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☞ July 24, 2007 ... Public Hearing + Informational Hearing ... Status of Government Accountability Board and ongoing operations of the Ethics and Elections Boards

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Labor, Elections and Urban Affairs (SC-LEUA)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**



WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO

2007 Special Session Senate Bill 1	Senate Substitute Amendment 2
<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 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.]

* 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.

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 31st 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.

DD:RS:jb:wu:tlu:ksm





Feb 26
2007

WISCONSIN LEGISLATIVE COUNCIL
ACT MEMO

<p>2007 Wisconsin Act 1 [January 2007 Special Session Senate Bill 1]</p>	<p>Government Accountability Board</p>
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2007 Wisconsin Act 1 creates the Government Accountability Board (GAB) to replace the current Elections Board and Ethics Board. The GAB will be responsible for administering the state election, campaign financing, ethics, and lobbying laws.

THE GAB

Membership

The GAB consists of six members, each of whom must formerly have served as an elected judge of a court of record in Wisconsin. Members serve six-year terms, with the exception of the initial members, who serve staggered terms for the periods set forth in the Act. Any action by the GAB requires the affirmative vote of at least four members.

The Act imposes several limitations on GAB members, including holding another state or local public office, engaging in specified partisan political activities, becoming a candidate for state or local elective office, making political contributions, and being a lobbyist or an employee of a person who employs a lobbyist. Limitations on political activities and certain contributions apply both during, and for the 12-month period preceding, a member's term.

GAB members are eligible for a per diem equal to the amount paid circuit court reserve judges and for reimbursement of actual and necessary expenses.

Nomination Process

The Act creates a **Government Accountability Candidate Committee** (Candidate Committee) to submit to the governor names of prospective nominees to the GAB. The Candidate Committee consists of one court of appeals judge from each of the four court of appeals districts, chosen by lot by the Chief Justice of the Wisconsin Supreme Court in the presence of the other supreme court justices. Initial terms for members of the Candidate Committee expire on March 1, 2009; subsequent terms are two years.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

The first task of the Candidate Committee is to submit to the governor the names of at least eight qualified individuals to fill the initial GAB positions. In making initial nominations, the Candidate Committee is required to draw lots at a meeting of the committee to assign a numerical sequence to each nomination to determine the initial staggered terms of GAB members. From the list submitted by the Candidate Committee, the governor is required to submit three GAB nominees to the Assembly and the three other nominees to the Senate. These initial nominees are subject to confirmation solely by a majority of the members present and voting in the house to which their names are submitted.

After it makes the initial nominations to the governor, the Candidate Committee is required to meet when a vacancy occurs in the membership of the GAB that requires the nomination to be submitted to the governor. The number of nominations the Candidate Committee is required to submit per vacancy is specified by statute. After the initial board is established, members of the GAB are nominated by the governor from names submitted by the Candidate Committee, and with the advice and consent of 2/3 of the members of the Senate present and voting, appointed.

Note that no person may be nominated by the Candidate Committee unless the person receives unanimous approval of the committee.

Duties

Act 1 creates two divisions in the GAB, each of which is under the direction and supervision of an administrator appointed by the GAB: the Ethics and Accountability Division and the Elections Division. The former has responsibility for administering campaign financing, lobbying, and ethics laws. The latter has responsibility for the administration of election laws. In addition, the GAB is required to employ, outside the classified service, a legal counsel to perform legal and administrative functions for the board.

In addition to the above general administrative duties, once the current ethics and elections boards are abolished and their functions are taken over by the GAB, the GAB is required within 12 months to review existing internal operating procedures, guidelines, rules, orders, and formal opinions of the former boards. As part of the review process, the GAB is required to reaffirm formerly issued formal opinions, guidelines, rules, or orders; if not reaffirmed the formal opinion, guideline, rule, or order will terminate.

Finally, the GAB has investigation and prosecution responsibilities, described more fully below.

