

Kunkel, Mark

From: Hanaman, Cathlene
Sent: Tuesday, December 16, 2014 3:05 PM
To: Kunkel, Mark; Champagne, Rick; Gary, Aaron
Subject: FW: Statutory Language Drafting Request - BB0311
Attachments: Current Statutory Reports.docx; Authority Structure Outline for LRB 12.16.14.docx

From: nathan.schwanz@wisconsin.gov [<mailto:nathan.schwanz@wisconsin.gov>]
Sent: Tuesday, December 16, 2014 2:45 PM
To: Hanaman, Cathlene
Cc: Hynek, Sara - DOA; Schwanz, Nathan E - DOA; Connor, Christopher B - DOA
Subject: Statutory Language Drafting Request - BB0311

Biennial Budget: 2015-17

Topic: UW Authority

Tracking Code: BB0311

SBO Team: EWD

SBO Analyst: Schwanz, Nathan
Phone: 608-266-2843
E-mail: nathan.schwanz@wisconsin.gov

Agency Acronym: UW

Agency Number: 285

Priority: High

Intent:

Make the UW System an authority.

The first attachment is an outline of what the UW Authority should look like.

The second attachment is a list of statutorily required reports currently required of the UW. The list states whether the report should be kept or removed from statutes.

Attachments: True

Please send completed drafts to SBOStatlanguage@webapps.wi.gov

University of Wisconsin System Authority

Concept

- Governance
 - Keep Board at the same size with staggered terms.
 - Governor will continue to appoint Regents.
 - All new Regents will be appointed when the authority begins.
 - Will determine internal governance structure.
 - Shared governance language will be removed from the statutes.
- HR/Personnel
 - Board will create and administer its own HR system and structure.³
 - May continue to participate in ETF and WRS.³
 - Will set salary ranges and may award any type of salary increases.¹
 - Removed from the state's compensation reserve.¹
 - No "automatic" adjustments for full funding in budget.
- Tuition
 - Board will have full autonomy to set all tuition rates beginning July 1, 2016.³
- State Property
 - Lease state property and buildings currently used by the Board to the Board through a lease agreement.
 - Lease agreement will require the Board to pay the state for any outstanding GPR debt obligations related to UW properties.
 - Modeled after the UWHCA statutory requirement for a lease agreement.
- Capital Planning and Building Program
 - Give the Board full autonomy for projects funded with PR, SEG or cash.³
 - Will have the authority to bond for these projects.
 - Cannot use GPR to finance capital projects as an authority.
 - Transfer responsibility for leasing space from DOA to the Board.¹
- Procurement
 - Exempt from Chapter 16 procurement restrictions.³
 - The Board will establish purchasing rules and standards.³
- Budget
 - Continue GPR block grant appropriated directly to the Board.
 - Similar to s. 20.192(1)(a)
 - Release GPR to the Board in quarterly payments.
 - Require the Board to make lease and pension obligation bond quarterly payments to the state prior to receiving any GPR.
 - Remove all SEG appropriations.
 - The Board may use GPR however it chooses.
 - After each FY, the Board will report, to JCF, how they spent GPR.
- WI-MN Tuition Reciprocity
 - Transfer responsibility for administering student reciprocity to the Board.
 - May continue the program, at their cost, or end it.

¹Recommended by the Task Force on UW Restructuring and Operational Flexibilities

²Recommended by the Funding Allocation Working Group

³Taken from the 11-13 budget

Similar to
UWHCA

20.192

- Technical Aspects
 - May opt in or out of the state's risk management program with 6 months' notice.³
 - May utilize DOJ for litigation and advice in specialized areas.³
 - Continue to exempt UW System from property and sales taxes.³
 - Grandfather in current property tax exemptions.
 - Future property acquisitions will be subject to property taxes or a payment in lieu of taxes (PILT).
 - Open Meetings and Public Records Laws will continue to apply, except for proprietary research records and intellectual property.³
 - Require the Board to deposit all moneys received from any source except gifts, grants and donations, into the local government investment pool (stabilizes state cash flow).³
 - Allow the Board to keep the interest earned on these funds.
 - LAB will have the ability to audit any part of the authority at any time.
 - Require LAB to conduct annual audits.
 - The Board will need to have its own bank account.
 - Revenues and expenses of authorities take place outside the state treasury.

Reporting

Report Title	Description	Due Date	Frequency	Reported To	Reference	Remove or Keep
Sexual Assault and Harassment Information Report	Report on methods used to distribute information on sexual assault and harassment.	None cited	Annual	Legislature	s. 36.11(22)(b) <i>RPID</i>	Remove
Sexual Assault Report	Report statistics on sexual assaults that occurred on each campus in the previous year.	None cited	Annual	DOJ	s. 36.11(22)(d) <i>RPID</i>	Remove
High Cost IT Project Report	Report on any IT projects with a projected cost of \$1M or more or large, high-risk projects.	March 1 and September 1	Semiannual	JCIPT	s. 36.59(7)	Keep for GPR funded projects
Auxiliary Balances Report	Report on auxiliary balances of more than 12% of expenditures.	October 15	Annual	JCF	13.10 meeting	Remove
Quarterly Position Report	Report the number of FTE positions created or abolished during each quarter.	End of each calendar quarter.	Quarterly	JCF	s. 16.505(2m) <i>RPID</i>	Remove
GPR Positions Report	Report the number of GPR positions created or abolished during the preceding fiscal year.	September 30	Annual	JCF	s. 16.505(2p)(a) <i>RPID</i>	Remove
Federal Grant Report	Report on the amount and purpose of federal funds accepted.	October 1	Annual	JCF	s. 16.54(8r)(b) <i>RPID</i>	Remove
Competitive Pay Adjustments Report	Report on salary adjustments for unclassified faculty and academic staff for competitive factors.	October 1	Annual	JCF	s. 36.09(1)(j) <i>RPID</i>	Remove
Positions Categorization Report	Report on positions categorized as management versus staff and the number of positions in each category.	January 1	Annual	JCF	s. 36.11(33)(b) <i>RPID</i>	Remove
Cost Recovery Courses	Report the courses for which tuition and fees charged equals 100% of the cost of offering the course.	October 31	Annual	JCF	s. 36.11(44) <i>RPID</i>	Remove
Industrial and Economic Development Report	Report on projects funded by the UW's industrial and economic development research program.	November 15	Biennial	JCF	s. 36.25(25)(c) <i>RPID</i>	Remove
Research and Public Service Report	Report on the purpose, duration, cost and completion date of all GPR funded research and public service projects.	September 1	Even-numbered years	JCF	s. 36.45(3) <i>RPID</i>	Remove

