



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-1130/1

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slays

DOA:.....Bong, BB0350 – Sale or lease of state-owned real property

**FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION**

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- 1 AN ACT ...; relating to: sale or lease of state-owned real property, contractual
- 2 operation of state facilities, and management of state-owned heating, cooling,
- 3 and power plants.

*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

**OTHER STATE GOVERNMENT**

Currently, with certain exceptions, DOA may sell or lease state-owned real property if DOA determines that the sale is in the best interest of the state and the Building Commission approves the sale. Any sale may be either on the basis of public bids, with DOA reserving the right to reject any bid in the interest of the state, or negotiated prices and need not reflect fair market value. Also currently, various state agencies have authority to sell real property under their jurisdiction subject to various conditions and limitations. The proceeds of any sales are deposited, credited, or used in various ways as provided by law. DOA's authority generally does not apply to property that another agency has authority to sell. Also, DOA's authority does not operate to permit the closure or sale of any facility or institution the operation of which is required by law. DOA's authority also does not extend to property under the jurisdiction of the Board of Regents of the University of Wisconsin System and certain property under the jurisdiction of DHS at the Northern Center for the Developmentally Disabled. Except as otherwise provided by law, any sale by DOA

may be with or without the approval of the state agency that has jurisdiction over the property. The net proceeds of any sale by DOA are used to retire any outstanding public debt that was incurred to acquire, construct, or improve the property and if the property was acquired, constructed, or improved with federal financial assistance, the proceeds must be used to repay the federal government to the extent required by federal law. If the property was acquired by gift or grant or with gift or grant funds, DOA must adhere to any restriction governing use of the proceeds. DOA must use any remaining net proceeds to retire other outstanding public debt.

Currently, with certain exceptions, the Building Commission may also sell state-owned real property where this authority is not given to another state agency by law, and may transfer land under its jurisdiction among agencies. Sales may be accomplished in a manner similar to the manner that sales are conducted by DOA, except that sales of surplus land having a value of at least \$20,000 are subject to the approval of JCF. However, the Building Commission does not have the authority to sell a parcel of state-owned real property once DOA notifies the commission that an offer of sale or sale with respect to the parcel is pending. If a sale is not completed and no further action is pending with respect to a parcel of property, the authority of the Building Commission to sell the property is restored. The net proceeds of any sales by the Building Commission must be used to retire any public debt that was used to acquire or construct improvements on the property being sold. The remaining net proceeds must be deposited in the budget stabilization fund. Current law also directs the Building Commission to compile biennially and transmit to JCF an inventory of state-owned surplus land.

This bill permits DOA or the Building Commission to sell or lease any state-owned real property unless prohibited by the state or federal constitution or federal law, subject to the approval of the Building Commission. The bill does not apply to sales conducted to enforce an obligation to this state. The bill retains most of the existing exemptions from DOA's sales authority but eliminates the current exemption of the Board of Regents of the University of Wisconsin System and DHS (with respect to the Northern Center) to sell or lease state-owned real property independently of DOA. Under the bill, if DOA or the Building Commission notifies the Board of Regents or DHS that an offer of sale, sale, or lease is pending with respect to a parcel of property, the Board of Regents or DHS does not have authority to sell or lease that property. The bill eliminates the current exception that exempts sales that would necessitate the closure of a facility or institution which is provided for by law. However, the bill does not repeal any statutes that require the operation of any facilities or institutions. Under the bill, if DOA or the Building Commission sells all the real property that is currently used to operate a facility or institution, the facility or institution would need to continue in operation. Under the bill, except with respect to exempt property, if any agency has authority to sell or lease real property under any other law, the authority of that agency does not apply after DOA or the Building Commission notifies the agency in writing that an offer of sale or sale, or a lease agreement, is pending with respect to the property. If the sale or lease is not completed and no further action is pending with respect to the property, the authority of the agency to sell or lease the property is restored. Under the bill, DOA

*best interest of the state*

*Under the bill any sale may be either on the basis of a competitive bidding process with DOA or the commission reserving the right to reject any bid in the interest of the state, or through prices negotiated by an independent third party in the*

*net*  
the proceeds of any sale to pay the costs of federal tax law

and the Building Commission must use the remaining net proceeds of any sale, *compliance applicable to the debt.* subject to current requirements, to retire any revenue obligation debt in the fund that was used to acquire, construct, or improve property that was sold, and after any such debt is retired, to retire any public debt incurred for transportation purposes from general fund supported borrowing and after any such debt is retired, to retire any public debt incurred for transportation purposes from segregated fund or segregated revenue supported borrowing and after any such debt is retired, to retire other outstanding public debt. The bill provides that if any property that is proposed to be sold by DOA is co-owned by a nonstate entity, DOA must afford to the co-owner the right of first refusal to purchase the share of the property owned by the state on reasonable financial terms established by DOA. *Thereafter DOA and the Building Commission must use*

*must first use the net proceeds of any sale to retire any public debt that was used to finance the acquisition, or construction, or improvement of the property that is sold. Thereafter DOA and the Building Commission*

The bill also provides that if DOA leases a state-owned heating, cooling, or power plant, DOA may contract for the operation of any function that is performed by the state on the property. Currently, DOA or any state agency to which DOA delegates authority may enter into a contractual services agreement if the services can be performed more economically or efficiently by contract than by the state directly. The bill provides that this requirement does not apply to contracts with lessees entered into by DOA under the bill. The bill provides that if DOA sells, leases, or contracts with a lessee for the operation of any real property that was under the jurisdiction of the Board of Regents of the University of Wisconsin System prior to the sale, lease, or contract, the board must convey all systems, fixtures, or additional property interests specified by DOA to the purchaser or lessor of the property on the terms specified by DOA. In addition, the bill provides that if DOA sells or contracts with a lessee for the operation of any facility that is operated by a state agency before the effective date of the sale or contract, DOA may decrease the authorized full-time equivalent positions for the agency and may lapse or transfer appropriated moneys from any appropriation made to the agency, other than a sum sufficient appropriation or an appropriation of federal revenues, to account for discontinuance of the operation of the facility by the agency.

In addition, the bill provides that 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.

Finally, the bill modifies the authority of the Building Commission to sell or lease state-owned buildings, structures, and land to parallel the authority of DOA under the bill so that the authority includes property under the jurisdiction of the Board of Regents of the University of Wisconsin System and is not generally limited by sales authority given to state agencies, and so that distribution of sales proceeds is accomplished in the same manner as proceeds of DOA's sales are distributed. The bill deletes the current limitation that certain sales of surplus land are subject to approval of JCF. The bill directs each state agency, no later than January 1, 2014,

and biennially thereafter, to submit to DOA an inventory of all real property under its jurisdiction together with the estimated fair market value of each property. Each agency must specifically identify any underutilized assets in the inventory. Under the bill, no later than July 1 following receipt of the inventories, DOA must obtain appraisals of all properties in the inventory that are identified by DOA for potential sale and submit to the Building Commission an inventory containing a location, description, and fair market value of each property identified for potential sale.

Currently, DOA has charge of, operates, and maintains the state capitol power plant and any power plants serving the state office buildings. Under the bill, DOA has charge of, operates, and maintains any heating, cooling, and power plants not operated by another agency or by a purchaser, lessee, or contractor.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 13.48 (2) (b) 3. of the statutes is amended to read:

2           13.48 (2) (b) 3. The Except as provided in sub. (14) (am), the building  
3 commission may lease space in buildings described under subd. 2. to other  
4 governmental bodies or to nonprofit associations organized for public purposes and  
5 shall charge those bodies or associations an annual rental which shall be not less  
6 than the cost of operating, maintaining and amortizing the construction cost of the  
7 leased space.

8           **SECTION 2.** 13.48 (14) (title) of the statutes is amended to read:

9           13.48 (14) (title) SALE OR LEASE OF LANDS PROPERTY.

10          **SECTION 3.** 13.48 (14) (a) of the statutes is amended to read:

11          13.48 (14) (a) In this subsection, “agency” has the meaning given for “state  
12 agency” in s. 20.001 (1), ~~except that the term does not include the Board of Regents~~  
13 ~~of the University of Wisconsin System~~ in s. 16.52 (7).

