

WISCONSIN ELECTIONS COMMISSION

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January 17, 2018

Honorable Members of Wisconsin State Senate
State Capitol
Madison, WI 53707

Dear Senators:

Based upon public statements made by Senate Majority Leader Scott Fitzgerald, it is my understanding that on January 23, 2018, the Senate will consider and vote on the confirmation of my appointment as Administrator of the Wisconsin Elections Commission (WEC). It also appears that a public hearing will not be held prior to the Senate taking action on my confirmation. I am formally requesting that the Senate conduct a public hearing to provide a fair opportunity for me to present my thoughts and approach to serving as the State's chief election official, to allow interested parties and the public to weigh in on my leadership of the WEC's mission and staff, and to permit me to address any questions and concerns of Senators. In the event that I am not allowed the courtesy of a public hearing, I am providing this correspondence to share some of what I would include in my testimony, to outline my qualifications and approach to my job, and to set the record straight.

As you know, the members of the Elections Commission appointed me as Interim Administrator at the beginning of the WEC's existence effective June 30, 2016. The three Republican and three Democratic appointees of the Commission voted 6-0 to make the appointment. Since that time, two of the original Republican appointees on the Commission have resigned, and in December 2017 their successors joined in another unanimous vote of the Commission to support my continued service as Administrator and to call for the Senate to confirm my appointment. I am proud of the fact that all eight Commissioners under whom I have served to date, including all six of those directly appointed by the legislative leaders of both parties, have endorsed my work ethic and qualifications to serve as Administrator of the Commission.

I am also proud of the very hard-working and productive staff that I have had the privilege to lead and serve with over the last 19 months. In the midst of the transition to an entirely new agency, they immediately administered the 2016 Presidential and General Election cycle as well as the only statewide recount of the Presidential contest, among many other accomplishments which are further outlined below. As I will also describe in greater detail, I have established and developed positive and productive working relationships with our agency's many customers, constituencies, and partners at the local, state and federal levels. Those have been based not only on my work with the state's elections agency since 2008, but on the skills and relationships I have developed during my entire professional career.

In short, I believe my background, qualifications, and variety of experiences have uniquely and perfectly prepared me for my role as WEC Administrator, and I love both the challenges of the position and the opportunities it presents to serve the people of Wisconsin. When I visited with all State Senators during introductory meetings in late 2016 and early 2017, the vast majority of you, Republicans and Democrats alike, expressed your support for my appointment and leadership of the agency. I believe that my performance to date has justified your initial confidence in my appointment as well as that of the Commission and its staff, and any fair assessment of my record must conclude that it warrants the Senate's confirmation of my appointment.

Background and Qualifications

To assist in the Senate's consideration of my confirmation, my resume is enclosed as Attachment A. Obviously the most relevant experience is the work I have done in the same position since June 2016. However, my previous position as Elections Division Administrator at the Government Accountability Board (G.A.B.), which I held from January 2013 through June 2016, was also very similar in my responsibility to oversee agency programs and initiatives. The role of WEC Administrator has added responsibilities as agency head and as the State's chief election official.

There is a widespread lack of understanding as to what the WEC actually does and is responsible for, especially when there is not an election in the immediate future. Our current staff includes 25.75 full time equivalent positions, which represents a reduction of 10 staff positions responsible for administering elections since July 2015. In addition to administrative and support staff, we have program staff who focus on Elections Administration, on the maintenance, development and support of WisVote (the statewide voter registration system), and on training local election officials.

Prior to the passage of the Help America Vote Act of 2002 and other federal and state laws, the state's elections agency consisted of a significantly smaller staff and involved a predictable cycle of routine tasks punctuated by relatively brief busy periods when nomination papers were being filed or elections were occurring. That is simply no longer the case. The federal mandate to develop and maintain an electronic voter database which serves as the backbone of election administration for both state and local election officials as well as the increasing importance and sophistication of electronic voting equipment are two of the primary reasons that elections administration at the state level has evolved into a constant year-round and technology-driven responsibility. The agency's responsibilities and workload have also increased due to the greater emphasis on issues such as election integrity, voter fraud, and the protection of individual voter information.

To provide further detail regarding the duties of the WEC and its many customers and partners, I have also enclosed a document from the agency's 2017 – 2019 budget request titled "WEC Staff Responsibilities and Tasks," as Attachment B. This document reflects the agency's previous staffing level of 31.75 full time equivalent employees. My responsibility is to ensure the coordination and implementation of all agency programs, initiatives, and communications, which is achieved through the leadership of Assistant Administrator Meagan Wolfe and Elections Supervisor Richard Rydecki, as well as the consistently excellent work of the entire WEC staff.