Reporting

Report Title	Description	Due Date	Frequency	Reported To	Reference	Remove or Keep
Rural Physician Program Report	Report on the Rural Physician Residency Assistance Program.	December 1	Annual	JCF	s. 36.63(4) ✓ R.P.'g	Remove
Rural Physician Program Report	Plan for increasing the number of residency programs in rural areas.	December 1	Annual	Rural WI Health Cooperative	s. 36.63(3) ✓ R.P.'g	Remove
Economic Development Programs Report	Report assessing economic development programs administered.	October 1	Annual	JLAC	s. 36.11(29p)(b)2 ✓ R.P.'g	Remove
Utility Charges Report	Report on utility charges from the prior FY to fund principal and interest costs from the Walnut and Charter street facilities.	None cited	Annual	DOA	s. 36.11(48) ✓ R.P.'g	Remove
LTE Report	Report that identifies the number of LTE employees.	None cited	Annual	Appropriate standing committees of the Legislature	s. 36.11(54)(b) ✓ R.P.'g	Remove
Diversity Programs Report	Report on minority and disadvantaged programs.	April 15	Annual	Governor and Legislature	s. 36.25(14m)(c) ✓ R.P.'g	Remove
Personnel Report	Report describing employment harassment or discrimination claims.	None cited	Biennial	Legislature	s. 36.55 ✓ R.P.'g	Remove
IT Projects Report	Report on the use of master leases to fund IT projects.	October 1	Annual	JCIPT	s. 36.59(4)(b) ✓ R.P.'g	Remove
Undergraduate Course Drop Report	Report on the annual course drop rate of undergraduate students.	August	Annual	JCF ?	13.10 meeting	Remove
Water Resources Research	Report on water resources research and data collection programs.	Convening of the legislature	Biennial	Legislature	s. 36.25(8) Amended	Remove
Land Information Plan	Submit a plan to make land information readily available.	March 31	Annual	DOA	s. 16.967(6)(a) Amended	Remove
Accountability Report	Report on certain accountability measures defined in the statutes.	None cited	Annual	Governor and Legislature	s. 36.65(2)	Keep ✓

Reporting

Report Title	Description	Due Date	Frequency	Reported To	Reference	Remove or Keep
Fee Report	Report on all fees and the change in fees over the previous five years.	October 15	Annual	JCF	s. 36.65(4)	Keep
Property Inventory	An inventory of all real property under its jurisdiction.	January 1	Biennial	DOA	s. 13.48(14)(d) <i>Amended</i>	Keep
Prostate Cancer Research Report	Report on prostate cancer research projects funded from the tax check-off.	January 1	Annual	Governor and Legislature	s. 255.054(2)	Keep
Cancer Research Program	Report on cancer research projects funded from the tax check-off.	January 1	Annual	Governor and Legislature	s. 255.055(2)	Keep
MCW and UW-Madison Medical School Reports	Requires three different reports from MCW and UW-Madison's Medical School.	October 15	Annual & Biennial	JCF, Governor and Legislature	13.106	Keep

*No changes
necy*

Kunkel, Mark

From: Kunkel, Mark
Sent: Tuesday, December 16, 2014 4:52 PM
To: Kunkel, Mark
Subject: RE: Statutory Language Drafting Request - BB0311

Per Nathan, on governance, eliminate 36.09 shared power, but allow board to share if it wants to, and to have specified positions if it wants to.

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Please send completed drafts to SBOStatlanguage@webapps.wi.gov

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Wednesday, December 17, 2014 11:06 AM
To: Kunkel, Mark
Subject: RE: Some initial questions

Mark,

We are aware of the attached boards and have discussed to some degree what should happen with them. At this point we don't have a decision or guidance on those boards. I will let you know when we do.

As for the name, let's go with the University of Wisconsin System Authority at this point.

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Wednesday, December 17, 2014 10:48 AM
To: Schwanz, Nathan E - DOA
Subject: Some initial questions

Under current law, the following are attached to the UW System: the veterinary diagnostic laboratory board; the laboratory of hygiene under the direction and supervision of the laboratory of hygiene board; the environmental education board; and the rural health development council. See s. 15.915.

What do you want to do about the foregoing boards and council? Since the UW System will cease to be a state agency, should they be attached to a different agency?

Also, an easier question. Do you want to call the new authority the University of Wisconsin System Authority or the University of Wisconsin Authority?

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Wednesday, December 17, 2014 11:19 AM
To: Kunkel, Mark
Subject: Effective Date

Mark,

I forgot to mention that we would like the authority to be created and begin on July 1, 2016. Sorry I did not mention that earlier.

Thank you again for your help with this.

Nathan Schwanz
Executive Policy & Budget Analyst
State Budget Office
608-266-2843

Kunkel, Mark

From: Kunkel, Mark
Sent: Wednesday, December 17, 2014 11:32 AM
To: Champagne, Rick; Hanaman, Cathlene
Subject: Name and starting date

See the name of the authority below. Also, DOA wants the authority to be created and begin operating on July 1, 2016.

From: Schwanz, Nathan E - DOA [<mailto:Nathan.Schwanz@wisconsin.gov>]
Sent: Wednesday, December 17, 2014 11:06 AM
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Kunkel, Mark

From: Kunkel, Mark
Sent: Wednesday, December 17, 2014 11:39 AM
To: 'Schwanz, Nathan E - DOA'
Subject: RE: Some initial questions

Okay. I think we'll be able to sort it out.

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Wednesday, December 17, 2014 11:37 AM
To: Kunkel, Mark
Subject: RE: Some initial questions

Regarding capital projects, as an authority, they won't get any GPR to finance projects. Additionally, we will be removing all SEG appropriations (I should have reflected this in the outline).

Our intent is that they will be on their own to finance and pay for capital projects with revenues from tuition, fees and gifts/grants. Currently those revenues are PR funds. As an authority we will not be setting their expenditure authorities for these revenues in the budget, so I am not sure what to call them, but that is what I meant by PR in the outline.

Does that make sense?

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Wednesday, December 17, 2014 11:29 AM
To: Schwanz, Nathan E - DOA
Subject: RE: Some initial questions

Thanks.

Another initial question. I take it that you want to eliminate all appropriations to the UW System under current law, which will be replaced with quarterly block grants. However, under the Capital Planning and Building Program instructions, you say to give the board full autonomy for projects funded with PR, SEG, or cash. If PR and SEG appropriations are eliminated, how will projects be funded with PR or SEG?

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Wednesday, December 17, 2014 11:06 AM
To: Kunkel, Mark
Subject: RE: Some initial questions

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Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Thursday, December 18, 2014 11:44 AM
To: Kunkel, Mark
Cc: Hanaman, Cathlene; Gary, Aaron; Champagne, Rick; Hynek, Sara - DOA
Subject: RE: Chapter 36: how much should remain?

Mark,

We don't have direction from the Governor's office on every aspect of Ch. 36 and, of course, things could change as we progress on this, but I will attempt to provide you direction on some of the questions you raised.

First, s. 36.11 and its subsections. It is easier to start with what we would like to keep instead of listing everything that should be removed. The subsections that should initially be kept are:

- (1) Protection of people; custody and management of property
 - References to promulgating rules under ch. 227 can be removed, per your question regarding rulemaking.
 - In paragraph (b), the requirements to obtain the building commission's purchase property and DOA's approval of leases can be removed.
 - Paragraph (e) can be removed.
- (2) Police Authority
- (3) Admission of applicants
 - Paragraph (d), defining application fees, should be removed.
- (4) Injunctive relief
- (5) Insurance
- (7) Confer Degrees
- (10) University Fund
- (16) Commencement of Fall Semester
- (19) Furnishing of services to school districts
- (28), (28m) and (29) UWHCA
 - In (29), the reference to ch. 16 in the last sentence may need to be removed since we will be exempting the authority from ch. 16.
- (47) Armed Forces
 - May be a good opportunity to clarify this subsection pursuant to your email to Sara dated 11/14/14 using Act 470.
- (47m) Service members; Priority registration
- (50) Reserve Officer Training Corps
- (52) Midwestern Higher Education Compact dues
- (55m) Classified Research
 - In paragraph (e), remove the phrase ", in consultation with the faculty,"
- (56) Travel policies
 - Could remove the effective date?

