



CHRIS KAPENGA

WISCONSIN STATE SENATOR

Testimony on Senate Bill 187

Committee on Economic Development, Commerce and Local Government

May 30, 2017

Thank you Chairman Feyen and committee members for considering Senate Bill 187 today. I will be directing my comments today towards Senate Substitute Amendment 1, instead of the original bill.

Recently, there has been significant growth in the number of capital referendums, which has highlighted the need for this legislation. Current law requires local units of governments to obtain consent from the voters, in the form of a referendum, if they want to issue debt for capital projects. The principal amount of debt is a required disclosure in the referendum language, however, interest and debt service costs are required to be included in this disclosure. Depending on the length of borrowing, this can account for a significant difference between the costs presented to voters versus the actual cost.

For example, a referendum that passed this spring asked voters to spend \$38.5 million on capital upgrades. When interest and debt service costs were taken into account for that referendum, the total cost rose to a projected \$58.7 million, a nearly 52% increase above the amount presented to voters.

When consumers make a large debt purchase, such as a home or vehicle, the interest costs must be disclosed to ensure the consumer understands the full cost of financing. This bill applies this same principal to capital referendums, requiring disclosure of both the principal and interest costs. Voters deserve to have this information readily available when they go to the ballot box, without having to request records or scour government websites.

The Substitute amendment was drafted to broaden the scope of the bill to all local units of government as well as to fix a few technical issues found in the original bill.

Under Senate Bill 187 voters will have increased transparency and improved information in regards to what they are voting on in a referendum. Thank you again Mr. Chairman, and I would be happy to answer any of questions.



State of Wisconsin
2017-2018 LEGISLATURE

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SENATE SUBSTITUTE AMENDMENT 1
, TO SENATE BILL 187

By: Senator Kapenga

1 AN ACT *to amend* 67.05 (1), 67.05 (3) (a) 1. and 67.05 (3) (d) of the statutes;
2 **relating to:** providing financial information in bonding resolutions when
3 referendum is required.

Analysis by the Legislative Reference Bureau

This substitute amendment requires a municipality that is seeking to issue a bond to include specific financial information in an initial resolution adopted by the governing body of the municipality, in the notice of election published prior to the referendum election, and on the ballot on which the referendum question is proposed.

Under current law, the governing body of a municipality must adopt an initial resolution prior to issuing a bond. Municipality is defined under current law to mean certain entities authorized to levy a tax, including a county, city, village, town, school district, board of park commissioners, technical college district, and metropolitan sewerage district. In some cases, the municipality must hold a referendum election to obtain approval of the electors of the municipality. Currently, the initial resolution and referendum ballot must specify the purpose for and maximum amount of the borrowing. This substitute amendment requires that, when a referendum is required, the governing body of the municipality must also include a good faith estimate of the interest and related debt service costs that will be incurred by the

municipality on the debt and the sum of the principal, interest, and debt service costs that will be incurred by the municipality.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 67.05 (1) of the statutes is amended to read:

2 67.05 **(1)** INITIAL RESOLUTION BY GOVERNING BODY. If any municipality seeks to
3 issue a bond under s. 67.04, the governing body of the municipality shall, prior to the
4 issuance of the bond, adopt a resolution that states the purpose for and maximum
5 amount of the borrowing. The resolution adopted under this section shall be known
6 as the initial resolution. If a governing body is required under this section to hold
7 a referendum after the adoption of the initial resolution, the governing body shall
8 include in the initial resolution a statement identifying the total amount of debt to
9 be issued by the municipality, a good faith estimate of the total amount of interest
10 and related debt service costs that will be incurred by the municipality on the debt
11 obligation, and the sum of the principal, interest, and related debt service to be
12 incurred by the municipality. The governing body shall base its estimate of the
13 amount of interest to be incurred on the interest rate in effect immediately prior to
14 the adoption of the resolution. If a permissive referendum on the bond issue is
15 allowed under this section, the governing body need not include on the initial
16 resolution the information required under this subsection, but shall, within 15 days
17 after the initial resolution is adopted, publish a class 1 notice under ch. 985 stating
18 the purpose and maximum principal amount of the bond issue and describing the
19 opportunity and procedure for submitting a petition requesting a referendum on the
20 bond issue.

