

2007 DRAFTING REQUEST

Bill

Received: **09/08/2006**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Donna Seidel (608) 266-0654**

By/Representing: **Natalie Verrette**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Discrimination
Higher Education - miscellaneous
Higher Education - tech. college
Higher Education - UW System**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Seidel@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Instructional materials in alternative formats for postsecondary students with disabilities

Instructions:

See Attached--redraft with attached changes 2005 AB 1142

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 09/26/2006	wjackson 10/24/2006		_____			State
/1			nmatzke 10/24/2006	_____	lparisi 10/24/2006 mbarman 01/16/2007		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	gmalaie 04/02/2007	wjackson 04/05/2007	nmatzke 04/05/2007	_____	lparisi 04/05/2007	mbarman 06/14/2007	

FE Sent For: 05/07/2007, ~~05/07/2007~~.

↳ ("1/2")

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/1		1/2 WLj 4/5	nmatzke 10/24/2006 nwn 4/5	nwn/sh 4/5	lparisi 10/24/2006 mbarman 01/16/2007		

email only

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/?	gmalaise	/1 wlj 10/23 nwn	10/24	nwn/rs			

FE Sent For:

<END>

Malaise, Gordon

From: Verette, Natalie
Sent: Tuesday, August 01, 2006 10:32 AM
To: Malaise, Gordon
Subject: AB 1142 Redraft

Hello Gordon,

You drafted AB 1142 for us this session regarding electronic access to written materials for post-secondary students. Rep. Seidel would like to reintroduce the bill next session. We have met with the UW System & the Tech System and would like to request some revisions:

- / Specify function of repository
 - Central point for the UW System & the Tech System to negotiate with publishers
 - Get permission for institutions from the publishers to format materials into an accessible medium
 - Take the materials from the publisher
 - Produce the material in an accessible format
 - Provide students with materials
- / Expand definition of Instructional Material to be any materials requested by the professor or facilitator of course as part of a syllabus for the class
- / Establish the implementation date as January of 2008
- / Indicate that the location of the repository will be determined jointly by the UW System & the Tech System to best meet the needs of the students.

I understand LRB numbers for next session will not be assigned until after Labor Day. If you have any questions, please contact me.

Thank you,

Natalie Verette
Legislative Assistant
Office of State Representative Donna Seidel
85th Assembly District

State Capitol, 409 North
P.O. Box 8953
Madison, WI 53708

608.266.0654
888.534.0085 (toll-free)
natalie.verette@legis.state.wi.us

08/02/2006

10/19

-0169/1

Wlj

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2005 ASSEMBLY BILL 1142

Today if possible please

~~March 21, 2006 - Introduced by Representatives SEIDEL, GRIGSBY, SHERIDAN and SINICKI, cosponsored by Senator ERPENBACH. Referred to Committee on Colleges and Universities.~~

LPS: Please proof amended stats. w/ Folio.

The University of Wisconsin System or the technical college system

- 1 AN ACT *to amend* 106.52 (1) (e) 1.; and *to create* 106.52 (3) (a) 6. and 106.57 of
- 2 the statutes; **relating to:** accessible instructional materials for student with
- 3 disabilities enrolled in institutions of higher education.

Analysis by the Legislative Reference Bureau

Under current state law, the University of Wisconsin System (UW System) and the Technical College System (TCS) may not deny to a student admission to, participation in, or the benefits of, or discriminate against a student in, any service, program, course, or facility because of the student's disability. In addition, under current federal law, a college, university, or other postsecondary institution, including a private postsecondary institution, may not exclude a student from participation in, deny a student the benefits of, or subject a student to discrimination under any program or activity receiving federal financial assistance. Federal regulations specify that a postsecondary institution receiving federal financial assistance must ensure that no student with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

Insert A

This bill requires a publisher of instructional materials, within 15 working days after receipt of a request, to provide, at no additional cost, instructional material in an electronic format to a nonprofit or public institution of higher education, including an institution providing vocational training, located in this state (institution of higher education) or to the state repository for alternative format instructional

ASSEMBLY BILL 1142

In a standard format

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A

materials (state repository), which the TCS Board and the Board of Regents of the UW System are directed by the bill to jointly establish.

Under the bill, a request for instructional material in an electronic format must certify: 1) that a copy of the instructional material has been purchased for use by a student with a disability, which is defined in the bill as a student who is blind or visually impaired, or who has a specific learning disability or other disability affecting the activity of reading, and who needs reasonable accommodations in order to read; 2) that the student has a disability that prevents the student from using standard instructional material; and 3) that the instructional material is for use by the student in connection with a course at the institution of higher education in which the student is enrolled. In addition, the publisher may require the student to sign a statement agreeing that the student will use the electronic copy of the instructional material solely for his or her own educational purposes and that the student will not copy or distribute the instructional material for use by others.

Under the bill, instructional material provided by a publisher in an electronic format must: 1) maintain the structural integrity of the original instructional material, which means that all of the information provided in printed instructional material, including the text of sidebars, the table of contents, chapter headings and subheadings, footnotes, indexes, glossaries, bibliographies, nontextual elements, such as pictures, illustrations, graphs, charts, and screenshots, and any other data that are pertinent to the instructional material, are included when that printed instructional material is provided in an electronic format; 2) be compatible with commonly used Braille translation or speech synthesis software; 3) include corrections and revisions as necessary; and 4) be in a format that is mutually agreed to between the publisher and the requester or, if the publisher and the requester cannot agree to a format, be in a format that is suitable for the creation of alternative format instructional material, and that preserves as much of the structural integrity of the original material as possible.

