

# DAVE MURPHY

State Representative • 56th Assembly District

**Assembly Committee on Constitution and Ethics**

**Public Hearing, April 30, 2019**

**Assembly Bill 38**

**Testimony of State Representative Dave Murphy**

Mr. Chair and members of the committee, thank you for hearing Assembly Bill 38 today.

Anyone who has started a business understands just how important it is to act quickly, especially when patents are involved. Unfortunately, Wisconsin delays the ability for a University of Wisconsin (UW) System employee to enter into a research contract with the university by up to 45 days. These delays don't occur elsewhere and drive research opportunities out of the state. In 2015 alone, UW-Madison saw nearly \$100 million less in private and non-profit research funding than other comparable universities around the country. AB 38 eliminates this unnecessary bureaucratic delay in the UW System research contracting process.

Our bill improves Wisconsin's ability to compete for private and non-profit research funding. Today, you will hear from people whose work is improving life here in Wisconsin with their businesses and scientific achievements. You'll hear directly about how this bill is needed to keep businesses and research like theirs here in our state. Unfortunately, the individual whose work inspired this bill, Professor Mark Cook, could not be with us today, having lost his battle with cancer last year.

Current law generally prohibits state employees from participating in state contracts where they have a private financial interest and the ability to influence that contract. The law has a specific exemption for university employees when such contracts are between a UW System entity and a research company. This exemption allows UW faculty and research-focused employees who spin-off companies to engage in activity that benefits the interests of the public, the university, and the newly created business. The current exemption requires all contracts to be reviewed by the Board of Regents through a 45 day passive review process, which by default has become a 45 day delay in executing research contracts involving UW employees.

Managing conflicts of interest is something best done on the ground by people who are familiar with the individuals involved and engaged in the work being done. Every UW institution already has in place an efficient and effective means of managing conflicts of interest at the campus level. Our bill simply eliminates the 45 day delay and allows the institution to move forward with a contract when any interest that an employee has in the research company has been evaluated and addressed in a management plan. The Board of Regents will still maintain authority to override these decisions under statute if it ever becomes necessary to do so.

Current law also defines "research company" far too narrowly as only those engaged in "commercial activity." Our bill opens up the definition to encompass non-profit organizations in addition to commercial entities.

I'm proud to put forward this bill to address an out of date law that will advance modern research entrepreneurship in Wisconsin.

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# DAN FEYEN

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## STATE SENATOR

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To: The Assembly Committee on Constitution and Ethics  
From: Sen. Dan Feyen  
Re: Assembly 38

Mr. Chairman, members of the committee, thank you for holding this hearing today.

This bill is a common-sense solution to remove bureaucratic red tape that hinders successful research done within the University of Wisconsin System from fulfilling the Wisconsin Idea and benefitting those outside the walls of academia.

I find it helpful to first look at how these research contracts are handled now. Current law prohibits state employees from participating in a contract in which they have a financial interest. There is an exemption in current law for University of Wisconsin System employees and research companies in which they have an interest. In order to qualify for this exemption, UW System employees must have a management plan in place that is overseen by an appropriate supervisor. This individual is responsible for evaluating and managing potential conflicts of interest that arise from the employee's involvement with the company. If the contract between the employee and the company generates an excess of \$250,000 over 2 years then the contract must also be sent to the Board of Regents for a 45 day passive review.

This bill eliminates the 45 day passive review. It is important to note that the Board of Regents supports this bill. The passive review process does not further the goal of ensuring conflicts of interest are effectively managed; it simply adds a layer of bureaucratic red tape and unnecessarily slows down the progress of research and all of the good that these advancements could bring to the citizens of Wisconsin. I feel strongly that the existing, internal management plan process is sufficient to mitigate any potential conflicts of interest that could arise.

I see this legislation as an economic development tool. We should be encouraging start-up companies and other entrepreneurial growth, encouraging professors and research companies to stay and grow in Wisconsin, and encouraging efficiency in all government processes whenever possible.

I think you will find the professors testifying after me here today able to speak to why these research contracts are important and why this update to the process preserves academic integrity while modernizing our statutes and aligning Wisconsin with other research institutes across the country.

Thank you for your time today. I welcome any questions you may have.

# PROFS

Representing UW-Madison Faculty.  
Strengthening Wisconsin.