Additionally, s. 36.11, the powers of the Board, should include a clause stating the Board has the powers necessary to carry out its responsibilities and mission and purpose as outlined earlier in the chapter.

We agree with your thoughts on the rulemaking authority.

We would like to keep in place the tuition remission requirements.

You are correct, remove ss. 36.13 to 36.21.

s. 36.09 (2) and (3) should be removed. Those definitions should be up to the Board as part of determining the authority's governance structure and internal operations. Accordingly, there isn't a reason to include definitions for chancellor and president as currently outlined in s. 36.05 (5) and (10). The Board, as part of its creation and organization, should be directed to appoint a chief executive officer, similar to UWHCA in s. 233.02(9).

The responsibilities of the Board, s. 36.09, will direct the Board broadly to meet the statement of mission and purpose in s. 36.01. These responsibilities should include the establishment of a system(s) of governance, a personnel system(s) and related policies (ability to employ and set compensation and benefits) and other policies and activities the Board finds necessary to meet its purpose and mission and to provide affordable access to a high-quality post-secondary, graduate and doctoral education. As I mentioned on the phone earlier this week, these responsibilities should give direction to the Board as an authority, yet allow it the freedom to meet the mission and purpose without constraints from the state. s. 233.03, the powers of the UWHC authority, provide a good example of how we would like to structure the powers of the UW authority and Board of Regents.

✓ Lastly, we would like to add to the statement of purpose and mission an piece about meeting the needs of the state's workforce, or something to that effect. This may fit well in s. 36.01(2) in the first line after human resources: "...human resources to meet the state's workforce needs,..." Of course, we are open to suggestions if you have a better take or idea on that.

I hope this helps answer your questions and fill in some of the details of this request.

If you have any other questions, suggestions or comments, please let me know.

As always, thank you for your time and help.

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Wednesday, December 17, 2014 3:47 PM
To: Schwanz, Nathan E - DOA
Cc: Hanaman, Cathlene - LEGIS; Gary, Aaron - LEGIS; Champagne, Rick - LEGIS
Subject: Chapter 36: how much should remain?

Nathan:

A few more initial questions:

Chapter 36 imposes numerous specific requirements on the Board of Regents, as well as gives the Board of Regents the power to do many specified things. Because you want to give the new authority autonomy, I assume you want to repeal most, if not all, of those requirements and powers. Is that correct? Or will you be identifying specific requirements and powers that you want to apply to the new authority? Also note that the authority will not have state agency rule-making power, so if you want to retain some requirements or powers that refer to the promulgation of rules, I will probably refer instead to policies and procedures adopted by the authority.

Regarding tuition, you want to give the authority full autonomy over tuition rates. I assume that includes repealing the various tuition remission requirements. See s. 36.27 (3) to (3r). Is that correct?

Regarding HR/Personnel, if the HR system and structure covers faculty and academic staff, I assume you want to repeal ss. 36.13 to 36.21, which deal with faculty, academic staff, and other appointments. Is that correct?

Will the authority continue to appoint chancellors (i.e., chief executives of each institution)? Will it continue to appoint a chief executive officer for the authority? I'm asking because I'm not sure what to do with the definitions of chancellor and president in s. 36.05 (5) and (10), as well as the responsibilities for each set forth in s. 36.09 (2) and (3).

--Mark

Kunkel, Mark

From: Kunkel, Mark
Sent: Friday, December 19, 2014 11:27 AM
To: Champagne, Rick
Subject: University fund

Rick,

I'm not sure what to do about s. 36.11 (10), which says: "UNIVERSITY FUND. The board may expend such portion of the income of the university fund on or at the University of Wisconsin-Madison as is appropriated by the legislature for the erection of buildings and the purchase of equipment or books." For the time being, Nathan at DOA has indicated that s. 36.11 (10) should remain in ch. 36.

The university fund is established under Article X, s. 6 of the state constitution: "State university; support. SECTION 6. Provision shall be made by law for the establishment of a state university at or near the seat of state government, and for connecting with the same, from time to time, such colleges in different parts of the state as the interests of education may require. The proceeds of all lands that have been or may hereafter be granted by the United States to the state for the support of a university shall be and remain a perpetual fund to be called "the university fund," the interest of which shall be appropriated to the support of the state university, and no sectarian instruction shall be allowed in such university."

Any thoughts on what do with s. 36.11 (10), given the appropriation created in the constitution?

--Mark

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Friday, December 19, 2014 11:43 AM
To: Kunkel, Mark
Cc: Gary, Aaron
Subject: RE: Institution names

I think so. Will we need to include something in the statutes that requires UW institutions to keep their current names?

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Friday, December 19, 2014 11:36 AM
To: Schwanz, Nathan E - DOA
Cc: Gary, Aaron - LEGIS
Subject: Institution names

Nathan:

This might seem like an odd question, but can we assume that the UW 2-year and 4-year schools, as well the medical and other schools, will continue to be known by their current names? For example, the University of Wisconsin-Madison, etc. The statutes contain many references to named institutions. Will those references still be okay, given the authority's autonomy to organize and operate the system?

Thanks,

--Mark

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Friday, December 19, 2014 11:59 AM
To: Champagne, Rick; Kunkel, Mark
Cc: Gary, Aaron; Hynek, Sara - DOA
Subject: RE: Institution names

Sounds good to me.

Nathan

From: Champagne, Rick [mailto:Rick.Champagne@legis.wisconsin.gov]
Sent: Friday, December 19, 2014 11:56 AM
To: Kunkel, Mark - LEGIS; Schwanz, Nathan E - DOA
Cc: Gary, Aaron - LEGIS
Subject: RE: Institution names

Probably the most economical way to get the draft organized and in shape quickly is to just keep the institutions as is and not require their creation in ch. 36. These campuses are not currently required in ch. 36 and they have references to them throughout the statutes. Let's just keep that practice if it's Ok with everyone.

Rick

From: Kunkel, Mark
Sent: Friday, December 19, 2014 11:49 AM
To: Schwanz, Nathan E - DOA
Cc: Champagne, Rick; Gary, Aaron
Subject: RE: Institution names

I don't know, let me think about that.

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
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Cc: Gary, Aaron
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Thanks,

--Mark

Champagne, Rick

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Friday, December 19, 2014 12:51 PM
To: Champagne, Rick
Cc: Kunkel, Mark; Gary, Aaron; Hynek, Sara - DOA
Subject: RE: UWSA

Rick,

1. We would like the appropriation to be set up similar to the WEDC appropriation. In practice, the UW authority will receive quarterly payments from the state, assuming the authority is on-time in making the required lease and pension obligation bond payments to the state.
 - a. We would like to address outstanding bonds issued by the state (whether they are GPR or PR supported) in a manner similar to how s. 233.04(7) addresses the issue for the UWHCA. The authority must enter a lease agreement which requires a provision that the authority make payments to the state equaling the debt service on all outstanding bonds issued by the state for UW facilities.
2. The statutes will only define the Board of Regents (yes, name can remain the same) and the Board appointed CEO, so references to other positions will be removed (other than the Board's authority to develop and implement a personnel structure and employ any agent, employee or advisor and fix their compensation and benefits).

