

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Wednesday, January 07, 2015 5:39 PM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: Additional Guidance

Mark,
As promised, here is guidance on additional items related to the UW.

16.62 changes accomplish this

- 1. Board structure, members, and title will remain as it currently is.
- 2. The UW would like to continue to be able to utilize the state records center.
- 3. They would like to have a reciprocal agreement with the state that allows the UW to join a state procurement contract or the state to join a UW procurement contract. Does this need to be outlined in the statutes?
- 4. References to Chancellors, Vice-Chancellors and the President of the UW System Authority can remain. They would like any references to the President of the Board of Regents to be changed to the Chair of the Board of Regents.
- 5. The authority should remain subject to open records requirements.
- 6. The attached boards, WVDL and SLH, should be transferred to DATCP.
 - a. Board structures should remain as they currently are.
 - i. State Lab of Hygiene
 - 1. The director of the State Laboratory of Hygiene shall be appointed by the board in consultation with the DATCP Secretary (36.25(11)(e)).
 - 2. The Chancellor of UW-Madison can remain a member of the lab's board.
 - ii. Veterinary Diagnostic Lab
 - 1. The director shall be appointed by the DATCP Secretary (36.58(3m)).
 - 2. The Chancellor of UW Madison can remain a members of the board.
 - 3. I don't think 36.58(5) needs to be repealed since that was part of the UW's transition to a new personnel system. *see eff July 2015*
 - b. Current budget and FTE authority will be transferred to DATCP. *no changes needed*
- 7. State Assets
 - a. Require the authority to lease state owned properties from the state (already had sent guidance on this).
 - i. The agreement will be required to include a provision that requires the authority to pay the state a nominal amount (modeled after 233.04(7)(a)2).
 - 1. The lease agreement will not require the authority to assume responsibility for outstanding GPR debt service payments.
 - ii. The authority will be unable to sell state assets.
- 8. Capital Projects
 - a. The authority will be able to request GPR funded capital projects but will need to do so through the building commission and the current processes.
 - b. The authority will be able to conduct all aspects of capital projects funded by other revenues (formerly PR) except they must go through DOA and the state for the bidding process only.
 - i. The authority will only need to go through the state for the bidding process if the cost of the project is \$100,000 or more.
 - c. Projects funded by gifts and grants can be executed by the UW completely independent from the state.
- 9. Current UW employees will be able to transfer back to employment with the state for up to one year after the effective date of the authority. *see Rick's insert*
- 10. We are not sure if there is a requirement for the UW to have an extension in each county. If there is, it should be removed. They would like the authority to have the flexibility to determine whether to have an extension in a county.

check 39.56(3)(a) (p. 115)

11. The state will continue to be able to reduce the authority's appropriation in an emergency situation as outlined in 13.101(6).

12. MN/WI Student Reciprocity

- a. This program will be transferred from HEAB to UW effective July 1, 2015 (HEAB will negotiate and enter the agreement on behalf of the state for FY15).
- b. Program will remain the same except the Board will have the ability to either renew or not renew the agreement, both without JCF review. *change on p101 line 17*
 - i. If the program is renewed the authority will be responsible for any negotiated payments to MN or will receive any negotiated payments from MN.
 - ii. If the program is not renewed, the authority will be responsible for covering the difference between WI resident tuition and MN nonresident tuition (at comparable institutions) for up to four years from the end date of the agreement for Wisconsin resident students enrolled in the program at the time of termination (to hold current Wisconsin residents harmless).

Let me know if you have questions about any of these items.

We need your opinion on an item that came up in the meeting today. There is a desire to begin work on policies prior to July 1, 2016 so that they may take effect the first day of the authority. Do you have suggestions on how this could be handled? One idea was to allow the board to begin work on authority policies prior to July 1, 2016. Would this be legal? Could current policies be carried over to the new authority?

Thank you again for your help and time.

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

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Thursday, January 08, 2015 12:46 PM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: RE: Additional Guidance

Mark,
One more item from our meeting today:

Under the lease agreement, if the UW wants to make modifications to a state owned facility (renovations) they will have to do so through the DOA and Building Commission processes that exist for other agencies if the project is over the established threshold (as a note, this threshold is being increased in the Governor's budget).

Let me know if you have any questions about this or other items.

Nathan

From: Schwanz, Nathan E - DOA
Sent: Wednesday, January 07, 2015 5:39 PM
To: Kunkel, Mark - LEGIS
Cc: Hynek, Sara - DOA
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Thank you again for your help and time.

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

Kunkel, Mark

From: Kunkel, Mark
Sent: Thursday, January 08, 2015 2:40 PM
To: Hanaman, Cathlene
Subject: UW police

Cathlene:

I think we should consider the following in the next version of the UW draft:

Section 19.32 (1) refers to a university police department under s. 175.42. However, s. 175.42 (2) is amended in a few places to refer to a Marquette police department. Also, s. 175.42 (2m) is created to refer to an institution establishing a police department or to a University of Wisconsin System Authority police department.

Section 939.22 (22) says that "Peace officer" includes "a university police officer, as defined in s. 175.42 (1) (b)." However, the defined term is changed in s. 175.42 (1) (b).

Sections 341.65 (2) (b) and 342.40 (3) (a) refer to "university police officer," which is not defined. Is that okay?

Also, the new UW authority will adopt policies and procedures, and not promulgate rules. Therefore, in ch. 36, I eliminated fines, imprisonment, and forfeitures for rule violations that are set forth in s. 36.11 (1) (a) and (c) and (d). Also, I repealed s. 778.25 (1) (a) 5., which allows citations for violation of UW rules. I also amended s. 36.11 (4) to strike the authority board's power to obtain injunctive relief to enforce rules. I put Notes in the draft explaining that if DOA wants any of the foregoing to apply to violations of the authority's policies and procedures, then there may be due process issues to address. However, I'm not sure how to address them. Any thoughts?

