

1987 Senate Bill 54

Date of enactment: February 17, 1987
Date of publication: February 24, 1987

1987 Wisconsin Act 5

AN ACT to repeal 46.043 (6), 46.0435, 85.09 (4g) and 813.015; to amend 32.25 (1), 46.03 (1), 46.045, 46.05 (1o) (a), 46.05 (1o) (b), 46.05 (2), 46.052 (1) (bp), 46.22 (1) (c) 2, 53.01 and 227.54; and to create 46.06 (4m) of the statutes; and to affect 1983 Wisconsin Act 27, section 2005 (6); and 1983 Wisconsin Act 27, section 2020 (32g) and (32m), relating to correctional institutions, revising the state building program and providing for studies.

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

SECTION 4. 32.25 (1) of the statutes is amended to read:

32.25 (1) Notwithstanding any other provision of law, except as provided under s. 85.09 (4g) and (4m), no condemnor may proceed with any property acquisition activities on any project which may involve acquisition of property and displacement of persons, business concerns or farm operations until the condemnor has filed in writing a relocation payment plan and relocation assistance service plan and has had both plans approved in writing by the department of industry, labor and human relations.

SECTION 5. 46.03 (1) of the statutes is amended to read:

46.03 (1) INSTITUTIONS GOVERNED. Maintain and govern the Mendota and the Winnebago mental health institutes, the Waupun correctional institution, the Columbia correctional institution, the Menomonee Valley correctional institution authorized under s. 46.05 (1o), the Oshkosh correctional institution, the Fox Lake correctional institution, the Green Bay correctional institution, the Taycheedah correctional institution, the minimum security correctional institutions, the Dodge correctional institution, the Ethan Allen school, the Kettle Moraine correctional institution, the Lincoln Hills school, the Wisconsin workshop for the blind until the date specified in the contract with a nonprofit corporation under s. 47.03 (1m) (a), and the centers for the developmentally disabled.

SECTION 6. 46.043 (6) of the statutes is repealed.

SECTION 7. 46.0435 of the statutes is repealed.

SECTION 8. 46.045 of the statutes is amended to read:

46.045 Minimum security correctional institutions. The department may establish and operate minimum security correctional institutions. The secretary may allocate and reallocate existing and future facilities as part of these institutions. The institutions are subject to s. 46.03 (1) and are state prisons as defined in s. 53.01. Inmates from Wisconsin state prisons may be transferred to these institutions and they shall be subject to all laws pertaining to inmates of other penal institutions of the state. Officers and employees of the institutions shall be subject to the same laws as pertain to other penal institutions. Inmates shall not be received on direct commitment from the courts. In addition to the exemptions under s. 13.48 (13), construction or establishment of facilities at institutions which are community correctional residential centers initially established prior to July 2, 1983, shall not be subject to the ordinances or regulations relating to zoning, including zoning under ch. 91, of the county and municipality in which the construction or establishment takes place. The department shall establish a procedure for soliciting responses from interested communities and persons regarding potential sites for the institutions under this section, except the procedure does not apply to the 125-bed community correctional center in the city of Waupun. The department shall consider locations proposed under this procedure and may consider any other locations on its own

initiative. The department need not promulgate rules regarding the site consideration procedures under this paragraph.

SECTION 9. 46.05 (1o) (a) of the statutes is amended to read:

46.05 (1o) (a) In addition to the institutions under sub. (1), the department shall establish a correctional institution located ~~in Milwaukee in the area bounded on the north by highway I 94, on the south and west by the Menomonee river and on the east by 35th street on property owned by the Milwaukee road railroad on March 28, 1983. The department may acquire additional land owned by the Milwaukee road railroad on March 28, 1983, on the west and south sides of and contiguous to the Menomonee river. The department may proceed to acquire the property specified under this subsection, except that if s. 85.09 applies the department shall proceed in cooperation with the department of transportation under s. 85.09 (4g) (b). The department shall not acquire any additional property for a correctional institution in the city of Milwaukee prior to January 1, 1985, unless the site is designated by the legislature by statute at the St. Bonaventure site which is located between CTH "H" on the west and 90th street on the east in the village of Sturtevant in Racine county.~~

SECTION 10. 46.05 (1o) (b) of the statutes is amended to read:

46.05 (1o) (b) In the selection of classified service employes of the institution specified in par. (a), the appointing authority shall, whenever possible, use the expanded certification program under rules of the administrator of the division of merit recruitment and selection in the department of employment relations to ensure that employes of the institution reflect the general population of ~~either the surrounding community in the city county in which the institution is located or the most populous county contiguous to the county in which the institution is located, whichever population is greater.~~ The administrator of the division of merit recruitment and selection in the department of employment relations shall provide guidelines for the administration of this selection procedure.

SECTION 11. 46.05 (2) of the statutes is amended to read:

46.05 (2) Construction or establishment of the institutions shall be in compliance with all state laws except s. 32.035 and ch. 91 ~~and except as provided under s. 46.0435 and 1983 Wisconsin Act 27, section 2020 (32m).~~

SECTION 12. 46.052 (1) (bp) of the statutes is amended to read:

46.052 (1) (bp) Provide the facilities necessary for not more than ~~300~~ 400 beds at the correctional institution under s. 46.05 (1m).

SECTION 13. 46.06 (4m) of the statutes is created to read:

46.06 (4m) CORRECTIONAL INSTITUTION PROPERTY DISPOSITION. In addition to any other requirements under this section, the department may sell or otherwise transfer or dispose of the property acquired for the correctional institution under s. 46.05 (1o), 1985 stats., only if the sale, transfer or disposition is approved by the joint committee on finance. The department shall submit a plan for any such proposed sale, transfer or disposition to the committee.

