



(DNOTE)
State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1513/1

JTK:cjs:cb

Wanted Soon TODAY

stays

DOA:.....Kraus, BB0352 - Sale of state facilities

FOR 2005-07 BUDGET - NOT READY FOR INTRODUCTION

SA ✓

Do NOT Gen

1 AN ACT...; relating to: sale of certain state properties.

Analysis by the Legislative Reference Bureau
STATE GOVERNMENT

secretary of administration

OTHER STATE GOVERNMENT

Currently, state agencies having jurisdiction over state properties are authorized to sell the properties under various conditions and limitations, if the operation of the properties is not specifically provided for by law. The proceeds of any sales are credited or deposited in various ways as provided by law.

Currently, the Building Commission may sell or lease all or part of a state-owned building or structure or state-owned land if such authority is not provided to a state agency by law. The proceeds of any such sales or leases, after retirement of any outstanding debt on the affected properties, are paid into the budget stabilization fund. In addition, the Building Commission may sell certain surplus state land, subject in most cases to the consent of the Joint Committee on Finance, and may sell certain state-owned land in the vicinity of the state capitol.

This bill ~~creates a Commission on State Property Sales (commission) consisting of the secretary of administration or his or her designee and four other persons appointed by the governor. The bill directs the commission, no later than July 1, 2006, to review all holdings of surplus and nonsurplus state-owned real property for potential sales are not limited to surplus property, and the consent of the state agency that administers a property need not be obtained to sell the property.~~

No later than October 1, 2006, the commission must submit a report to the secretary of the Building Commission and the ~~chairpersons of the Joint Committee~~

except property under the jurisdiction of the Board of Regents of the UMS system and certain other potential sales may include

the affected

or non surplus

secretary of administration

and may be evaluated with or without the approval

the sale of any property included in the inventory

the property

the secretary's recommendations

~~on Finance containing an inventory of its decisions to offer specified state properties for sale and giving the reasons therefor. Under the bill, if the Building Commission and the Joint Committee on Finance vote to approve the entire report, without change, on or before June 30, 2007, DOA may offer the properties identified in the report for sale and may sell those properties if DOA believes that the sales are in the best interests of the state, subject to certain exceptions. If either the Building Commission or the Joint Committee on Finance do not approve the entire report without change on or before June 30, 2007, DOA may not sell any property identified in the report. The commission ceases to exist on July 1, 2007.~~

Property

sale is

Under the bill, the sale price need not reflect fair market value

Any sale of state property by DOA may be either on the basis of public bids or negotiated prices. The bill does not authorize DOA to close or sell any facility or institution the operation of which is provided for by law. The authority granted by the bill does not apply to property that is leased by the state during the term of the lease without consent of the lessee. With certain exceptions, all net proceeds of property sales, after retirement of any outstanding debt on the affected properties and after any required reimbursement of the federal government for any federal financial assistance used to acquire the properties, are deposited in the budget stabilization fund.

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:

- 1 SECTION 1. 13.101 (13) of the statutes is repealed.
- 2 SECTION 2. 13.48 (14) (d) 4. of the statutes is amended to read:
- 3 13.48 (14) (d) 4. If the commission proposes to sell or transfer a parcel of surplus
- 4 land having a fair market value of at least \$20,000, the commission shall notify the
- 5 joint committee on finance in writing of its proposed action. If the cochairpersons of
- 6 the committee do not notify the commission that the committee has scheduled a
- 7 meeting for the purpose of reviewing the proposed sale or transfer within 14 working
- 8 days after the date of the commission's notification, the parcel may be sold or
- 9 transferred by the commission. If, within 14 working days after the date of the
- 10 commission's notification, the cochairpersons of the committee notify the
- 11 commission that the committee has scheduled a meeting for the purpose of reviewing

1 the proposed sale or transfer, the parcel may be sold or transferred under this
2 subdivision only upon approval of the committee. This subdivision does not apply
3 to surplus land that is authorized to be sold under s. 16.848.

4 SECTION 3. 13.48 (22) of the statutes is amended to read:

5 13.48 (22) SALE OR LEASE OF CAPITOL AREA LANDS. The building commission may
6 lease or resell lands acquired in the capitol planning area for public or private
7 redevelopment and may set such conditions of sale or lease as it deems necessary to
8 ensure development compatible with the needs of the community and the state. This
9 subsection does not apply to lands that are authorized to be sold under s. 16.848.

10 SECTION 4. 16.848 of the statutes is created to read:

11 16.848 Sale of certain state property. (1) Except as provided in sub. (2) and
12 subject to sub. (3) and s. 23.293 (12), the department may sell any state-owned real
13 property, if the department determines that the sale is in the best interest of the
14 state. The sale may be either on the basis of public bids, with the department
15 reserving the right to reject any bid in the interest of the state, or negotiated prices.

16 (2) (a) Subsection (1) does not authorize the closure or sale of any facility or
17 institution the operation of which is provided for by law.
18 (b) ~~Subsection (1) does not apply to property under the jurisdiction of the board~~
19 16.98 (3). *of regents of the University of Wisconsin*

20 (d) ~~Subsection (1) does not apply to lands under the jurisdiction of the board of~~
21 commissioners of public lands. *University of Wisconsin*

22 (e) (4) Subsection (1) does not apply to lands acquired with revenues collected *system.*
23 under s. 70.58. *is subject to sale*

(f) Subsection (1) does not apply to property that by the department of veterans affairs under s. 45.72(7).

1 (1) The department shall not sell any property under this section that is leased
 2 by the state until the lease expires or the lease is modified, renewed, or extended,
 3 whichever first occurs, without consent of the lessee.

4 (3) The department shall not sell any state property under sub. (1) unless the
 5 sale ~~is specifically authorized by the commission on state property sales and the sale~~
 6 ~~is authorized~~ ^{approved} by the building commission ~~and the joint committee on finance~~
 7 ~~accordance with~~ ^{under} 2005 Wisconsin Act (this act), section ^(a) ~~(a)~~ ^(b) ~~(b)~~

9101

8 (4) Except as provided in s. 13.48 (14) (e), if there is any outstanding public debt
 9 used to finance the acquisition, construction, or improvement of any property that
 10 is sold under sub. (1), the department shall deposit a sufficient amount of the net
 11 proceeds from the sale of the property in the bond security and redemption fund
 12 under s. 18.09 to repay the principal and pay the interest on the debt, and any
 13 premium due upon refunding any of the debt. If the property was purchased with
 14 federal financial assistance, the department shall pay to the federal government any
 15 of the net proceeds required by federal law. If the property was acquired by gift or
 16 grant or acquired with gift or grant funds, the department shall adhere to any
 17 restriction governing use of the proceeds. Except as required under ss. 13.48 (14) (e),
 18 20.395 (9) (qd), 23.0917 (5m) (b) 2., and 23.27 (6) and (7), if there is no such debt
 19 outstanding, there are no moneys payable to the federal government, and there is no
 20 restriction governing use of the proceeds, ^{and} ~~or~~ if the net proceeds exceed the amount
 21 required to be deposited, paid, or used for another purpose under this subsection, the
 22 department shall deposit the net proceeds or remaining net proceeds in the budget
 23 stabilization fund.

(a) USE "ABC" from Page
 (b) USE "T" from p 12

24 SECTION 5. 23.15 (6) of the statutes is created to read:

1 23.15 (6) This section does not apply to property that is authorized to be sold
2 under s. 16.848.

3 **SECTION 6.** 25.60 of the statutes is amended to read:

4 **25.60 Budget stabilization fund.** There is created a separate nonlapsible
5 trust fund designated as the budget stabilization fund, consisting of moneys
6 transferred to the fund from the general fund under ss. 13.48 (14) (c), 16.518 (3), and,
7 16.72 (4) (b), and 16.848.

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

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

15 **SECTION 8.** 46.035 (1) (a) of the statutes is amended to read:

16 46.035 (1) (a) The term "existing building" in relation to any conveyance, lease
17 or sublease made under sub. (2) (a) 1, 2, and 3, (b), and (c) means all detention,
18 treatment, administrative, recreational, infirmary, hospital, vocational and
19 academic buildings; all dormitories and cottages; all storage facilities, heating
20 plants, sewage disposal plants, and such other buildings, structures, facilities and
21 permanent improvements as in the judgment of the secretary are needed or useful
22 for the purposes of the department, and all equipment therefor and all improvements
23 and additions thereto which were erected, constructed or installed prior to the
24 making of such conveyance, lease or sublease.

25 **SECTION 9.** 46.035 (1) (b) of the statutes is amended to read:

Handwritten notes in a circle: "FWS 5-7" with an arrow pointing to the start of SECTION 7.

1 46.035 (1) (b) The term “new building” in relation to any conveyance, lease or
2 sublease made under sub. (2) (a) ~~1, 2, and 3,~~ (b), and (c) means all detention,
3 treatment, administrative, recreational, infirmary, hospital, vocational and
4 academic buildings; all dormitories and cottages; all storage facilities, heating
5 plants, sewage disposal plants, and such other buildings, structures, facilities and
6 permanent improvements as in the judgment of the secretary are needed or useful
7 for the purposes of the department, and all equipment therefor and all improvements
8 and additions thereto which are erected, constructed or installed after the making
9 of such conveyance, lease or sublease.

10 **SECTION 10.** 46.035 (2) (intro.) of the statutes is repealed.

11 **SECTION 11.** 46.035 (2) (a) of the statutes is renumbered 46.035 (2), and 46.035
12 (2) (intro.), (a) and (c) to (j), as renumbered, are amended to read:

13 46.035 (2) (intro.) In order to provide new buildings and to enable the
14 construction and financing thereof, to refinance indebtedness hereafter created by
15 a nonprofit corporation for the purpose of providing a new building or buildings or
16 additions or improvements thereto which are located on land owned by, or owned by
17 the state and held for, the department or on lands of the institutions under the
18 jurisdiction of the department or by the nonprofit corporation, or for any one or more
19 of said purposes, but for no other purpose unless authorized by law, the department
20 has, subject to s. 16.848, the following powers and duties:

21 (a) Without limitation by reason of any other provisions of the statutes except
22 s. 16.848, the power to sell and to convey title in fee simple to a nonprofit corporation
23 any land and any existing buildings thereon owned by, or owned by the state and held
24 for, the department or of any of the institutions under the jurisdiction of the

1 department for such consideration and upon such terms and conditions as in the
2 judgment of the secretary are in the public interest.

3 (c) The power to lease or sublease from such nonprofit corporation, and to make
4 available for public use, any such land and existing buildings conveyed or leased to
5 such nonprofit corporation under ~~subds. 1. and 2. pars. (a) and (b)~~, and any new
6 buildings erected upon such land or upon any other land owned by such nonprofit
7 corporation, upon such terms, conditions and rentals, subject to available
8 appropriations, as in the judgment of the secretary are in the public interest. With
9 respect to any property conveyed to such nonprofit corporation under ~~subd. 1. par.~~
10 (a), such lease from such nonprofit corporation may be subject or subordinated to one
11 or more mortgages of such property granted by such nonprofit corporation.

12 (d) The duty to submit the plans and specifications for all such new buildings
13 and all conveyances, leases and subleases made under this section subsection to the
14 department of administration and the governor for written approval before they are
15 finally adopted, executed and delivered.

