

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 06/15/2001

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Keckhaver

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Correctional System - prisons

Extra Copies: rpn

Submit via email: NO

Requester's email:

Pre Topic:

SDC:.....Keckhaver - CN1104,

Topic:

Carrying costs for Stanley prison

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>Required</u>
/?	mdsida 06/18/2001	jdye 06/18/2001		_____			
/1			kfollet 06/18/2001	_____	lrb_docadmin 06/18/2001		

FE Sent For:

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1?	mdsida	1 6/18 jld	lcy 6/18	lcy/self 6/18			

FE Sent For:

<END>

Dsida, Michael

From: Burnett, Douglas
Sent: Thursday, June 14, 2001 6:59 PM
To: Dsida, Michael
Subject: FW: caucus motion 1104 - Stanley carrying costs

Mike-Can you do something with the language below?

-----Original Message-----

From: Matthews, John W. [<mailto:JMatthews@foleylaw.com>] <[mailto:\[mailto:JMatthews@foleylaw.com\]](mailto:[mailto:JMatthews@foleylaw.com])>
Sent: Thursday, June 14, 2001 5:20 PM
To: 'joseph.strohl@neg.pge.com'
Subject: caucus motion 1104 - Stanley carrying costs

Joe: the language you sent was a little too ambiguous. For example, what if the department is not occupying the facility? And what if the lease expires? So we suggest the following straightforward non-stat language. (The facility can be named because it is enumerated elsewhere in the bill.)

"The Department of Corrections shall pay the owners of the facility enumerated in the 2001-03 budget as the Stanely Correctional Facility \$650,000 per month for carrying costs, starting July 1, 2001, and ending October 31, 2001, not to exceed \$2.6 million. Provided, however, that the Department of Corrections will not incur the carrying cost obligations after the date of facility's purchase. Should the purchase occur prior to October 31, 2001, the Department shall prorate any remaining payments."

-----Original Message-----

From: Matthews, John W.
Sent: Thursday, June 14, 2001 3:55 PM
To: Carey, Raymond R. (Madison)
Subject: FW: caucus motion 1104 - Stanley carrying costs

-----Original Message-----

From: Strohl, Joe [<mailto:joseph.strohl@neg.pge.com>] <[mailto:\[mailto:joseph.strohl@neg.pge.com\]](mailto:[mailto:joseph.strohl@neg.pge.com])>
Sent: Thursday, June 14, 2001 3:51 PM
To: 'jmatthews@foleylaw.com'
Subject: FW: caucus motion 1104 - Stanley carrying costs

See attached.

-----Original Message-----

From: Burnett, Douglas [<mailto:Douglas.Burnett@legis.state.wi.us>] <[mailto:\[mailto:Douglas.Burnett@legis.state.wi.us\]](mailto:[mailto:Douglas.Burnett@legis.state.wi.us])>
Sent: Thursday, June 14, 2001 2:28 PM
To: 'Joe Strohl'
Subject: FW: caucus motion 1104 - Stanley carrying costs

Does this work Joe?

-----Original Message-----

From: Dsida, Michael
Sent: Thursday, June 14, 2001 1:28 PM
To: Burnett, Douglas
Cc: Bauer Jr., Jere
Subject: RE: caucus motion 1104 - Stanley carrying costs

Nothing in the JCF sub prevents DOC from using the \$2.6 M to pay the "carrying costs" that Dominion incurs before the effective date of the budget act. On the other hand, nothing in the sub requires DOC to make those retroactive payments-

which might be what worries Dominion. If that is the case, then maybe you want some nonstatutory language like this:

Of the amount appropriated under s. 20.410 (1) (a), the department of corrections shall pay any person who developed and owns a correctional facility that the department occupies on the effective date of this act an amount equal to \$650,000 per month, up to a maximum of \$2,600,000, for the carrying costs incurred by the owner of the correctional facility beginning on July 1, 2001, and ending on the date on which the department assumes possession of the correctional facility under a lease or an agreement to purchase the correctional facility.

> -----Original Message-----

> **From:** Burnett, Douglas
> **Sent:** Thursday, June 14, 2001 12:57 PM
> **To:** Dsida, Michael
> **Cc:** Bauer Jr., Jere
> **Subject:** RE: caucus motion 1104 - Stanley carrying costs

>
> I understand that the concern of Dominion is that if the July
> 1 date is not included, they would lose the payments for
> carrying costs from the period between July 1 and the
> effective date of the budget.

