



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1187/E3

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P4

stays

DOA:.....Boggs, BB0258 - Create authority for UW-Madison

**FOR 2011-13 BUDGET - NOT READY FOR INTRODUCTION**

1

Do Not Gen

AN ACT relating to: the budget.

and the UW-extension

*Analysis by the Legislative Reference Bureau*

**EDUCATION**

**HIGHER EDUCATION**

Currently, the UW System consists of 13 four-year institutions, including the UW-Madison, ~~and~~ 13 two-year colleges. The UW System is governed by the Board of Regents, which consists of the state superintendent of public instruction, the president of the technical college system, 14 citizen members, and two students. The latter 16 members are appointed by the governor and confirmed by the senate. There is a shared, hierarchical system of governance for the UW System: the Board of Regents has primary responsibility, followed by the UW System president, the chancellors of the institutions, the faculty, and the academic staff and students. Three boards are created in or attached to the UW System: the Environmental Education Board, the Laboratory of Hygiene Board, and the Veterinary Diagnostic Laboratory.

This bill creates an authority entitled the University of Wisconsin-Madison, consisting of the current UW-Madison. The authority is governed by the Board of Trustees, consisting of 21 members, 11 of whom are appointed by the governor, and the chancellor, who serves as a nonvoting member. The chancellor is appointed by the Board of Trustees to serve at its pleasure and is the chief executive officer of the authority. The bill establishes a shared, hierarchical governance system for the authority, consisting of the Board of Trustees, the chancellor, the faculty, and the academic staff and students.

nonvoting

Not

The bill also creates a board of trustees to govern the authority. Twenty-one members, 11 of whom are appointed by the governor, and the chancellor, who

serves as a nonvoting member, comprise the Board of Trustees

STEP

The bill transfers all assets and liabilities of the current UW-Madison, including real property and all incumbent UW-Madison employees to the authority. Until July 1, 2012, the authority must adhere to the terms of any collective bargaining agreement covering the employees, and the authority is considered an agency under the state employment relations laws for all purposes. Beginning July 1, 2012, the authority must implement its own personnel system. Tenured faculty at the current UW-Madison retain their tenure at the authority. The authority remains a participating employer in the Wisconsin Retirement System and authority employees retain health insurance and other benefits enjoyed as state employees. All contracts entered into by the Board of Regents that are primarily related to the operation of the UW-Madison, including the contracts with the Board of Directors of the UW Hospitals and Clinics Authority, are transferred to the authority's Board of Trustees.

The bill does not require the Board of Trustees to promulgate administrative rules except for rules relating to conduct on university property. The bill authorizes the Board of Trustees to condemn property.

Current law prohibits the Board of Regents of the UW System from increasing resident undergraduate tuition beyond an amount sufficient to fund certain specified costs and activities, including the amounts specified in the state budget act, the approved recommendations of the director of the Office of State Employment Relations for staff compensation and fringe benefits, and distance education. This bill places no limit on the amount of tuition that the authority may charge.

The bill appropriates general purpose revenue, program revenue, and moneys from segregated funds to the authority. The authority is not required to deposit moneys that it receives, such as tuition, gifts, grants, and federal revenue, into the state treasury. However, it must transfer daily to the state treasurer for deposit into the local government pooled-investment fund the collected cash balance from all sources except gifts, grants, and donations. The bill authorizes the Board of Trustees to transfer gifts, grants, and donations to the UW Foundation.

The bill exempts the authority from DOA's authority over state agency use of gasohol, alternative fuels, and hybrid-electric vehicles. The bill also exempts authority employees from certain requirements regarding employment or retention by another state agency or authority.

The bill abolishes the Laboratory of Hygiene Board and the Veterinary Diagnostic Laboratory Board and transfers their functions to the authority. The bill directs the Board of Trustees, instead of the Board of Regents, to appoint the director of the laboratory of hygiene, the director of the psychiatric institute, the state geologist, and the state cartographer.

The bill makes other changes regarding the UW-System and the UW-Madison, including the following:

1. The bill transfers loan assistance programs for physicians and other health care providers, but not dentist and dental hygienist programs, from the Board of Regents to the Board of Trustees.

