

MEMORANDUM

TO: LEGISLATIVE COUNCIL STUDY COMMITTEE ON THE FUTURE OF THE UW SYSTEM

FROM: JIM LANGDON, COMMITTEE MEMBER

RE: UNIVERSITY OF WISCONSIN SYSTEM REORGANIZATION AND REFORM

DATE: AUGUST 29, 2024

ISSUE

The University of Wisconsin has for 176 years contributed more to the general welfare of the state than any other Wisconsin institution. Beginning in 1848 on the Madison campus as a legislatively chartered land grant institution and expanding over the decades to other universities and branches, UW faculty, researchers and students have studied and solved countless problems, the benefits of which extend across the nation and around the world.

The UW community has, however, been let down by an administrative culture within the University of Wisconsin System that acts as though independent of state government and pushes back against the Legislature and Executive despite receiving billions of dollars of taxpayer support. This dynamic has existed almost since the System was created in 1971 and continues to sow mistrust with the public and elected officials who control the System's budget, and by extension the budgets of all UW institutions. This mistrust spans time and political parties, and if allowed to continue threatens the future of the University.

Reorganization and reform of the University of Wisconsin System is needed to provide expanded educational opportunities, greater accountability, and increased public and political support.

BACKGROUND

The UW System developed over a haphazard course. In brief, the Legislature created the Madison campus in 1848 as the state's only public university. The Legislature soon after created normal schools which became State Teachers Colleges in 1926, Wisconsin State Colleges in 1951 and Wisconsin State Universities in 1964.¹ In the 1950s and 60s, the Legislature aligned the Milwaukee, Green Bay and Parkside campuses with Madison. As the 1970s approached, Wisconsin had two university systems: The University of Wisconsin System² and the Wisconsin State University System.

In 1971, a political compromise was struck to merge the two systems into a single entity called the University of Wisconsin System (the plan passed the Assembly by a narrow margin). The Legislature granted the new UW System Board of Regents authority over all thirteen universities and a growing number of branch campuses. Further, one statutory chapter and set of appropriations provided state tax dollars and legislative control over the entire system. The merger was hailed as a success in that

¹ Eau Claire, La Crosse, Oshkosh, Platteville, River Falls, Stevens Point, Stout, Superior and Whitewater

² Green Bay, Madison, Milwaukee and Parkside

Wisconsin for the first time had a single form of governance over all public universities. However, problems developed that persist today:

- The Regents were required to create policies that govern a diverse range of campuses, from the mammoth research institution at Madison with over 40,000 students, \$1.5 billion of research contracts and professional schools, to Superior with fewer than 3,000 students. A one-size-fits-all approach to governance does not respect the System's diversity and fails campuses experiencing enrollment and financial pressures.
- UW System operates as though independent from state government, despite receiving \$1.3 billion of GPR annually. Unauthorized branch campus closures, an unfunded tuition promise announcement and public record failures are recent examples of an institution committed to independence, expediency and convenience, and not accountability, transparency and compliance.
- The System is the State of Wisconsin's largest state agency with 36,392 FTE employees (or ½ of the entire State employee 72,313 FTE workforce) and a \$7.5 billion annual budget. With size comes a culture of impunity that empowers System administrators to flout executive and legislative mandates, such as public testimony, budget instructions, administrative policies and even its statutory name.
- UW System Administration leaders have wrested power from the Regents. As examples, staff determine what issues appear on Regent meeting agendas, script Regent leadership remarks and prevent the public from speaking at meetings. Either by lack of interest or custom, the Regents exercise little influence over the operations of the System.
- Regents and administrators view the Legislature as a bargaining adversary rather than the governing body which debates and appropriates its budget and statutes. For instance, the Regents convened in closed session last December to discuss provisions of a budget deal negotiated with the Speaker. Their meeting likely violated the Open Meetings law which allows closed session discussions of negotiations with private vendors and labor unions.

These examples point to an institution that is:

- Too large and diverse to succeed under a single form of governance.
- Driven by entitlement rather than accountability.
- Indifferent to laws and policies.
- Controlled by unappointed, unconfirmed administrators.
- Adversarial to elected officials who are accountable to the taxpayers.

