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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Colleges and Universities...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (November 2012)

Assembly

Record of Committee Proceedings

Committee on Colleges and Universities

Senate Bill 338

Relating to: the prohibition against a public officer or employee having a private interest in a public contract.

By Senators Kanavas, Risser, Stepp, Roessler, Lassa, Miller and Wirch; cosponsored by Representatives Lamb, Berceau, Kreibich, Kaufert, Jensen, Davis, Pettis, Underheim, M. Williams, Seidel, Hines, Sheridan, Turner, Black, Travis, Shilling and Towns.

November 14, 2005 Referred to Committee on Colleges and Universities.

January 10, 2006 **PUBLIC HEARING HELD**

Present: (10) Representatives Ballweg, Underheim, Nass, Jeskewitz,
Towns, Lamb, Shilling, Schneider, Black, Molepske.
Absent: (2) Representatives Kreibich and Boyle.

Appearances For

- James Michel, Madison — Sen. Ted Kanavas
- Don Nelson, Madison — UW Madison

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- Kevin Reily, Madison — President, UW System
- Andy Lamb, Menomonie — Rep., State Assembly
- Richard Burgess, Madison — PROFS, Inc Facultu UW Madison

Registrations Against

- None.

March 7, 2006

EXECUTIVE SESSION HELD

Present: (12) Representatives Kreibich, Ballweg, Underheim, Nass, Jeskewitz, Towns, Lamb, Shilling, Schneider, Black, Boyle and Molepske.

Absent: (0) None.

Moved by Representative Kreibich, seconded by Representative Ballweg that **Assembly Substitute Amendment 1** be recommended for introduction.

Ayes: (12) Representatives Kreibich, Ballweg, Underheim, Nass, Jeskewitz, Towns, Lamb, Shilling, Schneider, Black, Boyle and Molepske.

Noes: (0) None.

INTRODUCTION OF ASSEMBLY SUBSTITUTE AMENDMENT 1
RECOMMENDED, Ayes 12, Noes 0

Moved by Representative Lamb, seconded by Representative Towns that **Assembly Substitute Amendment 1** be recommended for adoption.

Ayes: (9) Representatives Kreibich, Ballweg, Nass, Jeskewitz, Towns, Lamb, Shilling, Black and Molepske.

Noes: (3) Representatives Underheim, Schneider and Boyle.

ASSEMBLY SUBSTITUTE AMENDMENT 1 ADOPTION
RECOMMENDED, Ayes 9, Noes 3

Moved by Representative Lamb, seconded by Representative Ballweg that **Senate Bill 338** be recommended for concurrence as amended.

Ayes: (9) Representatives Kreibich, Ballweg, Nass, Jeskewitz, Towns, Lamb, Shilling, Black and Molepske.

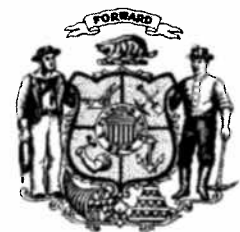
Noes: (3) Representatives Underheim, Schneider and Boyle.

CONCURRENCE AS AMENDED RECOMMENDED, Ayes 9, Noes 3

Brad Hub
Committee Clerk



WISCONSIN STATE LEGISLATURE





TO: Members, Assembly Colleges and Universities Committee

FROM: Don Nelson & Kristi Thorson
Assistant Directors of State Relations

SUBJECT: Senate Bill 338, Streamlining the start-up technology process

DATE: January 10, 2006

Representatives Lamb and Berceau, and Senators Kanavas and Risser are currently sponsoring legislation that would streamline the start-up technology process. We encourage you to support this important legislation.

Several times each year, University of Wisconsin faculty and staff efforts to get their technology discoveries into the marketplace are delayed because current law requires a lengthy legal opinion process with the Attorney General. The process, which comes after a thorough campus review, ensures the person who created the technology to establish the start-up company is not in violation of Wisconsin State Statute 946.13 if the company contracts with the UW for certain goods and services. This is sometimes necessary because start-ups, in order to succeed, may need to utilize specialized research facilities and services available at the university.

