

2019 DRAFTING REQUEST

**Bill**

For: **Administration-Budget** Drafter: **chanaman**  
 By: **Bork** Secondary Drafters: **mpfotenh**  
 Date: **10/31/2018** May Contact:  
 Same as LRB:

Submit via email: **YES**  
 Requester's email:  
 Carbon copy (CC) to: **doasbostatlanguage@wisconsin.gov**  
**mary.pfotenhauer@legis.wisconsin.gov**

**Pre Topic:**

DOA:.....Bork, BB0060 -

**Topic:**

Lease Administration Efficiencies

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 10/31/2018	kfollett 10/31/2018			
/P1	chanaman 2/15/2019	kfollett 2/18/2019	lparisi 10/31/2018		State
/P2			mbarman 2/18/2019		State

FE Sent For: **<END>**

## Hanaman, Cathlene

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**From:** Bork, Matthew - DOA  
**Sent:** Tuesday, October 30, 2018 4:45 PM  
**To:** Hanaman, Cathlene  
**Cc:** Kraus, Jennifer - DOA; Bork, Matthew - DOA  
**Subject:** Statutory Language Drafting Request - 2019-21  
**Attachments:** DOA Lease Administration Stat Language.docx

Biennial Budget: 2019-21

Topic: Lease Administration Efficiencies

Tracking Code: BB0060

SBO Team: GGCF

SBO Analyst: Bork, Matthew  
Phone: 266-2288  
E-mail: Matthew.Bork@wisconsin.gov

Agency Acronym: 505

Agency Number: 505

Priority: High

Intent:

Revise statutes that pertain to certain State leases to allow for more efficient administration of those leases. Revise s. 704.27 to provide for a 5% premium (105% of rental rate) as the holdover rate for leases in which the State of Wisconsin is the tenant. Revise s. 16.84(5) as described in the attachment.

Attachments: True

Please send completed drafts to [SBOSatlanguage@spsmail.enterprise.wistate.us](mailto:SBOSatlanguage@spsmail.enterprise.wistate.us)

## Lease Administration Efficiencies

Exempt lease renewals or extensions, leases under \$25,000 in annual cost, or leases in the following categories, from the requirements of §16.84(5), Wis. Stats.:

- Tower leases. These leases (for example, radio relays for the State Patrol or transmitters for the Educational Communications Board) include unique requirements and, due to the infrastructure needed, have fixed locations.
- No cost leases. These are leases in which a state agency is allocated space, such as in a local agency facility, but no, or a de minimus charge is assigned. While no cost is assigned, a lease is still developed in order to address insurance and liability concerns.
- Leases for Department of Workforce Development Comprehensive Job Centers. These Centers are collocated with other partner agencies serving a designated purpose, and federal law requires that these Centers be collocated with a designated lead agency, which may not be a state entity.
- Hanger leases. By definition, these facilities must be located at the applicable airport.
- Leases for easements. These leases may involve little or no cost, but have fixed/immovable locations (for example, easements for fiber optic lines).
- Lease with a statutorily required location. The Department of Transportation, for example, must have a location in each county.
- Leases for student housing. By definition, these facilities must be located on, or in very close proximity to, the applicable campus.
- Leases for State Public Defender Offices. Due to the nature of this function, these offices must be in very close proximity to, the applicable county courthouse.
- Lease for Department of Military Affairs recruiting offices. Due to the nature of this function, these offices must be in very close proximity to, institutions of higher education or other high areas with high populations of potential recruits.
- Leases designated by a state agency with a necessity for a specific location. Probation and Parole Offices (Department of Corrections) and the Department of Children and Families, for example, have operational needs to be located in facilities that are accessible for, and in close proximity to clients, such as in high population areas or on a public transportation route. Similarly, the Legislature and Court System have locational requirements for offices to be in close proximity to the State Capitol.

In addition, amend §16.84(5), Wis. Stats., to limit the requirement to evaluate comparable lease options to only locations within a 10-mile radius of the property proposed in the lease.

Finally, amend §704.27, Wis. Stats., to provide for a 5% premium (105% of rental rate) as the holdover rate for state leases.



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-0689/7  
CMH/MCP:...

