

Kunkel, Mark

From: Kunkel, Mark
Sent: Tuesday, January 13, 2015 9:03 AM
To: Hanaman, Cathlene
Subject: RE: Section 111.825 question

D'oh.

From: Hanaman, Cathlene
Sent: Monday, January 12, 2015 5:51 PM
To: Kunkel, Mark
Subject: RE: Section 111.825 question

(2) (f) does not exist after July 1. See note below (2).

NOTE: Sub. (2) is affected eff. 7-1-15 by 2011 Wis. Act 32, as affected by 2013 Wis. Act 20, ss. 2365m and 9448, to read:

111.825 Effective date text

(2) Collective bargaining units for employees in the unclassified service of the state shall be structured with one collective bargaining unit for each of the following groups:

111.825 Effective date text

(d) Assistant district attorneys.

111.825 Effective date text

(e) Attorneys employed in the office of the state public defender.

From: Kunkel, Mark
Sent: Monday, January 12, 2015 4:52 PM
To: Hanaman, Cathlene
Subject: Section 111.825 question

On page 136 of LRB-0971/P1, you repeal some subsections of s. 111.825, but you don't affect s. 111.825 (2) (f), which I found by checking references to the UW System throughout the statutes. Is 111.825 (2) (f) okay to retain?

Also, there are other references to the UW schools in other paragraphs in s. 111.825 (2). Is it okay to not affect those?

Kunkel, Mark

From: Kunkel, Mark
Sent: Tuesday, January 13, 2015 10:45 AM
To: 'Schwanz, Nathan E - DOA'
Subject: RE: Attached Boards

Yes.

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Tuesday, January 13, 2015 10:45 AM
To: Kunkel, Mark
Subject: RE: Attached Boards

Mark,

Can you create the new DATCP appropriations in the UW Authority draft? We think that might be the easiest way to handle this.

Nathan

From: Schwanz, Nathan E - DOA
Sent: Tuesday, January 13, 2015 9:52 AM
To: Kunkel, Mark - LEGIS
Subject: Attached Boards

Mark,

As promised, here are appropriations and positions for the two boards being transferred to DATCP. Sara is in a meeting right now, but I will check with her when she returns on the issue of incumbent and director appointments.

State laboratory of hygiene

GPR: \$10,676,400 annually (formerly 285(1)(fd)); 131.25 FTE
PR-S: \$1,619,200 annually (formerly 285(1)(ia)); 18.90 FTE
PR: \$21,871,300 annually (formerly 285(1)(i)); 159.60 FTE

Veterinary diagnostic laboratory

GPR: \$5,101,100 annually (formerly 285(1)(fj)); 77.90 FTE
PR: \$3,948,900 annually (formerly 285(1)(je)); 4.60 FTE
PR-S: \$831,100 annually (formerly 285(1)(kg)); 8.00 FTE
PR-F: \$1,675,900 annually (formerly 285(1)(mc)); 4.00 FTE

Nathan Schwanz

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

Kunkel, Mark

From: Tradewell, Becky
Sent: Tuesday, January 13, 2015 11:28 AM
To: Kunkel, Mark
Subject: RE: Veterinary Diagnostic Lab

Mark,

The lab was transferred by 1999 Act 107, in case you have any reason to look at it.

I would move the statutory language to ch. 93. Maybe 93.13.

S. 20.285 (1) (fj) could be renumbered to s. 20.115 (2) (am) (the GPR for the lab used to be in (2) (a) along with a funding for a lot of other things). The PR used to go into s. 20.115 (1) (g), the purpose of which is very broad. Section 20.285 (1) (je) could be renumbered to 20.115 (2) (je) [or (i)] and 20.115 (2) (g) amended to exclude the money that goes into (je). I'd renumber s. 20.285 (1) (kg) to be 20.115 (2) (kg) [or (k)] and s. 20.285 (1) (mc) to be 20.115 (2) (mc) [or (n)].

Let me know if you need any more info.

Becky

From: Kunkel, Mark
Sent: Tuesday, January 13, 2015 9:59 AM
To: Tradewell, Becky
Subject: Veterinary Diagnostic Lab

Becky,

As part the UW restructuring in the budget, I need to move the Veterinary Diagnostic Lab to DATCP. Under current law, the lab is attached to the UW, it has UW appropriations, and its duties are set forth in the UW chapter.

I will attach the lab to DATCP, but I need to find new statutory locations for the appropriations: s. 20.285 (1) (fj) (sum certain for general program ops), (fe) (PR fees for general program ops and certain debt repayments) (kg) (money from other state agencies), and (mc) (federal funds received for the lab).

Also, I need to move its duties in s. 36.58 to a DATCP chapter.

Any thoughts?

--Mark

Kunkel, Mark

From: Dodge, Tamara
Sent: Tuesday, January 13, 2015 11:50 AM
To: Kunkel, Mark
Subject: WSLH location

There isn't a perfect spot for the state lab of hygiene, but here are some ideas. There is the Health; Administration and Supervision chapter 250; there's a spot after 250.07 and before 250.10.

The only chapter that mentions SLH more than once is chapter 252 (communicable diseases) and there is a spot after 252.05 and before 252.06.

Tami

Tamara J. Dodge

Attorney

Wisconsin Legislative Reference Bureau

P.O. Box 2037

Madison, WI 53701-2037

(608) 267 - 7380

tamara.dodge@legis.wisconsin.gov

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Tuesday, January 13, 2015 3:27 PM
To: Kunkel, Mark
Subject: Other Items

Mark,

A couple DOA ch. 20 items need to be removed to align with the changes being made to the UW.

20.505(1)(km) can be removed since we will not be providing this money to the UW. ✓

20.505(8)(hm)11a ✓ and 20.505(8)(hm)6r ✓ can also be removed since this funding will not be provided to the UW.

