

Summary based on 2/18/11 Final Draft from LRB. Provisions subject to change based on final proposed budget bill to be presented by Governor.

Summary of Proposed Budget Bill Establishing UW-Madison as a Public Authority

Governor Walker's proposed 2011-2013 Budget Bill contains legislation to establish the University of Wisconsin-Madison as a separate public authority. This new public body corporate chosen by Governor Walker will provide greater flexibility in key areas to allow UW-Madison to maintain its excellence and to preserve and enhance its ability to serve the state of Wisconsin.

I. Public Authority in General

Wisconsin statutes do not provide for a single definition or model for a public authority. It is a mechanism for the legislature to establish public bodies outside of Executive branch state agencies to further specific public purposes. Other examples of public authorities in the State of Wisconsin include the University of Wisconsin Hospital and Clinics Authority, the Wisconsin Housing and Economic Development Authority, Wisconsin Health and Education Facilities Authority, and the Wisconsin Economic Development Corporation. None is structured exactly alike or in accordance with a strict definition of public authority. A shared attribute is the lack of Executive branch state agency status. Beyond that, each is different and the legislation creating each authority is tailored based on what that particular authority needs to achieve its mission and the public purpose for which it was established.

II. UW-Madison Public Authority

As a public authority, UW-Madison would be independent from the University of Wisconsin System and would be codified in Chapter 37 of the Wisconsin Statutes. All UW-Madison assets and liabilities, including real property, contracts, and trust funds, would be transferred to the authority from the Board of Regents for the University of Wisconsin System. The Board of Regents would continue to oversee the remaining 12 four-year institutions of higher education, 13 two-year colleges, and Extension.

UW-Madison would maintain the Wisconsin State Laboratory of Hygiene and the Wisconsin Veterinary Diagnostic Laboratory. The bill dissolves each entity's board and transfers their functions to UW-Madison. The boards for the two state labs have been independent executive branch boards administratively "attached" to UW-Madison. If UW-Madison is reconstituted as a public authority outside the Executive branch, it is no longer possible to "attach" Executive branch boards to UW-Madison. In order to continue their historical affiliation with UW-Madison, they would be directly incorporated into UW-Madison for administrative purposes, but their operations and independent appropriation of funds remain essentially intact.

UW-Madison would appoint the director of the State Lab of Hygiene, the director of the Psychiatric Institute, the state geologist, and the state cartographer.

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III. Board of Trustees; Governance

UW-Madison would be governed by a Board of Trustees consisting of 21 members to oversee its specific and unique needs as a world-class educational and research institution. The governor would appoint 11 members to include one member of the Board of Regents for the University of Wisconsin System. The remaining 10 members would be appointed by the UW-Madison faculty (2 members), UW-Madison non-faculty employees (1 member), UW-Madison students (1 member), the Wisconsin Alumni Research Foundation (2 members), the Wisconsin Alumni Association (2 members), and the University of Wisconsin Foundation (2 members). The Chancellor would serve as a non-voting member. Board terms would be for three years, except for the student member who would serve a two-year term. Terms for the initial board would be staggered. Board meetings would be open to the public and the records of its meetings and proceedings would be open for inspection under the Public Records law.

The bill requires the board members, as a group, to have expertise in the various dimensions of the university's mission. The Board would appoint the Chancellor to serve as the chief executive officer of the university. The current shared governance system of the university would be maintained under the bill.

The Board of Trustees would have the powers necessary and convenient to carry out the university's mission and purpose. These powers and duties include, but are not limited to, the authority to establish an annual budget and allocate funds, condemn property, develop and implement a personnel system, execute contracts, enact policies, promulgate rules to govern conduct on university property, and exercise police power to preserve the safety and ordinary operation of UW-Madison. This bill also grants the Board of Trustees the power to confer degrees, establish the policies for admission to the university and for the appropriate transfer of credits with other educational institutions, and set and manage tuition at the institution. The Board of Trustees would replace the role of the Board of Regents in all aspects related to the University of Wisconsin Hospital and Clinics, including contracting and board membership.

IV. State Support and Oversight

An overarching change is that UW-Madison would no longer be considered part of the Executive branch of state government. UW System would continue to be an Executive branch agency. Even without Executive branch state agency status, UW-Madison would remain a **public** institution of higher education that would receive state funding and maintain strong ties to the state. UW-Madison representation on various boards and councils associated with Executive branch agencies would be retained. In cases where the existing board or council structure included a representative appointed by the UW System that was not already specifically identified as a UW-Madison representative, an additional UW-Madison board member would be added while maintaining the UW System representative. A UW-Madison representative would be added to the Teachers

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Retirement Board in the Department of Employee Trust Funds, the natural areas preservation council in the Department of Natural Resources, the professional standards council for teachers in the Department of Public Instruction, the Higher Educational Aids Board, and the Technical College System Board.

A. Accountability and Oversight

The bill provides that UW-Madison would remain subject to oversight by the Legislative Fiscal Bureau and Legislative Audit Bureau, while also retaining the existing exception preventing the Legislative Audit Bureau from auditing issues relating to academic freedom. The bill also would require the Board of Trustees to prepare an accountability report reviewing such areas as access and affordability, student achievement, research efforts of the university, economic impact of the university on the state, services provided by the university to the residents of the state, and financial accountability of the university's operations.

B. State Funding Appropriations

UW-Madison would continue to receive significant state funding, albeit under a revised structure. Currently, UW-Madison's funding flows through the Board of Regents. The Board of Regents receives state money through many appropriation lines, limiting how the money may be spent when passed through to UW-Madison. Under the new structure, UW-Madison would receive its funding directly from the state, largely through a single, unencumbered "block grant." A small number of other, separate appropriation lines directly to UW-Madison would also be created. By way of examples, both the Wisconsin Veterinary Diagnostic Lab and the Wisconsin State Lab of Hygiene would continue to be funded by separate appropriations to UW-Madison.

