

ENGROSSED 2001 ASSEMBLY BILL 42

February 14, 2001 – Printed by direction of SENATE CHIEF CLERK.

1 **AN ACT** *to repeal* 20.410 (1) (ed); *to renumber and amend* 302.44; *to amend*
2 13.48 (19), 13.48 (27), 20.410 (1) (ab), 59.53 (8), 59.54 (14) (a), 109.09 (1), 111.322
3 (2m) (c), 227.01 (13) (t), 302.01, 302.34, 946.15 (1), 946.15 (2), 946.15 (3), 946.15
4 (4) and 973.03 (1); and *to create* 20.924 (1) (i), 20.924 (1) (j), 301.19, 301.235
5 (2) (dm) and 302.44 (2) of the statutes; **relating to:** the construction, lease, and
6 operation of correctional facilities, making an appropriation, and providing
7 penalties.

Analysis by the Legislative Reference Bureau

Engrossment information:

The text of Engrossed 2001 Assembly Bill 42 consists of the bill, as affected by the following documents adopted by the assembly on February 14, 2001: the bill as affected by Assembly Amendment 2 (as affected by Assembly Amendment 1 thereto), Assembly Amendment 3, and Assembly Amendment 4.

Content of Engrossed 2001 Assembly Bill 42:

Under current law, as a part of the authorized state building program, the building commission may lease any facility, with an option to purchase the facility by the state, for use by the department of corrections (DOC). Current law also appropriates money to DOC for making payments under certain contracts. This bill

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amends the appropriation provision relating to contract payments to authorize DOC to use the money appropriated under that provision, subject to the approval of the joint committee on finance, to lease correctional facilities in this state and to operate the correctional facilities that it leases.

The bill also imposes certain limitations on the building commission's authority to lease or acquire a correctional facility. Under the bill, the building commission may not lease an adult correctional facility unless: 1) the lessor complied with certain "prevailing wage" requirements that typically apply to state or local public works projects; or 2) the construction of the correctional facility began before October 1, 1999. In addition, the building commission may not lease or acquire an adult or juvenile correctional facility unless: 1) construction of the correctional facility began after it was enumerated in the authorized state building program; or 2) construction was completed before January 1, 2001.

In addition, the bill prohibits private persons from constructing an adult or juvenile correctional facility for use by DOC or converting an existing building, structure, or facility into a DOC adult or juvenile correctional facility unless: 1) the correctional facility is enumerated in the authorized state building program; 2) the construction is undertaken under contract with one or two counties, the federal government, or an American Indian tribe or band; or 3) the construction of the building, structure, or facility was completed before January 1, 2001, and the building, structure, or facility was designed to confine persons convicted of crimes.

The bill also names the penitentiary near Stanley the "Stanley Correctional Institution."

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

1 **SECTION 1.** 13.48 (19) of the statutes is amended to read:

2 13.48 **(19)** Whenever the building commission determines that the use of
3 innovative types of design and construction processes will make better use of the
4 resources and technology available in the building industry, the building commission
5 may waive any or all of s. 16.855 if such action is in the best interest of the state and
6 if the waiver is accomplished through formal action of the building commission. ~~The~~
7 Subject to the requirements of s. 20.924 (1) (i) and (j), the building commission may
8 authorize the lease, lease purchase or acquisition of such facilities constructed in the
9 manner authorized by the building commission. ~~The~~ Subject to the requirements of
10 s. 20.924 (1) (i) and (j), the building commission may also authorize the lease, lease

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1 purchase or acquisition of existing facilities in lieu of state construction of any project
2 enumerated in the authorized state building program.

3 **SECTION 2.** 13.48 (27) of the statutes is amended to read:

4 13.48 (27) LEASE OF CORRECTIONAL FACILITIES. The Subject to s. 20.924 (1) (i) and
5 (j), the building commission may lease any facility for use of the department of
6 corrections as a part of the authorized state building program, with an option to
7 purchase the facility by the state. Any lease shall provide for the facility to be
8 constructed in accordance with requirements and specifications approved by the
9 department of administration and shall permit inspection of the site and facility by
10 agents of the department.

11 **SECTION 3.** 20.410 (1) (ab) of the statutes is amended to read:

12 20.410 (1) (ab) *Corrections contracts ~~and~~, agreements and leases.* The amounts
13 in the schedule for payments made in accordance with contracts entered into under
14 ss. 301.21, 302.25 and 302.27, contracts entered into with the federal government
15 under 18 USC 5003 and intra-agency agreements relating to the placement of
16 prisoners and, subject to the approval of the joint committee on finance, for payments
17 made to lease correctional facilities in this state under s. 13.48 (27) and for the
18 operation of those facilities.