14          **SECTION 4.** 13.48 (14) (am) of the statutes is amended to read:

15          13.48 (14) (am) ~~Except as provided in this paragraph and subject to par. (d),~~  
16 the building commission shall have the authority to sell or lease all or any part of

1 a state-owned building or structure or state-owned land, including farmland, where  
 2 such authority is not otherwise provided to an agency by law real property unless the  
 3 sale or lease is prohibited under the state or federal constitution or federal law or the  
 4 sale is conducted as a part of a procedure to enforce an obligation to this state, and  
 5 may transfer land real property under its jurisdiction among agencies. The building  
 6 commission does not have the authority to sell or lease any state-owned real  
 7 property under this paragraph after the department of administration notifies the  
 8 commission in writing that an offer of sale or sale or lease agreement with respect  
 9 to a property is pending under s. 16.848 (1). If the sale or lease is not completed and  
 10 no further action is pending with respect to the property, the authority of the building  
 11 commission under this paragraph is restored. Except with respect to property  
 12 identified in s. 16.848 (2), if any agency has authority to sell or lease real property  
 13 under any other law, the authority of that agency does not apply after the commission  
 14 notifies the agency in writing that an offer of sale or sale, or a lease agreement, is  
 15 pending with respect to the property under this paragraph. If the sale or lease is not  
 16 completed and no further action is pending with respect to the property, the authority  
 17 of the agency to sell or lease the property is restored. This paragraph does not apply  
 18 to real property that is exempted from sale or lease by the department of  
 19 administration under s. 16.848.

20 SECTION 5. 13.48 (14) (b) of the statutes is amended to read:

21 13.48 (14) (b) Subject to par. (d), the The building commission shall sell or lease  
 22 on the basis of either ~~public bid~~ <sup>a competitive bidding process</sup>, with the building commission reserving the right  
 23 to reject any or all bids in the best interest of the state, or ~~negotiated~~ <sup>through</sup> prices.

24 Buildings, structures and land mentioned in this subsection shall be subject to  
 25 general property taxes levied by those taxing bodies within whose area they lie if

negotiated by an independent  
 3rd party in the best interest  
 of the State

1 used for commercial purposes, and shall be subject to special assessments for public  
2 improvements in the same manner and to the same extent as privately owned  
3 buildings, structures and land real property, subject to approval of the building  
4 commission when required under s. 66.0703 (6).

5 SECTION 6. 13.48 (14) (c) of the statutes is renumbered 13.48 (14) (c) (intro.) and  
6 amended to read:

7 13.48 (14) (c) (intro.) If there is any outstanding public debt used to finance the  
8 acquisition of a building, structure or land <sup>or improvement</sup> or the construction of a building or  
9 structure that is sold <sup>(am)</sup> or leased under par. (b), the building commission shall deposit  
10 a sufficient amount of the net proceeds from the sale <sup>or lease</sup> of the building,  
11 structure or land in the bond security and redemption fund under s. 18.09 to repay  
12 the principal and pay the interest on the debt, and any premium due upon refunding  
13 <sup>and to provide a sufficient amount for the costs of maintaining federal tax law compliance</sup> any of that debt. ~~Except as provided in s. 51.06 (6), if~~ <sup>↑ strike</sup> if the property was acquired  
14 constructed, or improved with federal financial assistance, the commission shall pay <sup>applicable</sup>  
15 to the federal government any of the proceeds required by federal law. If the property <sup>to the</sup>  
16 was acquired by gift or grant or with gift or grant funds, the commission shall adhere <sup>debt.</sup>  
17 to any restriction governing use of the proceeds. If there is no such debt outstanding,  
18 ~~or, if the net proceeds exceed the amount required to repay that principal and pay~~  
19 ~~that interest and premium,~~ the building commission shall first use the net  
20 proceeds or remaining net proceeds in the budget stabilization fund. from the sale  
21 or lease to retire any revenue obligation debt in the fund that was used to acquire,  
22 construct, or improve the property in the manner provided in par. (cm), shall then  
23 use the proceeds or the remaining net proceeds to pay principal and interest costs on  
24 outstanding public debt that was used for transportation purposes from general fund  
25 supported borrowing, shall then use the net proceeds or remaining net proceeds to

be deposited, paid or used for another purpose under this paragraph

there are no moneys payable to the federal government and there is no restriction governing use of the proceeds and

1 pay principal and interest costs on outstanding public debt that was used for  
 2 transportation purposes from segregated fund or segregated revenue supported  
 3 borrowing, and shall then use the net proceeds or remaining net proceeds to pay  
 4 principal and interest costs on other outstanding public debt. For the purpose of  
 5 paying principal and interest costs on other outstanding public debt under this  
 6 paragraph, the commission may cause outstanding bonds to be called for redemption  
 7 on or following their optional redemption date, establish one or more escrow accounts  
 8 to redeem bonds at their optional redemption date, or purchase bonds in the open  
 9 market. To the extent practical, the commission shall consider all of the following  
 10 in determining which public debt to redeem:

11 SECTION 7. 13.48 (14) (c) 1. to 5. of the statutes are created to read:

12 13.48 (14) (c) 1. According preference to the redemption of general obligation  
 13 debt within the same statutory bond purpose that was used to acquire, build, or  
 14 improve the property being sold.

15 ~~2. Maintaining compliance with federal tax law applicable to the general~~  
 16 ~~obligation debt that was issued to acquire, build, or improve the property being sold.~~

17 ~~2. 8.~~ The extent to which general obligation debt that was issued to acquire, build,  
 18 or improve the property being sold is subject to current optional redemption, would  
 19 require establishment of an escrow, or could be assigned for accounting purposes to  
 20 another statutory bond purpose.

21 ~~3. 4.~~ The fiscal benefit of redeeming outstanding debt with higher interest costs.

22 ~~4. 5.~~ The costs of <sup>maintaining</sup> federal tax law compliance in the selection of general obligation  
 23 debt to be redeemed.

24 SECTION 8. 13.48 (14) (cm) of the statutes is created to read:

1           13.48 (14) (cm) If there are any outstanding revenue obligations, issued  
 2 pursuant to subch. II of ch. 18, used to finance the acquisition, construction, or  
 3 improvement of any property that is sold under par. (am), the commission shall  
 4 deposit a sufficient amount of the net proceeds from the sale of the property in the  
 5 respective redemption fund provided under s. 18.561 (5) or 18.562 (3) to repay the  
 6 principal and pay the interest on the revenue obligations, and any premium due upon  
 7 *and to provide a sufficient amount for the costs of maintaining Federal tax law*  
 8 refunding any of the revenue obligations. For the purpose of paying principal and *compliance*  
 9 interest costs on other outstanding revenue obligations, the commission may cause *applicable*  
 10 outstanding revenue obligations to be called for redemption on or following their *to the*  
 11 optional redemption date, establish one or more escrow accounts to redeem *revenue*  
 12 obligations at their optional redemption date, or purchase bonds on the open market. *obligations*

12           **SECTION 9.** 13.48 (14) (d) 1. of the statutes is repealed.

13           **SECTION 10.** 13.48 (14) (d) 2. of the statutes is renumbered 13.48 (14) (d) and  
 14 amended to read:

15           13.48 (14) (d) Biennially, beginning on January 1, 1984, each agency having  
 16 surplus land 2014, each agency shall submit to the department of administration an  
 17 inventory of all real property under its jurisdiction together with the estimated fair  
 18 market value of each property. The agency shall specifically identify any under  
 19 utilized assets in the inventory. No later than July 1 following receipt of the  
 20 inventories, the department of administration shall obtain appraisals of all  
 21 properties in the inventories that are identified by the department for potential sale  
 22 and shall submit to the building commission and the joint committee on finance an  
 23 inventory containing the location, description and fair market value of each parcel  
 24 of surplus land property identified for potential sale.

25           **SECTION 11.** 13.48 (14) (d) 3. of the statutes is repealed.

1 SECTION 12. 13.48 (14) (d) 4. of the statutes is repealed.

2 SECTION 13. 13.48 (20) of the statutes is amended to read:

3 13.48 (20) RESIDENCE HALLS. The Except as provided in sub. (14) (am), the  
4 building commission may approve the sale or lease of state-owned residence halls  
5 by the board of regents of the University of Wisconsin System to another state agency  
6 or a nonstate nonprofit agency for purposes provided in s. 36.11 (1) (e).

7 SECTION 14. 13.48 (22) of the statutes is amended to read:

8 13.48 (22) SALE OR LEASE OF CAPITOL AREA LANDS. The building commission may  
9 lease or resell lands acquired in the capitol planning area for public or private  
10 redevelopment and may set such conditions of sale or lease as it deems necessary to  
11 ensure development compatible with the needs of the community and the state. This  
12 subsection does not apply to lands that are authorized to be sold or leased under s.  
13 16.848 while an offer of sale, sale, or lease agreement is pending or while the lands  
14 are leased.

15 SECTION 15. 13.48 (23) of the statutes is amended to read:

16 13.48 (23) LEASE OF SPACE FOR COMMERCIAL USE. The Except as provided in sub.  
17 (14) (am), the building commission may lease space in state office buildings for  
18 commercial use, including without limitation because of enumeration, retail, service  
19 and office uses. In doing so the building commission shall consider the cost and fair  
20 market value of the space as well as the desirability of the proposed use. Such leases  
21 may be negotiated or awarded by competitive bid procedures. All such leases of space  
22 in state office buildings shall provide for payments in lieu of property taxes.