Does this answer your questions?

Let me know if anything else comes up.

Thank you for your help with this.

Nathan

From: Champagne, Rick [mailto:Rick.Champagne@legis.wisconsin.gov]
Sent: Friday, December 19, 2014 12:03 PM
To: Schwanz, Nathan E - DOA
Cc: Kunkel, Mark - LEGIS; Gary, Aaron - LEGIS
Subject: UWSA

Two more questions:

1. We are going to get rid of all s. 20.285 appropriations and start with clean slate, since it will no longer be a state agency. Something to think about: how will we get money to UW? We could give UW a big grant from a new appropriation that would fund all moneys they will get from state. Open to ideas on this one. Also, we need to think about debt service currently paid from UW revenue streams. Will we handle that debt service in lease arrangements for buildings?
2. Many places in statutes refer to UW System president, certain chancellors, and to the board of regents. Can we keep referring to president and chancellors? Also is governing board of new UW System Authority going to be called a "board of regents"?

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- 3.

Kunkel, Mark

From: Gallagher, Michael
Sent: Friday, December 19, 2014 2:36 PM
To: Schwanz, Nathan E - DOA; Hynek, Sara - DOA
Cc: Kunkel, Mark
Subject: RE: Police power

Mark's question perhaps highlights the importance of using the term "policies and procedures" instead of "rules" when drafting for an authority, which is not a state agency. It is true that both chs. 234 (WHEDA) and 238 (WEDC) make references to WHEDA and WEDC adopting "rules." The reference to "rules" was inadvertently retained when Commerce was dismantled and its economic development programs transferred to WEDC. However, an authority is not a state agency and does not promulgate rules, and the references to rules in chs. 234 and 238 could create confusion concerning what WHEDA and WEDC are required to do under the law and the legal status of its so-called rules. While to my knowledge it has not been litigated, I can imagine a party denied some benefit under an economic development program administered by WEDC, for example, arguing that WEDC has certain obligations because its "rules" are ch. 227 administrative rules having the force of law. Unfortunately, the statutes don't always say "promulgate" when the statutes mean promulgate—some statutes direct agencies to "adopt" rules, but these, of course, have the force of law even though the word "promulgate" is not used. Therefore, to help avoid the issue, we have been changing "rules" to "policies and procedures" for WEDC and WHEDA on an ad hoc basis when the opportunity arises in other bills, and we have been using "policies and procedures" when drafting for a new authority.

I hope this helps. Please feel free to call me with any questions.

Michael Gallagher
Legislative Attorney
Wisconsin Legislative Reference Bureau
(608) 267-7511

From: Kunkel, Mark
Sent: Friday, December 19, 2014 1:55 PM
To: Gallagher, Michael
Subject: FW: Police power

Mike: can you respond to Sara?

From: Schwanz, Nathan E - DOA [<mailto:Nathan.Schwanz@wisconsin.gov>]
Sent: Friday, December 19, 2014 12:01 PM
To: Kunkel, Mark
Cc: Gary, Aaron; Hynek, Sara - DOA
Subject: FW: Police power

Mark,
Please see Sara's question on the issue below.

Nathan

From: Hynek, Sara - DOA
Sent: Friday, December 19, 2014 11:52 AM
To: Schwanz, Nathan E - DOA
Subject: RE: Police power

With regard to the rulemaking... is it just a question of the word "rules"? WHEDA's language uses the word "rules," but I don't know if, in that context, "rules" means the same thing as "administrative rules."

From: Schwanz, Nathan E - DOA
Sent: Friday, December 19, 2014 11:45 AM
To: Hynek, Sara - DOA
Subject: FW: Police power

What is your take on this? It is a very good question raised by Mark.

Nathan

From: Kunkel, Mark [<mailto:Mark.Kunkel@legis.wisconsin.gov>]
Sent: Friday, December 19, 2014 9:48 AM
To: Schwanz, Nathan E - DOA
Cc: Gary, Aaron - LEGIS
Subject: Police power

Nathan:

Can you give me some guidance on how the elimination of the UW's rule-making power relates to the UW's police power under s. 36.11 (1) and (2)?

The authority won't promulgate rules, but will instead adopt policies and procedures. With rules, the legislature delegates law-making power to agencies, who must promulgate the rules in accordance with requirements for ensuring due process, public participation, and review by the governor and legislature. Also, people affected by the rules can obtain court review to ensure that procedures were properly followed, as well as to ensure that an agency's rules do not supersede the agency's delegated authority. None of the foregoing will apply the authority's policies and procedures, which won't have the force and effect of law. As a result, there may be due process problems in allowing the UW to specify forfeitures for violating the policies and procedures. See s. 36.11 (1) (c) and (d). Similar problems would apply to allowing the UW police to arrest people for violations. See s. 36.11 (2) (a).

More generally, note that s. 36.11 (2) (a) gives the board of regents concurrent police power over property subject to its jurisdiction. What are the ramifications of giving that police power to the authority, which has both public and private characteristics? For example, to what extent would a police officer of the authority, the UW authority itself, or the state, be liable for the officer's actions? I don't have any expertise on such matters, but I am wondering if you have any thoughts on these issues.

Thanks,

--Mark

Champagne, Rick

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Monday, December 22, 2014 9:15 AM
To: Champagne, Rick
Cc: Kunkel, Mark; Gary, Aaron; Hynek, Sara - DOA
Subject: RE: UWSA

Rick,
I wanted to give you a heads up on a PR related appropriation for the UW. They are currently required to transfer up to a certain sum to the medical assistance trust fund from their PR block grant.

The Governor wants to make some changes to that and the budget analyst who handles DHS is submitting a separate drafting request to make those requested changes.

While we are removing PR appropriations from chapter 20, this will need to stay in the statutes, probably moved to chapter 36.

Nathan

From: Champagne, Rick [mailto:Rick.Champagne@legis.wisconsin.gov]
Sent: Friday, December 19, 2014 12:03 PM
To: Schwanz, Nathan E - DOA
Cc: Kunkel, Mark - LEGIS; Gary, Aaron - LEGIS
Subject: UWSA

Two more questions:

1. We are going to get rid of all s. 20.285 appropriations and start with clean slate, since it will no longer be a state agency. Something to think about: how will we get money to UW? We could give UW a big grant from a new appropriation that would fund all moneys they will get from state. Open to ideas on this one. Also, we need to think about debt service currently paid from UW revenue streams. Will we handle that debt service in lease arrangements for buildings?
2. Many places in statutes refer to UW System president, certain chancellors, and to the board of regents. Can we keep referring to president and chancellors? Also is governing board of new UW System Authority going to be called a "board of regents"?

Champagne, Rick

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Monday, December 22, 2014 9:35 AM
To: Champagne, Rick; Kunkel, Mark
Cc: Hanaman, Cathlene; Hynek, Sara - DOA
Subject: RE: UWSA

Rick,
Yes to both items. Take UWSA entirely out of the Building Commission and DOA control and take UW employees out of SELRA completely (I am told that is how employees for the UW Hospitals Authority were handled).