In addition to setting priorities, managing personnel, and working with Commissioners, my daily focus is on communicating with external partners and parties, at the federal, state and local levels. This extensive list includes:

1. At the federal level, the U.S. Elections Assistance Commission, Department of Homeland Security, FBI, U.S. Attorney's Office, and Congressional staff.
2. At the State level, the Governor's Office, legislators and legislative staff, Department of Administration management, Division of Enterprise Technology, the Adjutant General and Wisconsin Emergency Management, Department of Justice, Department of Transportation, and District Attorneys.
3. At the local level, county and municipal clerks and the leadership of their associations, county corporation counsel and municipal attorneys, law enforcement, League of Wisconsin Municipalities, and the Wisconsin Towns Association.
4. Other individuals and organizations such as political candidates and parties, state election directors and the National Association of State Election Directors, the National Association of Secretaries of State Elections Committee, the Elections Center, and various voter advocacy and election integrity organizations, and the media.

Given the size of the WEC and the range of its responsibilities, establishing and strengthening these relationships is vital for the success of the agency and its service to candidates, clerks and voters. That has been a key priority of mine since I joined the G.A.B. in 2008. That effort, and the current success of the Elections Commission, has benefitted from my work at both the G.A.B. and the WEC. It also has benefitted from my prior experiences and the relationships I have established throughout my career, including as a private attorney representing a variety of clients such as small businesses, banks, landlords, tenants, families, and public defender clients, as well as simultaneously serving as the municipal attorney for three small cities. While working as a private attorney, I was also closely involved with local chamber of commerce and economic development organizations, and assisted municipalities in bringing significant manufacturing employers to local communities.

I also gained experience working in both Congress and the State Legislature as well as in political campaigns for President, Congress, Governor and State Assembly; completing internships as a law student in both a district attorney's office and in assisting prisoners, and working in internships during college at a Wall Street investment firm as well as for a major national bank. From this variety of experiences and accomplishments I have gained a broad understanding of and empathy for many different perspectives, and observed firsthand the opportunities, pressures and concerns of both the powerful and influential as well as those who lack institutional power and influence.

My career of producing steady and quality work and developing expertise has resulted in an increasingly prominent role in the elections administration profession nationally. I serve as Wisconsin's state-level representative to the U.S. Election Assistance Commission's Standards Board, which has been involved in a multi-year effort to develop and approve new standards for testing and certification of electronic voting equipment that are on the verge of adoption. Since 2015, I have served as the Midwest Region Representative and member of the Executive Board of the National Association of State Election

Directors (NASED). Over the past year I have served as the legislative liaison for NASED, working with Congressional staff to review proposed federal legislation and providing feedback on behalf of state election directors.

Finally, I was recently nominated to serve as Secretary of NASED on a slate of recommended officers to be formally elected in mid-February. This election will eventually lead to my serving as President of the organization. This participation and leadership role in NASED has a tangible benefit to the State of Wisconsin, especially due to the organization's involvement in the evolving area of election security. For a period of three years, my position as a NASED officer will mean that I will also serve on the Government Coordinating Council (GCC), which was established as a result of the designation of state election systems as critical infrastructure by the Department of Homeland Security. The GCC is charged with assisting the federal government in preparing for and responding to threats to the nation's elections infrastructure, and in effectively communicating to and coordinating with state and local election officials. I have enclosed as Attachment C the correspondence from current NASED President Judd Choate which further outlines the significance of this role.

As you consider confirmation of my appointment, I ask that you take into consideration my experience and expertise, and the value which they bring to the Elections Commission and the State of Wisconsin, its local election officials, candidates, voters and taxpayers. For me, the position of Administrator is more than a job; it is a privilege and an around-the-clock professional responsibility. I routinely devote many evening and weekend hours working on behalf of the agency or working with its customers and partners. Along with the dedication of WEC staff, that constant effort ultimately pays off in smooth Election Days, and in consistently meeting unique challenges which arise outside of the agency's control.

Agency Accomplishments

The most accurate measure of what the Legislature and State can expect from my continued service as WEC Administrator is to review what the agency has accomplished during my 19-month tenure as Interim Administrator. One of the reasons the Commission unanimously appointed me in 2016 was to provide continuity to the agency, especially in light of the fact that the fall election cycle was already underway.

