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STANLEY PRISON PURCHASE

The biennial state budget act (2001 Wisconsin Act 16), passed by the legislature and signed by Governor Scott McCallum on August 30, 2001, authorized the \$79.9 million purchase of a privately constructed prison near Stanley in Chippewa County. This decision concluded three years' of debate about the fate of the facility.

BACKGROUND

In August 1998, Dominion Venture Group, LLC, an Oklahoma company, began construction of a 1,500-bed medium-security prison at Stanley without express legal authorization from the State of Wisconsin. At the request of Senate Majority Leader Chuck Chvala, Attorney General James E. Doyle issued an opinion (OAG 2-99), dated May 28, 1999, stating that, while a private company could build a private prison, it could not operate the facility without statutory authorization that do so. According to the opinion, Dominion could not house either Wisconsin inmates or prisoners from out-of-state because state law as it then existed gave the private company no power to do so. Without any formal directive from the State of Wisconsin, the company indicated later in 1999 that the "goal of the project is to build a modern prison . . . that will be operated by the [state] to house Wisconsin inmates."

Although passage of the 1999-2001 budget was delayed until October 6, 1999, those supporting the leasing of the Stanley facility for operation by the Department of Corrections (DOC) were unable to get the proposal included in the budget act or in separate legislation that year.

In December 1999, the Joint Committee on Finance released \$550,600 in the 1999-2001 biennium to DOC "to support the costs of 9.0 GPR positions to: a) address issues of correctional institution crowding and long range planning; and b) staff correctional facilities." DOC allocated seven of these positions to the Stanley prison, including a position for warden.

On September 1, 2000, the Department of Administration (DOA) entered into an agreement with Stanley Correctional Properties (SCP), LLC, a division of Dominion Venture Group, to lease the Stanley prison with an option to purchase. The terms of the agreement required SCP to provide the state access to the property, beginning September 1, 2000, so it could modify and prepare the facility for prison use. In exchange, DOA agreed to request authorization from the legislature in the 2001-03 budget to lease and operate the property.

LEGISLATIVE ACTION

The 2001-03 state budget bill, as proposed by Governor Scott McCallum, requested \$43.6 million to lease and staff the Stanley prison over the next biennium. The Joint Committee on Finance recommended, instead, that the facility be purchased for \$79.9 million with \$74.9 million raised through state general obligation bonding and \$5 million provided by the federal government. Act 16, as finally enacted, included the state Building Commission's authoriza-

tion of the purchase and a provision that the owners of the Stanley facility would be paid carrying costs of \$650,000 per month for the period of July 1 through October 31, 2001, or the date on which the state purchased the facility, whichever was earlier.

Although the legislators approved purchase of the privately-built Stanley facility, some members questioned the procedures involved in its acquisition. To address these concerns, Act 16 includes several provisions that require prior state authorization for any prisons built by private parties after January 1, 2001. First, it prevents private developers from beginning construction of a correctional facility or undertaking the conversion of an existing building to a correctional facility without the specific authorization of the state Building Commission. (Construction commenced prior to January 1, 2001, was exempted from this provision.) The prohibition also applies to facilities used to confine juveniles, with the exception of secure group homes. Second, Act 16 also bars the state Building Commission from leasing or acquiring a building, structure, or facility, or portion thereof, for initial occupancy as a state prison, unless the building has previously been approved by the legislature in the authorized state building program or was completed before January 1, 2001.

OUT-OF-STATE PLACEMENTS AND THE STANLEY PRISON

Wisconsin's prison population has almost tripled in the last decade from an average daily population of 7,117 for fiscal year 1990-91 to 20,672 in 2000-01. Although the state launched a building campaign in 1985 that thus far has included seven new state prisons, the system was operating at 119.5% of its defined capacity on October 5, 2001.

As the number of Wisconsin prisoners began to exceed the capacity of its prisons, DOC was authorized to contract for beds outside its own institutions. As early as 1983, the department was authorized to contract with Wisconsin counties and municipalities for space in local lockups in 1983. 1995 Wisconsin Act 344 permitted contracts with the federal government and governmental subdivisions in other states, and 1997 Wisconsin Act 27 allowed placements in privately operated facilities in other states. In the the case of out-of-state placements, Wisconsin prisoners are subject to the laws governing the prison in the receiving state. By mid-2000, the population housed in contract facilities exceeded 5,700 inmates.

Support for returning Wisconsin inmates to the state has been recently increasing. As of February 2000, DOC limited out-of-state incarcerations to 48 months, and by December 21, 2000, the state had fulfilled its commitment to bring all female prisoners back to Wisconsin. Despite these efforts to lessen dependence on contract beds, DOC reported 4,849 male prisoners in contract facilities as of October 5, 2001, including 4,286 out-of-state placements in Tennessee (1,670), Oklahoma (1,454), and Minnesota (1,162).

According to DOC, opening the Stanley prison will provide space to bring as many as 1,500 inmates back into Wisconsin correctional institutions.