



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

---

May 25, 2005

Joint Committee on Finance

Paper #183

### **Sale of State Facilities by DOA (Building Commission)**

[LFB 2005-07 Budget Summary: Page, 92, #8]

and

### **Transfer to Budget Stabilization Fund (Budget Stabilization Fund)**

[LFB 2005-07 Budget Summary: Page 85, #1]

---

#### **CURRENT LAW**

The Building Commission may sell or lease any state owned building or land unless another state agency is specifically authorized to sell or lease such buildings or lands. Typically, building or lands offered for sale have been declared surplus property of the state. The Building Commission must notify the Joint Committee on Finance in writing of the proposed sale or transfer of a parcel of surplus land having a fair market value of at least \$20,000. If the Co-chairpersons of the Committee do not notify the Building Commission of a scheduled meeting to review the sale within 14 working days, the Commission may sell the property. If a meeting is scheduled to review the sale, the parcels may be sold only upon approval of the Committee. Net proceeds for any sale are deposited to the budget stabilization fund.

#### **GOVERNOR**

Authorize the Department of Administration (DOA) to sell any state-owned real property, if the Department determines that the sale is in the best interest of the state, subject to Building Commission approval. Specify that the sale could be made either on the basis of public bids, with the Department able to reject any bid in the interest of the state, or negotiated prices. Provide that current law procedures for the sale of surplus land by the Building Commission, which include approval by the Joint Committee on Finance if the fair market value exceeds \$20,000, would not apply to property sales under this provision. Increase estimated revenues to the

general fund by \$36 million GPR-Earned in 2006-07 attributable to property sales under this provision, which appears under DOA in executive budget documents.

Specify that DOA would not be allowed to sell any property that is leased by the state until the lease expires or the lease is modified, renewed, or extended, whichever occurs first, without consent of the lessee.

No later than July 1, 2006, the DOA Secretary would be required to review all holdings of state-owned real property for potential sale, except any property, facility, or institution the closure or sale of which is not authorized under the bill. The DOA Secretary, no later than October 1, 2006, would be required to submit a report to the Secretary of the Building Commission containing an inventory of his or her recommendations and reasons to offer specified state properties for sale. DOA would be allowed to include property in the inventory with or without approval of the state agency having jurisdiction of the property. DOA would have authority to offer the property for sale, if, on or before June 30, 2007, the Building Commission votes to approve the sale of any property included in the inventory. These reporting and property sale requirements would not apply after June 30, 2007, although DOA could complete transactions after that date, if approved by June 30, 2007.

Specify that DOA's authority to sell property under the bill would supercede the current law authority of other state agencies to sell, convey, or transfer land or property. Delete obsolete current law provisions still referencing the law in effect prior to 2003 Act 33, relative to the former practice of crediting proceeds from the sale of state surplus properties to the Joint Committee on Finance's appropriation, with eventual release of those funds to the agency that sold the property and to the building trust fund.

Provide session law language directing the transfer of \$36,000,000 from the general fund to the budget stabilization fund. No date is specified as to the transfer but the general fund condition statement shows the transfer occurring in fiscal year 2006-07.

## **DISCUSSION POINTS**

### **Sale of State Properties Proposal**

1. Typically state land or real property sales have been carried out under the state's sale of surplus lands program. Surplus lands are defined as land under the jurisdiction of the Building Commission and allocated for use by an agency, but unused and not needed for the agency's operations or included in the agency's plan for construction or development.

2. The state surplus land and property statutes have been modified several times in recent years. Prior to 1987 Act 27, the net proceeds from the sale of state surplus property were deposited to the building trust fund. Act 27 directed that proceeds from the sale of surplus property be applied instead to agency debt service payments. Subsequently, in order to provide agencies with incentive to dispose of surplus properties, 1995 Act 27 provided that, upon the approval of the Joint Finance Committee, half of the net proceeds from a sale after any outstanding debt on the property is paid could be provided to the agency selling the property. The remaining net proceeds,

upon the approval of the Joint Committee on Finance, could be deposited to the building trust fund. On one occasion, as provided under 2001 Act 109, the net proceeds from the sale of three specific properties in downtown Madison were required to be deposited to the general fund. Currently, as provided under 2003 Act 33, the revenues from the sale of state properties are deposited to the budget stabilization fund.