As I mentioned in my introductory meetings with all of you, my top priorities for the WEC during its first six months were the successful administration of those elections (including a court-ordered public information campaign regarding the Photo ID requirement) and the development of the agency's biennial budget. The unexpected task of completing the only statewide recount of the Presidential contest complicated matters, but WEC staff and local election officials rose to the challenge with the help of prior preparations and organization. Due to a legal challenge from the Jill Stein campaign, I assisted the Wisconsin Department of Justice and testified in a state court hearing to preserve the right of counties to determine whether ballots would be recounted by hand or using voting equipment.

Immediately following the recount process, WEC staff began focusing on the 2017 Spring Election, including reviewing nomination papers and ballot designs. Before, during and after the administration of the spring election cycle, agency staff has worked on numerous projects to improve elections systems

and IT applications as well as to provide clerk training and support. These projects include the following:

- Continual updates and improvements to WisVote;
- Working with the Department of Transportation to develop and launch the new online voter registration system in 2017, as required by the Legislature;
- Conducting voter data matching and voter mailings as a result of Wisconsin joining the Electronic Registration Information Center (ERIC);
- Completing the post-election voting equipment audit;
- Collecting, compiling, and reporting election and voting statistics from 1,853 municipalities to the federal government;
- Upgrading the BADGER Voters website and the Canvass Reporting System; and
- Completing testing campaigns of electronic voting systems from two separate vendors.

WEC staff is also developing an electronic poll book system as requested by the Legislature, to be available for municipalities to use if they so choose during the 2018 fall elections. I have enclosed a more thorough list of projects that agency staff tackled in 2017 as Attachment D. The efforts of WEC staff over its first year also took place in the midst of the agency's organizational transition and all of the administrative, personnel and budgetary changes which had to be completed.

If this record of recent agency accomplishments is not sufficient, the Senate also can consider my election-related work as Staff Counsel and then Elections Division Administrator at the Government Accountability Board. In those positions I gained experience in and was responsible for many regular and unique tasks. I served as the lead attorney for the 2011 statewide recount of the Supreme Court Justice election as well as the administration of the 2012 recall election for Governor and Lieutenant Governor. I lead the State's first effort to match voter records with another state when we undertook to compare data with Minnesota in 2011 in an attempt to detect double voting across state lines.

I have been intimately involved in the entire history of the Photo ID Law, including the agency's initial analysis of the legislation and research regarding implementation, resolving legal issues resulting from the legislation, and working with agency staff to develop resources for clerks and voters. I also provided significant assistance to the Department of Justice in the defense of the law, testifying in depositions as well as in two federal court trials, and promptly developed guidance when the Photo ID requirement was reinstated and then stayed over the course of several weeks just prior to the 2014 General Election. The WEC staff worked with the political parties and other organizations to develop, publicize and implement a voter education and assistance program prior to the 2016 General Election.

In short, I have had the opportunity to be involved in almost every major election event in Wisconsin over the past decade. I know the issues which national, state and local policymakers and election officials are facing, and I am familiar with the parties involved at all levels. The newest aspect of election administration, of course, relates to election security, and the WEC quickly took the initiative to focus on protecting its election systems and providing assistance to local clerks. Under my management, the WEC accelerated this effort prior to the 2016 fall elections, and WEC staff initiated a more comprehensive approach building upon that success in 2017. We have worked with numerous federal and state agencies as partners to ensure the greatest level of security for elections going forward.

The importance of this ongoing effort was crystallized with the news that Wisconsin was one of the states which Russian government actors targeted in unsuccessful attempts to scan voter registration databases. In Wisconsin, the effort extended only to an unsuccessful attempt to scan another state agency's systems in order to try to learn about the WEC's systems. The agency's experience with the Department of Homeland Security echoed the caution I had provided in testimony before the U.S. Senate Committee on Intelligence regarding the vital role of effective and accurate communication from federal intelligence agencies to the states.

The consensus among election and intelligence experts is that foreign government actors are likely to continue efforts to interfere in future U.S. elections. WEC staff is completing a comprehensive election security response plan, working with partners such as Wisconsin Emergency Management and the Division of Enterprise Technology. One additional tool the State of Wisconsin now has available is that I was recently granted interim secret clearance by the Department of Homeland Security while my application for permanent clearance is pending, a process that has been three months in the making as the federal government attempts to expedite such clearances for state election officials. This designation will permit federal officials to share classified information directly with me so that the WEC can evaluate the context of any potential cybersecurity or physical risks or threats to Wisconsin's elections infrastructure and respond appropriately.