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The bill permits an institution of higher education to use instructional material in an electronic format provided under the bill solely to convert that material into an alternative format, which is defined in the bill as Braille, large print texts, audio recordings, digital texts, digital talking books, or any other medium or format for the presentation of instructional materials, other than standard print, that is needed by a student with a disability to make those materials accessible to the student. The bill also permits an institution of higher education that converts instructional material into an alternative format to share the alternative format version of the material with the state repository, with any other institution of higher education that is serving a student with a disability, or with an entity that is authorized under the federal Copyright Act to reproduce and distribute previously published works in alternative formats exclusively for use by persons with disabilities and that commonly provides instructional materials in alternative formats to students enrolled in institutions of higher education.

The bill directs the TCS Board and the Board of Regents of the UW System to jointly: 1) establish a state repository for the purpose of collecting instructional materials in electronic and alternative formats and facilitating timely access to those

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~~materials by students with disabilities; and 2) develop policies and procedures to ensure to the maximum extent possible that a student with a disability has access to instructional material in an appropriate alternative format within the first week of the class for which the material is required. Under the bill, the state repository may submit requests for instructional materials in an electronic format to publishers on behalf of institutions of higher education and receive instructional materials in electronic and alternative formats from publishers, institutions of higher education that have created those materials for use by students with disabilities, and other sources. The bill requires the state repository, on receipt of a request for instructional material in an electronic or alternative format from an institution of higher education, to provide that material to the institution of higher education at no cost.~~

Finally, current law prohibits any person from denying to another the full and equal enjoyment of any public place of accommodation or amusement because of disability (public accommodations law). This bill provides that a publisher of instructional material is considered to be a public place of accommodation or amusement and that any publisher that refuses to provide instructional material as required under the bill is in violation of the public accommodations law.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 106.52 (1) (e) 1. of the statutes is amended to read:

2 106.52 (1) (e) 1. "Public place of accommodation or amusement" shall be
3 interpreted broadly to include, but not be limited to, places of business or recreation;
4 lodging establishments; restaurants; taverns; barber or cosmetologist, aesthetician,
5 electrologist or manicuring establishments; nursing homes; clinics; hospitals;
6 cemeteries; publishers, as defined in s. 106.57 (1) (h); and any place where
7 accommodations, amusement, goods, or services are available either free or for a
8 consideration, subject to subd. 2.

9 **SECTION 2.** 106.52 (3) (a) 6. of the statutes is created to read:

10 106.52 (3) (a) 6. Refuse to provide instructional material in ^g(an) electronic format
11 in violation of s. 106.57 ³(~~2~~) (a).

12 **SECTION 3.** 106.57 of the statutes is created to read:

ASSEMBLY BILL 1142

SECTION 3

1 **106.57 Postsecondary education; accessible instructional material for**
2 **students with disabilities. (1) DEFINITIONS.** In this section:

3 (a) "Alternative format" means Braille, large print texts, audio recordings,
4 digital texts, digital talking books, or any other medium or format for the
5 presentation of instructional materials, other than standard print, that is ~~needed by~~
6 a student with a disability ^{needs} to make those materials accessible to the student.

7 (b) "Board" means the technical college system board.

8 (c) "Board of Regents" means the Board of Regents of the University of
9 Wisconsin System. *or college campus within the University of Wisconsin System
or the technical college within the technical college system*

10 (d) "Institution of higher education" means an institution ~~of higher education,~~
11 ~~as defined in s. 108.02 (18), that is located in this state.~~ *any material included in the
syllabus of*

12 (e) "Instructional material" means ~~a textbook or other material, including~~
13 ~~noncontextual mathematics and science material, written and published primarily for~~
14 ~~use by a student enrolled in a course of study at an institution of higher education~~
15 ~~that is required or essential to the student's success, as determined by the course~~
16 ~~instructor.~~ *includes in the syllabus of that course of study*

17 (f) "Nonprinted instructional material" means instructional material in a
18 format other than print, including instructional material that requires the
19 availability of electronic equipment, such as a computer software program,
20 videodisc, videotape, or audiotape, ~~in order~~ ^{to} be used as a learning resource.

21 (g) "Printed instructional material" means instructional material in a book or
22 other printed form.

23 (h) "Publisher" means a person that publishes or manufactures instructional
24 material.

Insert
p 5,
13 to 8

In electronic ~~and~~ alternative formats

Mar
to
p 24,
216

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5-20

1 (J) (H) "State repository" means the state repository for alternative format
2 instructional materials established under sub. (3) (a) 1. ^{the original}

3 (F) (I) "Structural integrity" means ~~that~~ all of the information provided in printed
4 instructional material, including the text of sidebars; the table of contents; chapter
5 headings and subheadings; footnotes; indexes; glossaries; bibliographies;
6 nontextual elements such as pictures, illustrations, graphs, charts, and screenshots;
7 and any other data that are pertinent to the instructional material, ^{if included} are included
8 when that printed instructional material is provided in ^{an} electronic format ^{or an alternative format}

9 (k) "Student with a disability" means a student enrolled in an institution of
10 higher education who is blind or visually impaired, or who has a specific learning
11 disability or other disability affecting the activity of reading, and who needs
12 reasonable accommodations ^{in order} to read.

13 (L) "Working day" means a day that is not a Saturday, a Sunday, a holiday
14 designated under s. 230.35 (4) (a), or a legal holiday under federal law.

15 (3) (2) ~~PROVISION OF INSTRUCTIONAL MATERIALS IN ELECTRONIC FORMAT. (a) Subject~~
16 ~~to par. (e), within 15 working days after receipt of a request that complies with par.~~
17 ~~(b) and with any requirement imposed by the publisher under par. (c), a publisher~~
18 ~~shall, at no additional cost, provide to an institution of higher education or to the~~
19 ~~state repository instructional material in an electronic format that complies with~~
20 ~~par. (d).~~

21 (b) A request under par. (a) for instructional material in ^{an} electronic format
22 shall be prepared and signed by the coordinator of services for students with
23 disabilities at an institution of higher education or by another employee of an
24 institution of higher education who is responsible for monitoring compliance with
25 the federal Americans with Disabilities Act, 42 USC 12101 to 12213, or the federal

or an alternative format

ASSEMBLY BILL 1142

SECTION 3

1 Rehabilitation Act of 1973, 29 USC 701 to 796L, by a representative of the division
2 of vocational rehabilitation in the department on behalf of an institution of higher
3 education, or by a representative of the state repository on behalf of an institution
4 of higher education, and shall certify all of the following: *in standard format*

5 1. That a copy of the instructional material *has* been purchased for use by a
6 student with a disability by the student or by the institution of higher education in
7 which the student is enrolled.