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

Kunkel, Mark

From: Kunkel, Mark
Sent: Tuesday, January 13, 2015 3:50 PM
To: 'Schwanz, Nathan E - DOA'
Cc: Hynek, Sara - DOA
Subject: RE: Additional Guidance

Here are some responses to some of your issues. I thought I'd get them to you sooner, rather than wait until I've looked at everything.

Item 1 is accomplished in LRB 15-0971 /P1 ("P1"), and I will add a nonstat to the next version of the draft ("P2") that requires the current Board of Regents members to continue to serve on the board of the University of Wisconsin System Authority (UWSA) until their terms would have expired.

Item 2: The P1 makes changes to s. 16.62 to allow the UWSA to use the state records center. See sections 87 to 90 of the P1. However, I need some guidance on s. 16.61 and related statutes which give the public records board authority over public records of state agencies. "Public records" are defined as certain records of "state agencies," which would not include the UWSA. See definition of "state agency" in s. 16.61 (2) (d), which the P1 does not affect. Is that okay? Section 16.61 and related statutes impose requirements on the records of the UW Hospital and Clinics Authority, and any state agency records which that authority has, and the P1 applies those same requirements to the UWSA. See sections 83, 85 and 86 of the P1. Are they okay?

Related to item 2, section 16.61 (13) (b) allows the public records board to designate UW universities as archival depositories. The P1 does not affect that power. Is that okay? Also, although not related to item 2, I noticed that the UWSA will be a "state agency" that is subject to the State Historical Society's preservation powers and duties under subch. III of ch. 44. See definition of "state agency" in s. 44.31 (10), which the P1 does not affect. Is that okay?

Item 3: to be addressed later.

Item 4 is accomplished in the P1.

Item 5: open records requirements apply to an "authority," which is defined in s. 19.32 (1) to include a "public body corporate and politic created by ... any law." The P1 does not affect that definition. The UWSA is such a body, so the UWSA is subject to open records, except as specified in section 156 of the P1, which is okay with you. Open meetings requirements apply to a "governmental body," which is defined in s. 19.82 (1) also to include a public body corporate and politic. The P1 does not affect that definition, so the UWSA is subject to open records requirements. As a result, the language in the P1 on page 72, lines 3 and 4 is not necessary, so I will remove that language from the P2.

Related to item 5, I need to clean up what the P1 did to subch. III of ch. 19, code of ethics for public officials and employees. As drafted, the P1 requires the president (i.e. CEO) of the UWSA and the members of the UWSA Board of Regents to file statements of economic interest. See section 158, which adds to the definition of "official required to file." That requirement applies to the UWCHA under current law. Is that okay? Also, as drafted, the P1 treats the following as "state public officials" who are subject to the code of ethics in subch. III of ch. 19: the members of the Board of Regents of the UWSA (see s. 19.42 (13) (a), not affected by the P1, which refers to individuals regularly appointed by the governor); associate and assistant vice presidents of the UWSA (see section 159 of the P1); and the president and vice presidents of the UWSA and chancellors and vice-chancellors (see section 160 of the P1). As for other UWSA employees, the Board of Regents must establish its own code of ethics. Is all the foregoing okay? If so, I will need to clean up the following:

- Section 157 of the P1, which defines "department." The UWSA is included because the definition refers to an "authority." Therefore, it is not necessary to also refer to the UWSA.

- Sections 163 and 164 of the P1 are duplicative, as they both require the UWSA to establish a code of ethics.
- I want to confirm that you don't want to criminalize violations of the UWSA's code of ethics. If so, section 165 of the P1 is okay as is.

Items 6, 7, and 8: to be addressed later.

Item 9: we will include a nonstat in the P2 that accomplishes this.

Item 10: see sections 538 to 542 of the P1, which treat s. 59.62 (3). I don't think that statute requires an extension in each county, but you could make changes that clarify that the UWSA gets to decide whether there is an extension in a county. For example, in section 538, you could amend s. 59.62 (3) (a) to say: ~~A~~ Subject to the approval of the Board of Regents of the [UWSA], a board [which is defined as a county board] may establish and maintain an educational program in cooperation with the [UWSA]..." You could add similar "subject to approval" language at page 115, line 23 and page 116, lines 9 and 10 of the P1. Is that okay?

Item 11: to be addressed later.

Item 12 is accomplished in sections 501 to 506 of the P1, except: 1) in section 506, I need to clarify that the UWSA, not the state, makes the payments; 2) I need to add language regarding what happens if the UWSA does not renew an agreement; and 3) I need to add a July 1, 2015 delayed effective date for the foregoing. Also note that page 101 line 17 changes "shall" to "may" which gives the UWSA discretion to enter into the agreement. Finally, what if UWSA decides to not renew? Should it be able to change its mind for a subsequent academic year and enter into a new agreement, or should it be prohibited from entering into any new agreement? As drafted, the UWSA can change its mind, which I think results because I referred to entering into agreements, not renewing them. However, depending on your intent, I may have to make changes.

Here are a few other responses to your other emails.

January 12, 2015 "Preliminary Draft Questions"

Item 4: I will fix that in the P2 by adding the requirement to page 70, line 21 of the P1.

Item 5: the answer is yes.

Item 8: the answer is yes. Look at section 134 of the P1, which allows the UWSA to elect to not be governed by s. 16.865, which includes workers comp management mentioned in section 131 of the P1.

Item 11: the answer is yes.

Item 12: In the P2, I will repeal all of s. 29.598 and make changes described in item 10 for the appropriation.

Item 14: I will delete 36.02 (7) in the P2 as it does seem inconsistent with 36.02 (5).

Item 16: Yes, you could make that implication. Do you want to eliminate the requirement establish missions? If you are happy with the missions established under current law, it would be okay to delete, as the Board of Regents has sufficient authority over the system upon which it could rely to change missions, so you wouldn't need a statute giving the board that specific authority.

Item 17: the answer is yes (typo!)

