

1999 DRAFTING REQUEST

Bill

Received: 05/27/1999

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Larry Balow (608) 266-9172

By/Representing: Rob

This file may be shown to any legislator: NO

Drafter: olsenje

May Contact:

Alt. Drafters: mdsida

Subject: Correctional System - prisons

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Lease of correctional facility

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reauired</u>
I?	olsenje 05/27/1999			_____			State
/P1	mdsida 07/01/1999	jgeller 07/06/1999	jfrantze 07/07/1999	_____	lrb-docadmin 07/08/1999		State
/1	mdsida 07/15/1999	j geller 07/21/1999	kfollet 0712211999	_____	lwilliam 07/22/1999	lrb-docadmin 08/12/1999	

FE Sent For:

<END>

Handwritten note: 10-19-99 with an arrow pointing to the left.

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JTK

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FE Sent For:		1 7/21 yg	Kjf 7/21	Kjf/jf 7/22 <END>			

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I?	olsenje	<i>1/1 7/10 jg</i>	<i>7/17</i>	<i>[Signature]</i>			

[Signature]
[Signature]
to me
7/7
 <END>

FE Sent For:

Plc from Rob - Rep. Balow

Wants to use \$ from out of state beds to lease
Stanley.

Lease to begin July 1, 2000 1600 beds

Use GPR \$ for difference b/t \$ from + startup costs
Baker

non-stat - direct DoC to negotiate

302.01 - any facility leased via

(?)

301.21 - ~~only~~ only if those prisoners can't be housed here

approp for base include lease

a sep. approp for the startup



WFO - check
auto refs

JLg

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D Note

, other than those built at the direction
of ~~tribal, state or local~~ federal,
~~tribal, state or local~~ government.

gen cat

AN ACT . . . relating to: the lease of certain correctional facilities, contracts for
2 the confinement of Wisconsin prisoners in other states and making an
appropriation.

Analysis by the Legislative Reference Bureau

Under current law, the building commission is authorized to lease a facility for use by the department of corrections (DOC). Current law also subjects the purchase, lease or construction of correctional facilities by the state to prior approval by the building commission and the joint committee on finance. (JCF)

In addition, under current law, DOC may enter into contracts to confine prisoners in its custody in other states. Under these provisions, DOC may contract with either another state, a political subdivision of another state or a private person. If a contract entails the transfer of more than ten prisoners to a single state or to any political subdivision of another state, it must be approved by the legislature or by joint committee on finance. JCF

This bill prohibits DOC from transferring a prisoner for confinement outside of this state if it has a bed available in a state prison at the appropriate security classification for the prisoner. The bill also relates to correctional facilities constructed by or under construction by private persons in this state as of the bill's effective date. Under the bill, the department of administration (DOA) must attempt to negotiate with the owner of each such correctional facility to lease the facility, with the lease term to begin July 1, 2000. If DOA successfully negotiates a lease, the lease is subject to approval by the building commission and the joint committee on finance. DOC's lease payments and its costs for operating any such prison would be funded

Set of bills
et al

Refer to each facility
DOA, DOC, etc.

JCF

first by the reduction in its costs for confining prisoners out of state resulting from its increased in-state capacity. Additional costs would be funded by general purpose revenues.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

				1999-00	2000-01
20.410 Corrections, department of					
(1) ✓ ADULT CORRECTIONAL SERVICES					
(ej) Private correctional facility					
operations, services and rental	GPR	S		-0-	-0-
(ks) Private correctional facility ✓	PR-S	C		-0-	-0-

SECTION 2. 20.410 (1) (ab) of the statutes is amended to read:

20.410 (1) (ab) *Corrections contracts and agreements.* The amounts in the schedule for payments made in accordance with contracts entered into under ss. 301.21, 302.25 and 302.27, contracts entered into with the federal government under 18 USC 5003 and intra-agency agreements relating to the placement of prisoners and for transfer to nar. (ks) ✓ if the building commission leases a private correctional facility under 1999 Wisconsin Act (this act), section ~~11~~ (2).

WPO: autoref NonSTAT
on p. 5, 02/18/19
A

autorefc to nonstat

History: 1989 a. 31 ss. 340, 361 to 380, 382 to 392; 1989 a. 107, 122, 359; 1991 a. 39; 1993 a. 16, 98, 377, 437, 490; 1995 a. 27, 77, 416, 440; 1997 a. 1, 27.35, 237, 252, 275, 283, 284.

SECTION 3. 20.410 (1)(ab) of the statutes, as affected by 1999 Wisconsin Act

(this act), is amended to read:

1 20.410 (1) (ab) **Corrections contracts and agreements.** The amounts in the
 2 schedule for payments made in accordance with contracts entered into under ss.
 3 301.21, 302.25 and 302.27, contracts entered into with the federal government under
 4 18 USC 5003 and intra-agency agreements relating to the placement of prisoners
 5 and for transfer to par. (c) if the building commission leases a private correctional
 6 facility under 1999 Wisconsin Act (this act), section 7 (2). ~~the secretary of~~
 7 corrections shall transfer the amount determined by the department under 1999
 8 Wisconsin Act (this act), section 7 (4) to par. (c)

History: 1989 a. 31 ss. 340, 361 to 380, 382 to 392; 1989 a. 107, 122, 359; 1991 a. 39; 1993 a. 16, 98, 377, 437, 490; 1995 a. 27, 77, 416, 440; 1997 a. 4, 27, 35, 237, 252, 275, 283, 284.