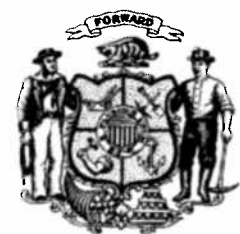
While every situation reviewed by the Attorney General has shown no violation of the law, these unnecessary delays have resulted in lost opportunities for these start-ups to secure grants and venture capital. To encourage start-ups, an important component of Wisconsin's economic development efforts, this law should be amended to exempt this type of activity.

SB 338 seeks to create an exemption to s. 946.13 for a research company who contracts with the University of Wisconsin for the purchase of goods or services if the contract evaluated by a campus review process, independent of the faculty or staff member involved with the company, shows there is not a conflict of interest. As part of Wisconsin's strategy to remain at the forefront of the burgeoning biotechnology field, Governor Doyle has highlighted the need for this legislative change to remove bureaucratic hurdles for UW faculty members who want to become entrepreneurs. The UW System Board of Regents also endorse this bill.

If you have any questions about this bill, please feel free to contact Don at 265-4105, or Kristi at 262-4809.



WISCONSIN STATE LEGISLATURE



Hub, Brad

From: Matthias, Mary
Sent: Friday, January 20, 2006 11:45 AM
To: 'KIRWIN@vc.wisc.edu'
Subject: SB 338

Kathy-

I got your message requesting to meet with me on Monday to discuss SB 338. I'd be happy to meet with you. I think it would be best to also invite some of the legislators (or their staff) who have concerns with the bill. Some legislators have concerns beyond the issue I raised at the hearing. I have contacted their offices and they may call you to arrange a Monday meeting with you and me.

I am available all day Monday. I am leaving for the rest of the day in a few minutes.

FYI- Set forth below is an explanation of this issue I raised at the hearing.

thanks--

Mary Matthias
Senior Staff Attorney
Wisconsin Legislative Council Staff
Ph.(608)266-0932;Fax (608)266-3830

The UW handout to the Assembly Committee dated January 10, 2006, states that SB 338 seeks to create an exemption to s. 946.13 for situations in which an evaluation of a proposed contract by a campus review process "shows there is not a conflict of interest". However, the bill doesn't require the UW System "employee or officer" to find that there is not a conflict of interest in order to approve a contract. Rather, the bill simply states that the contract must be "approved". The bill does not specify any standards or criteria for approval.

If the intent of the bill is to allow contracts between faculty start-ups and the UW only if it is found that the contract does not create a conflict of interest, as stated in the handout, lines 4-7 of page 2 of the bill should be amended to read as follows:

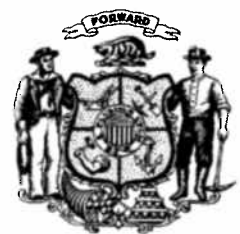
(b) Subsection (1) does not apply to a contract between a research company and the UW System or any institution or college campus within the system for purchase of goods or services if a University of Wisconsin System employee or officer responsible for evaluating and managing potential conflicts of interest reviews the proposed contract and finds that the contract does not create any conflicts of interest.

I think the wording "any conflicts of interest" might be too vague or overbroad and could be refined by the UW legal counsel who is more familiar with these issues. If I had time I would read some cases on the issue and try to come up with more precise, narrow language, that would give the UW more leeway to approve these contracts. But the language I proposed gives you the general idea of what I'm getting at.

Apparently the UW has done a good job of determining when contracts are appropriate, based on their testimony stating that they have always received the AG's approval when they've asked for it. Clearly they must be using some criteria to make these decisions. Whatever criteria they are using are working and should be included in the statute to ensure that the UW continues to undertake appropriate evaluations after the AG no longer has any oversight.