21 **SECTION 2.** 67.05 (3) (a) 1. of the statutes is amended to read:

1 67.05 **(3)** (a) 1. The clerk of the jurisdiction in which the referendum is held
2 shall publish a type A notice under s. 10.01 (2) (a) on the 4th Tuesday before the
3 referendum is held. Notwithstanding s. 10.01 (2) (a), the notice shall include a
4 statement indicating the amount of debt to be issued and the interest and related
5 debt service costs to be incurred by the municipality as specified in sub. (1).

6 **SECTION 3.** 67.05 (3) (d) of the statutes is amended to read:

7 67.05 **(3)** (d) The question shall contain a statement of the purpose for which
8 bonds are to be issued ~~and~~, the maximum amount of the bonds to be issued, and the
9 interest and related debt service costs to be incurred by the municipality as specified
10 in sub. (1).

11

(END)



JOHN J. MACCO

STATE REPRESENTATIVE • 88TH ASSEMBLY DISTRICT

May 30th, 2017

To the Committee on Economic Development, Commerce and Local Government -

Thank you Chairman Feyen and committee members for holding a public hearing on Senate Bill 187.

Two months ago taxpayers around the state decided to tax themselves nearly three quarters of a billion dollars on their property taxes through referenda. As the Chairman of the Assembly Ways and Means Committee and a member of the National Council of State Legislatures Task Force on State and Local Taxation, I can tell you that Wisconsin has one of the country's highest burdens of property tax. With the passage of the Governor Walker's 2017-19 budget proposal, property tax will be a tax determined solely by local governments and stay in the communities where it is levied. With this responsibility, our constituents ought to have all pertinent information available.

If Wisconsinites choose to raise their property taxes, they should know the full cost of the debt they are voting for. As any business would tell you, before considering to take on more debt you must determine the full cost of debt, not just the principal amount, in order to have a full understanding of the costs involved. Senate Bill 187 does that for our constituents.

Robust school districts and effective local governments are essential to the quality of lives of our constituents, and giving more control to local units of government is a fundamental tenant of federalism. However, before Wisconsinites vote to raise their own taxes, they deserve to have all information available to them.

I would like to thank you once again for hearing this vital bill, and I would urge the committee to vote for recommendation of passage of SB 187.

Sincerely,

A handwritten signature in black ink, appearing to read "John J. Macco". The signature is stylized and written over a white rectangular box.

John J Macco
Representative
88th Assembly District



School Administrators Alliance

Representing the Interests of Wisconsin School Children

TO: Senate Committee on Economic Development, Commerce and Local Government
FROM: John Forester, Executive Director
DATE: May 30, 2017
RE: SB 187 – Providing Information About School District Referendum Revenue

The School Administrators Alliance (SAA) opposes Senate Bill 187, relating to providing information about school district referendum revenue.

In their co-sponsorship memo dated March 30th of this year, the authors used the following paragraph to paint a picture of school referenda and school borrowing run amuck.

“According to a recent report from the Wisconsin Taxpayers Alliance, voters across the state approved \$1.35 billion in new borrowing for construction projects by school districts in 2016. These levels of borrowing are more than ten times higher than just 5 years ago and the highest since 1993. On a per pupil basis, borrowing has jumped from \$2,313 in 2010 to \$9,733 in 2016. This trend does not show signs of slowing with another \$707.9 million of new borrowing on the ballot statewide this spring.”

I would like to begin my testimony using a different brush to paint a picture with a much broader perspective than that provided by the authors.

The information I am using to paint that broader perspective comes from a presentation made by representatives of Robert W. Baird & Company earlier this month at the Wisconsin Association of School Business Officials (WASBO) Spring Conference. I have attached three charts to my testimony.

The first chart shows historical annual bond authorizations from 1995-2017 (year-to-date). This chart replicates the inflation-adjusted data the Wisconsin Taxpayers Alliance used in the publication referenced by the authors. The biggest takeaway from this chart is the amount authorized in the 8 years from 1995-2002 (\$6.0 billion) is more than the amount authorized in the past 15 years from 2003-2017 (\$5.9 billion). And regarding the spike in 2016, it is important to note that 49% of the amount authorized went to 10 larger school districts.

The second chart highlights the annual bond authorizations and debt levies since 1995. It shows that despite the peaks and valleys in annual bond authorizations, the annual debt levies have been relatively level each of the past 18 years.