ENFORCEMENT

The GAB is required to investigate violations of laws it administers and may prosecute, by its legal counsel or a special prosecutor, alleged civil violations of those laws. Alternatively, it may refer prosecution of alleged civil violations to the appropriate district attorney (which is the same prosecutor authorized to prosecute criminal violations). The prosecution of alleged criminal violations investigated by the board may be brought only as follows:

- If the board finds there is probable cause to believe that a violation of laws it administers has occurred or is occurring, the board may refer the matter to the district attorney for the county in which the alleged violator resides.
- If the board discovers evidence of a potential violation of law that is not administered by the board arising from or in relation to the official functions of the subject of the investigation or any matter that involves elections, campaign financing, ethics, or lobbying regulation, the board may refer the matter to the district attorney for the county in which the alleged violator resides.

- If the district attorney to whom a potential violation is referred informs the GAB that he or she declines to prosecute or fails to commence a prosecution within sixty days of the board's referral, the board may refer the matter to the district attorney for another contiguous prosecutorial unit. If there is more than one such prosecutorial unit, the chair of the GAB must determine the district attorney to whom the matter must be referred by publicly drawing lots at a meeting of the board. If the second district attorney declines or fails to prosecute, the GAB may refer the matter to the Attorney General.

Note that special provisions regarding who prosecutes apply if the defendant is a district attorney, judge, the attorney general, or a candidate for those offices.

In general under the Act, a Wisconsin resident must be criminally or civilly prosecuted in the county of residence for violations of laws relating to elections, campaign financing, lobbying, or ethics; to the official functions of the subject of an investigation of the GAB; or to any matter involving elections, campaign financing, lobbying regulation, or ethics. However, the Act includes a procedure for a defendant to move to change the place of trial to the county where the offense was committed. If that occurs, 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 will be held. In addition, a change in place of trial does not affect who has responsibility to prosecute.

EFFECTIVE DATES

Act 1 generally takes effect, e.g. the existing boards are abolished, the new board takes over the duties of the former boards, and all necessary transfers of employees, property, contracts, and pending matters occur, on the **later** of;

- The first day of the seventh month beginning after publication of the Act (the Act was published February 16; therefore, the first day of the seventh month beginning after publication is September 1); or
- The 31st 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, administrator of the Ethics and Accountability Division, and an administrator of the Elections Division.

However, provisions of the Act concerning the Candidate Committee and the formation and initial appointments to the GAB generally take effect on February 17.

Prepared by: Don Dyke, Chief of Legal Services

February 26, 2007

DD:jb:tlu:ksm



MEMORANDUM

TO: Friends / Colleagues

FROM: Mike Wittenwyler / Brady Williamson
Godfrey & Kahn, S.C.

DATE: July 11, 2007

SUBJECT: Wisconsin Government Accountability Board

2007 Wisconsin Act 1 creates a new state agency, the Government Accountability Board ("GAB"), to regulate elections, ethics, lobbying and campaign finance in Wisconsin.¹ GAB will replace the Wisconsin Elections Board and Wisconsin Ethics Board by merging the personnel and functions of these two agencies into one.

Yesterday, the Assembly unanimously confirmed the final three members of GAB. A few weeks earlier, the Senate confirmed the other three GAB members. All six members, each of whom is a former elected judge in Wisconsin, had been nominated in June by Governor Doyle. Confirmed and now able to begin work, the members of GAB are:

- Michael W. Brennan of Marshfield, former Clark County Circuit Court Judge;
- Thomas Cane of Wausau, departing from the Wisconsin Court of Appeals – District III;
- David G. Deininger of Monroe, former Wisconsin Court of Appeals Judge – District IV;
- William Eich of Madison, former Wisconsin Court of Appeals Judge – District IV;
- James Mohr of Eagle River, former Vilas County Circuit Court Judge; and,
- Gerald C. Nichol of Madison, former Dane County Circuit Court Judge.

As detailed below, GAB's first task will be to hire an executive director and two division administrators. Then, in addition to all of its other duties, GAB must review *all* of the existing internal operating procedures, guidelines, rules, orders and formal opinions issued by the Elections Board and Ethics Board. Within its first 12 months, GAB must review and reaffirm each of these items or it will terminate by law automatically.