As you consider confirmation of my appointment as Administrator, I ask that you recognize the WEC's track record to date, my prior experience in elections administration as part of the G.A.B., and the issues and challenges posed by the current election calendar. In this instance, past performance is a reliable indicator of future results and my approach to working with customers and partners. We are currently in the Spring Election cycle as ballots are being printed and absentee ballots distributed for the February 20, 2018 Spring Primary. Immediately after the Primary, WEC staff and local election officials will focus on preparations for the April 3, 2018 Spring Election, which will include working with a limited number of municipalities to use the electronic poll book technology as a pilot to obtain feedback before it is made available for the fall elections.

Of course, candidates are already campaigning for the fall election cycle and seeking our staff's assistance, with nomination papers due by June 1, 2018. There is a very short turnaround mandated by the Statutes to address challenges to nomination papers and certify candidates for the ballot. The Partisan Primary is on August 14, 2018 and the Gubernatorial and General Election is on November 6, 2018. WEC staff will continue to work on numerous other essential projects in addition to the ongoing training and assistance to candidates, clerks and voters which is tied directly to the election dates.

The agency is also awaiting two significant federal court decisions. The *One Wisconsin Institute* case is pending in the Seventh Circuit Court of Appeals and involves challenges to several major election laws, including the continued implementation of the Photo ID requirement as well as voter residency rules and absentee voting procedures. The outcome will require – at the very least – extensive communication with clerks and the public regarding the rules that will apply to upcoming elections. It may also require substantial changes to forms and procedures which clerks would need to integrate into their preparations and voter services.

The *Whitford* case is pending before the U.S. Supreme Court and involves a challenge to the redistricting legislation which occurred after the 2010 Census. If the Supreme Court upholds the current

district boundaries, no significant action will be required of the WEC. If the current district boundaries are declared unconstitutional and new boundaries are created, however, the agency may need to quickly undertake the major project of incorporating new districts into WisVote, depending upon the effective date of any new boundaries.

I would remind the Senate that the legislation creating the WEC established the term of the Administrator to end in an odd-numbered year. Presumably this was in recognition of the election cycle and the fact that any orderly transition to a new Administrator should occur in years where a General Election is not scheduled. All of the anticipated and possible election events in 2018 require coordination, communication and leadership in order to successfully fulfill the WEC's statutory responsibilities. The agency has an effective and efficient management team in place, and neither the agency nor taxpayers would be well-served by disruption in that leadership at this time.

Nonpartisanship and Impartiality

Given my personal qualifications and the performance of the Elections Commission which are outlined above, clearly there is no credible reason to question the Commission's original judgment in appointing me as Administrator or the quality of my work, should I continue in that role. That is the message I received from a clear majority of Senators during my introductory visits in late 2016 and early 2017. Obviously, the Attorney General's publication of a report related to investigations of the G.A.B. has rekindled strong feelings about that agency, and it is apparent that some Republican Senators require reassurance regarding my impartiality. My confirmation has become a lightning rod for any complaint ever lodged against the G.A.B., whether or not it was justified in the first place.

As a blatant example, I am aware that at least one Republican Senator still blames the G.A.B. and me, as part of the agency's legal team, for determining that the 2012 recall elections would be held in the Senate districts which existed prior to redistricting legislation took effect. 2011 Wisconsin Act 43 clearly and specifically stated that the new district boundaries were to go into effective for the 2012 General Election, including for special and recall elections. 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, something I will never do. To oppose my confirmation because I was among the staff which recommended that the Board carry out the Legislature's clear intent is frankly ridiculous and not credible. Please see my correspondence with Senator Stroebel (Attachment E) for additional details.

It is important to recognize that no political party has a monopoly on outrage at the G.A.B. The Republican Party did not invent it. For the first three years of the agency's existence, the Democratic Party was in the majority of both houses of the Legislature and its leaders were critical of actions and decisions of the G.A.B. I recall specific instances of Senator Decker and Speaker Sheridan expressing their displeasure with the agency. It strikes me that the current situation is the same tactic, different party. It is the unfortunate nature of politics.

In light of the partisanship of Wisconsin politics, I want to emphasize that the staff of the elections agency has never sworn a loyalty oath to either party and in fact quite the opposite is true. We are specifically bound by Statutes to be nonpartisan, and our staff consistently observes those requirements. We cannot expect our staff to be empty shells without opinions or political preferences, but they leave

them at home. As difficult as it may be for partisans to believe, we do not view our work through a partisan lens. Our customer service and implementation of legislative policy strives for excellence – regardless of the political affiliation of anyone requesting our assistance.

I have referenced my variety of work experiences above. I was raised to have a strong work ethic and to be conscientious, and I have demonstrated those qualities throughout my career and in all of my positions in state service. You know that to be true from your experiences with me and your staff's experiences with me and our staff. I would challenge you to find one individual in the Capitol or representing a political campaign or party who does not say I treated them with civility, respect, and fairness, regardless of political affiliation. And that includes those who have expressed concerns about my confirmation.