WISCONSIN STATE LEGISLATURE



Hub, Brad

From: Matthias, Mary
Sent: Friday, January 20, 2006 9:46 AM
To: Hub, Brad
Subject: SB 338

The UW handout to the Assembly Committee dated January 10, 2006, states that SB 338 seeks to create an exemption to s. 946.13 for situations in which an evaluation of a proposed contract by a campus review process "shows there is not a conflict of interest". However, the bill doesn't require the UW System "employee or officer" to find that there is not a conflict of interest in order to approve a contract. Rather, the bill simply states that the contract must be "approved". The bill does not specify any standards or criteria for approval.

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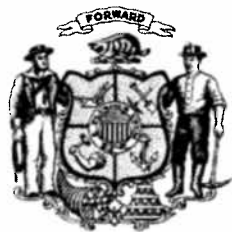
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Mary

Mary Matthias
Senior Staff Attorney
Wisconsin Legislative Council Staff
Ph.(608)266-0932;Fax (608)266-3830



WISCONSIN STATE LEGISLATURE



From: Irwin, Kathy [mailto:KIRWIN@vc.wisc.edu]
Sent: Tuesday, January 24, 2006 3:06 PM
To: Matthias, Mary
Subject: RE: SB 338

Hi Mary, attached is some proposed language to add standards to the bill along the lines mentioned in my fax of yesterday. I've done the amendment in two different formats. The first page of the attachment amends the bill as it's currently drafted and is done in the style used by the LRB. The format on the second page does the same thing, but puts *all* the conditions as paragraphs and incorporates SA 1. I couldn't remember how to do that, so I just showed it as a red-line version.

If this looks o.k. to you, I'll circulate it here for approval.

I really appreciate your help on this.

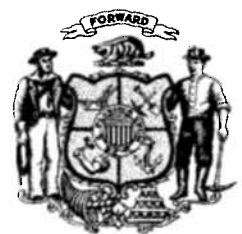
Regards,
Kath

Kathleen S. Irwin
Senior University Legal Counsel
University of Wisconsin-Madison
361 Bascom Hall
500 Lincoln Drive
Madison, Wisconsin 53706

Phone 608.263.7400
FAX 608.263.4725
E-mail kirwin@VC.wisc.edu



WISCONSIN STATE LEGISLATURE



Hub, Brad

From: Matthias, Mary
Sent: Thursday, January 26, 2006 10:40 AM
To: 'Irwin, Kathy'
Cc: Hub, Brad; Mikalsen, Mike; Michel, James; 'Don Nelson'
Subject: RE: SB 338

Kath-

The language you sent over looks good. I showed it to Rep. Kreibich. He likes it too but he and Rep. Nass would like to add a provision that would require a review of proposed contracts by a third party, using the standards in the language you suggested. He suggested the review be done by DOA attorneys, since DOA already oversees many activities of the UW. Would you be willing to work up some language for him to review?

FYI- His goal is to exec this out of committee on Feb. 21st.

I think this should all be drafted as a sub eventually.

Thanks--

Mary

From: Irwin, Kathy [mailto:KIRWIN@vc.wisc.edu]
Sent: Tuesday, January 24, 2006 4:14 PM
To: Matthias, Mary
Subject: RE: SB 338

Hi Mary. I understand about busy. However, I think I'll go ahead and circulate the language here as I have an opportunity to get it to all the necessary people tomorrow. If after your review we need a change, I'll just circulate it again.

Thanks,
Kath

Kathleen S. Irwin
Senior University Legal Counsel
University of Wisconsin-Madison
361 Bascom Hall
500 Lincoln Drive
Madison, Wisconsin 53706

Phone 608.263.7400
FAX 608.263.4725
E-mail kirwin@VC.wisc.edu

-----Original Message-----

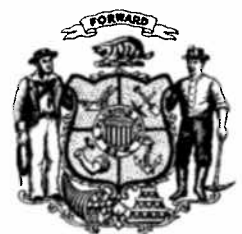
From: Matthias, Mary [mailto:Mary.Matthias@legis.state.wi.us]
Sent: Tuesday, January 24, 2006 3:33 PM
To: Irwin, Kathy
Subject: RE: SB 338

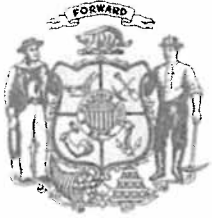
Thanks Kathy. I will read those AG opinions and look over this language asap- I'll get back to you on Thursday- today and tomorrow are full! FYI--at the exec today Kreibich told the Committee they will be voting on this in a few weeks.