Needless to say, there will be significant activity during the next year that will directly affect lobbying and political activities in Wisconsin. To assist in your understanding of GAB, we have prepared this overview of the new agency, its powers and its responsibilities.

¹ During a special session held in January, the legislation was approved 33-0 in the Senate, 97-2 in the Assembly (Boyle and Schneider voting against). While there was a series of hearings, only minor amendments were made to the original proposal – legislation agreed on in advance by Governor Doyle, Senate Majority Leader Robson and Assembly Speaker Huebsch.

NOMINATION, APPOINTMENT AND CONFIRMATION PROCESS

All members of GAB are appointed from nominations submitted to the governor by a nominating committee: the Government Accountability Candidate Committee. The Candidate Committee consists of one Court of Appeals judge from each of the four Court of Appeals districts. The members of the Candidate Committee serve for two-year terms and shall be selected by lot by the chief justice of the Wisconsin Supreme Court in the presence of the other justices. Service on the Candidate Committee is mandatory.

On March 1, 2007, four Court of Appeals judges were selected to serve on the Candidate Committee: Patricia Curley (Milwaukee), Neal Nettesheim (Waukesha), Thomas Cane (Wausau) and Margaret Vergeront (Madison). Judge Cane withdrew his name given his upcoming retirement and interest in serving on GAB. He was replaced by Greg Peterson (Wausau).

For the initial creation of GAB, the Candidate Committee nominated eight former elected judges and, of those eight names, six were forwarded by Governor Doyle to the legislature. The Candidate Committee must be unanimous in its selection of nominees.

In the event of any vacancy – anticipated or unexpected – the Candidate Committee will meet and decide on a pool of names to forward to the governor (the exact number of names sent to the governor depends on the number of vacancies that need to be filled). The governor will then nominate as many individuals as necessary to fill the vacancies. And, the nominee must then be confirmed by the Senate – by a two-thirds vote of those senators present and voting.

BOARD MEMBERSHIP

GAB consists of six members, each of whom is a former elected judge in Wisconsin. Board members will serve six-year, staggered terms. To qualify for membership, the former judge:

- cannot currently hold state or local public office (except as a reserve judge);
- for one year prior to the date of nomination or while serving on GAB, cannot be or have been a member of a political party or partisan organization or an officer or employee of a candidate committee or political action committee;
- cannot become a candidate for state or local office;
- for one year prior to the date of service or while serving on GAB, cannot make or have made a contribution to a candidate for partisan state or local office; and,
- cannot be a lobbyist or an employee of a lobbying principal.

The GAB chairperson will be chosen by lot. To take any action, it will require at least four affirmative votes, and a “majority of the membership” constitutes a quorum. The law does not require or suggest how often GAB should meet. Members will be paid a per diem equal to the amount a reserve judge is paid for a day in court – currently \$467 – as well as reimbursement for actual and necessary expenses.

STAFF

The first thing GAB must do is build a staff. The day-to-day operation of GAB will be the responsibility of a “legal counsel” who will essentially function as the new executive director. Reporting to GAB and the executive director will be two division administrators – one responsible for an Elections Division, the other responsible for an Ethics and Accountability Division.

The executive directors from the two existing agencies (Kevin Kennedy at the Elections Board and Roth Judd at the Ethics Board) are *not* automatically transferred to GAB, and their current employment will terminate along with the existence of their respective agencies. Instead, Kennedy and Judd must apply to GAB to be the new executive director or to fill either division administrator position. All of the other current staff members of the two agencies will be transferred to GAB automatically.

Since the February 17, 2007 effective date, the law has required that Terry Anderson, the head of Legislative Council, serve as GAB’s interim executive director. Anderson’s actions to date in this position have been minimal, and he has allowed Kennedy and Judd to remain in their positions, continuing to oversee their respective agencies. However, with the confirmation of board members and beginning of the hiring process, Anderson’s role is likely to increase until a new executive director for GAB is hired.

The Elections Division will:

- administer state elections;
- manage the statewide voter database (“SVRS”); and,
- oversee state compliance with federal Help America Vote Act (“HAVA”) and subsequent federal legislation.