>
> Let me try it this way: if the budget is enacted September 1,
> and the state and Dominion close on October 1, Dominion would
> only receive the carrying costs for 1 month, from September 1
> to October 1, instead of from July 1 to October 1.

>
> Is that interpretation incorrect?

>
> The intent is that Dominion gets up 4 months of carrying
> costs, at \$650,000 per month, starting July 1, 2001, for up
> to 4 months in 01-02.

>

> -----Original Message-----

> **From:** Dsida, Michael
> **Sent:** Thursday, June 14, 2001 10:17 AM
> **To:** Burnett, Douglas
> **Cc:** Bauer Jr., Jere
> **Subject:** caucus motion 1104 - Stanley carrying costs

>> Jere Bauer indicated to me that s. 20.410 (1) (a) already
>> contains funding for the carrying costs, so DOC is already
>> permitted to make the payments described in this motion.
>> Therefore, I don't think that any budget amendment needs
>> to be drafted to accomplish what is discussed in the motion.

to

> Please let me know if I'm wrong. Thanks.

Dsida, Michael

From: Champagne, Rick
Sent: Saturday, June 16, 2001 12:20 PM
To: Dsida, Michael
Subject: RE: caucus motion 1104 - Stanley carrying costs

I think that it is clear given the constraints we're drafting under. You may want to put this e-mail in the drafting file for what it's worth.

-----Original Message-----

From: Dsida, Michael
Sent: Saturday, June 16, 2001 12:18 PM
To: Champagne, Rick
Subject: RE: caucus motion 1104 - Stanley carrying costs

does the language I drafted seem ok?

> -----Original Message-----

> **From:** Champagne, Rick
> **Sent:** Saturday, June 16, 2001 12:17 PM
> **To:** Dsida, Michael
> **Subject:** RE: caucus motion 1104 - Stanley carrying costs

>
> I would imagine it refers to interest, insurance, and tax
> costs of carrying the title to the land/bldg., mortgage, etc.

> -----Original Message-----

> **From:** Dsida, Michael
> **Sent:** Saturday, June 16, 2001 12:12 PM
> **To:** Champagne, Rick
> **Subject:** RE: caucus motion 1104 - Stanley carrying costs

>
> Rick- can you look at this for me? I am drafting it as a
> non-stat for doug burnett (don't spend more than a minute on
> it, and don't ask me what the hell carrying costs are. I don't know!)

>
> Of the amount appropriated under s. 20.410 (1) (a), the
> Department of Corrections shall pay the owners of the
> correctional facility at Stanley \$650,000 per month for
> carrying costs for the period beginning on July 1, 2001, and
> ending on the earlier of October 31, 2001, or the date on
> which the building commission purchases the correctional
> facility. If the building commission purchases the
> correctional facility before October 31, 2001, the carrying
> costs for the month in which the purchase takes place shall
> be prorated.

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> Rick- can you look at this for me? I am drafting it as a
> non-stat for doug burnett (don't spend more than a minute on
> it, and don't ask me for a definition of carrying costs. I think I
> know generally what it includes, but I haven't been told what
> DOA and Dominion think it covers.)

>
> Of the amount appropriated under s. 20.410 (1) (a), the
> Department of Corrections shall pay the owners of the
> correctional facility at Stanley \$650,000 per month for
> carrying costs for the period beginning on July 1, 2001, and
> ending on the earlier of October 31, 2001, or the date on
> which the building commission purchases the correctional
> facility. If the building commission purchases the
> correctional facility before October 31, 2001, the carrying
> costs for the month in which the purchase takes place shall
> be prorated.

>

IN

Modify motion 1266 regarding Paper 327 to insert the words "beginning July 1, 2001" at the end of item c. As amended, item c would read, "Provide \$2,600,000 GPR in 2001-2002 for carrying costs associated with the facility of \$650,000 per month for up to four months beginning July 1, 2001."

CW/104

CORRECTIONS -- ADULT CORRECTIONAL FACILITIES

Stanley Correctional Institution

[LFB Paper #327]

Motion:

1. Move to modify the Governor's recommendations as follows:

Stanley Correctional Facility Enumeration -- Approve the Building Commission's recommendation to enumerate a \$79,917,000 project (\$74,915,600 in general fund supported borrowing and \$5,001,400 in federal funds) entitled "Correctional facility purchase-Stanley" in the 2001-03 state building program under the Department of Corrections. Approve the Building Commission's recommendation to modify current law to specify that the correctional institution at Stanley enumerated in the 2001-03 state building program be listed as a state prison and named "the correctional institution at Stanley."