01/26/2006



WISCONSIN STATE LEGISLATURE





TED KANAVAS

STATE SENATOR

DATE: March 6, 2006
TO: Assembly Committee on Colleges & Universities
FROM: Senator Ted Kanavas
RE: Assembly Substitute Amendment 1 to Senate Bill 338

Often times University of Wisconsin faculty and staff will try to market their discoveries and innovations in the private sector. Under current law, their efforts to get a private contract require an unnecessarily lengthy review process to prevent any conflicts of interest. The intent of Senate Bill 338 is to cut bureaucratic red-tape so researchers will be able to market their discoveries more quickly.

Assembly Substitute Amendment 1 to Senate Bill 338 balances the core intent of the original bill while ensuring that there is still third party oversight. The substitute amendment has my full support. I strongly encourage the committee members to support it as an improvement to the original bill.

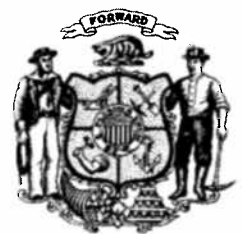
As amended by Assembly Substitute Amendment 1 Senate Bill 338 will:

- Implement a third party review by the Office of the Attorney General
- Request passive review for contracts entered between a private company and a university for an amount greater than \$75,000
- Request passive review if multiple contracts add up to more than \$75,000 within a 24 month period
- Allow the Attorney General to request an additional 30 days for extended review
- Contain a five year sunset on these provisions

Senate Bill 338 passed the State Senate on a voice vote. It is included in the State Legislature's *Invest Wisconsin* package in addition to being included in the Governor's *Grow Wisconsin* package.



WISCONSIN STATE LEGISLATURE





PO Box 7365
Madison, WI 53707-7365
PH: 608-263-2500
FAX: 608-263-1064
www.warf.org

March 6, 2006

Representative Stephen Nass
Room 12 West State Capitol
Madison, Wisconsin 53708

Representative Robin Kreibich
Room 107 West State Capitol
Madison, Wisconsin 53708

Dear Representatives Nass and Kreibich:

The purpose of this letter is to support your effort to schedule and pass the Assembly Substitute Amendment to Senate Bill 338. The bill is a workable first step in making it simpler and quicker for UW inventors to contract with start-up companies for research. WARF especially appreciates the specific reference to research in the Amendment. The current law has proven unworkable and WARF appreciates this step forward.

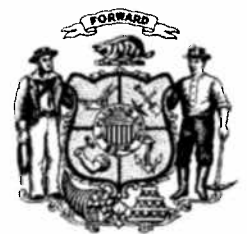
Thank you for your efforts to address this long standing problem.

Sincerely,

Andrew Cohn
Government and Public Relations Manager



WISCONSIN STATE LEGISLATURE



Hub, Brad

From: Michel, James
Sent: Monday, March 06, 2006 4:30 PM
To: Rep.Ballweg; Rep.Black; Rep.Boyle; Rep.Jeskewitz; Rep.Kreibich; Rep.Lamb; Rep.Nass;
Rep.Schneider; Rep.Shilling; Rep.Towns; Rep.Underheim
Subject: SB 338 - Colleges & Universities Exec Session

DATE: March 6, 2006

TO: Assembly Committee on Colleges & Universities

FROM: Senator Ted Kanavas

RE: Assembly Substitute Amendment 1 to Senate Bill 338

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