19 **SECTION 4.** 20.410 (1) (ed) of the statutes is repealed.

20 **SECTION 5.** 20.924 (1) (i) of the statutes is created to read:

21 20.924 (1) (i) May not lease or authorize the leasing of any building, structure,
22 or facility, or portion thereof for initial occupancy by the department of corrections
23 for the purpose of confining persons serving a sentence of imprisonment to the
24 Wisconsin state prisons under ch. 973 unless the construction of the building,

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1 structure or facility or its conversion into a correctional facility began before October
2 1, 1999, or unless the lessor has done all of the following:

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

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

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

22 **SECTION 5g.** 20.924 (1) (j) of the statutes is created to read:

23 20.924 (1) (j) May not lease or acquire or authorize the leasing or acquisition
24 of any building, structure, or facility or portion thereof for initial occupancy by the
25 department of corrections for the purpose of confining persons serving a sentence of

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1 imprisonment to the Wisconsin state prisons under ch. 973 or for the purpose of
2 confining juveniles alleged or found to be delinquent unless the construction of the
3 building, structure, or facility or the conversion of the building, structure, or facility
4 into a correctional facility either was completed before January 1, 2001, or began
5 after the building, structure, or facility was enumerated in the authorized state
6 building program.

7 **SECTION 5m.** 59.53 (8) of the statutes is amended to read:

8 59.53 (8) REHABILITATION FACILITIES. The board may establish and maintain
9 rehabilitation facilities in any part of the county under the jurisdiction of the sheriff
10 as an extension of the jail, or separate from the jail under jurisdiction of a
11 superintendent, to provide any person sentenced to the county jail with a program
12 of rehabilitation for such part of the person's sentence or commitment as the court
13 determines will be of rehabilitative value to the prisoner. Rehabilitation facilities
14 may be located outside of the county under a cooperative agreement under s. 302.44
15 (1).

16 **SECTION 5r.** 59.54 (14) (a) of the statutes is amended to read:

17 59.54 (14) (a) A county shall provide a courthouse, fireproof offices and other
18 necessary buildings at the county seat and keep them in good repair. A county shall
19 provide a jail or enter into a cooperative agreement under s. 302.44 (1) for the
20 cooperative establishment and use of a jail. The jail and rehabilitation facilities as
21 extensions of the jail need not be at the county seat and may be located outside of the
22 county under a cooperative agreement under s. 302.44 (1).

23 **SECTION 6.** 109.09 (1) of the statutes is amended to read:

24 109.09 (1) The department shall investigate and attempt equitably to adjust
25 controversies between employers and employees as to alleged wage claims. The

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1 department may receive and investigate any wage claim which is filed with the
2 department, or received by the department under s. 109.10 (4), no later than 2 years
3 after the date the wages are due. The department may, after receiving a wage claim,
4 investigate any wages due from the employer against whom the claim is filed to any
5 employee during the period commencing 2 years before the date the claim is filed.
6 The department shall enforce this chapter and ss. 20.924 (1) (i) 1., 2., and 3., 66.0903,
7 103.02, 103.49, 103.82, 104.12 and 229.8275. In pursuance of this duty, the
8 department may sue the employer on behalf of the employee to collect any wage claim
9 or wage deficiency and ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions.
10 Except for actions under s. 109.10, the department may refer such an action to the
11 district attorney of the county in which the violation occurs for prosecution and
12 collection and the district attorney shall commence an action in the circuit court
13 having appropriate jurisdiction. Any number of wage claims or wage deficiencies
14 against the same employer may be joined in a single proceeding, but the court may
15 order separate trials or hearings. In actions that are referred to a district attorney
16 under this subsection, any taxable costs recovered by the district attorney shall be
17 paid into the general fund of the county in which the violation occurs and used by that
18 county to meet its financial responsibility under s. 978.13 (2) for the operation of the
19 office of the district attorney who prosecuted the action.

20 **SECTION 7.** 111.322 (2m) (c) of the statutes is amended to read:

21 111.322 **(2m)** (c) The individual files a complaint or attempts to enforce a right
22 under s. 20.924 (1) (i) 1., 2., or 3., 66.0903, 103.49 or 229.8275 or testifies or assists
23 in any action or proceeding under s. 20.924 (1) (i) 1., 2., or 3., 66.0903, 103.49 or
24 229.8275.