9 SECTION 4. ~~20.867(3)(a)~~ of the statutes is created to read:

10 ~~20.867(3)~~ **Private correctional facility operations, services and rental.** A
 11 sum sufficient to operate, to provide services at and to make rental payments on any
 12 correctional facility leased under 1999 Wisconsin Act (this act), section 7 (2), less
 13 the amount appropriated under par. (ks).

14 SECTION 5. ~~20.867(3)(a)~~ of the statutes, as created by 1999 Wisconsin Act
 15 1999 Wisconsin Act (this act), is amended to read:

16 ~~20.867(3)~~ **Private correctional facility operations, services and rental.** A
 17 sum sufficient to operate, to provide services at and to make rental payments on any
 18 correctional facility leased under 1999 Wisconsin Act (this act), section 7 (2), less
 19 the amount appropriated under par. (ks).

20 SECTION 6. ~~20.867(3)(a)~~ of the statutes is created to read:

21 ~~20.867(3)~~ **Private correctional facility.** All moneys transferred from s.
 22 20.410 (1) (ab) to operate, to provide services at and to make rental payments on any
 23 correctional facility leased under 1999 Wisconsin Act (this act), section 7 (2).

20.410(1)(ks)

6
7
8

auto ref B
+2
WPO -
auto ref A

auto ref B
12
auto ref A

auto ref B
12
auto ref A

auto ref B
12
auto ref A

ks

1 SECTION 7. 20.410 (1) (e) of the statutes, as created by 1999 Wisconsin Act 1999
2 Wisconsin Act (this act), is repealed.

3 SECTION 8. 301.21 (1m) (a) (intro.) of the statutes is amended to read:

4 301.21 (1m) (a) (intro.) The Subject to sub (7), the department may enter into
5 one or more contracts with another state or a political subdivision of another state
6 for the transfer and confinement in that state of prisoners who have been committed
7 to the custody of the department. Any such contract shall provide for all of the
8 following:

History: 1981 c. 20; 1983 a. 21; 1989 a. 31 s. 965; Stats. 1989 s. 301.21; 1995 a. 344; 1997 a. 21, 283.

9 SECTION 9. 301.21 (2m) (a) (intro.) of the statutes is amended to read:

10 301.21 (2m) (a) (intro.) The Subject to sub (7), the department may enter into
11 one or more contracts with a private person for the transfer and confinement in
12 another state of prisoners who have been committed to the custody of the
13 department. Any such contract shall provide for all of the following:

History: 1981 c. 20; 1983 a. 27; 1989 a. 31 s. 965; Stats. 1989 s. 301.21; 1995 a. 344; 1997 a. 27, 283.

14 SECTION 10. 301.21 (7) of the statutes is created to read:

15 301.21 (7) The department may transfer a prisoner under a contract under
16 sub. (1m) or (2m) only if it does not have a bed available in a state prison at the
17 appropriate security classification for ~~each~~ ^{the} prisoner who is to be transferred under
18 ~~the contract.~~

19 SECTION 11. 302.01 of the statutes is amended to read:

20 302.01 State prisons named and defined listed e penitentiary
21 institution at Waupun is named "Waupun Correctional Institution". The
22 correctional treatment center at Waupun is named "Dodge Correctional Institution".
23 The ~~penitentiary~~ institution at Green Bay is named "Green Bay Correctional
24 Institution". The medium/maximum ~~penitentiary~~ institution at Portage is named

1 "Columbia Correctional Institution". The medium security institution at Oshkosh
 2 is named "Oshkosh Correctional Institution". The medium security ~~penitentiary~~
 3 institution near Fox Lake is named "Fox Lake Correctional Institution". The
 4 ~~penitentiary~~ institution at Taycheedah is named "Taycheedah Correctional
 5 Institution". The medium security ~~penitentiary~~ institution at Plymouth is named
 6 "Kettle Moraine Correctional Institution". The ~~penitentiary~~ institution at the
 7 village of Sturtevant in Racine county is named "Racine Correctional Institution".
 8 The medium security ~~penitentiary~~ institution at Racine is named "Racine Youthful
 9 Offender Correctional Facility". The resource facility at Oshkosh is named
 10 "Wisconsin Resource Center". The institutions named in this section, the
 11 correctional institution authorized under s. 301.16 (In), correctional institution
 12 authorized under 1997 Wisconsin Act 4, section 4 (1) (a), correctional institution
 13 authorized under s. 301.046 (1), correctional institution authorized under s. 301.048
 14 (4) (b), minimum security correctional institutions authorized under s. 301.13, any
 15 correctional institution leased under 1999 Wisconsin Act (this act), section 7(2)
 16 and state-local shared correctional facilities when established under s. 301.14, are
 17 state prisons.

auto ref B

12

auto ref A

auto ref A

History: 1973 c. 90; 1975 c. 39; 1975 c. 189 s. 99 (1); 1975 c. 224, 422; 1977 c. 29; 1977 c. 418 ss. 369, 924 (18) (d); 1979 c. 221; 1981 c. 20; 1983 a. 192, 332, 538; 1985 a. 29; 1987 a. 5; 1989 a. 31 ss. 1617m, 1617n Stats. 1989 s. 302.01; 1989 a. 359; 1991 a. 39; 1995 a. 27; 1997 a. 4, 27.

18 **SECTION 12. Nonstatutory provisions.**

19 (1) DEFINITION. In this SECTION, "private correctional facility" means, along
 20 with the land on which it is situated, a building, structure or facility meeting all of
 21 the following requirements:

22 (a) The building, structure or facility has been or is being constructed on the
 23 effective date of this paragraph.