On a related note to the building commission, the section requiring a lease agreement between the state and UWSA will need a provision similar to s. 233.04(7)(d). There should be a requirement for UWSA to get building commission approval for certain larger projects involving state owned buildings/properties leased to UWSA. We like how this provision for UWHCA in ch. 233 is broad and allows the lease agreement to define the specifics.

Nathan

From: Champagne, Rick [mailto:Rick.Champagne@legis.wisconsin.gov]
Sent: Saturday, December 20, 2014 1:24 PM
To: Kunkel, Mark - LEGIS; Schwanz, Nathan E - DOA
Cc: Hanaman, Cathlene - LEGIS
Subject: UWSA

Under 13.48 stuff, I think we take UWSA out entirely from building Commission/DOA control. Is that right Nathan? If so, I would not draft new text to add it in to provisions that currently apply to state agencies.

In my draft, Mark, I took UW employees entirely out of SELRA. That right Nathan? CMH will need to review when she is back.

Champagne, Rick

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Monday, December 22, 2014 9:44 AM
To: Champagne, Rick
Cc: Kunkel, Mark; Gary, Aaron; Hynek, Sara - DOA
Subject: RE: UWSA

Yup,
s. 20.285(1)(a), (fd), (fj), (u), (w) and s. 20.285(2)(h) should stay.

Nathan

From: Champagne, Rick [mailto:Rick.Champagne@legis.wisconsin.gov]
Sent: Monday, December 22, 2014 9:24 AM
To: Schwanz, Nathan E - DOA
Cc: Kunkel, Mark - LEGIS; Gary, Aaron - LEGIS; Hynek, Sara - DOA
Subject: RE: UWSA

Nathan, can you identify for me all of the appropriations you want to keep? Or the language of the news ones you want created. I feel like I'm guessing.

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Monday, December 22, 2014 9:15 AM
To: Champagne, Rick
Cc: Kunkel, Mark; Gary, Aaron; Hynek, Sara - DOA
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The Governor wants to make some changes to that and the budget analyst who handles DHS is submitting a separate drafting request to make those requested changes.

While we are removing PR appropriations from chapter 20, this will need to stay in the statutes, probably moved to chapter 36.

Nathan

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Sent: Friday, December 19, 2014 12:03 PM
To: Schwanz, Nathan E - DOA
Cc: Kunkel, Mark - LEGIS; Gary, Aaron - LEGIS
Subject: UWSA

Two more questions:

Kunkel, Mark

From: Champagne, Rick
Sent: Monday, December 22, 2014 2:08 PM
To: Schwanz, Nathan E - DOA
Cc: Kunkel, Mark; Gary, Aaron; Hynek, Sara - DOA
Subject: RE: UWSA

Nathan, look at s. 70.119 for a bit. How should we treat US System Authority?

From: Schwanz, Nathan E - DOA [<mailto:Nathan.Schwanz@wisconsin.gov>]
Sent: Monday, December 22, 2014 9:44 AM
To: Champagne, Rick
Cc: Kunkel, Mark; Gary, Aaron; Hynek, Sara - DOA
Subject: RE: UWSA

Yup,
s. 20.285(1)(a), (fd), (fj), (u), (w) and s. 20.285(2)(h) should stay.

Nathan

From: Champagne, Rick [<mailto:Rick.Champagne@legis.wisconsin.gov>]
Sent: Monday, December 22, 2014 9:24 AM
To: Schwanz, Nathan E - DOA
Cc: Kunkel, Mark - LEGIS; Gary, Aaron - LEGIS; Hynek, Sara - DOA
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To: Champagne, Rick
Cc: Kunkel, Mark; Gary, Aaron; Hynek, Sara - DOA
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2. Many places in statutes refer to UW System president, certain chancellors, and to the board of regents. Can we keep referring to president and chancellors? Also is governing board of new UW System Authority going to be called a "board of regents"?
- 3.

Kunkel, Mark

From: Hoesly, Bruce
Sent: Monday, December 22, 2014 3:15 PM
To: Kunkel, Mark
Subject: RE: 36.11 (47) (intro.), 38.12 (13) (intro.) and 39.48 (1).

Repeal and recreate, as affected by both of those acts, and use whichever version of the text is preferred.

Bruce

From: Kunkel, Mark
Sent: Monday, December 22, 2014 3:13 PM
To: Hoesly, Bruce
Cc: Gary, Aaron
Subject: 36.11 (47) (intro.), 38.12 (13) (intro.) and 39.48 (1).

Bruce:

We are making significant changes to ch. 36 in the budget in order to convert the UW System to an authority. DOA has stated that in making those changes we can fix the problem regarding the above statutes that you noted earlier this year.

If we want to eliminate the need to keep republishing your notes, and give unambiguous effect to the language last enacted (i.e. 2005 Wis. Act 470), what do we need to do in the budget?

--Mark

See attached

11-14-2014 email

A Attachment

Kunkel, Mark

From: Hynek, Sara - DOA <Sara.Hynek@wisconsin.gov>
Sent: Friday, November 14, 2014 2:21 PM
To: Kunkel, Mark
Subject: RE: Reenrollment of service members

Thanks! We'll let you know if people decide to take action to get rid of the notes, etc.

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Friday, November 14, 2014 2:20 PM
To: Hynek, Sara - DOA
Cc: Gary, Aaron - LEGIS
Subject: RE: Reenrollment of service members

Yes, that is confusing. I don't know why I referred to months, that was a mistake. Sorry about that.

I would revise my example to refer to one semester, which I'll call S1, the next following semester, which I'll call S2, and the semester following after that, which I'll call S3. I don't know what names the different schools give to their semesters, so that's why I'll use S1, S2, and S3.

Under the statutory text (i.e., 2005 Wisconsin Act 470), if a service member was deactivated in S1, he or she can reenroll in S1 or S2. Under 2005 Wisconsin Act 324, the same service member can reenroll in S2 or S3.

--Mark

From: Hynek, Sara - DOA [mailto:Sara.Hynek@wisconsin.gov]
Sent: Friday, November 14, 2014 1:55 PM
To: Kunkel, Mark
Cc: Gary, Aaron
Subject: RE: Reenrollment of service members

Thank you Mark. When you say that an individual could reenroll in February or March, is that specific to the technical colleges? I see the discrepancy you're talking about, but we're confused about semesters vs. months.

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Friday, November 14, 2014 11:00 AM
To: Hynek, Sara - DOA
Cc: Gary, Aaron - LEGIS
Subject: Reenrollment of service members

In publishing the statutes, the LRB reviews the notes that we have included in our capacity as revisor. Notes regarding the following 3 statutes involve an issue relating to your areas that you may want to consider addressing in the budget: ss. 36.11 (47) (intro.), 38.12 (13) (intro.), and 39.48 (1).

The 3 statutes allow service members to reenroll at the UW, technical colleges, or certain private nonprofit colleges or universities, if withdrawal from school was due to being called to duty. The statutes give a service member an option regarding the semester for reenrollment. An inconsistency about the option arose because 2005 Wisconsin Act 470

allowed a service member to reenroll in either: 1) the semester in which he or she is discharged, demobilized, or deactivated; or 2) the next succeeding semester. However, 2005 Act 324 allowed the service member to reenroll in either: 1) the semester following discharge, demobilization, or deactivation; or 2) the next succeeding semester. Therefore, if a service member was deactivated in January, under 2005 Wisconsin Act 470, he or she can reenroll in January or February. Under 2005 Wisconsin Act 324, he or she can reenroll in February or March.