These characteristics have caused a longstanding rift between Van Hise Hall and the State Capitol that in turn has created suspicion and mistrust of the University and caused reductions in state support. No amount of admonishment, hand slapping or even budgetary consequences have caused the System to come correct. As a result, students and faculty suffer from a System governance structure and culture that is broken and must be fixed.

Things don't happen, they are made to happen (John F. Kennedy). I encourage this Study Committee to make things happen by adopting the following five-point plan to reorganize and reform the University of Wisconsin System to provide expanded educational opportunities for students, greater accountability, and increased public and political support.

1. Establish UW-Madison as a separate state agency named the University of Wisconsin

UW-Madison is unlike the other University of Wisconsin institutions:

- **Enrollment.** Madison's headcount enrollment (50,335) is more than double the second largest UW campus (Milwaukee, 22,703) and eighteen times larger than the smallest UW campus (Superior, 2,721).
- **Age.** Madison was established as a land grant university in 1848, the same year Wisconsin became a state. Other universities got their start as normal schools and only received university recognition in 1964.
- **Budget.** Madison has a \$4.5 billion annual operating budget, or 60 percent of the overall UW System \$7.5 billion budget. Further, Madison routinely operates in the black while other campuses struggle with structural deficits.
- **Employment:** Madison has 20,893 employees (excluding graduate assistants), six times more than the second largest UW campus (Milwaukee, 3,509) and 54 times larger than the smallest UW campus (Superior, 385).
- **Research.** Madison is an internationally renowned R1 research institution with expenditures exceeding \$1.5 billion. Research expenditures at Milwaukee are estimated at between \$50 million and \$75 million.
- **Professional Schools.** Only Madison has professional schools including Law, Medicine and Public Health, and Veterinary Medicine.
- **Athletics.** Madison competes in a full range of Division I athletics with the attendant regulations and scrutiny, relationships, budgetary opportunities and reputational pressures that are not found at the other universities.
- **Facilities.** The Madison campus accounts for an estimated 40 percent of the value of all UW facilities.
- **Statutes:** Chapter 36, Wis. Stats., contains multiple special provisions relating to Madison, such as requirements to offer a Great Lakes Indian Law Program, the Robert M. La Follette Institute of Public Affairs and many others. Relatively few such provisions are made for other campuses.
- **Desirability.** Admission to Madison is highly competitive and the campus therefore sets policies to limit enrollment based on factors including pre-college educational attainment and housing availability. All other campuses strive to drive higher enrollment.
- **Special Administrative Recognition.** State statutes and administrative policy recognize Madison's size and uniqueness by granting separate administrative authority and delegation in the areas including human resource administration, procurement and risk management.

None of these distinctions diminish the quality or importance of the other UW institutions. Indeed, thousands of students turn to campuses other than Madison for reasons including educational offerings, affordability, proximity and comfort with a smaller university setting. However, the factors listed above demonstrate that Madison is an outlier among System campuses in every major respect and, as a consequence, Madison has policy and governance needs unlike any other UW university. Madison should therefore be established as its own state agency, as follows:

- Rename from the University of Wisconsin-Madison to the University of Wisconsin
- Create Chapter 37, Wis. Stats. governing only the Madison campus, including moving special Madison provisions in Chapter 36 to the new Chapter 37
- Create a new Chapter 20 appropriation for Madison
- Create a new University of Wisconsin Board of Regents to oversee the Madison campus
- Designate the Madison Chancellor as an agency head reporting directly to the new University of Wisconsin Board of Regents
- Prohibit Madison from opening branch campuses elsewhere in Wisconsin without legislative approval

2. **Refocus the University of Wisconsin System to oversee and support UW-Milwaukee and the eleven comprehensive universities**

Madison overshadows all other campuses and thereby skews System data in ways that frustrate analysis of the other twelve institutions. For instance, System Administration each year presents the Regents with a monolithic budget proposal that covers the entire UW enterprise but lacks solutions focused on campuses troubled by declining enrollment and/or budgetary pressures. Two factors contribute to this problem.

