifications.

Thanks,

Sasha

Kuesel, Jeffery

From: Bong, Sasha E - DOA <SashaE.Bong@wisconsin.gov>
Sent: Wednesday, January 30, 2013 2:08 PM
To: Kuesel, Jeffery
Subject: RE: BB0350 (LRB-1130)

Jeff,

Here are some additional changes to the draft at this point:

In keeping the Building Commission's authority to sell state-owned real property, we'd also like to streamline some of the provisions in s. 13.48(14) and make them more consistent with provisions concerning DOA state-owned real property sales, including:

- ✓ • Using the definition of "agency" provided under s. 16.52(7) to be consistent with the definition used in proposed revisions to s. 16.848. With this definition, the intent is still to not exclude properties on UW System campus. Please let me know if that definition does not accomplish that intent.
 - ✓ • Modify s. 13.48(14)(am) to remove "where such authority is not otherwise provided to an agency by law."
 - ✓ • Modify s. 13.48(14)(c) to be the same as s. 16.848(4)(a) and (b), so that net proceeds from a state-owned real property sale are the same for a DOA or Building Commission sale.
 - ✓ • Modify s. 13.48(14)(d)2. so that starting January 1, 2014 and biennially thereafter, DOA will submit an inventory to the Building Commission and Joint Committee on Finance containing the location, description and fair market value of each parcel of land identified by DOA for potential sale. Repeal ss. 13.48(14)(d)1., 3. and 4.
- ✓ Related to remaining net proceeds of a sale (after the deposit to the bond security and redemption fund and repaying federal assistance), add provisions under ss. 13.48(14)(c) and 16.848(4)(b) to allow remaining net proceeds to be used for the redemption of revenue bond debt in the fund used to acquire, build, or improve the property being sold.
- ✓ As mentioned in your note under number 6, modify s. 16.84(1) to more generally include any heating, cooling and power plants owned and operated by the state.

Also, do you happen to know why there is language related to general property taxes in s. 13.48(14)(b)?

From: Kuesel, Jeffery [<mailto:Jeffery.Kuesel@legis.wisconsin.gov>]
Sent: Tuesday, January 29, 2013 5:13 PM
To: Bong, Sasha E - DOA
Subject: FW: BB0350 (LRB-1130)

The reference in line 2 should be to s. 20.370 (1) (fs), stats.

From: Kuesel, Jeffery
Sent: Tuesday, January 29, 2013 4:26 PM
To: Bong, Sasha E - DOA
Subject: RE: BB0350 (LRB-1130)

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To: Kuesel, Jeffery
Subject: RE: BB0350 (LRB-1130)

Jeff,

I apologize in advance, but here is another revision:

Regarding the last bullet point of my previous email, ss. 13.48(14)(d)1., 3. and 4., would still be repealed, but s. 13.48(14)(d)2. should be modified so that agencies would have to submit a full list of properties with estimated market values to DOA by January 1, 2014. By July 1, 2014, and biennially thereafter, DOA would have to submit that inventory to the Building Commission (not the Building Commission and Joint Committee on Finance).

We have a meeting scheduled tomorrow to discuss the draft, so I will likely have more changes tomorrow afternoon.

Thanks,

Sasha

From: Bong, Sasha E - DOA
Sent: Wednesday, January 30, 2013 2:08 PM
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