Because 2005 Wisconsin Act 470 was enacted after 2005 Wisconsin Act 324, we assumed that it reflected the legislature's final intent for that session. Therefore, we published the changes made by 2005 Wisconsin Act 470 as statutory text, and included notes that describe the changes made by 2005 Wisconsin Act 324. However, one could argue that our assumption was incorrect. I'm not sure exactly how one would make that argument, but we continue to include the notes in the statutes to let readers know about the two acts and the choice we made in publishing statutory text.

We are not aware of any problems in administering the statute as published. I'm bringing the issue to your attention because you could address the issue in the budget and eliminate the LRB's need to continue to publish the notes. If you are satisfied with the statutory text, let me know so that we can clarify legislative intent in the budget. However, if you prefer the changes made by 2005 Wisconsin Act 324, we could revise the statutory text in the budget. Of course, you may have no opinion on the matter or otherwise don't want to address it in the budget. Nevertheless, we thought we'd bring it to your attention.

Please let me know if you want to do anything about this matter.

Thanks,

--Mark

Champagne, Rick

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Monday, December 22, 2014 3:26 PM
To: Champagne, Rick
Cc: Kunkel, Mark; Gary, Aaron; Hynek, Sara - DOA
Subject: RE: UW Authority More Questions

Here is what we have initially:

15.105 (25m) (b) *Keep*
15.107 (12) (b) h.2. *Keep*
15.137 (2) (a) 5. *Keep*
15.137 (2) (a) 7. *Keep*
15.347 (13) (b) 6. *Keep*
15.57 (1) *Keep*
15.94 (2m) *Keep*
19.42 913) (b) *Not sure*
19.42 (13) (cm) *Not sure*
39.16 91) *Keep*
40.02 (30) *Not sure*
40.285 (2) (c) *Not sure*
46.29 (3) (g) *Keep*
233.02 (1) (c) *Keep*
233.02 (1) (e) *Keep*
233.02 (1) (f) *Keep*

Based on the number of references to President of the UW System and Chancellors, it might be easiest to retain the definitions of those two positions in chapter 36, while still giving the Board the ability to appoint individuals and set the compensation and benefits, etc., for these positions. I think it might be difficult to keep the references to chancellors and president but change it to something that that is vague enough to give the Board the ability to define these titles yet refer to the correct individual. Do you agree with that?

Nathan

From: Champagne, Rick [mailto:Rick.Champagne@legis.wisconsin.gov]
Sent: Monday, December 22, 2014 2:15 PM
To: Schwanz, Nathan E - DOA
Cc: Kunkel, Mark - LEGIS; Gary, Aaron - LEGIS; Hynek, Sara - DOA
Subject: UW Authority More Questions

Nathan, all of these provisions refer either to chancellors or presidents. (These are the ones outside of ch. 36.) What do we do?

15.105 (25m) (b)
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233.02 (1) (e)
233.02 (1) (f)

Also, how do I handle s. 20.921? I assume I not include UW System Authority, but should I also take out current law provisions that apply to UW hospitals and Clinics Authority too?

Rick

Kunkel, Mark

From: Champagne, Rick
Sent: Monday, December 22, 2014 3:36 PM
To: Schwanz, Nathan E - DOA
Cc: Kunkel, Mark; Gary, Aaron; Hynek, Sara - DOA
Subject: RE: UW Authority More Questions

I agree. The title of president and chancellor are scattered throughout the statutes, and the draft will certainly be a lot shorter if we keep those titles.

Another question: there are many places where we exclude authorities from certain requirements and duties or where we specifically include them. Should for this preliminary draft we treat the UW System Authority the same way that we treat UW Hospitals and Clinics Authority?

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Monday, December 22, 2014 3:26 PM
To: Champagne, Rick
Cc: Kunkel, Mark; Gary, Aaron; Hynek, Sara - DOA
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Rick

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Monday, December 29, 2014 11:31 AM
To: Kunkel, Mark
Cc: Gary, Aaron; Hynek, Sara - DOA
Subject: RE: Police power

Mark,

Regarding police power, we would like to approach it similar to how 2013 SB 610 set up police authority for Marquette University. We think expanding the existing statutes (s. 175.42) to include UW System institutions makes the most sense. Instead of entering an agreement with the City of Milwaukee, each institution would enter an agreement with the city in which it is located.

We will ask the UW System if they have any feedback on this particular item and will let you know if they do. In the meantime, we would like to set up UW institutions similar to Marquette University to address the issue of police power.

Let me know if you have any questions about this item. Thanks.

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Friday, December 19, 2014 9:48 AM
To: Schwanz, Nathan E - DOA
Cc: Gary, Aaron - LEGIS
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Nathan:

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More generally, note that s. 36.11 (2) (a) gives the board of regents concurrent police power over property subject to its jurisdiction. What are the ramifications of giving that police power to the authority, which has both public and private characteristics? For example, to what extent would a police officer of the authority, the UW authority itself, or the state, be liable for the officer's actions? I don't have any expertise on such matters, but I am wondering if you have any thoughts on these issues.

Thanks,

--Mark

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Monday, December 29, 2014 1:58 PM
To: Kunkel, Mark
Subject: Questions regarding UW

Hi Mark,

We have a meeting next week with the Gov's office and some staff from the UW. Do you have any questions or topics we should bring up to get direction on? If so, could you send them to me by Friday. I know it's short notice; we just found out today. If you don't have anything for us to bring up, that's fine. Thanks.

Nathan Schwanz
Executive Policy & Budget Analyst
State Budget Office
608-266-2843

Kunkel, Mark

From: Champagne, Rick
Sent: Monday, December 29, 2014 3:31 PM
To: Kunkel, Mark
Subject: RE: 36.33

I guess I would take it from Building Commission and DOA approval and see what they think. So strike references to s. 13.48 (14)(am) and 16.848 (1) and delete sub (5) entirely.

From: Kunkel, Mark
Sent: Monday, December 29, 2014 3:27 PM
To: Champagne, Rick
Subject: 36.33

Any thoughts on what I should do to the above, which relates to the sale or lease of certain agricultural lands?

Kunkel, Mark

From: Kunkel, Mark
Sent: Monday, December 29, 2014 4:56 PM
To: 'Schwanz, Nathan E - DOA'
Cc: Champagne, Rick; Hanaman, Cathlene; Gary, Aaron
Subject: RE: Questions regarding UW

One issue would be the treatment of UW employees. Currently, we are creating an authority and transferring the employees to the authority. Is that going to be okay?

More generally, we will need guidance on how to deal with the powers and duties of the UW specified in ch. 36. You've given me some guidance on ss. 36.09 to 36.21, but we will need clarification on what to do with the rest of ch. 36.

As for other questions, I'm sure we'll have plenty, but they will depend on what you ultimately decide to do. However, if we think of anything else this week, we'll get in touch.

--Mark

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
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State Budget Office
608-266-2843

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Tuesday, December 30, 2014 10:43 AM
To: Kunkel, Mark
Subject: RE: 36.45 reports

Both can be removed.

