



## 2005 SENATE BILL 585

February 8, 2006 – Introduced by Senators COWLES, GROTHMAN, A. LASEE and OLSEN, cosponsored by Representatives VOS, JESKEWITZ, KRAWCZYK and PETROWSKI. Referred to Committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform.

1     **AN ACT to amend** 13.48 (7), 13.48 (10) (a), 13.48 (15), 13.48 (19) and 13.48 (27);  
2             **to repeal and recreate** 13.48 (5) (b); and **to create** 13.48 (2) (cm), 13.48 (10)  
3             (am), 20.924 (1) (j), 230.08 (4) (b) 5. and 230.08 (4) (bm) of the statutes; **relating**  
4             **to:** operation of the Building Commission, submission of capital budget  
5             recommendations, waiver of state construction contracting procedures,  
6             supervision of state facilities construction, estimates of state facility costs, and  
7             approval of leases that provide for construction of state facilities.

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### ***Analysis by the Legislative Reference Bureau***

1. Currently, the Building Commission must transmit the portions of its recommended budget for the long-range state building program that require legislative approval to the Joint Committee on Finance (JCF) by the first Tuesday in April of each odd-numbered year, unless the commission requests a later date and that date is approved by JCF. The bill changes this submittal deadline to the first Tuesday in March of each odd-numbered year, unless commission approves a later date and that date is approved by JCF.

2. Currently, with certain exceptions, the Department of Administration (DOA) is required to let contracts for construction work by bid preceded by public notice whenever the construction cost of a project exceeds \$30,000 and to let contracts in accordance with statutory bidding procedures. If the estimated construction cost of

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a project exceeds \$100,000, DOA must take both consolidated bids and separate bids on any division of the work that it designates. DOA must attempt to ensure that 5 percent of the total amount expended for construction work in each fiscal year is awarded to minority-owned businesses, and must use recycled or recovered materials to the extent technically and economically feasible. The Building Commission may waive any of these requirements for any project if the 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. This bill provides that the commission may take this action only upon vote of at least three-fourths of its current membership.

3. Currently, state agencies must submit building project requests to the Building Commission, which then reviews and recommends to the legislature the projects that it approves for inclusion in the authorized state building program, which is subject to legislative approval by law. This bill prohibits the Building Commission from recommending any specific named or sited project for inclusion in the authorized state building program unless the commission adopts and provides with its recommendation a statement of the amount of the anticipated annual operating costs or the amount of any anticipated increased annual operating costs, plus the amount of any anticipated annual debt service costs generated by the project, in the first full year following completion, and the amount of such costs to be funded from each state revenue source.

4. Currently, except in the case of certain correctional facilities and except where the authority to enter into a lease is granted by law to a particular state agency, the Building Commission has authority to enter into leases on behalf of the state. Unlike acquisitions of land or construction projects, leases of property for construction purposes are not generally subject to approval of the legislature by law. This bill prohibits the Building Commission from entering into any lease or other contract that provides for the construction of a building, structure, or facility, or portion thereof, for initial occupancy by the state and that contains an option for the state to purchase the building, structure, or facility unless the construction and purchase of the building, structure, or facility is first approved by the legislature by law. The prohibition does not apply to correctional facilities that are subject to approval under current law.

5. Currently, with many exceptions, no state agency or authority may enter into a contract providing for the construction or alteration of any building, structure, or facility involving an estimated cost of more than \$100,000 without completion of final plans, arrangement for supervision of construction, and prior approval by the Building Commission. This bill clarifies that this requirement applies to a lease that provides for construction of a building, structure, or facility. The bill also provides that (in accordance with current law) the Building Commission may grant its approval at any meeting of the commission at which a quorum is present by a majority vote of the members present and voting. However, the bill provides that: 1) if any project to be voted upon was not specifically identified in the notice of the meeting of the commission at which the project is to be voted upon or the notice was not provided at least ten days prior to the date of the meeting, the commission may

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only approve the project by a vote of at least three-fourths of the current membership of the commission; or 2) if a specific named or sited project to be approved was not included in a previous biennial report by the commission to the legislature, the commission may only approve the project by a vote of at least three-fourths of the current membership of the commission and only if the state agency or authority for which the project is to be constructed provides the commission before the vote is taken a statement of the reasons for advancing the project on an urgent basis.

