

2015 DRAFTING REQUEST

Bill

Received: **11/11/2015** Received By: **mkunkel**
For: **Legislative Council -law rev com 608-266-3810** Name as LRB: **-4357**
May Contact: By/Representing: **Katie Bender-Olsen**
Subject: **Higher Education - miscellaneous** Drafter: **mkunkel**
Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **katie.bender-olson@legis.wisconsin.gov**
Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Definition of the term "faculty"

Instructions:

No specific instructions given

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mkunkel 11/12/2015		_____			
/P1	mkunkel 12/1/2015	kmochal 11/23/2015	_____	mbarman 11/23/2015		
/1	mkunkel 12/2/2015	kmochal 12/2/2015	_____	sbasford 12/2/2015		
/2		anienaja	_____	lparisi	mbarman	

Vers. Drafted

Reviewed
12/2/2015

Proofed

Submitted
1/11/2016

Jacketed
1/11/2016

Required

FE Sent For:

NOT
NEEDED

<END>

Kunkel, Mark

From: Bender-Olson, Katie
Sent: Wednesday, November 11, 2015 9:06 AM
To: Kunkel, Mark
Cc: McCarthy, Steven; Queensland, Michael
Subject: FW: Outdated UW Statutory Cross-Reference

Mark,

We communicated back in August about a possible Law Revision bill for the UW to clean up a cross reference in s. 36.01 (8), Stats. We finally got a response from the UW on the issue. I am forwarding the email chain to you. Apparently, UW believes that the cross reference to s. 36.13 (4) (c) can just be deleted.

Could you have this drafted for the Law Revision Committee, please?

Thank you,
Katie

From: Jeff Buhrandt [mailto:jbuhrandt@uwsa.edu]
Sent: Monday, November 02, 2015 1:43 PM
To: Bender-Olson, Katie <Katherine.Bender-Olson@legis.wisconsin.gov>
Cc: Queensland, Michael <Michael.Queensland@legis.wisconsin.gov>; McCarthy, Steven <Steven.McCarthy@legis.wisconsin.gov>
Subject: RE: Outdated UW Statutory Cross-Reference - Remedial Legislation Requested?

I apologize – I meant to address that. Yes, we'd like it drafted through the law revision bill process. The repair bill mentioned in the email has not materialized.

Thank you,

Jeff

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Director for State Relations
University of Wisconsin System
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1220 Linden Drive
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From: Bender-Olson, Katie [mailto:Katherine.Bender-Olson@legis.wisconsin.gov]
Sent: Monday, November 02, 2015 1:41 PM
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Cc: Queensland, Michael; McCarthy, Steven
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Jeff,

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Do you want to have this drafted as a Law Revision bill?

Thanks,
Katie

Katie Bender-Olson
Wisconsin Legislative Council
(608) 266-2988
katie.bender-olson@legis.wisconsin.gov

From: Jeff Buhrandt [<mailto:jbuhrandt@uwsa.edu>]
Sent: Monday, November 02, 2015 1:36 PM
To: Bender-Olson, Katie <Katherine.Bender-Olson@legis.wisconsin.gov>
Subject: FW: Outdated UW Statutory Cross-Reference - Remedial Legislation Requested?

Katie-

I am sorry this got lost in the transition – hopefully the following response from Stefan can serve as an adequate response.

Please let me know if you have any further questions.

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From: Stefan Fletcher
Sent: Wednesday, October 28, 2015 4:31 PM
To: Jeff Buhrandt
Cc: Tomas Stafford; David Miller
Subject: FW: Outdated UW Statutory Cross-Reference - Remedial Legislation Requested?

Hi Jeff,

I hope all is well. As an FYI, I saw your email regarding this issue earlier in the day. Here is the response to Nick's original request & the email string.

SJF

--
Stefan Fletcher, JD, BSc
Special Assistant to the Vice President for Administration
University of Wisconsin System Administration
1752 Van Hise Hall
1220 Linden Drive
Madison WI 53705
E: sfletcher@uwsa.edu
P: 608-262-8939
C: 517-703-6164

From: Stefan Fletcher
Sent: Tuesday, September 22, 2015 8:56 AM
To: Nicholas Probst
Subject: RE: Outdated UW Statutory Cross-Reference - Remedial Legislation Requested?

Good morning Nick,

I've talked to HR & OGC on this. The belief is the reference to 36.13 (4)(c) can be removed, but for a slightly different rationale than offered by Leg Council. I've provided the reasoning offered by our staff below. One piece that you and others in OUR may want to discuss is as to whether this should be a standalone item or is there an appetite for a UW technical fixes bill that addresses other items coming out of the budget. I know there are a couple of other items staff are spotting as they go through the revised Chp. 36 that could also be good to fix. I know the idea of a trailer bill was discussed at one point, so at least wanted to raise the issue with you. I will stop by this AM and see you about your other requests.