1 (b) The building, structure or facility has been or is being constructed for the
 2 confinement of one or more individuals who, as a result of a court order from any
 3 jurisdiction, are in custody for the commission or alleged commission of a crime and
 4 who would be classified as medium or maximum security under the department of
 5 corrections' security classification system.

6 (c) The building, structure or facility has not been and is not being constructed
 7 under a contract with the department of administration, [✓]a county, a group of counties
 8 acting under section 302.44 [✓] of the statutes, the department of corrections and any
 9 county or group of counties acting under section [✓]302.45 of the statutes, the United
 10 States or a federally recognized American Indian tribe or band in this state.

11 *auto ref*
B → (2)

(2) LEASE OF PRIVATE CORRECTIONAL FACILITIES. The department of
 12 administration shall attempt to negotiate with the owner of each private correctional
 13 facility located in this state to lease the facility, with the term of the lease to begin
 14 July 1, 2000. [✓]If the department reaches an agreement to lease the facility, the lease
 15 is subject to approval of the building commission and the joint committee on finance.

16 (3) INAPPLICABILITY TO JUVENILE FACILITIES. Subsections (1) ^{ar.} and (2) ² do not apply
 17 to a building, structure or facility that has been or is being constructed solely to
 18 confine juveniles alleged or found to be delinquent.

19 (4) DETERMINATION OF REDUCTION OF COSTS FOR TRANSFERS OF PRISONERS. ^{a.r.} If the
 20 building commission leases a private correctional facility under subsection (2), the
 21 department of corrections shall, within 30 days of the date of the lease, determine
 22 the amount by which the department's costs for transferring and confining
 23 Wisconsin prisoners in other states will be reduced ^{during the fiscal year 2000-01} if the beds available for prisoners
 24 in the private correctional facility are filled and filled exclusively by prisoners who
 25 are or would have otherwise been confined out of state. The ^{plain} secretary of corrections

Stet *Secretary of corrections* *plain*

KS
KS

1 shall transfer the amount determined by the department under this subsection to the
2 appropriation account under section 20.410 (1) (e) of the statutes.

3 **SECTION 13. Effective dates.** This act takes effect on the day after publication,
4 except as follows:

3 ← auto ref C

20.410(1)(ab)

5 (1) The treatment of sections ~~22.22(2)~~ of the statutes (by SECTION 1) ~~and~~
6 ~~treatment of sections 22.22(2) of the statutes (by SECTION 1) and~~ the repeal of section
7 20.410 (1) (k) of the statutes takes effect on the effective date of the 2001-02 biennial
8 budget act.

and the amendment of section 20.410
(1)(e) of the statutes

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3 1487 dn
MGD: :i:...

P1
↑
JG

June 15, 1999

Rob:

[We do not know at this time]

1. The amount by which the appropriation for confining Wisconsin prisoners in other states under s. 20.410 (1) (ab) may be reduced if the Stanley prison can be leased ~~is not known at this time~~. The total amount of money required to lease the prison at Stanley is also unknown. Therefore, this draft provides a sum sufficient appropriation for the department of corrections (DOC) to fund operations at Stanley and to make rental payments, to the extent that those costs are not covered by the money transferred for those purposes from the appropriation under s. 20.410 (1) (ab). If the savings from the reduction in out-of-state transfers and the amount required to lease the prison can be ascertained or reasonably estimated, and the latter amount can be made public without compromising the state's position in any negotiations to be conducted with the current owner of this prison, we can - if you would like us to - either redraft the bill or draft an amendment to include a sum certain appropriation. If you are considering that option, we can contact the Legislative Fiscal Bureau to request that it undertake these calculations.

2. Under the draft, the department of corrections may not enter into a contract to send prisoners out of state if there is appropriate space available within the state at any of its correctional facilities, not just at Stanley, and regardless of whether the state ultimately leases Stanley. Is this okay? In addition, certain DOC contracts for out-of-state confinement expressly allow for prisoners to be returned to Wisconsin for any reason. Although this scenario may be viewed as unlikely to occur in the immediate future, do you want to require DOC to bring prisoners back to Wisconsin if an in-state bed is vacant for a certain length of time?

3. The draft does not discuss what happens to the prison in Stanley if the state is unable to lease it. Is this okay?

4. Do you want to include a date by which the department of administration must attempt to commence negotiations?

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867



SOON

RMP

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

WFO - check
auto refs

the construction of
correctional facilities
by private persons,

Regen cat ↓

1 **AN ACT to repeal** 20.410 (1) (ks); **to amend** 20.410 (1) (ab), 20.410 (1) (ab), 20.410
2 (1) (ej), 301.21 (1m) (a) (intro.), 301.21 (2m) (a) (intro.) and 302.01; and **to create**
3 20.410 (1) (ej), 20.410 (1) (ks) and 301.21 (7) of the statutes; **relating to:** the
4 lease of certain correctional facilities, contracts for the confinement of
5 Wisconsin prisoners in other states ~~and~~ making an appropriation.

and providing
penalties

Analysis by the Legislative Reference Bureau

Under current law, the building commission is authorized to lease facilities for use by the department of corrections (DOC). Current law also subjects the purchase, lease or construction of correctional facilities by the state to prior approval by the building commission and the joint committee on finance (JCF).