Item 21: I will remove the reference to rules in the P2.

January 12, 2015 "Responses to Your Notes"

Item 7: In the P2, I will remove all defined terms that are no longer used in ch. 36, and if "academic staff" is no longer used, I will repeal the definition.

Item 19: I don't know who currently owns the property of the Wisconsin Psychiatric Institute. Maybe the UW knows?

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
State Budget Office
608-266-2843

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Tuesday, January 13, 2015 4:25 PM
To: Kunkel, Mark
Subject: Additional Feedback to Preliminary Draft

Mark,

I had a number of questions for Sara based on my review of the preliminary draft. Based on her feedback, here are some more items from the preliminary draft that need to be changed:

1. Section 15: This section should be removed. The UW should not be able to construct or operate a facility on state-owned land without prior approval of the building commission.
2. Section 26: We would like the language that is removed from 13.94(1) in this section of the draft to be kept in the statutes.
3. Section 269: We need to keep the 2nd sentence of 36.03 which requires one university and the principal office to be located at or near the seat of state government. *moved to 36.01(1)*
4. Section 305: We think 36.11(1)(e) should remain in the statutes. The property will still be the state's and therefore UWSA should seek Building Commission approval to sell or lease residence halls.
5. Section 583: The UW should no longer receive fees collected related to fertilizer licensing in 94.64(4)(c)3.
6. Section 684: We think 233.10(3r) should remain in the statutes. *OK as is*
7. Section 694: The UW should no longer receive funds for tobacco research, etc in 255.15(3)(b)11.

Thanks!

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

255.15(3)(b)11.

NOX-14p

*RP (a) 3.
94.64(4)(c)3*

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Tuesday, January 13, 2015 4:36 PM
To: Kunkel, Mark
Subject: Attached Boards

Mark,

We would like employees of the two board being transferred to DATCP to retain their rights to currently held positions and for directors to finish current appointments.

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

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Wednesday, January 14, 2015 7:41 AM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: RE: Misc Items

Correct.

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Tuesday, January 13, 2015 8:57 PM
To: Schwanz, Nathan E - DOA
Cc: Hynek, Sara - DOA
Subject: RE: Misc Items

In item 4, you don't want to repeal all of s. 20.505 (8) (hm), just subd. 6r. and 11a., right?

I asked about item 8 in my long email to you earlier today.

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.
4. Section 204: 20.505(8)(hm) should be repealed.
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?

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

Kunkel, Mark

From: Kunkel, Mark
Sent: Wednesday, January 14, 2015 9:25 AM
To: Walkenhorst Barber, Sarah
Subject: UW and medical assistance trust fund

What is the LRB # of your DOA request for the above? I need to do some pre-reconciling of your draft with my UW restructuring draft.

Thanks!

Kunkel, Mark

From: Kunkel, Mark
Sent: Wednesday, January 14, 2015 10:04 AM
To: Kunkel, Mark
Subject: DATCP transfers

State lab of hygiene:

Create 20.115 (9)?

Move 15.915 (2) to 15.135 (5) and and move 36.25 (11) to 250.08

20.285(1)(fd) 131.25 FTE

(fd) State laboratory of hygiene; general program operations. The amounts in the schedule for general program operations of the state laboratory of hygiene.

20.285(1)(ia) 18.90 FTE

(ia) State laboratory of hygiene, drivers. All moneys transferred from the appropriation account under s. 20.435 (5) (hx) and under 2013 Wisconsin Act 20, section 9248 (1u), for the state laboratory of hygiene for costs associated with services for drivers.

20.285 Effective date note

NOTE: Par. (ia) is repealed and recreated eff. 7-1-15 by 2013 Wis. Act 20 to read:

20.285 Effective date text

(ia) State laboratory of hygiene, drivers. All moneys transferred from the appropriation account under s. 20.435 (5) (hx) for the state laboratory of hygiene for costs associated with services for drivers.

20.285(1)(i) 159.6 FTE

(i) State laboratory of hygiene. All moneys received for or on account of the operation of the state laboratory of hygiene, to be used for general program operations of the laboratory of hygiene.

Veterinary diagnostic lab

See appropriations below

Move 15.915 (1) to 15.135 (6) and move 36.58 to 93.13

20.285(1)(fj) 77.90 FTE

(fj) Veterinary diagnostic laboratory. The amounts in the schedule for general program operations of the veterinary diagnostic laboratory.

Becky: move to 20.115 (2) (am)

20.285(1)(je) 4.6 FTE

(je) Veterinary diagnostic laboratory; fees. All moneys received under s. 36.58 (3), other than from state agencies, to be used for general program operations of the veterinary diagnostic laboratory and to reimburse s. 20.866 (1) (u) for the payment of principal and interest costs incurred in financing the construction of the veterinary diagnostic laboratory enumerated in 2001 Wisconsin Act 16, section 9107 (1) (m) 1., to make payments determined by the building commission under s. 13.488 (1) (m) that are attributable to the proceeds of obligations incurred in financing that facility, and to make payments under an agreement or ancillary arrangement entered into under s. 18.06 (8) (a).

Becky: move to 20.115 (2) (je)

20.285(1)(kg) 8.0 FTE

(kg) Veterinary diagnostic laboratory; state agencies. All moneys received from other state agencies on account of the veterinary diagnostic laboratory to be used for general program operations of the veterinary diagnostic laboratory.

Becky: move to 20.115 (2) (kg)

20.285(1)(mc) 4.0 FTE

(mc) Veterinary diagnostic laboratory; federal funds. All moneys received from the federal government for the veterinary diagnostic laboratory to be used in accordance with the provisions of the federal grant or program.

Becky: 20. 115 (2) (mc)

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Wednesday, January 14, 2015 10:24 AM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: RE: Additional Guidance

Mark,
Below are responses to your questions.

