

2001 Jr2 DRAFTING REQUEST

Senate Amendment (SA-SSA1-AB1)

Received: 03/28/2002

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Senate Democratic Caucus**

By/Representing: **Engel**

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

Drafter: **kunkemd**

May Contact:

Addl. Drafters:

Subject: **Public Util. - energy
Higher Education - UW System**

Extra Copies: **PG**

Submit via email: **NO**

Pre Topic:

SCC:.....Engel - CN5540,

Topic:

Construction of cogeneration plant at UW-Madison

Instructions:

See Attached

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>
/1	kunkemd 04/02/2002	gilfokm 04/02/2002	rschluet 04/02/2002	_____	lrb_docadmin 04/02/2002		
/2	kunkemd 04/04/2002	jdyer 04/04/2002	jfrantze 04/04/2002	_____	lrb_docadmin 04/04/2002		

FE Sent For:

<END>

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/1	kunkemd 04/02/2002	gilfokm 04/02/2002	rschlue 04/02/2002	_____	lrb_docadmin 04/02/2002		

FE Sent For:

1/2 ⁴/₄ JLD
 7/4/4
 Ball
 4/4
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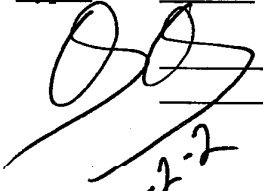
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/?	kunkemd	1-4/2 King					
			4-2-2				

FE Sent For:

<END>

62877

Public Service Commission

Provisions related to the construction of a cogeneration plant on the UW-Madison campus.

MD/K

5540

Section 1. Nonstatutory Provisions

(1) **FINDINGS AND DECLARATION OF NEED.** It is recognized that new and/or expanded buildings and facilities are planned for the University of Wisconsin-Madison campus within the next 10 years as part of ongoing public and private initiatives to strengthen the University and its programs in order to promote economic development within the state and to enhance the ability of the state's citizens and business to successfully compete in the global economy. It is further recognized that the success of these initiatives depends upon the availability of adequate utility services, including steam, chilled water and electrical services, on the University campus. It is found and declared that the existing facilities for electric, steam and chilled water services are inadequate to meet the anticipated needs of the University and that the University faces an urgent need for new facilities to provide such services by mid-2004. It is further found that significant longterm cost-savings can be realized if a centralized cogeneration system is used for building heating and cooling needs on the University of Wisconsin-Madison campus, as compared to either individual building heating and cooling units or a centralized station heating and cooling system that does not incorporate cogeneration. It is further found and declared that the University's utility service provider needs approximately 150 megawatts of additional electric generating capacity by mid-2004 to meet the anticipated electrical power needs in its service area. It is further found and declared that the public interest would be served by requiring the University's utility service provider to construct, upon timely receipt of all necessary permits and approvals, a combined electric, steam and chilled water cogeneration facility on a certain parcel of property located on the University campus, which facility shall be operational by June 1, 2004. It is recognized that expeditious action is necessary to complete design, pricing and other plans for the cogeneration facility and to secure all necessary permits and approvals.

(2) **DEFINITIONS.** In this section:

(a) "Commission" means the public service commission.

(b) "Department" means the department of administration.

(c) "Pricing Plan" means an agreement between the University, the Department and the Utility regarding the Project that specifies (i) an allocation or a method for the allocation of all costs related to the Project between the University and the Utility; and (ii) the terms and the price (or a formula for calculating the price) to be paid by the University for electric, steam and chilled water service provided by the Project.

MGE

(d) "Project" means the engineering, design and construction of an electric, steam and chilled water cogeneration facility to be located on the Site and tailored to serve the specific steam, chilled water and electric needs of the University and the electric power needs of the Utility.

(e) "Project Plan" means an agreement between the University, the department and the Utility regarding the Project that specifies (i) the requirements and specifications for electric, steam and chilled water service; (ii) the requirements and specifications for the generation of at least 150 megawatts of dispatchable electrical power; (iii) terms for the University's acceptance of steam and chilled water generated by the Project; (iv) aesthetic requirements and specifications for the Project; and (v) the allocation or a method for the allocation of costs related to each of these items between the parties.

(f) "Site" means that certain parcel of property located immediately north of the University's existing Walnut Street Plant, and bounded by Walnut Street on the west, Herrick Drive on the north, the existing University physical plant buildings on the east and the north wall of the existing Walnut Street heating plant on the south.

(g) "University" means the University of Wisconsin-Madison.

