



RACHAEL A. CABRAL-GUEVARA

STATE SENATOR • 19TH SENATE DISTRICT

Testimony before the Assembly Committee on Local Government

Senator Rachael Cabral-Guevara

April 12, 2023

Hello, Chairman Novak and members of the committee. Thank you for allowing me to testify on Assembly Bill 82, an important piece of legislation that will provide more information to voters and increase transparency in local referenda.

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 one of my local school boards 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 estimated cost of a referendum question. 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 again for your time. I am hopeful you are able to support this piece of legislation which will help bring more transparency and accountability to our local referendum process.



NATE GUSTAFSON

STATE REPRESENTATIVE • 55TH ASSEMBLY DISTRICT

Wednesday, April 12, 2023

Testimony on Assembly Bill 82

Thank you Chairman Novak and committee members for the opportunity to testify on Assembly Bill 82. I appreciate your time and consideration of this legislation. And thank you to my colleague, Senator Cabral-Guevara, who has co-authored this bill in the Senate.

Currently, when a municipality, county, or school district holds a referendum seeking voter approval for issuing bonds, the referendum 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. What is not within this statement is the interest that is accruing on these bonds. An example of this was a referendum proposed in a local school district in 2019 and 2020.

What Assembly Bill 82 would change is that this statement would also include accrued interest costs, the extremities of total costs if the bonds are based on variable interest rates, or, if bonds are issued at fixed interest rates, the total cost using that fixed rate.

This bill is not about preventing a municipality, county, or school district from holding a referendum. This bill is solely about giving voters the full context of what they are voting on by being direct about how much money it will cost. This bill is solely about providing transparency to Wisconsin voters.

Thank you for your consideration on Assembly Bill 82 and I hope you will all support this bill.



JOHN J. MACCO

STATE REPRESENTATIVE • 88TH ASSEMBLY DISTRICT

To: Assembly Committee on Local Government

From: Representative John Macco

Date: Wednesday, April 12th, 2023

In Favor of AB 82

Chairman Novak and Committee Members,

Thank you for holding a hearing for AB 82.

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. Only including these two items, does not provide the taxpayer with the entire picture of what the project will cost from the ground breaking to the ribbon cutting and beyond. When using bonds for a project, there are additional interest costs attached when all is said and done. This is not required to be listed under current law. By omitting the interest on the ballot, government is 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 with their hard earned money, they are entitled to know the total cost.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "John J. Macco", is written over a horizontal line.

John J. Macco
Representative
88th Assembly District



April 12, 2023

Assembly Committee on Local Government

**Department of Public Instruction Testimony
2023 Assembly Bill 82**

I want to thank Chairman Novak and members of the committee for the opportunity to provide testimony on Assembly Bill 82 (AB 82). My name is Kevyn Radcliffe, and I am the Legislative Liaison for the Department of Public Instruction.

For the following reasons, the Department of Public Instruction (DPI) opposes AB 82. DPI believes current law already allows for taxpayers to ask school districts for the impacts of approving a referendum question without imposing undue disclosure burdens on school boards. Under this bill, the statement included with the referendum question must also provide the estimated amount of the interest accruing on the amount of the bonds, along with the interest rate. The bill imposes significant burdens on school boards by requiring calculations and interest rate information that may not be available at the time of the referendum vote. This has the potential to expose school boards to legal challenges if actual debt costs are different than what was specified in the referendum.

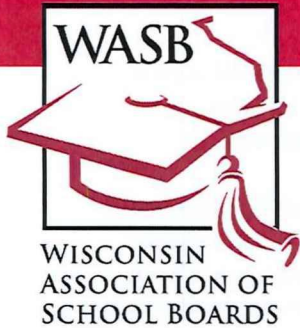
School boards will have difficulties complying with the requirements in this bill because a year or more may pass between the time when a school board adopts a resolution to hold a debt referendum and the time bonds are sold. Macroeconomic factors, Federal Reserve policy, and rating agency decisions can cause the actual rates to vary significantly from projections. Because the referendum vote happens prior to the actual debt issuance, specific information concerning the total interest and related debt service costs will not be available. This bill may expose school districts to legal liability should someone challenge the board on the actual debt costs compared to what had been specified in the resolution or referendum question. It is unclear in the bill what the legal consequences would be if the interest rates on the sold bonds exceed the rate(s) specified in the referendum question.

Additionally, this bill mischaracterizes how bonds operate. The bill suggests that bonds operate like a simple bank loan, where interest rates are known. Instead, a bond issue is a

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collection of individual bonds maturing on specific dates with each having its own interest rate. These factors are unknown until the bonds are sold in a public auction following voter approval of the referendum.

For the reasons stated above, DPI opposes AB 82. If you have questions or would like additional information, please contact Kevyn Radcliffe, Legislative Liaison, at Kevyn.radcliffe@dpi.wi.gov or (608) 264-6716.



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JOHN H. ASHLEY, EXECUTIVE DIRECTOR

TO: Members, Assembly Committee on Local Government
FROM: Dan Rossmiller, WASB Government Relations Director
DATE: April 12, 2023
RE: OPPOSITION to Assembly Bill 82, 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 82.

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 82 because we have concerns that the bill could create a new avenue for legal challenges to bond referenda and bond issuance. The increased risk posed by such potential legal challenges will likely raise the interest that must be paid to market those bonds to bond buyers and could even prevent the sale of such bonds.

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 in split into segments over time. We believe the information required by the bill is often already shared by districts 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 in similar fashion.

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 this work must 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 often are 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 happen. 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 Bond 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 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 82 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 82 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.



WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.

www.will-law.org

April 12, 2023

Dear Chairman Novak and members of the Assembly Committee on Local Government,

Thank you for the opportunity to submit testimony in favor of Assembly Bill 82, a proposal by Representative Gustafson and Senator Cabral-Guevara regarding referendums and requiring a statement on the estimated interest accrued on the bonds.

As Wisconsin voters consider referendums, more transparency and information is necessary. All too often, the impact of referendums on property taxes comes as a surprise to taxpayers. Assembly Bill 82 provides voters with important information prior to making a decision.

Based on past criticisms of similar bills, we recommend that AB 82 be amended to clarify what constitutes an "estimated amount of interest." In preparation for referendums, school boards and local governments often receive analyses that take into account the state of the financial markets and how it may impact the interest rates. AB 82 could be amended to include language requiring a "good faith estimate of the total amount of interest." This would ensure that voters are provided with the important information about the financial impact of the proposed referenda while giving local governments a safe harbor if the market shifts dramatically between the referendum approve and the issuing of the bonds.

Additionally, this information could also be required to be shared with voters in a public format prior to the referendum, which would achieve the goal of AB 82 while also addressing previous criticisms about the process by which local governments issue bonds.

Thank you,

Libby Sobic
Wisconsin Institute for Law & Liberty
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