6. The bill specifically permits the Building Commission to create subcommittees for the purpose of carrying out its functions. However, the bill provides that the commission shall not hold a meeting on any day that a subcommittee of the commission holds a meeting, and any action taken by the commission on the same day that a subcommittee of the commission holds a meeting is void.

7. Currently, DOA generally has responsibility for the management and supervision of the construction and leasing of state facilities. This bill provides that no division of DOA that has responsibility for the construction or leasing of state facilities may be headed by an individual who serves in the unclassified state service. The bill also provides that the incumbent who is serving in the position of administrator of the Division of Facilities Development of DOA on the day the bill becomes law may continue to serve in that position in the unclassified service for the duration of his or her tenure in that position.

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

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

2           13.48 (2) (cm) The commission may create subcommittees for the purpose of  
3 carrying out its functions. The commission shall not hold a meeting on any day that  
4 a subcommittee of the commission holds a meeting. Any action taken by the  
5 commission on the same day that a subcommittee of the commission holds a meeting  
6 is void.

7           **SECTION 2.** 13.48 (5) (b) of the statutes is repealed and recreated to read:

8           13.48 (5) (b) The department of administration shall provide the building  
9 commission with a statement of the amount of the anticipated annual operating costs  
10 or the amount of any anticipated increased annual operating costs, plus the amount  
11 of any anticipated increased annual debt service costs, generated by each specific

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1 named or sited proposed state building project requiring enumeration in the  
2 authorized state building program in the first full year following completion of the  
3 project, and the amount of such costs to be funded from each revenue source under  
4 s. 20.001 (2).

5 **SECTION 3.** 13.48 (7) of the statutes is amended to read:

6 13.48 (7) BIENNIAL RECOMMENDATIONS. The building commission shall prepare  
7 and formally adopt recommendations for the long-range state building program on  
8 a biennial basis. The building commission shall not recommend any specific named  
9 or sited project for enumeration in the authorized state building program unless the  
10 commission adopts and provides with its recommendation a statement of the amount  
11 of the anticipated annual operating costs or the amount of any anticipated increased  
12 annual operating costs, plus the amount of any anticipated annual debt service costs,  
13 generated by the project in the first full year following completion, and the amount  
14 of such costs to be funded from each revenue source under s. 20.001 (2). The building  
15 commission shall include in its report any projects proposed by the state fair park  
16 board involving a cost of not more than \$250,000, together with the method of  
17 financing those projects proposed by the board, without recommendation. Unless a  
18 later date is requested by the building commission and approved by the joint  
19 committee on finance, the building commission shall, no later than the first Tuesday  
20 in ~~April~~ March of each odd-numbered year, transmit the report prepared by the  
21 department of administration under s. 16.40 (20) and the commission's  
22 recommendations for the succeeding fiscal biennium that require legislative  
23 approval to the joint committee on finance in the form of proposed legislation  
24 prepared in proper form.

25 **SECTION 4.** 13.48 (10) (a) of the statutes is amended to read:

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1           13.48 (10) (a) No state board, agency, officer, department, commission, or body  
2 corporate may enter into a lease or other contract providing for the construction,  
3 reconstruction, remodeling of, or addition to any building, structure, or facility,  
4 which involves a cost in excess of \$100,000, without completion of final plans and  
5 arrangement for supervision of construction and prior approval by the building  
6 commission in accordance with par (am). The building commission may not approve  
7 a lease or other contract providing for the construction, reconstruction, renovation,  
8 or remodeling of or an addition to a state building as defined in s. 44.51 (2) unless it  
9 determines that s. 44.57 has been complied with or does not apply. This section  
10 applies to the department of transportation only in respect to buildings, structures,  
11 and facilities to be used for administrative or operating functions, including  
12 buildings, land, and equipment to be used for the motor vehicle emission inspection  
13 and maintenance program under s. 110.20.

14           **SECTION 5.** 13.48 (10) (am) of the statutes is created to read:

15           13.48 (10) (am) The building commission may approve any project under par.  
16 (a) at any meeting of the commission at which a quorum is present by a simple  
17 majority of the members present, except that:

18           1. If any project to be voted upon by the commission was not specifically  
19 identified in the notice of the meeting of the commission at which the project is to be  
20 voted upon or the notice was not provided at least 10 days prior to date of the meeting,  
21 the commission may only approve the project by a vote of at least three-fourths of  
22 the current membership of the commission.