So the question is whether there are currently faculty who were not ranked on 8/15/91 AND either (1) held an unranked faculty tenure appointment or unranked faculty concurrent appointment under old chapter 37 prior to 8/10/74 or (2) held an unranked probationary appointment under chapter 37 prior to 8/10/74 and who subsequently received and unranked faculty tenure appointment or unranked faculty concurrent tenure appointment.

After merger in 1974 there were some unranked faculty members, but years ago the last one retired. So while there are undoubtedly faculty members appointed more than 41 years ago, there are not any unranked faculty members who meet the criteria set forth in s. 36.13(4)(c). So I think that the reference to 36.13(4)(c) should be deleted.

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From: Nicholas Probst
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Can you take a look at this—I missed this last week.

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Sent: Friday, September 04, 2015 3:12 PM
To: Nicholas Probst
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Subject: Outdated UW Statutory Cross-Reference - Remedial Legislation Requested?

Nick,

I am writing to follow-up on the voicemail message I left for you. I am an attorney with the Wisconsin Legislative Council and I co-staff the Law Revision Committee. The drafters at LRB noted a cross-reference in s. 36.01, Stats., that needs to be corrected and suggested that this change could be addressed through remedial legislation in the Law Revision Committee. This is why I am contacting you – to advise you of the issue itself, as well as advising you of the option to request remedial legislation.

There is a cross-reference to s. 36.13, Stats., appearing within the definition of “faculty” in s. 36.01 (8), Stats. I have included the current statutory language below:

36.01 (8) "Faculty" means persons who hold the rank of professor, associate professor, assistant professor or instructor in an academic department or its functional equivalent in an institution, persons described under s. 36.13 (4) (c) and such academic staff as may be designated by the chancellor and faculty of the institution.

Section 36.13 no longer exists. The cross-reference refers to persons who: (1) held specified appointments under prior law; and (2) held those appointments prior to July 10, 1974. The definition of “faculty” in s. 36.01, Stats., needs to be amended to omit the cross-reference, but input is needed from the UW.

Does UW currently have faculty appointed more than 41 years ago?

If not, the reference can probably just be deleted. If the UW does still have such faculty, the cross-reference could probably be fixed by inserting “, 2013 Stats.” after the cross-reference to s. 36.13 (4) (c), Stats.

Please let me know if UW wishes to request remedial legislation on this issue.
I am happy to answer any questions you have.

Have a good holiday weekend,
Katie

Katie Bender-Olson
Wisconsin Legislative Council
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katie.bender-olson@legis.wisconsin.gov



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3850/P1
MDK:..kem

O-NOTE

TUES
by WED
HOS
11-24

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ^{Generate catalog} ...; relating to: the definition of faculty of the University of Wisconsin
2 System (suggested as remedial legislation by the Board of Regents of the
3 University of Wisconsin System).

Analysis by the Legislative Reference Bureau

★ This bill deletes from the definition of "faculty" of the University of Wisconsin (UW) System a reference to a repealed law. Former law required the Board of Regents of the UW System to treat certain individuals as faculty members with the rank of associate professor. The requirement applied to individuals who were not ranked faculty members on August 15, 1991, and who held specified appointments before July 10, 1974. The 2015-16 biennial budget act repealed the law imposing the requirement. However, current law defines "faculty" to include those individuals by referring to the former law. This bill deletes the reference to the former law. As a result, under the bill, the individuals are not included in the definition of "faculty."

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 36.05 (8) of the statutes is amended to read:

1 36.05 (8) “Faculty” means persons who hold the rank of professor, associate
2 professor, assistant professor or instructor in an academic department or its
3 functional equivalent in an institution, ~~persons described under s. 36.13 (4) (e) and~~
4 such academic staff as may be designated by the chancellor and faculty of the
5 institution.

6 (NOTE: NOTE: Section 36.13 was repealed by 2015 Wis. Act 55. NOTE:

History: 1973 c. 335; 1985 a. 332 s. 251 (3); 1989 a. 31, 67; 1991 a. 39; 1995 a. 27; 1997 a. 237; 2015 a. 55.

(END)

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

LRB-3850/P1dn
MDK: *klm*

— Date —

Katie Bender-Olsen:

After you provide me with notes to include in the draft, I will finalize this draft.