16 (e) The power to pledge and assign all or any part of the revenues derived from
17 the operation of such new buildings as security for the payment of rentals due and
18 to become due under any lease or sublease of such new buildings under ~~subd. 3 par.~~
19 (c).

20 (f) The power to covenant and agree in any lease or sublease of such new
21 buildings made under ~~subd. 3. par. (c)~~ to impose fees, rentals or other charges for the
22 use and occupancy or other operation of such new buildings in an amount calculated
23 to produce net revenues sufficient to pay the rentals due and to become due under
24 such lease or sublease.

1 (g) The power to apply all or any part of the revenues derived from the operation
2 of existing buildings to the payment of rentals due and to become due under any lease
3 or sublease made under ~~subd. 3 par. (c)~~.

4 (h) The power to pledge and assign all or any part of the revenues derived from
5 the operation of existing buildings to the payment of rentals due and to become due
6 under any lease or sublease made under ~~subd. 3 par. (c)~~.

7 (i) The power to covenant and agree in any lease or sublease made under ~~subd.~~
8 ~~3. par. (c)~~ to impose fees, rentals or other charges for the use and occupancy or other
9 operation of existing buildings in an amount calculated to produce net revenues
10 sufficient to pay the rentals due and to become due under such lease or sublease.

11 (j) The power and duty, upon receipt of notice of any assignment by any such
12 nonprofit corporation of any lease or sublease made under ~~subd. 3. par. (c)~~, or of any
13 of its rights under any such sublease, to recognize and give effect to such assignment,
14 and to pay to the assignee thereof rentals or other payments then due or which may
15 become due under any such lease or sublease which has been so assigned by such
16 nonprofit corporation.

17 **SECTION 12.** 46.035 (2) (b) of the statutes is renumbered 46.035 (3) and
18 amended to read:

19 46.035 (3) The state ~~shall be~~ is liable for accrued rentals and for any other
20 default under any lease or sublease made under ~~par. (a) 3. sub. (2) (c)~~, and may be
21 sued therefor on contract as in other contract actions pursuant to ch. 775, except that
22 it ~~shall not be~~ is not necessary for the lessor under any such lease or sublease or any
23 assignee of such lessor or any person or other legal entity proceeding on behalf of such
24 lessor to file any claim with the legislature prior to the commencement of any such
25 action.

1 **SECTION 13.** 46.035 (2) (c) of the statutes is renumbered 46.035 (4).

2 **SECTION 14.** 46.035 (2) (d) of the statutes is repealed.

3 **SECTION 15.** 46.035 (2) (e) of the statutes is renumbered 46.035 (5) and amended
4 to read:

5 46.035 (5) All laws, except s. 16.848 and ch. 150, ~~conflicting that conflict~~ with
6 any provisions of this section, are, insofar as they conflict with this section and no
7 further, superseded by this section.

8 **SECTION 16.** 46.06 (intro.) of the statutes is created to read:

9 **46.06 Lands; condemnation, easements, leases, sales, purchases.**
10 (intro.) Subject to s. 16.848:

11 **SECTION 17.** 46.09 (intro.) of the statutes is created to read:

12 **46.09 Purchases, bills, audits, payments.** (intro.) Subject to s. 16.848:

13 **SECTION 18.** 84.09 (9) of the statutes is created to read:

14 **84.09 (9)** Subsections (5), (5m), and (6) do not apply to state surplus property
15 that is sold under s. 16.848.

16 **SECTION 19.** 301.235 (2) (a) (intro.) of the statutes is amended to read:

17 **301.235 (2) (a) (intro.)** In order to provide new buildings and to enable the
18 construction and financing thereof, to refinance indebtedness created by a nonprofit
19 corporation for the purpose of providing a new building or buildings or additions or
20 improvements thereto which are located on land owned by, or owned by the state and
21 held for, the department or on lands of the institutions under the jurisdiction of the
22 department or owned by the nonprofit corporation, or for any one or more of those
23 purposes, but for no other purpose unless authorized by law, the department, subject
24 to s. 16.848, has the following powers and duties:

25 **SECTION 20.** 301.235 (2) (a) 1. of the statutes is amended to read:

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

7 **SECTION 21.** 301.24 (4) of the statutes is amended to read:

8 301.24 (4) SALES. The Except where a sale occurs under s. 16.848, the
9 department, with the approval of the building commission, may sell and convey such
10 lands under the jurisdiction of the department as the secretary deems to be in excess
11 of the present or future requirements of the department for either the operation of
12 its facilities or programs, for the maintenance of buffer zones adjacent to its facilities
13 or for other public purposes. The proceeds of the sales shall be credited to the state
14 building trust fund.

15 **SECTION 22.** 301.24 (4m) of the statutes is amended to read:

16 301.24 (4m) CORRECTIONAL INSTITUTION PROPERTY DISPOSITION. In addition to
17 any other requirements under this section, except where a sale occurs under s.
18 16.848, the department may sell or otherwise transfer or dispose of the property
19 acquired for the correctional institution under s. 46.05 (1o), 1985 stats., only if the
20 sale, transfer or disposition is approved by the joint committee on finance. The
21 department shall submit a plan for any such proposed sale, transfer or disposition
22 to the committee.

23 **SECTION 23.** 301.25 of the statutes is amended to read:

24 **301.25 Sewer system at Taycheedah Correctional Institution.** The
25 department, with the approval of the governor, may enter into an agreement

1 containing terms, conditions and covenants approved by the building commission,
2 to participate in the construction of a sanitary sewer system in the area adjacent to
3 the Taycheedah Correctional Institution in the town of Taycheedah, Fond du Lac
4 County; to connect the sewer system of the Taycheedah Correctional Institution
5 thereto; to pay sewage disposal charges; and to grant easements or, subject to s.
6 16.848, convey land to meet construction requirements.

7 SECTION 24. 302.04 of the statutes is amended to read:

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

15 SECTION 25. 560.9810 (5) of the statutes is created to read:

16 560.9810 (5) NONAPPLICATION. This section does not apply to property that is
17 authorized to be sold under s. 16.848.

18 SECTION 9101. **Nonstatutory provisions; administration.**

19 (1) SALE OF CERTAIN STATE PROPERTY.

20 (a) ~~There is created a commission on state property sales consisting of the~~
21 ~~secretary of administration or his or her designee and 4 other members who shall be~~
22 ~~appointed by the governor. The governor shall appoint a chairperson and shall call~~
23 ~~the first meeting of the commission. At the first meeting, the commission shall elect~~
24 ~~a vice-chairperson and a secretary. The department of administration shall provide~~
25 ~~staffing services to the commission. Members of the commission shall receive no~~

1 compensation for their services, but shall be reimbursed by the department of
 2 administration for actual and necessary expenses incurred in the performance of
 3 their official functions from the appropriation under section 20.505 (1) (a) of the
 4 statutes. All state agencies, as defined in section 20.001 (1) of the statutes, shall
 5 provide the commission with the information required by the commission in the
 6 performance of its functions.

7 (a)(b) 1. ~~Except as provided in subdivision 2,~~ no later than July 1, 2006, the
 8 ~~commission on state property sales~~ ^{secretary of administration} shall review all holdings of state-owned real
 9 property for potential sale. ^{except as provided in subdivision 2}

10 a.r. "x" 2. Subdivision 1. does not apply to any ^{Property} facility or institution the closure or sale
 11 of which is not authorized under section 16.848 of the statutes, as created by this act.

12 (b)(c) No later than October 1, 2006, the ^{secretary of administration} ~~commission on state property sales~~ shall
 13 submit a report to the secretary of the building commission ~~and the chairpersons~~
 14 ~~of the joint committee on finance~~ ^{his or her recommendations} containing an inventory of ~~its decisions~~ to offer

15 specified state properties for sale under section 16.848 of the statutes, as created by
 16 this act, and the reasons therefor. ^{A property may be included in the inventory with or without approval of the state agency having jurisdiction of the property.} If, on or before June 30, 2007, the building

17 commission ~~and the joint committee on finance~~ ^{vote} to approve ~~the entire report,~~
 18 ~~without change,~~ ^{the sale of any property included in the inventory} the department of administration may offer the ~~properties~~ ^{Property}

19 ~~identified in the report~~ for sale under section 16.848 of the statutes, as created by this
 20 act. ~~If either the building commission or the joint committee on finance do not vote,~~

21 ~~on or before June 30, 2007, to approve the entire report, without change, the~~
 22 ~~department of administration is not authorized to sell any property identified in the~~
 23 ~~report under section 16.848 of the statutes, as created by this act.~~

24 (c)(d) This subsection does not apply after June 30, 2007.

INS 5-3:

SECTION 1. ~~36.11 (1) (b) of the statutes is amended to read:~~

36.11 (1) (b) Except as provided in this paragraph, the board may purchase, have custody of, hold, control, possess, lease, grant easements and enjoy any lands, buildings, books, records and all other property of any nature which may be necessary and required for the purposes, objects and uses of the system authorized by law. Any lease is subject to the powers of the University of Wisconsin Hospitals and Clinics Authority under s. 233.03 (13) and the rights of the authority under any lease agreement, as defined in s. 233.01 (6). The board shall not permit a facility that would be privately owned or operated to be constructed on state-owned land without obtaining prior approval of the building commission under s. 13.48 (12). The Except where a sale occurs under s. 16.848, the board may sell or dispose of such property as provided by law, or any part thereof when in its judgment it is for the best interests of the system and the state. All purchases and sales of real property shall be subject to the approval of the building commission. The provision of all leases of real property to be occupied by the board shall be the responsibility of the department of administration under s. 16.84 (5).

History: 1973 c. 335; 1975 c. 39, 41, 224, 400; 1977 c. 29, 418; 1979 c. 32 s. 92 (8); 1979 c. 221; 1981 c. 20; 1983 a. 27, 366; 1983 a. 435 s. 7; 1983 a. 484; 1985 a. 62, 120; 1985 a. 332 ss. 47, 49, 50; 1985 a. 332 s. 251 (1); 1987 a. 27, 287; 1989 a. 31, 56, 121, 177, 359; 1991 a. 39, 203, 250, 269, 285, 315; 1993 a. 16, 213, 227, 399; 1995 a. 27 ss. 1757 to 1762y, 9130 (4); 1995 a. 201, 404, 448; 1997 a. 3, 27, 128, 237; 1999 a. 9, 29; 1999 a. 150 ss. 7, 351; 2001 a. 16, 22; 2003 a. 33, 69, 149, 282.

SECTION 2. ~~36.33 (3) of the statutes is amended to read:~~

36.33 (3) BUILDING COMMISSION APPROVAL. The sale, lease and purchase of agricultural lands mentioned in sub. (1) shall be subject to the approval of the building commission. This subsection does not apply to sales of lands under s. 16.848.

History: 1973 c. 335; 1977 c. 418; 1983 a. 36 s. 96 (4); 1995 a. 225; 2001 a. 103.

SECTION 3. ~~36.33 (4) of the statutes is amended to read:~~

36.33 (4) PROCEEDS. The Except where a sale occurs under s. 16.848, the net proceeds from the sale of agricultural lands and improvements authorized by this section shall be devoted to the purchase of land and construction of improvements contemplated in sub. (1) but of any excess of revenue beyond the amount required for this purpose a sum not to exceed \$7,200,000 shall constitute a nonlapsible fund for the purpose of erecting facilities for research and instruction in animal husbandry, agricultural engineering and agricultural and life sciences at the University of Wisconsin-Madison, and such funds shall become available upon consent and recommendation of the board and authorization by the building commission.