Plain
Stat
AF

In addition, under current law, DOC may enter into contracts to confine prisoners in its custody in other states. Under these provisions, DOC may contract with either another state, a political subdivision of another state or a private person. If a contract entails the transfer of more than ten prisoners to a single state or to any political subdivision of another state, it must be approved by the legislature or by JCF.

This bill prohibits DOC from transferring a prisoner for confinement outside of this state if it has a bed available in a state prison at the appropriate security classification for the prisoner.. The bill also relates to correctional facilities constructed by or under construction by private persons, other than those built at the direction of federal, tribal, state or local government. Under the bill, the department

more

NO
P
Moreover,

Current law ~~imposes~~ imposes certain "prevailing wage" requirements on employers working on state or local public works projects ~~and~~ establishes enforcement mechanisms ~~including~~ for those requirements, including criminal penalties.

or to purchase the facility

of administration (DOA) must attempt to negotiate with the owner of each such correctional facility to lease the facility, with the lease term to begin July 1, 2000. If DOA successfully negotiates a lease, the lease is subject to approval by the building commission and JCF. DOC's lease payments and its costs for operating any such ~~prison would be~~ funded first by the reduction in its costs for confining prisoners out of state resulting from its increased in-state capacity. Additional costs ~~would be~~ are funded by general purpose revenues.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

facility are

ANALYSIS IN SENT.

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

Insert 2-0

SECTION 1. 20.410 (1) (ab) of the statutes is amended to read:

20.410 (1) (ab) *Corrections contracts and agreements.* The amounts in the schedule for payments made in accordance with contracts entered into under ss. 301.21, 302.25 and 302.27, contracts entered into with the federal government under 18 USC 5003 and intra-agency agreements relating to the placement of prisoners and for transfer to par. (ks) if the ~~building commission~~ leases a private correctional facility under 1999 Wisconsin Act ... (this act), section 11 (2).

SECTION 2. 20.410 (1) (ab) of the statutes, as affected by 1999 Wisconsin Act ... (this act), is amended to read:

20.410 (1) (ab) *Corrections contracts and agreements.* The amounts in the schedule for payments made in accordance with contracts entered into under ss. 301.21, 302.25 and 302.27, contracts entered into with the federal government under 18 USC 5003 and intra-agency agreements relating to the placement of prisoners and for transfer to par. (ks) if the ~~building commission~~ leases a private correctional facility under 1999 Wisconsin Act ... (this act), section 11 (2).

SECTION 3. 20.410 (1) (ej) of the statutes is created to read:

~~the appropriation account under~~

~~department of administration~~

6

3 14

16

1

2

3

1 20.410 (1) (ej) *Private correctional facility operations, services and rental.* A
2 sum sufficient to operate, to provide services at and to make rental payments on any
3 correctional facility leased under 1999 Wisconsin Act ... (this act), section 11 (2), ~~less~~ to the
4 the amount appropriated under par. (ks). *is insufficient to pay these costs* *auto ref A* *auto ref C*
extent that

5 **SECTION 4.** 20.410 (1)(ej) of the statutes, as created by 1999 Wisconsin Act 1999
6 Wisconsin Act (this act), is amended to read:

7 20.410 (1) (ej) *Private correctional facility operations, services and rental.* A
8 sum sufficient to operate, to provide services at and to make rental payments on any
9 correctional facility leased under 1999 Wisconsin Act (this act), section 11 (2), ~~less~~ *auto ref A* *auto ref C*
10 ~~the amount appropriated under par. (ks).~~ *strike text* *to the extent that* *Strike*

11 **SECTION 5.** 20.410 (1) (ks) of the statutes is created to read:

12 20.410 (1) (ks) *Private correctional facility.* *the appropriation account under* *par.* All moneys transferred from
13 ~~20.410 (1) (ab)~~ (ab) to operate, to provide services at and to make rental payments on any
14 correctional facility leased under 1999 Wisconsin Act ... (this act), section 11 (2). *auto ref C*

15 **SECTION 6.** 20.410 (1) (ks) of the statutes, as created by 1999 Wisconsin Act ...
16 (this act), is repealed. *auto ref A*

17 **SECTION 7.** 301.21 (1m) (a) (intro.) of the statutes is amended to read:

18 301.21 (1m) (a) (intro.) The Subject to sub. (7). *the* department may enter into
19 one or more contracts with another state or a political subdivision of another state
20 for the transfer and confinement in that state of prisoners who have been committed
21 to the custody of the department. Any such contract shall provide for all of the
22 following:

23 **SECTION 8.** 301.21 (2m) (a) (intro.) of the statutes is amended to read:

24 301.21 (2m) (a) (intro.) The Subject to sub. (7). *the* department may enter into
25 one or more contracts with a private person for the transfer and confinement in

is insufficient to pay these costs
strike

1/1 sent
3-16

1 another state of prisoners who have been committed to the custody of the
2 department. Any such contract shall provide for all of the following:

3 **SECTION 9.** 301.21 (7) of the statutes is created to read:

4 301.21(7) The department may transfer a prisoner under a contract under sub.
5 (1m) or (2m) only if it does not have a bed available in a state prison at the appropriate
6 security classification for the prisoner.