2. The bill adds one authority member to the following: the teachers retirement board in DETF, the natural areas preservation council in DNR, the professional

does not impose these restrictions on the establishment of tuition by the Board of Trustees

Board of Trustees

each of boards and councils

person associated with the authority

Board of Trustees members

Board of Regents

standards council for teachers in DPI, the Higher Educational Aids Board, (the Technical College System Board.

3. The bill replaces certain ~~UW System~~ members of the following ~~with UW-Madison members~~: the University of Wisconsin Hospitals and Clinics Board, the board of directors of the University of Wisconsin Hospitals and Clinics Authority, and the ~~medical review committee~~.

and bodies  
and

The bill does the following regarding legal proceedings involving the authority:

1. Under current law, no one may sue a state officer, employee, or agent who is acting in his or her official capacity for damages unless the person serves the attorney general with a written notice of claim within 120 days of the event that allegedly caused the damages. The bill applies the prohibition to actions against an officer, director, employee, or agent of the Board of Trustees of the authority.

2. With few exceptions, current law limits damages in a case against a state officer, employee, or agent who is acting in his or her official capacity to \$250,000. The bill applies the limit to actions against an officer, director, employee, or agent of the Board of Trustees.

3. Under current law, generally, if a public officer or a state employee is sued in an official capacity or for actions undertaken within the scope of his or her employment, the state or the political subdivision that employs the officer or employee must provide legal counsel to the defendant officer or employee or cover legal costs for the officer or employee. If damages are assessed against the officer or employee, the state or political subdivision must pay the damages. Under the bill, an officer, director, employer, or agent of the Board of Trustees is treated as a state officer, director, employer, or agent for purposes of the foregoing requirements.

4. Under current law, DOJ represents the state, state agencies, and state employees in certain legal proceedings, reviews, and actions. Under the bill, DOJ represents the Board of Trustees as a department of state government and the officials, employees, and agents of the board as state officials, employees, and agents for the purpose of representation in civil and criminal proceedings, and upon request, for the purpose of appearing for and representing the board or its officials, employees, or agents at an administrative or civil court proceeding.

See also STATE GOVERNMENT — STATE BUILDING PROGRAM and OTHER STATE GOVERNMENT.

**STATE GOVERNMENT**

**STATE BUILDING PROGRAM**

Currently, with limited exceptions, each state agency, including the UW System, must submit for approval of the Building Commission any contract for the engineering, design, construction, reconstruction, remodeling, or expansion of a building, structure, or facility if the project cost exceeds \$150,000; if the project cost exceeds \$500,000, the project must be enumerated in the Authorized State Building Program, which is set forth by law. Currently, DOA manages all engineering, design, and construction work for state agencies, including the UW System, but DOA may delegate its management authority to an agency for a specific project. If management authority for a project is delegated, the agency to which authority is delegated is subject to the same requirements that apply to DOA if DOA manages

the project directly. With limited exceptions, DOA must provide public notice of proposed work and let contracts to the lowest responsible bidder. Plans and specifications for all work on UW projects are subject to approval of DOA. DOA may assess and collect from state agencies, including the UW System, a construction project management fee to cover its costs in managing each project. With limited exceptions, each engineering, design, or construction contract for a state building, structure, or facility is subject to approval of the secretary of administration and, if the contract involves an expenditure of more than \$60,000, the approval of the governor. DOA must grant preference to Wisconsin-based firms under certain conditions and must attempt to ensure that 5 percent of the total amount that the state expends on DOA-supervised projects in each fiscal year is paid to minority-owned businesses and that a portion of that amount is also paid to disabled veteran-owned businesses.

This bill deletes DOA's and the governor's responsibility for management and supervision of, and approval of plans, specifications, and contracts for, any building, structure, or facility to be constructed, reconstructed, remodeled, or expanded for the authority if the project is funded entirely from sources other than state general purpose revenue or general fund supported bonding. The bill also deletes the requirement for approval of the Building Commission on any such project if the cost of the project does not exceed \$500,000. Under the bill, the authority is not required to adhere to any of the requirements that currently apply to DOA with respect to any such project and is not subject to assessment by DOA for its construction management services.