Mark D. Kunkel
Senior Legislative Attorney
(608) 266-0131
mark.kunkel@legis.wisconsin.gov

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

LRB-3850/P1dn
MDK:klm

November 23, 2015

Katie Bender-Olsen:

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Senior Legislative Attorney
(608) 266-0131
mark.kunkel@legis.wisconsin.gov

Kunkel, Mark

From: Bender-Olson, Katie
Sent: Tuesday, December 01, 2015 9:52 AM
To: Kunkel, Mark
Subject: RE: Outdated UW Statutory Cross-Reference
Attachments: UW System.Law Revision Notes for LRB 3850 P1.docx

Mark,

I am attaching the notes for inclusion in the Law Revision Draft related to the UW System (LRB-3850/P1). There is one item appearing in parentheses in the first note for your attention.

Thank you!
Katie

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Yes, will do.

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Please let me know if UW wishes to request remedial legislation on this issue.
I am happy to answer any questions you have.

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Notes for Insertion into LRB-3850/P1

University of Wisconsin System

Insert Before Section 1

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Board of Regents of the University of Wisconsin System (or however this should appear) and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the provision of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

Insert – After Section 1

Eliminates a cross-reference to a statutory section that was repealed by 2015 Wisconsin Act 55. The cross-reference covered certain individuals who were not ranked faculty members as of 1991, and who held unranked faculty tenure appointments or unranked probationary appointments prior to 1974.



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3850/PR 1
MDK:klm

by THMS
12-3

RM has
been
run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regenerate
catalog

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3 Board of Regents of the University of Wisconsin System).

Analysis by the Legislative Reference Bureau

This bill deletes from the definition of "faculty" of the University of Wisconsin (UW) System a reference to a repealed law. Former law required the Board of Regents of the UW System to treat certain individuals as faculty members with the rank of associate professor. The requirement applied to individuals who were not ranked faculty members on August 15, 1991, and who held specified appointments before July 10, 1974. The 2015-16 biennial budget act repealed the law imposing the requirement. However, current law defines "faculty" to include those individuals by referring to the former law. This bill deletes the reference to the former law. As a result, under the bill, the individuals are not included in the definition of "faculty."

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

INSERT
1-4

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4 such academic staff as may be designated by the chancellor and faculty of the
5 institution.

6 *INSERT
2-5*

(END)

**2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3850/lins
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1

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INSERT 2-5:

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Kunkel, Mark

From: Bender-Olson, Katie
Sent: Wednesday, December 02, 2015 11:33 AM
To: Kunkel, Mark
Subject: FW: Outdated UW Statutory Cross-Reference

Mark,

I'm really sorry, but I would like to make one change to the notes on the UW System draft for Law Revision (LRB 3850/1). In the second note, where it states "as of 1991" and "prior to 1974," could you please add in the precise date? (August 15, 1991 and July 10, 1974 like in your analysis)

I should have done this initially. My apologies.

Thank you,
Katie

From: Bender-Olson, Katie
Sent: Tuesday, December 01, 2015 11:04 AM
To: Kunkel, Mark <Mark.Kunkel@legis.wisconsin.gov>
Cc: Queensland, Michael <Michael.Queensland@legis.wisconsin.gov>
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Great. Thank you.

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I will get the next version to you soon. Also, the reference to the Board of Regents looks okay.

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Subject: FW: Outdated UW Statutory Cross-Reference - Remedial Legislation Requested?

Hi Jeff,

I hope all is well. As an FYI, I saw your email regarding this issue earlier in the day. Here is the response to Nick's original request & the email string.

SJF

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Stefan Fletcher, JD, BSc
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P: 608-262-8939
C: 517-703-6164

From: Stefan Fletcher
Sent: Tuesday, September 22, 2015 8:56 AM
To: Nicholas Probst
Subject: RE: Outdated UW Statutory Cross-Reference - Remedial Legislation Requested?

Good morning Nick,

I've talked to HR & OGC on this. The belief is the reference to 36.13 (4)(c) can be removed, but for a slightly different rationale than offered by Leg Council. I've provided the reasoning offered by our staff below. One piece that you and others in OUR may want to discuss is as to whether this should be a standalone item or is there an appetite for a UW technical fixes bill that addresses other items coming out of the budget. I know there are a couple of other items staff are spotting as they go through the revised Chp. 36 that could also be good to fix. I know the idea of a trailer bill was discussed at one point, so at least wanted to raise the issue with you. I will stop by this AM and see you about your other requests.

