



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 2
[2015 Senate Bill 6]

**Legislative Audit Bureau Access to
Documents**

2015 Wisconsin Act 2 clarifies the authority of the Legislative Audit Bureau (LAB) to access investigatory records retained by the Government Accountability Board (GAB) and certain other records that are confidential by law.

BACKGROUND AND PRIOR LAW

Wisconsin law provides the LAB with considerable authority to access records maintained by state departments.¹ Under prior law, the LAB's general authorizing statute stated that the LAB generally "shall at all times with or without notice have access to all departments and to any books, records or other documents maintained by the departments and relating to their expenditures, revenues, operations and structure." [s. 13.94 (intro.), Stats.]

Prior law, unchanged by the Act, generally prohibits GAB employees from disclosing records relating to investigations and prosecutions to anyone except GAB employees and employees and agents of the prosecutor or investigator involved in the case at issue. Exceptions apply to communications made to law enforcement authorities and certain other persons involved in an investigation or prosecution and to disclosures that are "specifically authorized by law." [s. 12.13 (5), Stats.] Criminal penalties apply to GAB employees who violate those nondisclosure requirements. [s. 12.60 (1), Stats.]

An Attorney General's opinion issued on July 10, 2014, addressed whether the GAB may provide the LAB with investigatory records that are confidential under s. 12.13 (5), Stats. The

¹ For purposes of LAB's access to records, "department" is broadly defined to mean each state department, board, examining board, affiliated credentialing board, commission, independent agency, council or office in the executive branch of state government, and specified other public and private entities. [s. 13.94 (4) (a) 1., Stats.]

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.wisconsin.gov>.

opinion concluded that s. 13.94, Stats., the LAB's general authorizing statute, is not sufficiently specific to fall within the "except as specifically authorized by law" exception in s. 12.13 (5), Stats. As part of its reasoning, the opinion noted that s. 13.94, Stats., does not "explicitly grant LAB the general right to obtain documents made confidential by other statutory sections." [OAG-03-14.]

2015 WISCONSIN ACT 2

2015 Wisconsin Act 2 made two changes relating to the LAB's authority to access confidential records held by state agencies. First, the Act specifically requires the GAB to release investigatory records to the LAB to the extent necessary for the LAB to carry out its statutory responsibilities.

Second, the Act amended the LAB's general authorizing statute to clarify that the LAB's authority to access books, records, and other documents maintained by state departments includes the authority to access such books, records, and other documents that are confidential by law.

Effective date: March 20, 2015

Prepared by: Anna Henning, Staff Attorney

March 27, 2015

AH:mcm;ksm