Stanley Correctional Facility Operating Costs

a. Adjust funding by -\$34,500 GPR and -1.3 GPR positions and \$2,800 PR and -0.2 PR position in 2001-02 and -\$138,300 GPR and -1.3 GPR positions and -\$27,600 PR and -0.2 PR position in 2002-03 to reflect the partial PR support of 1.0 storekeeper position, the deletion of 0.5 GPR program assistant for security administration, the deletion of 1.0 PR industries specialist associated with a potential private industry project, adjustments associated with reduced correctional officer preservice training costs, and turnover reduction and overtime calculation modifications.

b. Delete \$11,457,500 GPR in 2001-02 for lease costs. Require DOA to renegotiate the Stanley Correctional Facility lease agreement and submit a report to the Joint Committee on Finance for its approval specifying the final lease payment and the source of that funding.

* c. Provide \$2,600,000 GPR in 2001-02 for carrying costs associated with the Facility of \$650,000 per month for up to four months.

d. Remove the provision that would allow Corrections to maintain and govern any correctional institution that has been constructed by a private person and leased or purchased by the state for use by the Department.

e. Specify that the Building Commission may not lease or acquire or authorize the leasing or acquisition of any building, structure, or facility or portion thereof for initial occupancy

by the Department of Corrections for the purpose of confining persons serving a sentence of imprisonment to the Wisconsin state prisons or for the purpose of confining juveniles alleged or found to be delinquent unless the construction of the building, structure, or facility or the conversion of the building, structure, or facility into a correctional facility either was completed before January 1, 2001, or began after the building, structure, or facility was enumerated in the authorized state building program.

f. Define the following terms:

1. "Authorized jurisdiction" means a county, two counties, jointly establishing a jail, the United States, or a federally recognized American Indian tribe or band in this state.

2. "Correctional facility" means a building, structure, or facility or portion thereof to be used to confine persons serving a sentence of imprisonment to the Wisconsin state prisons or to confine juveniles alleged or found to be delinquent.

g. Specify that no person may commence construction of a correctional facility or commence the conversion of an existing building, structure, or facility into a correctional facility unless the building, structure, or facility is enumerated in the authorized state building program. This provision does not apply to any of the following:

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

2. A building, structure or facility the construction of which commenced before January 1, 2001, if the building, structure, or facility was designed to confine persons convicted of criminal offenses."

Note:

[Change to Bill: -\$9,030,300 GPR, -1.30 GPR positions, -\$24,800 PR and \$79,917,000 BR]

PROPOSED AMENDMENT

62.13 CITIES

(5) DISCIPLINARY ACTIONS AGAINST SUBORDINATES. (a) A subordinate may be suspended as hereinafter provided as a penalty. The subordinate may also be suspended by the commission pending the disposition of charges filed against the subordinate.

(b) Charges may be filed against a subordinate by the chief, by a member of the board, by the board as a body, or by any aggrieved person. Such charges shall be in writing and shall be filed with the president of the board. Pending disposition of such charges, the board or chief may suspend such subordinate.

(c) A subordinate may be suspended for just cause, as described in par.(em), by the chief or the board as a penalty. The chief shall file a report of such suspension with the commission immediately upon issuing the suspension. No hearing on such suspension shall be held unless requested by the suspended subordinate. If the subordinate suspended by the chief requests a hearing before the board or before an arbitrator appointed by the Wisconsin Employment Relations Commission, the chief shall be required to file charges with the board or arbitrator upon which such suspension was based.

(d) Following the filing of charges in any case, a copy thereof shall be served upon the person charged. ~~The board shall set date for hearing not less than 10 days nor more than 30 days following service of charges.~~ The hearing on the charges shall be public, and both the accused and the complainant may be represented by an attorney and may compel the attendance of witnesses by subpoenas which shall be issued ~~by the president of the board on request and be served as are subpoenas under ch. 885.~~ The board or arbitrator shall render a final decision on the charges not later than 180 days after the date on which the hearing commences.

(e) ~~If the board determines that the charges are not sustained, the accused, if suspended, shall be immediately reinstated and all lost pay restored. If the board determines that the charges are sustained, the accused, by order of the board, may be suspended or reduced in rank, or~~

suspended and reduced in rank, or removed, as the good of the service may require.