So the question is whether there are currently faculty who were not ranked on 8/15/91 AND either (1) held an unranked faculty tenure appointment or unranked faculty concurrent appointment under old chapter 37 prior to 8/10/74 or (2) held an unranked probationary appointment under chapter 37 prior to 8/10/74 and who subsequently received and unranked faculty tenure appointment or unranked faculty concurrent tenure appointment.

After merger in 1974 there were some unranked faculty members, but years ago the last one retired. So while there are undoubtedly faculty members appointed more than 41 years ago, there are not any unranked faculty members who meet the criteria set forth in s. 36.13(4)(c). So I think that the reference to 36.13(4)(c) should be deleted.

SJF

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From: Nicholas Probst
Sent: Tuesday, September 15, 2015 1:35 PM
To: Stefan Fletcher
Subject: FW: Outdated UW Statutory Cross-Reference - Remedial Legislation Requested?

Can you take a look at this—I missed this last week.

Nick

From: Bender-Olson, Katie [<mailto:Katherine.Bender-Olson@legis.wisconsin.gov>]
Sent: Friday, September 04, 2015 3:12 PM
To: Nicholas Probst
Cc: Queensland, Michael; McCarthy, Steven
Subject: Outdated UW Statutory Cross-Reference - Remedial Legislation Requested?

Nick,

I am writing to follow-up on the voicemail message I left for you. I am an attorney with the Wisconsin Legislative Council and I co-staff the Law Revision Committee. The drafters at LRB noted a cross-reference in s. 36.01, Stats., that needs to be corrected and suggested that this change could be addressed through remedial legislation in the Law Revision Committee. This is why I am contacting you – to advise you of the issue itself, as well as advising you of the option to request remedial legislation.

There is a cross-reference to s. 36.13, Stats., appearing within the definition of “faculty” in s. 36.01 (8), Stats. I have included the current statutory language below:

36.01 (8) "Faculty" means persons who hold the rank of professor, associate professor, assistant professor or instructor in an academic department or its functional equivalent in an institution, persons described under s. 36.13 (4) (c) and such academic staff as may be designated by the chancellor and faculty of the institution.

Section 36.13 no longer exists. The cross-reference refers to persons who: (1) held specified appointments under prior law; and (2) held those appointments prior to July 10, 1974. The definition of “faculty” in s. 36.01, Stats., needs to be amended to omit the cross-reference, but input is needed from the UW.

Does UW currently have faculty appointed more than 41 years ago?

If not, the reference can probably just be deleted. If the UW does still have such faculty, the cross-reference could probably be fixed by inserting “, 2013 Stats.” after the cross-reference to s. 36.13 (4) (c), Stats.

Please let me know if UW wishes to request remedial legislation on this issue.
I am happy to answer any questions you have.

Have a good holiday weekend,
Katie

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State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3850/10
MDK:klm

2015 BILL

- 1 **AN ACT to amend** 36.05 (8) of the statutes; **relating to:** the definition of faculty
2 of the University of Wisconsin System (suggested as remedial legislation by the
3 Board of Regents of the University of Wisconsin System).

Analysis by the Legislative Reference Bureau

This bill deletes from the definition of “faculty” of the University of Wisconsin (UW) System a reference to a repealed law. Former law required the Board of Regents of the UW System to treat certain individuals as faculty members with the rank of associate professor. The requirement applied to individuals who were not ranked faculty members on August 15, 1991, and who held specified appointments before July 10, 1974. The 2015–16 biennial budget act repealed the law imposing the requirement. However, current law defines “faculty” to include those individuals by referring to the former law. This bill deletes the reference to the former law. As a result, under the bill, the individuals are not included in the definition of “faculty.”

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Board of Regents of the University of Wisconsin System and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After

BILL

careful consideration of the provision of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 36.05 (8) of the statutes is amended to read:

2 36.05 (8) "Faculty" means persons who hold the rank of professor, associate
3 professor, assistant professor or instructor in an academic department or its
4 functional equivalent in an institution, ~~persons described under s. 36.13 (4) (e) and~~
5 such academic staff as may be designated by the chancellor and faculty of the
6 institution.

NOTE: Eliminates a cross-reference to a statutory section that was repealed by
2015 Wisconsin Act 55. The cross-reference covered certain individuals who were not
ranked faculty members as of 1991, and who held unranked faculty tenure appointments
or unranked probationary appointments prior to 1974.

7

(END)

August 15)

July 10)

Basford, Sarah

From: Bender-Olson, Katie
Sent: Monday, January 11, 2016 2:01 PM
To: LRB.Legal
Subject: Draft Review: LRB -3850/2

Please Jacket LRB -3850/2 for the ASSEMBLY.