

2761

Building Program

(LFB Budget Summary Document: Page 122-1)

LFB Summary Items for Which Issue Papers Have Been Prepared

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1&2	Prison Expansion Enumeration (Paper #247)
1	Inmate Work Centers (Paper #248)
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-	Excess General Obligation Bonding Authority (Paper #255)
13	Educational Communications Facilities (see Paper #391--Educational Communications Board)

(Base) Agency: Building Program
Prison Expansion Enumeration

*Kaufert / Sauch
action*

Recommendations:

Paper No. 247: Alternative 2

Comments: This paper includes bonding for new probation and parole facilities and a new medium security prison. It also includes the privately built Stanley prison matter.

I recommend Alternative 2 because it clearly sets forth what the \$63 million will be use for, rather than giving the Building Commission a blank check and allowing them to site a correctional facility of unknown size or type wherever they want (see paragraphs 10 & 11). I think the Legislature, who approves the funding, should provide a little more detailed guidance to the Commission.

Paragraph 9 says the prison expansion is needed.

The Stanley prison issue is your call. Alternative 4 would approve the Building Commission's recommendations and allow for the lease or purchase of the Stanley facility.

prepared by: Barry



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June 3, 1999

Joint Committee on Finance

Paper #247

Prison Expansion Enumeration (Building Program)

[LFB 1999-01 Budget Summary: Page 122-1, #1 (part) and Page 122-5, #2]

CURRENT LAW

Building program projects with a cost exceeding \$500,000 are required to be enumerated in the authorized state building program. To enumerate a project, the Legislature lists the project title and budget in a nonstatutory provision enacted as part of the biennial budget bill.

BUILDING COMMISSION

Enumerate a \$63.0 million project titled "Correctional Facilities Expansion" in the 1999-01 state building program under the Department of Corrections. Of the construction costs, \$58,000,000 would be supported by general fund supported borrowing and \$5,000,000 from federal grant funds.

DISCUSSION POINTS

1. The current \$500,000 statutory enumeration requirement for state construction projects provides the Legislature oversight over the expenditure of funds for new state facilities and major renovation or upgrade projects. Requiring that state building projects be enumerated also allows the Legislature to have involvement in determining the need for such projects in conjunction with determining the overall priorities for state facility expansion and improvements.

2. Each biennium, the Building Commission, with assistance from the Department of Administration--Division of Facilities Development (DFD), reviews agency capital budget requests. After that review, the Building Commission makes recommendations for capital improvements and construction under the biennial state building program. The Legislature may modify these recommendations in approving the state building program for the biennium. The projects enumerated within the state building program have legislative approval to be constructed as described in the enumeration. The enumeration specifies a particular building that will be renovated

or constructed as well as its general location, such as at a specific UW-System Campus or the site of a DNR ranger station.

3. The Department of Corrections has an operating capacity in its adult correctional facilities as of May, 1999, of 10,820 inmates in state facilities and 4,383 inmates in contracted facilities, for a total operating capacity of 15,203. State institutions are operating at 131% of capacity.

4. The average daily adult correctional populations for the 1999-01 biennium are currently estimated to be 20,843 in 1999-00 and 23,937 in 2000-01. Corrections indicates that, as a result of new facilities that will open in the 1999-01 biennium and by continuing to exceed operating capacities at approximately current levels, bed space in state institutions for 15,551 inmates in 1999-00 and 16,810 inmates in 2000-01 will be available. As a result, contract bed space will be necessary for 5,292 in 1999-00 and 7,127 in 2000-01. Of the total contract beds, an average of 654 annually will be in-state, 3,857 annually will be out-of-state and 781 in 1999-00 and 2,616 in 2000-01 will be in currently undetermined locations.

5. In 1997, the Wisconsin Supreme Court ruled that Corrections could not detain probation and parole (P&P) violators in a county over the objection of the county sheriff, if the county jail was overcrowded. As a result, Corrections began holding P&P violators in state correctional facilities. In January, 1996, one offender was admitted to the state's prisons on a P&P hold; in December, 1998, there were 164 offenders admitted as P&P holds. According to information submitted to the Building Commission, correctional facilities currently hold 424 probation and parole violators. In addition, Corrections rents an additional 425 beds in Milwaukee County for P&P holds.