7 **SECTION 10.** 302.01 of the statutes is amended to read:

8 **302.01 State prisons named and defined listed.** The ~~penitentiary~~
9 institution at Waupun is named "Waupun Correctional Institution". The
10 correctional treatment center at Waupun is named "Dodge Correctional Institution".
11 The ~~penitentiary~~ institution at Green Bay is named "Green Bay Correctional
12 Institution". The medium/maximum ~~penitentiary~~ institution at Portage is named
13 "Columbia Correctional Institution". The medium security institution at Oshkosh
14 is named "Oshkosh Correctional Institution". The medium security ~~penitentiary~~
15 institution near Fox Lake is named "Fox Lake Correctional Institution". The
16 ~~penitentiary~~ institution at Taycheedah is named "Taycheedah Correctional
17 Institution". The medium security ~~penitentiary~~ institution at Plymouth is named
18 "Kettle Moraine Correctional Institution". The ~~penitentiary~~ institution at the
19 village of Sturtevant in Racine county is named "Racine Correctional Institution".
20 The medium security ~~penitentiary~~ institution at Racine is named "Racine Youthful
21 Offender Correctional Facility". The resource facility at Oshkosh is named
22 "Wisconsin Resource Center". The institutions named in this section, the
23 correctional institution authorized under s. 301.16 (In), correctional institution
24 authorized under 1997 Wisconsin Act 4, section 4 (1) (a), correctional institution
25 authorized under s. 301.046 (1), correctional institution authorized under s. 301.048

1/15/01
4-6

acquired or s. 301.18(1g) ✓

1 (4) (b), minimum security correctional institutions authorized under s. 301.13, any
2 correctional institution leased under 1999 Wisconsin Act 2 (this act) section 11
3 and state-local shared correctional facilities when established under s. 301.14, are
4 state prisons. AUTO REF. A

5 **SECTION 11. Nonstatutory provisions.**

auto ref D

6 (1) DEFINITION. In this SECTION, "private correctional facility" means, along
7 with the land on which it is situated, a building, structure or facility meeting all of
8 the following requirements:

9 (a) The building, structure or facility has been or is being constructed on the
10 effective date of this paragraph. ✓

11 (b) The building, structure or facility has been or is being constructed for the
12 confinement of one or more individuals who, as a result of a court order from any
13 jurisdiction, are in custody for the commission or alleged commission of a crime and
14 who would be classified as medium or maximum security under the department of
15 ✓ corrections' security classification system.

16 (c) The building, structure or facility has not been and is not being constructed
17 under a contract with the department of administration, a county, a group of counties
18 acting under section 302.44 of the statutes, the department of corrections and any
19 county or group of counties acting under section 302.45 ✓ of the statutes, the United
20 States or a federally recognized American Indian tribe or band in this state.

21 auto ref C

22 (2) ~~LEASE OF PRIVATE CORRECTIONAL FACILITIES.~~ LEASE OF PRIVATE CORRECTIONAL FACILITIES. The department of
23 administration shall attempt to negotiate with the owner of each private correctional
24 facility located in this state to lease the facility, with the term of the lease to begin
25 July 1, 2000. If the department reaches an agreement to lease the facility, the lease
is subject to approval of the building commission and the joint committee on finance.

SECTION 11

does

a.r.

1 (3) INAPPLICABILITY TO JUVENILE FACILITIES. Subsections (1) and (2) do not apply
2 to a building, structure or facility that has been or is being constructed solely to
3 confine juveniles alleged or found to be delinquent.

4 (4) DETERMINATION OF REDUCTION OF COSTS FOR TRANSFERS OF PRISONERS. (a) If

department of administration

5 the building ~~commission~~ leases a private correctional facility under subsection (2),
6 the department of corrections shall, within 30 days of the date of the lease, determine
7 the amount by which the department's costs for transferring and confining
8 Wisconsin prisoners in other states will be reduced during fiscal year 2000-01 if the
9 beds available for prisoners in the private correctional facility are filled and filled
10 exclusively by prisoners who are or would have otherwise been confined out of state.

11 The secretary of corrections shall transfer the amount determined by the department of corrections
12 under this subsection to the appropriation account under section 20.410 (1) (ks) of
13 the statutes.

SECTION 12. Effective dates. This act takes effect on the day after publication,

15 except as follows:

16 (1) The treatment of section 20.410 (1) (ab) (by SECTION 11) of the statutes, the
17 repeal of section 20.410 (1) (ks) of the statutes and the amendment of section 20.410
18 (1) (ej) of the statutes take effect on the effective date of the 2001-02 biennial budget
19 act.

AUTO REF B on p. 2

3

(END)

from the appropriation under
section 20.410 (1) (ab) of the statutes,
as affected by this act,

NSent
6-13

1 ANALYSIS INSERT

2 ~~91~~ If DOA is unable to negotiate a lease, it is authorized under the bill to purchase
3 the correctional facility.

4 The bill also regulates the construction of additional correctional facilities by
5 private persons. Under the bill, a private person may not commence construction of
6 a correctional facility or conversion of an existing building into a correctional facility
7 unless: ~~10~~ ^{plain} the building commission has authorized the lease or acquisition of the
8 correctional facility or has approved the construction or conversion ~~and 12~~ [;] the
9 person agrees to comply with current prevailing wage law. The bill prohibits the
10 building commission from leasing or acquiring a correctional facility if these
11 requirements are not met.

