

2007 DRAFTING REQUEST

Senate Joint Resolution

Received: **09/18/2006**

Received By: **rchampag**

Wanted: **As time permits**

Identical to LRB:

For: **Ted Kanavas (608) 266-9174**

By/Representing: **Michael**

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

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **Constitutional Amendments**

Extra Copies: **SRM**

Submit via email: **YES**

Requester's email: **Sen.Kanavas@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Senate approval of certain executive branch agreements

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>
/?	rchampag 10/16/2006	jdyer 10/16/2006		_____			
/1			rschluet 10/16/2006	_____	lparisi 10/16/2006	cduerst 09/21/2007	

FE Sent For:

none

<END>

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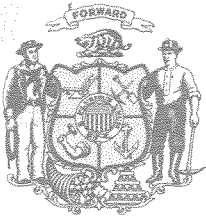
See Attached.

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/?	rchampag	1/10 jld					

FE Sent For:

<END>



TED KANAVAS

STATE SENATOR

To: Mr. ~~Rick~~ ^{Rick} Champagne, Legislative Reference Bureau
Ms. Joyce Kiel, Legislative Council
Mr. Ron Sklansky, Legislative Council

From: Michael Richards, Aide to Senator Ted Kanavas

Date: Wednesday, July 26, 2006

Re: 2005 Senate Joint Resolution 61 {First Consideration}

You are in receipt of this memorandum due to your dealings with Senate Joint Resolution 61, which would require in the Wisconsin Constitution Senate oversight over all agreements that the Governor enters into with a foreign nation, an Indian tribe or band, the federal government, or another state. There has been varied interpretation of this proposed constitutional amendment; therefore, I would like to have open communication with you to ensure that the drafting of this bill fits our proposed intent.

At the outset, I had been in brief contact with Mr. Ron Sklansky at the Legislative Council regarding the proper terminology for the language within the bill. After sending my drafting instructions to Mr. Rick Champagne at the Legislative Reference Bureau, I inquired about more detailed information from Ms. Joyce Kiel at the Legislative Council. All interactions were positive, and helped me better understand possible faults in the draft of 2005 Senate Joint Resolution 61.

The primary concerns that Ms. Kiel had pointed out relate specifically to who is covered, and in turn, which types of agreements would be subjected to Senate oversight under this constitutional amendment.

In general the constitutional amendment language prohibits the governor from entering into, amending, extending, or renewing any agreement with a foreign nation, and Indian tribe or band, the federal government or another state until the governor submits the proposed agreement to the senate and the senate, by a majority of members present, approves the proposed agreement. Further, under the proposed amendment, if the senate does not approve the proposed agreement, the agreement shall be returned to the governor for renegotiation.

At first blush, the language appeared to fulfill our legislative intent. However, after careful examination of information provided to me from Ms. Joyce Kiel, it appears that more work needs to be done to the draft to ensure our intent is fulfilled.

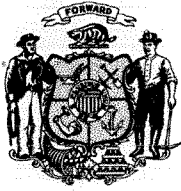
In short, I am looking for ways to ensure that the following are covered within next session's constitutional amendment:

- We want to include not just the Governor of the State of Wisconsin, but rather anyone that works in the Executive Branch that enters into, amends, extends, or renews agreements with foreign nations, Indian tribes or bands, the federal government, or another state. This should include Executive Branch agency heads or their designee who have the authority to negotiate or broker deals;
- Our intent is not to let the Governor circumvent the constitutional amendment by granting authority to another member of the Executive Branch;
- This amendment shall also include the Secretary of State, Secretary of the Treasury, Attorney General and the Superintendent of Public Instruction;
- We only want those types of agreements, contracts, or compacts that have the force of law to be included in this. For example memorandums of understanding do not have to be included, since as Ms. Kiel has pointed out, they do not have the force of law. Further, we do not want the Governor to be restricted in making a "gentlemen's agreement" with the Governor of another state about something as insignificant as "betting" on the Super Bowl or a college bowl game where our Governor would send a block of cheese if we lost.

I hope that this information has better clarified our position. This memorandum can be deemed a drafting request for next session, and I hope to have an in-depth conversation with any and all of you as we move through the process. If any of you have concerns or questions regarding this memorandum, please do not hesitate to contact me. I would be more than happy to answer your questions or take your tips.