The final chart highlights the level of future debt service. It shows that even with the larger 2016 bond authorizations, the future annual referendum debt service (Fund 39) is showing a significant drop in payments going forward. This is to be expected as we approach the end of the 20-year payment periods for debt authorized in the last major facility funding cycle from 1995-2000. Clearly, this is one big reason many school districts have been evaluating long-range facility needs in recent years. Other reasons include low interest rates, construction cost inflation, deferred capital investment post-Act 10 and the impact of the 2008-09 economic downturn.

In contrast to a school debt referendum picture with an endless runaway upward trend line, these charts illustrate a process that when viewed over a 20+ year time period is very cyclical in nature. It also appears to be a process that has been carefully managed over that time period as well.

In anticipation of this hearing, I sought input on SB 187 from a cross-section of SAA members, with an emphasis on school superintendents and school business officials. I also discussed the bill with Attorney Allison Buchanon, partner at Quarles & Brady and a highly respected bond counsel. She prepared a memo summarizing her concerns from a bond counsel perspective. That memo is attached to my testimony. I have also highlighted her concerns below.

- **Potentially Difficult and Confusing to Provide Requested Information**

If SB 187 were to pass, it would be potentially difficult and confusing to have debt/financing information in the operational/revenue limit referendum resolution and on the ballot. The ballot question would become quite long and confusing when all the required additional information is included. It becomes even more complicated to provide accurate information when a school district is doing a series of financings.

- **Financing Plans May Change**

Financing plans are not often finalized at the point when a district is adopting an operational/revenue limit referendum resolution and finalizing the ballot language at least 70 days before the referendum is held.

- **The Market and Interest Rates are Subject to Change**

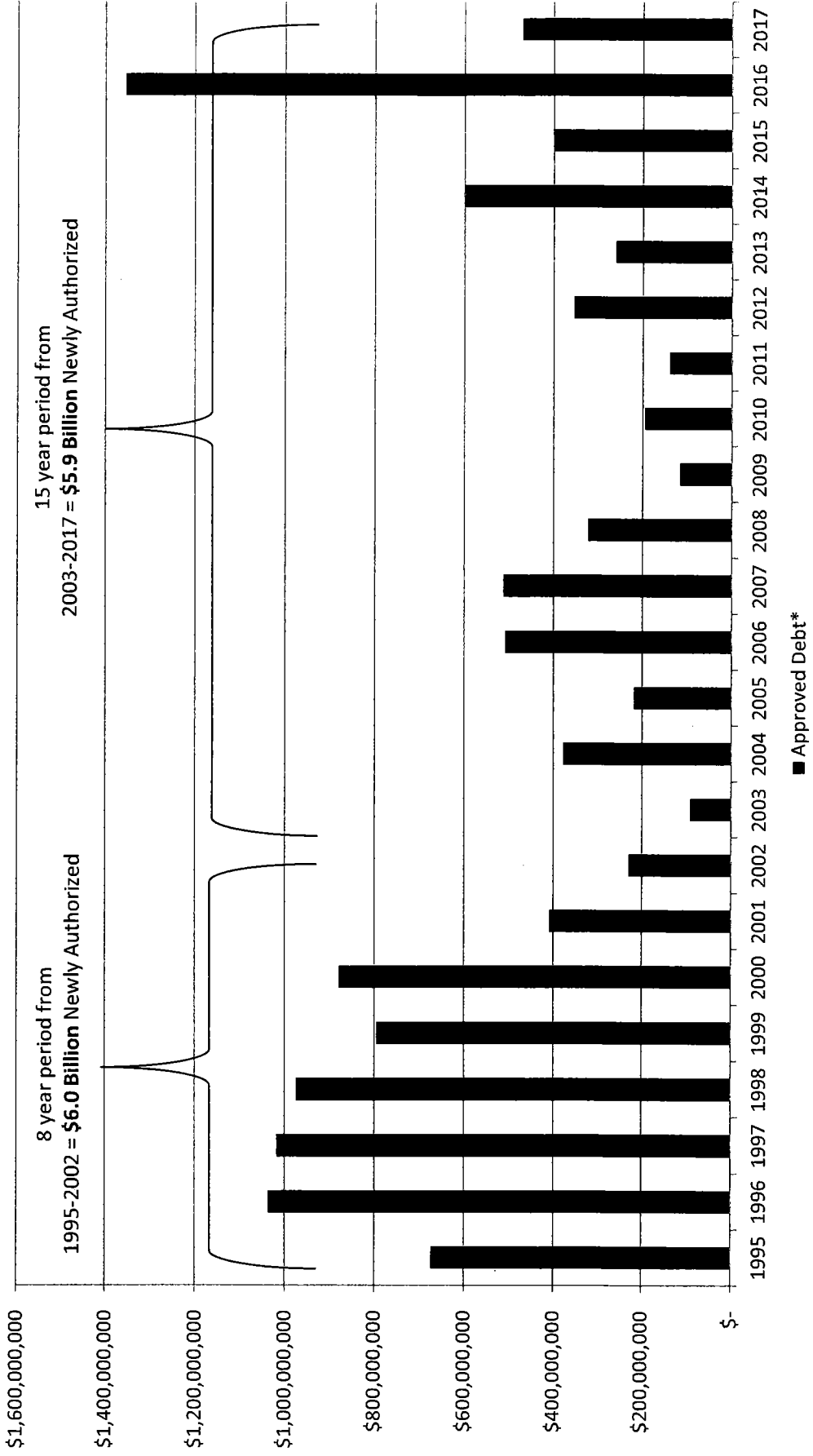
School districts may stretch a series of financings out over multiple years to manage interest costs and only borrow what is needed when they need it. In this scenario, it becomes difficult to provide the information that SB 187 requires.

