

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4640/1dn  
RJM&JTK:cmh:km

March 20, 2000

Representative Pocan:

1. Under the bill, every regent that is not a full-time state officer or employe is annually paid \$10,000. This provision is modeled after the existing statute that establishes the compensation of members of state boards. Please let us know if this exemption is not consistent with your intent.

2. The bill establishes 4 student regent districts per your instruction, but retains a procedure for adjusting the districts every 10 years, beginning in 2011, to account for changes in enrollment at the various campuses. Please let us know if this procedure is not consistent with your intent.

3. Please review proposed s. 17.19 (3t), regarding vacancies on the board of regents. The bill primarily changes two aspects of this provision. The bill expands the time-frame for electing a successor to fill a vacancy in the office of a member who is elected from a congressional district. Under the bill, if the vacancy occurs on or before December 1 of the 2nd year (rather than the 3rd year) preceding expiration of the term, a successor must be elected. The bill also expands the timeframe for electing a successor to fill a vacancy in the office of a student regent. Under the bill, if the vacancy occurs on or before October 1 of the year preceding the expiration of the term (rather than January 1 of the 2nd year preceding expiration of the term), a successor must be elected. These changes seemed to be appropriate due to the respective 4-year and 2-year terms. Please let us know if you do not approve.

4. The bill avoids the potential for a recurring vacancy on the board caused by student regents who graduate in May and who do not enroll for further study. The bill requires the rules of the board to specify that, for the purposes of being eligible to serve as a student regent, if an individual ceases to be enrolled due to graduating during the spring semester, the individual ceases to be enrolled effective July 1 (the date on which the terms of office for regents expire).

5. Please review the nonstatutory material regarding the initial election of student regents to ensure that these provisions satisfy your intent.

6. As indicated in a previous drafter's note, the treatment of ss. 15.91 and 36.115, stats., contained in this draft, which empowers students of the UW system to elect some of the members of the board, may be an unconstitutional violation of the equal protection clause of the 14th Amendment. You have indicated that the state of

Colorado has a mechanism for electing student regents similar to that contained in this bill. We are in the process of examining that law and determining whether it has been challenged in a way that provides convincing legal precedent in support of this bill. We will let you know the results of our research.

The courts have made clear that the one-person, one vote rule does not impinge the state's ability to prescribe qualifications (short of invidiously discriminatory qualifications) for appointive positions. To avoid any potential challenge to this bill on 14th Amendment grounds, you may want to consider accomplishing your goals by changing the qualifications for appointment to the board or by changing the procedure for these appointments.

Jeffery T. Kuesel  
Managing Attorney  
Phone: (608) 266-6778

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: Robert.Marchant@legis.state.wi.us