First, System Presidents have relied upon a weak System Administration in-house financial office that is so overwhelmed with data and financial management that it cannot perform strategic analysis. This was brought to light when the System President recently hired an outside consultant to analyze each campus's finances (except Madison and La Crosse) including current and projected revenues, expenditures and solvency. Hiring a third party to conduct an agency financial analysis is unheard of in state government. Further, if the System President cannot rely on his staff to provide actionable financial data, the Legislature certainly has little chance of understanding, let alone addressing, financial risks.

Second, the Legislature appropriates what amounts to a \$1.3 billion GPR block grant to the University with little direction on how it is spent. The System then uses a historical formula to allocate GPR funds to Madison and each of the other twelve institutions. Much talk but little effort has gone into modifying the formula for fear of political pressures associated with creating winners and losers. Consequently, financial problems at smaller campuses are not addressed, and even current efforts to address structural deficits will amount to a Band Aid approach because no effort is undertaken to create a long-term funding fix.

In many respects, Madison is the problem because the System is forced to balance the characteristics and needs of one enormous, financially successful campus with twelve others that are much smaller and face recurring budgetary and enrollment problems. A better governance approach at System would allow Regent, gubernatorial and legislative attention to focus on the wellbeing and future of the non-Madison universities. The System should therefore be restructured as follows:

- Retain the University of Wisconsin System and specify that its responsibilities are limited to UW-Eau Claire, Green Bay, La Crosse, Milwaukee, Oshkosh, Parkside, Platteville, River Falls, Stevens Point, Stout, Superior and Whitewater
- Remove Madison from UW System governance and Chapter 36, Wis. Stats.
- Remove Madison from UW System's Chapter 20 appropriations

- Rightsize UW System Administration consistent with its responsibilities for a smaller number of campuses, reduced budget, etc.

3. Create a Higher Education Coordinating Council

The State of Wisconsin does not have a comprehensive plan for higher education. Statutes provide static direction to UW System Regents and the Technical College System Board, but no ongoing effort, let alone plan, exists to confront emerging opportunities and challenges including changing state demographics, economic shifts and employment needs. This must change if Wisconsin expects its higher education investments to adequately serve students, employers and communities.

Other states have created the equivalent of a higher education coordinating council to provide advice and direction to ensure public universities, technical colleges, community colleges and even private universities coordinate rather than compete, wisely use public resources rather than duplicate services, and respond to the needs of students and employers rather than merely sustain bureaucracies and the status quo.

Many models exist, such as the Texas Higher Education Coordinating Board. The Texas Board consists of nine members appointed by the Governor for six-year staggered terms and one non-voting student representative (one-year term). The Governor also appoints the Board's chair and vice chair. Its key functions are:

1. Provide a statewide perspective to ensure the efficient and effective use of higher education resources and to eliminate unnecessary duplication.
2. Develop and evaluate progress toward a long-range master plan for higher education.
3. Collect and make accessible data on higher education to support policy recommendations.
4. Make recommendations to improve the efficiency and effectiveness of transitions, including between high school and postsecondary education, between institutions of higher education for transfer purposes, and between postsecondary education and the workforce.
5. Administer programs and trusteed funds for financial aid and other grants as necessary to achieve the state's long-range goals and as directed by the Texas Legislature.

No such body exists in Wisconsin. Rather, the Legislature relies on the UW System and Technical College System to cooperate based on their willingness and good intentions. This process may produce results on an ad hoc basis, but a better approach is needed to produce thoughtful, actionable, reliable, forward-thinking results:

- Create a Wisconsin Higher Education Coordinating Council to advise the Governor, Legislature, University of Wisconsin, University of Wisconsin System, Wisconsin Technical Colleges System and even private universities
- Empanel the Council with non-university leaders representing interests including industry, agriculture, disadvantaged groups, philanthropy and others as determined by the Governor
- Require Council members to stand for confirmation by the Wisconsin State Senate

- Require the Council to establish statewide higher education goals, make recommendations in furtherance of the goals, track and report data, and meet at least quarterly in public session
- Require the Council's approval prior to the closure of any university or technical college campus
- Require the Council to study areas of collaboration including ubiquitous online student tools, the creation of community colleges, co-locating courses and shared administrative services
- Attach the Council to the Department of Administration to ensure no higher education institution has undue influence over the Council's work

4. Amend Board of Regents membership to include four legislators and DOA Secretary

As noted above, the new governance structure will have two boards of Regents: The University of Wisconsin Board of Regents and the University of Wisconsin System Board of Regents. The composition of each board must be structured to increase accountability to taxpayers, the Governor and the Legislature, and thereby create an environment that improves public support for higher education. This will be achieved by adding legislators and a gubernatorial representative to each Board.

