

**Remarks by Kevin J. Kennedy  
Director and General Counsel  
Wisconsin Government Accountability Board**

**Before the Joint Legislative Committee on Finance**

**March 30, 2011**

**2011 Senate Bill 27  
2011 Assembly Bill 40  
The Biennial Budget**

Good morning Co-Chair Darling, Co-Chair Vos, and members of the Joint Committee on Finance. Thank you for the opportunity to talk with you about the proposed budget for the Government Accountability Board described in 2011 Senate Bill 27/2011 Assembly Bill 40.

The Government Accountability Board is a relatively new agency that embodies Wisconsin's longstanding commitment to ensuring integrity and public confidence in state government. This legacy has its roots in the development of our state constitution in 1848 as well as the implementation of many initiatives since that time to engage citizens and open government to public scrutiny.

Our agency has built on this legacy to set the tone for a new way of ensuring integrity and public confidence in state government. We do this by providing resources that empower Wisconsin citizens to hold their state public officials and candidates accountable along with the lobbyists and political committees attempting to influence government operations and elections. At the core of this set of public service is the administration and management of fair, transparent elections which provides the foundation for public confidence in its elected representatives.

We are poised to build on our past success and we will carryout our mission in an environment of severe fiscal constraints and challenges. The Government Accountability Board (G.A.B.) began its existence by making financial adjustments to address gaps

created in its budget by the transition from two agencies to a single citizen board responsible for the administration of campaign finance, elections, ethics and lobbying laws. We managed the past budget cycle with significant reductions in our base funding. Coming off an historic election -- and faced with continued financial challenges that impact all levels of government in Wisconsin -- we are being asked to implement significant changes in election administration as we enter the next biennium. In the past four weeks the agency has begun preparations to address a unique and extraordinary election and campaign finance event in the form of an unprecedented number of recall initiatives directed at members of the State Senate.

Our legislatively-mandated mission is to ensure governmental accountability through the availability of detailed information for public consumption in a timely manner and vigorous enforcement of the laws under our jurisdiction when warranted. We are fortunate to have been able to assemble a highly motivated and professional staff which are committed to ensuring public confidence in the integrity of state government operations. This dedicated cadre of public servants ensures the citizens of Wisconsin have access to their government through free, fair and transparent elections. They also provide citizens with resources to ensure accountability and transparency in the operations of state government.

### **The Impact of the Proposed 2011-2013 Budget**

Our top priority in crafting our agency budget request was to ensure the agency maintained the personnel resources to continue to serve Wisconsin citizens, local election officials, candidates for public office, political committees and entities seeking to influence government policy. The agency has 43 authorized positions which are staffed with the best public servants in Wisconsin government. However, 26 of those positions are temporary staff hired with federal funds to ensure compliance with federal mandates related to election administration. We have implemented the requirements of the Help America Vote Act (HAVA), but we must now sustain those election infrastructure improvements along with additional federal mandates for serving military and overseas citizens.

We asked in our budget request that 22 of these positions be made permanent to serve Wisconsin voters and support local election officials who are charged with carrying out the new requirements for conducting elections. These responsibilities will not go away, and already the Legislature is poised to require additional administrative processes to ensure public confidence in the conduct of elections.

The proposed budget does not address this need. It will have to be faced in the next budget cycle because our federal funding will run out. We have painstakingly nurtured the limited amount of HAVA funding to implement the changes required by state and federal law in the past 10 years. The proposed budget does not cut our personnel resources, but we will have to make a financial commitment in the future to maintain our current level of election support. This is particularly true given the drastic cuts local government is making. Simply put, it is not realistic to expect that the statewide administration of elections can be conducted with the limited staff and resources in place prior to the passage of HAVA, and the requirement to create and maintain a statewide voter registration system.

The proposed agency budget contained in 2011 Senate Bill 27/2011 Assembly Bill 40 serves the agency well by maintaining our current level of staffing and restoring key information technology resources for our campaign finance and lobbying applications. The major challenge to the G.A.B. presented by the provisions of 2011-2013 budget legislation is the 10% base reduction (\$112,600) in GPR base operations for supplies and other non-personnel costs. The funding needs to be restored in this budget and we have a proposal to recoup \$91,800 by eliminating a program that has served its usefulness but has now become ineffective, inefficient.