The Ethics and Accountability Division will:

- be responsible for campaign finance, ethics and lobbying regulation;
- administer registration of political committees and lobbyists;
- oversee all reporting by political committees and lobbyists;
- conduct audits of reporting; and,
- provide guidance to regulated communities.

An individual who serves as the executive director or as one of the two division administrators may *not* – at any time – have been a lobbyist or a candidate for partisan state or local office. While employed by GAB, all employees are prohibited from becoming a candidate for a state or partisan local office, or make contributions to candidates for state or local office. Moreover, no employee may make or have made for 12 months prior to being employed a contribution to a candidate for state or local office. Similar restrictions apply to individuals retained by GAB as special investigators or special prosecutors.

INITIAL REVIEW OF ELECTIONS BOARD AND ETHICS BOARD PRACTICES

Within one-year of its initiation date (with the possibility of a single three-month extension), GAB must “reaffirm” at one or more public hearings *all* Elections Board and Ethics Board regulations, orders, formal opinions and written guidelines. That is, GAB must essentially review all of the non-statutory guidance *ever* issued by these agencies and reaffirm the guidance as “good law.” If no action is taken to reaffirm, the item will automatically expire. Alternatively, an action by GAB to “amend” or “repeal” a regulation must go through the administrative rulemaking process. “Internal operating procedures” for both agencies also must be reviewed by GAB and possibly subject to public hearings.

The law is unclear on whether a summary reaffirmation could occur or whether each item or category must be separately reaffirmed by GAB. Based on comments during the legislative process, there are some public officials who expect and envision GAB to be engaged in an extensive and comprehensive reaffirmation process. How exactly the review occurs, of course, will ultimately be determined by GAB itself.

2007 Act 1 also significantly revises the advisory opinion process going forward. First, deliberation and consideration of such requests shall generally occur in GAB meetings that are *not* open to the public. Second, advisory opinions shall generally not be publicly released without first redacting any identifying information about the requester. GAB, that is, will be following the current Ethics Board approach of publishing generic summaries of these opinions and not the Elections Board approach of publicly releasing the opinion itself.

Lastly, to have “legal force and effect,” each advisory opinion issued by GAB “must be supported by specific legal authority,” include citation to the law relied on and “shall specifically articulate or explain which parts of the cited authority are relevant to the board’s conclusion and why they are relevant.” Subject to limitations that GAB deems appropriate, the agency’s staff is still allowed to issue informal advisory opinions.

INVESTIGATIONS AND ENFORCEMENT

“Any person” – including citizens, interest group representatives, candidates, political parties or even GAB staff – may file a complaint with GAB. If an initial review of the complaint by GAB determines that there is “reasonable suspicion,” an investigation may be authorized by resolution and then commenced. Frivolous complaints may result in up to a \$500 penalty or payment of GAB’s costs associated with investigating the complaint.

At the time an investigation is commenced with a special investigator, GAB must notify the local district attorney for the county in which the person being investigated “resides” or the principal place of a business location. The reason for the notice is that, in the event a matter is prosecuted, the statute directs that it be brought “in the circuit for the county where the defendant resides” or the county in which a business is located.

With a finding of “reasonable suspicion” that a violation has occurred, an investigation may occur “in-house” using GAB staff or through a special investigator retained by the agency. Recommendations for an investigator will come from staff and with final selection by GAB itself. A special investigator has the ability through GAB to subpoena documents or testimony and request search warrants.

During an investigation, all of those involved are subject to strict confidentiality restrictions. Prior to the presentation of information in court or in a resolution of the matter by GAB, no disclosure should occur and GAB will discuss the pending matter only in closed session. The penalty for an unauthorized disclosure is a fine up to \$10,000, imprisonment for up to nine months, or both.

The special investigator must regularly update GAB on the status of an investigation and then report to GAB its findings and a determination of whether there is probable cause to bring either a civil or criminal action. If it is a civil matter, GAB may hire a "special counsel" to prosecute the case, take care of it "in house" with GAB staff, or refer the matter to a district attorney. If the matter is criminal, GAB shall refer the matter to the appropriate district attorney or, in the event that the district attorney declines or fails to prosecute the matter, to a district attorney in a contiguous county. If the second district attorney declines or fails to prosecute, the matter may be referred to the attorney general. (If the defendant is a district attorney or judge, other jurisdictional provisions apply.)