23 SECTION 16. 13.482 (2) (a) of the statutes is amended to read:

24 13.482 (2) (a) For the purpose of providing housing for state departments and  
25 agencies, including housing for state offices and the completion of the state office

**SECTION 16**

1 building, and to enable the construction, financing and ultimate acquisition thereof  
2 by the state, the building commission may acquire any necessary lands, and, subject  
3 to s. 13.48 (14) (am), lease and re-lease any lands owned by the state and available  
4 for the purpose to the Wisconsin State Public Building Corporation or other nonstock  
5 corporation organized under ch. 181 that is a nonprofit corporation, as defined in s.  
6 181.0103 (17). The lease and re-lease shall be for a term or terms not exceeding 50  
7 years each and shall be made on the condition that such corporation shall construct  
8 and provide on such leased lands such building projects, including buildings,  
9 improvements, facilities or equipment or other capital items, as the building  
10 commission requires, and shall re-lease the same to the building commission upon  
11 satisfactory terms as to the rental, maintenance and ultimate acquisition by the  
12 state as is in its best interests in the judgment of the building commission. After such  
13 leases and re-leases are executed and until the projects are acquired by the state,  
14 they shall be operated by the building commission through the department of  
15 administration, which shall have charge of such property as provided in ss. 16.85 and  
16 16.8511. The building commission shall operate the projects in such manner as to  
17 provide revenues therefrom sufficient to pay the costs of operation and maintenance  
18 of the project and to provide for the payments due the Wisconsin State Public  
19 Building Corporation or other nonstock, nonprofit corporation but if the building  
20 commission finds and declares that the housing available in any such project is in  
21 excess of the current housing needs or requirements of the state departments and  
22 agencies occupying or availing themselves of the space in or capacity of such project,  
23 the building commission need not operate such project in a manner to provide  
24 revenues therefrom sufficient to pay the costs of operation and maintenance of the

1 project and to provide for the rental payments due the Wisconsin State Public  
2 Building Corporation or other nonstock, nonprofit corporation.

3 **SECTION 17.** 13.488 (1) (a) of the statutes is amended to read:

4 13.488 (1) (a) Without limitation by reason of any other statutes except s. 13.48  
5 (14) (am), the power to sell and to convey title in fee simple to a nonprofit-sharing  
6 corporation any land and any existing buildings thereon owned by the state for such  
7 consideration and upon such terms and conditions as in the judgment of the building  
8 commission are in the public interest.

9 **SECTION 18.** 13.488 (1) (b) of the statutes is amended to read:

10 13.488 (1) (b) The Except as provided in s. 13.48 (14) (am), the power to lease  
11 to a nonprofit-sharing corporation for terms not exceeding 50 years each any land  
12 and existing buildings thereon owned by the state upon such terms, conditions and  
13 rentals as in the judgment of the building commission are in the public interest.

14 **SECTION 19.** 16.310 (5) of the statutes is amended to read:

15 16.310 (5) NONAPPLICATION. This section does not apply to property that is  
16 authorized to be sold under or leased or property that is operated under contract as  
17 provided in s. 16.848 while an offer of sale, sale, or lease agreement is pending or  
18 while the property is leased or under contractual operation.

19 **SECTION 20.** 16.705 (1) of the statutes is amended to read:

20 16.705 (1) The Except as otherwise provided in this section, the department  
21 or its agents may contract for services which can be performed more economically or  
22 efficiently by such contract. The department shall, by rule, prescribe uniform  
23 procedures for determining whether services are appropriate for contracting under  
24 this subsection.

25 **SECTION 21.** 16.705 (1e) of the statutes is created to read:

1           16.705 (1e) Subsection (1) does not apply to contracts entered into by the  
2 department under s. 16.848 (1).

3           **SECTION 22.** 16.84 (1) of the statutes is amended to read:

4           16.84 (1) Have charge of, operate, maintain and keep in repair the state capitol  
5 building, the executive residence, the light, heat and power plant, any heating,  
6 cooling, and power plants serving state properties that are not operated by an agency,  
7 as defined in s. 16.52 (7), or by a purchaser, lessee, or contractor under s. 13.48 (14)  
8 or 16.848 (1), the state office buildings and their power plants, the grounds connected  
9 therewith, and such other state properties as are designated by law. All costs of such  
10 operation and maintenance shall be paid from the appropriations under s. 20.505 (5)  
11 (ka) and (kb), except for debt service costs paid under s. 20.866 (1) (u). The  
12 department shall transfer moneys from the appropriation under s. 20.505 (5) (ka) to  
13 the appropriation account under s. 20.505 (5) (kc) sufficient to make principal and  
14 interest payments on state facilities and payments to the United States under s.  
15 13.488 (1) (m).

16           **SECTION 23.** 16.848 (title) of the statutes is amended to read:

17           16.848 (title) Sale or lease of certain state property <sup>for contractual operation</sup> ~~contractual~~  
18 ~~operation of heating, cooling, and power plants.~~ <sup>or facilities</sup>

19           **SECTION 24.** 16.848 (1) of the statutes is amended to read:

20           16.848 (1) Except as provided in sub. (2), the department may offer for sale or  
21 lease any state-owned real property, if the department determines that the sale or  
22 lease is in the best interest of the state, unless prohibited under the state or federal  
23 constitution or federal law or the sale is conducted as a part of a procedure to enforce  
24 an obligation to this state. Any sale may be either on the basis of <sup>a competitive bidding process</sup> ~~public bids~~, with  
25 the department reserving the right to reject any bid in the interest of the state, or

① negotiated prices. If the department receives an offer to purchase property offered <sup>through</sup> negotiated by an independent 3rd party in the best interest <sup>of</sup> the <sup>state</sup>

2 under this subsection, the department may submit a report to the building

3 commission recommending acceptance of the offer. The report shall contain a

4 description of the property and the reasons for the recommendation. The

5 department may recommend the sale of a ~~parcel of~~ property with or without the

6 approval of the agency, as defined in s. 16.52 (7), having jurisdiction of the property.

7 If the building commission approves the proposed sale, the department may sell the

8 property. Except with respect to property identified in sub. (2), if any agency, as

9 defined in s. 16.52 (7), has authority to sell or lease real property under any other law,

10 the authority of that agency does not apply after the department notifies the agency

11 in writing that an offer of sale or lease, or a lease agreement, is pending with respect

12 to the property under this subsection. If the sale or lease is not completed and no

13 further action is pending with respect to the property, the authority of the agency to

14 sell or lease the property is restored. If the department sells or leases any

15 state-owned real property under this subsection, the department may attach such

16 conditions to the sale or lease as it finds to be necessary or appropriate to carry out

17 the sale or lease in the best interest of the state. If the department leases a

18 state-owned heating, cooling, or power plant under this subsection, the department

19 may contract with the lessee for the operation of the plant. Notwithstanding ss.

20 196.49 and 196.80, if the department sells or leases a state-owned heating, cooling,

21 or power plant under this subsection to a public utility, as defined in s. 196.01 (5), no

22 approval or certification of the public service commission is necessary for the public

23 utility to purchase or lease the plant, or contract for operation of any function

24 performed by the state at a plant that is leased to the public utility under this

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

1 interest and to comply with the criteria for certification of a project under s. 196.49  
2 (3) (b).

3 **SECTION 25.** 16.848 (1g) of the statutes is created to read:

4 16.848 (1g) If any property that is proposed to be sold by the department under  
5 sub. (1) is co-owned by a nonstate entity, the department shall afford to that entity  
6 the right of first refusal to purchase the share of the property owned by the state on  
7 reasonable financial terms established by the department.

8 **SECTION 26.** 16.848 (1r) of the statutes is created to read:

9 16.848 (1r) (a) If the department sells or contracts with a lessee for the  
10 operation of any facility that is operated by an agency, as defined in s. 16.52 (7), on  
11 the day prior to the effective date of the sale or contract, the secretary shall,  
12 notwithstanding s. 16.50 (1), require submission of expenditure estimates for  
13 approval under s. 16.50 (2) for each agency that proposes to expend moneys from any  
14 appropriation for the operation of the facility during the fiscal biennium in which the  
15 facility is sold or operated under contract.

16 (b) Notwithstanding s. 16.50 (2), the secretary shall disapprove any such  
17 estimate for the period during which the facility is not operated by the agency. The  
18 secretary may then require the use of the amounts of any disapproved expenditure  
19 estimates for the purpose of purchase of contractual services from the facility or  
20 payment of the costs of purchasing services that were provided by the facility from  
21 an alternative source. If the department sells or contracts for the operation of a  
22 facility under this subsection, the secretary may identify any full-time equivalent  
23 positions authorized for the agency that was operating the facility the duties of which  
24 primarily relate to the management or operation of the facility, and may decrease the

1 authorized full-time equivalent positions for the agency by the number of positions  
2 so identified effective on the effective date of the sale or contract.