Item 2: ^{OK 9515} I think it is OK to not include UWSA in the definition of "state agency" in 16.61(2)(d) and treat it like UWHCA. Section 83, 85, and 86 are OK. It is also OK to not affect the public records board's ability to designate UW universities as archival depositories. Finally, it is OK to subject UWSA to the State Historical Society's preservation powers and duties.

Item 5: Yes, it is OK to require the President and members of the Board of Regents to file statements of economic interest. The way P1 subjects certain UWSA employees to the state code of ethics and requires the Board of Regents to establish a code of ethics for all other employees is OK.

Does criminalizing violations of the UWSA's code of ethics raise due process issues? *Yes - UWHCA is not subject to criminal penalties*

Item 10:

January 12, 2015 "Preliminary Draft Questions"

Item 16: Could we include a nonstat that states the Board of Regents will not have to go through the process of establishing missions and that current missions can carry-over when the authority is created? If not, than I think it makes sense to remove the requirement to establish missions since it would be a power reserved by the Board to carry out its duties and responsibilities.

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Tuesday, January 13, 2015 3:50 PM
To: Schwanz, Nathan E - DOA
Cc: Hynek, Sara - DOA
Subject: RE: Additional Guidance

Here are some responses to some of your issues. I thought I'd get them to you sooner, rather than wait until I've looked at everything.

✓ Item 1 is accomplished in LRB 15-0971 /P1 ("P1"), and I will add a nonstat to the next version of the draft ("P2") that requires the current Board of Regents members to continue to serve on the board of the University of Wisconsin System Authority (UWSA) until their terms would have expired.

Item 2: The P1 makes changes to s. 16.62 to allow the UWSA to use the state records center. See sections 87 to 90 of the P1. However, I need some guidance on s. 16.61 and related statutes which give the public records board authority over public records of state agencies. "Public records" are defined as certain records of "state agencies," which would not include the UWSA. See definition of "state agency" in s. 16.61 (2) (d), which the P1 does not affect. Is that okay? Section 16.61 and related statutes impose requirements on the records of the UW Hospital and Clinics Authority, and any state agency records which that authority has, and the P1 applies those same requirements to the UWSA. See sections 83, 85 and 86 of the P1. Are they okay?

yes

yes OK

Related to item 2, section 16.61 (13) (b) allows the public records board to designate UW universities as archival depositories. The P1 does not affect that power. Is that okay? *Yes* Also, although not related to item 2, I noticed that the UWSA will be a "state agency" that is subject to the State Historical Society's preservation powers and duties under subch. III of ch. 44. See definition of "state agency" in s. 44.31 (10), which the P1 does not affect. Is that okay? *Yes*

Item 3: to be addressed later.

Item 4 is accomplished in the P1.

Item 5: open records requirements apply to an "authority," which is defined in s. 19.32 (1) to include a "public body corporate and politic created by ... any law." The P1 does not affect that definition. The UWSA is such a body, so the UWSA is subject to open records, except as specified in section 156 of the P1, which is okay with you. Open meetings requirements apply to a "governmental body," which is defined in s. 19.82 (1) also to include a public body corporate and politic. The P1 does not affect that definition, so the UWSA is subject to open records requirements. As a result, the language in the P1 on page 72, lines 3 and 4 is not necessary, so I will remove that language from the P2.

Related to item 5, I need to clean up what the P1 did to subch. III of ch. 19, code of ethics for public officials and employees. As drafted, the P1 requires the president (i.e. CEO) of the UWSA and the members of the UWSA Board of Regents to file statements of economic interest. See section 158, which adds to the definition of "official required to file." That requirement applies to the UWCHA under current law. Is that okay? *Yes* Also, as drafted, the P1 treats the following as "state public officials" who are subject to the code of ethics in subch. III of ch. 19: the members of the Board of Regents of the UWSA (see s. 19.42 (13) (a), not affected by the P1, which refers to individuals regularly appointed by the governor); associate and assistant vice presidents of the UWSA (see section 159 of the P1); and the president and vice presidents of the UWSA and chancellors and vice-chancellors (see section 160 of the P1). As for other UWSA employees, the Board of Regents must establish its own code of ethics. Is all the foregoing okay? *Yes* If so, I will need to clean up the following:

- Section 157 of the P1, which defines "department." The UWSA is included because the definition refers to an "authority." Therefore, it is not necessary to also refer to the UWSA. *✓*
- Sections 163 and 164 of the P1 are duplicative, as they both require the UWSA to establish a code of ethics. *alter s. 164*
- I want to confirm that you don't want to criminalize violations of the UWSA's code of ethics. If so, section 165 of the P1 is okay as is. *✓*

Items 6, 7, and 8: to be addressed later.

Item 9: we will include a nonstat in the P2 that accomplishes this.

Item 10: see sections 538 to 542 of the P1, which treat s. 59.62 (3). I don't think that statute requires an extension in each county, but you could make changes that clarify that the UWSA gets to decide whether there is an extension in a county. For example, in section 538, you could amend s. 59.62 (3) (a) to say: -A Subject to the approval of the Board of Regents of the [UWSA], a board [which is defined as a county board] may establish and maintain an educational program in cooperation with the [UWSA]... You could add similar "subject to approval" language at page 115, line 23 and page 116, lines 9 and 10 of the P1. Is that okay?

Item 11: to be addressed later.

Item 12 is accomplished in sections 501 to 506 of the P1, except: 1) in section 506, I need to clarify that the UWSA, not the state, makes the payments; 2) I need to add language regarding what happens if the UWSA does not renew an agreement; and 3) I need to add a July 1, 2015 delayed effective date for the foregoing. Also note that page 101 line 17 changes "shall" to "may" which gives the UWSA discretion to enter into the agreement. Finally, what if UWSA decides to not renew? Should it be able to change its mind for a subsequent academic year and enter into a new agreement, or

should it prohibited from entering into any new agreement? As drafted, the UWSA can change its mind, which I think results because I referred to entering into agreements, not renewing them. However, depending on your intent, I may have to make changes.

