



RACHAEL A. CABRAL-GUEVARA

STATE REPRESENTATIVE • 55TH ASSEMBLY DISTRICT

Testimony before the Assembly Committee on Government Accountability and Oversight

Representative Cabral-Guevara

October 6th, 2021

Chairman Knodl and Committee Members,

Thank you for holding a Public Hearing on Assembly Bill 475, relating to referendums and including a statement of the estimated interest accruing on the issuance of bonds.

This Bill contributes to constituents developing a more nuanced, informed viewpoint on spending in local government. AB 475 provides an estimated amount of interest accruing with the issuance of bonds, constituents receive a clearer picture as to what the actual fiscal cost would be on their community.

Any Assembly and Senate Bills that would incur a fiscal cost must receive a fiscal estimate, provided by the Legislative Fiscal Bureau. We should be providing our localities with the same access to fiscal estimates as we do for our state government. Constituents should be provided with as many resources as possible for reference on referendums and their monetary impact. The will of the people is a concept America was built on, and unless our voters are being properly informed, their will is being obfuscated.

In essence, this bill requires both the cost as well as the estimated interest to be placed on the ballot for full disclosure. This bill is essential in increasing transparency in government at all levels, as well as it is appropriating the reasonable and necessary information to Wisconsin residents, as it relates to their respective communities.

I appreciate your consideration of Assembly Bill 475 and I would be happy to answer any questions you may have.



JOHN J. MACCO

STATE REPRESENTATIVE • 88TH ASSEMBLY DISTRICT

To: Assembly Committee on Government Accountability and Oversight

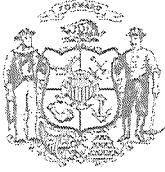
From: Representative John Macco

Date: Wednesday October 6th, 2021

In Favor of AB 475

Under current Wisconsin law, when referendums are placed on the ballot for voter approval, the purpose for the bonds and the maximum amount of bonds are required to be included. This is intended to provide information to the voter and taxpayer so they are aware of what they are voting on and how much will be spent. The problem is, this simply does not give the whole picture to the taxpayer as the actual total cost is hidden. When using bonds for a project, there are additional interest costs attached when all is said and done which is not required to be listed under current law. By omitting the interest on the ballot, we are not being as transparent as the taxpayer deserves.

Under this bill we will increase transparency by including the estimated total interest on the bonds alongside the purpose and project cost statement. With this additional information the taxpayer will have a better understanding where their money is being spent and how much is being allocated to each project. The bonds are being funded by taxpayers, they are entitled to know the total cost.



ANDRÉ JACQUE

STATE SENATOR • 1ST SENATE DISTRICT

Phone: (608) 266-3512

Fax: (608) 282-3541

Sen.Jacque@legis.wi.gov

State Capitol - P.O. Box 7882

Madison, WI 53707-7882

*Testimony before the Assembly Committee on Government Accountability and Oversight
State Senator André Jacque
October 6, 2021*

Chairman Knodl and Committee Members,

Thank you for holding this hearing on Assembly Bill 475, including with a referendum question for issuing bonds a statement of the estimated interest accruing on the amount of the bonds.

In recent years, municipalities, counties, and school boards have increasingly utilized their ability to bring referenda to voters across the state in order to spend money on various projects. Many of these projects can have a base cost well above \$100 million, which can often result in accruing millions of dollars' worth of interest on loans.

In circumstances such as this, interest can increase the total cost of referenda dramatically. In one instance, a referendum was brought forward by the Neenah Joint School District to build a new high school. The estimated base cost of the project was \$114.9 million, which appeared on the ballot and was approved by the voters. However, there was an additional \$55 million worth of estimated interest, bringing the total actual cost of the project to just under \$170 million. Although the district was transparent about this interest cost, including it in presentations and posting it on their website, it did not appear on the ballot itself.

To be clear, this bill does not impact the ability for local governments and school boards to bring referenda to voters. Rather, it simply gives voters the full picture on the actual cost of an ask. As a state that prides itself on good government, ensuring our constituents have all available information before voting on any given subject is essential to upholding this standard. This bill requires accrued interest costs to appear on the ballot, including the extremities of total costs if the bonds are based on variable interest rates; or, if bonds are issued at fixed interest rates, including the total cost using that fixed rate.

Thank you for your consideration of Assembly Bill 475.



Assembly Government Accountability and Oversight Committee
October 6, 2021

**Wisconsin Department of Public Instruction
Statement in Opposition of 2021 Assembly Bill 475**

Background: School District Revenue Limit and Referendum to Exceed the Revenue Limit

A school district can exceed its revenue limit by receiving voter approval at a referendum. The school board must approve a resolution supporting inclusion in the school district budget of an amount which exceeds the revenue limit. The resolution must specify whether the proposed excess revenue will be recurring (permanent) or nonrecurring (temporary). The vote may not be held sooner than 70 days after the filing of the board's resolution.

Current law allows school districts to exceed revenue limits by passing a resolution that outlines the principal costs to be borrowed beyond the limit, but no additional information requirements exist for debt referenda. If the resolution is approved by a majority of those voting on the question, the school board can exceed the limit by the amount approved. An amount approved under a recurring referendum is included in a district's base for determining the revenue limit for the next school year. An amount approved under a nonrecurring referendum is added to the district's revenue limit in the applicable year, but is removed from a district's base revenue for the next year.

Assembly Bill 475: Policy Analysis

The bill requires the statement included with a referendum question must also provide the estimated amount of the interest accruing on the amount of the bonds, along with the interest rate. If the interest rate is a variable rate, the bill provides that the statement must also specify the amount of the interest accruing on the amount of the bonds calculated using the lowest rate during the term for which the rate is applicable and the amount of the interest accruing on the amount of the bonds calculated using the highest rate during the term for which the rate is applicable.

Assembly Bill 475 (AB 475) characterizes a proposed bond issue in the manner of a bank loan, which is not accurate. A bond issue is a collection of individual bonds maturing on specific dates; each has its own interest rate which is not known until the bonds are sold in a public auction. It can be a year or more between the time when a school board adopts a resolution to hold a debt referendum and the time bonds are sold, during which macroeconomic factors, Federal Reserve policy, and rating

agency decisions can cause the actual rates to vary significantly from projections. It is unclear what the legal impact would be if the interest rates on the sold bonds exceed the rate or rates, given the referendum in question.

The Department of Public Instruction (DPI) has concerns that it may be difficult for school boards to comply with the requirements in this bill, as it can be a year or more between the time when a school board adopts a resolution to hold a debt referendum and the time bonds are sold, during which macroeconomic factors, Federal Reserve policy, and rating agency decisions can cause the actual rates to vary significantly from projections. Specific information concerning the total interest and related debt service costs may not be readily available when the debt resolution is passed and the referendum question is put before voters, which is necessarily in advance of the actual debt issuance.

Additionally, AB 475 could restrict districts' ability to manage fluctuations in bond markets or manage debt due to what is strictly specified in the debt resolution. The bill has the potential to put school districts in a potentially unfavorable legal situation, should someone challenge the board on the actual debt costs compared to what had been specified in the resolution or referendum question.

Transparency for taxpayers is important and under current law any taxpayer who wants to know the actual costs associated with debt issuance upon approval of a debt resolution certainly have the ability to ask their school districts for the information. It is already common practice for school boards to provide taxpayers with a detailed analysis of projected principal and interest payments as part of demonstrating the need for additional dollars and advancing a referendum. Due to the significant concerns and potential negative impacts associated, DPI is opposed to this proposal.



School Administrators Alliance

Representing the Interests of Wisconsin School Children

TO: Assembly Committee on Government Accountability and Oversight
FROM: John Forester, Executive Director
DATE: October 6, 2021
RE: Opposition to Assembly Bill 475

Chairman Knodl and members of the Assembly Committee on Government Accountability and Oversight, thank you very much for the opportunity to testify on this important legislation. My name is John Forester. I'm the Executive Director of the Wisconsin School Administrators Alliance (SAA). In that capacity, I represent the combined memberships of five professional associations of public school administrators: the Association of Wisconsin School Administrators (AWSA), the Wisconsin Association of School Business Officials (WASBO), the Wisconsin Association of School District Administrators (WASDA), the Wisconsin Association of School Personnel Administrators (WASPA), and the Wisconsin Council for Administrators of Special Services (WCASS). The SAA also represents the 10,000 members of the Wisconsin Retired Educators Association (WREA).

The SAA, and WREA, opposes Assembly Bill 475, relating to including with a referendum question for issuing bonds a statement of the estimated interest accruing on the bonds.

Under current law, a school district referendum question seeking voter approval for issuing bonds must include a statement of the purpose for which bonds are to be issued and the maximum amount of the bonds to be issued. Under AB 475, the statement included with the referendum question must also include the estimated amount of the interest accruing on the bonds, along with the interest rate.

In anticipation of this hearing, I sought input on AB 475 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 Buchanan, 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 some of her comments below.

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

If AB 475 were to pass, it would be potentially difficult and confusing to provide an estimated amount of interest accruing and the "interest rate" in the ballot question. 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. In fact, Attorney Buchanan believes additional guidance would be necessary for municipalities to account

for all the potential variables. It is also not clear what is intended by the phrase “interest rate” in the bill. For example, a long-term bond financing typically has multiple maturities with different coupons or “interest rates” for each maturity. There are also many types of interest rate calculations in a bond-financing context.

- **Financing Plans May Change**

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

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

Market conditions and interest rates are subject to change over time and are often difficult to predict, especially in current times. When multiple financings occur over multiple years, it becomes increasingly difficult to provide an estimated amount of the interest accruing and the “interest rate” required by AB 475 given the length of time between the drafting of the ballot question and completion of the final financing.

- **Possible Legal Challenges**

AB 475 could expose municipalities to possible legal challenges by taxpayers. There are many variables that affect the estimated amount of the interest accruing and the “interest rate” on bond financings. Even though a municipality does not have control over changes in the market and the effect on interest rates, it seems AB 475 could result in a taxpayer potentially challenging the results of a referendum if the estimated amount of the interest accruing and the “interest rate” shown in the ballot question prove to be inaccurate due to such market and interest rate changes.

In conclusion, I would like to focus your attention on Attorney Buchanan’s comments in her memo under “General Considerations” as it relates to meaningful communication of the information required under AB 475 for voters and taxpayers. In her estimation, the information required under the bill simply cannot be meaningfully conveyed in the context of a ballot question and is better suited for the informational materials that are provided and explained before a referendum is held.

For these reasons, the SAA, and WREA, is opposed to AB 475.

Thank you for your consideration of our views. If you should have any questions regarding our position on AB 475, please call me at 608-242-1370.

To: John Forester, Executive Director, School Administrators Alliance
From: Allison Buchanan, Public Finance Partner, Quarles & Brady LLP
Date: September 14, 2021
Re: Wisconsin 2021 Assembly Bill 475 -
Bond Counsel Comments

Summary

Wisconsin 2021 Assembly Bill 475 ("AB 475") would impact what a municipality, including a school district, must include in a referendum ballot question to issue bonds pursuant to Section 67.05(3)(d) of the Wisconsin Statutes. In addition to the current ballot question requirements of providing a statement of the purpose for which the bonds are to be issued and the maximum amount of the bonds to be issued, AB 475 provides that a ballot question to issue bonds would also need to include:

...the estimated amount of the interest accruing on the amount of the bonds, along with the interest rate. If the interest rate is a variable rate, the statement shall specify the amount of the interest accruing on the amount of the bonds calculated by using the lowest rate during the term for which the rate is applicable and the amount of the interest accruing on the amount of the bonds calculated by using the highest rate during the term for which the rate is applicable.¹

General Considerations

Below is a summary of some general considerations regarding the implementation of AB 475 from a bond counsel perspective. The estimated amount of the interest accruing and the "interest rate" information that would be required by AB 475 in the ballot question cannot be meaningfully conveyed in the context of a ballot question. This information is better suited for the informational materials that are provided and explained before a referendum is held. Even then, such information is based on a plan or estimation using the best information available at that point in time, but at least the information could be explained and discussed in detail in the context of informational materials and at informational meetings. This sort of explanation and discussion would not be possible at the time a voter is going to the polls to vote on the referendum ballot question.

I. Potentially Difficult and Confusing to Provide Requested Information

The requirements of AB 475 to provide an estimated amount of the interest accruing and the "interest rate" in the ballot question would be potentially difficult and confusing. There are many variables at any given time for bond financings, including the municipality's rating, the plan of finance, such as whether the financing(s) will be short-term or long-term obligations or a combination, the number of financings contemplated, the amount of time between each of the issues if more than one financing will be done, and so on. There would need to be additional guidance provided to municipalities regarding how the additional requirements would need to be implemented given all of the potential variables that would need to be accounted for. It is also not clear what is intended by the

¹ This memo does not discuss the sentence in the proposal regarding variable rates since very few municipal obligations are issued with a variable rate.

phrase "interest rate" in AB 475.² The ballot question would become quite long and confusing to voters if the additional information was required in the ballot question. It becomes even more complicated to be able to provide this information in the ballot question when a series of financings are done (for example, one or more interim, short-term financings that will be refunded with one or more long-term general obligation refunding bonds over a series of years for the permanent financing or financings).

II. Financing Plans May Change

Financing plans are not often finalized at the point when a municipality is adopting an initial resolution to issue bonds and finalizing the ballot language, which must occur at least 70 days before a referendum is held. An estimated maximum tax impact is typically shared as part of the referendum planning process in the referendum informational materials and informational meetings, but a final financing plan is not necessarily shared since the plan may be subject to modification based on the most current market conditions when the financing or financings are completed, especially if a change in the plan of finance would result in a lower tax impact for taxpayers.

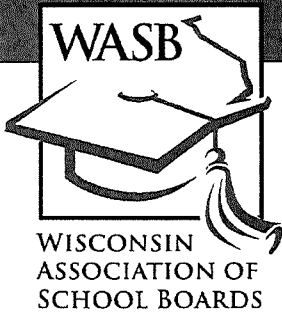
III. Market Conditions and Interest Rates are Subject to Change

Market conditions and interest rates are subject to change over time and are often difficult to predict, especially in current times. For larger financing plans, a municipality may stretch a series of financings out over multiple years (up to five years after a referendum is held) so that the issuers have a lower overall cost of interest and are only borrowing the amount needed when such amount is needed. When multiple financings occur over multiple years, it becomes increasingly difficult to provide an estimated amount of the interest accruing and the "interest rate" that would be required by AB 475 in the ballot question given the length of time between when the ballot question is drafted and when the final financing may be done.

IV. Possible Legal Challenges

AB 475 could expose municipalities to possible legal challenges by taxpayers. There are many variables that affect the estimated amount of the interest accruing and the "interest rate" on bond financings. At the point when the ballot is filed at least 70 days in advance of the referendum, an "interest rate" is not yet determined. It would be difficult to provide even a good estimate so far in advance of any potential financing, which could give rise to possible legal challenges if the estimated amount of interest accruing and the "interest rate" are substantially different than what is shown in the ballot question. In a case where a municipality provides what the municipality believes to be a reasonable estimate of the amount of interest that will accrue and the "interest rate" based on the best information available at the time of the adoption of the initial resolution and at the time the ballot is finalized (at least 70 days in advance of the referendum), what happens if the information appearing in the ballot question proves to be inaccurate due to the passage of time and market changes beyond the municipality's control? Even though a municipality does not have control over changes in the market and the effect on interest rates, it seems AB 475 could result in a taxpayer potentially challenging the results of a referendum if the estimated amount of the interest accruing and the "interest rate" shown in the ballot question prove to be inaccurate due to such market and interest rate changes.

² For example, a long-term bond financing typically has multiple maturities with different coupons or "interest rates" for each maturity. There are also many types of interest rate calculations in a bond-financing context.



122 W. WASHINGTON AVENUE, MADISON, WI 53703
PHONE: 608-257-2622 • TOLL-FREE: 877-705-4422
FAX: 608-257-8386 • WEBSITE: WWW.WASB.ORG

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

TO: Members, Assembly Committee on Government Accountability and Oversight
FROM: Dan Rossmiller, WASB Government Relations Director
DATE: October 6, 2021
RE: OPPOSITION to Assembly Bill 475, relating to including with a referendum question for issuing bonds a statement of the estimated interest accruing on the amount of the bonds.

Mr. Chairman and members of the committee, I am Dan Rossmiller, Government Relations Director for the Wisconsin Association of School Boards (WASB), a voluntary membership association representing all 421 of Wisconsin's locally elected public school boards.

Thank you for the opportunity to provide testimony on Assembly Bill 475.

Currently, whenever a school district must hold a referendum seeking voter approval to issue bonds, the referendum ballot question must include a statement of the purpose for which bonds are to be issued and the maximum amount of the bonds to be issued. This bill would add to that statement a requirement that the ballot question also state the estimated amount of the interest accruing on the amount of the bonds, along with the interest rate.

We oppose AB 475 because we believe it creates a new avenue for legal challenges to bond referenda and bond issuance. The increased risk posed by such potential challenges will likely raise the interest that must be paid to market those bonds to bond buyers and could even prevent their sale.

In addition, the requirements this bill imposes, while well-intentioned and simple in principle, could be highly problematic in practice for the following reasons:

1) Difficulty Providing This Information on a Ballot Question in a Way That Is Not Confusing

We recognize that the information required under this bill is only an estimate, but we question whether the best way to convey this information is through the context of a ballot question, especially when the borrowing is for a complex, multi-stage project and the borrowing is split into segments over time. We believe the information required by the bill is often already shared and could better be explained or discussed in the context of an informational meeting or flyer. School districts typically try to inform the public about the tax rate implications of referenda through such methods. The information the bill seeks to require could be presented similarly.

Not every school construction or remodeling project for which borrowing is required is as simple and straightforward as building a new building on vacant land. Sometimes, extensive remodeling or even demolition of all or a portion of a building is involved. Sometimes, that demolition must occur before the new construction can take place. All of this work has to be built around the school calendar so that children will not be exposed to dangerous or potentially harmful situations. School districts try to complete projects during the summer months to minimize disruption and try to plan their borrowing around those schedules. Each of these factors can add complexity to their borrowing plans.

Faced with this complexity, school districts may find it advantageous to borrow in phases rather than all at once. Sometimes districts issue notes in anticipation of borrowing to provide “bridge” financing. Each of these scenarios may make it difficult to produce an accurate estimate, particularly when interest rates are volatile.

School boards and school administrators also try to get the best bargain possible on the project that best meets the needs of the district, which may involve completing a project in several phases. In such cases, rather than going back to voters multiple times and holding multiple referendums for each phase, school districts may consolidate borrowing for a number of phases into a single referendum ask, even though more than one borrowing will occur.

It becomes even more complicated to place this information on the ballot when the borrowing involves a series of financings, such as, for example, when a school district contemplates using one or more interim short-term financings that are to be refunded with one or more general obligation refunding bonds to provide the permanent financing. Keep in mind that it may be a year or more between referendum approval and marketing of the bonds.

Another complication in trying to implement the bill as drafted is that there may be a variety of interest rates in effect at any given time, based on a number of variables, including the issuing school district’s bond rating, the district’s plan for financing (use of short-term versus long-term obligations, the number of financings contemplated, etc.) It may not always be possible to sort this out more than 70 days before the date of the referendum election when the ballot question language is voted on and approved by the school board.

Note: We are not aware of any other state that requires the publication of estimated interest amounts on the ballot. We attribute this to the uncertainty of interest rates and the variability in the way borrowings may be structured to best suit the borrowing district’s financial and project completion needs. There are good reasons why states do not impose such requirements.

2) Financing Plans May Change

Financing plans are often not finalized at the time the school district is finalizing the ballot language at least 70 days before the referendum is held. A school district will typically share its estimate of the maximum tax impact of a borrowing referendum as part of the referendum planning process. Most often this is done through the school district’s informational materials; however, school districts do not necessarily share a final financing plan as part of those informational materials as the financing plan may be subject to modifications based on market conditions at the time the financing or financings are done. This is especially true if there is a way to lower the tax impact of the borrowing. Again, keep in mind that it may be a year or more between referendum approval and marketing of the bonds.

If the requirements of this bill make it harder to sell a school district’s bonds because of the element of added risk they impose (e.g., the risk that the referendum result or the bond issuance may be challenged legally on the basis that the estimate was somehow not accurate) a district will likely have to offer a higher interest rate in order to sell the bonds. That could mean the bill will either make borrowing more expensive for taxpayers than it would otherwise have to be, or it could prevent a project from taking place at all if the bonds cannot be sold at the estimated interest rate.

3) The Market and Interest Rates are Subject to Change

The bond market and interest rates are subject to change over time. Interest rates are determined by markets that operate nationally and internationally. As a result, rates fluctuate, sometimes going up and sometimes going down. In a rising interest rate environment, it is likely that districts will opt to err on the high side (i.e., overstate) when making these estimates in order not to underestimate these figures, which could potentially subject them to legal challenges. This will generally have the effect of inflating the interest rate and total interest costs.

On the other hand, districts sometimes refinance projects in order to take advantage of more favorable (i.e., lower) interest rates than the rates in effect at the time of the original borrowing. This could mean that taxpayers over time will pay less than the estimated amount of interest costs. However, because it would be difficult to predict this at the time the ballot question is approved (i.e., at the time the resolution authorizing the borrowing is approved—at least 70 days prior to the referendum ballot) voters might never be informed of such reductions.

For larger financing plans a district may stretch a series of financings out over multiple years so that the district is only borrowing what it needs when it needs it as way to lower interest costs (particularly in a declining interest rate market). When multiple financings occur over multiple years it can become even more complicated and difficult to provide the information AB 475 would require at the time the ballot question is finalized given the length of time before the final financing will be completed. In a declining interest rate environment, this may reduce borrowing costs. In a rising interest rate environment, the opposite could be true. This bill could eliminate this financing strategy as an option or make it riskier. In the bond market, risk translates into higher interest rates.

School board members are taxpayers within the school districts they represent. It is in the interest of the district—and the board members as taxpayers—to get the best interest rate possible on any borrowing or bonding. This bill could make that task more difficult.

For the reasons identified above, the WASB **opposes** Assembly Bill 475 in its present form. Thank you for your consideration of this testimony. Please feel free to contact me if you have questions or need additional information.