

July: End lawmakers' ability to destroy records

Written by By Bill Lueders



Not long ago, I asked Wisconsin Assembly Speaker Robin Vos (R-Rochester) for records regarding a controversial bill he helped author on free-speech rights at state universities.

I had already obtained some [communications](#) between Vos aide Alicia Schweitzer and the Legislative Reference Bureau, from the bill-drafting file. They showed that his office had added bill language calling on UW-System schools to punish "indecent, profane, boisterous (or) obscene" conduct that interfered with others' free speech.

The LRB bill drafter, Mark Kunkel, deleted these terms, saying they were overly broad and ambiguous. But Schweitzer insisted that they be restored. The [resulting bill](#) drew flak because of this language, which its lead sponsor [agreed](#) likely made it unconstitutional. The language was [removed](#) to establish narrower grounds for punishment before the Assembly [voted](#) to approve it.

I expected my records request would yield these bill-drafting exchanges, along with any internal communications concerning the office's decision to reject Kunkel's good advice. But no such records were among the unwieldy stack of 659 pages provided for my review.

When I asked why this was so, Vos aide Steve Fawcett [explained](#) : "Given that the

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Assembly is not under the duty to retain records in the normal course of business, it is likely that Alicia simply deleted the document(s) you inquired about prior to your initial request."

Yep. The office of Speaker Vos destroyed revealing records regarding its role in crafting this bill. And, as Fawcett noted, current law allows it. Similar records destruction has happened in other cases, involving other lawmakers.

That's because legislators [exempted themselves](#) from the records retention rules in place for every other state and local government employee. If the mayor of Oshkosh receives a complaint about a crack in a sidewalk, he must [retain](#) it for at least seven years. But a legislator who gets an email from a lobbyist urging a vote in exchange for a contribution can legally destroy it, absent a pending records request.

A few years back, a Democratic lawmaker [introduced legislation](#) to end this exemption. It didn't even get a hearing. The lawmaker [believed](#) both the exemption and its elimination were unneeded, since "legislators keep all this stuff anyway."

Now we know this isn't true. Some lawmakers are selectively destroying key records. We should not let them get away with it.

In 2015, lawmakers [sneakily added](#) budget language [drafted by Vos](#) that would have [shut down](#) [access to bill drafting files and let lawmakers shield](#) [communications with staff](#), among other things. The [bipartisan blowback](#) was enormous, and lawmakers were forced to back down. Now they are using a different law to achieve the same end.

Vos did not respond to an invitation to provide additional information or perspective.

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Wisconsin lawmakers should not be destroying records they create and receive in their official, taxpayer-funded capacity. Every legislator and all candidates for this office should be asked, by citizens and the media, whether they will work to end this exemption.

Otherwise, the public should be looking for other representation.

Your Right to Know is a monthly column distributed by the [Wisconsin Freedom of Information Council](http://www.wisfoic.org) (www.wisfoic.org), a group dedicated to open government. Bill Lueders is the group's president.