- **Possible Legal Challenges**

Even though a school district has no control over changes in the market and interest rates, it seems SB 187 could result in a taxpayer potentially challenging the results of the referendum if information on the ballot related to debt service and debt service costs proves to be inaccurate due to such market and interest rate changes.

Thank you for your consideration of our views. If you should have any questions on our position on SB 187, please call me at 608-242-1370.

Wisconsin School District Referendum Approved Debt Since 1995 Annual Bond Authorizations

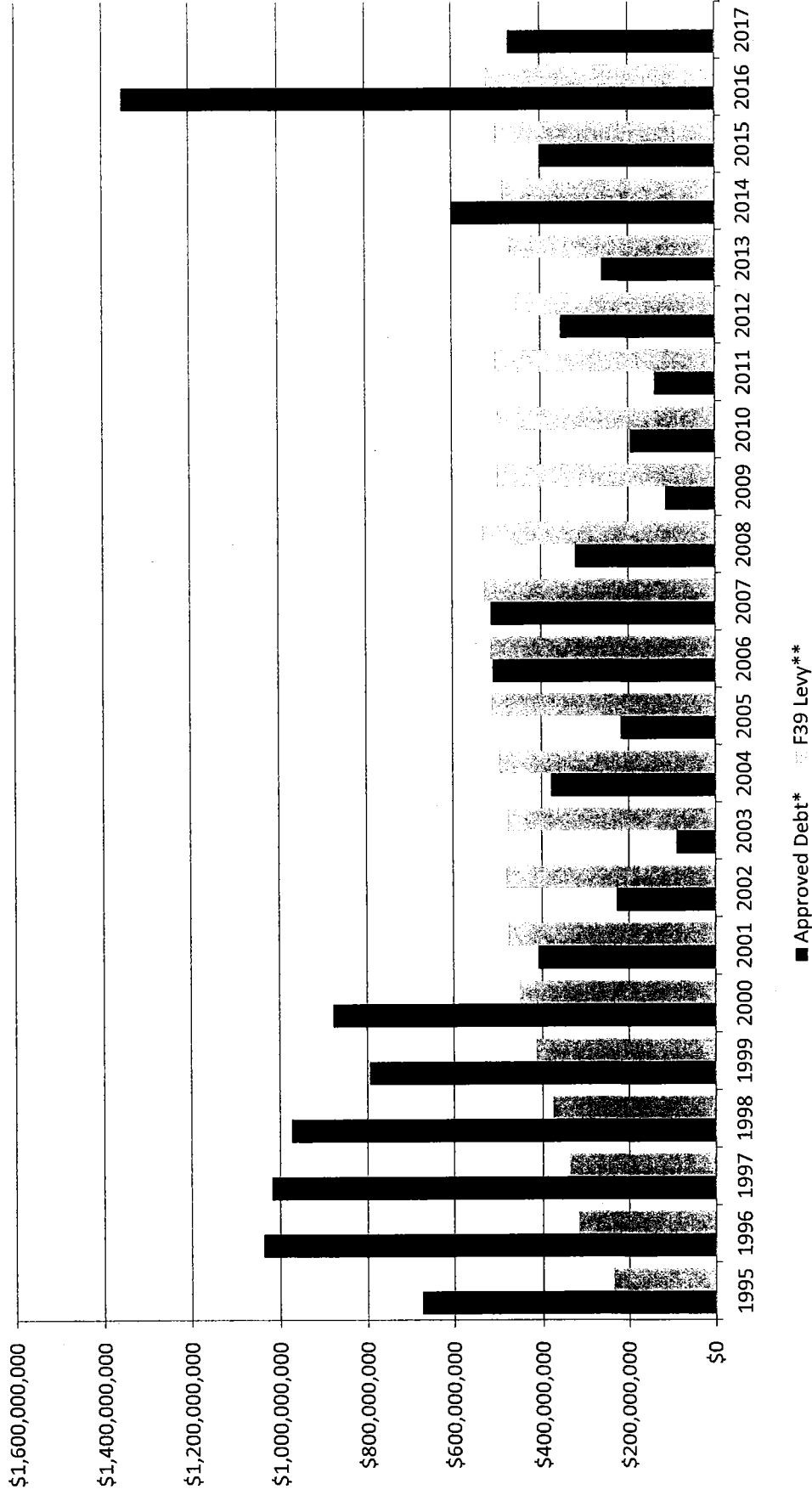


*Approved amounts have been adjusted for inflation using Consumer Price Index Data (CPI) and have been modified to reflect the fiscal year
Source: Department of Public Instruction