SECTION 14. 46.22 (1) (c) 2 of the statutes is amended to read:

46.22 (1) (c) 2. Subdivision 1 does not authorize the county department of social services to make investigations regarding admission to or release from the Waupun correctional institution, the Columbia correctional institution, the ~~Menomonee Valley~~ correctional institution authorized under s. 46.05 (1o), the Oshkosh correctional institution, the Green Bay correctional institution, the Dodge correctional institution, the Taycheedah correctional institution, county houses of correction, jails, detention homes or reforestation camps.

SECTION 15. 53.01 of the statutes is amended to read:

53.01 State prisons named and defined. The penitentiary at Waupun is named "Waupun Correctional Institution". The correctional treatment center at Waupun is named "Dodge Correctional Institution". The penitentiary at Green Bay is named "Green Bay Correctional Institution". ~~The maximum/medium security penitentiary at Milwaukee is named "Menomonee Valley Correctional Institution".~~ The medium/maximum penitentiary at Portage is named "Columbia Correctional Institution". The medium security institution at Oshkosh is named "Oshkosh Correctional Institution". The medium security penitentiary near Fox Lake is named "Fox Lake Correctional Institution". The penitentiary at Taycheedah is named "Taycheedah Correctional Institution". The medium security penitentiary at Plymouth is named "Kettle Moraine Correctional Institution". The resource facility at Oshkosh is named "Wisconsin Resource Center". The institutions named in this section, the correctional institution authorized under s. 46.05 (1o), minimum security correctional institutions authorized under s. 46.045, and state-local shared correctional facilities when established under s. 46.053, are state prisons.

SECTION 16. 85.09 (4g) of the statutes is repealed.

SECTION 17. 227.54 of the statutes is amended to read:

227.54 Stay of proceedings. The institution of the proceeding for review shall not stay enforcement of the agency decision. The reviewing court may order a stay upon such terms as it deems proper, except as otherwise provided in ss. ~~46.0435 (3),~~ 196.43 and 551.62.

SECTION 18. 813.015 of the statutes is repealed.

SECTION 19. 1983 Wisconsin Act 27, section 2005 (6) is repealed.

SECTION 20. 1983 Wisconsin Act 27, section 2020 (32g) and (32m) are repealed.

SECTION 21. Nonstatutory provisions; building commission. (1) 1983-85 STATE BUILDING PROGRAM CHANGE. In 1983 Wisconsin Act 27, section 2005 (1), as affected by 1983 Wisconsin Act 97, section 3, under projects financed by general fund supported borrowing, the amount authorized for the correctional institution under section 46.05 (1o) of the statutes is decreased from \$51,500,000 to \$40,941,900 and the appropriate totals are adjusted accordingly.

(2) 1985-87 STATE BUILDING PROGRAM CHANGE. (a) In 1985 Wisconsin Act 29, section 3007 (1) (c), the following projects financed by existing general fund supported borrowing are added to the 1985-87 state building programs and the appropriate totals are adjusted accordingly:

- | | |
|--|-------------|
| 1. Expansion of the Oshkosh correctional institution by 100 beds | \$4,613,000 |
| 2. Community correctional center of 125 beds in the city of Waupun | \$5,331,000 |

SECTION 22. Nonstatutory provisions; health and social services. (1) STUDY. The department of health and social services shall study the feasibility and cost-effectiveness of contracting with a private entity for the operation of a community correctional center constructed on or after the effective date of this subsection. The department shall report its findings to the joint committee on finance not later than April 1, 1987.

(1m) STUDY. The department of health and social services shall study the possible modernization of existing correctional institutions and possible new sites for community correctional centers and other correctional institutions in places where a substantial showing of local support has been made for siting such a center or other institution. The department shall establish criteria, which need not be by rule, for evaluating the potential sites and existing institutions. The department shall report its findings and recommendations to the governor, joint committee on finance and building commission not later than December 31, 1987. The report shall include a comparison of the various sites evaluated by the department.

(2) SPECIAL SITE REVIEW COMMITTEE. The governor shall appoint a 5-member special site review committee for the institution designated under section 46.05 (1o) (a) of the statutes. The committee shall advise the department of health and social services on community concerns relating to the establishment of the institution, including but not limited to planning, construction and design of the institution and state reimbursement for municipal services provided to the

institution. At least 3 of the members shall live in the surrounding community in which the institution is to be placed. The department of health and social services shall provide staff assistance to the committee and shall expend moneys for expenses of the committee under section 20.435 (3) (a) of the statutes. The committee may also make recommendations to the governor, the department of health and social services, the department of administration or any other state agency involved in activities relating to the institution. The governor shall abolish the committee after the construction of the institution has been completed.

SECTION 23. Nonstatutory provisions; legislature.

(1) GENERAL SUBJECT MATTER. The legislature finds that the provisions regarding site selection, establishment and expansion of correctional facilities in this act reflect the state's interest in a matter of state responsibility of statewide dimension.

(2) SPECIFIC STATEWIDE CONCERN OR INTEREST. The legislature finds that prison overcrowding is a critical problem in this state.

(3) DIRECT AND IMMEDIATE EFFECT. The legislature finds that the provisions of the act will directly and immediately affect the statewide concern under subsection (2). The effect will be direct because the act causes correctional facilities to be established and expanded. The effect will be immediate because, upon completion of the establishment and expansion of facilities, additional spaces will be available for prisoners, thereby immediately alleviating to a degree the crowded conditions throughout the prison system.