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Tuesday, December 30, 2014 10:41 AM
To: Schwanz, Nathan E - DOA
Subject: 36.45 reports

Here's a minor question. In your attachment on reports to eliminate, you want to remove s. 36.45 (3), but you don't mention the annual report to JCF under s. 36.45 (4). Is that okay?

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Tuesday, December 30, 2014 1:11 PM
To: Kunkel, Mark
Subject: RE: Statutory reports

They were reports instituted by the Joint Committee on Finance, that is probably why. Would JCF need to vote to remove these reports?

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Tuesday, December 30, 2014 1:04 PM
To: Schwanz, Nathan E - DOA
Subject: Statutory reports

Nathan:

Your table on statutory reports includes the following references to 13.10 meetings:

- Report on auxiliary balances of more than 12% of expenditures.
- Report on the annual course drop rate of undergraduate students.

I'm having some trouble finding statutory or nonstatutory references for the above. Can you point me in the right direction?

--Mark

Kunkel, Mark

From: Kunkel, Mark
Sent: Tuesday, December 30, 2014 2:12 PM
To: 'Schwanz, Nathan E - DOA'
Subject: RE: Statutory reports

Let me ask around to see how we should deal with this issue and I'll get back to you.

For future reference, it looks like the undergrad drop rate report was first required in 1988. See the memo here which refers to a Sept. 1988 JCF 13.10 meeting:

http://legis.wisconsin.gov/lfb/jfc/reports/Documents/2014_08_05_UWS%20undergraduate%20course%20drop%20rates.pdf

As for the auxiliary balances report, the LFB has the following background info, which can be found here:

<http://legis.wisconsin.gov/lfb/publications/budget/2015-17%20Budget/Documents/Agency%20Request/uw%20system.pdf>

"As recommended by the Joint Legislative Audit Committee in April, 2014, and approved by the Joint Committee on Finance in May, 2014, the Board of Regents is required to submit a report to both Committees on the level of program revenue balances by October 15 of each year. This report includes the dollar amount of auxiliary operations balances as of June 30 of the previous fiscal year and those balances as a percentage of total auxiliary operations expenditures in the previous year for each UW institution. If the auxiliary operations balance as a percentage of expenditures exceeds 12%, the institution must justify the balance by reporting the specific projects or initiatives for which the funds are being held, the amount of funds held for each project or initiative, the total amount of program revenue funds the institution plans to accumulate for the project or initiative, the total amount of funds expected to be expended on each project or initiative, and the timeframe in which those funds will be expended. These justifications must be approved by the Board of Regents."

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Tuesday, December 30, 2014 1:11 PM
To: Kunkel, Mark
Subject: RE: Statutory reports

They were reports instituted by the Joint Committee on Finance, that is probably why. Would JCF need to vote to remove these reports?

Nathan

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--Mark

Kunkel, Mark

From: Champagne, Rick
Sent: Tuesday, December 30, 2014 2:41 PM
To: Kunkel, Mark; Hanaman, Cathlene; Gary, Aaron
Subject: RE: Eliminating reports required by JCF

I would prohibit JCF from requiring any report from the UW System Authority relating to X and Y. Create s. 13.101(18) that does this.

From: Kunkel, Mark
Sent: Tuesday, December 30, 2014 2:24 PM
To: Champagne, Rick; Hanaman, Cathlene; Gary, Aaron
Subject: Eliminating reports required by JCF

The UW budget request includes eliminating 2 annual reports that the UW must submit to JCF. One of the reports deals with undergraduate course dropout rates and the other deals with auxiliary balances. However, the reports aren't required by statute. Instead, JCF required the dropout rate report at a 13.10 meeting in Sept. 1988 and the auxiliary balance report at a 13.10 meeting in May 2014.

I assume the entire legislature can override the wishes of JCF, but I haven't done anything like this before. Any thoughts on how to do this?

--Mark

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Tuesday, December 30, 2014 4:12 PM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: RE: Statutory reports

I think your recommendation on prohibiting JCF from requiring reports on course dropout rates is fine. Regarding the balances, can we prohibit JCF from requiring reports regarding balances generally so we aren't specific yet don't leave the door open for JCF to still require some kind of report on balances?

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Tuesday, December 30, 2014 3:41 PM
To: Schwanz, Nathan E - DOA
Subject: FW: Statutory reports

Nathan:

Looks like we would create s. 13.101 (18) to prohibit JCF from requiring the UW to make the reports.

Regarding the dropout report, I could prohibit JCF from requiring the University of Wisconsin System Authority to submit reports regarding undergraduate course dropout rates. JCF's 1988 motion was a bit more specific, as JCF required annual reports on campuses where dropout rates exceed 5%, as well as on the steps being taken to achieve a maximum 5% dropout rate at those campuses. See the UW's discussion of the motion in the link below. Is a broad prohibition on reports regarding undergraduate course dropout rates okay, or do you want something more specific that tracks the motion as described by the UW?

Regarding auxiliary balances, do you want to prohibit the entire report described below, or do you want to prohibit JCF from requiring a justification from institutions with balances that exceed 12%?

--Mark

From: Kunkel, Mark
Sent: Tuesday, December 30, 2014 2:12 PM
To: 'Schwanz, Nathan E - DOA'
Subject: RE: Statutory reports

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From: Schwanz, Nathan E - DOA [<mailto:Nathan.Schwanz@wisconsin.gov>]
Sent: Tuesday, December 30, 2014 1:11 PM
To: Kunkel, Mark
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Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Tuesday, December 30, 2014 4:19 PM
To: Kunkel, Mark
Cc: Champagne, Rick; Hanaman, Cathlene; Gary, Aaron
Subject: RE: Questions regarding UW
Attachments: Mission, purpose, powers and responsibilities FM.docx

Mark,

Attached is some guidance on the mission, powers and responsibilities for the UW authority. I hope it provides some additional guidance on those sections. If not, or if you have any questions about it, please let me know.

I am working on putting together some more guidance for the remainder of ch. 36 and will send it to you when I have it finished and cleaned up.

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Monday, December 29, 2014 4:56 PM
To: Schwanz, Nathan E - DOA
Cc: Champagne, Rick - LEGIS; Hanaman, Cathlene - LEGIS; Gary, Aaron - LEGIS
Subject: RE: Questions regarding UW

One issue would be the treatment of UW employees. Currently, we are creating an authority and transferring the employees to the authority. Is that going to be okay?

More generally, we will need guidance on how to deal with the powers and duties of the UW specified in ch. 36. You've given me some guidance on ss. 36.09 to 36.21, but we will need clarification on what to do with the rest of ch. 36.

As for other questions, I'm sure we'll have plenty, but they will depend on what you ultimately decide to do. However, if we think of anything else this week, we'll get in touch.

--Mark

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Monday, December 29, 2014 1:58 PM
To: Kunkel, Mark
Subject: Questions regarding UW

Hi Mark,

We have a meeting next week with the Gov's office and some staff from the UW. Do you have any questions or topics we should bring up to get direction on? If so, could you send them to me by Friday. I know it's short notice; we just found out today. If you don't have anything for us to bring up, that's fine. Thanks.