3. Annually, the Building Commission is required to submit a report on the inventory of surplus land identified by the agencies. The 2004 surplus lands report contained a total of seven properties identified by four state agencies. Since November, 1998, the State has sold 12 properties that exceeded the \$20,000 amount that requires Joint Finance review. These sales included the three Madison properties identified under Act 109, as well as five federally-funded facilities, where the proceeds of the sale revert back to the federal government.

4. Unlike past law changes, which have left it up to the state agency to identify properties that could be sold, the bill would authorize DOA to identify properties within most state agencies that would be eligible for sale. Under the bill, the DOA Secretary would be required to submit a report to the Building Commission specifying which state properties to offer for sale. DOA would be allowed to include property in the inventory with or without approval of the state agency having jurisdiction of the property. If the Building Commission approves the sale of any of the properties identified, DOA could sell the properties.

5. DOA's authority to sell state properties would not apply to the following: (a) property under the jurisdiction of the Board of Regents of the University of Wisconsin System; (b) property received as part of DOA's federal resource acquisition activities; (c) lands under the jurisdiction of the Board of Commissioners of Public Lands; (d) property under the jurisdiction of the Department of Natural Resources (DNR), except central or district office facilities; (e) lands acquired with revenues collected under the state forestry tax; and (f) property that is subject to sale under the Department of Veterans Affairs (DVA) mortgage lending program. DOA could not recommend the closure or sale of any facility or institution the operation of which is provided for by law.

6. DOA indicates that this authority is necessary for the state to become more active in identifying saleable properties and in offering those properties for sale. In recent years, both the Legislature and the administration have proposed statutory and administrative changes related to the sale of state lands and properties in order to encourage additional sales. In the past, agencies have been charged with not aggressively selling marketable properties that may be no longer needed for state program purposes. The Governor's recommendations would provide DOA with sole authority to review state properties under the jurisdiction of each state agency that could be sold. DOA, being the state's administrative agency that often provides facility related services for other state agencies, would have the broadest perspective of the overall state facility needs, which may be needed to carry out this review. Further, DOA may be more objective in identifying properties to be sold in other agencies, because those properties may not be a DOA asset and DOA's budget, facility space, and programs would be unaffected by the sale.

7. Conversely, individual state agencies may have a better understanding than DOA of their space, program, and staff needs and requirements. Therefore, allowing DOA to be the final

authority in recommending which state agency facilities are to be sold, could result in unintended programmatic and personnel issues within individual state agencies as they attempt to carry out their constitutional and legislatively required duties.

8. DOA does not have a specific list of properties to be sold in the 2005-07 biennium that total the \$36 million in net sale proceeds estimated under the bill. However, DOA staff did indicate that the following list of buildings are examples of the types of properties that could be sold.

### **Types of State Property Sales**

Farmland at Sanger Powers Correctional Facility  
DOA Parking Ramp  
State Fair Park Youth Dormitory  
State Fair Park Pettit Ice Center  
DOT Division of Motor Vehicles Service Centers  
Various State Buildings and Adjacent Property  
Agency Surplus Property

9. Unlike recent properties that the state has sold, AB 100 would allow DOA to recommend that the Building Commission sell state properties that have not been declared surplus. As indicated in the above list of properties, DOA could recommend the sale of a state property that is currently being used by a state agency for program purposes, unless that property is currently under lease and the lessee does not consent to the sale. DOA staff indicates that allowing DOA such authority is part of a larger Department initiative aimed at better managing the state's portfolio of assets. They indicate that another part of this initiative would be included under separate provisions in the bill, which would require each state agency to report to DOA concerning the total cost of occupancy of each state owned building, structure, or facility under their jurisdiction. The cost of occupancy would include the cost to operate and maintain the physical structure of a building, the administrative costs of an agency attributable to the operation and maintenance of the building and any debt service on borrowing attributable to the construction or improvement of the building.

