



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Senate Bill 338

**Senate Amendment 1 and
Assembly Substitute
Amendment 1**

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Current law, in s. 946.13 (1), Stats., prohibits a public officer or employee from making or performing a contract in his or her official capacity if he or she has a private pecuniary interest in the contract and if his or her official involvement in the contract requires the exercise of discretion. For this offense, a person may be fined not more than \$10,000, sentenced to a term of confinement and extended supervision that together may not exceed three and one-half years, or both fined and sentenced.

2005 Senate Bill 338 specifies that the prohibition against a public officer or employee having a private interest in a public contract does not apply to a contract between a research company and the University of Wisconsin (UW) System for purchase of goods or services if the contract is approved by a UW System employee or officer responsible for evaluating and managing potential conflicts of interest.

A “research company” is defined as an entity engaged in commercial activity that is related to research conducted by an employee or officer of the UW System or to a product of such research.

The provisions of the bill apply regardless of the date on which a contract was entered into.

Senate Amendment 1 specifies that the provisions of the bill apply to contracts between a research company and any institution or college campus within the UW System.

Assembly Substitute Amendment 1 contains the same provisions as Senate Bill 338, as amended by Senate Amendment 1, and also requires the UW System to submit a contract to the Attorney General for review if the contract, together with all contracts between the same parties, requires payments of \$75,000 or more over a 24-month period. If the Attorney General does not notify the UW System that entering into the contract would constitute a violation of s. 946.13 (1), Stats., then the prohibition against a public officer or employee having a private interest in a public contract does not apply to the contract. The Attorney General must complete the review within 30 days but may extend the review period by another 30 days upon providing written notice to the UW System.

Assembly Substitute Amendment 1 contains a five-year sunset provision. Thus, under Assembly Substitute Amendment 1, five years after the effective date its provisions would no longer apply and the provisions in current law would again be in effect.

Legislative History

Senate Amendment 1 was offered by Senator Kanavas on October 27, 2005. On November 7, 2005, the Senate Committee on Job Creation, Economic Development and Consumer Affairs recommended adoption of Senate Amendment 1 on a vote of Ayes 5; Noes, 0, and recommended passage of the bill, as amended, on a vote of Ayes 4; Noes, 1.

On March 7, 2006, the Assembly Committee on Colleges and Universities offered Assembly Substitute Amendment 1 by unanimous consent, recommended adoption of the amendment on a vote of Ayes, 9; Noes, 3, and recommended concurrence with the bill, as amended, by the same vote.

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