The 10% annual reduction is a permanent reduction in the agency base that cripples our effectiveness because it saps the resources needed to sustain the services we provide to Wisconsin citizens and local election officials. The proposed budget leaves the agency with only \$1.275 million in our supplies and services line. The bulk of this money goes for information technology support. This includes the GPR share of hosting for our

Statewide Voter Registration System (SVRS), the hosting, maintenance and master lease payments associated with our Campaign Finance Information System (CFIS), website hosting, and the cost of providing desktop support, email and data storage to our 17.75 non-federally funded staff. The largest portion of these IT costs consists of transfers to the Department of Administration (DOA.)

Other essential operating costs include rent, telecommunications, office supplies, printing and postage. We spend almost \$10,000 annually on DOA charge backs.

It is essential that the final budget contain adequate resources to enable the agency to carry out its statutory mission to maintain government accountability and provide the public with essential information on the conduct of Wisconsin government, state public officials, elections and election campaigns. This is especially true if the Legislature is seriously considering building on the core commitments to good government already in place by requiring photo identification for voting, and increased transparency of government operations.

The G.A.B. needs to maintain the GPR funding proposed to be cut because it is essential to doing its job as required by current law. The agency has a limited number of program staff funded with GPR money. There are only four GPR funded staff to administer elections, the same number as before the federal mandates of HAVA and the state legislative mandates of 2003 Wisconsin Act 265 and 2005 Wisconsin Acts 92, 333 and 451. We have been relying on federal HAVA funds to meet those mandates as permitted by federal law. This cannot continue beyond the next budget cycle when HAVA funds will no longer be available.

The current economic crisis has already postponed our planned second step for transitioning from the use of limited federal HAVA funds to maintain the current legislative commitment to administer new election requirements. The agency currently funds 26 election administration positions with HAVA dollars. In order to provide support to local election officials and carry out HAVA requirements, this staffing level

must be maintained. The agency has been able to postpone this transition through the next budget cycle.

In addition, the responsibilities for administering the campaign finance, ethics, lobbying and contract disclosure laws are handled by six staff funded with a combination of GPR and program revenue. Administrative, budget and personnel support is provided by five staff funded with a combination of GPR and program revenue.

A \$112,600 annual reduction in GPR funding will gut these agency programs. Without this funding the agency becomes a hollow promise with respect to public disclosure along with fair and transparent administration of elections. The agency also becomes a toothless tiger with respect to enforcement of government accountability matters such as violations of the campaign finance and lobbying laws, and the ethics code for state public officials.

#### **Proposed Budget Alternative to Ensure Continued Agency Effectiveness**

There are some viable options for reducing the cost of G.A.B. operations while maintaining a financial commitment to ensuring the programs administered by the agency and the laws enforced by the G.A.B. are not severely damaged. 2005 Wisconsin Act 333 created a municipal reimbursement program to provide funding to certain municipalities to cover the cost of expanded voting hours in order to conform with the state's uniform 7:00 am to 8:00 p.m. voting schedule. We propose eliminating this program and keeping the \$91,800 GPR funding allocated in the Governor's budget in the agency's base.

This program has outlived its usefulness. The \$91,800 represents a transfer of state funds to a relatively small number of municipalities, 200-325 out of 1,850 depending on reimbursement claims over a two-year election cycle. The average payment is less than \$60 per municipality per election. The \$91,800 available for these reimbursements does not include or justify the amount of agency staff resources used to process these claims. No less than five staff members are involved in reviewing, approving and paying each

claim. This does not include the DOA resources to cut the checks and return them to the G.A.B. for mailing.

If base GPR funding has to be reduced, it should come from this source rather than a permanent base reduction that will eviscerate the agency's ability to deliver essential and core public services. We are constantly striving to improve delivery of agency services and support our local election partners but this program is not essential to state or local government. It is a classic example of a program that costs more than the money allocated.

On behalf of the Government Accountability Board I request the Committee eliminate the polling place extended hours reimbursement program and transfer the funds to the agency base GPR budget.

### **Key Agency Issues**

This legislative session presents a number of financial challenges for the agency. Three in particular should be addressed as part of the budget. Like the supplies and non-personnel GPR base reduction issue, we also have a proposed solution for one-time funding to address these financial challenges.

The Legislature is poised to enact a photo identification requirement for voting that will cost money to implement. Our fiscal estimate for the cost to modify our SVRS application, conduct a voter information program and carry out the required continuing outreach program for voters with limited access to picture ID is \$2.1 million dollars. Money is needed for this initiative especially with recent studies indicating that implementing photo ID legislation in other states has cost more than anticipated by initial fiscal estimates.

