

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Director and General Counsel

Testimony of Kevin J. Kennedy
Director and General Counsel
Wisconsin Government Accountability Board

Joint Legislative Audit Committee

January 21, 2015

Room 411 South, State Capitol
Public Hearing

Chairpersons Cowles and Kerkman and Committee Members:

Thank you for the opportunity to comment on the two bills before you today. I am appearing here for information purposes and to answer any questions you may have. The Government Accountability Board has not taken a position on either of these bills. However, in testimony last week, three Board Members advised this Committee they would support legislation designed to provide the Legislative Audit Bureau (LAB) with access to Government Accountability Board (GAB) investigative records. The agency staff has recommended the Board support such legislation.

The legislation does two things. It clarifies LAB authority to have access to all state agency documents by providing that LAB also has specific access to state agency documents that are confidential by law. It also specifically directs the GAB to provide investigatory records to LAB to the extent necessary for LAB to carry out its duties. This allows the LAB to step into the shoes of the GAB when conducting an audit to the agency's operations as contemplated by the general grant of authority to the LAB.

There are a few points for the Committee should consider. Current law provides for the confidentiality of GAB investigatory records to protect individuals and entities who may be the subject of a GAB investigation before the Board has taken certain specified actions related to the matter. Release of any investigatory information not authorized by law subjects the Board and its agents to possible

criminal prosecution. Wis. Stat. 12.13 (5). Would LAB employees be subject to the same penalty for disclosure as GAB employees?

Could the LAB disclose confidential information it might receive under this new bill? If so, to whom – JLAC Members, other legislators, legislative staff, or in public reports? Could someone make a public records request for the confidential information that the LAB could obtain under this bill?

The legislation provides the GAB shall provide investigatory records to the state auditor and the employees of the legislative audit bureau to the extent necessary for the LAB to carry out its duties. It should not provide a mechanism for access to records to the public that are otherwise shielded from inspection, without a change in the Statutes clarifying that the records are open to the public and removing the criminal penalties prohibiting their release.

While access to GAB investigatory records are in their current limited state, the Committee may want to clarify that the LAB stands in the shoes of the GAB with respect to dissemination of any GAB investigatory records it receives.

I would be happy to respond to any questions.

Respectfully submitted,

A handwritten signature in black ink that reads "Kevin J. Kennedy". The signature is written in a cursive, flowing style.

Director and General Counsel
Government Accountability Board