History: 1973 c. 335; 1977 c. 418; 1983 a. 36 s. 96 (4); 1995 a. 225; 2001 a. 103.

SECTION 4. 45.37 (10) (c) of the statutes is amended to read:

45.37 (10) (c) The Except where a sale occurs under s. 16.848, the department may manage, sell, lease or transfer property descending to the state pursuant to this section or conveyed to it by members, defend and prosecute all actions concerning it, pay all just claims against it, and do all other things necessary for the protection, preservation and management of such property. All expenditures necessary for the execution of functions under this paragraph or sub. (11) shall be made from the appropriation in s. 20.485 (1) (h).

History: 1971 c. 40, 42, 198; 1973 c. 90, 147; 1973 c. 333 ss. 84, 85, 86, 201m; 1975 c. 39, 94, 199, 224; 1977 c. 29; 1977 c. 105 s. 59; 1977 c. 237, 309; 1977 c. 418 s. 924 (50); 1977 c. 447 s. 206; 1979 c. 34; 1979 c. 110 s. 60 (13); 1979 c. 221; 1981 c. 20 ss. 733m, 2202 (55) (a); 1981 c. 390; 1983 a. 27, 368, 430; 1985 a. 29, 135; 1985 a. 332 s. 251 (1); 1987 a. 27, 399; 1989 a. 31, 56; 1991 a. 2, 39, 102, 189; 1993 a. 16, 254; 1995 a. 123, 255; 1997 a. 27; 1999 a. 9, 63, 83, 185, 186; 2001 a. 16, 102, 103; 2003 a. 33.

SECTION 5. 45.38 (2) (a) 1. of the statutes is amended to read:

45.38 (2) (a) 1. Without limitation by reason of any other provisions of the statutes except s. 16.848, the power to sell and to convey title in fee simple to a nonprofit corporation any land and any existing buildings thereon owned by, or owned by the state and held for, the department or of any of the institutions under

the jurisdiction of the department for such consideration and upon such terms and conditions as in the judgment of the board are in the public interest.

History: 1977 c. 29; 1979 c. 32 s. 92 (5); 1991 a. 120; 1997 a. 79; 2001 a. 103.

SECTION 6. ~~45.72 (7)~~ of the statutes is amended to read:

~~45.72 (7) Manage, operate, lease, exchange, sell and otherwise convey real property, except where a sale occurs under s. 16.848.~~

History: 1973 c. 208, 333; 1983 a. 368.

Kuesel, Jeffery

From: Kraus, Jennifer - DOA
Sent: Tuesday, January 25, 2005 12:44 PM
To: Kuesel, Jeffery
Subject: RE: LRB Draft: 05-1513/2 Sale of state property

Jeff

Please modify the draft to lapse the proceeds to the general fund and then transfer the same amount to the budget stabilization fund.

Also, can you tell me how this draft interacts with the provision under s.51.06 (6) re: sale of assets at the Northern Wisconsin Center?

Finally, the folks down in DSF say that current practice re: sale of UW properties is that the proceeds go into the budget stabilization fund. What would we have to change to make that a reality as far as the statutes go?

Thanks - Jenny

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

From: Kuesel, Jeffery [mailto:Jeffery.Kuesel@legis.state.wi.us]
Sent: Saturday, January 22, 2005 12:19 PM
To: Kraus, Jennifer - DOA
Subject: RE: LRB Draft: 05-1513/2 Sale of state property

Jenny,

In LRB-1513/2, all UW property is exempted under proposed s. 16.848 (2) (b) and s. 9101 (1) (a) 2.

Under current law [not in the draft], surplus UW property is excluded from the coverage of s. 13.48 (14) (c), stats. [which provides for certain proceeds of surplus property sales to go to the budget stabilization fund] because under s. 13.48 (14) (am), stats., the building commission is not permitted to sell UW property due to the fact that the authority to sell that property is granted to the board of regents under s. 36.11 (1) (b) and (e) and 36.33 (2) (a), stats.

Jeff Kuesel

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

From: Kraus, Jennifer - DOA
Sent: Saturday, January 22, 2005 10:25 AM
To: Kuesel, Jeffery
Subject: FW: LRB Draft: 05-1513/2 Sale of state property

Jeffrey - can you reiterate how the UW gets treated under current law? The people here in the Division of State Facilities believe that the proceeds for a sale of UW property (surplus or not surplus) would go into the budget stabilization fund like any other state agency. Thanks- Jenny

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

From: Schlueter, Ron [mailto:Ron.Schlueter@legis.state.wi.us]
Sent: Friday, January 21, 2005 12:00 PM
To: Kraus, Jennifer - DOA
Cc: Hanaman, Cathlene; Haugen, Caroline; Merry-Mason, Monica
Subject: LRB Draft: 05-1513/2 Sale of state property

Following is the PDF version of draft 05-1513/2.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1513/2 3

JTK:cjs:rs

wanted Tue 1/25-5PM

stays

DOA:.....Kraus, BB0352 - Sale of state property

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

Do Not Gen

1 AN ACT... relating to: sale of certain state properties.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Currently, state agencies having jurisdiction over state properties are authorized to sell the properties under various conditions and limitations, if the operation of the properties is not specifically provided for by law. The proceeds of any sales are credited or deposited in various ways as provided by law.

Currently, the Building Commission may sell or lease all or part of a state-owned building or structure or state-owned land if such authority is not provided to a state agency by law. The proceeds of any such sales or leases, after retirement of any outstanding debt on the affected properties, are paid into the budget stabilization fund. In addition, the Building Commission may sell certain surplus state land, subject in most cases to the consent of the Joint Committee on Finance, and may sell certain state-owned land in the vicinity of the state capitol.

This bill directs the secretary of administration, no later than July 1, 2006, to review all holdings of surplus and nonsurplus state-owned real property for potential sale, except property under the jurisdiction of the Board of Regents of the UW System and certain other specified property. Potential sales may include surplus or nonsurplus property, and may be evaluated with or without the approval of the state agency that administers the affected property.

No later than October 1, 2006, the secretary of administration must submit a report to the secretary of the Building Commission containing an inventory of the

secretary's recommendations to offer specified state properties for sale and giving the reasons therefor. Under the bill, if the Building Commission votes to approve the sale of any property included in the inventory on or before June 30, 2007, DOA may offer the property for sale and may sell the property if DOA believes that the sale is in the best interests of the state, subject to certain exceptions. Under the bill, the sale price need not reflect fair market value.

Any sale of state property by DOA may be either on the basis of public bids or negotiated prices. The bill does not authorize DOA to close or sell any facility or institution the operation of which is provided for by law. The authority granted by the bill does not apply to property that is leased by the state during the term of the lease without consent of the lessee. With certain exceptions, all net proceeds of property sales, after retirement of any outstanding debt on the affected properties and after any required reimbursement of the federal government for any federal financial assistance used to acquire the properties, are deposited in the budget stabilization fund.

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:

- 1 **SECTION 1.** 13.101 (13) of the statutes is repealed.
- 2 **SECTION 2.** 13.48 (14) (d) 4. of the statutes is amended to read:
- 3 13.48 (14) (d) 4. If the commission proposes to sell or transfer a parcel of surplus
- 4 land having a fair market value of at least \$20,000, the commission shall notify the
- 5 joint committee on finance in writing of its proposed action. If the cochairpersons of
- 6 the committee do not notify the commission that the committee has scheduled a
- 7 meeting for the purpose of reviewing the proposed sale or transfer within 14 working
- 8 days after the date of the commission's notification, the parcel may be sold or
- 9 transferred by the commission. If, within 14 working days after the date of the
- 10 commission's notification, the cochairpersons of the committee notify the
- 11 commission that the committee has scheduled a meeting for the purpose of reviewing
- 12 the proposed sale or transfer, the parcel may be sold or transferred under this

General Fund, and are then transferred from the general Fund to the

1 subdivision only upon approval of the committee. This subdivision does not apply
2 to surplus land that is authorized to be sold under s. 16.848.

3 **SECTION 3.** 13.48 (22) of the statutes is amended to read:

4 **13.48 (22) SALE OR LEASE OF CAPITOL AREA LANDS.** The building commission may
5 lease or resell lands acquired in the capitol planning area for public or private
6 redevelopment and may set such conditions of sale or lease as it deems necessary to
7 ensure development compatible with the needs of the community and the state. This
8 subsection does not apply to lands that are authorized to be sold under s. 16.848.

9 **SECTION 4.** 16.848 of the statutes is created to read:

10 **16.848 Sale of certain state property.** (1) Except as provided in sub. (2) and
11 subject to sub. (3) and s. 23.293 (12), the department may sell any state-owned real
12 property, if the department determines that the sale is in the best interest of the
13 state. The sale may be either on the basis of public bids, with the department
14 reserving the right to reject any bid in the interest of the state, or negotiated prices.

15 (2) (a) Subsection (1) does not authorize the closure or sale of any facility or
16 institution the operation of which is provided for by law.

17 (b) Subsection (1) does not apply to property under the jurisdiction of the board
18 of regents of the University of Wisconsin System.

19 (c) Subsection (1) does not apply to property sold by the department under s.
20 16.98 (3).

21 (d) Subsection (1) does not apply to lands under the jurisdiction of the board
22 of commissioners of public lands.

23 (e) Subsection (1) does not apply to lands acquired with revenues collected
24 under s. 70.58.

1 (f) Subsection (1) does not apply to property that is subject to sale by the
2 department of veterans affairs under s. 45.72 (7).

3 (g) The department shall not sell any property under this section that is leased
4 by the state until the lease expires or the lease is modified, renewed, or extended,
5 whichever first occurs, without consent of the lessee.

6 (3) The department shall not sell any state property under sub. (1) unless the
7 sale is approved by the building commission under 2005 Wisconsin Act (this act),
8 section 9101 (1) (b).

9 (4) Except as provided in s. 13.48 (14) (e), if there is any outstanding public debt
10 used to finance the acquisition, construction, or improvement of any property that
11 is sold under sub. (1), the department shall deposit a sufficient amount of the net
12 proceeds from the sale of the property in the bond security and redemption fund
13 under s. 18.09 to repay the principal and pay the interest on the debt, and any
14 premium due upon refunding any of the debt. If the property was purchased with
15 federal financial assistance, the department shall pay to the federal government any
16 of the net proceeds required by federal law. If the property was acquired by gift or
17 grant or acquired with gift or grant funds, the department shall adhere to any
18 restriction governing use of the proceeds. Except as required under ss. 13.48 (14) (e),

19 20.395 (9) (qd), 23.0917 (5m) (b) 2., and 23.27 (6) and (7), if there is no such debt
20 outstanding, there are no moneys payable to the federal government, and there is no
21 restriction governing use of the proceeds, and if the net proceeds exceed the amount

22 required to be deposited, paid, or used for another purpose under this subsection, the
23 department shall deposit the net proceeds or remaining net proceeds in the ~~budget~~ ^{general}
24 ~~stabilization~~ fund.

25 (4) (5) The department shall transfer all proceeds deposited in the
SECTION 5. 23.15 (6) of the statutes is created to read:

(B)

general fund under sub. (4) to the budget stabilization fund.