6. With regard to the Department of Corrections' 1999-01 capital budget, DFD staff recommended the enumeration of \$63.0 million (\$58.0 million in general fund supported borrowing and \$5 million in federal grant funds) for a 750 cell medium-security prison expansion project to be constructed or purchased. The recommendation indicated that the Building Commission would have the authority to authorize the expansion of existing facilities or the purchase of any available facilities, whichever is most cost-effective.

7. DFD staff also recommended that Corrections' capital budget request for \$22.8 million for four regional probation and parole hold facilities not be enumerated in the 1999-01 state building program. DFD recommended instead that funds be provided to begin planning for the facilities which could then be enumerated in the 2001-03 biennium.

8. During its deliberations on the 1999-01 capital budget, the Building Commission deleted the references to the 750 cell medium-security prison expansion project. Instead, the Building Commission recommended an enumeration titled "Correctional Facilities Expansion." The Commission indicated that the enumeration would allow the Commission to authorize expansion of existing facilities, purchase any available facilities and construct up to four new probation and parole regional hold facilities. The Commission would have the flexibility to construct as many

cells as possible within the dollar amounts.

9. Given the projected growth of the adult correctional population and the current capacity of the state's correctional facilities, expansion of system capacity seems appropriate. Further, since some probation and parole holds are currently held in state prison facilities and the state contracts for prison bed space, the extent to which P&P holds can be held in separate facilities will increase the amount of available bed space in adult correctional facilities and reduce the need for contracted beds once the facilities are completed.

10. With regard to the enumeration requirement under current law, it could be argued that the recommended enumeration of "Correctional Facilities Expansion" is not specific and does not provide direction to the Commission as to the Legislature's intentions for this project. Under the enumeration, the Commission would have the authority to site a correctional facility of unknown size and security classification and/or P&P hold facilities at any location of the Commission's choice. As a result, the Legislature does not know the size or type of facility or facilities to be constructed or where the construction will occur. In the past, the Legislature has approved the enumeration of prison expansion projects where the siting of the facility was not yet determined. However, in those instances, the Legislature had an indication of the type and number of prison cells to be built.

11. In order to give more detailed guidance to the Commission on the specific projects the Legislature believes is appropriate, the Committee may wish to separately enumerate the correctional facility expansion and the regional P&P hold facilities. Under this alternative, four regional P&P facilities could be enumerated at a cost of \$22,789,000 in general fund supported borrowing, and a medium-security prison expansion project enumerated at \$40,211,000 (\$35,211,000 in general fund supported borrowing and \$5,000,000 in federal grant funds). As a result, the Commission could determine facility locations, but specific projects would be enumerated. Based on the cost per cell identified in Corrections' initial request (\$84,000), \$40.2 million would allow the construction of a 479 cell (719 bed) medium-security facility. However, to the extent actual costs at the time of construction differ, the actual number of cells may vary.

12. Given that in its review of the 1999-01 capital budget program DFD did not view the regional probation and parole holds facilities as a priority, but did recommend enumeration of a 750 cell medium-security correctional facility, the Finance Committee could modify the bill to approve DFD's original recommendation to the Building Commission. Under this alternative, a 750 cell medium-security facility, funded at \$58,000,000 in general fund supported borrowing and \$5,000,000 in federal grant funds, could be enumerated. The Building Commission could provide funds from the building trust fund to plan for the construction of regional probation and parole hold facilities at its discretion.

13. The Committee should note that a privately constructed, 1,500 bed, medium-security facility is currently being built in Stanley, Wisconsin (approximately 25 miles east of Chippewa Falls). According to the company developing the facility (Dominion Venture Group), the facility will: (a) have 750 cells housing 1,500 inmates in double occupied cells with toilets ("wet cells"); (b)

have 120 single occupancy segregation cells and six infirmary cells; (c) be a self-contained facility meeting Corrections' specifications; (d) include security measures such as double fencing with razor ribbon, underground barriers, motion detection systems and a lighted perimeter patrol road; (e) have sewer and water provided to the site by the City of Stanley, at the City's expense; and (f) include land, all buildings, roads, fences, walks, lighting and fixed equipment (kitchen equipment, commercial laundry equipment, emergency generators, locking systems, closed circuit cameras and monitors, intercoms, built-in cabinetry, perimeter motion detection system, sports improvements, cell furnishings and central plant and related heating, ventilation and air conditioning). Company literature indicates that the facility will be completed by February, 2000. Further, the material states "[t]he goal of the project is to build a modern prison with Wisconsin labor that will be operated by the State of Wisconsin in order to house Wisconsin inmates."