Here are a few other responses to your other emails.

January 12, 2015 "Preliminary Draft Questions"

Item 4: I will fix that in the P2 by adding the requirement to page 70, line 21 of the P1.

Item 5: the answer is yes.

Item 8: the answer is yes. Look at section 134 of the P1, which allows the UWSA to elect to not be governed by s. 16.865, which includes workers comp management mentioned in section 131 of the P1.

Item 11: the answer is yes.

Item 12: In the P2, I will repeal all of s. 29.598 and make changes described in item 10 for the appropriation.

Item 14: I will delete 36.02 (7) in the P2 as it does seem inconsistent with 36.02 (5).

Item 16: Yes, you could make that implication. Do you want to eliminate the requirement establish missions? If you are happy with the missions established under current law, it would be okay to delete, as the Board of Regents has sufficient authority over the system upon which it could rely to change missions, so you wouldn't need a statute giving the board that specific authority.

Item 17: the answer is yes (typo!)

Item 21: I will remove the reference to rules in the P2.

January 12, 2015 "Responses to Your Notes"

Item 7: In the P2, I will remove all defined terms that are no longer used in ch. 36, and if "academic staff" is no longer used, I will repeal the definition.

Item 19: I don't know who currently owns the property of the Wisconsin Psychiatric Institute. Maybe the UW knows?

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

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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: Wednesday, January 14, 2015 10:25 AM
To: Kunkel, Mark
Subject: RE: Additional Guidance

I forgot to mention, on the issue of UW-Extension in Item 10, we would like you to add the language you recommended to clarify that the Board can choose whether to have an extension in a county or not. ✓

Thanks.

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Tuesday, January 13, 2015 3:50 PM
To: Schwanz, Nathan E - DOA
Cc: Hynek, Sara - DOA
Subject: RE: Additional Guidance

Here are some responses to some of your issues. I thought I'd get them to you sooner, rather than wait until I've looked at everything.

Item 1 is accomplished in LRB 15-0971 /P1 ("P1"), and I will add a nonstat to the next version of the draft ("P2") that requires the current Board of Regents members to continue to serve on the board of the University of Wisconsin System Authority (UWSA) until their terms would have expired.

Item 2: The P1 makes changes to s. 16.62 to allow the UWSA to use the state records center. See sections 87 to 90 of the P1. However, I need some guidance on s. 16.61 and related statutes which give the public records board authority over public records of state agencies. "Public records" are defined as certain records of "state agencies," which would not include the UWSA. See definition of "state agency" in s. 16.61 (2) (d), which the P1 does not affect. Is that okay? Section 16.61 and related statutes impose requirements on the records of the UW Hospital and Clinics Authority, and any state agency records which that authority has, and the P1 applies those same requirements to the UWSA. See sections 83, 85 and 86 of the P1. Are they okay?

Related to item 2, section 16.61 (13) (b) allows the public records board to designate UW universities as archival depositories. The P1 does not affect that power. Is that okay? Also, although not related to item 2, I noticed that the UWSA will be a "state agency" that is subject to the State Historical Society's preservation powers and duties under subch. III of ch. 44. See definition of "state agency" in s. 44.31 (10), which the P1 does not affect. Is that okay?

Item 3: to be addressed later.

Item 4 is accomplished in the P1.

Item 5: open records requirements apply to an "authority," which is defined in s. 19.32 (1) to include a "public body corporate and politic created by ... any law." The P1 does not affect that definition. The UWSA is such a body, so the UWSA is subject to open records, except as specified in section 156 of the P1, which is okay with you. Open meetings requirements apply to a "governmental body," which is defined in s. 19.82 (1) also to include a public body corporate and politic. The P1 does not affect that definition, so the UWSA is subject to open records requirements. As a result, the language in the P1 on page 72, lines 3 and 4 is not necessary, so I will remove that language from the P2.

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- Sections 163 and 164 of the P1 are duplicative, as they both require the UWSA to establish a code of ethics.
- I want to confirm that you don't want to criminalize violations of the UWSA's code of ethics. If so, section 165 of the P1 is okay as is.

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January 12, 2015 "Preliminary Draft Questions"

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January 12, 2015 "Responses to Your Notes"

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Sent: Thursday, January 08, 2015 12:46 PM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: RE: Additional Guidance

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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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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: Wednesday, January 14, 2015 11:58 AM
To: Schwanz, Nathan E - DOA
Subject: RE: Payments for Municipal Services

FYI: we will include Joe's changes in the next version of the UW draft.

From: Kreye, Joseph
Sent: Wednesday, January 14, 2015 11:55 AM
To: Schwanz, Nathan E - DOA
Cc: Hynek, Sara - DOA; Kunkel, Mark
Subject: FW: Payments for Municipal Services

Nathan,

I'll take care of this for you since it's in my subject area.

Joe

Joseph T. Kreye
Legal Section Administrator
Legislative Reference Bureau
608 266-2263

From: Kunkel, Mark
Sent: Wednesday, January 14, 2015 11:30 AM
To: Kreye, Joseph
Subject: FW: Payments for Municipal Services

This involves ch. 70. Can you sort out what's going on here? The relevant draft is LRB-0971/P1.

From: Schwanz, Nathan E - DOA [<mailto:Nathan.Schwanz@wisconsin.gov>]
Sent: Wednesday, January 14, 2015 11:27 AM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: Payments for Municipal Services

Hi Mark,

We need a technical change made to the draft regarding payments for municipal services.

In practice, payments are made in the following fiscal year since the calculation is made after the fiscal year ends. In other words, FY14 services are paid for in FY15, FY15 services are paid in FY16 and so on.