3 (c) Notwithstanding ss. 20.001 (3) (a) to (c) and 25.40 (3), the secretary may  
4 lapse or transfer to the general fund from the unencumbered balance of  
5 appropriations to any agency, other than sum sufficient appropriations and  
6 appropriations of federal revenues, any amount appropriated to an agency that is  
7 determined by the secretary to be allocated for the management or operation of the  
8 facility that was sold or operated under contract effective on the effective date of the  
9 sale or contract.

10 (d) The secretary shall report any action taken under this subsection to the  
11 cochairpersons of the joint committee on finance.

12 SECTION 27. 16.848 (2) (a) of the statutes is repealed.

13 SECTION 28. 16.848 (2) (b) of the statutes is repealed.

14 SECTION 29. 16.848 (2) (gw) of the statutes is repealed.

15 SECTION 30. 16.848 (4) (a) of the statutes is amended to read:

16 16.848 (4) (a) ~~Except as provided in s. 13.48 (14) (e), if~~ If there is any  
17 outstanding public debt used to finance the acquisition, construction, or  
18 improvement of any property that is sold under sub. (1), the department shall deposit  
19 a sufficient amount of the net proceeds from the sale of the property in the bond

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comma*  
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21

20 security and redemption fund under s. 18.09 to repay the principal and pay the  
21 ~~and to provide a sufficient amount for the costs of maintaining federal tax law~~  
interest on the debt, and any premium due upon refunding any of the debt. If the

22 property was acquired, constructed, or improved with federal financial assistance,

*compliance  
applicable  
to the  
debt*

23 the department shall pay to the federal government any of the net proceeds required

24 by federal law. If the property was acquired by gift or grant or acquired with gift or

25 grant funds, the department shall adhere to any restriction governing use of the

**SECTION 30**

1 proceeds. Except as required under ss. 13.48 (14) (e), 20.395 (9) (qd), and 51.06 (6),  
 2 if there is no such debt outstanding, there are no moneys payable to the federal  
 3 government, and there is no restriction governing use of the proceeds, and if the net  
 4 proceeds exceed the amount required to be deposited, paid, or used for another  
 5 purpose under this paragraph, the department shall first use the net proceeds or  
 6 remaining net proceeds from the sale or lease to retire any revenue obligation debt  
 7 in the fund that was used to acquire, construct, or improve the property in the  
 8 manner provided in par. (am), shall then use the proceeds or the remaining net  
 9 proceeds to pay principal and interest costs on outstanding public debt that was used  
 10 for transportation purposes from general fund supported borrowing, shall then use  
 11 the net proceeds or remaining net proceeds to pay principal and interest costs on  
 12 outstanding public debt that was used for transportation purposes from segregated  
 13 fund or segregated revenue supported borrowing, and shall then use the net proceeds  
 14 or remaining net proceeds to pay principal and interest costs on other outstanding  
 15 public debt.

**SECTION 31.** 16.848 (4) (am) of the statutes is created to read:

16 16.848 (4) (am) If there are any outstanding revenue obligations, issued  
 17 pursuant to subch. II of ch. 18, used to finance the acquisition, construction, or  
 18 improvement of any property that is sold under sub. (1), the department shall deposit  
 19 a sufficient amount of the net proceeds from the sale of the property in the respective  
 20 redemption fund provided under s. 18.561 (5) or 18.562 (3) to repay the principal and  
 21 pay the interest on the revenue obligations, and any premium due upon refunding  
 22 any of of the revenue obligations. For the purpose of paying principal and interest  
 23 costs on other outstanding revenue obligations, the secretary may cause outstanding  
 24 revenue obligations to be called for redemption on or following their optional

*maintaining  
federal tax  
law*

*and to provide a sufficient amount for the costs of compliance applicable to  
the revenue obligations*

1 redemption date, establish one or more escrow accounts to redeem obligations at  
2 their optional redemption date, or purchase bonds on the open market.

3 SECTION 32. 16.848 (4) (b) (intro.) of the statutes is amended to read:

4 16.848 (4) (b) (intro.) ~~For~~ Except as otherwise required under par. (a), for the  
5 purpose of paying principal and interest costs on other outstanding public debt under  
6 par. (a), the secretary may cause outstanding bonds to be called for redemption on  
7 or following their optional redemption date, establish one or more escrow accounts  
8 to redeem bonds at their optional redemption date, or purchase bonds in the open  
9 market. To the extent practical, the secretary shall consider all of the following in  
10 determining which public debt to redeem:

11 SECTION 33. 20.373 (1) (g) of the statutes is amended to read:

12 20.373 (1) (g) *Administration, operation, repair, and rehabilitation.* From the  
13 general fund, all moneys received from the sale of surplus land under 2005 Wisconsin  
14 Act 25, section 9105 (14q) except as provided in s. 13.48 (14) (am) or 16.848 (1), to be  
15 used for administration of the authority and the operation, repair, and rehabilitation  
16 of the Fox River lock system.

17 SECTION 34. 25.17 (8) of the statutes is amended to read:

18 25.17 (8) Accept, when necessary to protect a mortgage loan, a quitclaim deed  
19 or warranty deed to the mortgaged property in full satisfaction of the mortgage debt,  
20 and, subject to prior action under s. 13.48 (1) (am) or 16.848 (1), manage, operate,  
21 lease, exchange, sell and convey, by land contract, quitclaim deed or warranty deed,  
22 and grant easement rights in, any real property acquired by the board.

23 SECTION 35. 25.60 of the statutes is amended to read:

24 **25.60 Budget stabilization fund.** There is created a separate nonlapsible  
25 trust fund designated as the budget stabilization fund, consisting of moneys

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1 transferred to the fund from the general fund under ss. 13.48 (14) (e), 16.518 (3), and  
2 16.72 (4) (b).

3 **SECTION 36.** 36.09 (1) (L) of the statutes is amended to read:

4 36.09 (1) (L) The board shall possess all powers necessary or convenient for the  
5 operation of the system except as limited in this chapter and ss. 13.48 (14) (am) and  
6 16.848 (1).

7 **SECTION 37.** 36.09 (1) (m) of the statutes is created to read:

8 36.09 (1) (m) If the department of administration sells, leases, or contracts with  
9 a lessee for the operation of any real property that was under the jurisdiction of the  
10 board prior to the sale, lease, or contract, the board shall convey all systems, fixtures,  
11 or additional property interests specified by the department of administration to the  
12 purchaser or lessor of the property on terms specified by the department of  
13 administration.

14 **SECTION 38.** 36.11 (1) (b) of the statutes is amended to read:

15 36.11 (1) (b) Except as provided in this paragraph and ss. 13.48 (14) (am) and  
16 16.848 (1), the board may purchase, have custody of, hold, control, possess, lease,  
17 grant easements and enjoy any lands, buildings, books, records and all other  
18 property of any nature which may be necessary and required for the purposes, objects  
19 and uses of the system authorized by law. Any lease by the board is subject to the  
20 powers of the University of Wisconsin Hospitals and Clinics Authority under s.  
21 233.03 (13) and the rights of the authority under any lease agreement, as defined in  
22 s. 233.01 (6). The board shall not permit a facility that would be privately owned or  
23 operated to be constructed on state-owned land without obtaining prior approval of  
24 the building commission under s. 13.48 (12). The Subject to prior action under s.  
25 13.48 (14) (am) or 16. 848 (1), the board may sell or dispose of such property as

1 provided by law, or any part thereof when in its judgment it is for the best interests  
2 of the system and the state. All purchases ~~and sales~~ of real property shall be subject  
3 to the approval of the building commission. The provision of all leases of real  
4 property to be occupied by the board shall be the responsibility of the department of  
5 administration under s. 16.84 (5).

6 **SECTION 39.** 36.11 (1) (e) of the statutes is amended to read:

7 36.11 (1) (e) The Subject to prior action under s. 13.48 (14) (am) or 16.848 (1),  
8 the board, with the approval of the building commission, may sell or lease  
9 state-owned residence halls to another state agency or nonstate nonprofit agency for  
10 purposes of alternate use.

11 **SECTION 40.** 36.11 (28) of the statutes is amended to read:

12 36.11 (28) LEASE AGREEMENT WITH THE UNIVERSITY OF WISCONSIN HOSPITALS AND  
13 CLINICS AUTHORITY. Subject to 1995 Wisconsin Act 27, section 9159 (2) (k), and subject  
14 to any prior lease entered into under s. 13.48 (14) (am) or 16.848 (1), the board shall  
15 negotiate and enter into a lease agreement with the University of Wisconsin  
16 Hospitals and Clinics Authority that meets the requirements under s. 233.04 (7) and  
17 shall comply with s. 233.04 (7g).