(em) No subordinate may be suspended, reduced in rank, suspended and reduced in rank, or removed ~~by the board under par. (e), based on charges filed by the board, members of the board, an aggrieved person or the chief under par. (b),~~ unless the board determines whether there is just cause, as described in this paragraph, to sustain the charges. In making its determination, the board or arbitrator shall apply the following standards, to the extent applicable:

1. Whether the subordinate could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct.

2. Whether the rule or order that the subordinate allegedly violated is reasonable.

3. Whether the chief, before filing the charge against the subordinate, made a reasonable effort to discover whether the subordinate did in fact violate a rule or order.

4. Whether the effort described under subd. 3. was fair and objective.

5. Whether the chief discovered substantial evidence that the subordinate violated the rule or order as described in the charges filed against the subordinate.

6. Whether the chief is applying the rule or order fairly and without discrimination against the subordinate.

7. Whether the proposed discipline reasonable relates to the seriousness of the alleged violation and to the subordinate's record of service with the chief's department.

(f) Findings and determinations hereunder and orders of suspension, reduction, suspension and reduction, or removal, shall be in writing and, if they follow a hearing, shall be filed within 3 days thereof with the secretary of the board.

(g) Further rules for the administration of this subsection may be made by the board or collectively bargained with the representative of the bargaining unit of which subordinates are members.

(h) No person shall be deprived of compensation while suspended pending disposition of charges.

(i) Any person or labor organization that represents a person suspended, reduced, suspended and reduced, or removed by the board may appeal from the order of the board to the circuit court by serving written notice of the appeal on the secretary of the board within 10 days after the order is filed or by filing a motion with the circuit court pursuant to s.788.13. Within 5 days after receiving written notice of the appeal, the board or arbitrator shall certify to the clerk of the circuit court the record of the proceedings, including all documents, testimony and minutes. The action shall then be at issue and shall have precedence over any other cause of a different nature pending in the court, which shall always be open to the trial thereof. The court shall upon application of the accused or of the board fix a date of trial, which shall not be later than 15 days after such application except by agreement. The trial shall be by the court and upon the return of the board, except that the court may require further return or the taking and return of further evidence by the board. The question to be determined by the court shall be: Upon the evidence is there just cause, as described under par. (em), to sustain the charges against the accused? No costs shall be allowed either party and the clerk's fees shall be paid by the city. If the order of the board or arbitrator is reversed, the accused shall be forthwith reinstated and entitled to pay as though in continuous service. If the order of the board or arbitrator is sustained it shall be final and conclusive.

(j) The provisions of pars. (a) to (i) shall apply to disciplinary actions against the chiefs were applicable. In addition thereto, the board may suspend a chief pending disposition of charges filed by the board or by the mayor of the city.



SDC:.....Keckhaver – CN1104, Carrying costs for Stanley prison

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**CAUCUS SENATE AMENDMENT
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 55**

substitute amendment

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

At the locations indicated, amend the ~~bill~~ as follows:

1. Page 1332, line 3: after that line insert:

“(9q) CARRYING COSTS FOR THE CORRECTIONAL FACILITY AT STANLEY. Of the amount
 appropriated under ~~§~~ ^{section} 20.410 (1) (a) ^{of the statutes} the department of corrections shall pay the
 owners of the correctional facility at Stanley \$650,000 per month for carrying costs
 for the period beginning on July 1, 2001, and ending on the earlier of October 31,
 2001, or the date on which the building commission purchases the correctional
 facility. If the building commission purchases the correctional facility before October

1 31, 2001, the carrying costs for the month in which the purchase takes place shall
2 be prorated.”

3 (END)

SDC:.....Keckhaver - CN1104, Carrying costs for Stanley prison

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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TO SENATE SUBSTITUTE AMENDMENT 1,
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1 At the locations indicated, amend the substitute amendment as follows:

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5 corrections shall pay the owners of the correctional facility at Stanley \$650,000 per
6 month for carrying costs for the period beginning on July 1, 2001, and ending on the
7 earlier of October 31, 2001, or the date on which the building commission purchases
8 the correctional facility. If the building commission purchases the correctional

1. facility before October 31, 2001, the carrying costs for the month in which the
2 purchase takes place shall be prorated.”.

3

(END)