As background, several state agencies, boards, commissions and authorities have legislative and executive representation on their leadership bodies, for instance:

- **Wisconsin Housing and Economic Development Authority (WHEDA):** Four legislators (majority and minority members from the Senate and Assembly) and the DOA Secretary
- **Educational Communications Board (ECB):** Four legislators (majority and minority members from the Senate and Assembly) and the DOA Secretary
- **Wisconsin Historical Society (WHS):** The Governor or designee, the Assembly Speaker or designee, and the Senate President or designee
- **Wisconsin Economic Development Corporation (WEDC):** Appointments by the Assembly Speaker, Assembly Minority Leader, Senate President and Senate Minority Leader (appointments may include members of the Wisconsin Legislature), and the DOA and Department of Revenue Secretaries as ex officio members

To be blunt, university administrators will shriek with terror that legislators cannot possibly serve on their governing board due to what they perceive to be "legislative interference." This kneejerk reaction is as predictable as it is short sighted. In each of the examples above, agencies use their legislative and executive members as assets to:

- To inform and educate the Legislature and Executive on the agency's goals, strategies, operations and budgets
- Collect advice and insight on legislative and executive policy priorities, political trends, public perceptions, and state and local education and economic needs
- Include legislative and executive stakeholders in university decision making
- Cultivate legislative and executive support for and sponsorship of university proposals before introduction as legislation or policy proposals

University administrators will also claim legislative membership is forbidden per accreditation requirements imposed by bodies such as The Higher Learning Commission. Note, however, that the HLC requires, among other things, that

“The governing board of the institution is autonomous to make decisions in the best interest of the institution in compliance with board policies and to ensure the institution’s integrity,” including, “The governing board preserves its independence from undue influence on the part of donors, elected officials, ownership interests or other external parties.”

Under no circumstances would legislative membership on a Board of Regents constitute a majority of its members, nor would it skew toward one political party or legislative chamber. Rather, I propose:

- The University of Wisconsin Board of Regents (Madison) be created and University of Wisconsin System Board of Regents be reconstituted to include:
 - The Assembly Speaker or designee
 - The Assembly Minority Leader or designee
 - The Senate President or designee
 - The Senate Minority Leader or designee
 - The Department of Administration Secretary or designee

5. Provide the University of Wisconsin (Madison) with limited bonding authority

Madison has long complained that it is the only major university in the Big Ten (if not in the nation) that is not authorized to issue debt to fund its facilities and operations. It has therefore repeatedly requested that the Legislature provide full bonding authority so it may compete with peer institutions that may more easily make investments in their operations and infrastructure.

Bond issuance is not a simple activity, but requires significant preparation and resources. For instance, rating agencies must be assured that proper accounting procedures are in place to provide accurate financial reporting. A skilled capital finance team must be assembled in-house or contracted with to manage the intricacies of bond transactions. Reserves or a guaranteed funding source must be established to ensure investors are protected in the event of a default.

Madison should be granted some, but not immediately full, authority to issue bonds. I propose:

- Bonding authority limited to a certain dollar amount or a level based on Madison maintaining an agreed upon restricted reserve amount that protects taxpayers from default exposure
- Require Madison to provide quarterly financial reports of its bond activity to the DOA Capital Finance Office
- Require Madison to either stand up an internal capital finance office or contract with the DOA Capital Finance Office for services
- Initially limit the purposes for which bonds may be issued. For instance, removal, reconstruction and/or replacement of existing buildings, but not new facilities

Finally, UW System Administration and its twelve campuses lack the financial wherewithal to manage debt and should not be provided bonding authority in any amount. Therefore, all System bonding should continue to go through the legislative process.