--Mark

Kunkel, Mark

From: Hanaman, Cathlene
Sent: Thursday, January 08, 2015 2:45 PM
To: Kunkel, Mark
Subject: RE: UW police

Oh yeah, I meant to look at my old Marquette draft but got distracted. This week has been a distraction for me. Sorry. Next version.

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Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Thursday, January 08, 2015 2:45 PM
To: Kunkel, Mark
Subject: RE: Additional Guidance

Mark,
Give me a call when you have a chance and we can discuss some of your questions.

Thanks.

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Thursday, January 08, 2015 2:00 PM
To: Schwanz, Nathan E - DOA
Subject: RE: Additional Guidance

Nathan:

Before we start revising the preliminary draft, I want to make sure we understand what you want to do with names. Let me know what you think of the following.

UWSA and Board of Regents

The new authority should be called the University of Wisconsin System Authority.

The board that governs the authority should be called the Board of Regents. (If you have any preferences on how to stagger the initial appointments to the new Board of Regents, let me know. Otherwise, we will take a stab at staggering, which you can revise later.) → retain membership - until terms expire

President

Current law requires the Board of Regents to appoint a president, who is the chief executive officer of the system. You want to call that person the chair of the Board of Regents, instead of president. However, note that the University of Wisconsin Clinics and Hospitals Authority (UWCHA) does something different. The UWCHA board of directors elects one of its members as a chairperson, and appoints a chief executive officer who is not a member of the board of directors. See s. 233.02 (8) and (9). For the UWSA, the chair (i.e., chairperson) will be appointed by the Board of Directors, but won't be a member of the Board of Directors. It seems unusual to call someone who is not a member of a board the chairperson of that board. As for powers of the president under current law, the preliminary draft repeals s. 36.09 (2).

*President of sys = chief exec
president of board of regents → chairperson*

Chancellors

You want to retain references to chancellors, who should be appointed by the Board of Regents. As under current law, a chancellor is the chief executive office of an institution. See s. 36.05 (5). However, what do you want to do about the powers and duties of chancellors under current law? In the preliminary draft, I repealed s. 36.09 (3). Also, I transferred chancellor power to the Board of Regents in s. 36.05 (8). In addition, references to chancellors were stricken or repealed in s. 349.137 (3) (intro.) and (4) (b). However, I did not affect chancellor powers or duties in the following statutes: ss. 15.107 (12) (b) 2., 15.137 (2)(a) 7., 15.445 (2) (e), 15.915 (1) (b) 2. and (2) (a), 16.61 (13) (d) 1., 19.42 (13) (cm), 36.11 (55m) (e), 36.12 (2) (a) 4. and (b), 36.35 (2) and (3), 36.44 (1), 36.65 (2) (intro.), 93.33 (4s) (c) and (5), 118.40 (2r) (b) 1. b., 1. c., 2., 3, (bm), (cm), 118.40 (7) (am) 2., and 233.02 (1) (c), (e), and (f). Do you want to make any changes to the foregoing?

Should be okay

*chancellor defn okay as is under current law
vice chancellor*

Vice-chancellors

You want to retain references to vice-chancellors. However, the preliminary draft repeals all the provisions in ch. 36 that refer to vice-chancellors (ss. 36.09 (3) (b), 36.115 (3m) (ae), (b), (c), and (g) and 36.17 (2)). If you are okay with those repeals, do you want to require the Board of Regents or chancellors to appoint vice-chancellors? Also, current law does not have a definition for vice-chancellor. Do you want to create one? Also note that, outside of ch. 36, current law repeals all references to vice-chancellors on July 1, 2015, with two exceptions. Section 19.42 (13) (cm) is created effective July 1, 2015 to refer to vice-chancellors and s. 40.02 (30) is amended on the same date to refer to vice-chancellors. Is that okay? *YES*

Deans

The preliminary draft repeals or strikes references to deans in ch. 36, except in s. 36.12 (2) (b). Do you want to make changes to s. 36.12 (2) (b)? *NO* However, the following statutes outside ch. 36 refer to a dean of a specified UW school: ss. 14.015 (1), 15.135 (4) (c) 2., 15.137 (2) (a) 8., (5) (a), and (b) 1., 15.915 (1) (b) 3., 95.14 (2), 233.02 (1) (d), and 758.13 (1) (a) 8. Also, s. 885.205 refers to a dean of an institution of higher education in this state. The preliminary draft does not affect any of the foregoing statutes. What do you want to do about those references?

Other officers

With 2 exceptions, the preliminary draft repeals all references to other officers of the UW System, such as provost; vice president; associate or assistant to president, chancellor or vice-chancellor; and administrative or associate directors of plant, services, or anything else. The exceptions are s. 19.42 (13) (b) (associate and assistant vice presidents) and 19.42 (13) (cm) (vice president), which is created effective July 1, 2015. Are those exceptions okay? *OK*

The University of Wisconsin System

Statutes outside ch. 36 refer to the University of Wisconsin System. In some of those statutes, "system" refers to the UW as a state agency. In those statutes, we should refer to the UWSA, instead of the system. In other of those statutes, "system" refers to educational institutions within the UW. For example, s. 15.67 (1) (a) 5. refers to a student at an institution within the system. In those statutes, we should continue to refer to the University of Wisconsin System, instead of UWSA. In order to do that, I will need to revise the preliminary draft because I repealed s. 36.03, which creates a system to be known as the University of Wisconsin System. I should retain that repeal, but insert language in s. 36.01 (1) that creates a system that is known by that name. It's a small detail, but I think we need that language to give meaning to the references to the system outside ch. 36. (You did tell me to say "create" in s. 36.01 (1), but I did something else in the preliminary draft. Sorry about that.) *OK*

Named institutions

Various UW universities and schools are mentioned by name throughout the statutes. We should not affect those names.