(h) "Utility" means the University's electric utility service provider or such utility service provider's designated affiliate.

(3) **UTILITY TO COMPLETE PROJECT.** Subject to timely receipt of all necessary permits and approvals, the Utility is authorized to complete the Project at the Site by June 1, 2004. For purposes of this section, the Project shall be deemed complete if the facility is substantially operational. *→ legislatively delegated funding*

} why necessary ?

(4) **PROJECT PLAN AND PRICING PLAN.**

(a) The Utility, the Department and the University shall promptly agree on a final Project Plan and Pricing Plan. The Utility shall promptly petition the Commission for a ruling as to whether the elements of the proposed final Project Plan and Pricing Plan are fair and equitable and satisfy the requirements of ch. 196. Contemporaneously with any such filing, the Utility shall file an application for a Certificate of Public Convenience and Necessity pursuant to section 196.491(3) of the statutes for the Project.

(b) The Commission shall render a final decision disposing of any petition filed pursuant to this subsection within 180 days of filing.

Section 2. Section 20.285(1)(c) is amended as follows:

(c) Energy costs. The amounts in the schedule to pay for utilities and for fuel, heat and air conditioning, and to pay costs incurred under ss. 16.858 and 16.895, including all operating costs recommended by the department of administration that result from the installation of pollution abatement equipment in state-owned or operated heating, cooling or power plants, by or on behalf of the board of regents, and to repay to the energy efficiency fund loans made to the board under s. 16.847(6), and including all costs incurred in connection with the purchase of steam, chilled water and associated services from a new centralized cogeneration system to provide steam, chilled water and electrical services on the campus of the University of Wisconsin-Madison.

- new sort

Why necessary?

Section 3. Effective date. This act shall take effect on the day after publication.

Peter Peshak 283-5601

- direct PSC to settle disputes on pricing Utl. v. UW

(2) reasonable finding:
- allocation of capital costs to university
1/2 allocate ratepayer

Heating & cooling - not into rate base
vs
electrical - into rate base



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb2877/1

January 2002 Special Session

MDK/.....
mg

D-NOTE

SCC:.....Engel - CN5540, Construction of cogeneration plant at
UW-Madison

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT ,

TO SENATE SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

Fix Request Sheet

1 At the locations indicated, amend the substitute amendment as follows:

2 ✓ 1. Page 14, line 6: after that line insert:

3 "SECTION 32m. 20.285 (1) (c) of the statutes, as affected by 2001 Wisconsin Act

4 16, is amended to read:

5 20.285 (1) (c) *Energy costs.* The amounts in the schedule to pay for utilities and

6 for fuel, heat, and air conditioning, and to pay costs incurred under ss. 16.858 and

7 16.895, including all operating costs recommended by the department of

8 administration that result from the installation of pollution abatement equipment

9 in state-owned or operated heating, cooling, or power plants, by or on behalf of the

10 board of regents, and to pay costs allocated to the board of regents in a plan approved

1 by the public service commission under 2001 Wisconsin Act ... (this act), section 9142

2 ~~(1)(b)~~ (b). Z

History: 1971 c. 40 s. 93; 1971 c. 100 s. 23; 1971 c. 125, 215, 236; 1971 c. 323 s. 27; 1973 c. 90, 301, 333, 340; 1975 c. 39; 1975 c. 41 s. 52; 1975 c. 198 s. 63; 1975 c. 224; 1977 c. 29; 1977 c. 418 ss. 91 to 92, 924 (50), 929 (55); 1977 c. 422; 1977 c. 447 s. 206; 1979 c. 34, 221; 1981 c. 20; 1983 a. 27 ss. 213 to 215m, 2202 (20); 1983 a. 237; 1983 a. 333 s. 6; 1985 a. 29, 120, 339; 1987 a. 27, 399; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 269, 335, 353; 1991 a. 39, 167, 269; 1993 a. 16, 455; 1995 a. 27 ss. 600m to 615m, 1080b, 1085b, 1086b; 1995 a. 227, 228; 1997 a. 27 s. 257m, 263m, 271 to 281; 1997 a. 237, 252; 1999 a. 9, 32, 107; 1999 a. 150 s. 672; 2001 a. 16.

3 ✓ 2. Page 362, line 12: after that line insert:

4 ~~(1)(b)~~ Z COGENERATION FACILITY AT THE UNIVERSITY OF WISCONSIN-MADISON.