*[Handwritten initials]*

DOA:.....Bork, BB0060 - Lease Administration Efficiencies

**FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION**

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

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*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

Under this bill, a landlord may recover a minimum of 105 percent of the rental value of leased premises if the state, as a tenant, fails to vacate the leased premises after the lease expires. Under current law, a landlord may recover a minimum of twice the daily rental value from a tenant that holds over after the expiration of a lease.

ten 2 Under current law, DOA has the general responsibility for leasing real property by the state. Under current law, DOA, when entering into or renewing such a lease, must conduct a cost-benefit analysis comparing the proposed lease to the purchase of the space or another suitable space and must evaluate comparable lease options within a 10-mile radius to ensure that the proposed lease rates do not exceed lease rates on comparable properties or the market rate by more than 5 percent. This bill modifies those requirements so they apply only if DOA is entering into a new lease and exempts various leases from those requirements including leases costing under \$25,000 annually and leases for student housing; public defender office space; towers, hangars, and easements; DWD job centers; DMA recruiting offices; and facilities required by law or designated by necessity or practical purposes to be in a specific location.

*with a location*

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

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

1           **SECTION 1.** 16.84 (5) (a) of the statutes is amended to read:  
2           16.84 (5) (a) Have responsibility, subject to approval of the governor, for all  
3 functions relating to the leasing, acquisition, allocation, and utilization of all real  
4 property by the state, except where such responsibility is otherwise provided by the  
5 statutes. In exercising this responsibility, the department may not enter into,  
6 extend, or renew a lease involving an annual rent of more than \$500,000 unless the  
7 secretary signs the lease, a copy of the proposed lease is submitted electronically to  
8 the chief clerk of each house for distribution, and the department notifies the joint  
9 committee on finance of the proposed lease and provides the committee with the any  
10 required information under par. (b) as well as a summary report of that information,  
11 including the terms of the lease and the lease rate per square foot of the proposed  
12 property and the comparable options. If the cochairpersons of the joint committee  
13 on finance do not notify the secretary that the committee has scheduled a meeting  
14 for the purpose of reviewing the proposed lease within 14 working days after the date  
15 of the notification, the lease may be entered into, extended, or renewed. If, within  
16 14 working days after the date of the notification, the cochairpersons of the  
17 committee notify the secretary that the committee has scheduled a meeting for the  
18 purpose of reviewing the proposed lease, the lease may be entered into, extended, or  
19 renewed only upon approval of the committee.

**History:** 1971 c. 183; 1975 c. 41 s. 52; 1977 c. 418; 1979 c. 34, 221; 1981 c. 314; 1983 a. 36 s. 96 (4); 1983 a. 435 s. 7; 1983 a. 524; 1985 a. 135 s. 83 (5); 1987 a. 27; 1989 a. 31; 1991 a. 39, 269; 1995 a. 27, 174; 2001 a. 16; 2003 a. 33, 321; 2013 a. 20; 2017 a. 59, 132, 354.

**Cross-reference:** See also ch. Adm 2, Wis. adm. code.

20           **SECTION 2.** 16.84 (5) (b) (intro.) of the statutes is amended to read:

1           16.84 (5) (b) (intro.) Before entering into, ~~extending, or renewing a new lease,~~  
2           ~~except for a lease with an annual cost that is less than \$25,000 or except for a lease~~  
3           ~~for a tower, a department of workforce development job center, a hangar, an~~  
4           ~~easement, student housing, state public defender office space, a department of~~  
5           ~~military affairs recruiting office, or a facility with a location required by law or~~  
6           ~~designated for necessity or practical purposes,~~ do all of the following:

**History:** 1971 c. 183; 1975 c. 41 s. 52; 1977 c. 418; 1979 c. 34, 221; 1981 c. 314; 1983 a. 36 s. 96 (4); 1983 a. 435 s. 7; 1983 a. 524; 1985 a. 135 s. 83 (5); 1987 a. 27; 1989 a. 31; 1991 a. 39, 269; 1995 a. 27, 174; 2001 a. 16; 2003 a. 33, 321; 2013 a. 20; 2017 a. 59, 132, 354.

**Cross-reference:** See also ch. Adm 2, Wis. adm. code.

7           **SECTION 3.** 16.84 (5) (b) 2. of the statutes is amended to read:

8           16.84 (5) (b) 2. Evaluate comparable lease options within a 10-mile radius of  
9           the property proposed in the lease, ~~or if there are not sufficient comparable~~  
10          ~~properties within a 10-mile radius to perform a meaningful comparison, a wider~~  
11          ~~radius as needed,~~ to ensure the lease rate per square foot does not exceed the lease  
12          rate per square foot on comparable properties or the market rate by more than 5  
13          percent.