8 2. That the student has a disability that prevents the student from using
9 ~~standard~~ instructional material *in standard format*

10 3. That the instructional material is for use by the student in connection with
11 a course at the institution of higher education in which the student is enrolled.

12 (c) A publisher may require a request under par. (a) to be accompanied by a
13 statement signed by the student or, if the student is a minor, the student's parent,
14 guardian, or legal custodian agreeing to all of the following:

15 1. That the student will use the instructional material solely for his or her own
16 educational purposes.

17 2. That the student will not copy or distribute the instructional material for use
18 by others.

19 (d) Instructional material provided by a publisher in *an* electronic format shall
20 meet all of the following requirements:

21 1. Maintain *the* structural integrity *of the original instructional material*
22 except that this requirement does not apply to nontextual instructional material
23 unless technology is available to maintain the structural integrity of the nontextual
24 instructional material. *shot*

ASSEMBLY BILL 1142

1 2. Be compatible with commonly used Braille translation or speech synthesis
2 software.

an electronic ✓

in any alternative format

3 3. Include corrections and revisions as necessary.

4 4. Be in a format that is mutually agreed to between the publisher and the
5 requester. If good faith efforts fail to produce an agreement as to an electronic format
6 that will maintain the structural integrity of the original instructional material, the
7 publisher shall provide the instructional material in an electronic format that is
8 suitable for the creation of alternative format instructional material, and that
9 maintains preserves as much of the structural integrity of the original instructional material
10 as possible.

much as possible

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11 (e) If providing instructional material in an electronic format within 15
12 working days after receipt of a request under par. (a) would impose an undue burden
13 on a publisher, the publisher shall, within those 15 working days, submit a statement
14 to the requester certifying the date by which the publisher expects to transmit or
15 deliver the instructional material.

16 ~~(3) STATE REPOSITORY (a) Subject to the availability of funds, the board and the
17 board of regents shall jointly under s. 20.901 (4) do all of the following:~~

18 1. Establish a state repository for the purpose of collecting instructional
19 materials in electronic and alternative formats and facilitating timely access to those
20 materials by students with disabilities.

21 2. Develop policies and procedures to ensure to the maximum extent possible
22 that a student with a disability has access to instructional material in an appropriate
23 alternative format within the first week of the class for which the material is
24 required.

Insert 7-15 ✓

ASSEMBLY BILL 1142**SECTION 3**

1 (b) The state repository may submit requests for instructional material in an
2 electronic format to publishers on behalf of institutions of higher education and may
3 receive instructional materials in electronic and alternative formats from
4 publishers, institutions of higher education that have created those materials for use
5 by students with disabilities, and other sources. On receipt of a request for
6 instructional material in an electronic or alternative format from an institution of
7 higher education that conforms to the requirements of sub. (2) (b) and complies with
8 any requirement imposed by the publisher under sub. (2) (c), the state repository
9 shall, at no cost, provide that material to the institution of higher education. On
10 request of a publisher, the repository shall provide to the publisher all of the
11 following:

12 1. A summary of all instructional materials published by that publisher that
13 the state repository has provided in an electronic or alternative format to institutions
14 of higher education from its holdings.

15 2. Copies of requests for instructional materials published by that publisher
16 that the state repository has received from institutions of higher education.

17 (c) In its biennial report under s. 15.04 (1) (d), the Board of Regents shall
18 include an assessment of the need for technical assistance, training, and other
19 support to increase the availability and effective use of instructional materials in
20 alternative formats by students with disabilities enrolled in the University of
21 Wisconsin System. In its biennial report under s. 15.04 (1) (d), the board shall include
22 an assessment of the need for technical assistance, training, and other support to
23 increase the availability and effective use of instructional materials in alternative
24 formats by students with disabilities enrolled in the technical college system.

(2)(b) 3 or 50

~~(2)(c) 3 or (3)(a) +~~

1 (4) USE OF INSTRUCTIONAL MATERIALS IN ELECTRONIC FORMAT. (a) An institution
 2 of higher education may assist a student with a disability by using instructional
 3 material in an electronic format provided under sub. ~~(2)(a) or (3)(b)~~ solely to convert
 4 or arrange for the conversion of that material into an alternative format. If an
 5 institution of higher education converts or arranges for the conversion of that
 6 material into an alternative format, the institution of higher education may share
 7 the alternative format version of the material with the state repository, with any
 8 other institution of higher education that is serving a student with a disability, or
 9 with an authorized entity, as defined in 17 USC 121 (c) (1), that commonly provides
 10 instructional materials in alternative formats to students enrolled in institutions of
 11 higher education.

12 (b) If an institution of higher education permits a student with a disability to
 13 directly use instructional material in an electronic format, the disc or file of the
 14 electronic format version shall be copy protected, or the institution of higher
 15 education shall take reasonable precautions to ensure that the student does not copy
 16 or distribute the electronic format version in violation of the federal Copyright Act,
 17 17 USC 101 to 1332.

18 (c) Nothing in this section shall be construed to authorize any use of
 19 instructional materials that would constitute an infringement of copyright under the
 20 federal Copyright Act, 17 USC 101 to 1332. (3) (b)

21 (5) PUBLISHER A PUBLIC PLACE OF ACCOMMODATION OR AMUSEMENT. A publisher is
 22 considered to be a public place of accommodation or amusement for purposes of s.
 23 106.52. Any publisher that refuses to provide instructional material in an electronic
 24 format as required under sub. (2) (a) is in violation of s. 106.52 (3).

