Your Right to Know / Larry Gallup

Bar lawmakers from destroying records

If you want to see all of the emails your mayor received and sent during the week of March 16-20, 2020, to find communications regarding the coronavirus outbreak, all you have to do is ask. Under state law, the mayor is required to retain these and provide them on request.

If you want to see the emails that flowed between a given school district and a former superintendent regarding a school-siting controversy from several years ago, again, these are supposed to be preserved and provided.

But if you ask your state senator or representative for something as simple as a copy of his or her schedule from, say, yesterday, you have no guarantee. If you even get a response, one of the lawmaker’s aides could say, “Sorry, we deleted it at the end of the day. We have no record of it.”

That’s because, several decades ago, lawmakers [exempted](https://docs.legis.wisconsin.gov/statutes/statutes/16/III/61) “any member of the legislature” from the state’s record retention statute.

Recently, the Wisconsin Examiner [reported](https://wisconsinexaminer.com/brief/legislators-office-policy-is-to-delete-public-emails/) that two Republican state lawmakers, Sen. Duey Stroebel, R-Saukville, and Rep. Rob Brooks, R-Saukville, apparently used this loophole to destroy records regarding a proposed elections bill.

“It is my office’s policy that my staff and I frequently delete emails during the normal course of business each day,” wrote Brooks in response to an information request. Said Stroebel, “As I’m sure you are aware, members of the Legislature are exempted from certain document retention requirements,” adding that his office made it a practice to “preserve limited Microsoft Outlook memory space.”

Julia Gunther, a research and communications associate with the group A Better Wisconsin Together, which made the requests, told the Examiner, “No part of their records policy prevents them from simply deleting information that would look unfavorable if it became public.”

A [bill in the Legislature](https://docs.legis.wisconsin.gov/2021/related/proposals/sb289) co-authored by Sen. Chris Larson, D-Milwaukee, and Rep. Jimmy Anderson, D-Fitchburg, would eliminate this exemption.

Previous versions of the bill have gone nowhere. This version, [co-sponsored](https://docs.legis.wisconsin.gov/2021/proposals/reg/sen/bill/sb289) by just two senators and nine representatives — all Democrats — will likely meet the same fate.

The public should demand otherwise.

It makes no sense that retention requirements apply to your local parks and recreation department but not to the positions in our state government that are most susceptible to corruption.

Say your state representative has an email conversation with a lobbyist to torpedo a bill in exchange for a campaign contribution. Sorry, it’s been deleted.

Your state senator writes to a colleague that a high-profile task force is meant to be just lip service? Sorry, it’s been deleted.

At the heart of Wisconsin’s government transparency laws is [a presumption of openness](https://docs.legis.wisconsin.gov/statutes/statutes/19/II/31) — that “all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them.”

At the heart of this exemption from the retention rules for state lawmakers are arrogance and cowardice. Arrogance that legislators don’t think they should be subject to the same scrutiny as other public officials. Cowardice that they’re afraid of the scrutiny.

Each day the exemption stands, our legislators are declaring themselves above the law.

Each day it stands, we’re left to wonder what they’re hiding from us.

*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. Larry Gallup is a board member and the digital news director for USA TODAY NETWORK-Wisconsin. He can be reached at lgallup@postcrescent.com*



Larry Gallup