From: Schwanz, Nathan E - DOA [<mailto:Nathan.Schwanz@wisconsin.gov>]

Sent: Wednesday, January 07, 2015 5:39 PM

To: Kunkel, Mark

Cc: Hynek, Sara - DOA

Subject: Additional Guidance

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As promised, here is guidance on additional items related to the UW.

1. Board structure, members, and title will remain as it currently is.
2. The UW would like to continue to be able to utilize the state records center. *16.6.2*
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Kunkel, Mark

From: Kunkel, Mark
Sent: Thursday, January 08, 2015 4:04 PM
To: Kunkel, Mark
Cc: Gary, Aaron
Subject: FW: Additional Guidance

I spoke with Nathan on the phone and clarified the following:

The members serving of on the Board of Regents under current law should continue to serve on the board of the new authority until their terms expire. We can handle this in a nonstat, and we probably won't need to do any staggering, as staggering will result from continued service until terms expire.

Under current law, the Board of Regents has designated one of its members as the president of the Board of Regents. That is different than the president of the UW System, who is chief executive of the system. DOA wants to change the name of the president of the Board of Regents, not the president of the system. We have already accomplished that in the p-draft by requiring the authority's board to elect a chairperson.

With one exception, the chancellor provisions are okay as drafted and no changes are needed to the statutes I listed. (Aside: I mistakenly said that we did not affect s. 36.35 (2) and (3), but we repealed them.) The board will be required to appoint chancellors. The one exception is that the p-draft amends the definition of chancellor, but current law is okay.

Vice chancellor provisions, deans, and other officers are okay as is. There is no need to require the board to appoint vice chancellors, as that power can be implied from the board's personnel powers.

I should make the changes to UW System that I mentioned below. The UWSA name is okay and we should leave the names of institutions alone.

Finally, I did ask about item 2 in his email. I think we've already accomplished that item, as DOA's statutory authority for a records center is set forth at s. 16.62, and we have inserted the UWSA into that statute.

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Sent: Thursday, January 08, 2015 2:45 PM
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Vice-chancellors

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Deans

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With 2 exceptions, the preliminary draft repeals all references to other officers of the UW System, such as provost; vice president; associate or assistant to president, chancellor or vice-chancellor; and administrative or associate directors of plant, services, or anything else. The exceptions are s. 19.42 (13) (b) (associate and assistant vice presidents) and 19.42 (13) (cm) (vice president), which is created effective July 1, 2015. Are those exceptions okay?

The University of Wisconsin System

Statutes outside ch. 36 refer to the University of Wisconsin System. In some of those statutes, "system" refers to the UW as a state agency. In those statutes, we should refer to the UWSA, instead of the system. In other of those statutes, "system" refers to educational institutions within the UW. For example, s. 15.67 (1) (a) 5. refers to a student at an institution within the system. In those statutes, we should continue to refer to the University of Wisconsin System, instead of UWSA. In order to do that, I will need to revise the preliminary draft because I repealed s. 36.03, which creates a system to be known as the University of Wisconsin System. I should retain that repeal, but insert language in s. 36.01 (1) that creates a system that is known by that name. It's a small detail, but I think we need that language to give meaning to the references to the system outside ch. 36. (You did tell me to say "create" in s. 36.01 (1), but I did something else in the preliminary draft. Sorry about that.)

Named institutions

Various UW universities and schools are mentioned by name throughout the statutes. We should not affect those names.

From: Schwanz, Nathan E - DOA [<mailto:Nathan.Schwanz@wisconsin.gov>]

Sent: Wednesday, January 07, 2015 5:39 PM

To: Kunkel, Mark

Cc: Hynek, Sara - DOA

Subject: Additional Guidance

Mark,

As promised, here is guidance on additional items related to the UW.

1. Board structure, members, and title will remain as it currently is.
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Let me know if you have questions about any of these items.

We need your opinion on an item that came up in the meeting today. There is a desire to begin work on policies prior to July 1, 2016 so that they may take effect the first day of the authority. Do you have suggestions on how this could be handled? One idea was to allow the board to begin work on authority policies prior to July 1, 2016. Would this be legal? Could current policies be carried over to the new authority?

Thank you again for your help and time.

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

Kunkel, Mark

From: Kunkel, Mark
Sent: Friday, January 09, 2015 10:46 AM
To: Hanaman, Cathlene
Subject: FW: Additional Guidance

Take a look at LRB-0971/P1 and please determine what changes are necessary to accomplish item 3 below.

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Thursday, January 08, 2015 12:46 PM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: RE: Additional Guidance

Mark,
One more item from our meeting today:

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Nathan

From: Schwanz, Nathan E - DOA
Sent: Wednesday, January 07, 2015 5:39 PM
To: Kunkel, Mark - LEGIS
Cc: Hynek, Sara - DOA
Subject: Additional Guidance

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

Kunkel, Mark

From: Kunkel, Mark
Sent: Friday, January 09, 2015 10:49 AM
To: Mueller, Eric; Shovers, Marc
Cc: Champagne, Rick
Subject: FW: Additional Guidance

Do you ^{know} ~~now~~ handle building commission issues now? If so, please look at item 8 below, which is a new instruction for the budget draft on UW restructuring. We prepared a 1st version of the draft (LRB-0971/P1), and we now need to figure out what changes are necessary to accomplish item 8. Rick did all the building commission parts of that 1st version, so he might be able to help. Thanks!

