



# JIM STEINEKE

ASST. MAJORITY LEADER

STATE REPRESENTATIVE • 5<sup>th</sup> ASSEMBLY DISTRICT

(608) 266-2418

Toll-Free: (888) 534-0005

Rep.Steineke@legis.wi.gov

P.O. Box 8953

Madison, WI 53708-8953

January 20, 2014

10:05 AM/411 South

Testimony on Senate Bill 478/Senate Committee on Education

-----  
**Relating to: school district expenditures for community programs and services  
and requiring the exercise of rule-making authority.**

Good afternoon Chairman Olsen and Committee members,

The Community Service Fund Program, known as Fund 80, allows local school boards to establish programs for community education, training, recreational, cultural or athletic programs and services, outside the regular curricular and extracurricular programs for pupils. School districts may charge user fees to cover the costs of the programs. The portion of the cost of these programs not covered by user fees is passed on to the property taxpayers and is not counted as part of the district's revenue limits.

Unfortunately, the Fund 80 option is being taken advantage of due to insufficient parameters on how to use the funds. Although the Department of Public Instruction has guidelines posted on their website, the guidelines are not binding. This is allowing school districts to fund programs that are inappropriate uses of Fund 80 with the costs being passed on to property taxpayers.

This bill establishes clarity on Fund 80 use by requiring DPI to define eligible costs for community programs and services and provides that only those expenditures that are eligible costs under the rules are excluded from a school district's shared cost. In addition, the bill requires each school board to submit an annual report to the Department of Revenue (DOR) detailing the school board's expenditures in the previous school year for community programs and services. DOR must determine for each school district whether any such expenditures were ineligible under DPI's rules and certify to DPI the total amount of ineligible expenditures for each school district. The bill decreases a school district's revenue limit by the amount of its ineligible expenditures.

I look forward to working with all stakeholders as we find a solution that protects the original intent of Fund 80 while protecting the taxpayer.

STANDING COMMITTEES:

Energy, Consumer Protection, and  
Government Reform, Chair  
State and Federal Relations, Vice-Chair  
Transportation, Public Safety,  
and Veterans and Military affairs



JOINT COMMITTEES

Joint Audit Committee, Co-Chair  
Joint Committee on Information Policy  
and Technology

**TO: Members of the Senate Committee on Education**  
**FROM: Senator Robert Cowles**  
**DATE: January 30, 2014**  
**RE: Senate Bill 478**

Chairman Olsen and Members of the Committee:

Thank you for having a public hearing on Senate Bill 478 today, which is aimed at making some much-needed reforms to the Community Service Fund program, also known as Fund 80. I am pleased to offer this bill with Rep. Steineke. We are authoring this bill after numerous concerns regarding the administration and propriety of certain Fund 80 expenditures were brought to our attention by our constituents.

Fund 80 allows local school boards to establish programs for community education, training, recreational, cultural or athletic programs and services, outside the regular curricular and extracurricular programs for pupils. School districts may charge user fees to cover the costs of the programs. The portion of the cost of these programs not covered by user fees is passed on to the property taxpayers and is not counted as part of the district's revenue limits.

Currently, the Department of Public Instruction (DPI) has an informal set of guidelines posted on their website for use by school districts listing recommendations for activities that may be appropriate for inclusion in their Fund 80 program. DPI has no formal requirements for what constitutes an appropriate Fund 80 activity in administrative rules nor are there any repercussions for a school district that misuses Fund 80 for what should be considered unallowable activities.

Constituents have reached out to us indicating that many of these costs being passed on to property taxpayers outside of school district revenue limits are inappropriate uses of Fund 80. Under our bill, DPI will be required to promulgate rules to finally define what constitutes eligible costs for use under Fund 80.

Currently, it is our understanding that school districts are required to submit an annual report to DPI notifying the department of their Fund 80 expenditures. These reports are neither scrutinized by the department, nor is there any penalty for expending funds under Fund 80 for non-qualifying costs. The bill requires school districts to submit a detailed annual report to the Department of Revenue delineating their Fund 80 costs, and DOR would determine if any of the reported costs were ineligible for inclusion in Fund 80. The school district's revenue limit the following year would be decreased by the amount found ineligible.

We understand that concerns may be raised as to the appropriateness of including an outside agency to help administer Fund 80, and we are open to discussing options to amend this bill to bring more transparency and accountability to this program with other stakeholder groups, including DPI. Once again, thank you for the opportunity to testify on SB 478.

**Office:**  
State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882  
608-266-0484

Toll-free Hotline: 1-800-334-1465  
Fax: 608-267-0304  
Sen.Cowles@legis.wisconsin.gov

**Home:**  
300 W. St. Joseph Street  
Green Bay, WI 54301-2328  
920-448-5092  
Fax: 920-448-5093

**Senate Committee on Education  
January 30, 2014**

**Department of Public Instruction  
Testimony on 2013 Senate Bill 478**

I want to thank Senator Olsen and members of the committee for the opportunity to testify before you today. My name is Bob Soldner and I am the Director of the School Financial Services Team at the Department of Public Instruction (DPI). I am here today to testify in opposition to Senate Bill 478 (SB 478) due to administrative and constitutional concerns.

Under current law, the State Superintendent and the Department of Public Instruction (DPI) have the authority to administer state aids and revenue limits. While the State Superintendent has proposed changes to the school funding formula and revenue limits, the department has always upheld the law, including enforcing revenue limit penalties.

Thus, it is odd for us to see in the drafting file this direction, "Have DPI promulgate rules. Do not have DPI enforce. Wants DOR [Department of Revenue] to determine if sch. dist. violating DPI rules."

It is irregular, unnecessary, and unconstitutional to assign the responsibilities to the Department of Revenue (DOR) to review school board expenditures and report the information to the Department of Public Instruction. DOR is not the state education agency and it would be a waste of government resources and staff time for another agency to assume the roles and responsibilities of the DPI.

Beyond that, and as the drafter noted in the drafting note, "...because the bill directs DOR to determine whether a school district has violated an administrative rule promulgated by DPI, it may be subject to a constitutional challenge. Article X, section 1 of the Wisconsin Constitution vests the supervision of public instruction in the state superintendent. Under *Thompson v. Craney*, 199 Wis. 2d 674 (1996), giving any other officer authority over public instruction is unconstitutional."

Additionally, the last biennial budget enacted community programs and services levy limits, reporting requirements, and a direction the DPI report on the information collected by December 1, 2014. The question DPI has is whether the legislature would like allow these recently enacted law changes a chance to take effect and then determine if additional state level involvement is necessary.

Finally, I would be remiss if I did not lay out an administrative issue related to the timelines in the bill. SB 478 would first apply to state aid distributed in, and the calculation of a school district's revenue limit for, the 2014-15 school year. This timeline is problematic. 2014-15 state aid is based on 2013-14 audited school costs. The 2013-14 school year is half-over and DPI

would be required to promulgate administrative rules impacting a district's shared costs immediately with no time for a school board to modify its spending decisions. Given the lengthy timelines around the permanent rulemaking process, and the timelines surrounding the levy and school aid certification processes, a more reasonable timetable under the bill would be to impact a district's shared costs for the 2014-15 school year with state aid and revenue limit impacts in the 2015-16 school year.

At this time I would be happy to answer any questions you may have.