5 (a) In this subsection:

6 1. "Board" means the board of regents of the University of Wisconsin System.

7 2. "Cogeneration facility" means a facility that provides electric, steam, and
8 chilled water service.

9 3. "Commission" means the public service commission.

10 4. "Department" means the department of administration.

11 5. "Site" means the property located immediately north of the university's
12 Walnut Street Plant and bounded by Walnut Street on the west, Herrick Drive on the
13 north, the university's existing physical plant buildings on the east, and the north
14 wall of the existing Walnut Street heating plant on the south.

15 6. "University" means the University of Wisconsin-Madison.

16 7. "Utility" means the public utility that provides electric service to the
17 university or an affiliate of such a public utility.

18 (b) The utility may not construct a cogeneration facility at the site unless the
19 utility, department, and board agree on a plan for designing and constructing the
20 cogeneration facility and allocating the costs of the cogeneration facility between the
21 utility and the board and unless the utility otherwise complies with the requirements
22 of chapter 196 of the statutes. If the utility, department, and board agree on such a
23 plan, the utility shall submit the plan to the commission for approval. The utility,

nonstat

1 department, and board may not implement the plan unless, no later than 180^{days} after
2 receiving the plan, the commission approves the plan. The commission may not
3 approve the plan unless the commission finds that the cogeneration facility will
4 produce at least 150 megawatts of dispatchable electric power, that it is likely that
5 the cogeneration facility will be operational no later than June 1, 2004, and that the
6 allocation of costs between the utility and the board is reasonable. If the commission
7 approves the plan, the commission shall also determine the portion of costs that may
8 be allocated to the utility's retail electric service.

9 (c) If the utility submits a plan to the commission under paragraph (b), the
10 utility shall, at the same time that it submits the plan, apply for a certificate of public
11 convenience and necessity for the cogeneration facility under section 196.491 (3) of
12 the statutes. Notwithstanding section 196.491 (3) (a) 3. a. of the statutes, the utility
13 shall provide the department of natural resources with an engineering plan for the
14 cogeneration facility at the same time that the utility submits the application to the
15 commission for the certificate of public convenience and necessity.”

16 (END)

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

LRBb2877/1dn

MDK:.....

AMG

that
Please note the following about this amendment:

1. The instructions included a lengthy statement of findings and declaration of need. I don't think this statement has any legal impact. Therefore, I didn't include it. If there is something you are trying to accomplish with the statement, please let me know. In general, we do not include statements of legislative intent in the statutes, unless the statement is necessary to address a constitutional issue.
2. On a point related to item 1 above, I understand that one thing that you want to accomplish is to express the legislature's intent that the cogeneration facility is necessary. However, you also want to require the PSC to exercise its discretion on whether to issue a certificate of public convenience and necessity. I don't think you can have it both ways. Therefore, I drafted the amendment so that the facility is subject to the PSC's approval.
3. The instructions require the interested parties to agree to a plan. Logically, you can't require someone to agree to something. Therefore, the amendment is drafted so that the parties "may" agree, and if an agreement is reached, they must submit the agreement to the PSC for approval.
4. What is "dispatchable" electric power? That term is not used in ch. 196, stats. If the term doesn't have a commonly understood meaning, its meaning should be clarified.
5. What exactly is DOA's role in the project? I'm assuming the state's portion of the costs come out of the UW's appropriation. If so, why is DOA involved?
6. I amended the UW's appropriation, but did not increase the amounts in the schedule. Will the amount in the schedule be sufficient?
7. The instructions refer to a facility that is "substantially" operational. What does that mean? I don't know, so I referred to a facility that is operational. Also, I treated the June 1, 2004 deadline as a finding that the PSC must make in approving the plan.
8. It is possible that a Wisconsin court would find that this amendment is a "private or local law." Under art. IV, sec. 18, of the Wisconsin Constitution, a "private or local law" must be enacted as single-subject legislation. If so, this amendment cannot validly be enacted as part of the budget repair bill which clearly encompasses more

than one subject. Under *Milwaukee Brewers Baseball Club v. Wisconsin Dept. of Health and Social Services*, 130 Wis. 2d 79, 115 (1986), "a legislative provision which is specific to any person, place or thing is a private or local law within the meaning of art. 4, sec. 18, unless: 1) the general subject matter of the provision relates to a state responsibility of statewide dimension; and 2) its enactment will have direct and immediate effect on a specific statewide concern or interest." In light of this, you may wish to introduce this as separate legislation.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb2877/1dn
MDK:kmg:rs

April 2, 2002

Please note the following about this amendment:

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2. On a point related to item 1. above, I understand that one thing that you want to accomplish is to express the legislature's intent that the cogeneration facility is necessary. However, you also want to require the PSC to exercise its discretion on whether to issue a certificate of public convenience and necessity. I don't think you can have it both ways. Therefore, I drafted the amendment so that the facility is subject to the PSC's approval.