We need to require the UW to pay DOA in FY17 for their share of services provided by municipalities in FY16. At the same time, the UW authority needs the ability to start negotiating payments for services on their own in FY17 since they will be responsible for payments in FY17 and each following fiscal year.

I think the way you have amended 70.119 in the preliminary draft makes the UW responsible for negotiating and making payments for FY17 and every fiscal year after. What we think might be needed is a nonstat stating that the UW will still be required to pay DOA for their share of payments for municipal services provided in FY16.

Does all that make sense?

Let me know if you have any other questions. Thanks.

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

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Wednesday, January 14, 2015 2:47 PM
To: Kunkel, Mark
Subject: FW: WI Psychiatric Institute

See the response from John at the UW regarding your question in the note after Section 381. I think the way you drafted that section is OK.

Nathan

From: John Yingling [mailto:jyingling@uwsa.edu]
Sent: Wednesday, January 14, 2015 2:32 PM
To: Schwanz, Nathan E - DOA
Cc: Hynek, Sara - DOA
Subject: Re: WI Psychiatric Institute

Nathan,

We do not own the Wisconsin Psychiatric Institute property. My understanding is UW Clinic owns the property.

Let me know if you have other questions.

Thanks,

John

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Wednesday, January 14, 2015 10:26 AM
To: John Yingling
Cc: Hynek, Sara - DOA
Subject: WI Psychiatric Institute

Hi John,

I have another question regarding the preliminary draft for you. Do you, or someone else at the UW, know who currently owns the property of the Wisconsin Psychiatric Institute? We are trying to clarify some items in the statutes.

Thank you.

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

Kunkel, Mark

From: Shovers, Marc
Sent: Wednesday, January 14, 2015 3:02 PM
To: Schwanz, Nathan E - DOA
Cc: Kunkel, Mark
Subject: UW Authority draft

Hi Nathan:

I'm doing the parts of the draft that relate to the building commission. I have a question about the instructions in one of your memos. You wrote the following to Mark:

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.

With regard to item 1. c., do you think anything needs to be drafted to accomplish this? Created s. 13.48 (10) (b) 7., created bill section 13 in the /P1 version of the bill, states that UWSA construction or improvement projects are not subject to s. 13.48 (10) (a), and s. 13.48 (1) (c) is repealed, so it doesn't seem like it's necessary to draft anything to accomplish item 1. c. Do you agree?

Thanks,

Marc

Marc Shovers
Senior Legislative Attorney
Legislative Reference Bureau
608-266-0129
marc.shovers@legis.wisconsin.gov

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Wednesday, January 14, 2015 3:12 PM
To: Kunkel, Mark
Subject: RE: Additional Guidance

I agree with you on both of those items. Thanks.

Nathan

From: Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]
Sent: Wednesday, January 14, 2015 3:10 PM
To: Schwanz, Nathan E - DOA
Subject: RE: Additional Guidance

Yes, I think criminalizing violations of a code of ethics that is not promulgated by rule would raise due process concerns. Note that criminal penalties do not apply to violations of the UWHCA's code of ethics, so you probably want the same result for the UWSA. As drafted, the P1 accomplishes that result. ✓

Regarding missions of institutions, the simplest solution may be to revise the language beginning at page 75, line 3 of the P1 to say that the Board of Regents *may*, after public hearing at *an* institution, establish a mission statement for the institution.... (emphasis added). So, change "shall" to "may," and the board has the power, but not the duty, to establish missions statements at a, not each, institution. Let me know what you think. ✓

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Wednesday, January 14, 2015 10:24 AM
To: Kunkel, Mark
Cc: Hynek, Sara - DOA
Subject: RE: Additional Guidance

Mark,
Below are responses to your questions.

Item 2: I think it is OK to not include UWSA in the definition of "state agency" in 16.61(2)(d) and treat it like UWHCA. Section 83, 85, and 86 are OK. It is also OK to not affect the public records board's ability to designate UW universities as archival depositories. Finally, it is OK to subject UWSA to the State Historical Society's preservation powers and duties.

Item 5: Yes, it is OK to require the President and members of the Board of Regents to file statements of economic interest. The way P1 subjects certain UWSA employees to the state code of ethics and requires the Board of Regents to establish a code of ethics for all other employees is OK.

Does criminalizing violations of the UWSA's code of ethics raise due process issues?

Item 10:

January 12, 2015 "Preliminary Draft Questions"

Item 16: Could we include a nonstat that states the Board of Regents will not have to go through the process of establishing missions and that current missions can carry-over when the authority is created? If not, than I think it makes

sense to remove the requirement to establish missions since it would be a power reserved by the Board to carry out its duties and responsibilities.

Nathan

From: Kunkel, Mark [<mailto:Mark.Kunkel@legis.wisconsin.gov>]
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Cc: Hynek, Sara - DOA
Subject: RE: Additional Guidance

Here are some responses to some of your issues. I thought I'd get them to you sooner, rather than wait until I've looked at everything.

Item 1 is accomplished in LRB 15-0971 /P1 ("P1"), and I will add a nonstat to the next version of the draft ("P2") that requires the current Board of Regents members to continue to serve on the board of the University of Wisconsin System Authority (UWSA) until their terms would have expired.

Item 2: The P1 makes changes to s. 16.62 to allow the UWSA to use the state records center. See sections 87 to 90 of the P1. However, I need some guidance on s. 16.61 and related statutes which give the public records board authority over public records of state agencies. "Public records" are defined as certain records of "state agencies," which would not include the UWSA. See definition of "state agency" in s. 16.61 (2) (d), which the P1 does not affect. Is that okay? Section 16.61 and related statutes impose requirements on the records of the UW Hospital and Clinics Authority, and any state agency records which that authority has, and the P1 applies those same requirements to the UWSA. See sections 83, 85 and 86 of the P1. Are they okay?