10. DOA staff intends to use this cost reporting information to develop a measure that would allow the state to better understand what each state building is costing the state to occupy and maintain. In addition, they hope to measure what each building will cost the state over the life of that building. DOA staff indicated that they are currently reviewing the occupancy costs and agency program needs for state agency buildings within DOA's portfolio of properties. The Department intends to first review areas of the state outside of Madison that have several state owned properties. DOA staff is currently conducting such a review in the Milwaukee area, specifically looking at the DNR Southeast Wisconsin Regional office facility and the main Milwaukee state office facility. DOA staff will begin reviews in the Appleton, Eau Claire, Green Bay, and La Crosse areas. These reviews would also involve looking at any changes in agency program needs and projections of the size of future agency workforces, which also impact the state's building needs. Based in part on these reviews, DOA would make a determination as to which buildings the state should continue to

own, renovate, and maintain and which buildings to recommend for sale.

11. Under the bill, if the DOA determines it is in the best interest of the state to sell a building that currently houses state agency program staff, a decision would have to be made as to whether the state could consolidate those staff in an existing building, construct a new, more cost efficient building, or move the agency to leased space. DOA staff indicates that looking at the lifetime costs of each option, they may find that in certain instances it may be less costly for the state to sell certain outdated buildings and lease space rather than renovate the building or construct a new building. They indicate that due to rapid changes in information technology, as well as changes in architecture, office space layouts, and other appurtenances, the state may have less risk under a lease than if the state were to construct new space, or renovate old space, which may quickly become outdated. Under a lease scenario, DOA indicates that the lessee assumes any risk associated with a space becoming outdated or obsolete while a state agency would be allowed to move to a more updated space without having to make any capital outlays.

12. However, leasing space for state agency staff is not without cost risks for the state. The state can finance buildings and improvements at a lower cost than private sector developers due to the federal tax exemption on state bonds issued for capital improvements. In addition, state buildings are exempt from local property taxes, which lowers the annual costs associated with such buildings compared to a private building (although the state does make some payments for municipal services to municipalities on these buildings). Presumably, private developers would pass on these higher building costs in the rents charged for space leased to state agencies. Further, by leasing space rather than owning the space, the state would not have a long-term asset, which could offset some of the long-term liabilities associated with occupying office space. Also, as land and buildings appreciate in value in the state, the state, by owning the property, would benefit from the higher value. Conversely, under a lease arrangement, the state would likely pay higher lease costs due to any appreciation in the value of the building in which the space is leased.

13. As indicated earlier, under the bill, DOA could recommend, and the Building Commission could approve, the sale of a state building currently occupied by an agency. Subsequently, the Building Commission, under its current authority, could authorize that space be leased in order to provide space for agency staff that had been occupying that building. These lease costs would then be paid through each agency's future operating budget. These decisions could impact the future overall facility costs of state government, but would be made without review by the entire Legislature as to whether such decisions would be financially in the best long term interest of the state.

14. The Building Commission is made up of six members from the Legislature, which would provide some measure of legislative oversight over the use of the authority provided to DOA under the bill. However, if the Committee would like to maintain its current oversight role over the sale of state lands, the authority and the reporting requirements provided to DOA under the bill could be deleted. Under this alternative, the Governor, under existing executive authority, could direct DOA to conduct a review all holdings of state-owned real property. DOA could then make recommendations for the potential sale of state buildings, lands and facilities in order to generate the projected \$36 million in state property sales in the biennium. Similarly, the Building Commission could use its current law authority to sell any state owned building or land identified by DOA during

its review. In addition, the Committee's current authority relative to the review and approval of state surplus land sales could be expanded to include all types of state real property sales. Because the DOA review of state facilities and recommendations of property sales would continue to occur, no reestimate of property sale revenues would be needed.