25

(END)

Section #. Effective date
 (1) This act takes effect on January 1, 2008, or on the day after publication, whichever is later.

EFF DATE comp.

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0169/lins
GMM.....

(INSERT 5-20)

(2) STATE REPOSITORY. (a) Subject to the availability of funds, the board and the board of regents shall jointly under s. 20.901 (4) do all of the following:

1. Establish a state repository for the purpose of collecting instructional materials in electronic and alternative formats and facilitating timely access to those materials by students with disabilities. The board and the board of regents shall jointly determine the location of the state repository so as to best meet the needs of students with disabilities enrolled at institutions of higher education in this state.

2. Develop policies and procedures to ensure to the maximum extent possible that a student with a disability has access to instructional material in an appropriate alternative format within the first week of the class for which the material is required.

(b) The state repository shall serve as the central point for processing all requests for instructional materials in an electronic format or an alternative format from institutions of higher education under sub. (3) (a) 1. and, in performing that function, shall do all of the following:

1. Compile and maintain a collection of instructional materials in electronic format and alternative format received from publishers, institutions of higher education, and other sources.

2. Receive requests for instructional materials in an electronic format or an alternative format from institutions of higher education under sub. (3) (a) 1.

3. If the instructional material requested is available in the state repository's collection or is otherwise available to the state repository, provide a copy of the instructional material to the requester.

4. If the instructional material requested is not available in the state repository's collection or is otherwise not available, request the publisher to provide the instructional material in an electronic format under sub. (3) (a) 1. and obtain permission from the publisher to convert or arrange for the conversion of that instructional material into an alternative format.

5. Receive instructional material in electronic format from publishers under sub. (3) (a) 1., convert or arrange for the conversion of that instructional material into an alternative format, and provide ^{the} ~~that~~ alternative format version to the ^{requesting} institution of higher education ~~that requested the material~~ at no additional cost. Keep period

(c) If a publisher has previously responded to a request from the state repository for instructional material in an electronic format, ^{the state repository shall satisfy} all subsequent requests for the material from an institution of higher education shall be satisfied by the state repository. On request of a publisher, the state repository shall provide to the publisher all of the following:

1. A summary of all instructional materials published by that publisher that the state repository has provided in an electronic format or an alternative format to institutions of higher education from its holdings.

2. Copies of requests for instructional materials published by that publisher that the state repository has received from institutions of higher education.

(d) In its biennial report under s. 15.04 (1) (d), the Board of Regents shall include an assessment of the need for technical assistance, training, and other support to increase the availability and effective use of instructional materials in alternative formats by students with disabilities enrolled in the University of Wisconsin System. In its biennial report under s. 15.04 (1) (d), the board shall include an assessment of the need for technical assistance, training, and other support to

increase the availability and effective use of instructional materials in alternative formats by students with disabilities enrolled in the technical college system.

(3) PROVISION OF INSTRUCTIONAL MATERIALS IN ELECTRONIC OR ALTERNATIVE FORMAT. (a) 1. An institution of higher education, on behalf of a student with a disability, may request the state repository to provide instructional material in an electronic format or an alternative format by submitting a request that complies with par. (b) and with any requirement imposed by the publisher under par. (c) to the state repository, and the state repository shall satisfy the request as provided in sub. (2)

(b) 3. to 5. If it is necessary for the state repository to request instructional material in an electronic format from the publisher, the publisher, subject to par. (e), shall provide the instructional material to the state repository, in an electronic format that complies with par. (d) within 15 working days after receipt of the request at no additional cost to the state repository at no additional cost.

2. All requests to publishers for instructional materials in an electronic format from institutions of higher education shall be made through the state repository. A publisher is required to honor and respond to only those requests for instructional materials in an electronic format from institutions of higher education that are made through the state repository.

(END OF INSERT)

(INSERT 7-15)

No If If a publisher has previously responded to a request from the state repository for instructional material in an electronic format, the state repository shall satisfy all subsequent requests for that

material from an institution of higher education shall be satisfied by the state repository

(END OF INSERT)

(INSERT A)

This bill directs the TCS Board and the Board of Regents of the UW System to jointly do all of the following:

1. Establish at a location that best meets the needs of students with disabilities enrolled at institutions or college campuses within the UW System or at technical colleges within the technical college system (institutions of higher education) a state repository for the purpose of collecting instructional materials in electronic and alternative formats and facilitating timely access to those materials by students with disabilities. "Student with a disability" is defined in the bill as a student who is blind or visually impaired, or who has a specific learning disability or other disability affecting the activity of reading, and who needs reasonable accommodations in order to read, and "alternative format" is defined in the bill to mean Braille, large print texts, audio recordings, digital texts, digital talking books, or any other medium or format for the presentation of instructional materials, other than standard print, that is needed by a student with a disability to make those materials accessible to the student.

2. Develop policies and procedures to ensure to the maximum extent possible that a student with a disability has access to instructional material in an appropriate alternative format within the first week of the class for which the material is required.

Under the bill, the state repository is required to serve as the central point for processing all requests for instructional materials in an electronic format or an alternative format from institutions of higher education and, in performing that function, to do all of the following:

1. Compile and maintain a collection of instructional materials in electronic format and alternative format received from publishers, institutions of higher education, and other sources.

2. Receive requests for instructional materials in an electronic format or an alternative format from institutions of higher education.

3. If the instructional material requested is available in the state repository's collection or is otherwise available to the state repository, provide a copy of the instructional material to the requester.

4. If the instructional material requested is not available in the state repository's collection or is otherwise not available, request the publisher to provide the instructional material in an electronic format and obtain permission from the publisher to convert or arrange for the conversion of that instructional material into an alternative format.