18 **SECTION 41.** 36.33 (title) and (1) of the statutes are amended to read:

19 **36.33 (title) Sale or lease and relocation of agricultural lands. (1)**  
20 LEGISLATIVE INTENT. The legislature finds and determines that, because of the  
21 problems resulting from the development of the city of Madison around certain  
22 agricultural lands of the University of Wisconsin-Madison, the desirability of  
23 consolidating lands used for agricultural instruction, research and extension  
24 purposes, the desirability of disposing of agricultural lands no longer needed by the  
25 university and the need for land of better quality and of greater quantity for the

**SECTION 41**

1 purpose of improving and expanding agricultural research, it is in the public interest  
2 for the board to sell or lease, in whole or in part, and subject to any prior action under  
3 s. 13.48 (14) (am) or 16.848 (1), the agricultural lands and improvements thereon  
4 owned by the board and located in sections 19, 20 and 30, township 7 north, range  
5 9 east, Dane County; sections 25 and 27, township 7 north, range 8 east, Dane  
6 County; sections 34 and 35, township 38 north, range 11 east, Oneida County; and  
7 section 22, township 22 north, range 8 east, Portage County; and to purchase other  
8 agricultural lands outside of the Madison urban area and to construct thereon the  
9 necessary buildings and improvements. The foregoing policy determination is made  
10 without reference to or intention of limiting the powers which the board may  
11 otherwise have.

12 **SECTION 42.** 36.33 (2) (title) and (a) (intro.) of the statutes are amended to read:

13 36.33 (2) (title) METHOD OF SALE OR LEASE; ASSESSMENTS. (a) (intro.) The Subject  
14 to any prior action under s. 13.48 (14) (am) or 16.848 (1), the board, in selling or  
15 leasing any part of the agricultural lands and improvements thereon, mentioned in  
16 sub. (1), shall sell or lease on the basis of either of the following:

17 **SECTION 43.** 36.33 (3) of the statutes is amended to read:

18 36.33 (3) BUILDING COMMISSION APPROVAL. The sale, lease and purchase of  
19 agricultural lands mentioned in sub. (1) is subject to prior action under s. 13.48 (14)  
20 (am) or 16.848 (1) and shall be subject to the approval of the building commission.

21 **SECTION 44.** 41.23 of the statutes is amended to read:

22 **41.23 Sale of excess or surplus property.** The department may acquire  
23 excess or surplus property from the department of administration under ss. 16.72 (4)  
24 (b) and 16.98 (1) or from the department of transportation under s. 84.09 (5s) and,  
25 subject to any prior action under s. 13.48 (14) (am) or 16.848 (1), the department may

1 sell the property acquired under this section to any person at a price determined by  
2 the department of tourism. All proceeds received by the department of tourism from  
3 the sale of property under this section shall be credited to the appropriation account  
4 under s. 20.380 (1) (h).

5 **SECTION 45.** 41.41 (7) (b) of the statutes is amended to read:

6 41.41 (7) (b) ~~Lease~~ Subject to any prior action under s. 13.48 (14) (am) or 16.848  
7 (1), lease land that is part of the Kickapoo valley reserve to any person for purposes  
8 consistent with the management of the reserve under sub. (3), or for agricultural  
9 purposes, and lease other land that is acquired by the board for any lawful purpose.

10 **SECTION 46.** 44.015 (1) of the statutes is amended to read:

11 44.015 (1) Acquire any interest in real or personal property by gift, bequest or  
12 otherwise in any amount and, subject to prior action under s. 13.48 (14) (am) or  
13 16.848 (1), may operate, manage, sell, or rent or convey real estate acquired by gift,  
14 bequest, foreclosure or other means, upon such terms and conditions as the board of  
15 curators deems for its interests but may not sell, mortgage, transfer or dispose of in  
16 any manner or remove from its buildings, except for temporary purposes, any article  
17 therein without authority of law.

18 **SECTION 47.** 44.16 (1) of the statutes is amended to read:

19 44.16 (1) ~~The~~ Subject to any prior action under s. 13.48 (14) (am) or 16.848 (1),  
20 the historical society may enter into a lease agreement with the Circus World  
21 Museum Foundation, Inc., for the purpose of operating Circus World Museum,  
22 located in Baraboo, Wisconsin. The lease agreement shall not include any provision  
23 for the payment of a percentage of gross admissions income at Circus World Museum  
24 to the historical society.

25 **SECTION 48.** 45.03 (5) (c) 1. a. of the statutes is amended to read:

1           45.03 (5) (c) 1. a. Without limitation by reason of any other provisions of the  
2 statutes except ~~s. ss. 13.48 (14) (am) and 16.848 (1)~~, unless otherwise required by law,  
3 the power to sell and to convey title in fee simple to a nonprofit corporation any land  
4 and any existing buildings owned by the state that are under the jurisdiction of the  
5 department for the consideration and upon the terms and conditions as in the  
6 judgment of the board are in the public interest.

7           **SECTION 49.** 46.03 (30) (a) of the statutes is amended to read:

8           46.03 (30) (a) To provide for an orderly reduction of state institutional primary  
9 psychiatric services the department may approve the institutes entering into  
10 contracts with county departments under s. 51.42 for providing primary psychiatric  
11 care. If excess capacity exists at state operated mental health institutes, the  
12 department shall, subject to ~~s. ss. 13.48 (14) (am) and 16.848 (1)~~, explore the possible  
13 sale or lease of such excess facilities to a county department under s. 51.42.

14           **SECTION 50.** 46.035 (2) (a) of the statutes is amended to read:

15           46.035 (2) (a) Without limitation by reason of any other provisions of the  
16 statutes except ~~s. ss. 13.48 (14) (am) and 16.848 (1)~~, the power to sell and to convey  
17 title in fee simple to a nonprofit corporation any land and any existing buildings  
18 thereon owned by, or owned by the state and held for, the department or of any of the  
19 institutions under the jurisdiction of the department for such consideration and  
20 upon such terms and conditions as in the judgment of the secretary are in the public  
21 interest.

22           **SECTION 51.** 46.06 (4) of the statutes is amended to read:

23           46.06 (4) SALES. The department may, with the approval of the building  
24 commission, and subject to any prior action under s. 13.48 (14) (am) or 16.848 (1), sell  
25 and convey such lands under the jurisdiction of the department as the secretary

1 deems to be in excess of the present or future requirements of the department for  
2 either the operation of its facilities or programs, for the maintenance of buffer zones  
3 adjacent to its facilities or for other public purposes. The proceeds of such sales are  
4 subject to s. 13.48 (14) (c).

5 **SECTION 52.** 51.06 (6) of the statutes is amended to read:

6 **51.06 (6) SALE OF ASSETS OR REAL PROPERTY AT NORTHERN CENTER FOR THE**  
7 **DEVELOPMENTALLY DISABLED.** The department may maintain the Northern Center for  
8 the Developmentally Disabled for the purpose specified in sub. (1), but may sell  
9 assets or real property, of the Northern Center for the Developmentally Disabled,  
10 subject to any prior action under s. 13.48 (14) (am) or 16.848 (1). If there is any  
11 outstanding public debt used to finance the acquisition, construction, or  
12 improvement of any property that is sold under this subsection, the department shall  
13 deposit a sufficient amount of the net proceeds from the sale of the property in the  
14 bond security and redemption fund under s. 18.09 to repay the principal and pay the  
15 interest on the debt, and any premium due upon refunding any of the debt. If the  
16 property was purchased with federal financial assistance, the department shall pay  
17 to the federal government any of the net proceeds required by federal law. If there  
18 is no such debt outstanding and there are no moneys payable to the federal  
19 government, or if the net proceeds exceed the amount required to be deposited or paid  
20 under this subsection, the department shall credit the net proceeds or remaining net  
21 proceeds to the appropriation account under s. 20.435 (2) (gk).

22 **SECTION 53.** 84.01 (30) (g) 3. of the statutes is amended to read:

23 **84.01 (30) (g) 3.** Notwithstanding any other statute except ss. 13.48 (14) (am)  
24 and 16.848 (1), the department may sell, at the appraised value, the real estate upon  
25 which a park-and-ride facility is or may be located, if the department determines

1 that the sale is in the best interests of the public and the department determines that  
2 the real estate will be used in a manner consistent with the state's transportation  
3 interests.