Related to item 2, section 16.61 (13) (b) allows the public records board to designate UW universities as archival depositories. The P1 does not affect that power. Is that okay? Also, although not related to item 2, I noticed that the UWSA will be a "state agency" that is subject to the State Historical Society's preservation powers and duties under subch. III of ch. 44. See definition of "state agency" in s. 44.31 (10), which the P1 does not affect. Is that okay?

Item 3: to be addressed later.

Item 4 is accomplished in the P1.

Item 5: open records requirements apply to an "authority," which is defined in s. 19.32 (1) to include a "public body corporate and politic created by ... any law." The P1 does not affect that definition. The UWSA is such a body, so the UWSA is subject to open records, except as specified in section 156 of the P1, which is okay with you. Open meetings requirements apply to a "governmental body," which is defined in s. 19.82 (1) also to include a public body corporate and politic. The P1 does not affect that definition, so the UWSA is subject to open records requirements. As a result, the language in the P1 on page 72, lines 3 and 4 is not necessary, so I will remove that language from the P2.

Related to item 5, I need to clean up what the P1 did to subch. III of ch. 19, code of ethics for public officials and employees. As drafted, the P1 requires the president (i.e. CEO) of the UWSA and the members of the UWSA Board of Regents to file statements of economic interest. See section 158, which adds to the definition of "official required to file." That requirement applies to the UWCHA under current law. Is that okay? Also, as drafted, the P1 treats the following as "state public officials" who are subject to the code of ethics in subch. III of ch. 19: the members of the Board of Regents of the UWSA (see s. 19.42 (13) (a), not affected by the P1, which refers to individuals regularly appointed by the governor); associate and assistant vice presidents of the UWSA (see section 159 of the P1); and the president and vice presidents of the UWSA and chancellors and vice-chancellors (see section 160 of the P1). As for other UWSA employees, the Board of Regents must establish its own code of ethics. Is all the foregoing okay? If so, I will need to clean up the following:

- Section 157 of the P1, which defines “department.” The UWSA is included because the definition refers to an “authority.” Therefore, it is not necessary to also refer to the UWSA.
- Sections 163 and 164 of the P1 are duplicative, as they both require the UWSA to establish a code of ethics.
- I want to confirm that you don’t want to criminalize violations of the UWSA’s code of ethics. If so, section 165 of the P1 is okay as is.

Items 6, 7, and 8: to be addressed later.

Item 9: we will include a nonstat in the P2 that accomplishes this.

Item 10: see sections 538 to 542 of the P1, which treat s. 59.62 (3). I don’t think that statute requires an extension in each county, but you could make changes that clarify that the UWSA gets to decide whether there is an extension in a county. For example, in section 538, you could amend s. 59.62 (3) (a) to say: –A Subject to the approval of the Board of Regents of the [UWSA], a board [which is defined as a county board] may establish and maintain an educational program in cooperation with the [UWSA]...” You could add similar “subject to approval” language at page 115, line 23 and page 116, lines 9 and 10 of the P1. Is that okay?

Item 11: to be addressed later.

Item 12 is accomplished in sections 501 to 506 of the P1, except: 1) in section 506, I need to clarify that the UWSA, not the state, makes the payments; 2) I need to add language regarding what happens if the UWSA does not renew an agreement; and 3) I need to add a July 1, 2015 delayed effective date for the foregoing. Also note that page 101 line 17 changes “shall” to “may” which gives the UWSA discretion to enter into the agreement. Finally, what if UWSA decides to not renew? Should it be able to change its mind for a subsequent academic year and enter into a new agreement, or should it be prohibited from entering into any new agreement? As drafted, the UWSA can change its mind, which I think results because I referred to entering into agreements, not renewing them. However, depending on your intent, I may have to make changes.

Here are a few other responses to your other emails.

January 12, 2015 “Preliminary Draft Questions”

Item 4: I will fix that in the P2 by adding the requirement to page 70, line 21 of the P1.

Item 5: the answer is yes.

Item 8: the answer is yes. Look at section 134 of the P1, which allows the UWSA to elect to not be governed by s. 16.865, which includes workers comp management mentioned in section 131 of the P1.

Item 11: the answer is yes.

Item 12: In the P2, I will repeal all of s. 29.598 and make changes described in item 10 for the appropriation.

Item 14: I will delete 36.02 (7) in the P2 as it does seem inconsistent with 36.02 (5).

Item 16: Yes, you could make that implication. Do you want to eliminate the requirement establish missions? If you are happy with the missions established under current law, it would be okay to delete, as the Board of Regents has sufficient authority over the system upon which it could rely to change missions, so you wouldn’t need a statute giving the board that specific authority.

Item 17: the answer is yes (typo!)

Item 21: I will remove the reference to rules in the P2.

January 12, 2015 "Responses to Your Notes"

Item 7: In the P2, I will remove all defined terms that are no longer used in ch. 36, and if "academic staff" is no longer used, I will repeal the definition.

Item 19: I don't know who currently owns the property of the Wisconsin Psychiatric Institute. Maybe the UW knows?

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
State Budget Office
608-266-2843

Kunkel, Mark

From: Schwanz, Nathan E - DOA <Nathan.Schwanz@wisconsin.gov>
Sent: Wednesday, January 14, 2015 4:20 PM
To: Shovers, Marc
Cc: Kunkel, Mark
Subject: RE: UW Authority draft

Yes, I agree.

Nathan

From: Shovers, Marc [mailto:Marc.Shovers@legis.wisconsin.gov]
Sent: Wednesday, January 14, 2015 3:02 PM
To: Schwanz, Nathan E - DOA
Cc: Kunkel, Mark - LEGIS
Subject: UW Authority draft

Hi Nathan:

I'm doing the parts of the draft that relate to the building commission. I have a question about the instructions in one of your memos. You wrote the following to Mark:

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.