5. Receive instructional material in electronic format from publishers, convert or arrange for the conversion of that instructional material into an alternative

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format, and provide ~~that alternative format version to the~~ institution of higher education ~~that requested the material at no additional cost.~~ ^{requesting}

The bill

The bill permits an institution of higher education, on behalf of a student with a disability, to request the state repository to provide instructional material in an electronic format or an alternative format by submitting a request to the state repository and requires the state repository to satisfy the request either by providing a copy that is available in the state repository's collection or is otherwise available to the state repository or, if a copy is not available from those sources, by requesting the publisher to provide the material in an electronic format. If it is necessary for the state repository to request instructional material in an electronic format from the publisher, the publisher must provide the instructional material to the state repository at no additional cost, within 15 working days after receipt of the request.

(END OF INSERT)

within 15 working days after receipt of the request

Malaise, Gordon

From: Malaise, Gordon
Sent: Monday, April 02, 2007 6:18 PM
To: Verette, Natalie
Subject: RE: LRB 0769

Natalie:

Obviously it is not your intent to require requests for instructional material to be made through the repository if the repository does not exist. Rather, it is your intent that if funds permit and a state repository is established, then all requests must be channeled through the repository. Therefore, I would argue under the principle of statutory construction that the legislature does not intend an absurd result that s. 106.57 (3) (a) 2. only applies if a state repository is established. But, admittedly, that is not what the provision says.

Accordingly, it would not hurt to clarify the issue, which can be easily done by inserting the following language:

1. On page 6, line 16, "If a state repository is established under par. (a) 1., the state repository shall . . .".
2. On page 8, line 7, "If a state repository is established under sub. (2) (a) 1., all of the following shall apply:
 1. An institution of higher education . . . may request the state repository . . .".

Indeed, the California and Arkansas language on which this draft is based both say, "*If a center is established, . . . the publisher is required only to honor requests submitted through the center.*".

So I'll go ahead and draft a /2 to make these changes.

Gordon

From: Verette, Natalie
Sent: Monday, April 02, 2007 3:53 PM
To: Malaise, Gordon
Subject: LRB 0769

Hi Gordon:

I circulated the draft to the folks we have been working with the the Electronic Access bill and we have one question. I'm hoping you can help me clarify for her.

Thank you,

Natalie

From: Leslie Perelman [mailto:lperelman@uwsa.edu]
Sent: Friday, February 23, 2007 11:02 AM
To: Verette, Natalie
Cc: tom.heffron@wtcsystem.org; scarranza@uwsa.edu; Merrill, Nancy A - WTCS; Joe Mielczarek/Northcentral Technical College; Randy Ingman/Northcentral Technical College
Subject: Re: Electronic Access to Written Materials

04/02/2007

Thank you for sending this to me.

There is one thing about which I was uncertain. On page 6, s.106.57(2)(a) notes,

Subject to availability of funds, the board and the board of regents shall jointly.....

Later in s. 106.57(3)(a)2 on page 8, it notes,

....A publisher is required to honor and respond only to those requests for instructional materials in electronic format from institutions of higher education that are made through the state repository.

Does this leave open the possibility that there will not be sufficient funds to establish a repository, but that all requests would have to come through such a repository?

Thanks for your assistance in clearing this up for me.

Leslie Perelman
UW System Administration
Office of Budget and Planning



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0169/1

GMM:wlj:nwn

Soon

stays ↑

2
DNR

2007 BILL

1 AN ACT ^{Regen} ~~to amend~~ 106.52 (1) (e) 1.; and ~~to create~~ 106.52 (3) (a) 6. and 106.57 of
2 the statutes; **relating to:** accessible instructional materials for students with
3 disabilities enrolled in the University of Wisconsin System or the technical
4 college system.

Analysis by the Legislative Reference Bureau

Under current state law, the University of Wisconsin System (UW System) and the Technical College System (TCS) may not deny to a student admission to, participation in, or the benefits of, or discriminate against a student in, any service, program, course, or facility because of the student's disability. In addition, under current federal law, a college, university, or other postsecondary institution, including a private postsecondary institution, may not exclude a student from participation in, deny a student the benefits of, or subject a student to discrimination under any program or activity receiving federal financial assistance. Federal regulations specify that a postsecondary institution receiving federal financial assistance must ensure that no student with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

This bill directs the TCS Board and the Board of Regents of the UW System jointly to do all of the following:

1. ~~Establish~~ at a location that best meets the needs of students with disabilities enrolled at institutions or college campuses within the UW System or at technical

Subject to the availability of funds, establish

BILL

colleges within the technical college system (institutions of higher education) a state repository for the purpose of collecting instructional materials in electronic and alternative formats and facilitating timely access to those materials by students with disabilities. "Student with a disability" is defined in the bill as a student who is blind or visually impaired, or who has a specific learning disability or other disability affecting the activity of reading, and who needs reasonable accommodations to read. "Alternative format" is defined in the bill to mean Braille, large print texts, audio recordings, digital texts, digital talking books, or any other medium or format for the presentation of instructional materials, other than standard print, that a student with a disability needs to make those materials accessible to the student.

2. Develop policies and procedures to ensure to the maximum extent possible that a student with a disability has access to instructional material in an appropriate alternative format within the first week of the class for which the material is required.

Under the bill, ^{if a state repository is established} the state repository is required to serve as the central point for processing all requests for instructional materials in electronic format or alternative format from institutions of higher education and, in performing that function, to do all of the following:

1. Compile and maintain a collection of instructional materials in electronic format and alternative format received from publishers, institutions of higher education, and other sources.

2. Receive requests for instructional materials in electronic format or alternative format from institutions of higher education.

3. If the instructional material requested is available in the state repository's collection or is otherwise available to the state repository, provide a copy of the instructional material to the requester.

4. If the instructional material requested is not available in the state repository's collection or is otherwise not available, request the publisher to provide the instructional material in electronic format and obtain permission from the publisher to convert or arrange for the conversion of that instructional material into an alternative format.