Nathan Schwanz
Executive Policy & Budget Analyst
State Budget Office
608-266-2843

36.01 Statement of purpose and mission. (1) ~~The legislature finds it in the public interest to provide~~ There is created a system of higher education which enables students of all ages, backgrounds and levels of income to participate in the search for knowledge and individual development; ~~which stresses undergraduate teaching as its main priority; which offers selected professional graduate and research programs with emphasis on state and national needs; which fosters diversity of educational opportunity; which promotes service to the public; which makes effective and efficient use of human and physical resources; which functions cooperatively with other educational institutions and systems; and which promotes internal coordination and the wisest possible use of resources.~~

(2) The mission of the system is to develop human resources to meet the state's workforce needs, to discover and disseminate knowledge, ~~to extend knowledge and its application~~ beyond the boundaries of its campuses and ~~to serve and stimulate society by developing~~ in students heightened intellectual, cultural and human sensitivities, scientific, professional and technological expertise and a sense of purpose. ~~Inherent in this broad mission are methods of instruction, research, extended training and public service designed to educate people and improve the human condition. Basic to every purpose of the system is the search for truth.~~

Responsibilities (36.09)

• The Board of Regents (1)

○ Retain

- ✓ ■ Primary governance over the system (a).
- ✓ ■ Requiring missions for each institution (b).
- ✓ ■ Establish or discontinue educational programs (c).
- ✓ ■ Establish policies to ensure programs are compatible with missions (d).
- Requires the distribution of funds to institutions (h). → see my 36.11 (4b)(4) (17)

○ Add:

- The make-up of the Board (TBD). - see my 36.02 (i)
- ✓ ■ Ability to develop and implement a personnel structure and other employment policies. see my 36.11 (1p) - like 233.04(2)?
- Contract for legal services. like 233.04(3)? like 233.04(5)?
- Establish an annual budget and monitor the fiscal management.
- Procure liability insurance. → How diff than 36.11(5)? - like 233.04(4)?
- ■ Enter into a lease agreement with the state for the use of facilities and property owned by the state.
 - Will require the lease payments to be the amount of outstanding debt service from bonds issued for the facilities and property owned by the state. - like 233.04 (7) 1/2
 - State will have ownership of any improvements made.
 - Initial agreement and subsequent changes will need JCF approval. (7g)?
- ✓ ■ Provide the Secretary of DOA with financial and statistical information requested by the Secretary. like 233.04(9)?

○ Remove:

- ✓ ■ Requirement to work with WEDC to accomplish certain tasks for economic development programs (am).
- ✓ ■ Requirement to appoint the various officers of the system (e).
- ✓ ■ Allows the delegation of authorities to chancellors (f).

- ✓ Prohibits the creation of graduate, professional or post-baccalaureate colleges or schools without the legislature's approval (gm).
- ✓ Adopt policies to account for GPR and other revenues (hm).
- ✓ Work with OSER to classify positions (i).
- ✓ Establish salaries for unclassified staff and other personnel matters (j).
- ✓ Correct pay inequities based on gender and race (k).
- ✓ Limits ability to sell and lease property (L). — see my 36.11 (1d)
- ✓ Definitions and roles of the President (2), the Chancellors (3), Faculty (4), Academic Staff (4m) and Students (5). see my changes to definition

Powers of the Board (36.11)

- Keep:
 - ✓ Ability to hold and manage property (1). see my 36.11 (1t)
 - ✓ Ability to promulgate rules under ch. 227 will be removed.
 - ✓ Will be exempt from seeking the Building Commission and DOA's approvals for capital projects and leases.
 - ✓ Establish admission requirements and standards (3). re (3)(d)
 - ✓ Application fee requirements will be removed.
 - ✓ Seek injunctive relief (4).
 - ✓ May procure liability and other insurance (5).
 - ✓ May confer degrees (7).
 - ✓ Allows for the expenditure of funds from the University fund (10).
 - ✓ Enter agreements with the UWHCA (28, 28m and 29).
- Add:
 - The Board will have any power necessary to carry out its mission and purpose.
 - May adopt bylaws and policies and procedures.
 - Sue and be sued.
 - Negotiate and enter leases.
 - Accept gifts, grants, bequests, loans and financial assistance.
 - Procure insurance on its debt.
 - Employ anyone they see fit and fix their compensation and benefits.
 - Appoint advisory committees.
 - Enter into procurement contracts as necessary.
 - Issue bonds.
 - Seek financing from WHEFA.
 - Construct or improve facilities on state-owned land without Building Commission review.
 - Acquire, design, construct or improve any facility not on state-owned land.
 - Buy, sell and lease real estate.
- Remove:
 - ✓ Police authority (2). re 1d
 - ✓ Will be included in s. 175.42 with Marquette University.
 - ✓ May establish financial aid programs (6).
 - ✓ May make parking and related rules, levy parking fees and must develop a transportation plan (8, 8e, and 8m).
 - ✓ May acquire property through eminent domain (9).
 - ✓ Allows for the investment of surplus funds from an appropriation that no longer exists (11).

- May participate in a book sharing agreement with other universities (12).
- Requires auxiliary reserves accumulated prior to the merger to be used for their original purpose (13).
- Allows for tax deferred annuities and participation in the American football coaches retirement trust (15 and 15m).
- Establishes rules for sabbatical leave (17).
- Permits membership in the Midwest Technology Development Institute (18).
- May provide services to K-12 school districts (19).
- Prohibits the use of controlled substances at campuses (21).
- Requires an orientation program and information to be provided on sexual assault and harassment (22).
- Requires DOA to provide two staff for the Board (23).
- Requires the Board to have 2 FTE dedicated to compliance with environmental laws (23m).
- Requires the retention of administrative documents (24).
- Requires the promotion of the training of health professionals (25).
- Places building projects under the review of the Building Commission (26).
- Prohibits aid being given to anyone who does not register for the Selective Service (27).
- Establishes reports for economic development assistance programs (29r).
- Must cooperatively research preschool through postsecondary programs (31).
- Must create a nursing program at UWSP (32).
- Creates report on management and staff positions systemwide (33).
- Must create an aquaculture demonstration facility (36).
- Must conduct research on K-12 school safety (36m).
- Must offers programs to educate local government officials on local planning (37).
- Establishes the Gaylord Nelson Chair of Integrated Environmental Studies (39).
- Establishing a Center for Cooperatives at UW Madison (40).
- Requires joint programming between UWGB and the Oneida Tribe (43).
- Requires UW Milwaukee to conduct an economic development study of the Fond du Lac Ave corridor in Milwaukee (46).
- Requires UW Madison to report to DOA on utility charges (48).
- Prohibits GPR from being used for automobile allowances (51).
- Requires the establishment of bidding procedures and policies and other building requirements (53 and 53m).
- Establishes another employee report (54).
- Requires the review of certain contracts (55).
- Requires GPR to be distributed to institutions as block grants (57).
- Create new sections for:
 - Sets the date for the commencement of the fall semester (16).
 - Provides for immediate re-enrollment for members of the armed forces (47).
 - Give priority registration to service members (47m).
 - Prohibits GPR being given to institutions that prohibits ROTC from operating on its campus (50).
 - Requires membership dues be paid to the Midwestern Higher Education Compact (52).
 - Establishes criteria to follow when accepting classified research (55m).
 - Remove requirement for consulting the faculty.
 - Requires the establishment of travel policies (56).

(44) ✓
 listed in
 statutory
 reports
 table
 for repeal