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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

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<b>2007 Special Session Senate Bill 1</b>	<b>Senate Substitute Amendment 2</b>
<i>Memo published: January 30, 2007</i>	<i>Contact: Don Dyke, Chief of Legal Services (266-0292) Ronald Sklansky, Senior Staff Attorney (266-1946)</i>

**THE SUBSTITUTE AMENDMENT**

The substitute amendment makes the following changes to the original proposal:

**1. Government Accountability Board Members and Employees**

- a. Deletes reference to “retired” judge in connection with Government Accountability Board (GAB) eligibility and substitutes reference to an individual “who formerly served as a judge.” [SEC. 77, p. 45, lines 9-11.]
- b. Provides that GAB members serve six-year terms, rather than four-year terms. [SEC. 77, p. 44, lines 23 and 24.] Provides that the initial staggered terms (approximately one-plus year through six-plus years) of GAB members will be determined by the Government Accountability Candidate Committee by lot before that committee submits the names of at least eight individuals to the governor to fill the initial positions on the GAB. [SEC. 209 (5) (c), p. 86, lines 4-18.]
- c. Replaces the \$200 per diem for GAB members with a per diem equal to the amount paid temporary circuit court reserve judges under s. 753.075 (3) (a), Stats. (90% of daily salary of a sitting circuit court judge). [SEC. 75, p. 44.]
- d. Eliminates the 12-month post-service and post-employment prohibition on running for elective office after termination of service or employment that applies in the original proposal to GAB members, employees, special counsel, and special investigators.
- e. Permits GAB employees to hold nonpartisan local elective office while employed. [SEC. 10, p. 20, lines 13-14.]

- f. Provides that the GAB legal counsel and the division administrator for both the Elections Division and the Ethics and Accountability Division may not have previously been a lobbyist or have served in, or been a candidate for, a partisan state or local elective office. [SEC. 10, p. 20, lines 9-12.]

## **2. Government Accountability Board Operations**

- a. Deletes from the closed session requirement for certain GAB meetings any meeting for the purpose of deliberating concerning an investigation of any violation of law under the jurisdiction of the Elections Division. (Such meetings would be subject to the general Open Meetings Law.) [SEC. 134, p. 59.]
- b. Requires the GAB to make public advisory opinions and records obtained in connection with requests for advisory opinions relating to matters under the jurisdiction of the Elections Division. [SEC. 16, p. 23.]
- c. Requires the GAB, upon issuance of a formal advisory opinion that is not open to public access, to promptly publish a summary of the opinion. [SEC. 94, p. 52, lines 6-8.]
- d. Revises the provision on unauthorized release of records or information in connection with an investigation or prosecution by deleting reference to “verbally” disclosing information; the prohibition now applies to disclosing information, regardless of manner of disclosure. [SEC. 61, p. 41, line 8.]
- e. Clarifies that the prohibition on disclosing information or providing access to any record does not apply to the following communications:
  1. Communications made in the normal course of an investigation or prosecution.
  2. Communications with a local, state, or federal law enforcement or prosecutorial authority.
  3. Communications made to the attorney of an investigator, prosecutor, employee, or member or to the person, or the attorney of a person, who was investigated or prosecuted. [SEC. 61, p. 41, lines 15-24.]

## **3. Place of Trial**

- a. Permits a defendant who is a resident of the state and who is prosecuted in connection with a violation of an election law, campaign finance law, lobbying law, or ethics law\* to move to change the place of trial to the county where the offense was committed. The court is required to grant the motion if the court determines that the county where the offense was committed is different than the county where the defendant resides. If there is more than one county where the offense was committed, the court determines which of the counties where the offense was committed will be the place of trial. The judge who orders the change in the place of trial presides at the trial and the jury is chosen from the county where the trial is

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\* Including any other law arising from or in relation to the official functions of the defendant or any matter that involves elections, campaign financing, lobbying, or ethics regulation.

held. Moving the place of trial does not affect which prosecutor has responsibility to prosecute the action. The provision on moving place of trial applies to both civil and criminal actions. [SEC. 206, p. 76; see also SECS. 202 and 203, p. 74, providing cross-reference to the place of the trial provision for civil actions, and p. 74, lines 9-11.]

- b. Includes legislative findings concerning the venue provisions of the proposal. [SEC. 204, p. 75.]

#### **4. Severability**

Deletes the nonseverability clause. [SEC. 200 (7), p. 83, of the original bill.]

#### **5. Transition**

- a. Provides that the proposal generally takes effect on the **later** of the first day of the seventh month beginning after publication or the 31<sup>st</sup> day beginning after the date on which the GAB has given final approval to the hiring of individuals to initially fill the positions of legal counsel to the board, administrator of the Ethics and Accountability Division, and administrator of the Elections Division. (In the original bill, the general effective date is the first day of the seventh month beginning after publication.) In this connection, the required GAB review of existing internal operating procedures, guidelines, rules, orders, and opinions will begin on the new effective date, rather than following the first meeting of the GAB. [SEC. 211 (intro.), p. 88; SEC. 209 (1), p. 78. See, also, the use of the definition of “initiation date” throughout the nonstatutory provisions of the proposal.]
- b. Clarifies that the Director of the Legislative Council staff is to provide “administrative” support to the GAB during the applicable interim period. [SEC. 209 (6) (a), p. 86, lines 23-25; p. 87, lines 1-9.]

#### **6. Other**

- a. Deletes the repeal of s. 5.68 (7), Stats., relating to reimbursement for additional costs incurred in connection with uniform polling hours, thereby reinstating the provision. [See SEC. 27 of the original bill.]
- b. Clarifies that the Attorney General’s authority under s. 165.25 (1), Stats., to appear, represent, prosecute, or defend any matter in which the state is interested at the request of the governor or either house of the Legislature, or any other authority of the Attorney General under ch. 165, is unaffected by the bill. [SEC. 179, p. 68.]

#### **Legislative History**

On January 30, 2007, the Joint Committee on Finance offered Senate Substitute Amendment 2. The committee recommended adoption of the substitute by a vote of Ayes, 16; Noes, 0. The committee recommended passage of the proposal, as amended, by a vote of Ayes, 16; Noes, 0.