4 SECTION 54. 84.09 (1) of the statutes is amended to read:

5 84.09 (1) The department may acquire by gift, devise, purchase or  
6 condemnation any lands for establishing, laying out, widening, enlarging,  
7 extending, constructing, reconstructing, improving and maintaining highways and  
8 other transportation related facilities, or interests in lands in and about and along  
9 and leading to any or all of the same; and after establishment, layout and completion  
10 of such improvements, the department may, subject to any prior action under s. 13.48  
11 (14) (am) or 16.848 (1), convey such lands thus acquired and not necessary for such  
12 improvements, with reservations concerning the future use and occupation of such  
13 lands so as to protect such public works and improvements and their environs and  
14 to preserve the view, appearance, light, air and usefulness of such public works.  
15 Whenever the department deems it necessary to acquire any such lands or interests  
16 therein for any transportation related purpose, it shall so order and in such order or  
17 on a map or plat show the old and new locations and the lands and interests required,  
18 and shall file a copy of the order and map with the county clerk and county highway  
19 committee of each county in which such lands or interests are required or, in lieu of  
20 filing a copy of the order and map, may file or record a plat in accordance with s.  
21 84.095. For the purposes of this section the department may acquire private or public  
22 lands or interests in such lands. When so provided in the department's order, such  
23 land shall be acquired in fee simple. Unless it elects to proceed under sub. (3), the  
24 department shall endeavor to obtain easements or title in fee simple by conveyance  
25 of the lands or interests required at a price, including any damages, deemed

1 reasonable by the department. The instrument of conveyance shall name the state  
2 as grantee and shall be recorded in the office of the register of deeds. The purchase  
3 or acquisition of lands or interests therein under this section is excepted and exempt  
4 from s. 20.914 (1). The department may purchase or accept donations of remnants  
5 of tracts or parcels of land existing at the time or after it has acquired portions of such  
6 tracts or parcels by purchase or condemnation for transportation purposes where in  
7 the judgment of the department such action would assist in making whole the  
8 landowner, a part of whose lands have been taken for transportation purposes and  
9 would serve to minimize the overall costs of such taking by the public. ~~This~~  
10 ~~subsection does not apply to lands that are sold under s. 16.848.~~

11 **SECTION 55.** 84.09 (5) (a) of the statutes is amended to read:

12 84.09 (5) (a) Subject to pars. (b) and (c) and any prior action under s. 13.48 (14)  
13 (am) or 16.848 (1), and subject to the approval of the governor, the department may  
14 sell at public or private sale property of whatever nature owned by the state and  
15 under the jurisdiction of the department when the department determines that the  
16 property is no longer necessary for the state's use for transportation purposes and,  
17 if real property, the real property is not the subject of a petition under s. 16.310 (2).  
18 The department shall present to the governor a full and complete report of the  
19 property to be sold, the reason for the sale, and the minimum price for which the same  
20 should be sold, together with an application for the governor's approval of the sale.  
21 The governor shall thereupon make such investigation as he or she may deem  
22 necessary and approve or disapprove the application. Upon such approval and  
23 receipt of the full purchase price, the department shall by appropriate deed or other  
24 instrument transfer the property to the purchaser. The approval of the governor is  
25 not required for public or private sale of property having an appraised value at the

**SECTION 55**

1 time of sale of not more than \$15,000, for the transfer of surplus state real property  
2 to the department of administration under s. 16.310, or for the transfer of surplus  
3 state personal property to the department of tourism under sub. (5s). The funds  
4 derived from sales under this subsection shall be deposited in the transportation  
5 fund, and the expense incurred by the department in connection with the sale shall  
6 be paid from such fund.

7 **SECTION 56.** 84.09 (5) (c) 1. (intro.) of the statutes is amended to read:

8 84.09 (5) (c) 1. (intro.) ~~Prior~~ Subject to any prior action under s. 13.48 (14) (am)  
9 or 16.848 (1), prior to conducting a public sale on a generally marketable surplus land  
10 parcel under par. (b), the department shall contact the county, municipality, and the  
11 local school district where the land parcel is located and the department of natural  
12 resources to solicit interest in acquiring the parcel for public use. Upon notification  
13 from the department, the county, municipality, local school district, and department  
14 of natural resources must respond to the department, stating their interest in the  
15 land for public use, within 60 days. Failure to respond within 60 days constitutes  
16 noninterest in the land parcel.

17 **SECTION 57.** 84.09 (5) (c) 2. (intro.) of the statutes is amended to read:

18 84.09 (5) (c) 2. (intro.) Except as provided in subd. 2m. and subject to any prior  
19 action under s. 13.48 (14) (am) or 16.848 (1), if a county, a municipality, a local school  
20 district, or the department of natural resources expresses interest in acquiring the  
21 land for public use, the department shall offer the county, municipality, local school  
22 district, or department of natural resources the property at its appraised value if all  
23 of the following are true:

24 **SECTION 58.** 84.09 (5) (c) 2m. (intro.) of the statutes is amended to read:

1           84.09 (5) (c) 2m. (intro.) If a county, municipality, or a local school district  
2 expresses interest in acquiring the land for public use related to transportation or  
3 infrastructure, the department may, subject to any prior action under s. 13.48 (14)  
4 (am) or 16.848 (1), offer the county, municipality, or the local school district the  
5 property, for less than the appraised value of the property, if all of the following are  
6 true:

7           **SECTION 59.** 84.09 (5m) of the statutes is amended to read:

8           84.09 (5m) Subject to the approval of the governor in the manner, scope, and  
9 form provided by sub. (5) (a), and subject to any prior action under s. 13.48 (14) (am)  
10 or 16.848 (1), the department may convey lands or interests therein acquired  
11 pursuant to this section and improvements installed thereon to municipalities  
12 within whose limits such lands or interests therein are located. The conveyance of  
13 said lands or interests therein and improvements shall restrict the use of the  
14 premises by the municipality to the uses for which they were acquired, except that  
15 said lands or interests therein declared by the department to be excess may be so  
16 conveyed without restrictions as to use. This subsection shall apply only to the sale  
17 of property acquired by the department for a project that is completed before May 25,  
18 2006. The department may sell property that is acquired by the department for a  
19 project that is completed after May 25, 2006, to a municipality under sub. (5) (c), as  
20 applicable.

21           **SECTION 60.** 84.09 (6) of the statutes is amended to read:

22           84.09 (6) Lands Subject to any prior action under s. 13.48 (14) (am) or 16.848  
23 (1), lands held by any other state department or independent agency may, with the  
24 approval of the governor, be conveyed to the department in the manner prescribed

1 by statute and, if none is prescribed, then by a conveyance authorized by appropriate  
2 order or resolution of the head of the department or independent agency concerned.

3 **SECTION 61.** 84.09 (9) of the statutes is repealed.

4 **SECTION 62.** 84.40 (2) (a) of the statutes is amended to read:

5 84.40 (2) (a) May Subject to any prior action under s. 13.48 (14) (am) or 16.848  
6 (1), may sell and convey to a nonprofit-sharing corporation any public right-of-way  
7 available for highway purposes and any existing highways or other improvements  
8 thereon owned by the state or under the jurisdiction of the department for such  
9 consideration and upon such terms and conditions as the department deems in the  
10 public interest.

11 **SECTION 63.** 85.09 (2) (a) of the statutes is amended to read:

12 85.09 (2) (a) The department of transportation shall have the first right to  
13 acquire, for present or future transportation or recreational purposes, any  
14 property used in operating a railroad or railway, including land and rails, ties,  
15 switches, trestles, bridges, and the like located on that property, that has been  
16 abandoned. The department of transportation may, in connection with abandoned  
17 rail property, assign this right to a state agency, the board of regents of the University  
18 of Wisconsin System, any county or municipality, or any transit commission.  
19 Acquisition by the department of transportation may be by gift, purchase, or  
20 condemnation in accordance with the procedure under s. 32.05. In addition to its  
21 property management authority under s. 85.15, the department of transportation  
22 may, subject to any prior action under s. 13.48 (14) (am) or 16.848 (1), lease and collect  
23 rents and fees for any use of rail property pending discharge of the department's duty  
24 to convey property that is not necessary for a public purpose. No person owning  
25 abandoned rail property, including any person to whom ownership reverts upon

1     abandonment, may convey or dispose of any abandoned rail property without first  
2     obtaining a written release from the department of transportation indicating that  
3     the first right of acquisition under this subsection will not be exercised or assigned.  
4     No railroad or railway may convey any rail property prior to abandonment if the rail  
5     property is part of a rail line shown on the railroad's system map as in the process  
6     of abandonment, expected to be abandoned, or under study for possible  
7     abandonment unless the conveyance or disposal is for the purpose of providing  
8     continued rail service under another company or agency. Any conveyance made  
9     without obtaining such release is void. The first right of acquisition of the  
10    department of transportation under this subsection does not apply to any rail  
11    property declared by the department to be abandoned before January 1, 1977. The  
12    department of transportation may acquire any abandoned rail property under this  
13    section regardless of the date of its abandonment.

