



## Legislative Fiscal Bureau

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October 19, 2005

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 1: Creation of a Government Accountability Board

Senate Bill 1 (SB 1) would consolidate the Elections Board and the Ethics Board as a new Government Accountability Board with expanded responsibilities. The bill was introduced on January 11, 2005, and was referred to the Senate Committee on Campaign Finance Reform and Ethics. On June 16, 2005, that Committee introduced and adopted Senate Amendment 1 (SA 1) to SB 1 and recommended the bill for passage, as amended, on a vote of 3-2. On July 25, 2005, the bill was referred to the Joint Committee on Finance.

### SUMMARY OF BILL

#### **Government Accountability Board**

*Membership and Appointment.* SB 1 would create a Government Accountability Board, effective November 1, 2005, consisting of: (1) four members appointed by the Governor, with the advice and consent of the Senate; and (2) one member appointed by the Governor to represent each political party whose candidate for Governor, Attorney General, Secretary of State, or State Treasurer received at least 1% of the vote in the most recent general election. Each member appointed by the Governor to represent a qualifying political party would be the individual designated by the chief officer of the party, and no Senate confirmation would be required for such appointees. Members of the Board would serve four-year terms and would be paid a per diem of \$25 per day plus actual and necessary expenses (comparable to current payments to members of the Elections Board and the Ethics Board) for each day on which they were engaged in the performance of their duties.

On May 1, 2006, the Elections Board and the Ethics Board would be abolished and their functions, as revised and expanded by SB 1, would be transferred to the new Board.

*Limitation on Board Membership.* No member of the new Board, other than a member who was appointed to represent a political party, could be: (1) a state or local public official; or (2) a member of a political party, an officer or member of a committee in any partisan political club or organization, or a candidate for any partisan elective public office, either within one year prior to the date of appointment or at any time while serving on the Board. Finally, no member of the Board could be engaged as a lobbyist or as an employee of a principal who employs lobbyists under Wisconsin's lobbying laws.

*Government Accountability Candidate Committee.* SB 1 would require that all members of the Board appointed by the Governor and subject to Senate confirmation be appointed from nominations submitted to the Governor by a nine-member Governmental Accountability Candidate Committee. The Committee would consist of the: (1) Chief Justice of the Supreme Court; (2) Dean of the Marquette University Law School; (3) Dean of the University of Wisconsin Law School; and (4) chief officer of each of the following six organizations: (a) the Wisconsin Counties Association; (b) the Wisconsin Towns Association; (c) the League of Wisconsin Municipalities; (d) the League of Women Voters of Wisconsin; (e) the Wisconsin Newspaper Association; and (f) the State Bar of Wisconsin. If any of these named organizations ceased to exist, SB 1 would authorize the Governor to determine the successor organization that represents interests substantially similar to the predecessor organization.

The Government Accountability Candidate Committee would be required to organize whenever a vacancy occurred in the membership of the Board that required a nomination to be submitted to the Governor. At its first meeting after organization, the Committee would be required to elect a chairperson and a vice chairperson. No person could be nominated by the Committee for consideration by the Governor unless the person received the votes of at least six members. The Committee would be required to submit the following number of nominations to the Governor: (1) to fill one vacancy, two nominations must be submitted; (2) to fill two vacancies, three nominations must be submitted; (3) to fill three vacancies, five nominations must be submitted; and (4) to fill four vacancies, six nominations must be submitted. Where the Senate might subsequently reject a nomination, the Committee would be required to submit the name of an additional nominee to the Governor.

*Board Staffing.* Under current law, the Elections Board may employ both an executive director outside of the classified service and legal counsel. Current law also provides that the executive director of the Elections Board must serve as the chief election officer of the state. In addition, the Ethics Board appoints an executive director outside the classified service. Both executive directors are currently assigned to Executive Salary Group 4 (ESG 4). For 2005-06, the annual salary range for a position assigned to ESG 4 is \$69,647 to \$107,954.

As described below under the section on transitional and technical provisions, SB 1 would transfer all current positions and incumbent employees of the Elections Board and the Ethics Board, including the current executive directors, to the new Government Accountability Board. Under the provisions of 2005 Wisconsin Act 25 (the 2005-07 biennial budget act), the Elections Board is authorized 16.0 full-time equivalent (FTE) employees and the Ethics Board is authorized 5.75 FTE. The bill would further require the newly-created Board to employ both an executive director outside of the classified service and legal counsel. While the new Board would be required to designate an employee to serve as the chief election officer of the state, the Board would not have to designate its new executive director as the chief election officer. The bill would specifically authorize the creation of a GPR-funded executive director position and three unclassified division administrator positions for the new Board.

Presumably, the former executive directors of the Elections Board and the Ethics Board would oversee, respectively, the elections function and the ethics function under the new Government Accountability Board, by filling two of the three unclassified division administrator positions. The language of the bill would also permit the division administrator of the elections function to be designated as the chief election officer of the state. The newly-created executive director position would oversee the administration of the Board as a whole, including the Board's relationship with its attached Enforcement Division, which is discussed in the subsequent section.

While the new Board would be required to employ a legal counsel, the bill does not create a new legal counsel position for the Board itself, but rather authorizes such a position under the Board's attached Enforcement Division. Under current law, both the Elections Board and the Ethics Board employ full-time legal counsel. Since all current positions and incumbent employees of both agencies would be transferred to the new Board, one of these transferred attorney positions could but would not be required to be designated as this counsel position for the new Board.

*Duties of the New Executive Director.* The Executive Director of the Board would be required to: (1) call a meeting of the Government Accountability Candidate Committee whenever a vacancy occurred on the Board; and (2) assist the Government Accountability Candidate Committee in the performance of its functions. SB 1 would assign the position of executive director of the Government Accountability Board to ESG 6. For 2005-06, the annual salary range for a position assigned to ESG 6 is \$81,238 to \$125,921.

*Board Oversight of the Enforcement Division.* The Board's executive director would be authorized to appoint an administrator of the Enforcement Division to serve for a term of not less than four years, nor more than six years.

Under SB 1, the Board and its Enforcement Division would have concurrent jurisdiction to investigate alleged violations. Further, the Division would have the authority to investigate or prosecute any alleged civil or criminal violation of laws under its jurisdiction, with or without the approval of the Board.

Any party affected by a proposed decision issued by the Division could appeal the proposed decision to the Board. If no appeal was made in a timely manner, the decision would become final and become the decision of the Board. The Board would be authorized to review any appealed decision of the Division. In doing so, the Board would not be bound by any finding of fact that was contested or any conclusion of law made by the Division. In any decision of its own, the Board could affirm, modify, or reverse an order issued by the Division. While under SB 1 the Board could not stay an order of the Division, if the Board modified or reversed a Division order, the Division could stay the Board order pending judicial review. These investigation, prosecution, and appeals procedures are described in detail in the section on the Enforcement Division.

*Enforcement of Board Orders.* If the Board issued an order imposing a civil penalty which was not appealed in a timely fashion [within 30 days of service of the Board's decision on the parties], SB 1 would authorize the Board to file a copy of its order with the Clerk of Circuit Court for Dane County. The Clerk would be required to enter the order in the judgment and lien docket in the same manner as provided for entry of civil judgments. The Board could also enter the order on the judgment and lien docket of any other county. The order could be enforced and satisfied in the same manner as provided for enforcement and satisfaction of civil judgments.

If the Board issued an order requiring an election official or a private person to act in conformity either with a law under its jurisdiction or in conformity with Board rules, its Enforcement Division could file an action in circuit court for any county where the official or other person is present to obtain relief requiring compliance with the order.

*Election Law-Related Formal Opinions.* Under current law, any interested person may make written request to the Elections Board to issue a formal opinion with respect to the person's authority or responsibilities under state election laws. The Elections Board must advise the person requesting an opinion within 15 days whether or not a formal opinion will be issued. If a formal opinion will be issued, it must be issued within 30 days of the request.

Under SB 1, the Government Accountability Board would not provide election law-related formal opinions as is currently done by the Elections Board. Instead, this responsibility would fall to the Executive Director of the new Board to provide such opinions; however, the Executive Director would be authorized to consult with the Board before issuing such formal opinions.

*Conflict of Interest Advisory Opinions.* Under current law, except in accordance with the advice of the Ethics Board, no state public official may either: (1) take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest; or (2) use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.

Further, any individual may request of the Ethics Board an advisory opinion regarding the propriety of any matter to which the person is or may become a party. The Ethics Board must review a request for an advisory opinion and may advise the person making the request. Ethics Board advisory opinions and individual requests for such opinions must be in writing. Current law provides that the Ethics Board's deliberations and actions upon such requests must be in meetings not open to the public. The Ethics Board may authorize its Executive Director to act in its stead in instances where delay is of substantial inconvenience or detriment to the requesting party. No member or employee of the Ethics Board may make public the identity of the individual requesting an advisory opinion or of individuals or organizations mentioned in the opinion.

Under SB 1, the Executive Director of the Government Accountability Board would receive and act upon individual requests for a conflict of interest advisory opinion. Unlike current law, the Board would no longer review and provide such advisory opinion requests. Under the bill, the Executive Director of the new Board would be authorized to consult with the Board before issuing a formal conflict of interest opinion, but would be prohibited from revealing any information to the Board that would identify the requester of the opinion. All consultations by the Executive Director with the Board concerning such requests would be in meetings not open to the public. SB 1 would further provide that requests for advisory opinions regarding the state's lobbying laws would be directed to and provided by the Executive Director of the new Board, and not the Board itself.

### **Enforcement Division**

*Limited Purpose Attachment to the Government Accountability Board.* SB 1 would create an Enforcement Division ("Division") attached for limited purposes under s. 15.03 of the statutes to the newly-formed Government Accountability Board. The bill would also authorize an unclassified administrator position for this Division. As a result, the administrator would generally exercise his or her powers, duties and functions as prescribed by law, including rule making and operational planning, independently of the Board.

Certain program coordination and related management functions, however, would still have to be performed under the direction and supervision of the Executive Director of the new Board. The Division would generally be bound by applicable laws, rules, formal opinions, and actions of the newly-created Board, except that the Division's administrator could "nonacquiesce" in any formal opinion or action of the Board by publishing a notice of nonacquiescence in the Wisconsin Administrative Register. Thereafter, the Division would not be bound by the formal opinion or action to which the Division had nonacquiesced.

SB 1 would create a biennial GPR general program operations appropriation for the Division; however, the bill provides no funding for this purpose. The bill would provide that all budget requests developed by the Division must be submitted to DOA without change by the Board, except as concurred in by the Division's administrator. The Division's administrator could further request that the Joint Committee on Finance supplement the Division's general program operations appropriation without the concurrence of the Board.

*Division Administrator.* The operation of the Division would be under the direction and supervision of an administrator, appointed by the Executive Director of the Board, with the advice and consent of the Board, to serve a term of not less than four years, nor more than six years, expiring on September 1 of an odd-numbered year. Under SB 1, the administrator would be assigned to ESG 5. For 2005-06, the annual salary range for a position assigned to ESG 5 is \$75,220 to \$116,592.

*Jurisdiction of the Division.* SB 1 would establish that the jurisdiction of the Division would be concurrent with that of the Board itself, a district attorney, and the Attorney General to conduct investigations of and to enforce the state's election laws, lobbying laws, and the Code of Ethics for Public Officials. The Division would also be authorized to request assistance from the Department of Justice (DOJ) to conduct investigations and prosecute violations of these laws.

*Independent Authority to Investigate and Prosecute Civil and Criminal Violations.* SB 1 would authorize the Division to investigate and prosecute any civil or criminal violation of laws under its jurisdiction, with or without the approval of the Board. Prior to commencing any criminal prosecution under its jurisdiction, the Division would have to provide written notice to the district attorney for the county where the violation was alleged to have occurred. The Division could commence a criminal prosecution of the alleged violation provided that the district attorney either notified the Division in writing that he or she would not commence a criminal prosecution of the alleged violation, or failed to commence such a criminal prosecution within 30 days of receiving notice from the Division.

*Concurrent Investigative and Prosecutorial Responsibilities.* The Division would be required to investigate and prosecute alleged violations of the laws administered by the Board, pursuant to all statutes granting or assigning such authority or responsibility to the Board. The Division would also be required to prosecute civil and criminal actions brought by the Board and to assist district attorneys and the Attorney General in prosecuting criminal actions referred to them by the Division.

The Board would be authorized to refer any matter to the Division for investigation. Any person could file a verified complaint with the Division alleging a violation of the state's election and lobbying laws or the Code of Ethics for Public Officials. The Division would be required to investigate the complaint unless the Division found the complaint to be without merit.

Division investigations, however, would not be limited to cases initiated either by Board referral or a filed, verified complaint. SB 1 would also authorize the Division, on its own motion or upon direction of the Board, to investigate any potential violation of law within its jurisdiction whenever the Division had probable cause to believe that a violation had occurred.

*Outside Special Counsel.* SB 1 would authorize the Division to employ outside special counsel to investigate or prosecute any alleged violation within the jurisdiction of the Division, or to enforce any order of the Division or Board.

When employing special counsel, the Division's administrator would be required to execute a written contract between the state and the special counsel fixing the compensation to be paid to such counsel by the state. The contract would have to be filed with the Office of the Secretary of State. Upon employment of the special counsel, the Division's administrator would be required to certify to the Secretary of DOA the maximum amount provided in the employment contract and direct DOA to pay the special counsel bills related to that case within the certified amount. SB 1 would authorize these payments to be made from DOJ's GPR-funded special counsel sum sufficient appropriation [s. 20.455(1)(b)]. SB 1 would amend the purposes of that appropriation to authorize its use for the payment of the Division's special counsel charges. For the current biennium, expenditures under this appropriation are estimated at \$805,700 GPR annually.

Under s. 20.930 of the statutes, generally no state agency in the executive branch may employ an outside attorney until such employment has been approved by the Governor. Under current law, the Governor approves outside counsel contracts entered into by the Ethics Board. Under SB 1, outside special counsel contracts of the Government Accountability Board would also have to be approved by the Governor under s. 20.930.

*Production of Evidence.* Under current law, both the Elections Board and the Ethics Board have authority to subpoena individuals and require the production of evidence. The Elections Board is vested with the authority to subpoena individuals and require the production of evidence, but may delegate to its executive director the authority to issue a subpoena or apply for a search warrant. The Ethics Board may not invoke these powers until the Board has authorized an investigation by resolution.

Under SB 1, as introduced, the Enforcement Division could issue subpoenas and require the production of evidence without the approval of the Government Accountability Board. In the discharge of the Division's investigative functions, SB 1 would authorize the Division, after providing notice to any party who is the subject of such an investigation, to subpoena and bring before it any person and require the production of any papers, books, or other records relevant to an investigation.

Further, SB 1 would authorize a Circuit Court to order the inspection and copying of the accounts and the depositor's and loan records at any financial institution doing business in Wisconsin to obtain evidence of any violation of law under the Division's jurisdiction. However, the bill would require the Division show that there is probable cause to believe that a violation had occurred and that the accounts and records may have a substantial relation to the violation. The Division would be authorized (but not required) to take the testimony of witnesses in the manner prescribed for taking witness testimony in civil actions in Circuit Court.

*Investigative and Prosecutorial Process.* Where a complaint concerned a question of whether an election official or a private person was acting in conformity with the law or rules of the Board, SB 1 would require that the complainant also serve a copy of the complaint on the official or the private person, who would then become a party to the case. Such an official or private person could move to dismiss the complaint if it was clearly without merit. Where the Division subsequently found that the complaint was clearly without merit, the Division would be required to dismiss the matter.

If the Division did not dismiss a complaint, the Division would be required to issue a proposed decision with findings of fact and conclusions of law. As a part of any proposed decision, the Division could order an election official or private person to: (1) act in conformity with any law under the jurisdiction of the Division; (2) act in conformity with the administrative rules of the Board; or (3) pay any applicable civil penalty. If the Division issued a decision containing any such order, the order would be effective upon service, notwithstanding any appeal to the Board or to the Circuit Court. The Division could, but would not be required to, stay an order pending an appeal to the Board or to the Circuit Court.

Any party affected by a proposed decision issued by the Division could appeal to the Board within 20 days of being served a copy of the decision. If no appeal was filed within this time period, the decision would become final and become the decision of the Board. Where the Division's proposed decision was appealed, SB 1 would require the appellant to indicate whether the appeal contested any findings of fact made by the Division. If an appellant did not contest a finding of fact, the validity of which was reasonably ascertainable to the appellant at the time of the appeal, that finding of fact would be conclusive against the appellant in all subsequent proceedings.

The Board would be required to hear any appeal at its next meeting occurring at least three working days after receipt of the appeal. In its subsequent review, the Board would not be bound by any finding of fact that was contested or by any conclusion of law made by the Division. After hearing the appeal, the Board would be authorized (but not required) to issue a decision; however, any decision actually issued by the Board would be required to include findings of fact and conclusions of law. In its decision, the Board could affirm, modify, or reverse an order issued by the Division. The Board could order an election official or a private person to: (1) act in conformity with any law under its jurisdiction; (2) act in conformity with any rule issued by the Board; or (3) pay any applicable civil penalty. If the Board did not modify or reverse a decision of the Division at the meeting at which the appeal was heard, the Division's decision would be affirmed. If the Board modified or reversed a Division order, the resulting action would be effective upon service, except that the Division could stay the order of the Board pending judicial review.

The defendant would be authorized to appeal any decision of the Division or of the Board in a contested case to the Circuit Court. If the Board modified or reversed an order issued by the Division, the Division could seek judicial review of the decision to the Circuit Court. In seeking judicial review of a decision of the Division or the Board, the appellant would be required to indicate whether the appellant contested any findings of fact made by the Division or the Board that



was not conclusive against the appellant. If the appellant did not contest a given finding of fact made by the Division or the Board, that finding of fact would be conclusive against the appellant.

*Enforcing Division Orders.* If the Division issued an order imposing a civil penalty which was not appealed in a timely fashion, the Division would be authorized to file a copy of its order with the Clerk of Circuit Court for Dane County. The Clerk would be required to enter the order in the judgment and lien docket in the same manner as provided for entry of civil judgments. The Division could also enter the order on the judgment and lien docket of any other county. The order could be enforced and satisfied in the same manner as provided for enforcement and satisfaction of civil judgments.

If the Division issued an order requiring an election official or a private person to act in conformity either with a law under its jurisdiction or in conformity with Board rules, the Division could file an action in circuit court for any county where the official or other person is present to obtain relief requiring compliance with the order.

*Required Division Staffing.* In addition to the Division's administrator, SB 1 would require the Board to employ at least one full-time attorney position and at least one full-time investigator position within the Division.

The bill would authorize 3.0 GPR positions for the Division: 1.0 administrator position, 1.0 attorney position, and 1.0 investigator position.

### **Transitional and Technical Provisions**

*Transfer of the Current Duties and Responsibilities of the Elections Board and the Ethics Board.* SB 1 would eliminate the Elections Board and the Ethics Board as separate state agencies, effective May 1, 2006, and would provide that the responsibility of these boards to administer and enforce the state's election laws, lobbying laws, and the Code of Ethics for Public Officials would become the responsibility of the new Government Accountability Board and its attached Enforcement Division. These new entities would be created effective November 1, 2005. The bill would also renumber many of the two Boards' current appropriations to a newly-created appropriations structure for the Government Accountability Board to reflect these changes.

*Initial Members of the Government Accountability Board and Initial Administrative Staff Provisions.* Members of the new Government Accountability Board would take office on the later of November 1, 2005, or the date on which they would qualify to take office. Of the initial members appointed by the Governor, with the advice and consent of the Senate, two would be appointed to serve terms expiring on May 1, 2007, and two would be appointed to serve terms expiring on May 1, 2009. All members of the Board appointed to represent political parties would serve for terms expiring on May 1, 2009.

SB 1 would also specify that the initial administrator of the Enforcement Division would serve for a term expiring on September 1, 2011.

The Director of the Legislative Council staff would be required to serve as the Executive Director of the new Government Accountability Board, without additional compensation, until such time as the Board initially appointed an executive director and the appointee qualified to take office. The Director of the Legislative Council staff would be vested with full authority and responsibility to carry out all functions of the Executive Director of the new Board, the attached Enforcement Division, and its administrator, prior to appointment and qualification of the initial executive director, including the retention and termination of all staff not transferred to the Board that the Board is authorized to employ under SB 1.

*Transitional Funding.* Prior to May 1, 2006, the new Government Accountability Board would be authorized to expend moneys from its new GPR-funded general program operations biennial appropriation for the purpose of holding meetings, employing new staff, and preparing to assume full authority and responsibilities on May 1, 2006. However, this biennial appropriation is not provided any initial funding under the bill. Further, under SB 1, the GPR-funded general program operations appropriations for the Elections Board and the Ethics Board would be deleted, effective May 1, 2006.

It is estimated that the repeal of the Elections Board's and the Ethics Board's general program operations appropriations on May 1, 2006, would result in the lapse of \$191,000 GPR in 2005-06 (two months of budgeted funding) and \$1,147,600 GPR in 2006-07 (12 months of budgeted funding) to the general fund. These funds would be required to support the budgeted staffing and operational costs of the current Elections Board and Ethics Board.

Provisions of SB 1 would also delete the current Boards' PR-funded general program operations appropriations, effective May 1, 2006. While the bill would transfer the unencumbered balances from these PR general program operations appropriations to a new PR-funded general program operations annual appropriation for the Government Accountability Board, this new appropriation would not be provided with any expenditure authority. This new PR-funded general program operations appropriation would continue to be supported from lobbying fees and campaign finance registrant filing fees.

It is estimated that the repeal of the Elections Board's and the Ethics Board's PR-funded general program operations appropriations on May 1, 2006, would result in the lapse of \$70,000 PR in 2005-06 (two months of budgeted funding) and \$420,200 PR in 2006-07 (12 months of budgeted funding) to the appropriation account. These funds would be required to support the budgeted staffing and operational costs of the current Elections Board and Ethics Board.

Finally, the bill would delete the current boards' PR-funded materials and services appropriations, effective May 1, 2006. While the bill would again transfer the unencumbered balances from these PR materials and services appropriations to a new PR-funded materials and

services appropriation for the Government Accountability Board, this new appropriation would not be provided with any expenditure authority.

It is estimated that the repeal of the Elections Board's and the Ethics Board's PR-funded materials and services appropriations on May 1, 2006, would result in the lapse of \$5,900 PR in 2005-06 (two months of budgeted funding) and \$35,200 PR in 2006-07 (12 months of budgeted funding) to the appropriation account. These funds would be required to support the budgeted materials and services costs of the current Elections Board and Ethics Board.

A new GPR-funded general program operations biennial appropriation for the Enforcement Division would be created under the bill, effective November 1, 2005. This biennial appropriation is not provided any initial funding under the bill. As a result, no resources are initially provided to support enforcement activities or to fund the 3.0 new positions authorized for the Division on that date.

Should the Committee or Legislature choose to do so, the funding issues identified above could be addressed in one of several ways, as follows: (1) a simple amendment to the current bill; (2) trailer legislation; or (3) subsequent action by the Joint Committee on Finance to transfer GPR funds (subject to the availability of appropriated funds) or to authorize increased PR expenditure authority. If the GPR funding issues are not addressed through legislation, however, there will likely be a net reduction in available GPR funding to the new Board. The Joint Committee on Finance may only transfer GPR from existing appropriations; it does not have the authority to appropriate new or lapsed funding from the general fund.

*Transitional Staffing.* Effective May 1, 2006, all full-time equivalent positions at the Elections Board and the Ethics Board would be transferred to the new Government Accountability Board. Effective May 1, 2006, all incumbent employees in the Elections Board and the Ethics Board, including the current executive director for each board, would also be transferred to the Government Accountability Board. The bill further specifies that: (1) all persons transferred would retain the same rights and employee status they held prior to the transfer; and (2) no employee who had attained permanent status in his or her classified position would be required to serve a new probationary period. SB 1 would also direct the transfer of all assets and liabilities, tangible personal property, contracts, rules and orders and all pending matters from the current boards to the Government Accountability Board.

## **SENATE AMENDMENT 1**

Senate Amendment 1 would make the following changes to the bill:

*Enforcement Division Administrator.* SA 1 would provide that the administrator of the Enforcement Division could only be removed from office by the Executive Director of the Board, for cause.

*Employment of Special Counsel, Issuance of Subpoenas, and Obtaining Search Warrants.* SA 1 would provide that these actions could be undertaken by the Enforcement Division only if the Division had first submitted a written request for the action to the Government Accountability Board and if the Board had not disapproved the request within seven days of receiving it.

*Authority to Prosecute Criminal Violations.* Following a district attorney's failure to commence a criminal prosecution, following due notice by the Enforcement Division, SA 1 would provide that the Division could only proceed with the criminal prosecution with the approval of the Board.

## **FISCAL EFFECT**

As currently drafted, the bill would result in all funds expenditure reductions of \$266,900 in 2005-06, and \$1,603,000 in 2006-07. These reductions would be attributable to the following: (1) the deletion of GPR-funded general program operation appropriations under the Election Board and the Ethics Board, effective May 1, 2006, without an offsetting increase to the newly created GPR-funded general program operation appropriations for the Government Accountability Board (\$191,000 GPR in 2005-06 and \$1,147,600 GPR in 2006-07); (2) the deletion of PR-funded general program operation appropriations under the current boards, without an offsetting increase in expenditure authority under a newly created PR-funded general program operation appropriation for the Board (\$70,000 PR in 2005-06 and \$420,200 PR in 2006-07); and (3) the deletion of PR-funded materials and services appropriations under the current boards, without an offsetting increase in expenditure authority under a newly created PR-funded materials and services appropriation for the Board (\$5,900 PR in 2005-06 and \$35,200 PR in 2006-07). Because the existing statutory responsibilities and the employees of both the Elections Board and the Ethics Board would be transferred to the new Government Accountability Board, the new board will likely need these resources to continue to meet these on-going responsibilities.

SB 1 would authorize 4.0 GPR positions, effective November 1, 2005. While the bill authorizes three division administrators for the new Government Accountability Board, two of the three division administrator positions would presumably be filled by the current Executive Directors of the Elections Board and the Ethics Board who would be transferred to the Government Accountability Board, effective May 1, 2006. As a result, the bill only creates one additional position under the Board itself: the position of Executive Director. The remaining 3.0 GPR unfunded positions would all be created under the attached Enforcement Division, including the Division's administrator, an attorney, and an investigator.

The following table identifies the estimated \$244,300 GPR in 2005-06 and \$333,500 GPR in 2006-07 required to fund the four new positions authorized under the bill. These identified costs assume that: (1) all positions would be filled on November 1, 2005; (2) all positions would be filled at the minimum salary rate for the position; (3) the fringe benefits rate for the Ethics Board would

apply; (4) \$1,200 GPR annually (prorated to \$800 GPR in 2005-06) would be required for supplies and services funding for each position; (5) one-time funding of \$4,000 GPR for each position would be provided in 2005-06 to purchase modular furniture; and (6) one-time funding of \$2,500 GPR for each position would be provided in 2005-06 to purchase computers. As currently drafted, the bill does not fund these costs.

**Estimated Costs for Newly-Authorized Positions  
(GPR Funding)**

<u>Position</u>	<u>2005-06</u>	<u>2006-07</u>
Board Executive Director	\$83,300	\$117,700
Enforcement Division Administrator	77,700	109,000
Enforcement Division Attorney	46,700	61,600
Enforcement Division Investigator	<u>36,600</u>	<u>45,200</u>
 Total	 \$244,300	 \$333,500

Further, in order to implement the provisions of SB 1, the state may incur some additional transition costs, such as moving expenses for the affected agencies or the possible need to merge incompatible computer systems.

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