

WISCONSIN ELECTIONS COMMISSION

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January 17, 2018

The Honorable Duey Stroebel
State Senate
Room 18 South
State Capitol
PO Box 7882
Madison, WI 53707-7882

Dear Senator Stroebel,

I am writing to request that you correct statements you have made to local clerks regarding confirmation of my appointment as Administrator of the Wisconsin Elections Commission. In emails that have been provided to me, you state your opinions regarding my qualifications and the ability of the State to take its time in finding a new Administrator, opinions I strongly but respectfully disagree with. What I found truly astounding and disappointing in your response was the only specific example you cited of a supposedly improper decision I was involved in at the Government Accountability Board. Here is the excerpt from your email that has been forwarded to me:

While serving as a lawyer at the GAB, Mr. Haas was part of a series of failed decision that undermined public confidence in the administration of our elections. For example, while Mr. Haas advised the GAB on legal issues, the agency determined that recall elections would be held in districts that lawmakers no longer represented. The decision meant that thousands of Wisconsin residents saw their elected representatives face a recall election in which they could not vote.

First of all, this decision was made by the six former judges on the Board based upon the staff's recommendation and the Board's careful analysis of the redistricting legislation which was passed by the Legislature. As I hope you were aware, 2011 Wisconsin Act 43 clearly and specifically stated that the new district boundaries were to go into effective for the 2012 General Election:

SECTION 10. Initial applicability.

- (1) This act first applies, with respect to regular elections, to offices filled at the 2012 general election.
- (2) This act first applies, with respect to special or recall elections, to offices filled or contested concurrently with the 2012 general election.

The recall elections took place several months before the new districts took effect in November 2012. Frankly, it was not a close call, and the Board made its decision in a transparent way in a public meeting. No attorney seriously challenged the interpretation because the Statute was so clear on this issue, even if that was not realized by legislators when the law was passed. As far as I know, nobody requested an opinion of Legislative Council staff or the Attorney General, or if an opinion was requested, they must have agreed with the G.A.B.'s decision.

Given that this decision almost six years ago seems to represent your justification for opposing my confirmation, I must ask if you seriously believed that the G.A.B. should have ignored and even contradicted the clear statute enacted by the Legislature, which you voted for as a member of the Assembly? Do you believe an administrative agency has the legal right to do so? And, if your party had been in the minority when the redistricting legislation was passed by the majority party, would you have argued that the G.A.B. should have implemented the new boundaries before the date specified in the law?

The result you complained of – “that thousands of Wisconsin residents saw their elected representatives face a recall election in which they could not vote” – was created by the Legislature, not the G.A.B. It is the same result that sometimes occurs when a vacancy generates a special election between the time that new districts are enacted but before they take effect.

To argue that the G.A.B. should have accelerated the use of the new district boundaries is to encourage an administrative agency to substitute its judgment for that of the Legislature, which is something I would never do. Due to the sound legal reasoning outlined by its staff, the Board considered the applicable law and honored the decision made by the Legislature. I would make the same recommendation again under similar circumstances regardless of which party controls the redistricting legislation. And I would be stunned if legislators were willing to surrender their policymaking authority to an administrative agency on such a significant issue when the proper legal answer is so clear.

I would appreciate your review of this feedback, and would ask that you reconsider the basis and logic of your opposition to my confirmation. Both Republicans and Democrats had complaints about decisions made by the G.A.B. during the recalls of 2011 and 2012, but the legal reasoning and decisions stood up well in the face of legal challenges and in light of the hyper-partisan atmosphere. I am also providing a copy of this response to your colleagues in the Senate in the event that they share similar concerns about this or other G.A.B. actions related to the administration of elections. I would be glad to discuss this further with you or other Senators if that would be helpful.

Sincerely,



Michael Haas
Interim Administrator
Wisconsin Elections Commission
cc: Members, Wisconsin Elections Commission