

Could sleepy office nix Wisconsin's pick for president?

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<http://newiproggressive.com/images/stories/S5/wi-state-seal-s450.png>



GOP candidate for secretary of state says the job entails veto power over election certification.

MADISON - After decades of having its powers chipped away by the Legislature, the Wisconsin secretary of state's office has become largely irrelevant. The office holder's most important remaining duty is to sit on the state [Board of Commissioners of Public Lands](#) , which oversees some state investment funds and land holdings.

But the office is also the [official repository](#) of the Great Seal of Wisconsin, which is affixed to various documents. And that, according to one of the three Republican candidates for secretary of state vying in the Aug. 9 primary for the right to run this fall, gives it absolute power to block the electorate's choice for president.

"The secretary of state has to sign a sheet of paper for the election," GOP contender [Jay Schroeder](#) told a gathering of the Dane County Republican Party at a city park in Sun Prairie on June 7. "I wouldn't have signed it. Period." The audience applauded. "That means they wouldn't have been awarded," he said.

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GOP takeover

Wisconsin Republicans have made [no secret](#) of their desire to imbue the secretary of state's office with new powers to oversee elections — that is, if a Republican manages to win in November.

Loudenbeck, who has the superior resume among the GOP contenders but may not be extreme enough to secure a potentially pivotal endorsement from former President Donald Trump, wants the secretary of state's office to play a larger role in elections, as is the case in some other states.

"I think there's a lot of frustration from the public that there is no one directly accountable to the voters that is involved in the administration of elections," she [told](#) Wisconsin Public Radio late last year, suggesting that the office could "serve as a check" in the Elections Commission, which many Republicans want to abolish. She said this could include "participating in some of the duties the [Wisconsin Elections Commission] conducts, or even just serving on the commission."

Schroeder and fellow GOP primary contender Schmidtka have both made election integrity a central theme of their campaigns. Schroeder, in [announcing](#) his candidacy last November, called for returning oversight of state elections to the secretary of state's office, declaring "The days of rigging elections for fraud are over."

At the Dane County GOP event last week, Schroeder tore into Loudenbeck, saying "She voted to create WEC. She voted for the \$10 million budget of WEC. She wants to be a check on WEC. For nine months now. I've been saying I want to fire WEC." He said a "Trump advisor" had

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dubbed her “Amy Silentbeck,” for not doing more to fight make-believe fraud: “You want elections cleaned up? Vote for me. You want the same crap? Vote for my opponent.”

In April, La Follette [told](#) the Examiner that granting new powers to the secretary of state's office was a risky proposition.

“In a lot of states a Republican governor and a Republican secretary of state could throw out the election and send their own people to Washington,” he warned. “If Evers is defeated and the legislators are willing, something like that could happen in Wisconsin.” Indeed, elections in Wisconsin were [overseen](#) by the secretary of state's office until 1974, when La Follette was first elected.

But while the scenario described by La Follette would require legislative action and be subject to the governor's veto, the one envisioned by Schroeder would not. The secretary of state, acting alone, could refuse to affix the great seal and arguably block the certification.

Any such move would certainly be contested in the courts, which could ultimately mean subjecting it to the judgment of the strict constructionists who comprise the majority on the Wisconsin and U.S. Supreme Courts. They would have to look at the statutory language that seems to say the certificate “shall” include the great seal and decide that it is just as valid if it does not.

Amending the secretary of state's powers

The issue has come up in a different form before. In 2011 La Follette, at the [direction](#) of a Dane County judge,

[refused to publish](#)

the passed version of Act 10, the state law kneecapping public employee unions. The state Supreme Court, then as now dominated by conservatives,

[ruled](#)

that the judge had exceeded her jurisdiction in putting a hold on the law, meaning there was nothing to preclude La Follette from publishing the bill. Two years later, the Legislature

[passed a bill](#)

that stripped the secretary of state of the power to delay publication of new laws.

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Loudenbeck's campaign did not respond to an inquiry for this article asking whether she believes the statute cited by Schroeder gives the secretary of state legal authority to deny an election result by refusing to sign and whether she would have sought to use this authority to block the 2020 election result.

The third GOP contender for secretary of state on the [Aug. 9 ballot](#), Daniel Schmidtka, also did not respond to the same query. He

[declares](#)

on his website that the "mission" of his campaign is "abolishing the Wisconsin Election Commission and returning oversight and certification of elections to the Secretary of State."

[Dmitry Becker](#), an early GOP candidate for secretary of state who [dropped out](#) of the race in late April, throwing his support behind Loudenbeck, tells the Examiner that he disagrees with Schroeder's interpretation of the statute, which he thinks is strategic. The statute, he says, makes no mention of the secretary of state's office, only to the great seal, and, in his view, the person holding this office "doesn't get to decide whether they want to affix the seal."

As Becker sees it, Schroeder is advancing these claims because he is "really trying to gun for the endorsement of Donald Trump — he knows he's not going to win the primary without it."

Would Trump prefer endorsing a candidate who wants to be a check on the Wisconsin Elections Commission or one who is calling for burning down the house and suggesting that he would use the powers of the office to throw an election Trump's way?

Is that even a question that needs to be asked?

by Bill Lueders, [Wisconsin Examiner](#)
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