With regard to item 1. c., do you think anything needs to be drafted to accomplish this? Created s. 13.48 (10) (b) 7., created bill section 13 in the /P1 version of the bill, states that UWSA construction or improvement projects are not subject to s. 13.48 (10) (a), and s. 13.48 (1) (c) is repealed, so it doesn't seem like it's necessary to draft anything to accomplish item 1. c. Do you agree?

Thanks,

Marc

Marc Shovers
Senior Legislative Attorney
Legislative Reference Bureau
608-266-0129
marc.shovers@legis.wisconsin.gov

Kunkel, Mark

From: Shovers, Marc
Sent: Wednesday, January 14, 2015 4:34 PM
To: Schwanz, Nathan E - DOA; Kunkel, Mark
Subject: RE: UWSA

Ok, I'm not going to amend s. 13.48 (12). It seems to me that s. 13.48 (12) (a) does not apply to UWSA because UWSA does not have the authority to permit a privately owned or operated facility to be constructed on state-owned land. Mark, I'm assuming you did not give UWSA this authority in ch. 36, correct?

From: Schwanz, Nathan E - DOA [<mailto:Nathan.Schwanz@wisconsin.gov>]
Sent: Wednesday, January 14, 2015 4:17 PM
To: Kunkel, Mark; Shovers, Marc
Subject: RE: UWSA

We do not want the UWSA to be able to construct or operate privately owned facilities on state-owned land. The UWSA will be able to acquire or lease land and they could construct or operate a privately owned facility on that land, but not state land.

Nathan

From: Kunkel, Mark [<mailto:Mark.Kunkel@legis.wisconsin.gov>]
Sent: Wednesday, January 14, 2015 4:06 PM
To: Shovers, Marc - LEGIS; Schwanz, Nathan E - DOA
Subject: RE: UWSA

I think it could be covered. The UWSA will occupy state lands that it leases from the state, but, in furtherance of its mission, the UWSA might allow private construction/operation on that state-owned land.

Nathan, what do you think?

From: Shovers, Marc
Sent: Wednesday, January 14, 2015 3:58 PM
To: Kunkel, Mark
Subject: UWSA

Is the UWSA covered by this statute, or do I need to add it? Is it a "body corporate which has authority . . ."?

13.48(12)(a)

(a) Except as provided in par. (b), no state board, agency, officer, department, commission or body corporate which has authority to permit a privately owned or operated facility to be constructed on state-owned land may permit a facility that would be privately owned or operated to be constructed on state-owned land without prior approval of the building commission.

Thanks.

Marc

Kunkel, Mark

From: Shovers, Marc
Sent: Wednesday, January 14, 2015 4:38 PM
To: Kunkel, Mark
Subject: UWSA

Nathan said he wants s. 36.11 (1) (e) to remain in the draft, so I removed its repeal, and the repeal of s. 13.48 (20). My question is, does s. 36.11 (1) (e) need to be amended at all, or are these references to the board of regents still OK?

36.11(1)(e)

(e) Subject to prior action under s. 13.48 (14) (am) or 16.848 (1), the board, with the approval of the building commission, may sell or lease state-owned residence halls to another state agency or nonstate nonprofit agency for purposes of alternate use.

Kunkel, Mark

From: Kunkel, Mark
Sent: Wednesday, January 14, 2015 4:40 PM
To: Shovers, Marc
Subject: RE: UWSA

"board" is okay, as we define "board" or "board of regents" to mean the same thing.

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Kunkel, Mark

From: Kunkel, Mark
Sent: Wednesday, January 14, 2015 4:55 PM
To: Shovers, Marc; Schwanz, Nathan E - DOA
Subject: RE: UWSA

Correct, that authority is not given that explicit authority. I thought you might be able to imply authority from its mission, but I now think that is a big stretch.

From: Shovers, Marc
Sent: Wednesday, January 14, 2015 4:34 PM
To: Schwanz, Nathan E - DOA; Kunkel, Mark
Subject: RE: UWSA

Ok, I'm not going to amend s. 13.48 (12). It seems to me that s. 13.48 (12) (a) does not apply to UWSA because UWSA does not have the authority to permit a privately owned or operated facility to be constructed on state-owned land. Mark, I'm assuming you did not give UWSA this authority in ch. 36, correct?

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Thanks.

Marc

Kunkel, Mark

From: Kunkel, Mark
Sent: Thursday, January 15, 2015 2:22 PM
To: 'Schwanz, Nathan E - DOA'
Subject: RE: Ch. 20 Changes

We will renumber those as DATCP appropriations, so they will no longer be UW appropriations.

From: Schwanz, Nathan E - DOA [mailto:Nathan.Schwanz@wisconsin.gov]
Sent: Thursday, January 15, 2015 2:01 PM
To: Kunkel, Mark
Subject: Ch. 20 Changes

Mark,

You may have already caught these changes that need to be made, but 20.285(fd) and (fj) also need to be repealed. They will be recreated with DATCP along with the other appropriations for the two boards that need to be recreated in DATCP.

Thanks.

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

NOTE on terminology for P2

Kunkel, Mark

Under current law, there is created in this state a system of institutions of learning to be known as the University of Wisconsin System. See s. 36.03. For purposes of ch. 36, "system" means the University of Wisconsin System. See s. 36.05 (12). Under s. 36.09 (1), the primary responsibility for governing the system is vested in the Board of Regents, which is created as an independent agency under s. 15.91. Under current law, there are numerous reference to the University of Wisconsin System and the Board of Regents.

For the budget draft, I have created an authority to be known as the University of Wisconsin System Authority (UWSA). I defined the "Board of Regents" as the board governing the UWSA. I repealed s. 36.03, which creates the system, and instead required the board to provide a system education that does specified things.

In statutes that talk about the University of Wisconsin as a state agency, we should change the reference to the authority. In statutes that talk about the system as the educational institutions in the system, I think we should continue to refer to the system, instead of the authority. For example, s. 15.67 (1) (a) 5. refers to a student within the system.