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Thursday, January 08, 2015 12:46 PM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: RE: Additional Guidance

Mark,
One more item from our meeting today:

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Nathan

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Sent: Wednesday, January 07, 2015 5:39 PM
To: Kunkel, Mark - LEGIS
Cc: Hynek, Sara - DOA
Subject: Additional Guidance

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Executive Policy & Budget Analyst

Kunkel, Mark

From: Kunkel, Mark
Sent: Friday, January 09, 2015 10:50 AM
To: Champagne, Rick
Subject: FW: Additional Guidance

Rick, can you look at item 9 below and determine what changes are needed to LRB-0971/P1?

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Thursday, January 08, 2015 12:46 PM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: RE: Additional Guidance

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608-266-2843

Kunkel, Mark

From: Kunkel, Mark
Sent: Friday, January 09, 2015 10:53 AM
To: Mueller, Eric; Shovers, Marc
Cc: Champagne, Rick
Subject: FW: Additional Guidance

Here's one more item regarding building commission issues. I'll need some help on Nathan's email below.

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Thursday, January 08, 2015 12:46 PM
To: Kunkel, Mark
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Kunkel, Mark

From: Kunkel, Mark
Sent: Friday, January 09, 2015 11:00 AM
To: 'Schwanz, Nathan E - DOA'
Subject: RE: Additional Guidance

In your Jan. 7 email, you said:

“We need your opinion on an item that came up in the meeting today. There is a desire to begin work on policies prior to July 1, 2016 so that they may take effect the first day of the authority. Do you have suggestions on how this could be handled? One idea was to allow the board to begin work on authority policies prior to July 1, 2016. Would this be legal? Could current policies be carried over to the new authority?”

I don't think you need to say anything in the statutes to allow the board to begin working on policies and procedures right away. Because the new authority is not a state agency, it won't promulgate rules, and therefore its policies and procedures won't be subject to rule-making procedures. The new board will have the flexibility it chooses to adopt policies and procedures, and it could work on them before the budget takes effect.

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
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 - i. The authority will only need to go through the state for the bidding process if the cost of the project is \$100,000 or more.
 - c. Projects funded by gifts and grants can be executed by the UW completely independent from the state.
9. Current UW employees will be able to transfer back to employment with the state for up to one year after the effective date of the authority.
10. We are not sure if there is a requirement for the UW to have an extension in each county. If there is, it should be removed. They would like the authority to have the flexibility to determine whether to have an extension in a county.
11. The state will continue to be able to reduce the authority's appropriation in an emergency situation as outlined in 13.101(6).
12. MN/WI Student Reciprocity
 - a. This program will be transferred from HEAB to UW effective July 1, 2015 (HEAB will negotiate and enter the agreement on behalf of the state for FY15).
 - b. Program will remain the same except the Board will have the ability to either renew or not renew the agreement, both without JCF review.
 - i. If the program is renewed the authority will be responsible for any negotiated payments to MN or will receive any negotiated payments from MN.
 - ii. If the program is not renewed, the authority will be responsible for covering the difference between WI resident tuition and MN nonresident tuition (at comparable institutions) for up to four years from the end date of the agreement for Wisconsin resident students enrolled in the program at the time of termination (to hold current Wisconsin residents harmless).

Let me know if you have questions about any of these items.

We need your opinion on an item that came up in the meeting today. There is a desire to begin work on policies prior to July 1, 2016 so that they may take effect the first day of the authority. Do you have suggestions on how this could be

handled? One idea was to allow the board to begin work on authority policies prior to July 1, 2016. Would this be legal?
Could current policies be carried over to the new authority?

Thank you again for your help and time.

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

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Friday, January 09, 2015 1:22 PM
To: Kunkel, Mark
Subject: RE: President of board of regents

Yup, I caught that this morning as I was reading through the draft. I think you've handled it correctly. Thanks.

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Friday, January 09, 2015 1:21 PM
To: Schwanz, Nathan E - DOA
Subject: President of board of regents

Just FYI: it turns out there is a statute that says the chairperson of the board of regents is called the president. See s. 15.07(2)(d). We've already made the necessary change in the prelim draft.

09/7/11

Kunkel, Mark

From: Shovers, Marc
Sent: Friday, January 09, 2015 4:00 PM
To: Kunkel, Mark
Cc: Hanaman, Cathlene
Subject: FW: Additional Guidance

Hi Mark:

With regard to Nathan's memo:

B.48 (6)(7) & (10)
See also p. 2 (b)(9)(12)
Nothing needs to be deleted Nathan agrees.

1. Capital Projects

- a. The authority will be able to request GPR funded capital projects but will need to do so through the building commission and the current processes.
- b. The authority will be able to conduct all aspects of capital projects funded by other revenues (formerly PR) except they must go through DOA and the state for the bidding process only.
- i. The authority will only need to go through the state for the bidding process if the cost of the project is \$100,000 or more.
- c. Projects funded by gifts and grants can be executed by the UW completely independent from the state.

I talked to CMH and she thought that you'd have to go into s. 13.48 and add the UW Authority in the appropriate places to enable them use the building commission processes. Let me know if this is not helpful enough and we can look at it together. I didn't even know where the Building Commission is in the statutes, so I'm not sure how much guidance I'll be able to give you. Lol.

Marc

From: Hanaman, Cathlene
Sent: Friday, January 09, 2015 1:31 PM
To: Shovers, Marc; Mueller, Eric; Kreye, Joseph
Subject: RE: Additional Guidance

Oh, indeed it is. Look what you signed up for.

Joe and I did take Rick's DOA stuff though. So we're just spreading the pain among the senior people.

From: Champagne, Rick
Sent: Friday, January 09, 2015 1:22 PM
To: Hanaman, Cathlene
Subject: FW: Additional Guidance

From: Shovers, Marc
Sent: Friday, January 09, 2015 1:08 PM
To: Kunkel, Mark; Mueller, Eric

Cc: Champagne, Rick
Subject: RE: Additional Guidance

I don't know if I do building commission stuff. Wednesday I agreed to help Eric and Cathlene with the capital budget – I don't know if building commission is part of that.