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5. What exactly is DOA's role in the project? I'm assuming the state's portion of the costs come out of the UW's appropriation. If so, why is DOA involved?

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than one subject. Under *Milwaukee Brewers Baseball Club v. Wisconsin Dept. of Health and Social Services*, 130 Wis. 2d 79, 115 (1986), "a legislative provision which is specific to any person, place or thing is a private or local law within the meaning of art. 4, sec. 18, unless: 1) the general subject matter of the provision relates to a state responsibility of statewide dimension; and 2) its enactment will have direct and immediate effect on a specific statewide concern or interest." In light of this, you may wish to introduce this as separate legislation.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Kunkel, Mark

From: Kunkel, Mark
Sent: Wednesday, April 03, 2002 11:13 AM
To: Grant, Peter
Subject: FW: UW cogeneration budget amendment

FYI: below is a message I sent to Doug regarding other issues pertaining to the draft.

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

From: Kunkel, Mark
Sent: Wednesday, April 03, 2002 11:08 AM
To: Burnett, Douglas
Subject: UW cogeneration budget amendment

Doug:

Regarding LRBb2877/1, there are some other issues that need to be resolved. I apologize for not raising them in the drafter's note.

If the cogeneration facility is 100% privately owned by MG&E or an affiliate, the fact that it will be located on state property will require the approval of the building commission. See s. 13.48 (12), stats. Is that okay, or do you want to create an exception so that building commission approval is not required?

If the intent is for the state to own or lease all or part of the facility, then other issues arise. For example, the project could qualify as a state building project that requires building commission approval. Also, other requirements, such as bidding and contracting requirements, could apply. However, if the state is not going to own or lease any part of the facility, then we don't need to worry about these requirements. Can you let me know what your intent is on this issue?

Finally, I am looking into the issue of whether any additional drafting is necessary to make sure that the UW has the authority engage in the project.

Mark D. Kunkel
Legislative Attorney
Legislative Reference Bureau
(608) 266-0131

Kunkel, Mark

From: Kunkel, Mark
Sent: Wednesday, April 03, 2002 11:12 AM
To: Grant, Peter
Subject: UW cogeneration budget repair amendment

Peter:

Can you please look at LRBb2877/1? You should have received a copy of it.

Additional issues are being raised regarding the state's involvement in the project. One issue that Jeff Kuesel has raised is whether the UW has sufficient authority to: 1) invite a private company (i.e., MG&E) to come on to state property and build the facility; 2) enter into an agreement to reimburse MG&E for a portion of the costs of designing and constructing the facility; and 3) enter into a long-term agreement to purchase steam, chilled water, and electricity that is produced by the facility.

What do you think?

Mark D. Kunkel
Legislative Attorney
Legislative Reference Bureau
(608) 266-0131

Mark -

Aside from some constitutional problem of which I'm unaware (and about which you are probably more knowledgeable than I), I think

s. 36.11(1)(b) may pose a problem. It prohibits the bd of regents from permitting a "facility that would be privately owned or operated to be constructed on state-owned land w/o obtaining prior approval of the building commission."

But this assumes that an ct. would find that the facility was,

necessary to serve
UW's interests, which
is the "threshold"
question.

I guess the statute
would have to be
amended in some
way, but that
would depend on
the precise nature
of the agreement.

Chun

Kunkel, Mark

From: Burnett, Douglas
Sent: Wednesday, April 03, 2002 6:45 PM
To: Engel, Andy; Kunkel, Mark; Olin, Rick
Subject: CN 5540--LRBb2877--Cogen plant at UW-Madison

Mark--This is my effort to resolve this. Please call or me asap with your reaction as to whether this will work. My cell # which I always have with me is 332-3684. Thanks!

Modify the amendment as follows:

Section 2:

Delete (b), and substitute the following: "The board may not authorize the University to construct new facilities that provide electric steam or chilled water services to the University after July 1, 2004, unless the utility or the University construct a cogeneration facility at the site prior to July 1, 2004. If the utility, department, and Board agree on a plan, the utility may submit the plan to the commission for approval."