14           **SECTION 64.** 85.09 (4) of the statutes is amended to read:

15           **85.09 (4) ACQUISITION AND CONVEYANCE.** Upon its own initiative, the department  
16    may determine at any time whether the rail property is abandoned, and whether it  
17    is in the best interest of the state to acquire the rail property. Within 90 days after  
18    being requested by any state agency, any railroad or any county or municipality in  
19    which the rail property is located, the department shall, subject to sub. (5) (b), make  
20    a determination of the abandonment status and, if found to be abandoned, shall  
21    determine whether it is in the best interest of the public to acquire the rail property.  
22    If it is determined to acquire the rail property or any part or interest therein, the  
23    department shall, within 180 days of the determination of its abandoned status, or  
24    the interstate commerce commission's final order permitting the abandonment, or  
25    the termination of any efforts to negotiate an agreement for continual operation of

**SECTION 64**

1 rail service on the line, whichever occurs last, determine the fair market value of the  
2 rail property and acquire the rail property at a price deemed reasonable by the  
3 department or make a relocation order under s. 32.05. In making its determination,  
4 the department shall consider long-range potential for use of the rail property for  
5 restoration of railroad service and for other transportation related purposes. The  
6 department shall solicit the opinions of appropriate state agencies, affected counties  
7 and municipalities and other interested persons. The department shall give due  
8 consideration to an expressed desire by a state agency or an affected county or  
9 municipality to acquire, in whole or in part, the rail property under consideration.  
10 Subject to any prior action under s. 13.48 (14) (am) or 16.848 (1) and subject to sub.  
11 (6), all or part of any interest in abandoned rail property acquired by the department  
12 under this section or under s. 66.941 (7), 1975 stats., may be subsequently conveyed  
13 to another state agency or a county or municipality for transportation purposes,  
14 recreational purposes, scenic purposes or for the purpose of constructing a  
15 correctional institution, or to a railroad for continued railroad transportation  
16 operations when the railroad has operated on the rail property for 5 years and the  
17 department may make such conveyances for such purposes. Any determination of  
18 the department under this section that rail property is not abandoned shall not  
19 preclude the undertaking of a subsequent investigation and determination  
20 concerning the same rail property or any portion thereof. If at any time subsequent  
21 to the acquisition of rail property under this section the department determines that  
22 the rail property is not suitable for transportation purposes, recreational purposes,  
23 scenic purposes or for the purpose of constructing a correctional institution, or that  
24 the rail property or any interest therein may be conveyed to any other person on  
25 terms which are not inconsistent with the potential use of the rail property for

1       transportational purposes, recreational purposes, scenic purposes or for the purpose  
2       of constructing a correctional institution or which yield a benefit, including financial  
3       benefits, to the state which outweighs the benefit derived from the rail property if  
4       used for transportational purposes, recreational purposes, scenic purposes or for the  
5       purpose of constructing a correctional institution, the department may convey the  
6       rail property or such interest therein, subject to any prior action under s. 13.48 (14)  
7       (am) or 16.848 (1) and subject to sub. (6). The department shall give notice of its  
8       intention to make the conveyance, and state and local units of government shall have  
9       the first 6 months in which to exercise their opportunity to acquire the rail property  
10       or interest therein. The railroad from which the rail property was acquired shall  
11       have the next 6 months in which to exercise its opportunity to reacquire the rail  
12       property or interest therein.

13               **SECTION 65.** 85.09 (4i) of the statutes is amended to read:

14               85.09 (4i) DISPOSAL OF RAIL PROPERTY. The department, subject to any prior  
15       action under s. 13.48 (14) (am) or 16.848 (1), shall sell at public or private sale rail  
16       property acquired under sub. (4) when the department determines that the rail  
17       property is not necessary for a public purpose and, if real property, the real property  
18       is not the subject of a petition under s. 16.310 (2). Upon receipt of the full purchase  
19       price, the department shall, by appropriate ~~deed or other~~ instrument, transfer the  
20       rail property to the purchaser. The funds derived from sales under this subsection  
21       shall be deposited in the transportation fund, and the expense incurred by the  
22       department in connection with the sale shall be paid from the appropriation under  
23       s. 20.395 (2) (bq). ~~This subsection does not apply to real property that is sold under~~  
24       ~~s. 16.848.~~

25               **SECTION 66.** 85.15 (1) of the statutes is amended to read:

**SECTION 66**

1           85.15 (1) The Subject to any prior action under s. 13.48 (14) (am) or 16.848 (1),  
2 the department may improve, use, maintain or lease any property acquired for  
3 highway, airport or any other transportation purpose until the property is actually  
4 needed for any such purpose and may permit use of the property for purposes and  
5 upon such terms and conditions as the department deems in the public interest.

6           **SECTION 67.** 108.161 (7) of the statutes is amended to read:

7           108.161 (7) If any moneys appropriated hereunder are used to buy and hold  
8 suitable land, with a view to the future construction of an employment security  
9 building thereon, and if such land is later sold or transferred to other use, the  
10 proceeds of such sale (or the value of such land when transferred) shall be credited  
11 to the account created by sub. (1) except as otherwise provided in s. 13.48 (14) and  
12 16.848.

13           **SECTION 68.** 108.161 (9) of the statutes is amended to read:

14           108.161 (9) Any land and building or office quarters acquired under this section  
15 shall continue to be used for employment security purposes. Realty or quarters may  
16 not be sold or transferred to other use if prior action is taken under s. 13.48 (14) (am)  
17 or 16.848 (1) and may not be sold or transferred without the governor's approval. The  
18 proceeds from the sale, or the value of realty or quarters upon transfer, shall be  
19 credited to the account established in sub. (1) or credited to the fund established in  
20 s. 108.20, or both in accordance with federal requirements. Equivalent substitute  
21 rent-free quarters may be provided, as federally approved. Amounts credited under  
22 this subsection shall be used solely to finance employment security quarters  
23 according to federal requirements.

24           **SECTION 69.** 114.33 (6) (a) of the statutes is amended to read:

1           114.33 (6) (a) For the purposes of carrying out this section and ss. 114.35 and  
2           114.37, the secretary may acquire by gift, devise, purchase or condemnation any  
3           lands for establishing, protecting, laying out, enlarging, extending, constructing,  
4           reconstructing, improving and maintaining airports, or interests in lands in and  
5           about airports. After completion of the improvements, subject to any prior action  
6           under s. 13.48 (14) (am) or 16.848 (1), the secretary may convey as provided in this  
7           subsection lands that were acquired under this subsection, but were not necessary  
8           for the airport improvements. The conveyances may be made with reservations  
9           concerning the future use and occupation of those lands so as to protect the airports  
10          and improvements and their environs and to preserve the view, appearance, light,  
11          air and usefulness of the airports.

12           **SECTION 70.** 114.33 (10) of the statutes is amended to read:

13           114.33 (10) Subject to the approval of the governor under this subsection and  
14           subject to any prior action under s. 13.48 (14) (am) or 16.848 (1), the secretary may  
15           sell at public or private sale property of whatever nature owned by the state and  
16           under the jurisdiction of the secretary when the secretary determines that the  
17           property is no longer necessary for the state's use for airport purposes and, if real  
18           property, the real property is not the subject of a petition under s. 16.310. The  
19           secretary shall present to the governor a full and complete report of the property to  
20           be sold, the reason for the sale, and the minimum price for which the property should  
21           be sold, together with an application for the governor's approval of the sale. The  
22           governor shall investigate the proposed sale as he or she deems necessary and  
23           approve or disapprove the application. Upon approval and receipt of the full  
24           purchase price, the secretary shall by appropriate deed or other instrument transfer  
25           the property to the purchaser. The funds derived from the sale shall be deposited in

1 the appropriate airport fund, and the expense incurred by the secretary in  
2 connection with the sale shall be paid from that fund. ~~This subsection does not apply~~  
3 ~~to real property that is sold under s. 16.848.~~

4 **SECTION 71.** 301.235 (2) (a) 1. of the statutes is amended to read:

5 301.235 (2) (a) 1. Without limitation by reason of any other statute except s.  
6 ss. 13.48 (14) (am) and 16.848 (1), the power to sell and to convey title in fee simple  
7 to a nonprofit corporation any land and any existing buildings thereon owned by, or  
8 owned by the state and held for, the department or any of the institutions under the  
9 jurisdiction of the department for such consideration and upon such terms and  
10 conditions as in the judgment of the secretary are in the public interest.

11 **SECTION 72.** 301.24 (4) of the statutes is amended to read:

12 301.24 (4) SALES. Except where a sale occurs under s. 13.48 (14) (am) or 16.848  
13 (1), the department, with the approval of the building commission, may sell and  
14 convey such lands under the jurisdiction of the department as the secretary deems  
15 to be in excess of the present or future requirements of the department for either the  
16 operation of its facilities or programs, for the maintenance of buffer zones adjacent  
17 to its facilities or for other public purposes. The proceeds of the sales shall be credited  
18 to the state building trust fund.

19 **SECTION 73.** 301.24 (4m) of the statutes is amended to read:

20 301.24 (4m) CORRECTIONAL INSTITUTION PROPERTY DISPOSITION. In addition to  
21 any other requirements under this section, except where a sale occurs under s. 13.48  
22 (14) (am) or 16.848 (1), the department may sell or otherwise transfer or dispose of  
23 the property acquired for the correctional institution under s. 46.05 (1o), 1985 stats.,  
24 only if the sale, transfer or disposition is approved by the joint committee on finance.