## **PROFS Supports “Mark Cook Bill” (AB 38/SB 42)**

UW-Madison Animal Sciences Professor Mark Cook served as chair of the PROFS Entrepreneurial Work Group, comprised of UW-Madison faculty who started successful companies. A self-described “chickenologist,” Mark spun four companies out of his research and his work led to 50 patents. He attracted other researchers who had an entrepreneurial spirit.

Mark’s spinoff Ab E Discovery, is “set to smash business as usual,” according to an article by the Wisconsin Alumni Research Foundation (WARF). Ab E Discovery, which is developing its Wisconsin operations, is advancing a natural, drug-free method to protect poultry, pigs, dairy and beef cattle against common infections.

Mark Cook died of cancer on September 9, 2017, at age 61. A native of Houma, Louisiana, Mark joined the faculty at UW-Madison in 1982. Upon his death, an article in the Milwaukee Journal Sentinel said Mark “embodied the Wisconsin Idea” – the belief that “education should influence people’s lives beyond the boundaries of the classroom.” Mark had a positive impact on everyone he met, including the students who learned from him and worked alongside him in his lab.

Mark felt very strongly about the statutory changes contained in AB 38/SB 42. Mark recognized that Wisconsin law is out of step with the modern research and business worlds because it includes an overly cumbersome and lengthy process for allowing research companies to contract with the university when a faculty or staff member has an interest in the company.

Even relatively small contracts (any contract exceeding \$250,000 over a two-year period) tied to relationships that have been reviewed previously by the university must receive a 45-day review by the UW Board of Regents.

The law hinders the UW's ability to move quickly to bring in R&D expenditures from businesses and other funding entities. These funds are significant revenue sources at other universities. It is not a coincidence that the two universities that recently overcame UW-Madison in the overall research ranking do a much better job of attracting outside private funding for research projects.

Research companies connected to UW-Madison researchers have been forced to take initiatives such as clinical trials to other states. And top UW-Madison faculty have been recruited to universities where they can work more collaboratively with businesses and other funding entities.

PROFS thanks Representatives Dave Murphy and Shelia Stubbs and Senators Dan Feyen and Fred Risser, along with the many other co-sponsors, for introducing this important legislation to streamline the process. The legislation will eliminate the 45-day delay and instead create a much more reasonable process that will continue to address conflicts and protect the university's interests.

AB 38/SB 42 will require that the individual or body responsible for managing potential conflicts of interest at the UW institution (e.g. UW-Madison) that employs the faculty or staff member has an interest in the company issue a management plan evaluating and addressing the interest. Additional contacts will be allowed to proceed as long as such a plan is in place.

AB 38/SB 42 will also amend the definition of research company in the statutes to include non-profits as well as commercial businesses. Many non-profit entities fund a significant amount of research.

The Assembly Committee on Constitution and Ethics will hold a public hearing on AB 38 at 10:01 a.m., Tuesday, April 30, in Room 300 Northeast of the State Capitol.

PROFS looks forward to working with other supporters of this legislation to ensure it becomes law.

## **Testimony for SB 42/AB 38 by Richard Burgess, April 30, 2019**

I am Dick Burgess, presently Professor Emeritus of Oncology at UW-Madison. I have been a professor and member of the McArdle Laboratory for Cancer Research since 1971. I was President of PROFS for about 3 years, 2001-04, and so have had the opportunity several times to come to a hearing such as this and testify on behalf of something that is important to the university and to me. Presently I am Vice-President for Science for the Wisconsin Academy of Sciences, Arts and Letters. I am also on the Advisory Board of WiSolve/ACE, a group dedicated to advocating for, supporting, and increasing successful entrepreneurial activity by the Faculty, Staff and Students at UW-Madison.

After a one-year sabbatical at a biotech company in Seattle in 83-84, I was offered a position with the company at three times my university salary. However, I decided I would rather be a professor at a first-rate university and I wanted the university to be UW-Madison. I decided to return to UW-Madison but work to see that more of the discoveries here became products and services of benefit to the citizens of Wisconsin. To do this, I founded the UW Biotechnology Center in 1984 and was its Director for 12 years. I realized that even if I discovered a potential cure for a type of cancer, no one would ever benefit unless a company developed the discovery, went through the long and expensive clinical trials to get evidence that it really worked and then manufactured and sold the drug.

For many years, campus entrepreneurs, interested in possibly starting a company, wanted to do things correctly, not get in trouble. But without clear disclosure and oversight, we were afraid to act. (Like walking across a long footbridge with no railings, in the fog. You stay far from the edge). I was one of the initial members of the UW-Madison Conflict-of-Interest Committee (COIC) in the late 1990's. The development of the strong oversight and management of potential conflicts by the COIC, gave entrepreneurial members of the University community the guidance they needed to move forward.