Currently, the UW System may not accept a gift or grant of real property valued in excess of \$30,000 or any gift of a building, structure, or facility that is constructed for the benefit of the UW System without approval of the Building Commission. Under the bill, this restriction does not apply to the authority. Currently, no state agency, including the UW System, may permit a facility that would be privately owned or operated to be constructed on state-owned land without approval of the Building Commission. Under the bill, this restriction does not apply to the authority.

OTHER STATE GOVERNMENT

Currently, except as otherwise provided by law, the records of a state or local governmental officer or entity are subject to the right of public inspection and copying unless the custodian demonstrates that the public interest in withholding access to the information in a record outweighs the strong public interest in providing access to that information. This bill permits any public institution of higher education to withhold from access any information that is produced or collected by or for the faculty or staff of the institution in the conduct of, or as a result of, study or research on a commercial, scientific, or technical subject until that information is publicly disseminated or patented.

Under current law, the chancellor of the UW-Madison and the vice chancellor who serves as deputy are subject to the standards of conduct under the code of ethics for state public officials as well as the requirement to file annual statements of economic interests. Other employees of the UW-Madison are subject to a code of ethics established by the Board of Regents of the UW System. This bill continues

STATE FINANCE

Current  
3 Percent

appropriation

state funds or accounts to other state funds and accounts ~~to~~ to cover deficiencies subject to certain limitations, and may also reallocate an amount equal to not more than 3% of general purpose revenue appropriations to the general fund for not more than 30 days. This bill increases that amount to not more than 6% of current general purpose revenue.

1           **SECTION 76.** 16.705 (1r) (d) of the statutes is amended to read:

2           16.705 (1r) (d) Contractual services purchased by the Board of Regents of the  
3 University of Wisconsin System with moneys appropriated under s. 20.285 (1) (j),  
4 (ja), (jm), (u), or (w) ~~or (5) (j)~~.

5           **SECTION 77.** 16.705 (1r) (e) of the statutes is created to read:

6           16.705 (1r) (e) Contractual services purchased by the Board of Trustees of the  
7 University of Wisconsin-Madison with moneys other than moneys appropriated  
8 under s. 20.280.

9           **SECTION 78.** 16.71 (1m) of the statutes is amended to read:

10           16.71 (1m) The department shall not delegate to any executive branch agency,  
11 other than the ~~board of regents~~ Board of Regents of the University of Wisconsin  
12 System ~~and the Board of Trustees of the University of Wisconsin-Madison~~, the  
13 authority to enter into any contract for materials, supplies, equipment, or  
14 contractual services relating to information technology or telecommunications prior  
15 to review and approval of the contract by the department. No executive branch  
16 agency, other than the ~~board of regents~~ Board of Regents of the University of  
17 Wisconsin System ~~or the Board of Trustees of the University of Wisconsin-Madison~~,  
18 may enter into any such contract without review and approval of the contract by the  
19 department. Any executive branch agency that enters into a contract relating to  
20 information technology under this section shall comply with the requirements of s.  
21 16.973 (13). ~~Any delegation to the board of regents~~ Board of Regents of the University  
22 of Wisconsin System is subject to the limitations prescribed in s. 36.11 (49).

23           **SECTION 79.** 16.71 (4) of the statutes is created to read:

24           16.71 (4) The department shall delegate to the Board of Trustees of the  
25 University of Wisconsin-Madison the authority to enter into contracts for materials,

1 a public institution of higher education in the conduct of, or as a result of, study or  
2 research on a commercial, scientific, or technical subject, whether sponsored by the  
3 institution alone or in conjunction with an authority or a private person, until that  
4 information is publicly disseminated or patented.

5 **SECTION 155.** 19.42 (13) (bm) of the statutes is created to read:

6 19.42 (13) (bm) The positions of chancellor and vice chancellor of the University  
7 of Wisconsin-Madison.

8 **SECTION 156.** 19.45 (11) (e) of the statutes is created to read:

9 19.45 (11) (e) The board of trustees of the University of Wisconsin-Madison  
10 shall establish a code of ethics for its employees who are not state public officials.

11 **SECTION 157.** 19.84 (5m) of the statutes is created to read:

12 19.84 (5m) Departments and their subunits in the University of  
13 Wisconsin-Madison are exempt from the requirements of subs. (1) to (4) but shall  
14 provide meeting notice that is reasonably likely to apprise interested persons and  
15 news media who have filed written requests for such notice.