GAB has the authority to compromise and settle any civil action or potential action on terms agreed on by the parties. Whenever a settlement agreement is entered into, GAB must publish a statement of its findings and reasons for entering into the settlement agreement.

CONCLUSION

Clearly, there is a great deal of uncertainty at this point at how GAB will operate and, accordingly, how Wisconsin politics will be regulated. The target "initiation date" for GAB's operation is September 1, 2007. However, if the executive director or division administrator positions have yet to be filled, the initiation date will be delayed until 31 days after these positions are filled. In the meantime, an informational hearing has been scheduled on July 24, 2007 at 10:00 a.m. with the Senate Committee on Labor, Elections and Urban Affairs. Presentations will be made at that time by Terry Anderson, Roth Judd and Kevin Kennedy.

We cannot emphasize enough the potential impact of this new regulatory framework on organizations that participate in this state's political process. It will be, at the least, dramatic. The comprehensive review by GAB of more than 30 years of Elections and Ethics Board rule, advisory opinions and practices will be unprecedented and its effects unpredictable. The new "regulators" – all of them respected and with years of judicial experience – will add another dimension to the process. This dramatic change will take place, of course, in the midst of an evolution in the constitutional concepts that underlie campaign finance law – most recently demonstrated in the U.S. Supreme Court's 5-4 decision in *FEC v. Wisconsin Right to Life, Inc.* In addition, the calls for significant legislative change remain persistent at both the state and federal levels, involving as well administrative and regulatory developments through the Internal Revenue Service and the Federal Election Commission. All of these developments promise opportunity for constructive change, but they also pose uncertainty and risk that warrant careful consideration by those active in the political process.

We are familiar with all of the members of GAB and have been working with the enabling legislation since GAB was first proposed. Accordingly, please let us know if you have questions or need any additional information.



Board must fill top three jobs to start

A new nonpartisan board aimed at rooting out government corruption likely won't be up and running by Sept. 1, the earliest of two possible starting dates for the board, officials said.

The Government Accountability Board will replace the state's Ethics and Elections boards and oversee the state's elections and political campaigns and keep tabs on lobbyists and elected officials.

The Elections Board has scheduled a meeting for September since

there's a chance that the board will need to continue to meet until the Accountability Board hires several key staffers, Elections Board spokesman Kyle Richmond said.

Terry C. Anderson, director of the state Legislative Council and interim director of the Accountability Board, said the six former judges on the board are looking to meet for the first time between mid-August and mid-September. The judges were appointed by Gov. Jim Doyle and confirmed

by the Senate and Assembly, with the final three receiving their confirmation last week.

Before it can be formed, the Accountability Board will first have to fill its top three jobs—the lawyer who will serve as the head of the agency and two administrators who will oversee its ethics and elections divisions.

Under the law creating the board signed by Doyle in February, the Accountability Board doesn't take effect until Sept. 1

or 31 days after the agency's top three jobs are filled, whichever comes later. In the meantime, the Ethics and Elections boards can continue to meet and do their work, Anderson said.

Roth Judd, executive director of the state Ethics Board, said that the board has meetings planned out to Aug. 30 and is continuing to do its duties and work toward a smooth transition to the Accountability Board.