As part of our biennial budget submission the Government Accountability Board requested a legislative change to enable the agency to share voter registration and driver license data with other states to improve the quality of voter information in SVRS. This

enables the agency to remove ineligible voters from the system and provide a source of outreach for unregistered voters. This coupled with an online voter registration portal will eliminate the use of almost all third party special voter registration deputies (SRDs.) Municipal clerks could significantly limit the use of SRDs which would increase public confidence in the integrity of voter registration data. This too will cost money.

The agency has been relying on a one-time infusion of federal funds to improve the administration of elections and meet federal election infrastructure mandates. This coupled with the combination of the former Elections and Ethics Boards has presented a number of administrative challenges. It is difficult to manage the information technology, purchasing, budget and support of the combined agency when federally funded activities have to be segregated from GPR and program revenue funded activities. This results in a duplication of administrative services that interferes with our ability to deliver services to agency customers.

The agency would benefit if some of our federally funded support positions could be funded partially or completely with GPR or program money. This would eliminate the duplication of efforts when managing IT resources in particular. It also would permit staff to provide support across funding sources for purchasing and budget preparation. When federal funding runs out, this will have to be addressed. It would be highly beneficial to the efficiency of the agency and service to our customers if this could begin now. I request that the Committee approve five (5) FTE permanent positions to be funded with a combination of federal, GPR and program revenue money. These positions would come from already approved federal project positions. The positions include a website administrator, an information technology specialist, two IT support staff (help desk) and an accountant. This requires legislative authorization and funding.

This can be paid for, at least in part, by the elimination of the Wisconsin Election Campaign (WECF) and Democracy Trust (DTF) Funds. In November of last year the G.A.B. authorized me to recommend elimination of the WECF as a cost reduction initiative in light of the looming budget crisis.

Public funding for election campaigns was authorized in 1978 as an essential element in a mix of campaign funding to provide the opportunity for a broad range of candidates to present their platforms to the voters. However, the current level of funding is woefully inadequate to support the policies established when the program was created.

The \$1 taxpayer check-off generated only \$166,300 in 2010. This amount is apportioned among several different accounts to fund statewide and legislative races. Only a small number of eligible candidates participate and the program does not provide a viable source of funding for those candidates. It is clear from the experience of Arizona, Connecticut and Maine that a different funding stream than the taxpayer check-off is essential to support a viable program of public financing for political campaigns.

In 2011 the check-off is \$3, which may generate slightly more than \$450,000, assuming roughly the same level of taxpayer participation. More importantly, the proposed budget eliminates the check-off beginning in 2012 and replaces it with an add-on. This will likely generate a much smaller amount of money.

The budget proposal transforms the original programs from a means of providing significant campaign funding for state candidates for partisan office and candidates for the Supreme Court to an underfunded mechanism for delivering nominal amounts of campaign funds with significant administrative costs. It is a significant waste of limited state funds to maintain these programs at a subsistence level given the diversion of precious staff resources at the G.A.B and the Department of Revenue to provide a few dollars to a handful of candidates for public office.

There is currently almost \$1 million in the WECF. An additional \$450,000 may be generated by the 2010 tax filings. This money can be much better used to help pay for the costs of implementation of photo identification for voting, sharing voter and driver license data with other states and enabling the G.A.B. to operate more efficiently with shared funding of additional key staff positions. In addition the agency does not have to allocate scarce personnel resources to administer programs that will barely serve a small number of candidates.

If all bets are off in addressing the financial constraints imposed by the current economy, it behooves the Legislature to examine the viability of these programs as proposed in the biennial budget legislation, 2011 Senate Bill 27/2011 Assembly Bill 40.

### **Conclusion**

The programs administered by the G.A.B. and the laws enforced by the G.A.B. are the cornerstone of our democracy. Since statehood, Wisconsin has committed to providing a transparent government that empowers citizens to hold its state public officials and candidates accountable along with the lobbyists and political committees attempting to influence government operations and elections. Accountability comes at a price, but the conduct of fair, transparent elections provides the foundation for public confidence in its elected representatives.

Thank you for the opportunity to share my thoughts with you. I hope this information contributes to shaping an agency budget that enables the G.A.B. to continue to engender public confidence in Wisconsin government and the conduct of elections and election campaigns in this state. I look forward to working with you to continue Wisconsin's historic commitment to an accountable, responsive and transparent government. The members and the staff of the Government Accountability Board are available to respond to any of your questions or concerns.

Respectfully submitted,

A handwritten signature in black ink that reads "Kevin J. Kennedy". The signature is written in a cursive, flowing style.

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