Wisconsin School District

Referendum Approved Debt Since 1995

Annual Bond Authorizations and Debt Levies

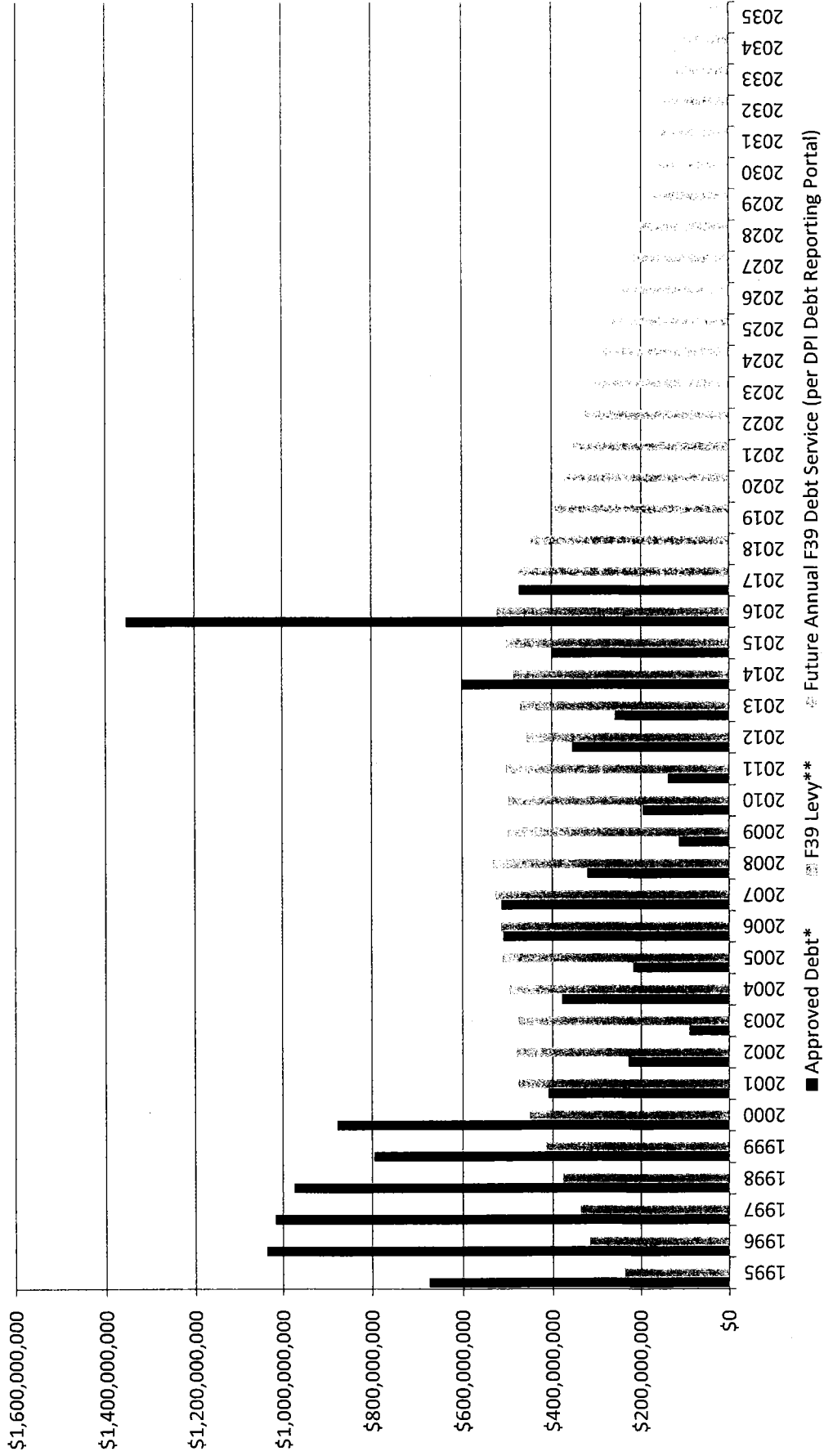


*Approved amounts have been adjusted for inflation using Consumer Price Index Data (CPI) and have been modified to reflect the fiscal year
 **Levy reflects fall of each year, payments due following year
 Source: Department of Public Instruction

Wisconsin School District

Referendum Approved Debt Since 1995

Annual Bond Authorizations, Debt Levies and Future Debt Service



*Approved amounts have been adjusted for inflation using Consumer Price Index Data (CPI) and have been modified to reflect the fiscal year

**Levy reflects fall of each year, payments due following year

Source: Department of Public Instruction

To: John Forester, Executive Director, School Administrators Alliance
From: Allison Buchanan, Public Finance Partner, Quarles & Brady LLP
Date: May 26, 2017
Re: Wisconsin 2017 Senate Bill 187 - Bond Counsel Comments

Summary

Wisconsin 2017 Senate Bill 187 ("SB 187") would impact an operational/revenue limit resolution, ballot and type A notice under Section 121.91(3) of the Wisconsin Statutes when a school district intends to use a portion of such operational referendum authority to subsequently issue debt.¹ SB 187 currently provides that if the school district intends to issue debt pursuant to the operational/revenue limit referendum, the school board shall include in the resolution a statement identifying the total amount of debt to be issued by the school district, the total amount of interest and related debt service costs to be incurred by the school district on the debt obligation, and the sum of the principal, interest, and related debt service to be incurred by the school district. Similar information would also need to be included in the ballot question and in the type A notice.