From: Kunkel, Mark
Sent: Friday, January 09, 2015 10:53 AM
To: Mueller, Eric; Shovers, Marc
Cc: Champagne, Rick
Subject: FW: Additional Guidance

Here's one more item regarding building commission issues. I'll need some help on Nathan's email below.

From: Schwanz, Nathan E - DOA [<mailto:Nathan.Schwanz@wisconsin.gov>]
Sent: Thursday, January 08, 2015 12:46 PM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: RE: Additional Guidance

Mark,
One more item from our meeting today:

Under the lease agreement, if the UW wants to make modifications to a state owned facility (renovations) they will have to do so through the DOA and Building Commission processes that exist for other agencies if the project is over the established threshold (as a note, this threshold is being increased in the Governor's budget).

Let me know if you have any questions about this or other items.

Nathan

From: Schwanz, Nathan E - DOA
Sent: Wednesday, January 07, 2015 5:39 PM
To: Kunkel, Mark - LEGIS
Cc: Hynek, Sara - DOA
Subject: Additional Guidance

Mark,
As promised, here is guidance on additional items related to the UW.

1. Board structure, members, and title will remain as it currently is.
2. The UW would like to continue to be able to utilize the state records center.
3. They would like to have a reciprocal agreement with the state that allows the UW to join a state procurement contract or the state to join a UW procurement contract. Does this need to be outlined in the statutes?
4. References to Chancellors, Vice-Chancellors and the President of the UW System Authority can remain. They would like any references to the President of the Board of Regents to be changed to the Chair of the Board of Regents.
5. The authority should remain subject to open records requirements.
6. The attached boards, WVDL and SLH, should be transferred to DATCP.
 - a. Board structures should remain as they currently are.
 - i. State Lab of Hygiene

1. The director of the State Laboratory of Hygiene shall be appointed by the board in consultation with the DATCP Secretary (36.25(11)(e)).
 2. The Chancellor of UW-Madison can remain a member of the lab's board.
 - ii. Veterinary Diagnostic Lab
 1. The director shall be appointed by the DATCP Secretary (36.58(3m)).
 2. The Chancellor of UW Madison can remain a members of the board.
 3. I don't think 36.58(5) needs to be repealed since that was part of the UW's transition to a new personnel system.
 - b. Current budget and FTE authority will be transferred to DATCP.
7. State Assets
- a. Require the authority to lease state owned properties from the state (already had sent guidance on this).
 - i. The agreement will be required to include a provision that requires the authority to pay the state a nominal amount (modeled after 233.04(7)(a)2).
 1. The lease agreement will not require the authority to assume responsibility for outstanding GPR debt service payments.
 - ii. The authority will be unable to sell state assets.
8. Capital Projects
- a. The authority will be able to request GPR funded capital projects but will need to do so through the building commission and the current processes.
 - b. The authority will be able to conduct all aspects of capital projects funded by other revenues (formerly PR) except they must go through DOA and the state for the bidding process only.
 - i. The authority will only need to go through the state for the bidding process if the cost of the project is \$100,000 or more.
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9. Current UW employees will be able to transfer back to employment with the state for up to one year after the effective date of the authority.
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- a. This program will be transferred from HEAB to UW effective July 1, 2015 (HEAB will negotiate and enter the agreement on behalf of the state for FY15).
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Let me know if you have questions about any of these items.

We need your opinion on an item that came up in the meeting today. There is a desire to begin work on policies prior to July 1, 2016 so that they may take effect the first day of the authority. Do you have suggestions on how this could be handled? One idea was to allow the board to begin work on authority policies prior to July 1, 2016. Would this be legal? Could current policies be carried over to the new authority?

Thank you again for your help and time.

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

Kunkel, Mark

From: Kreye, Joseph
Sent: Sunday, January 11, 2015 9:24 AM
To: Kunkel, Mark
Subject: RE: Subch. III of ch. 19

Mark,

I agree with you that I think the language you refer to on page 72 is redundant. The authority is covered by the definitions in ss. 19.32 (1) and 19.82.

As drafted, subchapter V applies to the authority.

As for the code of ethics in subchapter III:

19.45 (11)(a) requires OSER to promulgate rules to create a code of ethics, but provides an exemption to the UW System, among others, to establish its own code of ethics. Section 19.45 (11) (b) directs the Board of Regents to establish the code. 19.45 (11) (d) directs the UW Hospitals and Clinics to do the same.

So...Assuming we want the authority to have, more or less, the same requirements as the UW system, and assuming that some, if not most, of the employees of the authority will remain state employees, you should maintain the exception under 19.45 (11) (a) [keep the existing UW System language and add "Authority"] and your treatment of 19.45 (11) (b).

If we knew for sure that none of the authority's employees would remain state employees (that's probably not the case, right?) then you could strike the UW System language in 19.45 (11) (a), but you would still need your modification of 19.45 (11) (b).

In any case, you don't need to treat 19.45 (11) (d).

Joe

From: Kunkel, Mark
Sent: Friday, January 09, 2015 3:09 PM
To: Kreye, Joseph
Subject: RE: Subch. III of ch. 19

Note that on page 72 of the draft, I said that the subch. II and V apply to the board of the authority. That language will probably have to be eliminated as redundant, as I think the authority is covered under the definition of "authority" in s. 19.32 (1) and "governmental body" in s. 19.82. But hey, what do I know?

From: Kreye, Joseph
Sent: Friday, January 09, 2015 2:58 PM
To: Kunkel, Mark
Subject: RE: Subch. III of ch. 19

That's also me.

I'll take a look.