5. Receive instructional material in electronic format from publishers, convert or arrange for the conversion of that instructional material into an alternative format, and provide that alternative format version to the requesting institution of higher education at no additional cost.

~~The~~ bill permits an institution of higher education, on behalf of a student with a disability, to request the state repository to provide instructional material in electronic format or alternative format by submitting a request to the state repository. The bill requires the state repository to satisfy the request either by providing a copy that is available in the state repository's collection or is otherwise available to the state repository or, if a copy is not available from those sources, by requesting the publisher to provide the material in electronic format. If it is necessary for the state repository to request instructional material in electronic format from the publisher, within 15 working days after receipt of the request the

if a state repository is established, the

BILL

publisher must provide the instructional material to the state repository at no additional cost.

Under the bill, a request for instructional material in electronic format must certify that: 1) a copy of the instructional material in a standard format has been purchased for use by a student with a disability; 2) the student has a disability that prevents the student from using instructional material in a standard format; and 3) the instructional material is for use by the student in connection with a course at the institution of higher education in which the student is enrolled. In addition, the publisher may require the student to sign a statement agreeing that the student will use the electronic copy of the instructional material solely for his or her own educational purposes and that the student will not copy or distribute the instructional material for use by others.

Under the bill, instructional material provided by a publisher in electronic format must: 1) maintain the structural integrity of the original instructional material, which means that all of the information provided in printed instructional material, including the text of sidebars; the table of contents; chapter headings and subheadings; footnotes; indexes; glossaries; bibliographies; nontextual elements, such as pictures, illustrations, graphs, charts, and screenshots; and any other data that are pertinent to the instructional material, is included when that printed instructional material is provided in electronic format; 2) be compatible with commonly used Braille translation or speech synthesis software; 3) include corrections and revisions as necessary; and 4) be in an electronic format that is mutually agreed to between the publisher and the requester or, if the publisher and the requester cannot agree to a format, be in a format that is suitable for the creation of instructional material in an alternative format and that maintains the structural integrity of the original material as much as possible.

The bill permits an institution of higher education to use instructional material in electronic format provided under the bill solely to convert that material into an alternative format. The bill also permits an institution of higher education that converts instructional material into an alternative format to share the alternative format version of the material with the state repository, with any other institution of higher education that is serving a student with a disability, or with an entity that is authorized under the federal Copyright Act to reproduce and distribute previously published works in alternative formats exclusively for use by persons with disabilities and that commonly provides instructional materials in alternative formats to students enrolled in institutions of higher education.

Finally, current law prohibits any person from denying to another the full and equal enjoyment of any public place of accommodation or amusement because of disability (public accommodations law). This bill provides that a publisher of instructional material is considered to be a public place of accommodation or amusement and that any publisher that refuses to provide instructional material as required under the bill is in violation of the public accommodations law.

BILL

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 106.52 (1) (e) 1. of the statutes is amended to read:

2 106.52 (1) (e) 1. "Public place of accommodation or amusement" shall be
3 interpreted broadly to include, ~~but not be limited to,~~ places of business or recreation;
4 lodging establishments; restaurants; taverns; barber or cosmetologist, aesthetician,
5 electrologist or manicuring establishments; nursing homes; clinics; hospitals;
6 cemeteries; publishers, as defined in s. 106.57 (1) (h); and any place where
7 accommodations, amusement, goods, or services are available either free or for a
8 consideration, subject to subd. 2.

9 **SECTION 2.** 106.52 (3) (a) 6. of the statutes is created to read:

10 106.52 (3) (a) 6. Refuse to provide instructional material in electronic format
11 in violation of s. 106.57 (3) (a).

12 **SECTION 3.** 106.57 of the statutes is created to read:

13 **106.57 Postsecondary education; accessible instructional material for**
14 **students with disabilities. (1) DEFINITIONS.** In this section:

15 (a) "Alternative format" means Braille, large print texts, audio recordings,
16 digital texts, digital talking books, or any other medium or format for the
17 presentation of instructional materials, other than standard print, that a student
18 with a disability needs to make those materials accessible to the student.

19 (b) "Board" means the technical college system board.

20 (c) "Board of Regents" means the Board of Regents of the University of
21 Wisconsin System.

BILL

1 (d) "Institution of higher education" means an institution or college campus
2 within the University of Wisconsin System or a technical college within the technical
3 college system.

4 (e) "Instructional material" means any material that the instructor of a course
5 of study at an institution of higher education includes in the syllabus of that course
6 of study.

7 (f) "Maintain structural integrity" means to include all of the information
8 provided in the original printed instructional material, including the text of sidebars;
9 the table of contents; chapter headings and subheadings; footnotes; indexes;
10 glossaries; bibliographies; nontextual elements, such as pictures, illustrations,
11 graphs, charts, and screenshots; and any other data that are pertinent to the
12 instructional material, when that printed instructional material is provided in
13 electronic format.

14 (g) "Nonprinted instructional material" means instructional material in a
15 format other than print, including instructional material that requires the
16 availability of electronic equipment, such as a computer software program,
17 videodisc, videotape, or audiotape, to be used as a learning resource.

18 (h) "Printed instructional material" means instructional material in a book or
19 other printed form.

20 (i) "Publisher" means a person that publishes or manufactures instructional
21 material.

22 (j) "State repository" means the state repository for instructional materials
23 established under sub. (2) (a) 1.

24 (k) "Student with a disability" means a student enrolled in an institution of
25 higher education who is blind or visually impaired, or who has a specific learning

BILL

Subject to the availability of funds, establish

1 disability or other disability affecting the activity of reading, and who needs
2 reasonable accommodations to read.