25 **SECTION 8.** 227.01 (13) (t) of the statutes is amended to read:

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1 227.01 **(13)** (t) Ascertains and determines prevailing wage rates under ~~ss. s.~~ 20.924 (1) (i), 66.0903, 103.49, 103.50 ~~and, or~~ 229.8275, except that any action or
2 inaction which ascertains and determines prevailing wage rates under ~~ss. s. 20.924~~
3 (1) (i), 66.0903, 103.49, 103.50 ~~and, or~~ 229.8275 is subject to judicial review under s.
4 227.40.
5

6 **SECTION 8m.** 301.19 of the statutes is created to read:

7 **301.19 Construction of correctional facilities by private persons. (1)**

8 In this section:

9 (a) “Authorized jurisdiction” means a county, two counties acting under s.
10 302.44 (1), the United States, or a federally recognized American Indian tribe or band
11 in this state.

12 (b) “Correctional facility” means a building, structure, or facility or portion
13 thereof to be used to confine persons serving a sentence of imprisonment to the
14 Wisconsin state prisons under ch. 973 or to confine juveniles alleged or found to be
15 delinquent.

16 **(2)** No person may commence construction of a correctional facility or
17 commence the conversion of an existing building, structure, or facility into a
18 correctional facility unless the building, structure, or facility is enumerated in the
19 authorized state building program.

20 **(3)** Subsection (2) does not apply to any of the following:

21 (a) A building, structure, or facility that is constructed or converted under a
22 contract with and for use by an authorized jurisdiction.

23 (c) A building, structure, or facility the construction of which was completed
24 before January 1, 2001, if the building, structure, or facility was designed to confine
25 persons convicted of criminal offenses.

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1 **SECTION 9.** 301.235 (2) (dm) of the statutes is created to read:

2 301.235 **(2)** (dm) The department may not lease any building or any portion of
3 a building under this section unless the construction of the building or its conversion
4 into a correctional facility began before October 1, 1999, or unless all of the following
5 apply:

6 1. The lessor has met the requirements of s. 20.924 (1) (i) that would apply if
7 the building or the portion of the building were being leased by the building
8 commission.

9 2. The building was enumerated in the authorized state building program
10 before the construction or conversion began.

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

12 **302.01 State prisons named and defined.** The penitentiary at Waupun is
13 named “Waupun Correctional Institution”. The correctional treatment center at
14 Waupun is named “Dodge Correctional Institution”. The penitentiary at Green Bay
15 is named “Green Bay Correctional Institution”. The medium/maximum penitentiary
16 at Portage is named “Columbia Correctional Institution”. The medium security
17 institution at Oshkosh is named “Oshkosh Correctional Institution”. The medium
18 security penitentiary near Fox Lake is named “Fox Lake Correctional Institution”.
19 The penitentiary at Taycheedah is named “Taycheedah Correctional Institution”.
20 The medium security penitentiary at Plymouth is named “Kettle Moraine
21 Correctional Institution”. The penitentiary at the village of Sturtevant in Racine
22 County is named “Racine Correctional Institution”. The medium security
23 penitentiary at Racine is named “Racine Youthful Offender Correctional Facility”.
24 The resource facility at Oshkosh is named “Wisconsin Resource Center”. The
25 penitentiary near Stanley is named “Stanley Correctional Institution”. The

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1 institutions named in this section, the correctional institutions authorized under s.
2 301.16 (1n) and (1v), correctional institution authorized under 1997 Wisconsin Act
3 4, section 4 (1) (a), correctional institution authorized under s. 301.046 (1),
4 correctional institution authorized under s. 301.048 (4) (b), minimum security
5 correctional institutions authorized under s. 301.13, correctional facilities leased
6 and operated by the department under s. 13.48 (27), the probation and parole holding
7 facilities authorized under s. 301.16 (1q) and state-local shared correctional
8 facilities when established under s. 301.14, are state prisons.

9 **SECTION 10g.** 302.34 of the statutes is amended to read:

10 **302.34 Use of jail of another county.** Courts, judges, and officers of any
11 county having no jail and no cooperative agreement under s. 302.44 (1) may sentence,
12 commit, or deliver any person to the jail of any other county as if that jail existed in
13 their own county. The sheriff of the other county shall receive and keep the prisoner
14 in all respects as if committed from his or her county. The cost of the keep shall be
15 paid by the county from which the prisoner was sentenced, committed, or delivered.