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
608 266-2263

From: Kunkel, Mark
Sent: Friday, January 09, 2015 2:58 PM
To: Kreye, Joseph
Subject: RE: Subch. III of ch. 19

Do you do subch. V as well? DOA wants the authority to be subject to subch. V.

I think the new authority, which is created in ch. 36 as a public body corporate and politic, is a governmental body as defined in s. 19.82 (1). So does that ensure that subch. V applies?

From: Kreye, Joseph
Sent: Friday, January 09, 2015 2:46 PM
To: Kunkel, Mark
Subject: RE: Subch. III of ch. 19

Will do.

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
608 266-2263

From: Kunkel, Mark
Sent: Friday, January 09, 2015 2:41 PM
To: Kreye, Joseph
Subject: Subch. III of ch. 19

Joe,

Can you review the changes I made in subch. III of ch. 19 in LRB-0971/P1 and tell me what I did?

To give you some background, the draft converts the UW System to the UW System Authority. The board that governs the new authority is using the name "Board of Regents" and it will consist of the same people that are on the Board of Regents under current law.

We have received no instructions on how the new authority should be treated under subch. III of ch. 19 and the DOA analyst (Nathan Schwanz) doesn't know what to do. I told him that we (ahem, you) could figure out what I did and then

ask him if it's okay. However, what I did might not make sense, as I think I maintained the UW's treatment under current law and also put them on the same footing as the UW Hosp. and Clinics Authority.

--Mark

Kunkel, Mark

From: Kunkel, Mark
Sent: Sunday, January 11, 2015 1:17 PM
To: Hanaman, Cathlene
Subject: RE: UW police

Cathlene, take a look at the treatment of s. 40.02 (48) (c) beginning on page 104 of the draft. The reference to the UWSA police is okay, right?

From: Hanaman, Cathlene
Sent: Thursday, January 08, 2015 2:45 PM
To: Kunkel, Mark
Subject: RE: UW police

Oh yeah, I meant to look at my old Marquette draft but got distracted. This week has been a distraction for me. Sorry. Next version.

From: Kunkel, Mark
Sent: Thursday, January 08, 2015 2:40 PM
To: Hanaman, Cathlene
Subject: UW police

Cathlene:

I think we should consider the following in the next version of the UW draft:

Section 19.32 (1) refers to a university police department under s. 175.42. However, s. 175.42 (2) is amended in a few places to refer to a Marquette police department. Also, s. 175.42 (2m) is created to refer to an institution establishing a police department or to a University of Wisconsin System Authority police department.

Section 939.22 (22) says that "Peace officer" includes "a university police officer, as defined in s. 175.42 (1) (b)." However, the defined term is changed in s. 175.42 (1) (b).

Sections 341.65 (2) (b) and 342.40 (3) (a) refer to "university police officer," which is not defined. Is that okay?

Also, the new UW authority will adopt policies and procedures, and not promulgate rules. Therefore, in ch. 36, I eliminated fines, imprisonment, and forfeitures for rule violations that are set forth in s. 36.11 (1) (a) and (c) and (d). Also, I repealed s. 778.25 (1) (a) 5., which allows citations for violation of UW rules. I also amended s. 36.11 (4) to strike the authority board's power to obtain injunctive relief to enforce rules. I put Notes in the draft explaining that if DOA wants any of the foregoing to apply to violations of the authority's policies and procedures, then there may be due process issues to address. However, I'm not sure how to address them. Any thoughts?

--Mark

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Monday, January 12, 2015 3:16 PM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: Preliminary Draft Questions

Hi Mark,

I have read the preliminary draft and have the following questions for you. I think some of these questions will be addressed by directions and feedback I sent you after this draft was finished.

- ~~1~~ Section 5: Will the UW Authority still be subject to 13.101(6)(a)? We would like it to be. *see change*
- ~~2~~ Section 6: Since ch. 36 is included, do we need to define "institution of higher education" in 13.172(1)? Perhaps "institution of higher education" refers to tech colleges? *as I refer to agencies, 13.172(1) be law to submit (1) part*
→ not clear, but no harm in keeping in
- ~~3~~ Section 18: If 13.48(20) is repealed, what will the statutes say about UWSA's ability to sell properties? The state will maintain ownership of residence halls and other properties leased to UWSA, unless the building is financed entirely with non-GPR funds. Therefore the state should retain the ability to sell residence halls or any other property used by UWSA that is owned by the state.
- ~~4~~ Section 33: Will the expiration date of the student member of the Board of Regents stay in 15.07(1)(cm) since we are carrying the current Board and Board structure over to the authority? *Fixed - see INSEPT 70-21*
- ~~5~~ Section 55: UWSA will be required to cooperate with the women's council, correct? Since it is defined as an agency in 16.01(1). *YES*
- ~~6~~ Sections 95 and 96: Will UWSA still be exempt from requirements in 16.705 with the repeal of 16.705(1r)(d) and (e)?
- ~~7~~ Section 102: Will the changes to 16.72 be different to allow for a cooperative purchasing agreement (that was something I sent after the preliminary draft was finished)?
- ~~8~~ Section 131: Will UWSA be able to opt out of the state's worker's compensation program? *Yes - see election under section 134*
- ~~9~~ Section 155: Does 16.993(7) restrict UWSA's procurement flexibilities? *Yes*
- ~~10~~ Section 197: UWSA should no longer receive funding for 29.598 since that statute will be removed. *see change*
- ~~11~~ Section 213: Does the word "authority" need to be added behind "system" on line 1 of page 56? *YES*
- ~~12~~ Section 255: 29.598(1) should be removed. *- see RP of 29.598*
- ~~13~~ Section 267: "to extend knowledge and its application beyond the boundaries of its campuses" should be removed from lines 17 and 18 on page 69. Disseminate means to scatter or spread widely. Therefore, I don't think it is necessary to basically define disseminate with the phrase on lines 17 and 18.
- ~~14~~ Section 268: Does 36.02(7) contradict the board's ability to "elect other officers as they consider appropriate" in (5)? *I deleted (7) okay?*
- ~~15~~ Section 274: Could 36.05(6) be removed? Is there a reason to keep it? *check*
- ~~16~~ Section 285: Does the requirement to have public hearings to establish each institutions' mission imply that the board will have to go through this process again, even though missions are already in place? Will the creation of a new entity, UWSA, necessitate the board do this? *Yes - How deal?*
- ~~17~~ Section 292: Should this title be created as 36.11(1n) not 36.09(1n)? *Yes - typo*
- ~~18~~ Section 301: Do we need to note on line 10, after "The board", "except as provided in sub. (27m)" since the board won't be permitted to sell state-owned property?
- ~~19~~ Section 377: The lab of hygiene should be attached to DATCP. All of 36.25(11) should therefore be removed.
- ~~20~~ Section 537: Will these changes be impacted by the need to have UWSA still transfer money to the medical assistance trust fund? *SEE NOTE*
- ~~21~~ Section 544: Do we need the reference to "promulgate a rule" since UWSA can't promulgate rules? *Yes - fixed*