23           2. If a specific named or sited project to be voted upon by the commission was  
24 not included in a biennial report of the commission under sub. (6), the building  
25 commission may only approve the project by a vote of at least three-fourths of the

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1 current membership of the commission and only if the board, agency, officer,  
2 commission, department, or body corporate for which the project is to be constructed  
3 provides to the commission before the vote is taken a statement of the reasons for  
4 advancing the project on an urgent basis.

5 **SECTION 6.** 13.48 (15) of the statutes is amended to read:

6 13.48 (15) ACQUISITION OF LEASEHOLD INTERESTS. Subject to the requirements  
7 of s. 20.924 (1) (i) and (j), the building commission shall have the authority to acquire  
8 leasehold interests in land and buildings where such authority is not otherwise  
9 provided to an agency by law.

10 **SECTION 7.** 13.48 (19) of the statutes is amended to read:

11 13.48 (19) ALTERNATIVES TO STATE CONSTRUCTION. (a) Whenever the building  
12 commission determines that the use of innovative types of design and construction  
13 processes will make better use of the resources and technology available in the  
14 building industry, the building commission may, by a vote of at least three-fourths  
15 of the current membership of the commission, waive any or all of s. 16.855 if for any  
16 state building project if the commission finds that such action is in the best interest  
17 of the state ~~and if the waiver is accomplished through formal action of the building~~  
18 ~~commission.~~

19 (b) The building commission may authorize the lease, lease purchase or  
20 acquisition of ~~such~~ state facilities constructed in the manner authorized by the  
21 building commission.

22 (c) Subject to the requirements of s. 20.924 (1) (i) and (j), the building  
23 commission may also authorize the lease, lease purchase or acquisition of existing  
24 facilities in lieu of state construction of any project enumerated in the authorized  
25 state building program.

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1           **SECTION 8.** 13.48 (27) of the statutes is amended to read:

2           13.48 **(27)** LEASE OF CORRECTIONAL FACILITIES. Subject to the requirements of s.  
3           20.924 (1) (i) and (j), the building commission may lease any facility for use of the  
4           department of corrections as a part of the authorized state building program, with  
5           an option to purchase the facility by the state. Any lease shall provide for the facility  
6           to be constructed in accordance with requirements and specifications approved by  
7           the department of administration and shall permit inspection of the site and facility  
8           by agents of the department.

9           **SECTION 9.** 20.924 (1) (j) of the statutes is created to read:

10           20.924 **(1)** (j) Shall not enter into any lease or other contract that provides for  
11           the construction of any building, structure, or facility, or portion thereof, for initial  
12           occupancy by the state and that contains an option for the state to purchase the  
13           building, structure, or facility unless the construction and purchase of the building,  
14           structure, or facility is enumerated in the authorized state building program prior  
15           to entering into the lease or other contract. This paragraph does not apply to any  
16           lease or other contract that is governed by par. (i).

17           **SECTION 10.** 230.08 (4) (b) 5. of the statutes is created to read:

18           230.08 **(4)** (b) 5. Any function of the department of administration relating to  
19           the construction or leasing of state facilities.

20           **SECTION 11.** 230.08 (4) (bm) of the statutes is created to read:

21           230.08 **(4)** (bm) Notwithstanding par. (b) 5., the incumbent administrator of the  
22           division of facilities development in the department of administration who is serving  
23           in that office on the effective date of this paragraph .... [revisor inserts date], may  
24           continue to serve in that position in the unclassified service for the duration of his  
25           or her tenure in that position.

**SENATE BILL 585****SECTION 12. Initial applicability.**

(1) LEASE OR ACQUISITION OF STATE BUILDINGS. The treatment of sections 13.48 (15), (19), and (27) and 20.924 (1) (j) of the statutes first applies to contracts that are entered into, or extended, modified, or renewed, on the effective date of this subsection.

**SECTION 13. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of section 13.48 (7) (with respect to the date for submission of building commission recommendations) of the statutes takes effect on January 1, 2006, or the day after publication, whichever is later.

(END)