Below is a summary of some possible general concerns regarding the implementation of SB 187 from a bond counsel perspective.

I. Potentially Difficult and Confusing to Provide Requested Information

If SB 187 was to pass, it would be potentially difficult and confusing to have debt/financing information, interest and debt issuance cost information in the operational/revenue limit referendum resolution and on the ballot. There would need to be additional guidance provided to school districts regarding how this should be implemented to comply with the new requirements. The ballot question would become quite long and confusing when all of the required additional information is included. It becomes even more complicated to be able to provide this information in the operational/revenue limit referendum resolution and on the ballot when a school district is doing a series of financings (for example, one or more interim, short-term financings that will be refunded with one or more long-term general obligation refunding bonds for the permanent financing or financings).

II. Financing Plans May Change

Financing plans are not often finalized at the point when a school district is adopting an operational/revenue limit referendum resolution and finalizing the ballot language at least 70 days before the referendum is held. A school district will typically share an estimated maximum tax impact as part of the referendum planning process in the school district's informational materials, but school districts do not necessarily share a final financing plan since the plan may be subject to modification based on market conditions at the time the financing or financings are done, especially if there is a way to have a lower tax impact.

¹ Even if a school district intends to use operational/revenue limit referendum authority for debt, a school district would still need to authorize the issuance of that debt using one of the Chapter 67 debt issuance authorization processes.