14. Currently, the state does not operate any medium-security prisons that contain all wet cells. While each of the state's six medium-security prisons do have wet cells, these cells are generally used for segregation or specific program purposes such as mental health treatment and not for general population medium-security housing. Further, current state operating capacity standards assume that 50% of cells in medium-security institutions will be double celled, unlike the Dominion assumption of 100% of cells doubled. Also, operating capacity standards exclude segregation and infirmary housing from capacity because these types of inmate status are not considered permanent. If the state's operational capacity figures are applied to the Stanley Facility, the capacity would be 1,125 rather than 1,620. It should be noted, however, that all current state prisons operate above the identified operating capacity.

15. According to Dominion literature on the Stanley facility, the "company wishes to either lease or sell the completed prison to the State of Wisconsin." Actual future lease or purchase costs will depend on the terms agreed to by DOA and Dominion.

16. Under current law, the following provisions apply to the lease or lease/purchase of a correctional facility:

a. The Building Commission may "authorize the lease, lease purchase or acquisition of existing facilities in lieu of state construction of any project enumerated in the authorized state building program." (s. 13.48 (19)).

b. The Building Commission is allowed to "lease any facility for use of the department of corrections as a part of the authorized state building program, with an option to purchase the facility by the state. Any lease shall provide for the facility to be in accordance with the requirements and specifications approved by the department of administration and shall permit inspection of the site and facility by agents of the department" (s. 13.48 (27)).

c. "Any purchase, lease or construction of additional correctional facilities is subject to prior approval by the building commission and the joint committee on finance" (s. 301.18 (4)).

d. Inclusion of a building under s. 301.18 (Correctional and other institutions; expansions and establishment of facilities) "constitutes enumeration in the authorized state building program" (s. 301.18 (5)).

e. "The building commission is encouraged and authorized to utilize the most economical and expeditious construction alternatives available to effectuate completion of the construction projects" (s. 301.18 (6)).

f. Corrections is required to provide "the facilities necessary for housing to alleviate overcrowding" (s. 301.18 (1)(g)).

g. If a correctional facility is leased, Corrections has a GPR annual appropriation to "make rental payments on any correctional facility pursuant to a lease entered into by the building commission under s. 13.48 (27)" (s. 20.410 (1)(ed)).

17. If the Committee wishes, the 1999-01 capital budget could be amended to include the Stanley facility under s. 301.18, which would constitute an enumeration. Bonding revenue identified for "Correctional Facilities Expansion" could, therefore, be used to purchase the Stanley Facility and construct any regional probation and parole hold facilities. As a result, since the lease costs and/or purchase price are subject to future negotiations between DOA and Dominion and subject to Building Commission approval, keeping the Building Commission's original enumeration and specifying the Stanley facility in s. 301.18 would not compromise the state's bargaining position because no specific price would be established, but would allow for its eventual purchase.

18. The Committee should note that lease, lease/purchase or purchase of the Stanley facility will result in increased operating and lease or debt costs. To the extent, that fewer out-of-state contract beds are necessary, prison contract costs could be reduced to offset the operating costs.

ALTERNATIVES TO BASE

1. Approve the Building Commission's recommendation to enumerate a project in the 1999-01 state building program under the Department of Corrections titled "Correctional Facilities Expansion" at a cost of \$63,000,000. Provide \$58,000,000 in general fund supported borrowing and \$5,000,000 in Department of Correction's federal grant funds to fund the project.

<u>Alternative 1</u>	<u>BR</u>	<u>FED</u>
1999-01 FUNDING (Change to Base)	\$58,000,000	\$5,000,000
<i>[Change to Bill</i>	<i>58,000,000</i>	<i>5,000,000]</i>

2. Enumerate a medium-security correctional facility expansion project at a cost of \$40,211,000 and four regional P&P hold facilities at a cost of \$22,789,000 in the 1999-01 state building program under the Department of Corrections. Provide \$35,211,000 in general fund

supported borrowing and \$5,000,000 in federal grant funds to fund the medium-security prison expansion project and \$22,789,100 in general fund-supported borrowing to fund the four regional P&P hold facilities.

