Testimony of Jay Heck - Executive Director
Common Cause in Wisconsin

2015 Assembly Bill 388 & 2015 Senate Bill 294 – GAB
“Reorganization”

October 13, 2015

State Senators & State Representatives,

We vehemently oppose this legislation, which was unveiled for the first time less than a week ago, and then “noticed” for this public hearing after the close of business hours last Friday night. It is based on a series of false charges and premises, almost all refuted or disproved. It will destroy one of the best state agencies in Wisconsin, which was created by a virtually unanimous bi-partisan consensus in the Legislature less than 9 years ago largely because it was needed to help repair the damage inflicted on the citizens of Wisconsin because of a bipartisan political scandal in this building, that brought down five of the top legislative leaders of both political parties in both chambers – an unprecedented event in American history.

I was here and very much involved in those events in 2001-2002 and after the criminal charges were filed in June and October, 2002, I was very much part of the discussion about what could be done to make sure such disgrace and scandal did not occur in Wisconsin ever again. Those discussions stretched out over four years, until finally, in January, 2007 the stars finally aligned and the Government Accountability was born. There was unanimous agreement that the arbiters of elections, campaign finance law, ethics and lobbying law must be non-partisan after the complete dysfunction and lack oversight or even curiosity about the illegal campaign activity occurring and increasing in this Capitol in the late 1990’s and into 2002. There was bipartisan
agreement that retired judges were the ideal citizens to comprise this new authority. And there was ongoing bipartisan discussion and negotiations between majority Assembly Republicans and majority State Senate Democrats to reach an agreement. I met numerous times with then-Assembly Speaker Mike Huebsch, and with then-Assembly Assistant Majority Leader Mark Gundrum as well as with State Senate Democratic Leaders. Neither side, and certainly not Common Cause in Wisconsin, got anything close to what we wanted in the final agreement. Certainly, Republican State Senator Mike Ellis, who was the chief architect of the GAB idea, didn't get all that that he wanted, nor did the Democratic or Republican legislative leaders or anyone involved in the crafting of the legislation. But there was an overriding concern and determination to reach agreement because the citizens of Wisconsin expected and demanded that they do so. And, it had to be done to resurrect the reputations of Wisconsin legislators of both political parties after the disgrace of the Legislative Caucus.

Assembly Speaker Robin Vos has been quoted as saying “the GAB was a noble experiment that failed,” and therefore needs to be replaced. The GAB did not fail. It has acted exactly as it was charged to do by both political parties in 2007. It has been non-partisan and independent and has angered partisans of both political parties because it should not and has not responded to narrow partisan concerns. The six judges on the GAB Board apply the law to their decisions, not partisan concerns. That’s what judges, even retired judges, are supposed to do.

Speaker Vos and this legislation responds to “this noble experiment” by proposing to replace it with an ignoble, proven disastrous and failed model with partisans back in control of our elections, campaign finance, ethics and lobbying – just as the discredited State Elections and State Ethics Boards were. This legislation divides the GAB into an Elections Division and an Ethics Division, which is little more than putting new lipstick on an old pig. And this legislation proposes their “new” partisan model – appointed by your leaders – look a lot like the Federal Elections Commission, easily the most ineffective, dysfunctional and least respected federal agency there is. 3 to 3 ties will result in no action, compliance or enforcement – which under this construct is almost guaranteed in virtually every controversial issue they will face.
The worst part of this legislation, as everyone knows, is the elimination of the independent stream of funding for investigations into possible corruption. It was the heart and soul of the establishment of the GAB in 2007. Many legislators of both parties didn’t like it then, but they all realized at that time, even if you do not now, that it was absolutely critical and necessary in order for the GAB to function effectively and to have the confidence of the citizens of Wisconsin who it was meant to serve. This legislation puts the funding of investigations back into your hands. How convenient. How self-serving. How misguided.

The non-partisan, independent GAB served the citizens of Wisconsin well. And, believe it or not, it served you very well. Because it is non-partisan and has the ability to investigate corruption in this building, and elsewhere, it had the very healthy effect of keeping at least some of you from acting on some your darker impulses. It was preventative. And you knew there could be consequences for acting unlawfully. Just as your former legislative leaders had to face 15 years ago.

This legislation brings back the partisans and ends the non-partisanship. It brings the funding of any investigations back under control of the very folks who could be investigated.

What goes around comes around. I predict that enactment of this legislation will hasten the day when we have another massive political scandal in this building involving violations of election law, campaign finance law, ethics law and/or lobbying law.

The biggest losers, as they were in 2002, will be the citizens of Wisconsin.