III. The Market and Interest Rates are Subject to Change

The market and interest rates are subject to change over time. For larger financing plans, school districts may stretch a series of financings out over multiple years so that the school districts have lower interest costs and are only borrowing what they need when they need it. When multiple financings occur over multiple years, it becomes difficult to provide the information that SB 187 would require at the time of the adoption of the operational/revenue limit referendum resolution and on the ballot given the length of time between the adoption of the operational/revenue limit resolution and when the final financing may be done.

IV. Possible Legal Challenges

SB 187 could expose school districts to possible legal challenges by taxpayers. In a case where a school district provides the best information available at the time of the adoption of the operational/revenue limit resolution and at the time the ballot is finalized (at least 70 days in advance of the referendum), what happens if the information in the resolution and on the ballot proves to be inaccurate due to the passage of time and market changes beyond the school district's control? Even though a school district has no control over changes in the market and interest rates, it seems SB 187 could result in a taxpayer potentially challenging the results of the referendum if information on the ballot related to debt service and debt service costs proves to be inaccurate due to such market and interest rate changes.

Kim Kaukl
Executive Director
1755 Oakwood Circle
Plain, WI 53577
Cell Phone: (608) 553-0689
kimkaukl@wirsa.org



President, Ken Kasinski CESA12
President-Elect, Robert Smudde
Secretary, Diana Bohman,
Regional Public Library Rep
Treasurer, Jerry Walters CESA11
Past President, Jeremy Biehl CESA 5

May 30, 2017

Members of the Committee on Economic Development, Commerce and Local Government:

Thank you for allowing me to testify on SB 187. I am Kim Kaukl the Executive Director of the Wisconsin Rural Schools Alliance (WiRSA) an organization of 200 plus members with 150 school districts and several CESAs, technical colleges, universities, business and individual members. WiRSA represents the students, administrators, teachers, school board members and community of our rural schools. I am here today to register our opposition to SB 187.

Our organization is opposed to this bill because it seems to lack any real purpose from what is already in place and could end up confusing voters more than helping. In our rural communities, referendums have become a part of the schools' budgeting cycle due to the limited funding at the state level. In talking with my members, concerns come from some of the requirements in this bill on reporting interest rates and bond ratings. Both items can change and are hard to predict because of market fluctuation throughout the life of the referendum proposal-- to project-- and sun setting of the debt. Another issue is many of our entities, in doing their due diligence for the taxpayers, negotiate and refinance over the years for a better rate to create more savings which also impacts final numbers. If this bill is about transparency, the requirements entailed in this bill will end up confusing voters who do not fully understand the numbers and their meaning and/or impact. This process is sometimes confusing for even the folks that work with these numbers daily. It is our feeling there is already a strong transparency mechanism in place to cover the questions asked in this bill and that mechanism is called a public hearing. Multiple public hearings are held prior to referendums to go over all the numbers and discuss how they may change and the hearing also provides a great mechanism for the folks that understand this process and the numbers to explain their meaning and impact. It also allows them to answer questions from the voters, instead of voters having to guess the answers at voting time. In many of my rural districts, administrators wear multiple hats and a misunderstanding by the public of certain numbers and processes may cause undue contentiousness. The reason so many referendums pass in our rural districts is the open and honest communication that occurs in public hearings.

Comments and concerns from some of my members:

- My guess is there is an intent for more transparency with this bill, but, the reality is that the transparency won't be objective. How does a school predict interest rates, bond ratings, etc.?
- I am not sure what this bill says and would be curious who came up with the language and what the purpose of it is?
- In short, I find this bill perplexing, as nearly all aspects already are required outside of detail of interest and the sum of principal, interest and debt service costs. With the interest being the only true variable...debt service costs are an indirect cost, not sure how we'll measure that, but it's a minimal amount.
- I'd like to ask, how are we to predict interest costs? My concern is that even if we put a number out there based upon a ballpark, and markets change, the district's bond ratings change, how are we to control the interest rate as shared in the resolution, whether more or less?

- I see this bill creating more red tape requirements, and creating the likelihood of mistrust by the public as if interest comes in higher, questions are going to come back upon the district as to why our interest costs are more...just not a good situation.
- You must take in account that refinancing numbers change and costs fluctuate.
- Is this bill going after exceeding the revenue limit for energy exemption projects? That is when you may use debt to cover the project and then exceed the cap each year to pay it back. We have used the single year exemption so our reporting has been simplified, but I think if you use debt you already need the calculations referenced in the bill. The problem is that no one understands what it means because it becomes confusing.
- Is this an attempt to have taxpayers vote "no" because they will not understand the question on the ballot?