**History:** 1971 c. 183; 1975 c. 41 s. 52; 1977 c. 418; 1979 c. 34, 221; 1981 c. 314; 1983 a. 36 s. 96 (4); 1983 a. 435 s. 7; 1983 a. 524; 1985 a. 135 s. 83 (5); 1987 a. 27; 1989 a. 31; 1991 a. 39, 269; 1995 a. 27, 174; 2001 a. 16; 2003 a. 33, 321; 2013 a. 20; 2017 a. 59, 132, 354.

**Cross-reference:** See also ch. Adm 2, Wis. adm. code.

14          **SECTION 4.** 704.27 of the statutes is amended to read:

15          **704.27 Damages for failure of tenant to vacate at end of lease or after**  
16          **notice.** If a tenant remains in possession without consent of the tenant's landlord  
17          after expiration of a lease or termination of a tenancy by notice given by either the  
18          landlord or the tenant, or after termination by valid agreement of the parties, the  
19          landlord shall, at the landlord's discretion, recover from the tenant damages suffered  
20          by the landlord because of the failure of the tenant to vacate within the time required.  
21          In absence of proof of greater damages, the landlord shall recover as minimum  
22          damages from a tenant that is not <sup>the</sup> that state twice the rental value apportioned on

1 a daily basis for the time the tenant remains in possession or if the tenant is the state  
2 one hundred and five<sup>105</sup> percent of the rental value apportioned on a daily basis for the  
3 time the tenant remains in possession. As used in this section, rental value means  
4 the amount for which the premises might reasonably have been rented, but not less  
5 than the amount actually paid or payable by the tenant for the prior rental period,  
6 and includes the money equivalent of any obligations undertaken by the tenant as  
7 part of the rental agreement, such as payment of taxes, insurance and repairs.  
8 Nothing in this section prevents a landlord from seeking and recovering any other  
9 damages to which the landlord may be entitled.

History: 1993 a. 486; 2011 a. 143.

10 **SECTION 9301. Initial applicability; Administration.** ✓

11 (1) DAMAGES FOR FAILURE TO VACATE. The treatment of s. 704.27 first applies to  
12 actions for damages, including eviction actions, that are commenced on the effective  
13 date of this subsection.

14 (END)

## Shovers, Marc

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**From:** Bork, Matthew - DOA  
**Sent:** Thursday, February 14, 2019 5:30 PM  
**To:** Shovers, Marc  
**Subject:** Change to Draft 19-0689\_P1

Hi Marc,

I would like to make an edit to this draft. Please remove all changes relating to the minimum holdover amount for state leases. The only changes I would like in this draft are those relating to the evaluations in 16.84.

Thank you,  
Matt



**Matthew Bork** | Policy and Budget Analyst  
Department of Administration  
Division of Executive Budget and Finance  
Matthew.Bork@wisconsin.gov  
Direct: (608) 266-2288





State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-0689/R1  
CMH&MCP:kjf

DOA:.....Bork, BB0060 - Lease Administration Efficiencies

**FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION**

*Lease administration efficiencies*

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

*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

Under this bill, a landlord may recover a minimum of 105 percent of the rental value of leased premises if the state, as a tenant, fails to vacate the leased premises after the lease expires. Under current law, a landlord may recover a minimum of twice the daily rental value from a tenant that holds over after the expiration of a lease.

Under current law, DOA has the general responsibility for leasing real property by the state. Under current law, DOA, when entering into or renewing such a lease, must conduct a cost-benefit analysis comparing the proposed lease to the purchase of the space or another suitable space and must evaluate comparable lease options within a ten-mile radius to ensure that the proposed lease rates do not exceed lease rates on comparable properties or the market rate by more than 5 percent. This bill modifies those requirements so they apply only if DOA is entering into a new lease and exempts various leases from those requirements including leases costing under \$25,000 annually and leases for student housing; public defender office space; towers, hangars, and easements; DWD job centers; DMA recruiting offices; and facilities with a location required by law or designated by necessity or practical purposes.

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

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5 statutes. In exercising this responsibility, the department may not enter into,  
6 extend, or renew a lease involving an annual rent of more than \$500,000 unless the  
7 secretary signs the lease, a copy of the proposed lease is submitted electronically to  
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9 committee on finance of the proposed lease and provides the committee with the any  
10 required information under par. (b) as well as a summary report of that information,  
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11 (END)



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-0689/P2  
CMH:kjf

DOA:.....Bork, BB0060 - Lease Administration Efficiencies

**FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION**

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

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*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

***1. Lease administration efficiencies***

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8 rate per square foot on comparable properties or the market rate by more than 5  
9 percent.

10 (END)