Thanks for your work on this.

Thank you!



SOON

LRB-0234/1
RAC:jld

2007
~~2005~~ SENATE JOINT RESOLUTION 61

February 6, 2006 - Introduced by Senators KANAVAS, LEIBHAM, ZIEN, A. LASEE, KAPANKE, OLSEN, REYNOLDS and LAZICH, cosponsored by Representatives KLEEFISCH, LEMAHIEU, LOTHIAN, ALBERS, HAHN, BIES, KREIBICH, VOS, GUNDERSON and TOWNSEND. Referred to Committee on Job Creation, Economic Development and Consumer Affairs.

To create section 11 of article V of the constitution; relating to: senate approval of certain agreements negotiated by the governor (first consideration).

gen. cos.

1
2
official or employee

legally enforceable
Analysis by the Legislative Reference Bureau

This proposed constitutional amendment, proposed to the 2006 legislature on first consideration, prohibits the governor from entering into, amending, extending, or renewing any agreement with a foreign nation, an Indian tribe or band, the federal government, or another state until the governor submits the proposed agreement to the senate and the senate, by a majority of members present, approves the proposed agreement. Under the proposed amendment, if the senate does not approve the proposed agreement, the agreement shall be returned to the governor for renegotiation.

A proposed constitutional amendment requires adoption by two successive legislatures, and ratification by the people, before it can become effective.

certain elected and appointed state officials and employees

Insert Analysis

3 **Resolved by the senate, the assembly concurring, That:**

4 **SECTION 1.** Section 11 of article V of the constitution is created to read:

5 [Article V] Section 11. The governor may not enter into, amend, extend, or
6 renew any agreement with a foreign nation, an Indian tribe or band, the federal
7 government, or another state until the governor submits the proposed agreement to
8 the senate and the senate, by a majority of members present, approves the proposed

1 agreement. If the senate does not approve the proposed agreement, the agreement
2 shall be returned to the governor for renegotiation.

✓
Insert 2-3

3 **SECTION 2. Numbering of new provision.** The new section ¹³ ~~W~~ of article ^{XIII} ~~W~~
4 of the constitution created in this joint resolution shall be designated by the next
5 higher open whole section number in that article if, before the ratification by the
6 people of the amendment proposed in this joint resolution, any other ratified
7 amendment has created a section ¹³ ~~W~~ of article ^{XIII} ~~W~~ of the constitution [✓] of this state. If
8 one or more joint resolutions create a section ¹³ ~~W~~ of article ^{XIII} ~~W~~ simultaneously with the
9 ratification by the people of the amendment proposed in this joint resolution, the
10 sections created shall be numbered and placed in a sequence so that the sections
11 created by the joint resolution having the lowest enrolled joint resolution number
12 have the numbers designated in that joint resolution and the sections created by the
13 other joint resolutions have numbers that are in the same ascending order as are the
14 numbers of the enrolled joint resolutions creating the sections.

15 ***Be it further resolved, That*** this proposed amendment be referred to the
16 legislature to be chosen at the next general election and that it be published for [✓] 3
17 months previous to the time of holding such election.

18 (END)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0234/linsRC
RAC:.....

Insert Analysis:

~~40~~ The proposed amendment does not apply to elected or appointed state officials or state employees in the legislative or judicial branch of government. ✓

Insert 2-3

SECTION 1. Section 13 of article XIII of the constitution is created to read: ✓

* [Article XIII] Section 13 (1) Subject to subsection (2), no elected or appointed state official or state employee may enter into, amend, extend, or renew any legally enforceable agreement with a foreign nation, an Indian tribe or band, the federal government, or another state until the elected or appointed state official or state employee submits the proposed agreement to the senate and the senate, by a majority of members present, approves the proposed agreement. If the senate does not approve the proposed agreement, the agreement shall be returned to the elected or appointed state official or state employee for renegotiation. ✓

(2) Subsection (1) shall not apply to an elected or appointed state official or state employee in the legislative or judicial branch of government. ✓

Barman, Mike

From: Lundie, Shawn
Sent: Friday, September 21, 2007 10:06 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-0234/1 Topic: Senate approval of certain executive branch agreements

Please Jacket LRB 07-0234/1 for the SENATE.