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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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<b>2015 Assembly Bill 388</b>	<b>Senate Amendments 1 and 2</b>
<i>Memo published:</i> November 9, 2015 <i>Contact:</i> Jessica Karls-Ruplinger, Deputy Director (266-2230)	

This memorandum describes Senate Amendments 1 and 2 to 2015 Assembly Bill 388, relating to reorganizing the Government Accountability Board (GAB). The bill replaces the GAB with two commissions: (1) the Elections Commission; and (2) the Ethics Commission. Under the bill, the Elections Commission administers and enforces election laws, and the Ethics Commission administers and enforces campaign finance, ethics, and lobbying laws. On October 21, 2015, the Assembly adopted Assembly Amendments 1 and 4 to the bill and passed the bill, as amended.<sup>1</sup>

Under the bill, the members of the Elections Commission and the Ethics Commission serve for five-year terms and are appointed by legislative leadership or the Governor. Each commission is under the direction and supervision of an administrator, appointed by the commission and confirmed by the Senate. The bill makes additional changes relating to investigations, enforcement, advisory opinions, administrative rules, and policies and procedures.

Senate Amendments 1 and 2 make changes to the bill relating to the membership of the Ethics Commission, selection of a commission chairperson, appointment and removal of a commission administrator, and transition from the GAB to the commissions.

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<sup>1</sup> All descriptions of Assembly Bill 388 in this memorandum are descriptions of the engrossed version of the bill.

## **COMMISSION MEMBERSHIP**

### **The Bill**

Under the bill, the Elections Commission and the Ethics Commission each consists of at least six members. The members serve for five-year terms.

Each commission has the following members: (1) one member appointed by the Senate Majority Leader; (2) one member appointed by the Senate Minority Leader; (3) one member appointed by the Assembly Speaker; (4) one member appointed by the Assembly Minority Leader; (5) one member for each political party, other than the two major political parties, qualifying for a separate ballot whose candidate for Governor received at least 10% of the vote in the most recent gubernatorial election and who is nominated by the Governor and confirmed by a majority of the Senate<sup>2</sup>; and (6) for the Elections Commission, two members who formerly served as county or municipal clerks and who are nominated by the Governor and confirmed by a majority of the Senate, and, for the Ethics Commission, two members nominated by the Governor and confirmed by a majority of the Senate.<sup>3</sup> Appointees to the commissions may serve prior to Senate confirmation.

### **Senate Amendment 2**

Senate Amendment 2 changes the membership of the Ethics Commission by replacing the two members in category 6, above, with two former judges.

Under the amendment, the two former judges must have formerly served as judges for a court of record in this state and been elected to those positions. The former judges are nominated by the Governor and confirmed by a majority of the Senate. For these nominations, the legislative leadership of the two major political parties that received the largest number of votes for President must prepare a list of not more than three individuals such that each major political party has prepared one list. The Governor must choose one nominee from each list.

## **COMMISSION CHAIRPERSON**

### **The Bill**

Under the bill, the chairperson of the Elections Commission and the chairperson of the Ethics Commission are each chosen by affirmative vote of at least two-thirds of the commission members at the commission's first meeting every two years. The chairperson serves a two-year term. The first chairperson is chosen from the commissioners affiliated with the same major political party. The major political party from which to select the first chairperson is determined

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<sup>2</sup> For the members in category 5, the Governor must choose each nominee from a list of three individuals selected by the chief officer of that political party.

<sup>3</sup> For the members in category 6, the legislative leadership of the two recognized political parties that received the largest number of votes for President must prepare a list of not more than three individuals such that each recognized political party has prepared one list. The Governor must choose one nominee from each list.

by lot. The second chairperson is chosen from the commissioners affiliated with the other major political party. Each subsequent chairperson is chosen from the commissioners affiliated with the two major political parties on a rotating basis.

### **Senate Amendment 1**

Senate Amendment 1 provides that the chairperson of each commission must be selected from among the commission members who are appointed by the Senate Majority Leader, Senate Minority Leader, Assembly Speaker, and Assembly Minority Leader. The amendment otherwise retains the procedure created in the bill for the selection of the chairperson.

## **COMMISSION ADMINISTRATOR**

### **The Bill**

The bill provides that the Elections Commission and the Ethics Commission are each under the direction and supervision of an administrator who serves for a four-year term expiring on July 1 of the odd-numbered year.