1 23.15 (6) This section does not apply to property that is authorized to be sold
2 under s. 16.848.

3 **SECTION 6.** 25.60 of the statutes is amended to read:

4 **25.60 Budget stabilization fund.** There is created a separate nonlapsible
5 trust fund designated as the budget stabilization fund, consisting of moneys
6 transferred to the fund from the general fund under ss. 13.48 (14) (c), 16.518 (3), and
7 16.72 (4) (b), and 16.848.

8 **SECTION 7.** 45.37 (10) (c) of the statutes is amended to read:

9 45.37 (10) (c) ~~The Except where a sale occurs under s. 16.848, the~~ department
10 may manage, sell, lease or transfer property descending to the state pursuant to this
11 section or conveyed to it by members, defend and prosecute all actions concerning it,
12 pay all just claims against it, and do all other things necessary for the protection,
13 preservation and management of such property. All expenditures necessary for the
14 execution of functions under this paragraph or sub. (11) shall be made from the
15 appropriation in s. 20.485 (1) (h).

16 **SECTION 8.** 45.38 (2) (a) 1. of the statutes is amended to read:

17 45.38 (2) (a) 1. Without limitation by reason of any other provisions of the
18 statutes except s. 16.848, the power to sell and to convey title in fee simple to a
19 nonprofit corporation any land and any existing buildings thereon owned by, or
20 owned by the state and held for, the department or of any of the institutions under
21 the jurisdiction of the department for such consideration and upon such terms and
22 conditions as in the judgment of the board are in the public interest.

23 **SECTION 9.** 46.03 (30) (a) of the statutes is amended to read:

24 46.03 (30) (a) To provide for an orderly reduction of state institutional primary
25 psychiatric services the department may approve the institutes entering into

1 contracts with county departments under s. 51.42 for providing primary psychiatric
2 care. If excess capacity exists at state operated mental health institutes, the
3 department shall, subject to s. 16.848, explore whether the possible sale or lease of
4 such excess facilities may be sold or leased to a county department under s. 51.42.

5 SECTION 10. 46.035 (1) (a) of the statutes is amended to read:

6 46.035 (1) (a) The term "existing building" in relation to any conveyance, lease
7 or sublease made under sub. (2) (a) 1., 2. and 3., (b), and (c) means all detention,
8 treatment, administrative, recreational, infirmary, hospital, vocational and
9 academic buildings; all dormitories and cottages; all storage facilities, heating
10 plants, sewage disposal plants, and such other buildings, structures, facilities and
11 permanent improvements as in the judgment of the secretary are needed or useful
12 for the purposes of the department, and all equipment therefor and all improvements
13 and additions thereto which were erected, constructed or installed prior to the
14 making of such conveyance, lease or sublease.

15 SECTION 11. 46.035 (1) (b) of the statutes is amended to read:

16 46.035 (1) (b) The term "new building" in relation to any conveyance, lease or
17 sublease made under sub. (2) (a) 1., 2. and 3., (b), and (c) means all detention,
18 treatment, administrative, recreational, infirmary, hospital, vocational and
19 academic buildings; all dormitories and cottages; all storage facilities, heating
20 plants, sewage disposal plants, and such other buildings, structures, facilities and
21 permanent improvements as in the judgment of the secretary are needed or useful
22 for the purposes of the department, and all equipment therefor and all improvements
23 and additions thereto which are erected, constructed or installed after the making
24 of such conveyance, lease or sublease.

25 SECTION 12. 46.035 (2) (intro.) of the statutes is repealed.

1 **SECTION 13.** 46.035 (2) (a) of the statutes is renumbered 46.035 (2), and 46.035
2 (2) (intro.), (a) and (c) to (j), as renumbered, are amended to read:

3 46.035 (2) (intro.) In order to provide new buildings and to enable the
4 construction and financing thereof, to refinance indebtedness hereafter created by
5 a nonprofit corporation for the purpose of providing a new building or buildings or
6 additions or improvements thereto which are located on land owned by, or owned by
7 the state and held for, the department or on lands of the institutions under the
8 jurisdiction of the department or by the nonprofit corporation, or for any one or more
9 of said purposes, but for no other purpose unless authorized by law, the department
10 has, subject to s. 16.848, the following powers and duties:

11 (a) Without limitation by reason of any other provisions of the statutes except
12 s. 16.848, the power to sell and to convey title in fee simple to a nonprofit corporation
13 any land and any existing buildings thereon owned by, or owned by the state and held
14 for, the department or of any of the institutions under the jurisdiction of the
15 department for such consideration and upon such terms and conditions as in the
16 judgment of the secretary are in the public interest.

17 (c) The power to lease or sublease from such nonprofit corporation, and to make
18 available for public use, any such land and existing buildings conveyed or leased to
19 such nonprofit corporation under ~~subds. 1. and 2. pars. (a) and (b)~~, and any new
20 buildings erected upon such land or upon any other land owned by such nonprofit
21 corporation, upon such terms, conditions and rentals, subject to available
22 appropriations, as in the judgment of the secretary are in the public interest. With
23 respect to any property conveyed to such nonprofit corporation under ~~subd. 1. par.~~
24 (a), such lease from such nonprofit corporation may be subject or subordinated to one
25 or more mortgages of such property granted by such nonprofit corporation.

1 (d) The duty to submit the plans and specifications for all such new buildings
2 and all conveyances, leases and subleases made under this ~~section~~ subsection to the
3 department of administration and the governor for written approval before they are
4 finally adopted, executed and delivered.

5 (e) The power to pledge and assign all or any part of the revenues derived from
6 the operation of such new buildings as security for the payment of rentals due and
7 to become due under any lease or sublease of such new buildings under ~~subd. 3 par.~~
8 (c).

9 (f) The power to covenant and agree in any lease or sublease of such new
10 buildings made under ~~subd. 3. par. (c)~~ to impose fees, rentals or other charges for the
11 use and occupancy or other operation of such new buildings in an amount calculated
12 to produce net revenues sufficient to pay the rentals due and to become due under
13 such lease or sublease.

14 (g) The power to apply all or any part of the revenues derived from the operation
15 of existing buildings to the payment of rentals due and to become due under any lease
16 or sublease made under ~~subd. 3 par. (c)~~.

17 (h) The power to pledge and assign all or any part of the revenues derived from
18 the operation of existing buildings to the payment of rentals due and to become due
19 under any lease or sublease made under ~~subd. 3 par. (c)~~.

20 (i) The power to covenant and agree in any lease or sublease made under ~~subd.~~
21 ~~3. par. (c)~~ to impose fees, rentals or other charges for the use and occupancy or other
22 operation of existing buildings in an amount calculated to produce net revenues
23 sufficient to pay the rentals due and to become due under such lease or sublease.

24 (j) The power and duty, upon receipt of notice of any assignment by any such
25 nonprofit corporation of any lease or sublease made under ~~subd. 3. par. (c)~~, or of any

1 of its rights under any such sublease, to recognize and give effect to such assignment,
2 and to pay to the assignee thereof rentals or other payments then due or which may
3 become due under any such lease or sublease which has been so assigned by such
4 nonprofit corporation.

5 SECTION 14. 46.035 (2) (b) of the statutes is renumbered 46.035 (3) and
6 amended to read:

7 46.035 (3) The state ~~shall be~~ is liable for accrued rentals and for any other
8 default under any lease or sublease made under ~~par. (a) 3. sub. (2) (c)~~, and may be
9 sued therefor on contract as in other contract actions pursuant to ch. 775, except that
10 it ~~shall not be~~ is not necessary for the lessor under any such lease or sublease or any
11 assignee of such lessor or any person or other legal entity proceeding on behalf of such
12 lessor to file any claim with the legislature prior to the commencement of any such
13 action.

14 SECTION 15. 46.035 (2) (c) of the statutes is renumbered 46.035 (4).

15 SECTION 16. 46.035 (2) (d) of the statutes is repealed.

16 SECTION 17. 46.035 (2) (e) of the statutes is renumbered 46.035 (5) and amended
17 to read:

18 46.035 (5) All laws, except s. 16.848 and ch. 150, conflicting that conflict with
19 any provisions of this section, are, insofar as they conflict with this section and no
20 further, superseded by this section.

21 SECTION 18. 46.06 (intro.) of the statutes is created to read:

22 **46.06 Lands; condemnation, easements, leases, sales, purchases.**
23 (intro.) Subject to s. 16.848:

24 SECTION 19. 46.09 (intro.) of the statutes is created to read:

25 **46.09 Purchases, bills, audits, payments.** (intro.) Subject to s. 16.848:

1 **SECTION 20.** 84.09 (9) of the statutes is created to read:

2 84.09 (9) Subsections (5), (5m), and (6) do not apply to state surplus property
3 that is sold under s. 16.848.

4 **SECTION 21.** 301.235 (2) (a) (intro.) of the statutes is amended to read:

5 301.235 (2) (a) (intro.) In order to provide new buildings and to enable the
6 construction and financing thereof, to refinance indebtedness created by a nonprofit
7 corporation for the purpose of providing a new building or buildings or additions or
8 improvements thereto which are located on land owned by, or owned by the state and
9 held for, the department or on lands of the institutions under the jurisdiction of the
10 department or owned by the nonprofit corporation, or for any one or more of those
11 purposes, but for no other purpose unless authorized by law, the department, subject
12 to s. 16.848, has the following powers and duties:

13 **SECTION 22.** 301.235 (2) (a) 1. of the statutes is amended to read:

14 301.235 (2) (a) 1. Without limitation by reason of any other statute except s.
15 16.848, the power to sell and to convey title in fee simple to a nonprofit corporation
16 any land and any existing buildings thereon owned by, or owned by the state and held
17 for, the department or any of the institutions under the jurisdiction of the
18 department for such consideration and upon such terms and conditions as in the
19 judgment of the secretary are in the public interest.

20 **SECTION 23.** 301.24 (4) of the statutes is amended to read:

21 301.24 (4) SALES. The Except where a sale occurs under s. 16.848, the
22 department, with the approval of the building commission, may sell and convey such
23 lands under the jurisdiction of the department as the secretary deems to be in excess
24 of the present or future requirements of the department for either the operation of
25 its facilities or programs, for the maintenance of buffer zones adjacent to its facilities

1 or for other public purposes. The proceeds of the sales shall be credited to the state
2 building trust fund.

3 **SECTION 24.** 301.24 (4m) of the statutes is amended to read:

4 **301.24 (4m) CORRECTIONAL INSTITUTION PROPERTY DISPOSITION.** In addition to
5 any other requirements under this section, except where a sale occurs under s.
6 16.848, the department may sell or otherwise transfer or dispose of the property
7 acquired for the correctional institution under s. 46.05 (1o), 1985 stats., only if the
8 sale, transfer or disposition is approved by the joint committee on finance. The
9 department shall submit a plan for any such proposed sale, transfer or disposition
10 to the committee.

11 **SECTION 25.** 301.25 of the statutes is amended to read:

12 **301.25 Sewer system at Taycheedah Correctional Institution.** The
13 department, with the approval of the governor, may enter into an agreement
14 containing terms, conditions and covenants approved by the building commission,
15 to participate in the construction of a sanitary sewer system in the area adjacent to
16 the Taycheedah Correctional Institution in the town of Taycheedah, Fond du Lac
17 County; to connect the sewer system of the Taycheedah Correctional Institution
18 thereto; to pay sewage disposal charges; and to grant easements or, subject to s.
19 16.848, convey land to meet construction requirements.