That's all I have for now. Thank you again for your time and help with this.

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

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
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21. Section 544: Do we need the reference to "promulgate a rule" since UWSA can't promulgate rules?

That's all I have for now. Thank you again for your time and help with this.

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Monday, January 12, 2015 4:25 PM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: Responses to Your Notes

Mark,

Here are responses to questions you posed in your notes.

1. Section 17: Yes, apply the last two sentences to UWSA. *OK AS IS*
- ~~2.~~ Section 44: Keep WVDL and SLH board membership the same but transfer them to DATCP. *to do*
3. Section 82: 16.57 is OK to remove. *OK AS IS*
4. Section 156: Yes, it satisfies what we want to accomplish. *OK AS IS*
5. Section 203: 20.505(8)(hm)6r should be repealed since 36.60 and 36.61 are also being repealed. *PPM*
6. Section 266: Your change looks fine. *But see my change*
7. Section 270: We are checking with the UW to see what their preference is. Is there a reason to keep the definition of academic staff? *-check all depts*
8. Section 272: Yes to keeping 36.05(3) *OK AS IS*
9. Section 276: Yes, changes to 36.05(9) are OK. *OK AS IS*
10. Section 283: Yes, OK to add reference to workforce needs. *OK AS IS*
11. Section 282: Repealing 36.09 and moving selected portions to 36.11 is OK. *OK AS IS*
12. Section 286: Language appears to be OK. Only change is removing "the director of the laboratory of hygiene."
13. Section 301: Yes to all three questions. *OK AS IS*
14. Section 303: Yes, residence halls will continue to be state-owned. Yes, the cross-references are OK. *OK AS IS*
15. Section 309: We should add "property and other assets" since they will be able to acquire these going forward. *see change*
16. Section 312: Keeping 36.11(6)(c) is OK. *OK AS IS*
17. Section 333: The Governor decided that the state will maintain responsibility for outstanding GPR debt-service related to leased property and facilities. Therefore (a)(1)a can be removed. Do we also need to include a requirement for a provision in the lease that exempts certain construction or improvements from 16.85(14)?
18. Section 378: Current board structure and polices will remain the same when transferred to DATCP.
19. Section 381: Who currently owns the property? *- don't know - ask UW? - see 1-14-15*
20. Section 429: What you did with sick leave is OK. *OK AS IS*
21. Section 456: Current polices and structure will remain the same when transferred to DATCP. *Schwanz email: OK AS IS*
22. Section 592: I think your changes to 101.66 and 977 are OK. *OK AS IS*
23. Section 716: The draft for 346.925(1) is OK. *OK AS IS*
24. Section 732: Yes, it is OK to add "all." *OK AS IS*
25. Section 734: Ye, your changes are OK. *OK AS IS*

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

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Monday, January 12, 2015 4:25 PM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
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24. Section 732: Yes, it is OK to add "all."
25. Section 734: Ye, your changes are OK.

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

*I don't know
how this applies
we did this
with
16.85(12)?*

*Mark
does
this?*

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Monday, January 12, 2015 4:33 PM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: Misc Items

Mark,
Here are misc. items that I thought of while reading the draft.

*delete from draft
- already told
Nathan "no"*

1. Section 169: 20.235(1)(ke) will be repealed July 1, 2015. Do we need to repeal it in this budget?
2. 20.285(2)(h) also needs to be repealed.
3. Section 170: We need to maintain a requirement for UWSA to transfer an amount to the medical assistance trust fund. There was a stat language draft request submitted by another analyst in our office to have the amount that is currently in ch. 20 increased.
4. Section 204: 20.505(8)(hm) should be repealed. → *only 6r. § 11a. ? - not all y (hm)? Yes*
5. Section 248: Need to keep 25.77(8) but update it to reflect changes made in 20.285 (see #3 above).
6. 36.25(24) should also be repealed.
7. Section 422: This section is a repeat of Section 421.
8. Does 59.56 already give UWSA the option to not have an extension in a county or do they have to partner with a county if a county wants an extension? *see Q in my email to Nathan on 1-13*

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

Kunkel, Mark

From: Kunkel, Mark
Sent: Monday, January 12, 2015 4:37 PM
To: 'Schwanz, Nathan E - DOA'
Subject: RE: Misc Items

I'll look at this closely later, but we don't have to repeal anything that a prior act is repealing before the UW changes go into effect (i.e., July 1, 2016). So regarding item 1 below, the answer is no, as the provision will be repealed effective July 1, 2015. It won't exist on July 1, 2016, so it won't have to be repealed.