1 The department shall submit a plan for any such proposed sale, transfer or  
2 disposition to the committee.

3 **SECTION 74.** 302.04 of the statutes is amended to read:

4 **302.04 Duties of warden and superintendents.** Except as provided in ~~s.~~  
5 ss. 13.48 (14) (am) and 16.848 (1), the warden or the superintendent of each state  
6 prison shall have charge and custody of the prison and all lands, belongings,  
7 furniture, implements, stock and provisions and every other species of property  
8 within the same or pertaining thereto. The warden or superintendent shall enforce  
9 the rules of the department for the administration of the prison and for the  
10 government of its officers and the discipline of its inmates.

11

(END)

**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1130/2ins  
JTK.....

INS 17-10:

**SECTION 1.** 16.848 (4) (b) 2. of the statutes is repealed.

**SECTION 2.** 16.848 (4) (b) 5. of the statutes is amended to read:

16.848 (4) (b) 5. The costs of maintaining federal tax law compliance in the selection of general obligation debt to be redeemed.

**History:** 2005 a. 25; 2007 a. 20 ss. 113, 114, 9121 (6) (a); 2007 a. 100; 2009 a. 180; 2011 a. 32.

2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1130/2ins2  
JTK.....

*SM*

INS 17-11:

**SECTION 1.** 18.09 (2) of the statutes is amended to read:

18.09 (2) Each sinking fund shall be expended, and all moneys from time to time on hand therein are irrevocably appropriated, in sums sufficient, only for the payment of principal and interest on the bonds giving rise to it, premium, if any, due upon redemption of any such bonds, and payment due, if any, under an agreement or ancillary arrangement that has been entered into under s. 18.06 (8) (a) with respect to any such bonds and that has been determined to be payable from the bond security and redemption fund under s. 18.06 (8) (a) 2 <sup>and for the costs of maintaining federal tax law compliance applicable to the bonds.</sup>

History: 1971 c. 125; 1983 a. 27 s. 2202 (5); 1985 a 6; 1987 a. 27; 2007 a. 20.

**SECTION 2.** 18.561 (5) of the statutes is amended to read:

18.561 (5) REDEMPTION FUND. The proportion which shall be set aside for the payment of the principal of and interest on the enterprise obligations and, as directed by the commission, payments to be received with respect to an agreement or ancillary arrangement entered into pursuant to s. 18.55 (6), shall, at such times as provided in the authorizing resolution, be set apart and paid into a separate fund in the treasury or in an account maintained by a trustee appointed for that purpose in the authorizing resolution to be identified as "the ... redemption fund". Each redemption fund shall be expended, and all moneys from time to time on hand therein are irrevocably appropriated, in sums sufficient, only for the payment of principal of and interest on the enterprise obligations giving rise to it and premium, if any, due upon redemption of any such obligations, ~~and~~ <sup>↓</sup> for payment of obligations under an agreement or ancillary arrangement entered into under s. 18.55 (6) to the extent

*\**

provided for in an authorizing resolution <sup>5</sup> and for the costs of maintaining federal tax law compliance applicable to the obligations. Moneys in the redemption funds may be commingled only for the purpose of investment with other public funds, but they shall be invested only in investment instruments permitted in s. 25.17 (3) (dr). All such investments shall be the exclusive property of the fund and all earnings on or income from such investments shall be credited to the fund.



History: 1999 a. 9 ss. 133 to 141; 2001 a. 16; 2003 a. 33.

**SECTION 3.** 18.562 (3) of the statutes is amended to read:

18.562 (3) REDEMPTION FUND. The special fund revenues that are to be set aside for the payment of the principal of and interest on the special fund obligations and, as directed by the commission, payments to be received with respect to an agreement or ancillary arrangement entered into under s. 18.55 (6), shall be paid into a separate fund in the treasury or in an account maintained by a trustee appointed for that purpose in the authorizing resolution to be identified as "the ... redemption fund". Each redemption fund shall be expended, and all moneys from time to time on hand therein are irrevocably appropriated, in sums sufficient, only for the payment of principal of and interest on the special fund obligations giving rise to it and premium, if any, due upon redemption of any such obligations, and for payment of obligations under an agreement or ancillary arrangement entered into under s. 18.55 (6) to the extent provided for in an authorizing resolution <sup>5</sup> and for the <sup>costs</sup> ~~purpose~~ of maintaining federal tax law compliance applicable to the obligations. Moneys in the redemption funds may be commingled only for the purpose of investment with other public funds, but they shall be invested only in investment instruments permitted in s. 25.17 (3)



(dr). All such investments shall be the exclusive property of the fund and all earnings on or income from such investments shall be credited to the fund.

**History:** 1999 a. 9; 2001 a. 16; 2003 a. 33.

## Kuesel, Jeffery

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**From:** Bong, Sasha E - DOA <SashaE.Bong@wisconsin.gov>  
**Sent:** Friday, February 08, 2013 11:02 AM  
**To:** Kuesel, Jeffery  
**Cc:** Kraus, Jennifer - DOA  
**Subject:** RE: BB0350 (LRB1130/1)

Jeff,

✓ Another change for the /2 version is to pull out language exempting the sale or lease of a state-owned heating, cooling, or power plant to a public utility from ss. 196.49 and 196.80 and assuming any such purchase, lease, or contract is considered to be in the public interest and complies with the criteria under s. 196.49(3)(b).

Thanks,

Sasha

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**From:** Kuesel, Jeffery [<mailto:Jeffery.Kuesel@legis.wisconsin.gov>]  
**Sent:** Friday, February 08, 2013 8:33 AM  
**To:** Bong, Sasha E - DOA  
**Subject:** RE: BB0350 (LRB1130/1)

Sasha,

I sent through the changes I had late yesterday. This version will be /2. When that version comes out today, we will proceed with the changes below. Some of the changes below are in the /2 version because we had them previously.

Jeff

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**From:** Bong, Sasha E - DOA [<mailto:SashaE.Bong@wisconsin.gov>]  
**Sent:** Thursday, February 07, 2013 4:59 PM  
**To:** Kuesel, Jeffery  
**Cc:** Kraus, Jennifer - DOA  
**Subject:** BB0350 (LRB1130/1)

Jeff,

Below are changes to LRB—1130/1, some of which we have previously discussed:

- ✓ • Please change the net proceeds language for Building Commission and DOA sales to reflect the attached language.
- ✓ • Modify the title of s. 16.848 to "Sale, lease or contractual operation of state property" (the intent is to not directly refer to the heating, cooling, or power plants).
- ✓ • Do not repeal the language in s. 13.48(14)(e), which would also necessitate keeping the "Except as provided in s. 13.48(14)(e) at the beginning of s. 16.848(4)(a).

- ✓ • For Building Commission and DOA real property sales, any sale may be either on the basis of public bids, with the department reserving the right to reject any bid in the interest of the state, or on the basis of negotiated prices as determined through a competitive or transparent process.
- ✓ • Include the language currently in Section 37 (convey all systems, fixtures, or additional property interests) in ss. 13.48(14)(am) and 16.848(1) so if the Building Commission or DOA sells, leases, or contracts for operation of a real property under the jurisdiction of another agency, the agency shall convey all systems, fixtures, or additional property interests specified by the Building Commission or DOA to the purchaser or lessor of the property.

Please email or call (266-5468) with any questions or clarifications.

Thanks,

Sasha

## Kuesel, Jeffery

---

**From:** Bong, Sasha E - DOA <SashaE.Bong@wisconsin.gov>  
**Sent:** Thursday, February 07, 2013 4:59 PM  
**To:** Kuesel, Jeffery  
**Cc:** Kraus, Jennifer - DOA  
**Subject:** BB0350 (LRB1130/1)  
**Attachments:** net proceeds stat language[1].docx

Jeff,

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- Please change the net proceeds language for Building Commission and DOA sales to reflect the attached language.
- Modify the title of s. 16.848 to "Sale, lease or contractual operation of state property" (the intent is to not directly refer to the heating, cooling, or power plants).
- Do not repeal the language in s. 13.48(14)(e), which would also necessitate keeping the "Except as provided in s. 13.48(14)(e) at the beginning of s. 16.848(4)(a).
- For Building Commission and DOA real property sales, any sale may be either on the basis of public bids, with the department reserving the right to reject any bid in the interest of the state, or on the basis of negotiated prices as determined through a competitive or transparent process.
- Include the language currently in Section 37 (convey all systems, fixtures, or additional property interests) in ss. 13.48(14)(am) and 16.848(1) so if the Building Commission or DOA sells, leases, or contracts for operation of a real property under the jurisdiction of another agency, the agency shall convey all systems, fixtures, or additional property interests specified by the Building Commission or DOA to the purchaser or lessor of the property.

Please email or call (266-5468) with any questions or clarifications.

Thanks,

Sasha