3 (L) "Working day" means a day that is not a Saturday, a Sunday, a holiday
4 designated under s. 230.35 (4) (a), or a legal holiday under federal law. *The*

5 (2) STATE REPOSITORY. (a) ~~Subject to the availability of funds, the~~ board and the
6 board of regents shall jointly under s. 20.901 (4) do all of the following:

7 1. ~~Establish~~ a state repository for the purpose of collecting instructional
8 materials in electronic and alternative formats and facilitating timely access to those
9 materials by students with disabilities. The board and the board of regents shall
10 jointly determine the location of the state repository so as to best meet the needs of
11 students with disabilities enrolled at institutions of higher education in this state.

12 2. Develop policies and procedures to ensure to the maximum extent possible
13 that a student with a disability has access to instructional material in an appropriate
14 alternative format within the first week of the class for which the material is
15 required.

IF a state repository is established under sub (2)(a) by the

16 (b) ~~The~~ state repository shall serve as the central point for processing all
17 requests for instructional materials in electronic format or alternative format from
18 institutions of higher education under sub. (3) (a) 1. and, in performing that function,
19 shall do all of the following:

20 1. Compile and maintain a collection of instructional materials in electronic
21 format and alternative format received from publishers, institutions of higher
22 education, and other sources.

23 2. Receive requests for instructional materials in electronic format or
24 alternative format from institutions of higher education under sub. (3) (a) 1.

BILL

1 3. If the instructional material requested is available in the state repository's
2 collection or is otherwise available to the state repository, provide a copy of the
3 instructional material to the requester.

4 4. If the instructional material requested is not available in the state
5 repository's collection or is otherwise not available, request the publisher to provide
6 the instructional material in electronic format under sub. (3) (a) 1. and obtain
7 permission from the publisher to convert or arrange for the conversion of that
8 instructional material into an alternative format.

9 5. Receive instructional material in electronic format from publishers under
10 sub. (3) (a) 1., convert or arrange for the conversion of that instructional material into
11 an alternative format, and provide the alternative format version to the requesting
12 institution of higher education at no additional cost. under sub (3) (a) 1

13 (c) If a publisher has previously responded to a request from the state
14 repository for instructional material in electronic format, the state repository shall
15 satisfy all subsequent requests for the material from an institution of higher
16 education. On request of a publisher, the state repository shall provide to the
17 publisher all of the following:

18 1. A summary of all instructional materials published by that publisher that
19 the state repository has provided in electronic format or alternative format to
20 institutions of higher education from its holdings.

21 2. Copies of requests for instructional materials published by that publisher
22 that the state repository has received from institutions of higher education.

23 (d) In its biennial report under s. 15.04 (1) (d), the Board of Regents shall
24 include an assessment of the need for technical assistance, training, and other
25 support to increase the availability and effective use of instructional materials in

BILL

If a state repository is established under sub. (2) (a) 1, all of the following shall apply.

SECTION 3

1 alternative formats by students with disabilities enrolled in the University of
2 Wisconsin System. In its biennial report under s. 15.04 (1) (d), the board shall include
3 an assessment of the need for technical assistance, training, and other support to
4 increase the availability and effective use of instructional materials in alternative
5 formats by students with disabilities enrolled in the technical college system.

6 (3) PROVISION OF INSTRUCTIONAL MATERIALS IN ELECTRONIC OR ALTERNATIVE
7 FORMAT. (a) 1. An institution of higher education, on behalf of a student with a
8 disability, may request the state repository to provide instructional material in
9 electronic format or alternative format by submitting a request that complies with
10 par. (b) and with any requirement imposed by the publisher under par. (c) to the state
11 repository, and the state repository shall satisfy the request as provided in sub. (2)
12 (b) 3. to 5. If it is necessary for the state repository to request instructional material
13 in electronic format from the publisher, within 15 working days after receipt of the
14 request the publisher, subject to par. (e), shall provide the instructional material in
15 an electronic format that complies with par. (d) to the state repository at no
16 additional cost.

17 2. All requests to publishers for instructional materials in electronic format
18 from institutions of higher education shall be made through the state repository. A
19 publisher is required to honor and respond only to those requests for instructional
20 materials in electronic format from institutions of higher education that are made
21 through the state repository.

22 (b) A request under par. (a) for instructional material in electronic format or
23 alternative format shall be prepared and signed by the coordinator of services for
24 students with disabilities at an institution of higher education or by another
25 employee of an institution of higher education who is responsible for monitoring

BILL

1 compliance with the federal Americans with Disabilities Act, 42 USC 12101 to 12213,
2 or the federal Rehabilitation Act of 1973, 29 USC 701 to 796L, by a representative
3 of the division of vocational rehabilitation in the department on behalf of an
4 institution of higher education, or by a representative of the state repository on
5 behalf of an institution of higher education, and shall certify all of the following:

6 1. That a copy of the instructional material in standard format has been
7 purchased for use by a student with a disability by the student or by the institution
8 of higher education in which the student is enrolled.

9 2. That the student has a disability that prevents the student from using
10 instructional material in standard format.

11 3. That the instructional material is for use by the student in connection with
12 a course at the institution of higher education in which the student is enrolled.

13 (c) A publisher may require a request under par. (a) to be accompanied by a
14 statement signed by the student or, if the student is a minor, the student's parent,
15 guardian, or legal custodian agreeing to all of the following:

16 1. That the student will use the instructional material solely for his or her own
17 educational purposes.

18 2. That the student will not copy or distribute the instructional material for use
19 by others.

20 (d) Instructional material provided by a publisher in electronic format shall
21 meet all of the following requirements:

22 1. Maintain the structural integrity of the original instructional material,
23 except that this requirement does not apply to nontextual instructional material
24 unless technology is available to maintain the structural integrity of the nontextual
25 instructional material.

BILL**SECTION 3**

1 2. Be compatible with commonly used Braille translation or speech synthesis
2 software.

3 3. Include corrections and revisions as necessary.