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Monday, January 12, 2015 4:33 PM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: Misc Items

Mark,

Here are misc. items that I thought of while reading the draft.

1. Section 169: 20.235(1)(ke) will be repealed July 1, 2015. Do we need to repeal it in this budget?
2. 20.285(2)(h) also needs to be repealed.
3. Section 170: We need to maintain a requirement for UWSA to transfer an amount to the medical assistance trust fund. There was a stat language draft request submitted by another analyst in our office to have the amount that is currently in ch. 20 increased.
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Executive Policy & Budget Analyst
State Budget Office
608-266-2843

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Monday, January 12, 2015 4:39 PM
To: Kunkel, Mark
Subject: RE: Additional Guidance

OK, thanks.

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Friday, January 09, 2015 11:00 AM
To: Schwanz, Nathan E - DOA
Subject: RE: Additional Guidance

In your Jan. 7 email, you said:

“We need your opinion on an item that came up in the meeting today. There is a desire to begin work on policies prior to July 1, 2016 so that they may take effect the first day of the authority. Do you have suggestions on how this could be handled? One idea was to allow the board to begin work on authority policies prior to July 1, 2016. Would this be legal? Could current policies be carried over to the new authority?”

I don't think you need to say anything in the statutes to allow the board to begin working on policies and procedures right away. Because the new authority is not a state agency, it won't promulgate rules, and therefore its policies and procedures won't be subject to rule-making procedures. The new board will have the flexibility it chooses to adopt policies and procedures, and it could work on them before the budget takes effect.

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Thursday, January 08, 2015 12:46 PM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: RE: Additional Guidance

Mark,
One more item from our meeting today:

Under the lease agreement, if the UW wants to make modifications to a state owned facility (renovations) they will have to do so through the DOA and Building Commission processes that exist for other agencies if the project is over the established threshold (as a note, this threshold is being increased in the Governor's budget).

Let me know if you have any questions about this or other items.

Nathan

From: Schwanz, Nathan E - DOA
Sent: Wednesday, January 07, 2015 5:39 PM
To: Kunkel, Mark - LEGIS
Cc: Hynek, Sara - DOA
Subject: Additional Guidance

Mark,

As promised, here is guidance on additional items related to the UW.

1. Board structure, members, and title will remain as it currently is.
2. The UW would like to continue to be able to utilize the state records center.
3. They would like to have a reciprocal agreement with the state that allows the UW to join a state procurement contract or the state to join a UW procurement contract. Does this need to be outlined in the statutes?
4. References to Chancellors, Vice-Chancellors and the President of the UW System Authority can remain. They would like any references to the President of the Board of Regents to be changed to the Chair of the Board of Regents.
5. The authority should remain subject to open records requirements.
6. The attached boards, WVDL and SLH, should be transferred to DATCP.
 - a. Board structures should remain as they currently are.
 - i. State Lab of Hygiene
 1. The director of the State Laboratory of Hygiene shall be appointed by the board in consultation with the DATCP Secretary (36.25(11)(e)).
 2. The Chancellor of UW-Madison can remain a member of the lab's board.
 - ii. Veterinary Diagnostic Lab
 1. The director shall be appointed by the DATCP Secretary (36.58(3m)).
 2. The Chancellor of UW Madison can remain a members of the board.
 3. I don't think 36.58(5) needs to be repealed since that was part of the UW's transition to a new personnel system.
 - b. Current budget and FTE authority will be transferred to DATCP.
7. State Assets
 - a. Require the authority to lease state owned properties from the state (already had sent guidance on this).
 - i. The agreement will be required to include a provision that requires the authority to pay the state a nominal amount (modeled after 233.04(7)(a)2).
 1. The lease agreement will not require the authority to assume responsibility for outstanding GPR debt service payments.
 - ii. The authority will be unable to sell state assets.
8. Capital Projects
 - a. The authority will be able to request GPR funded capital projects but will need to do so through the building commission and the current processes.
 - b. The authority will be able to conduct all aspects of capital projects funded by other revenues (formerly PR) except they must go through DOA and the state for the bidding process only.
 - i. The authority will only need to go through the state for the bidding process if the cost of the project is \$100,000 or more.
 - c. Projects funded by gifts and grants can be executed by the UW completely independent from the state.
9. Current UW employees will be able to transfer back to employment with the state for up to one year after the effective date of the authority.
10. We are not sure if there is a requirement for the UW to have an extension in each county. If there is, it should be removed. They would like the authority to have the flexibility to determine whether to have an extension in a county.
11. The state will continue to be able to reduce the authority's appropriation in an emergency situation as outlined in 13.101(6).
12. MN/WI Student Reciprocity
 - a. This program will be transferred from HEAB to UW effective July 1, 2015 (HEAB will negotiate and enter the agreement on behalf of the state for FY15).
 - b. Program will remain the same except the Board will have the ability to either renew or not renew the agreement, both without JCF review.
 - i. If the program is renewed the authority will be responsible for any negotiated payments to MN or will receive any negotiated payments from MN.

ii. If the program is not renewed, the authority will be responsible for covering the difference between WI resident tuition and MN nonresident tuition (at comparable institutions) for up to four years from the end date of the agreement for Wisconsin resident students enrolled in the program at the time of termination (to hold current Wisconsin residents harmless).

Let me know if you have questions about any of these items.

We need your opinion on an item that came up in the meeting today. There is a desire to begin work on policies prior to July 1, 2016 so that they may take effect the first day of the authority. Do you have suggestions on how this could be handled? One idea was to allow the board to begin work on authority policies prior to July 1, 2016. Would this be legal? Could current policies be carried over to the new authority?

Thank you again for your help and time.

Nathan Schwanz
Executive Policy & Budget Analyst
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