20 **SECTION 26.** 302.04 of the statutes is amended to read:

21 **302.04 Duties of warden and superintendents.** ~~The~~ Except as provided in
22 s. 16.848, the warden or the superintendent of each state prison shall have charge
23 and custody of the prison and all lands, belongings, furniture, implements, stock and
24 provisions and every other species of property within the same or pertaining thereto.
25 The warden or superintendent shall enforce the ~~regulations~~ rules of the department

1 for the administration of the prison and for the government of its officers and the
2 discipline of its inmates.

3 **SECTION 27.** 560.9810 (5) of the statutes is created to read:

4 560.9810 (5) NONAPPLICATION. This section does not apply to property that is
5 authorized to be sold under s. 16.848.

6 **SECTION 9101. Nonstatutory provisions; administration.**

7 (1) SALE OF CERTAIN STATE PROPERTY.

8 (a) 1. No later than July 1, 2006, the secretary of administration shall review
9 all holdings of state-owned real property for potential sale, except as provided in
10 subdivision 2.

11 2. Subdivision 1. does not apply to any property, facility, or institution the
12 closure or sale of which is not authorized under section 16.848 of the statutes, as
13 created by this act.

14 (b) No later than October 1, 2006, the secretary of administration shall submit
15 a report to the secretary of the building commission containing an inventory of his
16 or her recommendations to offer specified state properties for sale under section
17 16.848 of the statutes, as created by this act, and the reasons therefor. A property
18 may be included in the inventory with or without approval of the state agency having
19 jurisdiction of the property. If, on or before June 30, 2007, the building commission
20 votes to approve the sale of any property included in the inventory, the department
21 of administration may offer the property for sale under section 16.848 of the statutes,
22 as created by this act.

23 (c) This subsection does not apply after June 30, 2007.

24

(END)



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1513/4

JTK:cjs:pg

Wanted soon

ckjf

DOA:.....Kraus, BB0352 - Sale of state property

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

Don't Gen

1 AN ACT ...; relating to: sale of certain state properties.

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OTHER STATE GOVERNMENT

Currently, state agencies having jurisdiction over state properties are authorized to sell the properties under various conditions and limitations, if the operation of the properties is not specifically provided for by law. The proceeds of any sales are credited or deposited in various ways as provided by law.

Currently, the Building Commission may sell or lease all or part of a state-owned building or structure or state-owned land if such authority is not provided to a state agency by law. The proceeds of any such sales or leases, after retirement of any outstanding debt on the affected properties, are paid into the budget stabilization fund. In addition, the Building Commission may sell certain surplus state land, subject in most cases to the consent of the Joint Committee on Finance, and may sell certain state-owned land in the vicinity of the state capitol.

This bill directs the secretary of administration, no later than July 1, 2006, to review all holdings of surplus and nonsurplus state-owned real property for potential sale, except property under the jurisdiction of the Board of Regents of the UW System and certain other specified property. Potential sales may include surplus or nonsurplus property, and may be evaluated with or without the approval of the state agency that administers the affected property.

No later than October 1, 2006, the secretary of administration must submit a report to the secretary of the Building Commission containing an inventory of the

property under the jurisdiction of the DNR (except central or district office facilities)

secretary's recommendations to offer specified state properties for sale and giving the reasons therefor. Under the bill, if the Building Commission votes to approve the sale of any property included in the inventory on or before June 30, 2007, DOA may offer the property for sale and may sell the property if DOA believes that the sale is in the best interests of the state, subject to certain exceptions. Under the bill, the sale price need not reflect fair market value.

Any sale of state property by DOA may be either on the basis of public bids or negotiated prices. The bill does not authorize DOA to close or sell any facility or institution the operation of which is provided for by law. The authority granted by the bill does not apply to property that is leased by the state during the term of the lease without consent of the lessee. With certain exceptions, all net proceeds of property sales, after retirement of any outstanding debt on the affected properties and after any required reimbursement of the federal government for any federal financial assistance used to acquire the properties, are deposited in the general fund, and are then transferred from the general fund to the budget stabilization fund.

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:

1 **SECTION 1.** 13.101 (13) of the statutes is repealed.

2 **SECTION 2.** 13.48 (14) (d) 4. of the statutes is amended to read:

3 13.48 (14) (d) 4. If the commission proposes to sell or transfer a parcel of surplus
4 land having a fair market value of at least \$20,000, the commission shall notify the
5 joint committee on finance in writing of its proposed action. If the cochairpersons of
6 the committee do not notify the commission that the committee has scheduled a
7 meeting for the purpose of reviewing the proposed sale or transfer within 14 working
8 days after the date of the commission's notification, the parcel may be sold or
9 transferred by the commission. If, within 14 working days after the date of the
10 commission's notification, the cochairpersons of the committee notify the
11 commission that the committee has scheduled a meeting for the purpose of reviewing
12 the proposed sale or transfer, the parcel may be sold or transferred under this

1 subdivision only upon approval of the committee. This subdivision does not apply
2 to surplus land that is authorized to be sold under s. 16.848.

3 SECTION 3. 13.48 (22) of the statutes is amended to read:

4 13.48 (22) SALE OR LEASE OF CAPITOL AREA LANDS. The building commission may
5 lease or resell lands acquired in the capitol planning area for public or private
6 redevelopment and may set such conditions of sale or lease as it deems necessary to
7 ensure development compatible with the needs of the community and the state. This
8 subsection does not apply to lands that are authorized to be sold under s. 16.848.

9 SECTION 4. 16.848 of the statutes is created to read:

10 16.848 Sale of certain state property. (1) Except as provided in sub. (2) and
11 subject to sub. (3) and s. 23.293 (12), the department may sell any state-owned real
12 property, if the department determines that the sale is in the best interest of the
13 state. The sale may be either on the basis of public bids, with the department
14 reserving the right to reject any bid in the interest of the state, or negotiated prices.

15 (2) (a) Subsection (1) does not authorize the closure or sale of any facility or
16 institution the operation of which is provided for by law.

17 (b) Subsection (1) does not apply to property under the jurisdiction of the board
18 of regents of the University of Wisconsin System.

19 (c) Subsection (1) does not apply to property sold by the department under s.
20 16.98 (3).

21 (d) Subsection (1) does not apply to lands under the jurisdiction of the board
22 of commissioners of public lands.

23 (e) Subsection (1) does not apply to property under the jurisdiction of the
(f) Subsection (1) does not apply to lands acquired with revenues collected
24 under s. 70.58.

*department of natural resources, except central
or district office facilities.*

1 (y) Subsection (1) does not apply to property that is subject to sale by the
2 department of veterans affairs under s. 45.72 (7).

3 (h) (g) The department shall not sell any property under this section that is leased
4 by the state until the lease expires or the lease is modified, renewed, or extended,
5 whichever first occurs, without consent of the lessee.

6 (3) The department shall not sell any state property under sub. (1) unless the
7 sale is approved by the building commission under 2005 Wisconsin Act (this act),
8 section 9101 (1) (b).

9 (4) Except as provided in s. 13.48 (14) (e), if there is any outstanding public debt
10 used to finance the acquisition, construction, or improvement of any property that
11 is sold under sub. (1), the department shall deposit a sufficient amount of the net
12 proceeds from the sale of the property in the bond security and redemption fund
13 under s. 18.09 to repay the principal and pay the interest on the debt, and any
14 premium due upon refunding any of the debt. If the property was purchased with
15 federal financial assistance, the department shall pay to the federal government any
16 of the net proceeds required by federal law. If the property was acquired by gift or
17 grant or acquired with gift or grant funds, the department shall adhere to any
18 restriction governing use of the proceeds. Except as required under ss. 13.48 (14) (e),
19 20.395 (9) (qd), ~~23.0917 (5m) (a) 21, 23, 27 (6) and (7)~~ and 51.06 (6), if there is no such
20 debt outstanding, there are no moneys payable to the federal government, and there
21 is no restriction governing use of the proceeds, and if the net proceeds exceed the
22 amount required to be deposited, paid, or used for another purpose under this
23 subsection, the department shall deposit the net proceeds or remaining net proceeds
24 in the general fund.

1 (5) The department shall transfer all proceeds deposited in the general fund
2 under sub. (4) to the budget stabilization fund.

3 ~~SECTION 5. 23.15 (6) of the statutes is created to read:~~

4 ~~23.15 (6) This section does not apply to property that is authorized to be sold~~
5 ~~under s. 16.848.~~

6 SECTION 6. 25.60 of the statutes is amended to read:

7 **25.60 Budget stabilization fund.** There is created a separate nonlapsible
8 trust fund designated as the budget stabilization fund, consisting of moneys
9 transferred to the fund from the general fund under ss. 13.48 (14) (c), 16.518 (3), and,
10 16.72 (4) (b), and 16.848.

11 SECTION 7. 45.37 (10) (c) of the statutes is amended to read:

12 45.37 (10) (c) ~~The~~ Except where a sale occurs under s. 16.848, the department
13 may manage, sell, lease or transfer property descending to the state pursuant to this
14 section or conveyed to it by members, defend and prosecute all actions concerning it,
15 pay all just claims against it, and do all other things necessary for the protection,
16 preservation and management of such property. All expenditures necessary for the
17 execution of functions under this paragraph or sub. (11) shall be made from the
18 appropriation in s. 20.485 (1) (h).

19 SECTION 8. 45.38 (2) (a) 1. of the statutes is amended to read:

20 45.38 (2) (a) 1. Without limitation by reason of any other provisions of the
21 statutes except s. 16.848, the power to sell and to convey title in fee simple to a
22 nonprofit corporation any land and any existing buildings thereon owned by, or
23 owned by the state and held for, the department or of any of the institutions under
24 the jurisdiction of the department for such consideration and upon such terms and
25 conditions as in the judgment of the board are in the public interest.

1 **SECTION 9.** 46.03 (30) (a) of the statutes is amended to read:

2 46.03 (30) (a) To provide for an orderly reduction of state institutional primary
3 psychiatric services the department may approve the institutes entering into
4 contracts with county departments under s. 51.42 for providing primary psychiatric
5 care. If excess capacity exists at state operated mental health institutes, the
6 department shall, subject to s. 16.848, explore whether the possible sale or lease of
7 such excess facilities ~~may be sold or leased~~ to a county department under s. 51.42.

8 **SECTION 10.** 46.035 (1) (a) of the statutes is amended to read:

9 46.035 (1) (a) The term "existing building" in relation to any conveyance, lease
10 or sublease made under sub. (2) (a) ~~1., 2. and 3.,~~ (b), and (c) means all detention,
11 treatment, administrative, recreational, infirmary, hospital, vocational and
12 academic buildings; all dormitories and cottages; all storage facilities, heating
13 plants, sewage disposal plants, and such other buildings, structures, facilities and
14 permanent improvements as in the judgment of the secretary are needed or useful
15 for the purposes of the department, and all equipment therefor and all improvements
16 and additions thereto which were erected, constructed or installed prior to the
17 making of such conveyance, lease or sublease.