Alternative 2	BR	FED
1999-01 FUNDING (Change to Base)	\$58,000,000	\$5,000,000
[Change to Bill]	58,000,000	5,000,000]

3. Enumerate a 750 cell medium-security correctional facility expansion project at a cost of \$58,000,000 in general fund supported borrowing in the 1999-01 state building program under the Department of Corrections. Provide \$58,000,000 in general fund supported borrowing and \$5,000,000 in federal grant funds to fund the medium-security prison expansion project.

Alternative 3	BR	FED
1999-01 FUNDING (Change to Base)	\$58,000,000	\$5,000,000
[Change to Bill]	58,000,000	5,000,000]

4. Approve the Building Commission's recommendation to enumerate a project in the 1999-01 state building program under the Department of Corrections titled "Correctional Facilities Expansion" at a cost of \$63,000,000. Provide \$58,000,000 in general fund supported borrowing and \$5,000,000 in Department of Correction's federal grant funds to fund the project. Modify s. 301.18 of the statutes to enumerate the medium-security correctional facility in Stanley, Wisconsin. This alternative would allow for the lease, lease/purchase or purchase of the Stanley facility and the construction of up to four regional probation and parole hold facilities.

Alternative 4	BR	FED
1999-01 FUNDING (Change to Base)	\$58,000,000	\$5,000,000
[Change to Bill]	58,000,000	5,000,000]

5. Maintain current law. Under this alternative, neither project would be enumerated or funded.

Prepared by: Al Runde and Jere Bauer

BUILDING PROGRAM/CORRECTIONS -- ADULT INSTITUTIONS

**Stanley Correctional Facility and Regulation of Private Prison Construction
[Paper #247 Substitute Alternative]**

Motion:

Move to amend the bill as follows:

a. Enumerate a project in the 1999-01 state building program under the Department of Corrections titled "Corrections Facilities Expansion" at the cost of \$63,000,000. Provide \$58,000,000 in general fund supported borrowing and \$5,000,000 in Department of Corrections grant funds to fund the project to allow for the lease or purchase of the Stanley facility and the construction of up to four regional probation and parole hold facilities.

b. Specify that no private person may commence construction of a correctional facility or commence conversion of an existing building, structure or facility into a correctional facility unless all of the following requirements are met: (1) the Building Commission has authorized the lease or acquisition of the building, structure or facility by the state upon the completion of the construction or conversion; and (2) the building, structure or facility is enumerated in the authorized state building program. Specify that buildings, structures or facilities that are constructed or converted under a contract with and for the use by a county, a group of counties, the United States or a federally recognized American Indian tribe or band are not subject to the provision.

c. Define "correctional facility" as a prison, jail, house of correction or lockup facility. Exclude from the definition an institution or facility or a portion of an institution or facility that is used solely to confine juveniles alleged or found to be delinquent.

d. Specify that the Building Commission may not lease or acquire a building, structure or facility for the purpose of confining persons serving a sentence of imprisonment to the Wisconsin state prisons unless the person who undertakes construction or conversion of the building, facility or structure has met the requirements identified in item b. above.

e. Specify that the Building Commission may not authorize the acquisition or leasing of any building, structure or facility, or portion thereof, for initial occupancy by Corrections for the purpose of confining persons serving a sentence of imprisonment unless the Department of Workforce Development determines that each employe working on the building, structure or facility who would have been entitled to receive the prevailing wage rate that was in effect for the employe's trade or occupation at the time the building, structure or facility was constructed and

who would not have been required or permitted to work more than the prevailing hours of labor then in effect, if the building, structure or facility had been a project of public works was paid not less than that prevailing wage rate and was not required or permitted to work more than those prevailing hours of labor. Provide that the provision would first apply to buildings, structures or facilities for which construction or conversion for confinement purposes is commenced on the effective date of the bill.

f. Create a nonstatutory provision specifying:

(1) The Department of Administration shall, no later than 30 days after the effective date of the bill, commence efforts to negotiate with the owner of each private correctional facility located in this state to purchase the facility or to lease the facility with an option to purchase the facility;

(2) If DOA reaches an agreement to purchase or lease the facility, the purchase or lease is subject to approval of the Building Commission and the Joint Committee on Finance;

(3) If DOA is unable to reach an agreement with the owner, the Building Commission may acquire the private correctional facility by condemnation and a determination of the necessity of taking is created;

(4) Define "private correctional facility" as, along with the land on which it is situated, a building, structure or facility meeting all of the following requirements: (a) the building, structure or facility has been or is being constructed on the effective date of the bill; (b) the building, structure or facility has been or is being constructed for the confinement of one or more individuals who, as a result of a court order from any jurisdiction, are in custody for the commission or alleged commission of a crime and who would be classified as medium or maximum security under the Department of Corrections' security classification system; and (c) the building, structure or facility has not been and is not being constructed under a contract with DOA, a county, a group of counties, Corrections and any county or group of counties, the United States or a federally recognized American Indian tribe or band in this state.