—Jason Stein



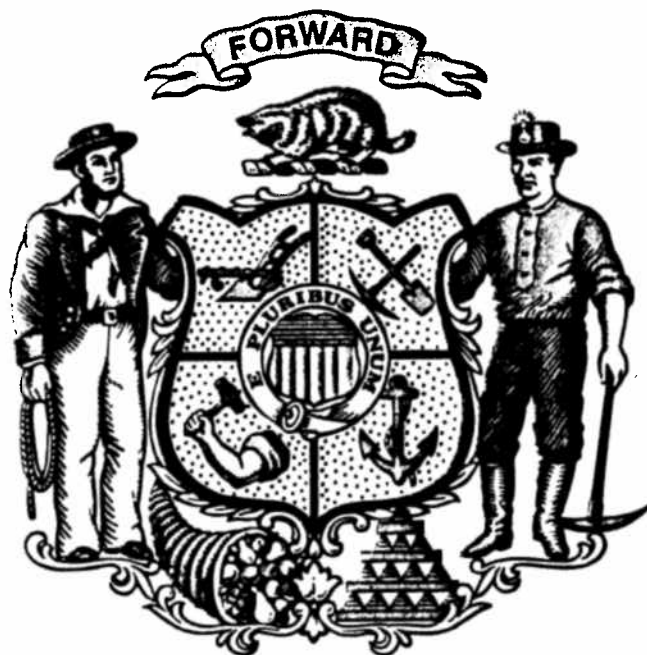
Labor, Elections, and Urban Affairs Informational Hearing on the Government Accountability Board

July 24
2007
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- Background
 - 2007 Wisconsin Act 1
 - Passed (unanimously in the Senate) during special session in January
- Structure
 - Headed by 6 member board of retired judges and merges the current Ethics and Elections Boards into two divisions with GAB (Ethics & Accountability and Elections)
 - Board of 6 retired judges
 - Recently appointed and confirmed (3 by the Senate, 3 by the Assembly)
 - Michael Brennan, Marshfield, Clark County Circuit Court
 - Thomas Cane, Wausau, Court of Appeals Dist. III
 - David Deininger, Monroe, Court of Appeals, Dist. IV
 - William Eich, Madison, Court of Appeals, Dist. IV
 - James Mohr, Eagle River, Vilas County Circuit Court
 - Gerald Nichol, Madison, Dane County Circuit court
 - Candidates selected by a Candidate Committee composed of one current judge from each of the 4 Court of Appeals districts from a pool chosen by the Chief Justice
 - The board (and staff) are severely limited in their political activity
 - Board will hire an Executive Director (technically will be called Legal Counsel)
 - Board and ED will hire the two Division Administrators for the Ethics & Accountability and Elections Divisions
- Operations
 - Elections Division
 - Administer state elections
 - Manage statewide voter database
 - Oversee compliance with HAVA (Help Americans Vote Act)
 - Ethics & Accountability Division
 - Campaign finance, ethics and lobbying regulation
 - Registration & oversight of reporting by political committees and lobbyists
 - Conduct reporting audits
 - Provide guidance to regulated groups
 - Major differences in operation compared to current set up
 - Current campaign finance duties of the Elections Board will be overseen by the Ethics & Accountability Division
 - GAB has sum-sufficient funding to investigate & prosecute civil violations of regulations

- Can either appoint special prosecutor to handle case, OR refer to the District Attorney of the county in which the elected official lives, OR if that DA defers to prosecute they can refer it to the DA in a neighboring county, OR if that DA defers, it can be referred to the Attorney General
 - Within 12 months the GAB must review all existing internal operations, procedures, guidelines, rules, orders and formal opinions from the Ethics and Elections Boards
 - Takes a positive vote of 4 or more members to retain any of the current precedent or procedure
 - Failure to take positive action means that the provision will expire at the end of the year
- Questions & concerns
 - Scott Spector, American Federation of Teachers
 - They want all GAB staff (except the Executive Director and Division Administrators) represented
 - Currently about 2/3 of the Elections Board staff is represented
 - No one at the Ethics Board is represented
 - Current campaign finance auditors at the Elections Board are concerned about how they'll be folded in to the Ethics & Accountability Division
 - Would like the following questions raised at the hearing:
 - Is there any opinion on whether or not the staff will be represented? Has anyone contacted the Office of State Employee Relations for an opinion on this?
 - How will the campaign finance auditors interact with the investigators and the new division?
 - Mike Wittenwyler, Godfrey & Kahn
 - What is the anticipated start date of operations for GAB?
 - What will the process for hiring the Executive Director and Division Administrators?
 - What constitutes a conflict of interest for the board and staff members?
 - Does it extend to previous judicial rulings by the board members?
 - What will happen to a board or staff member if a conflict is discovered?
- Other possible questions
 - Where will the first meetings of the GAB board take place and when?
 - Where will GAB be physically located?
 - Who will take care of information technology for GAB?
 - How will cases operate for the first 12 months before all precedent is reviewed and set?