16 **SECTION 158.** 20.002 (11) (b) 2. of the statutes is amended to read:

17 ~~20.002 (11) (b) 2. Except as provided in subd. 3, the secretary of administration  
18 shall limit the total amount of any temporary reallocations to the general fund at any  
19 one time during a fiscal year to an amount equal to the amount deposited under s.  
20 25.50 (3m) as of that time plus 5% of the total amounts shown in the schedule under  
21 s. 20.005 (3) of appropriations of general purpose revenues, calculated by the  
22 secretary as of that time and for that fiscal year. During the 2009-11 fiscal biennium,  
23 the amount that may be reallocated under this subdivision during a fiscal year may  
24 not exceed 7 percent of such revenues.~~

25 **SECTION 159.** 20.235 (1) (fe) of the statutes is amended to read:

56-  
24

**SECTION 431**

1 system installed on each floor at the time the residence hall or dormitory is  
2 constructed.

3 **SECTION 432.** 101.14 (4) (b) 3. c. of the statutes is amended to read:

4 101.14 (4) (b) 3. c. Every residence hall and dormitory over 60 feet in height,  
5 the initial construction of which was begun before January 7, 2006, that is owned or  
6 operated by an institution of higher education, other than a residence hall or  
7 dormitory that is owned or operated by the Board of Regents of the University of  
8 Wisconsin System or the Board of Trustees of the University of Wisconsin-Madison,  
9 to contain an automatic fire sprinkler system on each floor by January 1, 2014.

10 **SECTION 433.** 101.14 (4) (b) 3. d. of the statutes is amended to read:

11 101.14 (4) (b) 3. d. Every residence hall and dormitory, the initial construction  
12 of which is begun on or after January 7, 2006, that is owned or operated by an  
13 institution of higher education, other than a residence hall or dormitory that is  
14 owned or operated by the Board of Regents of the University of Wisconsin System or  
15 the Board of Trustees of the University of Wisconsin-Madison, to have an automatic  
16 fire sprinkler system installed on each floor at the time the residence hall or  
17 dormitory is constructed.

*faculty, academic staff*

18 **SECTION 434.** 111.81 (7) (h) of the statutes is created to read:

19 111.81 (7) (h) Staff appointed by the Board of Trustees of the University of  
20 Wisconsin-Madison under s. 37.19 (2), except limited term employees, sessional  
21 employees, project employees, supervisors, management ~~employees, and individuals~~  
22 who are privy to confidential matters affecting the employer-employee relationship.

*persons*

23 **SECTION 435.** 111.81 (8) of the statutes is amended to read:

24 111.81 (8) "Employer" means the state of Wisconsin, or, with respect to the  
25 employees under sub. (7) (h), the University of Wisconsin-Madison.

*190-22*

56-24

Section #. 20.002 (11) (b) 3. of the statutes is amended to read:

20.002 (11) (b) 3. In addition to the amount permitted for temporary reallocations in subd. 2., the secretary may permit an additional ~~3%~~ <sup>6 percent</sup> of the total amounts shown in the schedule under s. 20.005 (3) of appropriations of general purpose revenues, calculated by the secretary as of that time and for that fiscal year, to be used for temporary reallocations to the general fund but only if the reallocation is for a period not to exceed 30 days. Reallocations may not be made under this subdivision for consecutive periods.

**History:** 1971 c. 125; 1973 c. 90, 333; 1975 c. 39 s. 732 (1); 1975 c. 164, 198; 1977 c. 29, 196, 373, 418, 447; 1979 c. 34; 1981 c. 14, 20, 61, 93, 314; 1983 a. 3, 27, 192; 1985 a. 29, 120; 1985 a. 135 s. 85; 1985 a. 332 s. 253; 1987 a. 4, 27, 186; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31; 1991 a. 39, 51, 269; 1993 a. 16, 437; 1997 a. 237; 1999 a. 9; 2001 a. 16; 2003 a. 35; 2007 a. 125; 2009 a. 11, 28.

190-22

(No ff)

^ persons whose employment is a  
necessary part of their training; ^  
student assistants; ^ and student  
hourly  
hourly help