15. The bill would allow DOA to sell a state property either on the basis of public bids or negotiated prices. In addition, DOA would have the authority to reject any bid in the interest of the state. This authority may be necessary because the nature or characteristics of a property, such as the property being contiguous to that of a potential buyer, may make certain properties of interest to a single buyer. Similarly, certain sale transactions may involve land swaps or lease arrangements that may necessitate that the sale be done on a negotiated basis rather than a highest bid basis.

16. Conversely, the highest bidder requirement is a mechanism the state uses to ensure that it is accessing all potential purchasers and receiving the cash price for a property. Therefore, if the Committee is concerned that a competitive bidding process is necessary to allow the state to receive the best value for the properties to be sold, the provisions allowing for the negotiated sales could be deleted.

### **Transfer to Budget Stabilization Fund**

17. AB 100 estimates that the state would generate net proceeds of \$36 million from the sale of state properties in the 2005-07 biennium. AB 100 would require the transfer of \$36 million from the general fund to the budget stabilization fund regardless of whether the state would generate \$36 million in sales. For example, if the state receives only \$18 million in net proceeds from the sale of state properties in the biennium, the remaining \$18 million would have to be transferred to the budget stabilization fund from the general fund balance.

18. DOA indicates that the transfer of \$36 million to the budget stabilization fund from the general fund would be required so that DOA and agency staff would aggressively pursue the sale of state properties in order to reach the \$36 million amount. However, the Committee could modify AB 100 to specify that any proceeds from these sales would be deposited directly into the budget stabilization fund. This alternative would not involve a reestimate of the revenues that would be generated from the property sales, but rather would simply ensure that general fund revenues would remain unchanged as a result of the transaction.

19. Alternatively, the Committee could delete the Governor's recommendation to transfer \$36 million associated with the sale of state property in the biennium. Under this alternative, the general fund would retain the \$36 million in estimated proceeds.

## **ALTERNATIVES**

### **A. Sale of State Properties Proposal**

1. Approve the Governor's recommendation.
2. Modify the Governor's recommendations to delete the provision allowing DOA to

sell state properties on a negotiated basis.

3. Delete the Governor's recommendation. Instead, expand the Joint Finance Committee's current authority relative to the approval of state surplus land sales to include all types of state real property sales. (The Governor or DOA Secretary could direct a review of the state-owned properties identify potential properties to be sold.)

4. Delete the Governor's recommendation and eliminate the estimated \$36 million of revenues from the sale of state lands in the biennium, as well as the related \$36 million transfer to the budget stabilization fund.

<u>Alternative A4</u>	<u>GPR-REV</u>	<u>GPR-Transfer</u>	<u>SEG-REV</u>
<b>2005-07 REVENUE</b> (Change to Bill)	- \$36,000,000	- \$36,000,000	- \$36,000,000

**B. Transfer of Land Sale Proceeds to Budget Stabilization Fund**

In addition to Alternative A1, A2, or A3 above, do one of the following:

1. Approve the Governor's recommendation.
2. Modify the Governor's recommendation to specify that any funds received from state land sales in the biennium would be deposited directly into the budget stabilization fund.

<u>Alternative B2</u>	<u>GPR-REV</u>	<u>GPR-Transfer</u>
<b>2005-07 REVENUE</b> (Change to Bill)	- \$36,000,000	- \$36,000,000

3. Delete the Governor's recommendation to transfer \$36,000,000 from the general fund to the budget stabilization fund associated with the sale of state properties in the biennium. Under this alternative, any funds received from state land sales would be deposited to and remain in the general fund.

<u>Alternative B3</u>	<u>GPR-Transfer</u>	<u>SEG-REV</u>
<b>2005-07 GPR-Transfer</b> (Change to Bill)	- \$36,000,000	- \$36,000,000

Prepared by: Al Runde