12

13



LFB: Bauer (D) - Privately constructed correctional facilities
FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION
AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133

Inserts

*Insert
2-0*

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 122, line 10: after that line insert:

3 ~~SECTION~~ ~~§~~ ~~13.48~~ (19) of the statutes is renumbered 13.48 (19) (a) and
4 amended to read:

5 13.48 (19) (a) Whenever the building commission determines that the use of
6 innovative types of design and construction processes will make better use of the
7 resources and technology available in the building industry, the building commission
8 may waive any or all of s. 16.855 if such action is in the best interest of the state and
9 if the waiver is accomplished through formal action of the building commission. ~~The~~
10 Subject to the requirements of par.(b) and s. 20.924 (1) (i). the building commission



1 may authorize the lease, lease purchase or acquisition of such facilities constructed
 2 in the manner authorized by the building commission. ~~The Subject to the~~
 3 ~~reuirements of par. (b) and s. 20.924 (1) (i).~~ the building commission may also
 4 authorize the lease, lease purchase or acquisition of existing facilities in lieu of state
 5 construction of any project enumerated in the authorized state building program.

6 SECTION ~~13.48~~ [#] 13.48 (19) (b) of the statutes is created to read:

7 13.48 (19) (b) The building commission may not lease or acquire a building,
 8 structure or facility for the purpose of confining persons serving a sentence of
 9 imprisonment to the Wisconsin state prisons under ch. 973 unless the person who
 10 undertakes construction or conversion of the building, facility or structure has met
 11 the requirements of s. 301.19 (2) and has complied with the agreement under s.
 12 20.924 (1) (i).

13 SECTION ~~13.48~~ [#] 13.48 (27) of the statutes is amended to read:

14 13.48 (27) LEASE OF CORRECTIONAL FACILITIES. ~~The Subject to sub (19) (b) and~~
 15 ~~s. 20.924 (1) (i).~~ the building commission may lease any facility meeting the
 16 reuirements of s. 301.19 (2) for use of the department of corrections as a part of the
 17 authorized state building program, with an option to purchase the facility by the
 18 state. Any lease shall provide for the facility to be constructed in accordance with
 19 requirements and specifications approved by the department of administration and
 20 shall permit inspection of the site and facility by agents of the department.

21 INS 24 Page 194, line 8: after that line insert:

22 3-16 [#] SECTION ~~20.924~~ [#] 20.924 (1) (i) of the statutes is created to read:

23 20.924 (1) (i) Shall not authorize the acquisition or leasing of any building,
 24 structure or facility, or portion thereof, under s. 301.19 (2) (a), for initial occupancy

This through 6-12 = insert 3-16

2-0
Cont.

↑

↓

INS 3-16 cont

1 by the department of corrections for the purpose of **confining** persons serving a
2 sentence of imprisonment to the Wisconsin state prisons under **ch.** 973 unless the
3 seller or lessor agrees as follows:

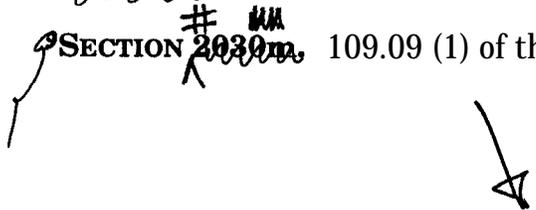
4 1. Not to permit any employe working on the building, structure or facility, or
5 portion thereof, who would be entitled to receive the prevailing wage rate under s.
6 103.49 and who would not be required or permitted to work more than the prevailing
7 hours of labor, if the building, structure or facility, or portion thereof, were a project
8 of public works subject to s. 103.49, to be paid less than the prevailing wage rate or
9 to be required or permitted to work more than the prevailing hours of labor, except
10 as permitted under s. 103.49 (2).

11 2. To require any contractor, subcontractor or agent thereof performing work
12 on the building, structure or facility, or portion thereof, to keep and permit inspection
13 of records in the same manner as a contractor, subcontractor or agent thereof
14 performing work on a project of public works that is subject to s. 103.49 is required
15 to keep and permit inspection of records under s. 103.49 (5).

16 3. Otherwise to comply with s. 103.49 in the same manner as a state agency
17 contracting for the erection, construction, remodeling, repairing or demolition of a
18 project of public works is required to comply with s. 103.49 and to require any
19 contractor, subcontractor or agent thereof performing work on the building,
20 structure or facility, or portion thereof, to comply with s. 103.49 in the same manner
21 as a contractor, subcontractor or agent thereof performing work on a project of public
22 works that is subject to s. 103.49 is required to comply with s. 103.49.

23 ~~34~~ Page 979, line 9: after that line insert

24 SECTION ~~2030m~~ ^{# 109} 109.09 (1) of the statutes is amended to read:



INS 3-16 cont

1 109.09 (1) The department shall investigate and attempt equitably to adjust
2 controversies between employers and employees as to alleged wage claims. The
3 department may receive and investigate any wage claim which is filed with the
4 department, or received by the department under s. 109.10 (4), no later than 2 years
5 after the date the wages are due. The department may, after receiving a wage claim,
6 investigate any wages due from the employer against whom the claim is filed to any
7 employe during the period commencing 2 years before the date the claim is filed. The
8 department shall enforce this chapter and ss. 20.924 (1) (i) 1., 2. and 3., 66.293,
9 103.02, 103.49, 103.82 and 104.12. In pursuance of this duty, the department may
10 sue the employer on behalf of the employe to collect, any wage claim or wage
11 deficiency and ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except
12 for actions under s. 109.10, the department may refer such an action to the district
13 attorney of the county in which the violation occurs for prosecution and collection and
14 the district attorney shall commence an action in the circuit court having appropriate
15 jurisdiction. Any number of wage claims or wage deficiencies against the same
16 employer may be joined in a single proceeding, but the court may order separate
17 trials or hearings. In actions that are referred to a district attorney under this
18 subsection, any taxable costs recovered by the district attorney shall be paid into the
19 general fund of the county in which the violation occurs and used by that county to
20 meet its financial responsibility under s. 978.13 (2) for the operation of the office of
21 the district attorney who prosecuted the action.