4 4. Be in an electronic format that is mutually agreed to between the publisher
5 and the requester. If good faith efforts fail to produce an agreement as to an
6 electronic format that will maintain the structural integrity of the original
7 instructional material, the publisher shall provide the instructional material in an
8 electronic format that is suitable for the creation of instructional material in
9 alternative format and that maintains the structural integrity of the original
10 instructional material as much as much as possible.

11 (e) If providing instructional material in electronic format within 15 working
12 days after receipt of a request under par. (a) 1. would impose an undue burden on a
13 publisher, the publisher shall, within those 15 working days, submit a statement to
14 the requester certifying the date by which the publisher expects to transmit or
15 deliver the instructional material. If a publisher has previously responded to a
16 request from the state repository for instructional material in electronic format, the
17 state repository shall satisfy all subsequent requests for that material from an
18 institution of higher education. *provided by the state repository or a publisher*

19 (4) USE OF INSTRUCTIONAL MATERIALS IN ELECTRONIC FORMAT. (a) An institution
20 of higher education may assist a student with a disability by using instructional
21 material in electronic format ~~provided under sub. (2) (b) 3. or 5.~~ solely to convert or
22 arrange for the conversion of that material into an alternative format. If an
23 institution of higher education converts or arranges for the conversion of that
24 material into an alternative format, the institution of higher education may share
25 the alternative format version of the material with the state repository, with any

BILL

1 other institution of higher education that is serving a student with a disability, or
2 with an authorized entity, as defined in 17 USC 121 (c) (1), that commonly provides
3 instructional materials in alternative formats to students enrolled in institutions of
4 higher education.

5 (b) If an institution of higher education permits a student with a disability to
6 directly use instructional material in electronic format, the disc or file of the
7 electronic format version shall be copy protected, or the institution of higher
8 education shall take reasonable precautions to ensure that the student does not copy
9 or distribute the electronic format version in violation of the federal Copyright Act,
10 17 USC 101 to 1332.

11 (c) Nothing in this section shall be construed to authorize any use of
12 instructional materials that would constitute an infringement of copyright under the
13 federal Copyright Act, 17 USC 101 to 1332.

14 (5) PUBLISHER A PUBLIC PLACE OF ACCOMMODATION OR AMUSEMENT. A publisher is
15 considered to be a public place of accommodation or amusement for purposes of s.
16 106.52. Any publisher that refuses to provide instructional material in electronic
17 format as required under sub. (3) (a) 1. is in violation of s. 106.52 (3).

SECTION 4. Effective date.

18 (1) This act takes effect on January 1, 2008, or on the day after publication,
19 whichever is later.
20

21 (END)

Barman, Mike

From: Malaise, Gordon
Sent: Thursday, June 14, 2007 12:49 PM
To: Barman, Mike
Subject: FW: LRB 0169/2

Mike:

Please jacket -0169/2 for Rep. Seidel.

thank you.

Gordon

From: Verette, Natalie
Sent: Thursday, June 14, 2007 12:31 PM
To: Malaise, Gordon
Subject: LRB 0169/2

Hi Gordon:

I would like to have LRB 0169/2 re: electronic access to written materials jacketed for introduction. I also need a senate companion drafted and jacketed - Senator Roessler will be introducing and you can send to her office. Can you please let me know the LRB number for the senate so that I can include it in the co-sponsor memo?

Thank you,

Natalie

Natalie Verette
Legislative Assistant
Office of State Representative Donna Seidel
85th Assembly District

State Capitol, 7 North
P.O. Box 8953
Madison, WI 53708

608.266.0654
888.534.0085 (toll-free)
natalie.verette@legis.wisconsin.gov

06/14/2007

Memo

To: Representative

Seidel

(The Draft's Requester)

Per your request ... the attached fiscal estimate was prepared for your un-introduced 2007 session draft.

LRB Number: 2007 LRB-0169

Version: " /2 "

Fiscal Estimate Prepared By: (agency abbr.) WTCS

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: 05 / 16 / 2007

*** * * * ***

To: LRB - Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

> **If redrafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.

> **If introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Christina) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

> **If introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the draft's introduction number below and give to Mike (or Christina) to process.

THIS DRAFT WAS INTRODUCED AS: 2007

AB 469

Barman, Mike

From: Barman, Mike
Sent: Wednesday, May 16, 2007 2:01 PM
To: Rep.Seidel
Cc: Verette, Natalie
Subject: LRB 07-0169/2 (un-introduced) (FE by WTCS - attached - for your review)

Attachments: FE_Seidel.PDF



FE_Seidel.PDF (523 KB)

Mike Barman (Senior Program Assistant)
State of Wisconsin - Legislative Reference Bureau
Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov

Memo

To: Representative **Seidel**

(The Draft's Requester)

Per your request ... the attached fiscal estimate was prepared for your un-introduced 2007 session draft.

LRB Number: 2007 LRB-0169

Version: " /2 "

Fiscal Estimate Prepared By: (agency abbr.) UWS

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: 05 / 21 / 2007

*** * * * ***

To: LRB – Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

- > **If redrafted ...** please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.
- > **If introduced ...** and the version of the attached fiscal estimate is for a **previous version ...** please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Christina) get the ball rolling on getting a fiscal estimate prepared for the introduced version.
- > **If introduced ...** and the version of the attached fiscal estimate is for the **current version ...** please write the draft's introduction number below and give to Mike (or Christina) to process.

THIS DRAFT WAS INTRODUCED AS: 2007 _____

Barman, Mike

From: Barman, Mike
Sent: Monday, May 21, 2007 12:24 PM
To: Rep.Seidel
Cc: Verette, Natalie
Subject: LRB 07-0169/2 (un-introduced) (FE by UWS - attached - for your review)

Attachments: FE_Seidel.PDF



FE_Seidel.PDF (518
KB)

Mike Barman (Senior Program Assistant)
State of Wisconsin - Legislative Reference Bureau
Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov