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*Testimony before the Senate Committee on Government Operations, Legal Review and Consumer Protection
State Senator André Jacque
January 18, 2022*

Chairman Stroebel and Committee Members,

Thank you for holding this hearing on Senate Bill 448, which would include 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.

This legislation is supported by Wisconsin Property Taxpayers, Inc.

Thank you for your consideration of Senate Bill 448.



RACHAEL A. CABRAL-GUEVARA

STATE REPRESENTATIVE • 55TH ASSEMBLY DISTRICT

Testimony before the Senate Committee on Government Operations, Legal Review and Consumer Protection

Representative Cabral-Guevara

January 18th, 2022

Chairman Stroebel and Committee Members,

Thank you for holding a Public Hearing on Senate bill 448, 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. SB 448 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 Senate bill 448 and I would be happy to answer any questions you may have.



School Administrators Alliance

Representing the Interests of Wisconsin School Children

TO: Senate Committee on Government Operations, Legal Review and
Consumer Protection
FROM: John Forester, Executive Director
DATE: January 18, 2022
RE: Opposition to Senate Bill 448

Chairman Stroebel and members of the Senate Committee on Government Operations, Legal Review and Consumer Protection, thank you very much for the opportunity to submit testimony 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 Senate Bill 448, 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 SB 448, 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 SB 448 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. Earlier this session, she prepared a memo summarizing her concerns on AB 475, the Assembly companion to SB 448, 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/SB 448 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/SB 448 given the length of time between the drafting of the ballot question and completion of the final financing.

- **Possible Legal Challenges**

AB 475/SB 448 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/SB 448 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/SB 448 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 SB 448.

Thank you for your consideration of our views. If you should have any questions regarding our position on SB 448, 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.