22 4. Page 980, line 7: after that line insert:

23 # ~~111.322~~
SECTION 111.322 (2m) (c) of the statutes is amended to read:



INS 3-16 cont

1 111.322 (2m) (c) The individual files a complaint or attempts to enforce a right
2 under s. 20.924 (1) (i) 1., 2. or 3., 66.293 or 103.49 or testifies or assists in any action
3 or proceeding under s. 20.924 (1) (i) 1., 2. or 3., 66.293 or 103.49.

4 ~~5. Page 1102, line 15: after that line insert:~~

5 ~~SECTION 227.01.~~ ^{# MK} 227.01 (13) (t) of the statutes is amended to read:

6 227.01 (13) (t) Ascertain and determines prevailing wage rates and prevailing
7 hours of labor under ~~ss. s. 20.924 (1) (i) 3., 66.293, 103.49~~ and or 103.50, except that
8 any action or inaction which ascertain and determines prevailing wage rates and
9 prevailing hours of labor under ~~ss. s. 20.924 (1) (i) 3., 66.293, 103.49~~ and or 103.50
10 is subject to judicial review under s. 227.40.b

11 ~~6. Page 1208, line 4: after that line insert:~~

12 ~~SECTION 301.18.~~ [#] 301.18 (lg) of the statutes is created to read:

13 301.18 (lg) The department of administration may ~~acquire~~ ^{acquire} or lease
14 correctional facilities ^{as defined} under 1999 Wisconsin Act (this act), section ~~301.18 (lg)~~.

15 ~~SECTION 301.19.~~ [#] 301.19 of the statutes is created to read:

16 **301.19 Construction of correctional facilities by private persons. (1)**

17 In this section:

18 (a) "Authorized jurisdiction" means a county, a group of counties acting under
19 s. 302.44, the United States or a federally recognized American Indian tribe or band
20 in this state.

21 (b) "Correctional facility" means a prison, jail, house of correction or lockup
22 facility but does not include an institution or facility or a portion of an institution or
23 facility that is used solely to confine juveniles alleged or found to be delinquent under
24 ch. 48, 1993 stats., or ch. 938.

Handwritten notes and diagrams: "Auto Ref" in a box with an arrow pointing to "(1)", "acquire" written above "acquire" in the text, and "Auto Ref" written below "acquire" in the text.



INS 3-16 cont

1 (2) No private person may commence construction of a correctional facility or
2 commence conversion of an existing building, structure or facility into a correctional
3 facility unless all of the following requirements are met:

4 (a) The building commission has authorized the lease or acquisition of the
5 building, structure or facility by the state upon the completion of the construction or
6 conversion ^{or has approved the construction or conversion of the}
~~conversion~~ building, structure or facility.

7 (b) ~~The building, structure or facility is enumerated in the authorized state~~
8 ~~building program.~~

9 (b) The private person agrees to comply with s. 20.924 (1) (i) 1., 2. and 3.

10 (3) Subsection (2) does not apply to buildings, structures or facilities that are
11 constructed or converted under a contract with and for use by an authorized
12 jurisdiction. *(end ins 3-16)*

13 ~~7. Page 1208, line 10: after that line insert:~~

14 ^{Insert 4-6} ~~SECTION 2699m.~~ [#] 301.235 (2) (e) of the statutes is amended to read:

15 301.235 (2) (e) All laws, excepts, 20.924 (1) (i) and ch. 150, conflicting with this
16 section are, insofar as they conflict with this section and no further, superseded by
17 this section. *(end ins 4-6)*

18 ~~8. Page 1208, line 12: after that line insert:~~

19 ^{Insert 5-4} ~~SECTION 2699m.~~ [#] 946.15 (1) of the statutes is amended to read:

20 946.15 (1) Any employer, or any agent or employe of an employer, who induces
21 any person who seeks to be or is employed pursuant to a public contract as defined
22 in s. 66.29 (1) (c) or who seeks to be or is employed on a project on which a prevailing
23 wage rate determination has been issued by the department of workforce
24 development under s. 20.924 (1) (i) 3., 66.293 (3), 103.49 (3) or 103.50 (3) or by a local

This through end of p. 8 = ~~2699m~~ Insert 5-4



INS 5-4 cont

1 governmental unit, as defined ins. 66.293 (1) (d), under s. 66.293 (6) to give up, waive
2 or return any part of the compensation to which that person is entitled under his or
3 her contract of employment or under the prevailing wage rate determination issued
4 by the department or local governmental unit, or who reduces the hourly basic rate
5 of pay normally paid to an employe for work on a project on which a prevailing wage
6 rate determination has not been issued under s. ~~20.924 (1) (i) 3.~~ 66.293 (3) or (6),
7 103.49 (3) or 103.50 (3) during a week in which the employe works both on a project
8 on which a prevailing wage rate determination has been issued and on a project on
9 which a prevailing wage rate determination has not been issued, is guilty of a Class E
10 felony.