As you can see from the comments from our members there is confusion and frustration on why this bill is needed. As we have testified in the past, referendums are about local control and should be left that way. Local voters know what is best for their communities. We ask that you oppose SB 187 and leave referendums to local control.

Thank you,

Kim Kaukl

Kim Kaukl

Executive Director

Wisconsin Rural Schools Alliance

608-553-0689

kimkaukl@wirsa.org



"Leadership in Public School Governance"

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

122 W. WASHINGTON AVENUE, MADISON, WI 53703
PHONE: 608-257-2622 FAX: 608-257-8386

TO: Members, Senate Committee on Economic Development, Commerce and Local Government
FROM: Dan Rossmiller, WASB Government Relations Director
DATE: May 30, 2017
RE: OPPOSITION to SENATE BILL 187, relating to providing financial information in bonding resolutions and on bonding referendums

The Wisconsin Association of School Boards (WASB) **has strong concerns about** Senate Bill 187. We also have strong concerns about the process by which this bill is being advanced.

The WASB was fully prepared to testify on the original bill and to outline our concerns with that original version. However, we learned on Friday that the bill's author became aware that the bill as introduced was incorrectly drafted and requested that a substitute amendment be drafted. Because this happened on the eve of a holiday weekend we were unable to reach the chair's office.

The substitute amendment changes the bill so much so that it has a completely different relating clause than the original bill. Further, the substitute amendment was not publicly available on the Legislature's website as of yesterday evening. We find it disappointing and ironic that a bill that purports to advance greater transparency is being taken up in a manner that lacks transparency.

Our members support transparency. As locally elected officials, they are subject to the Public Records and Open meetings laws. They hold budget hearings at which they share detailed information with their voters. Our members support taxpayers having as much information as possible to make informed decisions. We also support transparency for the property tax impact of the statewide voucher program and the special needs scholarship program. Neither of which is addressed in this bill.

That said, we have a number of concerns with the substitute amendment.

- We are unsure of financial impact the substitute amendment will have on schools, but it is likely this will require schools to hire professionals to do the market analysis required. Because of the speed at which this amended bill is moving, we were not able to adequately research this issue. However, we assume districts will have to pay expert consultants to generate the "good faith estimate of the interest and related debt service costs that will be incurred by the school district on the debt and the sum of the principal interest and debt service costs" required by the substitute amendment. This will impose additional costs (an unfunded mandate) on school districts that are often strapped for resources whenever they are considering a borrowing referendum.

Many of the borrowing referendums that are being placed before voters are to fund maintenance projects for school facilities. Buildings need periodic repair and upgrading. Because the state has neither provided nor allowed inflationary funding increases for K-12 education, many local maintenance projects have wound up being deferred because boards try to protect their programs and their quality staff that serve their children. Small problems become bigger problems if not attended to. Over time, these projects pile up to the point where the district is required to go to referendum because the expense exceeds the amount that can be borrowed without a referendum.

- The requirements in the substitute amendment will likely make things more difficult and complicated for districts that currently benefit from using their referendum authority to incur debt in several phases. (Waupun example.) In some cases, a district will use some of its bonding authority shortly after the referendum passes and will wait several years before using the rest of its bonding authority. Because the substitute amendment requires that a school district base its estimate on the interest rate in effect immediately prior to the adoption of the resolution, this could mean those figures will not accurately predict what interest rates will be when the later phases of bonds are issued.

It is unclear whether the language in the bill requiring a district to provide a “good faith estimate” of the total amount of interest and debt service costs that will be incurred by the school district on the debt obligation shield a district against a taxpayer lawsuit trying to overturn the referendum result or the bond issuance by contesting the accuracy of these estimates. Because of the speed at which this amended bill is moving, we were not able to adequately research this issue. If this provision causes uncertainty about the validity of a referendum result, it could make rating agencies and potential bond buyers more wary and thus make the bonds more difficult to sell.

- The substitute amendment requires certain information to be disclosed, but not other information that is arguably equally relevant, such as how will the passage of the referendum will affect tax rates and state aid in the district.

For all of these reasons, we ask you to oppose Senate Bill 187.