(5) Specify that the nonstatutory provision does not apply to a building, structure or facility that has been or is being constructed solely to confine juveniles alleged or found to be delinquent.

g. Create a statutory provision requiring DOA to acquire or lease correctional facilities identified in the nonstatutory provision. This provision constitutes an enumeration for purposes of the state building program.

h. Create a nonstatutory provision requiring Corrections to utilize any "private correctional facility" located in Wisconsin that is leased or purchased to return inmates from contracted prisons out of state and to reduce the utilization of out-of-state contract beds.

i. Provide \$6,788,400 GPR in 1999-00 and \$17,427,200 GPR in 2000-01 to staff the Stanley Correctional Facility. Place funding in the Joint Committee on Finance's appropriation for release to Corrections after approval of the lease or purchase of the facility.

BUILDING PROGRAM/CORRECTIONS -- ADULT INSTITUTIONS

Regulation of Private Prison Construction and Prohibition of Privately-Operated Prisons
[Paper #247]

Move to amend the bill as follows:

a. Specify that no private person may commence construction of a correctional facility or commence conversion of an existing building, structure or facility into a correctional facility unless all of the following requirements are met: (1) the Building Commission has authorized the lease or acquisition of the building, structure or facility by the state upon the completion of the construction or conversion; and (2) the building, structure or facility is enumerated in the authorized state building program. Specify that buildings, structures or facilities that are constructed or converted under a contract with and for the use by a county, a group of counties, the United States or a federally recognized American Indian tribe or band are not subject to the provision.

b. Define "correctional facility" as a prison, jail, house of correction or lockup facility. Exclude from the definition an institution or facility or a portion of an institution or facility that is used solely to confine juveniles alleged or found to be delinquent.

c. Specify that no person, other than Corrections, a law enforcement agency, a county, a group of counties, the United States or a federally recognized American Indian tribe or band or a public, private or voluntary agency under contract with Corrections for operation of a minimum-security correctional institution in a county having a population of 500,000 or more, may confine an individual in a correctional facility.

d. Specify that the Building Commission may not lease or acquire a building, structure or facility for the purpose of confining persons serving a sentence of imprisonment to the Wisconsin state prisons unless the person who undertakes construction or conversion of the building, facility or structure has met the requirements identified in item a. above.

e. Specify that the Building Commission may not authorize the acquisition or leasing of any building, structure or facility, or portion thereof, for initial occupancy by Corrections for the purpose of confining persons serving a sentence of imprisonment unless the Department of Workforce Development determines that each employe working on the building, structure or facility who would have been entitled to receive the prevailing wage rate that was in effect for the employe's trade or occupation at the time the building, structure or facility was constructed and who would not have been required or permitted to work more than the prevailing hours of labor then in effect, if the building, structure or facility had been a project of public works was paid not less than that prevailing wage rate and was not required or permitted to work more than those prevailing hours of labor. Provide that the provision would first apply to buildings, structures or

facilities for which construction or conversion for confinement purposes is commenced on the effective date of the bill.

Note:

This motion creates statutory requirements specifying that privately constructed correctional facilities must be enumerated in the state building program, approved by the Building Commission and constructed under the procedures of the state building program. In addition, the motion specifies that only the state or local or federal governments may confine individuals in correctional facilities. The motion also requires that any privately constructed facility purchased or leased by the state comply with prevailing wage laws.

MO# part (c) of motion 875

2	BURKE	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
1	DECKER	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
	JAUCH	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
	MOORE	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
	SHIBILSKI	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
	PLACHE	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
	COWLES	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
	PANZER	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
	GARD	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
	PORTER	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
	KAUFERT	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
	ALBERS	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
	DUFF	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
	WARD	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
	HUBER	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
	RILEY	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A

AYE 7 NO 9 ABS _____