Delete (c)

2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb2877/1
MDK:kmg:rs

2

JLd & J

O-NOTE

RM has been AMN

SCC:.....Engel - CN5540, Construction of cogeneration plant at UW-Madison

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT ,

TO SENATE SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 14, line 6: after that line insert:

3 "SECTION 32m. 20.285 (1) (c) of the statutes, as affected by 2001 Wisconsin Act
4 16, is amended to read:

5 20.285 (1) (c) *Energy costs.* The amounts in the schedule to pay for utilities and
6 for fuel, heat, and air conditioning, and to pay costs incurred under ss. 16.858 and
7 16.895, including all operating costs recommended by the department of
8 administration that result from the installation of pollution abatement equipment
9 in state-owned or operated heating, cooling, or power plants, by or on behalf of the
10 board of regents, and to pay costs allocated to the board of regents in a plan approved

1 by the public service commission under 2001 Wisconsin Act ... (this act), section 9142

2 (1z) (b). 2 ✓

3 2. Page 362, line 12: after that line insert:

4 "(1z) COGENERATION FACILITY AT THE UNIVERSITY OF WISCONSIN-MADISON.

5 (a) In this subsection:

6 1. "Board" means the board of regents of the University of Wisconsin System.

7 2. "Cogeneration facility" means a facility that provides electric, steam, and
8 chilled water service.

9 3. "Commission" means the public service commission.

10 4. "Department" means the department of administration.

11 5. "Site" means the property located immediately north of the university's
12 Walnut Street plant and bounded by Walnut Street on the west, Herrick Drive on the
13 north, the university's existing physical plant buildings on the east, and the north
14 wall of the existing Walnut Street heating plant on the south.

15 6. "University" means the University of Wisconsin-Madison.

16 7. "Utility" means the public utility that provides electric service to the
17 university or an affiliate of such a public utility.

18 (b) ~~The utility may not construct a cogeneration facility at the site unless the~~
19 ~~utility, department, and board agree on a plan for designing and constructing the~~
20 ~~cogeneration facility and allocating the costs of the cogeneration facility between the~~
21 ~~utility and the board and unless the utility otherwise complies with the requirements~~
22 ~~of chapter 196 of the statutes. If the utility, department, and board agree on such a~~
23 ~~plan, the utility shall submit the plan to the commission for approval. The utility,~~
24 ~~department, and board may not implement the plan unless, no later than 180 days~~

INSERT 2-18 ✓

1 after receiving the plan, the commission approves the plan. The commission may not
2 approve the plan unless the commission finds that the cogeneration facility will
3 produce at least 150 megawatts of dispatchable electric power, that it is likely that
4 the cogeneration facility will be operational no later than June 1, 2004, and that the
5 allocation of costs between the utility and the board is reasonable. If the commission
6 approves the plan, the commission shall also determine the portion of costs that may
7 be allocated to the utility's retail electric service.

8 (c) If the utility submits a plan to the commission under paragraph (b),^{2.} the
9 utility shall, at the same time that it submits the plan, apply for a certificate of public
10 convenience and necessity for the cogeneration facility under section 196.491 (3) of
11 the statutes. Notwithstanding section 196.491 (3) (a) 3. a. of the statutes, the utility
12 shall provide the department of natural resources with an engineering plan for the
13 cogeneration facility at the same time that the utility submits the application to the
14 commission for the certificate of public convenience and necessity.”

15 (END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb2877/2ins
MDK:.....

1

INSERT 2-18:

2

(b) The board may not allow the construction of a cogeneration facility at the site that provides electric, steam, or chilled water services to the university after July 1, 2004, unless all of the following are satisfied:

3

4

5

1. The utility, department, and board agree on a plan for allocating the costs of constructing the cogeneration facility between the utility and the university and for establishing the terms and conditions under which the university shall purchase electric, steam, or chilled water services from the utility.

6

7

8

9

2. The utility submits a plan under subdivision 1. to the commission and the commission, upon finding the plan is reasonable, approves the plan.

10

11

3. Construction of the cogeneration facility is completed before July 1, 2004.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb2877/2dn

MDK: ^.....

