



## 2007 ASSEMBLY BILL 437

July 3, 2007 – Introduced by Representatives ALBERS and HAHN, cosponsored by Senator SCHULTZ. Referred to Committee on Judiciary and Ethics.

1     **AN ACT** *to amend* 12.13 (5) (a) and 12.60 (1) (bm); and *to create* 111.91 (2) (hm)  
2             and 230.34 (5) of the statutes; **relating to:** sanctions for providing access to  
3             certain investigatory and prosecutorial records or information in the possession  
4             of the Government Accountability Board or another investigator or prosecutor  
5             and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Currently, effective sometime after August 31, 2007, except as specifically authorized by law, no investigator, prosecutor, employee of an investigator or prosecutor, or member or employee of the Government Accountability Board (board) may disclose information related to an investigation or prosecution of a potential violation of the elections, ethics, or lobbying regulation laws, or any other law arising from or in relation to the official functions of the subject of the investigation, or any matter that involves elections, ethics, or lobbying regulation, or provide access to any record of the investigator, prosecutor, or the board that is not subject to public access by law to any person other than an employee or agent of the investigator or prosecutor or a member, employee, or agent of the board prior to presentation of the information or record in a court of law. Violators are guilty of a misdemeanor and may be fined not more than \$10,000 or imprisoned for not more than nine months, or both, for each violation.

This bill provides that violators of the prohibition may be fined not more than \$10,000 for each violation but are not subject to imprisonment. The bill also provides

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that any person who is injured by a violation of the prohibition that constitutes a breach of contract may recover double damages for the breach.

The bill further provides that if the board, or legal counsel to the board, determines that reasonable suspicion exists to investigate a state employee for disclosing the information specified above while that employee was employed by the board, the employee may be suspended with pay or reassigned to other state employment and an investigation may be commenced. No later than six months after the date on which the employee was suspended or reassigned, the investigation must be completed. If it is determined that the employee disclosed the information, the employee may be terminated. If the employee is convicted of disclosing the information, the employee must pay to the state all moneys paid to the employee while the employee was suspended with pay. The bill removes this investigatory and disciplinary procedure from current mandatory subjects of collective bargaining.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 12.13 (5) (a) of the statutes, as created by 2007 Wisconsin Act 1, is  
2 amended to read:

3           12.13 (5) (a) Except as specifically authorized by law and except as provided  
4 in par. (b), no investigator, prosecutor, employee of an investigator or prosecutor, or  
5 member or employee of the board may disclose information related to an  
6 investigation or prosecution under chs. 5 to 12, subch. III of ch. 13, or subch. III of  
7 ch. 19 or any other law specified in s. 978.05 (1) or (2) or provide access to any record  
8 of the investigator, prosecutor, or the board that is not subject to access under s. 5.05  
9 (5s) to any person other than an employee or agent of the prosecutor or investigator  
10 or a member, employee, or agent of the board prior to presentation of the information  
11 or record in a court of law. Any person who is injured by a violation of this paragraph  
12 that constitutes a breach of contract may recover double damages for the breach.

13           **SECTION 2.** 12.60 (1) (bm) of the statutes, as created by 2007 Wisconsin Act 1,  
14 is amended to read:

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1           12.60 (1) (bm) Whoever violates s. 12.13 (5) may be fined not more than \$10,000  
2 or imprisoned for not more than 9 months or both.

3           **SECTION 3.** 111.91 (2) (hm) of the statutes is created to read:

4           111.91 (2) (hm) Disciplinary procedure under s. 230.34 (5).

5           **SECTION 4.** 230.34 (5) of the statutes is created to read:

6           230.34 (5) If the government accountability board, or legal counsel to the  
7 government accountability board, determines that reasonable suspicion exists to  
8 investigate an employee for a violation of s. 12.13 (5) while that employee was  
9 employed by the government accountability board, the employee may be suspended  
10 with pay or reassigned to other state employment if a vacant position is available at  
11 comparable pay. No later than 6 months after the date on which the employee was  
12 suspended or reassigned, the government accountability board, or legal counsel to  
13 the government accountability board, shall complete the investigation. If the  
14 government accountability board, or legal counsel to the government accountability  
15 board, determines that the employee violated s. 12.13 (5), the employee may be  
16 terminated. If the employee is convicted for a violation of s. 12.13 (5), the employee  
17 shall pay to the state all moneys paid to the employee while the employee was  
18 suspended with pay.

19           **SECTION 5. Initial applicability.**

20           (1) The treatment of section 230.34 (5) of the statutes first applies to an  
21 employee who is affected by a collective bargaining agreement that contains  
22 provisions that are inconsistent with that section on the day on which the collective  
23 bargaining agreement expires or is extended, modified, or renewed, whichever  
24 occurs first.

25           **(END)**