The bill requires the administrator of the Elections Commission to be appointed by a majority of the members of the Elections Commission, with the advice and consent of the Senate. Similarly, the administrator of the Ethics Commission is appointed by a majority of the members of the Ethics Commission, with the advice and consent of the Senate. Until the Senate confirms an administrator, an interim administrator selected by a majority of the commission directs and supervises the commission. If a vacancy occurs in an administrator position, the commission must appoint a new administrator, and submit the appointment for Senate confirmation, no later than 45 days after the date of the vacancy.

### **Senate Amendment 1**

Senate Amendment 1 provides that if a commission has not appointed a new administrator at the end of the 45-day period, described above, the Joint Committee on Legislative Organization (JCLO)<sup>4</sup> must appoint an interim administrator to serve until a new administrator has been confirmed by the Senate, but for a term of no longer than one year. If the administrator position remains vacant at the end of the one-year period, the process for filling the vacancy through JCLO is repeated until the vacancy is filled.

In addition, the amendment provides that an administrator may be removed by the affirmative vote of a majority of all members of the commission voting at a meeting of the commission called for that purpose.

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<sup>4</sup> The membership of JCLO consists of the Assembly Speaker, Senate President, and the majority and minority leaders and assistant majority and minority leaders of the two houses. [s. 13.80 (2), Stats.]

## **TRANSITION TO THE ELECTIONS COMMISSION AND THE ETHICS COMMISSION**

### **The Bill**

Under the bill, the terms of office of all members of the GAB holding office on June 30, 2016, expire on June 30, 2016. On June 30, 2016, all members of the Elections Commission and the Ethics Commission who are appointed and qualify for office must take office. One-half of the members of the Elections Commission who are appointed as initial members of the commission must serve for terms expiring on May 1, 2019. One-half of the members of the Ethics Commission who are appointed as initial members of the commission must serve for terms expiring on May 1, 2019.

In addition, under the bill, the Governor, Senate Majority Leader, Senate Minority Leader, Assembly Speaker, and Assembly Minority Leader may make appointments and nominations to serve on the Elections Commission and the Ethics Commission and the Senate may act upon the nominations before the term of office of the appointees begins. The initial appointees may serve prior to Senate confirmation.

### **Senate Amendment 1**

Senate Amendment 1 retains the provisions in the bill relating to terms of office of members of the GAB, the Elections Commission, and the Ethics Commission, but it provides specific provisions relating to selection of initial appointees and administrators.

First, the amendment provides that the Governor, Senate Majority Leader, Senate Minority Leader, Assembly Speaker, and Assembly Minority Leader may appoint members to serve on the GAB in a nonvoting capacity effective February 1, 2016. Such appointees may also be appointed to the Elections Commission or the Ethics Commission and may serve prior to Senate confirmation.

Second, under the amendment, the initial appointees may identify and appoint an individual to serve as administrator and the Senate may confirm the appointment of the administrator, but that individual may not serve as administrator until June 30, 2016.

Third, the amendment provides that members of the Elections Commission and the Ethics Commission must appoint an individual to serve as administrator no later than 45 days after June 30, 2016. If a commission has not made such appointment, JCLO must appoint an interim administrator to serve until an administrator has been confirmed by the Senate, but for a term of no longer than one year. If the administrator position remains vacant at the end of the one-year period, the process for filling the position through JCLO is repeated until the position is filled.

Lastly, the amendment provides that the chairperson of the Assembly Committee on Campaigns and Elections or the Senate Committee on Elections and Local Government may request individuals employed by the GAB on the date of the bill's publication, and the individual who is serving as director and general counsel of the GAB on the date of the bill's publication, to appear before either or both committees for the purpose of providing information

to the committees about the progress of transitioning from the GAB to the Elections Commission and the Ethics Commission.

### **BILL HISTORY**

On November 6, 2015, Senate Amendment 1 was offered by Senators Vukmir, LeMahieu, and Nass, and Senate Amendment 2 was offered by Senators Olsen, Harsdorf, Petrowski, Cowles, and Marklein. On that same date, the Senate adopted Senate Amendment 1 on a vote of Ayes, 18; Noes, 14; adopted Senate Amendment 2 on a voice vote; and concurred in Assembly Bill 388, as amended, on a vote of Ayes, 18; Noes, 14.

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