Currently, all funds received by UW-Madison, regardless of source, are considered "state funds" to be deposited in the State Treasury. Under the structure proposed by this Bill, non-state moneys received by UW-Madison—tuition, fees, program revenue, gifts, grants and donations.—would no longer be considered "state funds." UW-Madison would be authorized to transfer gifts, grants and donations to the University of Wisconsin Foundation or to administer the funds internally. UW-Madison would need to deposit tuition, fees, and program revenue into the Local Government Pooled Investment Fund, but would retain full control over those funds and would be entitled to the interest accrued.

C. Sovereign Immunity/Risk Management/Liability Coverage

Through the demonstrated state controls, UW-Madison would retain sovereign immunity. In addition, UW-Madison would continue to participate in the statewide risk management program, including Workers Compensation and property and liability insurance, although it would have the ability to opt in or out in any given fiscal year with six months' notice. The bill maintains state liability coverage and legal representation by the Wisconsin Department of Justice for UW-Madison employees and agents while acting within the

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scope of their employment or agency. The bill also maintains the current notice of claim provisions and damage caps applicable in filing civil lawsuits against UW-Madison employees and agents.

D. Public Records and Open Meetings

UW-Madison would remain subject to state public records and open meetings laws. The bill sets forth a provision in the public records law exempting from disclosure information contained in a record which is produced or collected by an employee of a public institution of higher education as part of a research study until the information is publically disseminated or patented.

E. Procurement

UW-Madison's procurement activities would continue under Department of Administration (DOA) delegation, and thus would continue to be subject to DOA requirements applicable to state agencies, including all anti-discrimination and affirmative action requirements. The bill provides for UW-Madison to be delegated additional purchasing flexibilities in relation to goods and services related to higher education which are not commonly purchased by other agencies, and to be granted authority to engage in cooperative purchases with other institutions of higher education. In addition, the bill grants UW-Madison the authority to submit sole source waiver requests directly to the Governor, eliminating one step in the waiver process.

F. Facilities and Construction

UW-Madison would continue to be included in the state's long-term building program, and all building projects, regardless of source of funds, would continue to be subject to Building Commission approval. UW-Madison would be granted authority to manage all aspects of the construction process for building and remodeling projects that are funded exclusively from non-general purpose revenue (including GPR-supported bonding). In addition, the bill continues UW-Madison's participation in special building programs including the Wisconsin Initiative for state technology and applied research, which is intended to help attract federal and private research funds, and the "Wisbuild initiative," which allows financial support for particular building maintenance, repair, or renovation projects. Heating, cooling and power plants on the UW-Madison campus would continue to be managed by DOA.

G. Cooperative Agreements

UW-Madison would have direct authority to maintain and establish cooperative relationships with other entities, including institutions of higher education and state agencies, to further its mission. Any academic, research, or outreach program or activity that is being conducted by UW-Madison by means of a cooperative agreement or memorandum of understanding with an institution within UW-System, UW-Extension, or UW Colleges would continue until the Board of Trustees and the other institution

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mutually agree to modify the agreement or memorandum or until funds are no longer appropriated for the program or activity.

V. Tuition and Financial Aid

The Board of Trustees would be authorized to set and manage tuition rates for UW-Madison. Current tuition policies and procedures would remain in effect until changed by the Board of Trustees or July 1, 2013, whichever occurs earlier. Multiple provisions in the bill ensure that UW-Madison students would continue to have access to a variety of financial aid programs, including the Lawton grant program for undergraduate minority students; license plate scholarship program; physician loan assistance program; health care provider loan assistance program; higher education board grant program; higher education board loan program; higher education board minority teacher loan program; program for academic excellence higher education scholarships; “talent incentive” grants; Wisconsin Covenant Scholars program; and tuition and fee remission program for veterans.

VI. Employment

Effective July 1, 2011, employees who work at UW-Madison would officially become employees of UW-Madison rather than the Board of Regents of the UW System. While no longer considered employees of an Executive branch agency, the bill maintains existing state benefits for UW-Madison employees, including but not limited to health insurance, retirement, sick leave conversion, income continuation insurance, and long term disability insurance. UW-Madison employees would continue to be considered eligible employees for the purposes of benefits available through the Department of Employee Trust Funds and the Wisconsin Retirement System. The bill preserves the applicable terms and formulas for the calculation and payment of these benefits.

The bill would require the UW-Madison Board of Trustees to develop and implement its own personnel system via a method that incorporates the principles of shared governance currently in existence at UW-Madison. This would need to be done no later than July 1, 2012. Until that time, any collective bargaining agreements which have been executed or extended would continue to remain in effect at UW-Madison.

In addition, the bill provides for many of the same categories of employment that are currently in place at UW-Madison: faculty, academic staff, classified service, executive appointments (formerly “limited” appointments), student assistants, employees in training, and other appointments. Faculty, academic staff and permanent classified appointments would continue to have applicable procedural guarantees requiring just cause, due notice and hearing prior to dismissal.

Although the future status of collective bargaining rights for all Wisconsin public sector employees is uncertain, the bill would provide UW-Madison employees with collective bargaining rights equivalent to their peers in other state agencies. To that end, the bill’s amendments to the State Employment Labor Relations Act (SELRA) would extend to

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UW-Madison classified staff whatever collective bargaining rights apply to other Wisconsin public sector employees as of July 1, 2011. Further, the bill would maintain existing collective bargaining rights for TAs, PAs, and RAs.

VII. Policies

All current policies and procedures related to the operation of UW-Madison would transfer to the authority and remain in effect until they expire, are modified or rescinded by the Board of Trustees.