At the end of the hearing, mention that we will look at holding another status update once the board selects a Chair and hires an Executive Director.



Labor, Elections, and Urban Affairs Informational Hearing on the Government Accountability Board

- Background
 - 2007 Wisconsin Act 1
 - Passed (unanimously in the Senate) during special session in January
- Structure
 - Headed by 6 member board of retired judges and merges the current Ethics and Elections Boards into two divisions with GAB (Ethics & Accountability and Elections)
 - Board of 6 retired judges
 - Recently appointed and confirmed (3 by the Senate, 3 by the Assembly)
 - Michael Brennan, Marshfield, Clark County Circuit Court
 - Thomas Cane, Wausau, Court of Appeals Dist. III
 - David Deininger, Monroe, Court of Appeals, Dist. IV
 - William Eich, Madison, Court of Appeals, Dist. IV
 - James Mohr, Eagle River, Vilas County Circuit Court
 - Gerald Nichol, Madison, Dane County Circuit court
 - Candidates selected by a Candidate Committee composed of one current judge from each of the 4 Court of Appeals districts from a pool chosen by the Chief Justice
 - The board (and staff) are severely limited in their political activity
 - Board will hire an Executive Director (technically will be called Legal Counsel)
 - Board and ED will hire the two Division Administrators for the Ethics & Accountability and Elections Divisions
- Operations
 - Elections Division
 - Administer state elections
 - Manage statewide voter database
 - Oversee compliance with HAVA (Help Americans Vote Act)
 - Ethics & Accountability Division
 - Campaign finance, ethics and lobbying regulation
 - Registration & oversight of reporting by political committees and lobbyists
 - Conduct reporting audits
 - Provide guidance to regulated groups
 - Major differences in operation compared to current set up
 - Current campaign finance duties of the Elections Board will be overseen by the Ethics & Accountability Division
 - GAB has sum-sufficient funding to investigate & prosecute civil violations of regulations

- Can either appoint special prosecutor to handle case, OR refer to the District Attorney of the county in which the elected official lives, OR if that DA defers to prosecute they can refer it to the DA in a neighboring county, OR if that DA defers, it can be referred to the Attorney General
- Within 12 months the GAB must review all existing internal operations, procedures, guidelines, rules, orders and formal opinions from the Ethics and Elections Boards
 - Takes a positive vote of 4 or more members to retain any of the current precedent or procedure
 - Failure to take positive action means that the provision will expire at the end of the year
- Questions & concerns

- Scott Spector, American Federation of Teachers
 - They want all GAB staff (except the Executive Director and Division Administrators) represented
 - Currently about 2/3 of the Elections Board staff is represented
 - No one at the Ethics Board is represented
 - Current campaign finance auditors at the Elections Board are concerned about how they'll be folded in to the Ethics & Accountability Division
 - Would like the following questions raised at the hearing:
 - Is there any opinion on whether or not the staff will be represented? Has anyone contacted the Office of State Employee Relations for an opinion on this?
 - How will the campaign finance auditors interact with the investigators and the new division?

- Mike Wittenwyler, Godfrey & Kahn
 - ① What is the anticipated start date of operations for GAB?
 - What will the process for hiring the Executive Director and Division Administrators?
 - What constitutes a conflict of interest for the board and staff members?
 - Does it extend to previous judicial rulings by the board members?
 - What will happen to a board or staff member if a conflict is discovered?

- Other possible questions
 - ② ○ Where will the first meetings of the GAB board take place and when?
 - ③ ○ Where will GAB be physically located?
 - ④ ○ Who will take care of information technology for GAB?
 - How will cases operate for the first 12 months before all precedent is reviewed and set?

At the end of the hearing, mention that we will look at holding another status update once the board selects a Chair and hires an Executive Director.