11 ~~SECTION. 946.15~~ [#] 946.15 (2) of the statutes is amended to read:

12 946.15 (2) Any person employed pursuant to a public contract as defined in s.
13 66.29 (1) (c) or employed on a project on which a prevailing wage rate determination
14 has been issued by the department of workforce development under s. ~~20.924 (1) (i)~~
15 ~~3.~~ 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in
16 s. 66.293 (1) (d), under s. 66.293 (6) who gives up, waives or returns to the employer
17 or agent of the employer any part of the compensation to which the employe is
18 entitled under his or her contract of employment or under the prevailing wage
19 determination issued by the department or local governmental unit, or who gives up
20 any part of the compensation to which he or she is normally entitled for work on a
21 project on which a prevailing wage rate determination has not been issued under s.
22 ~~20.924 (1) (i) 3.~~ 66.293 (3) or (6), 103.49 (3) or 103.50 (3) during a week in which the
23 person works part-time on a project on which a prevailing wage rate determination
24 has been issued and part-time on a project on which a prevailing wage rate
25 determination has not been issued, is guilty of a Class C misdemeanor.



INS 5-4 cont

1 #
SECTION ~~30924~~. 946.15 (3) of the statutes is amended to read:

2 946.15 (3) Any employer or labor organization, or any agent or employe of an
3 employer or labor organization, who induces any person who seeks to be or is
4 employed on a project on which a prevailing wage rate determination has been issued
5 by the department of workforce development under s. 20.924 (1) (i) 3, 66.293 (3),
6 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d),
7 under s. 66.293 (6) to permit any part of the wages to which that person is entitled
8 under the prevailing wage rate determination issued by the department or local
9 governmental unit to be deducted from the person's pay is guilty of a Class E felony,
10 unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who
11 is working on a project that is subject to 40 USC 276c.

12 #
SECTION ~~30924~~. 946.15 (4) of the statutes is amended to read:

13 946.15 (4) Any person employed on a project on which a prevailing wage rate
14 determination has been issued by the department of workforce development under
15 s. 20.924 (1) (i) 3., 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit,
16 as defined in s. 66.293 (1) (d), under s. 66.293 (6) who permits any part of the wages
17 to which that person is entitled under the prevailing wage rate determination issued
18 by the department or local governmental unit to be deducted ~~from~~ his or her pay is
19 guilty of a Class C misdemeanor, unless the deduction would be permitted under 29
20 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC
21 276c.

(end INS 5-4)

22 9. Page 1404, line 21. after that line insert:

23 9(4xt) PRIVATE CORRECTIONAL FACILITIES

1 ~~(a) *Definition.* In this subsection, "private correctional facility" means, along~~
2 ~~with the land on which it is situated, a building, structure or facility meeting all of~~
3 ~~the following requirements:~~

4 ~~1. The building, structure or facility has been or is being constructed on the~~
5 ~~effective date of this subdivision.~~

6 ~~2. The building, structure or facility has been or is being constructed for the~~
7 ~~confinement of one or more individuals who, as a result of a court order from any~~
8 ~~jurisdiction, are in custody for the commission or alleged commission of a crime and~~
9 ~~who would be classified as medium or maximum security under the department of~~
10 ~~corrections' security classification system.~~

11 ~~3. The building, structure or facility has not been and is not being constructed~~
12 ~~under a contract with the department of administration, a county, a group of counties~~
13 ~~acting under section 302.44 of the statutes, the department of corrections and any~~
14 ~~county or group of counties acting under section 302.45 of the statutes, the United~~
15 ~~States or a federally recognized American Indian tribe or band in this state.~~

16 ~~(b) *Acquisition or lease of private correctional facilities.* The department of~~
17 ~~administration shall, no later than the 30th day after the effective date of this~~
18 ~~paragraph, commence efforts to negotiate with the owner of each private correctional~~
19 ~~facility located in this state to purchase the facility or to lease the facility. If the~~
20 ~~department reaches an agreement to purchase or lease the facility, the purchase or~~
21 ~~lease is subject to approval of the building commission and the joint committee on~~
22 ~~finance. If the department is unable to reach an agreement with the owner, the~~
23 ~~building commission may, notwithstanding section 13.48 (16) of the statutes, acquire~~
24 ~~the private correctional facility by condemnation under section 32.06 of the statutes,~~
25 ~~except that this paragraph constitutes the determination of the necessity of taking~~

1 for the purposes of section 32.06 (1) of the statutes. Section 13.48 (19) (b) of the
2 statutes, as created by this act, does not apply to the lease or acquisition of a private
3 correctional facility under this paragraph.

4 (c) *Returning prisoners from but-of-state facilities.* The department of
5 corrections shall use the increase in beds resulting from any lease or acquisition of
6 private correctional facilities under paragraph (b) to reduce its reliance on contracts
7 for the transfer and confinement of Wisconsin prisoners in other states under section
8 301.21 of the statutes and to return to correctional facilities in Wisconsin prisoners
9 who are confined in other states under those contracts.

10 (d) *Inapplicability to juvenile facilities.* This subsection does not apply to a
11 building, structure or facility that has been or is being constructed solely to confine
12 juveniles alleged or found to be delinquent.

13 **10.** Page 1450, line 5: after that line insert:

#

14 (i) ~~20.924~~ CONSTRUCTION OF CORRECTIONAL FACILITIES BY PRIVATE PERSONS. The
15 treatment of sections 20.924 (1) (i) and 301.19 of the statutes first applies to contracts
16 for the construction of a correctional facility, or for the conversion of an existing
17 building, structure or facility into a correctional facility entered into, or extended,
18 modified or renewed, on the effective date of this subsection or, if such construction
19 or conversion is commenced without a contract, the treatment of those sections first
20 applies to such construction or conversion commenced on the effective date of this
21 subsection.

Insert
6-13

(END)

22 Section # ~~XXXX~~ - Initial Applicability.

MOVE