18 **SECTION 11.** 46.035 (1) (b) of the statutes is amended to read:

19 46.035 (1) (b) The term "new building" in relation to any conveyance, lease or
20 sublease made under sub. (2) (a) ~~1., 2. and 3.,~~ (b), and (c) means all detention,
21 treatment, administrative, recreational, infirmary, hospital, vocational and
22 academic buildings; all dormitories and cottages; all storage facilities, heating
23 plants, sewage disposal plants, and such other buildings, structures, facilities and
24 permanent improvements as in the judgment of the secretary are needed or useful
25 for the purposes of the department, and all equipment therefor and all improvements

1 and additions thereto which are erected, constructed or installed after the making
2 of such conveyance, lease or sublease.

3 **SECTION 12.** 46.035 (2) (intro.) of the statutes is repealed.

4 **SECTION 13.** 46.035 (2) (a) of the statutes is renumbered 46.035 (2), and 46.035
5 (2) (intro.), (a) and (c) to (j), as renumbered, are amended to read:

6 46.035 (2) (intro.) In order to provide new buildings and to enable the
7 construction and financing thereof, to refinance indebtedness hereafter created by
8 a nonprofit corporation for the purpose of providing a new building or buildings or
9 additions or improvements thereto which are located on land owned by, or owned by
10 the state and held for, the department or on lands of the institutions under the
11 jurisdiction of the department or by the nonprofit corporation, or for any one or more
12 of said purposes, but for no other purpose unless authorized by law, the department
13 has, subject to s. 16.848, the following powers and duties:

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

20 (c) The power to lease or sublease from such nonprofit corporation, and to make
21 available for public use, any such land and existing buildings conveyed or leased to
22 such nonprofit corporation under subds. 1. and 2. pars. (a) and (b), and any new
23 buildings erected upon such land or upon any other land owned by such nonprofit
24 corporation, upon such terms, conditions and rentals, subject to available
25 appropriations, as in the judgment of the secretary are in the public interest. With

1 respect to any property conveyed to such nonprofit corporation under ~~subd. 1. par.~~
2 (a), such lease from such nonprofit corporation may be subject or subordinated to one
3 or more mortgages of such property granted by such nonprofit corporation.

4 (d) The duty to submit the plans and specifications for all such new buildings
5 and all conveyances, leases and subleases made under this ~~section~~ subsection to the
6 department of administration and the governor for written approval before they are
7 finally adopted, executed and delivered.

8 (e) The power to pledge and assign all or any part of the revenues derived from
9 the operation of such new buildings as security for the payment of rentals due and
10 to become due under any lease or sublease of such new buildings under ~~subd. 3 par.~~
11 (c).

12 (f) The power to covenant and agree in any lease or sublease of such new
13 buildings made under ~~subd. 3. par. (c)~~ to impose fees, rentals or other charges for the
14 use and occupancy or other operation of such new buildings in an amount calculated
15 to produce net revenues sufficient to pay the rentals due and to become due under
16 such lease or sublease.

17 (g) The power to apply all or any part of the revenues derived from the operation
18 of existing buildings to the payment of rentals due and to become due under any lease
19 or sublease made under ~~subd. 3 par. (c)~~.

20 (h) The power to pledge and assign all or any part of the revenues derived from
21 the operation of existing buildings to the payment of rentals due and to become due
22 under any lease or sublease made under ~~subd. 3 par. (c)~~.

23 (i) The power to covenant and agree in any lease or sublease made under ~~subd.~~
24 3. par. (c) to impose fees, rentals or other charges for the use and occupancy or other

1 operation of existing buildings in an amount calculated to produce net revenues
2 sufficient to pay the rentals due and to become due under such lease or sublease.

3 (j) The power and duty, upon receipt of notice of any assignment by any such
4 nonprofit corporation of any lease or sublease made under ~~subd. 3. par. (c)~~, or of any
5 of its rights under any such sublease, to recognize and give effect to such assignment,
6 and to pay to the assignee thereof rentals or other payments then due or which may
7 become due under any such lease or sublease which has been so assigned by such
8 nonprofit corporation.

9 SECTION 14. 46.035 (2) (b) of the statutes is renumbered 46.035 (3) and
10 amended to read:

11 46.035 (3) The state ~~shall be~~ is liable for accrued rentals and for any other
12 default under any lease or sublease made under ~~par. (a) 3. sub. (2) (c)~~, and may be
13 sued therefor on contract as in other contract actions pursuant to ch. 775, except that
14 ~~it shall not be~~ is not necessary for the lessor under any such lease or sublease or any
15 assignee of such lessor or any person or other legal entity proceeding on behalf of such
16 lessor to file any claim with the legislature prior to the commencement of any such
17 action.

18 SECTION 15. 46.035 (2) (c) of the statutes is renumbered 46.035 (4).

19 SECTION 16. 46.035 (2) (d) of the statutes is repealed.

20 SECTION 17. 46.035 (2) (e) of the statutes is renumbered 46.035 (5) and amended
21 to read:

22 46.035 (5) All laws, except s. 16.848 and ch. 150, ~~conflicting that conflict with~~
23 any provisions of this section, are, insofar as they conflict with this section and no
24 further, superseded by this section.

25 SECTION 18. 46.06 (intro.) of the statutes is created to read:

1 **46.06 Lands; condemnation, easements, leases, sales, purchases.**

2 (intro.) Subject to s. 16.848:

3 **SECTION 19.** 46.09 (intro.) of the statutes is created to read:

4 **46.09 Purchases, bills, audits, payments.** (intro.) Subject to s. 16.848:

5 **SECTION 20.** 84.09 (9) of the statutes is created to read:

6 84.09 (9) Subsections (5), (5m), and (6) do not apply to state surplus property
7 that is sold under s. 16.848.

8 **SECTION 21.** 301.235 (2) (a) (intro.) of the statutes is amended to read:

9 301.235 (2) (a) (intro.) In order to provide new buildings and to enable the
10 construction and financing thereof, to refinance indebtedness created by a nonprofit
11 corporation for the purpose of providing a new building or buildings or additions or
12 improvements thereto which are located on land owned by, or owned by the state and
13 held for, the department or on lands of the institutions under the jurisdiction of the
14 department or owned by the nonprofit corporation, or for any one or more of those
15 purposes, but for no other purpose unless authorized by law, the department, subject
16 to s. 16.848, has the following powers and duties:

17 **SECTION 22.** 301.235 (2) (a) 1. of the statutes is amended to read:

18 301.235 (2) (a) 1. Without limitation by reason of any other statute except s.
19 16.848, the power to sell and to convey title in fee simple to a nonprofit corporation
20 any land and any existing buildings thereon owned by, or owned by the state and held
21 for, the department or any of the institutions under the jurisdiction of the
22 department for such consideration and upon such terms and conditions as in the
23 judgment of the secretary are in the public interest.

24 **SECTION 23.** 301.24 (4) of the statutes is amended to read:

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

8 **SECTION 24.** 301.24 (4m) of the statutes is amended to read:

9 301.24 (4m) CORRECTIONAL INSTITUTION PROPERTY DISPOSITION. In addition to
10 any other requirements under this section, except where a sale occurs under s.
11 16.848, the department may sell or otherwise transfer or dispose of the property
12 acquired for the correctional institution under s. 46.05 (1o), 1985 stats., only if the
13 sale, transfer or disposition is approved by the joint committee on finance. The
14 department shall submit a plan for any such proposed sale, transfer or disposition
15 to the committee.

16 **SECTION 25.** 301.25 of the statutes is amended to read:

17 **301.25 Sewer system at Taycheedah Correctional Institution.** The
18 department, with the approval of the governor, may enter into an agreement
19 containing terms, conditions and covenants approved by the building commission,
20 to participate in the construction of a sanitary sewer system in the area adjacent to
21 the Taycheedah Correctional Institution in the town of Taycheedah, Fond du Lac
22 County; to connect the sewer system of the Taycheedah Correctional Institution
23 thereto; to pay sewage disposal charges; and to grant easements or, subject to s.
24 16.848, convey land to meet construction requirements.

25 **SECTION 26.** 302.04 of the statutes is amended to read:

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

8 **SECTION 27.** 560.9810 (5) of the statutes is created to read:

9 **560.9810 (5) NONAPPLICATION.** This section does not apply to property that is
10 authorized to be sold under s. 16.848.

11 **SECTION 9101. Nonstatutory provisions; administration.**

12 **(1) SALE OF CERTAIN STATE PROPERTY.**

13 (a) 1. No later than July 1, 2006, the secretary of administration shall review
14 all holdings of state-owned real property for potential sale, except as provided in
15 subdivision 2.

16 2. Subdivision 1. does not apply to any property, facility, or institution the
17 closure or sale of which is not authorized under section 16.848 of the statutes, as
18 created by this act.

19 (b) No later than October 1, 2006, the secretary of administration shall submit
20 a report to the secretary of the building commission containing an inventory of his
21 or her recommendations to offer specified state properties for sale under section
22 16.848 of the statutes, as created by this act, and the reasons therefor. A property
23 may be included in the inventory with or without approval of the state agency having
24 jurisdiction of the property. If, on or before June 30, 2007, the building commission
25 votes to approve the sale of any property included in the inventory, the department

1 of administration may offer the property for sale under section 16.848 of the statutes,
2 as created by this act.

3 (c) This subsection does not apply after June 30, 2007.

4 (END)

Kuesel, Jeffery

From: Kraus, Jennifer - DOA
Sent: Thursday, January 27, 2005 12:05 PM
To: Kuesel, Jeffery
Cc: Grinde, Kirsten
Subject: FW: LRB 05-1513/4 (BB0352 - attached)

Follow Up Flag: Follow up
Flag Status: Flagged

Jeff - Talked to Kirsten Grinde about the treatment of DNR stuff in here and she
1) thought 23.29 (12) should have the same treatment as 23.293(12)
2) wanted to verify that 16.848(2)(e) superceded 23.15 in terms of central and district offices.

Thanks - Jenny

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

From: Emery, Lynn [mailto:Lynn.Emery@legis.state.wi.us]
Sent: Thursday, January 27, 2005 10:30 AM
To: Kraus, Jennifer - DOA
Subject: LRB 05-1513/4 (BB0352 - attached)



05-1513/4

Lynn Emery
Program Assistant
Legislative Reference Bureau
608-266-3561
lynn.emery@legis.state.wi.us

Wanted Tue 2/1 - 9AM

*T
stays*

DOA:.....Kraus, BB0352 - Sale of state property

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

Do Not Gen

1 AN ACT...; relating to: sale of certain state properties.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Currently, state agencies having jurisdiction over state properties are authorized to sell the properties under various conditions and limitations, if the operation of the properties is not specifically provided for by law. The proceeds of any sales are credited or deposited in various ways as provided by law.

Currently, the Building Commission may sell or lease all or part of a state-owned building or structure or state-owned land if such authority is not provided to a state agency by law. The proceeds of any such sales or leases, after retirement of any outstanding debt on the affected properties, are paid into the budget stabilization fund. In addition, the Building Commission may sell certain surplus state land, subject in most cases to the consent of the Joint Committee on Finance, and may sell certain state-owned land in the vicinity of the state capitol.

This bill directs the secretary of administration, no later than July 1, 2006, to review all holdings of ~~surplus~~ state-owned real property for potential sale, except property under the jurisdiction of the Board of Regents of the UW System, property under the jurisdiction of DNR (except central or district office facilities), and certain other specified property. Potential sales may include surplus or nonsurplus property, and may be evaluated with or without the approval of the state agency that administers the affected property.

No later than October 1, 2006, the secretary of administration must submit a report to the secretary of the Building Commission containing an inventory of the secretary's recommendations to offer specified state properties for sale and giving the reasons therefor. Under the bill, if the Building Commission votes to approve the sale of any property included in the inventory on or before June 30, 2007, DOA may offer the property for sale and may sell the property if DOA believes that the sale is in the best interests of the state, subject to certain exceptions. Under the bill, the sale price need not reflect fair market value.

Any sale of state property by DOA may be either on the basis of public bids or negotiated prices. The bill does not authorize DOA to close or sell any facility or institution the operation of which is provided for by law. The authority granted by the bill does not apply to property that is leased by the state during the term of the lease without consent of the lessee. With certain exceptions, all net proceeds of property sales, after retirement of any outstanding debt on the affected properties and after any required reimbursement of the federal government for any federal financial assistance used to acquire the properties, are deposited in the general fund, and are then transferred from the general fund to the budget stabilization fund.

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:

1 SECTION 1. 13.101 (13) of the statutes is repealed.

2 SECTION 2. 13.48 (14) (d) 4. of the statutes is amended to read:

3 13.48 (14) (d) 4. If the commission proposes to sell or transfer a parcel of surplus
4 land having a fair market value of at least \$20,000, the commission shall notify the
5 joint committee on finance in writing of its proposed action. If the cochairpersons of
6 the committee do not notify the commission that the committee has scheduled a
7 meeting for the purpose of reviewing the proposed sale or transfer within 14 working
8 days after the date of the commission's notification, the parcel may be sold or
9 transferred by the commission. If, within 14 working days after the date of the
10 commission's notification, the cochairpersons of the committee notify the
11 commission that the committee has scheduled a meeting for the purpose of reviewing
12 the proposed sale or transfer, the parcel may be sold or transferred under this

1 subdivision only upon approval of the committee. This subdivision does not apply
2 to surplus land that is authorized to be sold under s. 16.848.

3 SECTION 3. 13.48 (22) of the statutes is amended to read:

4 13.48 (22) SALE OR LEASE OF CAPITOL AREA LANDS. The building commission may
5 lease or resell lands acquired in the capitol planning area for public or private
6 redevelopment and may set such conditions of sale or lease as it deems necessary to
7 ensure development compatible with the needs of the community and the state. This
8 subsection does not apply to lands that are authorized to be sold under s. 16.848.

9 SECTION 4. 16.848 of the statutes is created to read:

10 16.848 Sale of certain state property. (1) Except as provided in sub. (2) and
11 subject to sub. (3) ~~and s. 23.293 (1)(a)~~, the department may sell any state-owned real
12 property, if the department determines that the sale is in the best interest of the
13 state. The sale may be either on the basis of public bids, with the department
14 reserving the right to reject any bid in the interest of the state, or negotiated prices.

15 (2) (a) Subsection (1) does not authorize the closure or sale of any facility or
16 institution the operation of which is provided for by law.

17 (b) Subsection (1) does not apply to property under the jurisdiction of the board
18 of regents of the University of Wisconsin System.

19 (c) Subsection (1) does not apply to property sold by the department under s.
20 16.98 (3).

21 (d) Subsection (1) does not apply to lands under the jurisdiction of the board
22 of commissioners of public lands.

23 (e) Subsection (1) does not apply to property under the jurisdiction of the
24 department of natural resources, except central or district office facilities.

1 (f) Subsection (1) does not apply to lands acquired with revenues collected
2 under s. 70.58.

3 (g) Subsection (1) does not apply to property that is subject to sale by the
4 department of veterans affairs under s. 45.72 (7).

5 (h) The department shall not sell any property under this section that is leased
6 by the state until the lease expires or the lease is modified, renewed, or extended,
7 whichever first occurs, without consent of the lessee.

8 (3) The department shall not sell any state property under sub. (1) unless the
9 sale is approved by the building commission under 2005 Wisconsin Act ... (this act),
10 section 9101 (1) (b).

11 (4) Except as provided in s. 13.48 (14) (e), if there is any outstanding public debt
12 used to finance the acquisition, construction, or improvement of any property that
13 is sold under sub. (1), the department shall deposit a sufficient amount of the net
14 proceeds from the sale of the property in the bond security and redemption fund
15 under s. 18.09 to repay the principal and pay the interest on the debt, and any
16 premium due upon refunding any of the debt. If the property was purchased with
17 federal financial assistance, the department shall pay to the federal government any
18 of the net proceeds required by federal law. If the property was acquired by gift or
19 grant or acquired with gift or grant funds, the department shall adhere to any
20 restriction governing use of the proceeds. Except as required under ss. 13.48 (14) (e),
21 20.395 (9) (qd), and 51.06 (6), if there is no such debt outstanding, there are no
22 moneys payable to the federal government, and there is no restriction governing use
23 of the proceeds, and if the net proceeds exceed the amount required to be deposited,
24 paid, or used for another purpose under this subsection, the department shall deposit
25 the net proceeds or remaining net proceeds in the general fund.

1 (5) The department shall transfer all proceeds deposited in the general fund
2 under sub. (4) to the budget stabilization fund.

3 **SECTION 5.** 25.60 of the statutes is amended to read:

4 **25.60 Budget stabilization fund.** There is created a separate nonlapsible
5 trust fund designated as the budget stabilization fund, consisting of moneys
6 transferred to the fund from the general fund under ss. 13.48 (14) (c), 16.518 (3), and
7 16.72 (4) (b), and 16.848.

8 **SECTION 6.** 45.37 (10) (c) of the statutes is amended to read:

9 45.37 (10) (c) ~~The~~ Except where a sale occurs under s. 16.848, the department
10 may manage, sell, lease or transfer property descending to the state pursuant to this
11 section or conveyed to it by members, defend and prosecute all actions concerning it,
12 pay all just claims against it, and do all other things necessary for the protection,
13 preservation and management of such property. All expenditures necessary for the
14 execution of functions under this paragraph or sub. (11) shall be made from the
15 appropriation in s. 20.485 (1) (h).

16 **SECTION 7.** 45.38 (2) (a) 1. of the statutes is amended to read:

17 45.38 (2) (a) 1. Without limitation by reason of any other provisions of the
18 statutes except s. 16.848, the power to sell and to convey title in fee simple to a
19 nonprofit corporation any land and any existing buildings thereon owned by, or
20 owned by the state and held for, the department or of any of the institutions under
21 the jurisdiction of the department for such consideration and upon such terms and
22 conditions as in the judgment of the board are in the public interest.

23 **SECTION 8.** 46.03 (30) (a) of the statutes is amended to read:

24 46.03 (30) (a) To provide for an orderly reduction of state institutional primary
25 psychiatric services the department may approve the institutes entering into

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1 contracts with county departments under s. 51.42 for providing primary psychiatric
2 care. If excess capacity exists at state operated mental health institutes, the
3 department shall, subject to s. 16.848, explore whether the possible sale or lease of
4 such excess facilities may be sold or leased to a county department under s. 51.42.

5 SECTION 9. 46.035 (1) (a) of the statutes is amended to read:

6 46.035 (1) (a) The term "existing building" in relation to any conveyance, lease
7 or sublease made under sub. (2) (a) 1., 2. and 3., (b), and (c) means all detention,
8 treatment, administrative, recreational, infirmary, hospital, vocational and
9 academic buildings; all dormitories and cottages; all storage facilities, heating
10 plants, sewage disposal plants, and such other buildings, structures, facilities and
11 permanent improvements as in the judgment of the secretary are needed or useful
12 for the purposes of the department, and all equipment therefor and all improvements
13 and additions thereto which were erected, constructed or installed prior to the
14 making of such conveyance, lease or sublease.

15 SECTION 10. 46.035 (1) (b) of the statutes is amended to read:

16 46.035 (1) (b) The term "new building" in relation to any conveyance, lease or
17 sublease made under sub. (2) (a) 1., 2. and 3., (b), and (c) means all detention,
18 treatment, administrative, recreational, infirmary, hospital, vocational and
19 academic buildings; all dormitories and cottages; all storage facilities, heating
20 plants, sewage disposal plants, and such other buildings, structures, facilities and
21 permanent improvements as in the judgment of the secretary are needed or useful
22 for the purposes of the department, and all equipment therefor and all improvements
23 and additions thereto which are erected, constructed or installed after the making
24 of such conveyance, lease or sublease.

25 SECTION 11. 46.035 (2) (intro.) of the statutes is repealed.

1 **SECTION 12.** 46.035 (2) (a) of the statutes is renumbered 46.035 (2), and 46.035
2 (2) (intro.), (a) and (c) to (j), as renumbered, are amended to read:

3 46.035 (2) (intro.) In order to provide new buildings and to enable the
4 construction and financing thereof, to refinance indebtedness hereafter created by
5 a nonprofit corporation for the purpose of providing a new building or buildings or
6 additions or improvements thereto which are located on land owned by, or owned by
7 the state and held for, the department or on lands of the institutions under the
8 jurisdiction of the department or by the nonprofit corporation, or for any one or more
9 of said purposes, but for no other purpose unless authorized by law, the department
10 has, subject to s. 16.848, the following powers and duties:

11 (a) Without limitation by reason of any other provisions of the statutes except
12 s. 16.848, the power to sell and to convey title in fee simple to a nonprofit corporation
13 any land and any existing buildings thereon owned by, or owned by the state and held
14 for, the department or of any of the institutions under the jurisdiction of the
15 department for such consideration and upon such terms and conditions as in the
16 judgment of the secretary are in the public interest.

17 (c) The power to lease or sublease from such nonprofit corporation, and to make
18 available for public use, any such land and existing buildings conveyed or leased to
19 such nonprofit corporation under ~~subds. 1. and 2. pars. (a) and (b)~~, and any new
20 buildings erected upon such land or upon any other land owned by such nonprofit
21 corporation, upon such terms, conditions and rentals, subject to available
22 appropriations, as in the judgment of the secretary are in the public interest. With
23 respect to any property conveyed to such nonprofit corporation under ~~subd. 1. par.~~
24 (a), such lease from such nonprofit corporation may be subject or subordinated to one
25 or more mortgages of such property granted by such nonprofit corporation.

1 (d) The duty to submit the plans and specifications for all such new buildings
2 and all conveyances, leases and subleases made under this ~~section~~ subsection to the
3 department of administration and the governor for written approval before they are
4 finally adopted, executed and delivered.

5 (e) The power to pledge and assign all or any part of the revenues derived from
6 the operation of such new buildings as security for the payment of rentals due and
7 to become due under any lease or sublease of such new buildings under ~~subd. 3 par.~~
8 (c).

9 (f) The power to covenant and agree in any lease or sublease of such new
10 buildings made under ~~subd. 3. par. (c)~~ to impose fees, rentals or other charges for the
11 use and occupancy or other operation of such new buildings in an amount calculated
12 to produce net revenues sufficient to pay the rentals due and to become due under
13 such lease or sublease.

14 (g) The power to apply all or any part of the revenues derived from the operation
15 of existing buildings to the payment of rentals due and to become due under any lease
16 or sublease made under ~~subd. 3 par. (c)~~.

17 (h) The power to pledge and assign all or any part of the revenues derived from
18 the operation of existing buildings to the payment of rentals due and to become due
19 under any lease or sublease made under ~~subd. 3 par. (c)~~.

20 (i) The power to covenant and agree in any lease or sublease made under ~~subd.~~
21 ~~3. par. (c)~~ to impose fees, rentals or other charges for the use and occupancy or other
22 operation of existing buildings in an amount calculated to produce net revenues
23 sufficient to pay the rentals due and to become due under such lease or sublease.

24 (j) The power and duty, upon receipt of notice of any assignment by any such
25 nonprofit corporation of any lease or sublease made under ~~subd. 3. par. (c)~~, or of any

1 of its rights under any such sublease, to recognize and give effect to such assignment,
2 and to pay to the assignee thereof rentals or other payments then due or which may
3 become due under any such lease or sublease which has been so assigned by such
4 nonprofit corporation.

5 SECTION 13. 46.035 (2) (b) of the statutes is renumbered 46.035 (3) and
6 amended to read:

7 46.035 (3) The state ~~shall be~~ is liable for accrued rentals and for any other
8 default under any lease or sublease made under ~~par. (a) 3, sub. (2) (c),~~ and may be
9 sued therefor on contract as in other contract actions pursuant to ch. 775, except that
10 it ~~shall not be~~ is not necessary for the lessor under any such lease or sublease or any
11 assignee of such lessor or any person or other legal entity proceeding on behalf of such
12 lessor to file any claim with the legislature prior to the commencement of any such
13 action.

14 SECTION 14. 46.035 (2) (c) of the statutes is renumbered 46.035 (4).

15 SECTION 15. 46.035 (2) (d) of the statutes is repealed.

16 SECTION 16. 46.035 (2) (e) of the statutes is renumbered 46.035 (5) and amended
17 to read:

18 46.035 (5) All laws, except s. 16.848 and ch. 150, ~~conflicting that conflict~~ with
19 any provisions of this section, are, insofar as they conflict with this section and no
20 further, superseded by this section.

21 SECTION 17. 46.06 (intro.) of the statutes is created to read:

22 **46.06 Lands; condemnation, easements, leases, sales, purchases.**

23 (intro.) Subject to s. 16.848:

24 SECTION 18. 46.09 (intro.) of the statutes is created to read:

25 **46.09 Purchases, bills, audits, payments.** (intro.) Subject to s. 16.848:

1 **SECTION 19.** 84.09 (9) of the statutes is created to read:

2 84.09 (9) Subsections (5), (5m), and (6) do not apply to state surplus property
3 that is sold under s. 16.848.

4 **SECTION 20.** 301.235 (2) (a) (intro.) of the statutes is amended to read:

5 301.235 (2) (a) (intro.) In order to provide new buildings and to enable the
6 construction and financing thereof, to refinance indebtedness created by a nonprofit
7 corporation for the purpose of providing a new building or buildings or additions or
8 improvements thereto which are located on land owned by, or owned by the state and
9 held for, the department or on lands of the institutions under the jurisdiction of the
10 department or owned by the nonprofit corporation, or for any one or more of those
11 purposes, but for no other purpose unless authorized by law, the department, subject
12 to s. 16.848, has the following powers and duties:

13 **SECTION 21.** 301.235 (2) (a) 1. of the statutes is amended to read:

14 301.235 (2) (a) 1. Without limitation by reason of any other statute except s.
15 16.848, the power to sell and to convey title in fee simple to a nonprofit corporation
16 any land and any existing buildings thereon owned by, or owned by the state and held
17 for, the department or any of the institutions under the jurisdiction of the
18 department for such consideration and upon such terms and conditions as in the
19 judgment of the secretary are in the public interest.

20 **SECTION 22.** 301.24 (4) of the statutes is amended to read:

21 301.24 (4) SALES. The Except where a sale occurs under s. 16.848, the
22 department, with the approval of the building commission, may sell and convey such
23 lands under the jurisdiction of the department as the secretary deems to be in excess
24 of the present or future requirements of the department for either the operation of
25 its facilities or programs, for the maintenance of buffer zones adjacent to its facilities

1 or for other public purposes. The proceeds of the sales shall be credited to the state
2 building trust fund.

3 **SECTION 23.** 301.24 (4m) of the statutes is amended to read:

4 **301.24 (4m) CORRECTIONAL INSTITUTION PROPERTY DISPOSITION.** In addition to
5 any other requirements under this section, except where a sale occurs under s.
6 16.848. the department may sell or otherwise transfer or dispose of the property
7 acquired for the correctional institution under s. 46.05 (1o), 1985 stats., only if the
8 sale, transfer or disposition is approved by the joint committee on finance. The
9 department shall submit a plan for any such proposed sale, transfer or disposition
10 to the committee.

11 **SECTION 24.** 301.25 of the statutes is amended to read:

12 **301.25 Sewer system at Taycheedah Correctional Institution.** The
13 department, with the approval of the governor, may enter into an agreement
14 containing terms, conditions and covenants approved by the building commission,
15 to participate in the construction of a sanitary sewer system in the area adjacent to
16 the Taycheedah Correctional Institution in the town of Taycheedah, Fond du Lac
17 County; to connect the sewer system of the Taycheedah Correctional Institution
18 thereto; to pay sewage disposal charges; and to grant easements or, subject to s.
19 16.848. convey land to meet construction requirements.

20 **SECTION 25.** 302.04 of the statutes is amended to read:

21 **302.04 Duties of warden and superintendents.** The Except as provided in
22 s. 16.848. the warden or the superintendent of each state prison shall have charge
23 and custody of the prison and all lands, belongings, furniture, implements, stock and
24 provisions and every other species of property within the same or pertaining thereto.
25 The warden or superintendent shall enforce the ~~regulations~~ rules of the department

1 for the administration of the prison and for the government of its officers and the
2 discipline of its inmates.

3 SECTION 26. 560.9810 (5) of the statutes is created to read:

4 560.9810 (5) NONAPPLICATION. This section does not apply to property that is
5 authorized to be sold under s. 16.848.

6 SECTION 9101. **Nonstatutory provisions; administration.**

7 (1) SALE OF CERTAIN STATE PROPERTY.

8 (a) 1. No later than July 1, 2006, the secretary of administration shall review
9 all holdings of state-owned real property for potential sale, except as provided in
10 subdivision 2.

11 2. Subdivision 1. does not apply to any property, facility, or institution the
12 closure or sale of which is not authorized under section 16.848 of the statutes, as
13 created by this act.

14 (b) No later than October 1, 2006, the secretary of administration shall submit
15 a report to the secretary of the building commission containing an inventory of his
16 or her recommendations to offer specified state properties for sale under section
17 16.848 of the statutes, as created by this act, and the reasons therefor. A property
18 may be included in the inventory with or without approval of the state agency having
19 jurisdiction of the property. If, on or before June 30, 2007, the building commission
20 votes to approve the sale of any property included in the inventory, the department
21 of administration may offer the property for sale under section 16.848 of the statutes,
22 as created by this act.

23 (c) This subsection does not apply after June 30, 2007.

24 (END)

WS 5-2

1 (5) The department shall transfer all proceeds deposited in the general fund
2 under sub. (4) to the budget stabilization fund.

3 SECTION 5. 23.15 (6) of the statutes is created to read:

4 23.15 (6) This section does not apply to property that is authorized to be sold
5 under s. 16.848. ✓

6 SECTION 6. 25.60 of the statutes is amended to read:

7 **25.60 Budget stabilization fund.** There is created a separate nonlapsible
8 trust fund designated as the budget stabilization fund, consisting of moneys
9 transferred to the fund from the general fund under ss. 13.48 (14) (c), 16.518 (3), and
10 16.72 (4) (b), and 16.848.

11 SECTION 7. 45.37 (10) (c) of the statutes is amended to read:

12 45.37 (10) (c) The Except where a sale occurs under s. 16.848, the department
13 may manage, sell, lease or transfer property descending to the state pursuant to this
14 section or conveyed to it by members, defend and prosecute all actions concerning it,
15 pay all just claims against it, and do all other things necessary for the protection,
16 preservation and management of such property. All expenditures necessary for the
17 execution of functions under this paragraph or sub. (11) shall be made from the
18 appropriation in s. 20.485 (1) (h).

19 SECTION 8. 45.38 (2) (a) 1. of the statutes is amended to read:

20 45.38 (2) (a) 1. Without limitation by reason of any other provisions of the
21 statutes except s. 16.848, the power to sell and to convey title in fee simple to a
22 nonprofit corporation any land and any existing buildings thereon owned by, or
23 owned by the state and held for, the department or of any of the institutions under
24 the jurisdiction of the department for such consideration and upon such terms and
25 conditions as in the judgment of the board are in the public interest.

Kuesel, Jeffery

From: Miller, Steve
Sent: Tuesday, February 01, 2005 10:48 PM
To: Kraus, Jennifer - DOA
Cc: Schmiedicke, David; Kuesel, Jeffery; Hanle, Bob; Cramer, Robert; Binau,
Subject: Re: FW: Asset sales draft

Jenny:
Jeff and I discussed this draft. It will be OK to include the changes you described to him.
Steve

At 5:33 PM -0600 2/1/05, Kraus, Jennifer - DOA wrote:

Steve - Jeff indicated that I should call you regarding the changes that we need in this draft. I tried but was unable to reach you.

Our intent all along has been to allow the UW to reinvest any proceeds that it nets from the sale of its assets rather than having the assets be deposited to the general fund (and then to the budget stabilization fund) like other agencies. Things have gotten complicated because of a difference of interpretation of what happens under current law, i.e., does the UW currently get to keep its proceeds or do they go back to the budget stabilization fund.

I realize that it is late in the process to make these changes but we do need them and would appreciate your assistance in making it happen.

Call me at home tonight if you want to discuss. (233-3041)

Thanks - Jenny

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

From: Kraus, Jennifer - DOA
Sent: Tuesday, February 01, 2005 10:42 AM
To: Kuesel, Jeffery
Subject: RE: Asset sales draft

Jeff - I'm assuming you will call me after you have investigated current law, is that correct? If you are waiting on me for something - let me know - Thanks --Jenny

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

From: Kuesel, Jeffery [<mailto:Jeffery.Kuesel@legis.state.wi.us>]
Sent: Monday, January 31, 2005 6:33 PM
To: Kraus, Jennifer - DOA
Subject: RE: Asset sales draft

Jenny,

We are going to need another phone conversation on this but I will need to investigate current law first. That is what needs to be notwithstanding and I don't know what it is right now since this is outside my area of drafting.

Jeff

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

From: Kraus, Jennifer - DOA

Sent: Monday, January 31, 2005 6:17 PM
To: Kuesel, Jeffery
Cc: Cramer, Robert; Binau, RJ
Subject: Asset sales draft

Jeff - We want a nonstat provision that says something like, "Notwithstanding the provision under s.13.48(14)(c) that net proceeds go to the budget stabilization fund, net proceeds from the sale of assets by the UW during the next biennium will be deposited into s. 20.285(1)(a) for reinvestment in the University" We do want the UW to continue to have to work through the Building Commission.

Thanks for your patience on this one....

Jenny