As a result, in 2001, I co-founded a biotech company, which is still today located at the University Research Park, to develop more effective ways to combat antibiotic-resistant bacterial pathogens.

Many of my present activities are directed toward reducing barriers to university-business interactions. The present bill is a perfect example. It takes advantage of the outstanding oversight activities of the COIC and does away with a nearly meaningless and outmoded State statute. One that significantly delays and effectively discourages or prevents many productive company-university collaborations.

I'm happy that these bills appear to have broad bipartisan support. I urge you to support SB 42/AB 38, the Mark Cook Bill.

I am Christopher Konop, a former graduate student and postdoc at the University of Wisconsin - Madison. Currently, I am the Director of WiSolve, a group that provides additional training to postdocs and graduate students to prepare them for life after academia, while providing business services to innovators and startups in the State of Wisconsin. Our group is dedicated to supporting entrepreneurial activity on campus, not only from graduate students and postdocs but also faculty and staff.

Dr. Mark Cook, for whom this bill is named, was a board member of WiSolve. While there, he acted as a mentor to me and many others in our group. We shared a common belief that developing basic scientific research into technology that can improve the lives of people is noble cause and a logical extension of our work as researchers. It so happens that the UW system also agrees, and embraces this philosophy by way of the Wisconsin Idea.

Passage of this bill would decrease the unnecessary and often unproductive burden of the current system and increase the number of collaborations between the University and industry. While the collaborations are between the companies and a faculty sponsor, it is often the graduate students and postdocs doing the work. The grad students and postdocs benefit by way of gaining transferable skills and advancing their research.

In order to continue to retain and attract talent to the University of Wisconsin and solidify the State's reputation as a premier destination for researchers, it is important to take this opportunity to decrease the bureaucratic burden on researchers looking to collaborate with industry.

I urge you to support AB 38. Thank you for your time.



## Wisconsin Technology Council

April 30, 2019

**TO: The Assembly Committee on Constitution and Ethics**  
**FROM: Tom Still, president, the Wisconsin Technology Council**  
**RE: Assembly Bill 38**

As someone who knew and worked with the late UW-Madison Professor Mark Cook, I want to congratulate the authors of AB 38 and its Senate companion, SB 42, for drafting legislation to streamline the process by which the University of Wisconsin contracts with companies in which a faculty or staff member has a financial interest.

I knew Dr. Cook as a leading scientist at the UW-Madison, where his work included innovations in poultry and meat science as well as human and animal health. I also knew him as a dogged entrepreneur whose involvement in emerging companies in Wisconsin was a valuable addition to his academic work. We served together on the board of directors of a company he helped to create.

It wasn't always easy, as Dr. Cook often found, to transfer great science into great companies and products. His work was sometimes slowed by rules that had either outlived their usefulness, stood at odds with processes at other major universities, or simply cost Wisconsin entrepreneurs time and money. Time and money are two commodities that must be carefully guarded by young companies, often making the difference between success and failure.

As others may testify, the UW can be slower than peer institutions when it comes to working with outside funding sources. There are other reforms in play that will help to change that situation, and AB-38 will contribute to that overall process while improving internal reviews.

Under current law, any contract exceeding \$250,000 over two years and tied to a faculty or staff entrepreneur must receive a 45-day "review" by the UW Board of Regents. This is the case even when the relationship has been reviewed previously. All this costly review does is slow down the process.

The "Mark Cook Bill" will eliminate the 45-day delay and instead create a much more reasonable process that will more aggressively address conflicts while protecting the interests of the university.

The bill will strengthen the ethics law by requiring management plans for addressing interests. While UW-Madison already employs management plans to meet federal requirements, the management plans will now be required by state law.



## Wisconsin Technology Council

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The primary effect of the bill will be to substitute the Conflict of Interest Committees review process for the UW System review process. Working with legal counsel, these committees have the expertise to identify and, if necessary, manage potential conflicts.

The main interest of the Wisconsin Technology Council in supporting this bill is making it easier for university entrepreneurs – of which there are many – to take ideas created in laboratories and research centers, turn them into products and companies, and to do so in a transparent way that does not erect unneeded “speed bumps” for innovations that create economic opportunity.

I urged the committee to recommend passage of AB 38, and I appreciate the chance to testify.