16 **SECTION 10k.** 302.44 of the statutes is renumbered 302.44 (1) and amended to
17 read:

18 302.44 (1) ~~Two or more~~ Subject to sub. (2), two counties may agree under s.
19 66.0301 for the cooperative establishment and use of the jails and rehabilitation
20 facilities of any of them for the detention or imprisonment of prisoners before, during
21 and after trial and for sharing the expense without reference to s. 302.34. The
22 sheriffs of the counties shall lodge prisoners in any jail or rehabilitation facility
23 authorized by the agreement and shall endorse the commitment, if any, under s.
24 302.35 in case detention or imprisonment is in the jail or rehabilitation facility of
25 another county. Only jails and rehabilitation facilities approved by the department

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1 for the detention of prisoners may be used under the agreement. The sheriff of the
2 county of arrest shall transport the prisoner to and from court and to any other
3 institution whenever necessary.

4 **SECTION 10n.** 302.44 (2) of the statutes is created to read:

5 302.44 (2) No more than two counties may enter into an agreement for the
6 establishment or use of a single jail or rehabilitation facility under sub. (1).

7 **SECTION 11.** 946.15 (1) of the statutes is amended to read:

8 946.15 (1) Any employer, or any agent or employee of an employer, who induces
9 any person who seeks to be or is employed pursuant to a public contract as defined
10 in s. 66.0901 (1) (c) or who seeks to be or is employed on a project on which a prevailing
11 wage rate determination has been issued by the department of workforce
12 development under s. 20.924 (1) (i), 66.0903 (3), 103.49 (3), 103.50 (3) or 229.8275 (3)
13 or by a local governmental unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6)
14 to give up, waive or return any part of the compensation to which that person is
15 entitled under his or her contract of employment or under the prevailing wage rate
16 determination issued by the department or local governmental unit, or who reduces
17 the hourly basic rate of pay normally paid to an employee for work on a project on
18 which a prevailing wage rate determination has not been issued under s. 20.924 (1)
19 (i), 66.0903 (3) or (6), 103.49 (3), 103.50 (3) or 229.8275 (3) during a week in which
20 the employee works both on a project on which a prevailing wage rate determination
21 has been issued and on a project on which a prevailing wage rate determination has
22 not been issued, is guilty of a Class E felony.

23 **SECTION 12.** 946.15 (2) of the statutes is amended to read:

24 946.15 (2) Any person employed pursuant to a public contract as defined in s.
25 66.0901 (1) (c) or employed on a project on which a prevailing wage rate

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1 determination has been issued by the department of workforce development under
2 s. 20.924 (1) (i), 66.0903 (3), 103.49 (3), 103.50 (3) or 229.8275 (3) or by a local
3 governmental unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6) who gives up,
4 waives or returns to the employer or agent of the employer any part of the
5 compensation to which the employee is entitled under his or her contract of
6 employment or under the prevailing wage determination issued by the department
7 or local governmental unit, or who gives up any part of the compensation to which
8 he or she is normally entitled for work on a project on which a prevailing wage rate
9 determination has not been issued under s. 20.924 (1) (i), 66.0903 (3) or (6), 103.49
10 (3), 103.50 (3) or 229.8275 (3) during a week in which the person works part-time on
11 a project on which a prevailing wage rate determination has been issued and
12 part-time on a project on which a prevailing wage rate determination has not been
13 issued, is guilty of a Class C misdemeanor.

14 **SECTION 13.** 946.15 (3) of the statutes is amended to read:

15 946.15 (3) Any employer or labor organization, or any agent or employee of an
16 employer or labor organization, who induces any person who seeks to be or is
17 employed on a project on which a prevailing wage rate determination has been issued
18 by the department of workforce development under s. 20.924 (1) (i), 66.0903 (3),
19 103.49 (3), 103.50 (3) or 229.8275 (3) or by a local governmental unit, as defined in
20 s. 66.0903 (1) (d), under s. 66.0903 (6) to permit any part of the wages to which that
21 person is entitled under the prevailing wage rate determination issued by the
22 department or local governmental unit to be deducted from the person's pay is guilty
23 of a Class E felony, unless the deduction would be permitted under 29 CFR 3.5 or 3.6
24 from a person who is working on a project that is subject to 40 USC 276c.

25 **SECTION 14.** 946.15 (4) of the statutes is amended to read:

