

2015 DRAFTING REQUEST

Bill

Received: **1/9/2015** Received By: **emueller**
Wanted: **As time permits** Same as LRB:
For: **Administration-Budget** By/Representing: **Bong**
May Contact: Drafter: **emueller**
Subject: **State Govt - state bldg proj** Addl. Drafters:
Extra Copies: **MES, CMH, ARG, RAC**

Submit via email: **YES**
Requester's email:
Carbon copy (CC) to: **eric.mueller@legis.wisconsin.gov**
sbostatlanguage@webapps.wi.gov

Pre Topic:

DOA:.....Bong, BB0380 -

Topic:

Building commission approval process

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller 1/13/2015			_____			
/P1	emueller 1/23/2015	kfollett 1/13/2015	jmurphy 1/13/2015	_____	srose 1/13/2015		State
/P2	emueller	kfollett	rschluet	_____	srose		State

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/P3	emueller 1/28/2015	kfollett 1/26/2015	rschluet 1/26/2015	_____	mbarman 1/26/2015		State
/P4	emueller 1/28/2015	kfollett 1/28/2015	jmurphy 1/28/2015	_____	mbarman 1/28/2015		State
/P5	emueller 1/29/2015	kfollett 1/28/2015	rschluet 1/28/2015	_____	lparisi 1/28/2015		State
/P6		kfollett 1/29/2015	jfrantze 1/29/2015	_____	sbasford 1/29/2015		State

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Handwritten notes:
1/pull SF 1/27
Jm 1/28
Jm 1/28

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1/26 EMM
1/28/15

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1/26 1/26 2015

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1P3 EUM

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1/2	emueller	1/11/15	1/11/15				
1/1	EUM	1/13	1/13				
	1/13/15						
	FE Sent For:						

<END>

Mueller, Eric

From: CathleneH <cathleneh@gmail.com>
Sent: Tuesday, December 30, 2014 11:00 AM
To: Champagne, Rick; Mueller, Eric
Subject: Fwd: Statutory Language Drafting Request - BB0380
Attachments: SBC Concept Paper.docx; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: <SashaE.Bong@wisconsin.gov>
Date: December 30, 2014 at 12:30:41 PM AST
To: <Cathlene.Hanaman@legis.wisconsin.gov>
Cc: <Jennifer.Kraus@wisconsin.gov>, <SashaE.Bong@wisconsin.gov>, <Christopher.Connor@wisconsin.gov>
Subject: **Statutory Language Drafting Request - BB0380**

Biennial Budget: 2015-17

Topic: Building Commission Approval Process

Tracking Code: BB0380

SBO Team: GGCF

SBO Analyst: Bong, Sasha - DOA
Phone: (608) 266-5468
E-mail: SashaE.Bong@wisconsin.gov

Agency Acronym: DOA

Agency Number: 505

Priority: High

Intent:

Modify Building Commission approvals to shift approvals after enactment of the capital budget to passive review or a one-time approval at the first commission meeting after budget enactment.

Budget increases or substantial changes for enumerated projects, leases and land transactions would be sent to the commission for approval under 14-day passive review. The commission would meet to consider the request only if a majority of members objects.

At its first meeting following budget enactment, the commission would consider granting DOA Capital Finance the authority to issue bonds in an amount not to exceed what was appropriated in the biennial budget. DOA/Capital Finance would continue providing written

updates on bond issuance to the commission.

At its first post-enactment meeting, the commission would also consider authorizing the release of a not to exceed amount of building trust fund monies for DOA enumerated project planning.

After the first post-enactment commission meeting, DOA would issue quarterly reports to the commission with information about enumerated projects, all agency projects and small projects.

The proposed changes above would have the same effective date as the 2015-17 budget bill.

Repeal s. 13.48(14)(d) and recreate in Chapter 16 to require an agency (other than SWIB) to submit current information on any real property under its jurisdiction, as requested by DOA. DOA shall obtain appraisals of properties identified for potential sale and submit to the building commission an inventory containing the location and description of each parcel identified for potential lease or sale.

Attachments: True

Please send completed drafts to SBOStatlanguage@webapps.wi.gov

SBC Concept Paper

Idea: make SBC oversight role and process more similar to the JFC

Current Process

SBC holds monthly meetings and is responsible for approving:

- Issuance of debt
- Capital Budget
 - Enumerated projects go back at 35% for design report approval and authority to construct
 - All Agency (maintenance and repair block grant) projects over \$185,000 have to be individually approved by SBC
- Leases
- Land transactions
- Release of planning funds (BTF)

New Process

When the SBC (and subsequently the full legislature) take up the Capital Budget in the odd years, that is their opportunity to vote on the Capital Budget. After the budget is enacted, individual projects do not have to go back to the SBC for further approvals unless:

14 Day Passive Review

If an enumerated project has a budget increase or some other substantial change, the item would be sent to SBC members for passive review. If a **majority** (5) of SBC members objects, then a meeting would be held on the item. Leases and land transactions would also use the passive review process. Notice would be given to SBC members when one is before them and if a majority objects, a meeting would be held on the item.

Issuance of debt

SBC would hold one meeting in August of the odd year (after budget is enacted) to grant Capital Finance the authority to issue bonds in a not to exceed amount as appropriated in the approved budget. As is the current procedure, Capital Finance can continue to provide written updates to the SBC when they go to market. The August meeting could also include an item authorizing the release of BTF for DOA to disperse for planning of enumerated projects.

Quarterly Reports

Subsequent to the August meeting, DOA would issue quarterly reports to the SBC with information about enumerated projects, all agency projects, and small projects. This is what we do now with the small projects program.

DRAFT



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-1192/P1

EVM:...

gf

DOA:.....Bong, BB0380 – Building commission approval process

RMR

FOR 2015-2017 BUDGET – NOT READY FOR INTRODUCTION

1/13/15

Today

Don't Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT ✓

OTHER STATE GOVERNMENT ✓

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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:

2 SECTION 1. 13.48 (2m) of the statutes is created to read: ✓

3 13.48 (2m) PROCEDURE. (a) After the enactment of the biennial budget, in any
4 biennium, any request for approval from the building commission of a project budget
5 increase or of a substantial change in an enumerated project, lease, or land
6 transaction shall be submitted in writing to the commission. If, within 14 working

act

1 days after the date of that written request, a majority of the members of the
2 commission do not request that the commission schedule a meeting to review the
3 request under this ^{paragraph} ~~subsection~~, the request is approved.

4 (b) At the first meeting of the commission following the enactment of the
5 biennial budget, ^{act} the commission may take any of the following actions:

6 1. Authorize the department of administration to contract public debt or
7 obligations under subch. II ^{of this} in an amount not to exceed the amount that was
8 appropriated in the biennial budget act. If authorization is granted under this
9 subdivision, the department of administration shall provide periodic reports
10 regarding the contracting of debt or obligations under this subdivision to the
11 commission.

12 2. Release an amount not to exceed the amount of ^{state} building trust fund moneys
13 to the department of administration for planning for enumerated projects. If the
14 building commission has granted authority to the department under §. 13.48 (2m) ^{this paragraph}

15 (b), the department shall report quarterly to the commission regarding the status of
16 state building projects.

17 **SECTION 2.** 13.48 (14) (am) 1. of the statutes is amended to read:

18 13.48 (14) (am) 1. Except as provided in this paragraph, the building
19 commission shall have the authority to sell or lease all or any part of state-owned
20 real property unless the sale or lease is prohibited under the state or federal
21 constitution or federal law or the sale is conducted as a part of a procedure to enforce
22 an obligation to this state, and may transfer real property under its jurisdiction
23 among agencies. The commission may sell or lease property under this paragraph
24 with or without the approval of the agency having jurisdiction over the property and
25 regardless of whether the property is included in an inventory submitted under par.

1 (d) s. 16.8475 (1). The building commission does not have the authority to sell or lease
2 any state-owned real property under this paragraph after the department of
3 administration notifies the commission in writing that an offer of sale or sale or lease
4 agreement with respect to a property is pending under s. 16.848 (1). If the sale or
5 lease is not completed and no further action is pending with respect to the property,
6 the authority of the building commission under this paragraph is restored.

History: 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 335 s. 13; 1975 c. 39, 40, 198, 199; 1977 c. 26; 1977 c. 29 ss. 7, 8r, 1654 (8) (c); 1977 c. 325; 1977 c. 418 ss. 5, 5m, 924 (18) (c); 1979 c. 34, 221, 350; 1981 c. 341; 1983 a. 27 ss. 11 to 12n, 2202 (5); 1983 a. 36 ss. 18 to 20, 96 (3); 1983 a. 207; 1985 a. 29, 120; 1987 a. 27, 186, 395, 399; 1989 a. 31, 366; 1991 a. 39, 269, 315; 1993 a. 16, 288, 414; 1995 a. 27, 216, 225, 227; 1997 a. 5, 27, 35, 237; 1999 a. 9; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 16, 103; 2003 a. 33 ss. 25 to 26i, 9160; 2003 a. 91; 2005 a. 25, 253, 391; 2007 a. 20; 2009 a. 28, 185, 361; 2011 a. 7, 10, 32; 2013 a. 20; s. 15.17 correction in (39h) (c).

7 **SECTION 3.** 13.48 (14) (d) of the statutes is renumbered 16.8475 (1) and
8 amended to read:

9 16.8475 (1) Biennially, beginning on January 1, 2014, each agency other than
10 the investment board shall, upon request, submit to the department of
11 ~~administration~~ an inventory of all real property under its jurisdiction. Except with
12 respect to the Board of Regents of the University of Wisconsin System, the inventory
13 shall include the estimated fair market value of each property. The agency shall
14 specifically identify any underutilized assets in the inventory. No later than July 1
15 following receipt of the inventories, the department of ~~administration~~ shall obtain
16 appraisals of all properties in the inventories that are identified by the department
17 for potential sale and shall submit to the building commission an inventory
18 containing the location, description and fair market value of each parcel of property
19 identified for potential sale.

History: 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 335 s. 13; 1975 c. 39, 40, 198, 199; 1977 c. 26; 1977 c. 29 ss. 7, 8r, 1654 (8) (c); 1977 c. 325; 1977 c. 418 ss. 5, 5m, 924 (18) (c); 1979 c. 34, 221, 350; 1981 c. 341; 1983 a. 27 ss. 11 to 12n, 2202 (5); 1983 a. 36 ss. 18 to 20, 96 (3); 1983 a. 207; 1985 a. 29, 120; 1987 a. 27, 186, 395, 399; 1989 a. 31, 366; 1991 a. 39, 269, 315; 1993 a. 16, 288, 414; 1995 a. 27, 216, 225, 227; 1997 a. 5, 27, 35, 237; 1999 a. 9; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 16, 103; 2003 a. 33 ss. 25 to 26i, 9160; 2003 a. 91; 2005 a. 25, 253, 391; 2007 a. 20; 2009 a. 28, 185, 361; 2011 a. 7, 10, 32; 2013 a. 20; s. 35.17 correction in (39h) (c).

20 **SECTION 4.** 16.8475 (title) of the statutes is created to read:

21 **16.8475 (title) Supervision of state property and facilities.**

22 **SECTION 5.** 16.8475 (2) of the statutes is created to read:

1 16.847⁵ (2) After the first meeting of the building commission following the
2 enactment of the biennial budget, the department shall report quarterly to the
3 commission regarding the status of projects under the state building program.

4 SECTION 6. 16.848 (1) (a) of the statutes is amended⁴ to read:

5 16.848 (1) (a) Except as provided in sub. (2), the department may offer for sale
6 or lease any state-owned real property, if the department determines that the sale
7 or lease is in the best interest of the state, unless prohibited under the state or federal
8 constitution or federal law or the sale is conducted as a part of a procedure to enforce
9 an obligation to this state. Any sale may be either on the basis of public bids, with
10 the department reserving the right to reject any bid in the best interest of the state,
11 or on the basis of negotiated prices as determined through a competitive or
12 transparent process. If the department receives an offer to purchase or lease
13 property offered under this subsection, the department may submit a report to the
14 building commission recommending acceptance of the offer. The report shall contain
15 a description of the property and the reasons for the recommendation. The
16 department may recommend the sale or lease of property with or without the
17 approval of the agency, as defined in s. 16.52 (7), having jurisdiction over the property
18 and regardless of whether the property is included in an inventory submitted under
19 s. ~~13.48 (14) (d)~~ [✓] 16.8475 (1). If the building commission approves the proposed sale
20 or lease, the department shall submit the proposed sale or lease to the joint
21 committee on finance for approval under par. (b).

22 History: 2005 a. 25; 2007 a. 20 ss. 113, 114, 9121 (6) (a); 2007 a. 100; 2009 a. 180; 2011 a. 32; 2013 a. 20; 2013 a. 173 s. 33.

(END)

LRB-1192/P1 REVIEW

s. 13.48 Long-range public building program

(1) POLICY language is ok—does not need revision. However, this would be the best place to create language that explains the overarching principle to be codified—i.e. that once the governor/legislature enacts the budget, the building program has been approved including enumerated items and the all agency program categories.

(1m 1-3(e)): does not need revision-this is a fight for another day

(2) BUILDING COMMISSION; POWERS AND DUTIES: a) is fine, does not need revision.

New subsection should be created here to say: "At the first meeting of the commission following the enactment of the biennial budget act, the commission may take any of the following actions:

1. Authorize the department of administration to contract public debt or obligations under subch. II of ch. 18 in an amount not to exceed the amount that was appropriated in the biennial budget act. If authorization is granted under this subdivision, the department of administration shall provide periodic reports regarding the contracting of debt or obligations under this subdivision to the commission.

2. Release an amount not to exceed the amount of the state building trust fund moneys to the department of administration for planning for enumerated projects.

New subsection should be added here and say: After the first meeting of the building commission following the enactment of the biennial budget act, the department shall report quarterly to the commission regarding the status of projects under the state building program."

New subsection should be added here to explain passive review process for enumerated items "After the enactment of the biennial budget act in any biennium, any request for approval from the building commission of a project budget increase or of a substantial change in an enumerated item shall be submitted in writing to the commission. If, within 14 working days after the date of that written request, a majority of the members of the commission do not request that the commission schedule a meeting to review the request under this paragraph, the request is approved."

New subsection should be added here to explain passive review items related to the building commission's other powers and duties: "Any request for approval from the building commission of an item requiring building commission approval (including but not limited to land transactions, assessments under 66.0703, space rental rates, alternatives to state construction, privately owned or operated facilities on state land, gifts, leases, sale or lease of capital area lands, lease of space for commercial use in state buildings, lease of correctional facilities, etc.) shall be submitted in writing to the commission. If, within 14 working days after the date of that written request, a majority of the members of the commission do not request that the commission schedule a meeting to review the request under this paragraph, the request is approved."

Existing (b) 1. Is fine as is—just needs to be renumbered

Existing (b) 1m. Not sure what to do with this b/c we don't know what is being proposed in the UWS autonomy initiative. If this stays in statutes, options are to leave as is, raise threshold, or lump this in to passive review process.

Existing 2. The existing language is fine. As noted above, the building commission fixing rental rates will also utilize the passive review process.

Existing 3. Is fine as is

(c) is fine as is

(d) Not sure what to do with this b/c we don't know what is being proposed in the UWS autonomy initiative. We recommend repeal—this is a very old statute and as you know, the BTF account cannot afford this.

e (1): this is a report required to be submitted by the Controller's office. We do not think this report has been submitted since 2010. Since quarterly reports will be required under the law change, we recommend repeal of this—it will be duplicative.

e (2): is a statement of intent about e (1), if e (1) comes out, e (2) should as well

(f): we no longer use BTF for this program, we use bonding in the All Agency Program for capital equipment, this is no longer relevant, applicable, or required, we recommend repeal

(g) The existing language is fine. As noted above, the building commission approving assessments will also utilize the passive review process.

(h-i): does not need revision-this is a fight for another day

(k): does not need revision

(3) State Building Trust fund does not need revision in this draft (the \$760,000 is changed in the threshold draft)

(4) State Agencies to Report Proposed Projects Since quarterly reports will be required under the law change, we recommend repeal of this—it will be duplicative.

(5) Assistance to Building Commission This should stay in as is, however, we don't know what is being proposed in the UWS autonomy initiative, it may affect this.

(6) Review of Projects We recommend repeal of this—it is duplicative of the process outlined in **(7)** and will be even more so if this law change goes into effect.

(7) Biennial Recommendations ***State Fair Park threshold should be changed from \$250,000 to \$760,000 in threshold draft**

(8) Expansion at Green Bay Correctional Institution stay as is

(10) Approval by Building Commission Need to see final threshold draft to decide if 10 (a) is ok. 10 (b) is ok as is except State Fair Park threshold should be changed from \$250,000 to \$760,000 in threshold draft. 10 (c) is subject to the UWS autonomy draft

(11) Exceptions ok as is

(12) (a) and (b) Privately Owned or Operated Facilities The existing language is fine. As noted above, the building commission approving privately owned or operated facilities on state land will also utilize the passive review process.

(13) Application of laws etc. is ok as is—this is a fight for another day

(14) Sale or lease of property ok as is

(15) Acquisition of leasehold interests ok as is

(16) Madison Downtown State Office Facilities ok as is

(17) Advanced Land Acquisition ok as is

(18) Acquisition of Open Spaces ok as is

(19) Alternatives to State Construction: This subsection needs to be split into two separate parts (1. and 2.??) the new section 1. should say, "Whenever the building commission determines that the use of innovative types of design and construction processes will make better use of the resources and technology available in the building industry, the building commission may waive any or all of s. 16.855, except s. 16.855 (13) and (14m) (a) to (c), if such action is in the best interest of the state and if the waiver is accomplished through the passive review process described (add cross reference with correct new section/subsection)." The new section 2. should say, "Subject to the requirements of s. 20.924 (1) (i), the building commission may authorize through the passive review process (add cross reference to enumerated passive review process) the lease, lease purchase, or acquisition of facilities in lieu of state construction of any project enumerated in the authorized state building program." **PLEASE NOTE: If this change is made, all statutory references to 13.48 (19) need to be revised to say 13.48 (19) (1).**

(20) Residence Halls-- is subject to the UWS autonomy draft

(21) Medical College—stays in as is

(22) Sale or Lease of Capital Area Lands: The existing language is fine. As noted above, the building commission approving this type of land sale/lease will also utilize the passive review process.

(23) Lease of Space for Commercial Use The existing language is fine. As noted above, the building commission approving this type of lease will also utilize the passive review process.

(24) Debt on maintenance projects: is ok as is

(25) WISTAR is ok as is

(26) ENVIRO ANNUAL PLAN APPROVAL is ok as is

The existing language is fine. As noted above, the building commission approving this type of land sale/lease will also utilize the passive review process.

(27) Lease of correctional facilities The existing language is fine. As noted above, the building commission approving this type of lease will also utilize the passive review process.

(28-44) Non-state grants: These are all ok to stay in

S. 20.924 Building Program Execution 1 (a) and (b) are ok but will be updated in threshold draft.

(d) (e), and (em) should be cross-referenced with new enumerated project passive review subsection (see p. 1 above).

(f) is ok as is

(g) is ok as is

(i) (1) and (2) keep as is—DOC policy

(j) is ok as is

(3) keep as is

(4) keep as is

(5) keep as is

Mueller, Eric

From: Mueller, Eric
Sent: Friday, January 23, 2015 2:32 PM
To: Erdman, David R - DOA
Cc: Bong, Sasha E - DOA (SashaE.Bong@wisconsin.gov)
Subject: FW: Building commission approval process draft

David,

I've been referred to you for questions regarding ch. 18. As a warning, I'm pretty new to the building commission area, so I may be a little slow on some of the details.

In regards to the items in the first email in this chain:

1. How would you like to deal with this issue? Do you want to extend the expiration date to 2 years or more? Eliminate the expiration date? The relevant expiration dates I found in ch. 18 are s. 18.06 (6), 18.55 (5), and ~~18.73 (4)~~. Are these the only dates of concern? *Yes*
2. The forthcoming draft features the language: "Authorize the department of administration to contract public debt or obligations under subch. II of ch. 18 in an amount not to exceed the amount that the building commission is authorized by the laws of this state to contract." Does this work? *OK*
3. Is there something specific you would like to add. My understanding is that the building commission would not be precluded from holding meetings, just that, other than exceptional circumstances, the commission would not be required to meet. Given that, if this is likely to be a recurring issue it might be best to include it in the "authorizing meeting" provision. *re v. refusing obs.*
4. The current language of the draft is keyed to "requests for approval." This strikes me as quite broad, but I do not know how well it jibes with practice or how well practice can be made to jibe with the language. *OK*
5. What portions of subch. III of ch. 18 do you want to retain? *None - move to ch 16*

Eric Mueller
Attorney, Legislative Reference Bureau
Phone: (608)261-7032
eric.mueller@legis.wisconsin.gov

From: Bong, Sasha E - DOA [mailto:SashaE.Bong@wisconsin.gov]
Sent: Friday, January 23, 2015 9:25 AM
To: Mueller, Eric
Cc: Hanaman, Cathlene
Subject: RE: Building commission approval process draft

Yes – it's really more a consequence of altering processes under Chapter 13.

Please let me know if you have any questions. If it would be of any help at all, please feel free to contact Dave directly – I'd appreciate if you could copy me as much as you can so that I know what to expect in the draft, but he is directly involved in the bond issuance side of this.

Thanks!

Sasha Bong
Executive Policy and Budget Analyst
Department of Administration, State Budget Office
(608) 266-5468

SashaE.Bong@wisconsin.gov

From: Mueller, Eric [<mailto:Eric.Mueller@legis.wisconsin.gov>]
Sent: Friday, January 23, 2015 8:54 AM
To: Bong, Sasha E - DOA
Subject: RE: Building commission approval process draft

Sasha,

Is all of this intended to be included in -1192/BB0380?

Eric Mueller
Attorney, Legislative Reference Bureau
Phone: (608)261-7032
eric.mueller@legis.wisconsin.gov

From: Bong, Sasha E - DOA [<mailto:SashaE.Bong@wisconsin.gov>]
Sent: Thursday, January 22, 2015 5:26 PM
To: Mueller, Eric
Cc: Kraus, Jennifer - DOA
Subject: FW: Building commission approval process draft

Hi Eric,

Below are further changes for the Building Commission related to the bonding side of this issue. The changes should read from the bottom up, and #5 may have additional input from Bond Counsel (I will send any revisions to you or whichever drafter will work on this part).

Thanks!

Sasha Bong
Executive Policy and Budget Analyst
Department of Administration, State Budget Office
(608) 266-5468
SashaE.Bong@wisconsin.gov

From: Erdman, David R - DOA
Sent: Thursday, January 22, 2015 6:21 AM
To: Bong, Sasha E - DOA; Taylor, Kevin - DOA
Cc: Kraus, Jennifer - DOA
Subject: RE: Building commission approval process draft

Sasha – With respect to #5 below and our discussion on Wednesday afternoon, please consider eliminating the Building Commissions role in the sale and issuance of Operating Notes, pursuant to Subchapter III of Chapter 18, Wisconsin Statutes. Such operating notes could be sold and issued by the Secretary of Administration similar to procedures following in Section 16.527, Wisconsin Statutes, for the Secretary of Administration to issue general fund annual appropriation bonds.

Possible steps to accomplish this include deleting Subchapter III of Chapter, Wisconsin Statutes and moving the relevant procedural requirements to Chapter 16, Wisconsin Statutes (taking into account procedures followed in Section 16.527, Wisconsin Statutes for issuance of appropriation obligations). There already exists Secretary of Administration actions, or request, for the issuance of operating notes in Section 16.405, Wisconsin Statutes, and the involvement of the Joint Committee on Finance would remain.

Please advise of any questions or concerns. As we discussed, we will share this concept with Bond Counsel for their review and feedback. Thanks.

David Erdman
DOA Capital Finance Office

From: Erdman, David R - DOA
Sent: Wednesday, January 21, 2015 9:22 AM
To: Bong, Sasha E - DOA; Taylor, Kevin - DOA
Cc: Kraus, Jennifer - DOA
Subject: RE: Building commission approval process draft

Sasha – Please note the following comments related to the draft Building Commission approval process draft that you shared with us.

1. There are provisions in Chapter 18, Wisconsin Statutes, that conflict with provisions and intent of the draft legislation. Do we need clarification that the provisions of Chapter 18, Wisconsin Statutes still apply with respect to the authorizing of debt and revenue obligations. One contradiction is that Section 18.06(6), Wisconsin Statutes (and corresponding section in Subchapter II of Chapter 18, Wisconsin Statutes) include provisions by which authorizing resolutions for debt and revenue obligations are only good for one year. The proposed language in Section 13.48 (2m)(b) implies that the Building Commission would only meet and “authorize” debt and revenue obligations every two years and after enactment of biennial budget act.
2. There are a couple items in the proposed language for Section 13.48(2m)(b)1 that need change. First, using the term “appropriated” to describe bonding authority may not be the best terminology. Second, bonding authority does not expire and language in this section should not be limited to amount of bonding in a biennial budget act, rather limited to amount of statutory bonding authority to include bonding authority from prior budgets that have not been issued.
3. Wisconsin statutes do not include any specific amount of refunding authority for our revenue credits; the refunding authority for revenue bonds is unlimited. If intent is for limited Building Commission meetings, we would include authorizing resolutions (per requirements of Chapter 18, Wisconsin Statutes) at such meeting for these revenue refunding bonds. Need to ensure that proposed language does not create a contradiction or limitation to a specific amount in Wisconsin Statutes.
4. At various times, there may be debt management items that need Building Commission approval. These items include amending resolutions under Section 18.06(1), creating new bonding programs in response to budget or other statutory changes, creating new variable rate programs, etc. We can either include these items on the agenda of any meeting that is requested, per provisions of Section 13.48 (2m)(a), or request a special meeting of the Building Commission.
5. While the State has not issued operating notes since 2011, there may be a future need for such cash-flow notes. Per Wisconsin Statutes, operating notes are requested by DOA, approved by JCF (through passive approval process), and then authorized by the Building Commission per Subchapter III of Chapter 18, Wisconsin Statutes. The proposed legislation and its intent does not match with these current statutory provisions. The need for operating notes is reviewed annually and typically not identified until just months prior to issuance. Furthermore, provisions of 18.73(4), Wisconsin Statutes, only allow authorizing resolutions for operating notes to be valid for three months.

Please contact us with any questions or concerns.

Thanks.

David Erdman
State of Wisconsin DOA Capital Finance Office
608-267-0374
david.erdman@wisconsin.gov
www.doa.state.wi.us/capitalfinance
FAX 608-266-7645

From: Bong, Sasha E - DOA
Sent: Tuesday, January 20, 2015 9:18 AM
To: Taylor, Kevin - DOA; Erdman, David R - DOA
Subject: Building commission approval process draft

I've attached the building commission approval process draft, but please note there may be more changes coming.

Please let Jenny or me know if you have any changes.

Thanks,

Sasha Bong
Executive Policy and Budget Analyst
Department of Administration, State Budget Office
(608) 266-5468
SashaE.Bong@wisconsin.gov



DNote
State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-1192/P1
EVM:kjf:jm

RMR

DOA:.....Bong, BB0380 - Building commission approval process

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

INSERTS

1/23/15

Today

Don't Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT ✓

OTHER STATE GOVERNMENT ✓

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

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

SECTION 1. 13.48 (2m) of the statutes is created to read:

13.48 (2m) PROCEDURE. (a) After the enactment of the biennial budget act in any biennium, any request for approval from the building commission of a project budget increase or of a substantial change in an enumerated project, lease, or land transaction shall be submitted in writing to the commission. If, within 14 working

INS from p. 2
1-2a
INS
1-2b
from p. 3

#. cc. 13.48 (2) (ap)

The building commission is authorized by the laws of this state to contract

SECTION 1

1 days after the date of that written request, a majority of the members of the
2 commission do not request that the commission schedule a meeting to review the
3 request under this paragraph, the request is approved.

4 (b) At the first meeting of the ^{building} commission following the enactment of the
5 biennial budget act, the commission may take any of the following actions:

6 1. Authorize the department of administration to contract public debt or
7 obligations under subch. II of ch. 18 in an amount not to exceed the amount that was
8 appropriated in the biennial budget act. If authorization is granted under this
9 subdivision, the department of administration shall provide periodic reports
10 regarding the contracting of debt or obligations under this subdivision to the
11 commission.

12 2. Release an amount not to exceed the amount of state building trust fund
13 moneys to the department of administration for planning for enumerated projects.

14 If the building commission has granted authority to the department under this
15 paragraph, the department shall report quarterly to the commission regarding the
16 status of state building projects.

SECTION 2. 13.48 (14) (am) 1. of the statutes is amended to read:

18 13.48 (14) (am) 1. Except as provided in this paragraph, the building
19 commission shall have the authority to sell or lease all or any part of state-owned
20 real property unless the sale or lease is prohibited under the state or federal
21 constitution or federal law or the sale is conducted as a part of a procedure to enforce
22 an obligation to this state, and may transfer real property under its jurisdiction
23 among agencies. The commission may sell or lease property under this paragraph
24 with or without the approval of the agency having jurisdiction over the property and
25 regardless of whether the property is included in an inventory submitted under par.

13.48
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p. 1 to

INS
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1 (d) s. 16.8475 (1). The building commission does not have the authority to sell or lease
2 any state-owned real property under this paragraph after the department of
3 administration notifies the commission in writing that an offer of sale or sale or lease
4 agreement with respect to a property is pending under s. 16.848 (1). If the sale or
5 lease is not completed and no further action is pending with respect to the property,
6 the authority of the building commission under this paragraph is restored.

7 **SECTION 3.** 13.48 (14) (d) of the statutes is renumbered 16.8475 (1) and
8 amended to read:

9 16.8475 (1) Biennially, beginning on January 1, 2014, each agency other than
10 the investment board shall, upon request, submit to the department of
11 ~~administration~~ an inventory of all real property under its jurisdiction. Except with
12 respect to the Board of Regents of the University of Wisconsin System, the inventory
13 shall include the estimated fair market value of each property. The agency shall
14 specifically identify any underutilized assets in the inventory. No later than July 1
15 following receipt of the inventories, the department of ~~administration~~ shall obtain
16 appraisals of all properties in the inventories that are identified by the department
17 for potential sale and shall submit to the building commission an inventory
18 containing the location, description and fair market value of each parcel of property
19 identified for potential sale.

20 **SECTION 4.** 16.8475 (title) of the statutes is created to read:

21 **16.8475 (title) Supervision of state property and facilities.**

22 **SECTION 5.** ^{13.48 (2) (ah)} 16.8475 (2) of the statutes is created to read:

23 ^{13.48} 16.8475 (2) After the first meeting of the building commission following the
24 enactment of the biennial budget act, the department ^(ah) shall report quarterly to the
25 commission regarding the status of projects under the state building program.

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P. 1

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of administration

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SECTION 6. 16.848 (1) (a) of the statutes is amended to read:

16.848 (1) (a) Except as provided in sub. (2), the department may offer for sale or lease any state-owned real property, if the department determines that the sale or lease is in the best interest of the state, unless prohibited under the state or federal constitution or federal law or the sale is conducted as a part of a procedure to enforce an obligation to this state. Any sale may be either on the basis of public bids, with the department reserving the right to reject any bid in the best interest of the state, or on the basis of negotiated prices as determined through a competitive or transparent process. If the department receives an offer to purchase or lease property offered under this subsection, the department may submit a report to the building commission recommending acceptance of the offer. The report shall contain a description of the property and the reasons for the recommendation. The department may recommend the sale or lease of property with or without the approval of the agency, as defined in s. 16.52 (7), having jurisdiction over the property and regardless of whether the property is included in an inventory submitted under s. ~~13.48 (14) (d)~~ 16.8475 (1). If the building commission approves the proposed sale or lease, the department shall submit the proposed sale or lease to the joint committee on finance for approval under par. (b).

(END)

19

INS
4-18

D Note

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1192/P2ins
EVM:kjf:jm

1 INS 4-18

2 SECTION 1. 13.48 (2) (at) of the statutes is created to read:

3 13.48 (2) (at) Any request for approval, other than a request for approval of a
4 project budget increase or of a substantial change in an enumerated project, shall be
5 submitted in writing to the commission. If, within 14 working days after the date
6 of that written request, a majority of the members of the commission do not request
7 that the commission schedule a meeting to review the request under this paragraph,
8 the request is approved.

9 SECTION 2. 13.48 (2) (e) of the statutes is repealed.

10 SECTION 3. 13.48 (2) (f) of the statutes is repealed.

11 SECTION 4. 13.48 (4) of the statutes is repealed.

12 SECTION 5. 13.48 (6) of the statutes is repealed.

13 SECTION 6. 13.48 (19) of the statutes is renumbered 13.48 (19) (a) and amended
14 to read:

15 13.48 (19) (a) ALTERNATIVES TO STATE CONSTRUCTION Whenever the building
16 commission determines that the use of innovative types of design and construction
17 processes will make better use of the resources and technology available in the
18 building industry, the building commission may waive any or all of s. 16.855, except
19 s. 16.855 (13) and (14m) (a) to (c), if such the action is in the best interest of the state
20 and if the waiver is accomplished through formal action of the building commission.
21 ~~The building commission may authorize the lease, lease purchase or acquisition of~~
22 ~~such facilities constructed in the manner authorized by the building commission is~~
23 approved by the building commission.

1 (b) Subject to the requirements of s. 20.924 (1) (i), the building commission may
2 also authorize the lease, lease purchase, or acquisition of existing facilities in lieu of
3 state construction of any project enumerated in the authorized state building
4 program.

History: 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 335 s. 13; 1975 c. 39, 40, 198, 199; 1977 c. 26; 1977 c. 29 ss. 7, 8r, 1654 (8) (c); 1977 c. 325; 1977 c. 418 ss. 5, 5m, 924 (18) (c); 1979 c. 34, 221, 350; 1981 c. 341; 1983 a. 27 ss. 11 to 12n, 2202 (5); 1983 a. 36 ss. 18 to 20, 96 (3); 1983 a. 207; 1985 a. 29, 120; 1987 a. 27, 186, 395, 399; 1989 a. 31, 366; 1991 a. 39, 269, 315; 1993 a. 16, 288, 414; 1995 a. 27, 216, 225, 227; 1997 a. 5, 27, 35, 237; 1999 a. 9; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 16, 103; 2003 a. 33 ss. 25 to 26i, 9160; 2003 a. 91; 2005 a. 25, 253, 391; 2007 a. 20; 2009 a. 28, 185, 361; 2011 a. 7, 10, 32; 2013 a. 20; s. 35.17 correction in (39h) (c).

5 **SECTION 7. 16.855 (1m) of the statutes is amended to read:**

6 **16.855 (1m)** The department shall let by contract to the lowest qualified
7 responsible bidder all construction work when the estimated construction cost of the
8 project exceeds \$50,000, except for construction work authorized under s. 16.858 and
9 except as provided in sub. (1r) or (10m) or s. 13.48 (19) (a). If factors other than dollar
10 amounts are required to be evaluated for a project, the department shall specify a
11 formula that will convert the other factors into a dollar value for comparison.

History: 1971 c. 125; 1973 c. 47; 1975 c. 39, 199, 390; 1977 c. 418; 1979 c. 34; 1981 c. 20; 1983 a. 27 ss. 104g to 105, 2202 (1); 1983 a. 390 s. 6; 1985 a. 29; 1985 a. 332 s. 251 (1); 1987 a. 27, 292; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 400p, 9126 (19); 1995 a. 227; 1997 a. 27, 306; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 103; 2003 a. 33, 157; 2005 a. 141, 391; 2007 a. 20 s. 9121 (6) (a); 2009 a. 299; 2011 a. 32; 2011 a. 260 s. 80; 2013 a. 20, 192.

12 **SECTION 8. 16.855 (13) (a) 2. of the statutes is amended to read:**

13 **16.855 (13) (a) 2.** In any project under this section that is let under s. 13.48 (19)
14 (a), the department shall identify, as provided under par. (b), the mechanical,
15 electrical, or plumbing subcontractors who have submitted the lowest bids and who
16 are qualified responsible bidders. The contractor awarded a contract under s. 13.48
17 (19) (a) shall contract with the mechanical, electrical, or plumbing subcontractors so
18 identified.

History: 1971 c. 125; 1973 c. 47; 1975 c. 39, 199, 390; 1977 c. 418; 1979 c. 34; 1981 c. 20; 1983 a. 27 ss. 104g to 105, 2202 (1); 1983 a. 390 s. 6; 1985 a. 29; 1985 a. 332 s. 251 (1); 1987 a. 27, 292; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 400p, 9126 (19); 1995 a. 227; 1997 a. 27, 306; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 103; 2003 a. 33, 157; 2005 a. 141, 391; 2007 a. 20 s. 9121 (6) (a); 2009 a. 299; 2011 a. 32; 2011 a. 260 s. 80; 2013 a. 20, 192.

19 **SECTION 9. 16.855 (14) (am) of the statutes is amended to read:**

20 **16.855 (14) (am)** Except as provided in s. 13.48 (19) (a), the department shall
21 let all construction projects that exceed \$185,000 through single prime contracting.

- 1 The department may not request or accept any alternate bids when letting a
- 2 construction project through single prime contracting.

History: 1971 c. 125; 1973 c. 47; 1975 c. 39, 199, 390; 1977 c. 418; 1979 c. 34; 1981 c. 20; 1983 a. 27 ss. 104g to 105, 2202 (1); 1983 a. 390 s. 6; 1985 a. 29; 1985 a. 332 s. 251 (1); 1987 a. 27, 292; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 400p, 9126 (19); 1995 a. 227; 1997 a. 27, 306; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 103; 2003 a. 33, 157; 2005 a. 141, 391; 2007 a. 20 s. 9121 (6) (a); 2009 a. 299; 2011 a. 32; 2011 a. 260 s. 80; 2013 a. 20, 192.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1192/P2dn
EVM:kjf:jm

Date

ATTN: Sasha Bong

1. Section 13.48 (2) (ah) would probably be more appropriately located in ch. 16. Please let me know if you would like to make a change.

2. The scope of s. 13.48 (2) (ap) and (at) is a little unclear. It appears that par. (at) is intended to cover everything (except project budget increases and substantial changes prior to the budget) not covered by par. (ap) and that par. (ap) is intended to cover only two things: 1) project budget increases after the budget, and 2) substantial changes in enumerated projects after the budget. Please let me know if this does not reflect your intent. Also, do you want to specify the approval process of budget increases and substantial changes before the enactment of the budget?

3. Relatedly, I made a few changes to the recommended text. Since I believe this draft is clear that all building commission approvals are covered by either s. 13.48 (2) (ap) or (at), I did not attempt a list of covered approvals or insertion of cross-references. If the language is sufficiently clear, I think either of these approaches would risk creating ambiguity if anything is missed either now or in future legislative changes.

4. Do you want to limit the actions in s. 13.48 (2) (ad) to only the first meeting?

5. Is the time frame in s. 13.48 (2) (ah) correct?

6. The instructions in several places "recommended" repeal, specifically s. 13.48 (2) (e) and (f), (4), and (6). The indicated statutory provisions are repealed in this draft. Please let me know if you did not intend this to be a final drafting instruction.

Eric V. Mueller
Legislative Attorney
(608) 261-7032
eric.mueller@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1192/P2dn
EVM:kjf:rs

January 23, 2015

ATTN: Sasha Bong

1. Section 13.48 (2) (ah) would probably be more appropriately located in ch. 16. Please let me know if you would like to make a change.
2. The scope of s. 13.48 (2) (ap) and (at) is a little unclear. It appears that par. (at) is intended to cover everything (except project budget increases and substantial changes prior to the budget) not covered by par. (ap) and that par. (ap) is intended to cover only two things: 1) project budget increases after the budget; and 2) substantial changes in enumerated projects after the budget. Please let me know if this does not reflect your intent. Also, do you want to specify the approval process of budget increases and substantial changes before the enactment of the budget?
3. Relatedly, I made a few changes to the recommended text. Since I believe this draft is clear that all building commission approvals are covered by either s. 13.48 (2) (ap) or (at), I did not attempt a list of covered approvals or insertion of cross-references. If the language is sufficiently clear, I think either of these approaches would risk creating ambiguity if anything is missed either now or in future legislative changes.
4. Do you want to limit the actions in s. 13.48 (2) (ad) to only the first meeting?
5. Is the time frame in s. 13.48 (2) (ah) correct?
6. The instructions in several places "recommended" repeal, specifically s. 13.48 (2) (e) and (f), (4), and (6). The indicated statutory provisions are repealed in this draft. Please let me know if you did not intend this to be a final drafting instruction.

Eric V. Mueller
Legislative Attorney
(608) 261-7032
eric.mueller@legis.wisconsin.gov