Jld

Please note the following about this version of the amendment:

1. Under s. 36.11 (1) (b), stats., the board of regents' use of property must be "necessary and required for the purposes, objects and uses of the system authorized by law." If you aren't satisfied that a court would find that the construction and operation of the cogeneration facility satisfies this requirement, the amendment should be redrafted to create statutory authority for the board of regents to engage in the project. *
2. I'm assuming that the utility will own the cogeneration facility, not the state. The building commission must approve privately owned facilities that operate on state land. See ss. 13.48 (12) and 36.11 (1) (b), stats. If you want to eliminate the requirement for building commission approval, the amendment must be revised. *
3. I fleshed out the language suggested by Doug Burnett because I think the amendment should specify what the plan has to include.
4. If a cogeneration facility is constructed and provides service to the utility before July 1, 2004, the requirements of the amendment do not apply. Is that okay?

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb2877/2dn
MDK:jld:jf

April 4, 2002

Please note the following about this version of the amendment:

1. Under s. 36.11 (1) (b), stats., the board of regents' use of property must be "necessary and required for the purposes, objects and uses of the system authorized by law." If you aren't satisfied that a court would find that the construction and operation of the cogeneration facility satisfies this requirement, the amendment should be redrafted to create statutory authority for the board of regents to engage in the project.
2. I'm assuming that the utility will own the cogeneration facility, not the state. The building commission must approve privately owned facilities that operate on state land. See ss. 13.48 (12) and 36.11 (1) (b), stats. If you want to eliminate the requirement for building commission approval, the amendment must be revised.
3. I fleshed out the language suggested by Doug Burnett because I think the amendment should specify what the plan has to include.
4. If a cogeneration facility is constructed and provides service to the utility before July 1, 2004, the requirements of the amendment do not apply. Is that okay?

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State of Wisconsin
2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb2877/2
MDK;jld&kmg;jf

SCC:.....Engel - CN5540, Construction of cogeneration plant at
UW-Madison

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT ,

TO SENATE SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 14, line 6: after that line insert:

3 "SECTION 32m. 20.285 (1) (c) of the statutes, as affected by 2001 Wisconsin Act
4 16, is amended to read:

5 20.285 (1) (c) *Energy costs.* The amounts in the schedule to pay for utilities and
6 for fuel, heat, and air conditioning, and to pay costs incurred under ss. 16.858 and
7 16.895, including all operating costs recommended by the department of
8 administration that result from the installation of pollution abatement equipment
9 in state-owned or operated heating, cooling, or power plants, by or on behalf of the
10 board of regents, and to pay costs allocated to the board of regents in a plan approved

1 by the public service commission under 2001 Wisconsin Act (this act), section 9142
2 (1z) (b) 2.”.

3 **2.** Page 362, line 12: after that line insert:

4 “(1z) COGENERATION FACILITY AT THE UNIVERSITY OF WISCONSIN–MADISON.

5 (a) In this subsection:

6 1. “Board” means the board of regents of the University of Wisconsin System.

7 2. “Cogeneration facility” means a facility that provides electric, steam, and
8 chilled water service.

9 3. “Commission” means the public service commission.

10 4. “Department” means the department of administration.

11 5. “Site” means the property located immediately north of the university’s
12 Walnut Street plant and bounded by Walnut Street on the west, Herrick Drive on the
13 north, the university’s existing physical plant buildings on the east, and the north
14 wall of the existing Walnut Street heating plant on the south.

15 6. “University” means the University of Wisconsin–Madison.

16 7. “Utility” means the public utility that provides electric service to the
17 university or an affiliate of such a public utility.

18 (b) The board may not allow the construction of a cogeneration facility at the
19 site that provides electric, steam, or chilled water services to the university after July
20 1, 2004, unless all of the following are satisfied:

21 1. The utility, department, and board agree on a plan for allocating the costs
22 of constructing the cogeneration facility between the utility and the university and
23 for establishing the terms and conditions under which the university shall purchase
24 electric, steam, or chilled water services from the utility.

1 2. The utility submits a plan under subdivision 1. to the commission and the
2 commission, upon finding the plan is reasonable, approves the plan.

3 3. Construction of the cogeneration facility is completed before July 1, 2004.

4 (c) If the utility submits a plan to the commission under paragraph (b) 2., the
5 utility shall, at the same time that it submits the plan, apply for a certificate of public
6 convenience and necessity for the cogeneration facility under section 196.491 (3) of
7 the statutes. Notwithstanding section 196.491 (3) (a) 3. a. of the statutes, the utility
8 shall provide the department of natural resources with an engineering plan for the
9 cogeneration facility at the same time that the utility submits the application to the
10 commission for the certificate of public convenience and necessity.”.

11

(END)