You can also consult members of the Wisconsin Elections Commission, particularly those who have been appointed directly by legislative leaders and who have unanimously supported my appointment. Ask Don Millis, an original member of the Commission appointed by Senator Fitzgerald who also served on the State Elections Board, the predecessor to the G.A.B. Ask Steve King, another original member of the Commission appointed by Speaker Vos, who has a long history in Republican Party politics and who now serves as the U.S. Ambassador to the Czech Republic. Ask Senator Fitzgerald's current appointee, Commissioner Jodi Jensen, who has worked as an aide to Republican legislators. Or ask Commissioner Dean Knudson, who was one of the lead authors of the legislation which abolished the G.A.B. when he served in the State Assembly, and who presumably knows the legislative intent and how the Legislature intended the agency to operate.

These individuals, along with the former clerks appointed to the Commission by the Governor, are most familiar with my management of the agency and the perception of the agency by local election officials and the public. They have the greatest stake in the performance of the WEC because they are responsible for the overall success of election administration in Wisconsin and will be among the individuals who would be questioned if significant errors or lapses occurred. You can ask them, or simply rely on the fact that all eight Commissioners who have served to date (including five Republican appointees) have supported my original appointment as Administrator or my continuing to serve in that position.

I also point to my track record, and to those with whom I have worked, to confirm my impartiality. You can ask the Governor's Office and Department of Justice about my personal assistance and intervention during several weekend teleconferences to facilitate the prompt conclusion of the 2016 Presidential recount in order to ensure that Wisconsin's electoral votes would not be put in jeopardy. Ask representatives of the Republican National Committee about my assistance when it was seeking to develop legislation requiring local clerks to track absentee ballots in 2016. Ask your legislative staff about the consistent and reliable input we provide, both in drafting legislation and in implementing it. Recently, my wife reminded me of the summer Saturday where I spent two to three hours on the phone with Chad Zuleger of Representative Bernier's staff discussing a complex piece of legislation while my family waited for me to go to Devil's Lake. That was an extreme – but not unusual – example of the standards of service I strive to provide.

It has been more than a month since the Attorney General issued his report related to the John Doe investigations, and still nobody has told me what I apparently did to deserve the wrath and opposition of

anybody in the state Senate, other than to be a convenient scapegoat for any criticism of the G.A.B. The DOJ report merely indicates that I assisted in reviewing and minor editing of legal documents, not for the G.A.B.'s actual investigation but in subsequent litigation. If that is deemed a disqualifying act, then you must consider that I have also reviewed and edited many legal briefs and other court documents drafted by the Department of Justice for litigation defending Wisconsin election laws. The Department of Justice has sometimes ended up on the losing side of those court decisions. And yet nobody has asked for the resignation of those DOJ attorneys or for my resignation because I assisted in defending laws enacted by the Legislature, simply because a court ruled against the State's legal position.

It is certainly your prerogative to vote to confirm or not confirm my appointment, despite the qualifications and value I offer to the State and have outlined above. But doing so would not be based on an objective view of my credentials or the performance of the agency under my leadership. It would be based on a vague and unsubstantiated claim of "lack of confidence." This was not the message I received from almost all Senators during my introductory visits, and there is no valid reason for a change in that opinion based on the agency's performance since that time. We also know that there is no lack of confidence among either our customers or partners, or among the public. If there were, I would surely know about it, as clerks and the public have never been shy about expressing their concerns directly to the agency. Furthermore, no legislator has forwarded any concerns from constituents to me or the WEC regarding my qualifications or performance as Administrator of the WEC.

I believe my qualifications and performance have demonstrated my ability to lead the Wisconsin Elections Commission with the confidence of the staff and Commissioners, all of the agency's customers and partners, and the public. The hallmarks of my tenure and management philosophy have been quality customer service, innovation and excellence using staff skills; effective communication; and a focus on election security, all of which have maintained Wisconsin's place among the leading states in election administration.

I appreciate your time in reviewing this correspondence. I am requesting an opportunity to meet with any Senator who continues to have reservations regarding confirmation of my appointment or has further questions. I am also requesting that you provide me with any concerns you may have received from constituents so that I may assist you in attempting to address them. Finally, I am asking for your support in the confirmation of my appointment as WEC Administrator. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Michael Haas". The signature is written in a cursive, slightly slanted style.

Michael Haas
Interim Administrator

Attachments

cc: Members, Wisconsin Elections Commission