

2003 DRAFTING REQUEST

Bill

Received: **04/16/2003**

Received By: **pgrant**

Wanted: **As time permits**

Identical to LRB:

For: **Thomas Reynolds (608) 266-2512**

By/Representing: **Steve Krieser**

This file may be shown to any legislator: **NO**

Drafter: **pgrant**

May Contact:

Addl. Drafters: **mshovers**

Subject: **Education - school boards
Counties - miscellaneous
Munis - miscellaneous**

Extra Copies: **MJL**

Submit via email: **YES**

Requester's email: **Sen.Reynolds@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

School board positions on referenda questions

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pgrant 04/25/2003	kgilfoy 04/29/2003		_____			
/1	mshovers 07/09/2003	kgilfoy 07/10/2003	jfrantze 04/30/2003	_____	sbasford 04/30/2003	amentkow 05/01/2003	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2			jfrantze 07/11/2003	_____	amentkow 07/11/2003	amentkow 07/11/2003	

FE Sent For: *none needed*

<END>

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Municipalities MISC

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12 MES
7/11/03
039
67/11
7/11

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1?	pgrant	1-4/29 Kmg	264/30	26/p9 4/30			

FE Sent For:

<END>

Grant, Peter

From: Krieser, Steve
Sent: Wednesday, April 16, 2003 4:02 PM
To: Grant, Peter
Subject: Drafting Request

This is a request for a bill draft that would prohibit the use of public school district monies or resources to promote the approval or defeat of any referendum placed on the ballot by a school board or school district. This would not prohibit school district employees or elected officials from employing their own time and resources to advocate for the approval or defeat of any item or candidate appearing on any ballot.

Steve Krieser
Office of State Senator Tom Reynolds
5th Senate District
Chief of Staff

Clerk, Committee on Labor, Small Business Development and Consumer Affairs

Phone: 608-266-2512 Fax: 608-267-0367

Toll-Free: 866-817-6061

Web: <http://www.senreynolds.com>



Krieser, Steve.vcf

2003

Date (time) needed _____

LRB - 2555 11

BILL

PG: King

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . . of the statutes; relating to: use of school district resources . . . to promote or defeat a school district referendum . . .

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: create → anal: → title: → head

For the subheading, execute: create → anal: → title: → sub

For the sub-subheading, execute: create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: create → anal: → text

(attached)

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

SECTION #.

analysis

This bill explicitly prohibits a school board from using school district funds or other resources to advocate for the approval or disapproval ~~or against the approval~~ of a referendum^m question submitted by the school board to the electors of the school district.

SEC. KM. 121.007 (196)
(B) (B) state and
121.007 (title) Use of school district funds;
(B)
exemption from execution.

SEC. RN. ~~121.007~~, 121.007 (1)

SEC. CR. 121.007 (2)

121.007(2)² A school board may
not use school district funds or other school
district resources to advocate for the approval or
disapproval of any referendum submitted to the school district's
electors by
the school board.

(end)

Mentkowski, Annie

From: Krieser, Steve
Sent: Thursday, May 01, 2003 2:31 PM
To: LRB.Legal
Subject: Draft review: LRB 03-2555/1 Topic: School board positions on referenda questions

It has been requested by <Krieser, Steve> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-2555/1 Topic: School board positions on referenda questions

Grant, Peter

From: Krieser, Steve
Sent: Tuesday, July 01, 2003 12:16 PM
To: Grant, Peter
Subject: LRB 2555/1

Hi Peter!

I have a jacketed copy of the above-captioned draft in my possession. My boss has asked that it be redrafted to prevent any local unit of government from using its funds or resources to advocate for the approval or defeat of a referendum question submitted to the voters by itself or by any other local unit of government. I'll send the jacket back to you.

Thanks, in advance, for your help.

Steve Krieser
Office of State Senator Tom Reynolds
5th Senate District
Chief of Staff

Clerk, Committee on Labor, Small Business Development and Consumer Affairs

Phone: 608-266-2512 Fax: 608-267-0367

Toll-Free: 866-817-6061

Web: <http://www.senreynolds.com>



Krieser, Steve.vcf



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2555/1
PG:kmg:jf

KMS

FMR

2003 BILL

D-Note

[Signature]

1 AN ACT to ~~renumber~~ 121.007; to amend 121.007 (title); and to create 121.007
2 (2) of the statutes; relating to: use of ~~school district~~ resources to promote or
3 defeat a ~~school district~~ referendum.

local governmental

any local governmental unit

Analysis by the Legislative Reference Bureau

This bill explicitly prohibits a ~~school board~~ ^{its} from using ~~school district~~ funds or other ~~school district~~ resources to advocate for the approval or disapproval of a referendum question submitted by ~~the school board~~ to the electors of the ~~school district~~.

governmental unit

any local governmental unit

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

FMS 1-4

- 4 SECTION 1. 121.007 (title) of the statutes is amended to read:
- 5 121.007 (title) Use of state-aid school district funds; exemption from
- 6 execution.
- 7 SECTION 2. 121.007 of the statutes is renumbered 121.007 (1).
- 8 SECTION 3. 121.007 (2) of the statutes is created to read:

BILL

1 121.007 (2) A school board may not use school district funds or other school
2 district resources to advocate for the approval or disapproval of any referendum
3 question submitted to ~~the~~ school district ~~the~~ electors by the school board.

4

(END)

by
or any other local
governmental unit, as
defined in
S. 66.0145(1)✓

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2555/1ins
PG&MES:kmg:jf

INS 1-4 ✓

SECTION 1. 66.0145 of the statutes is created to read: ✓

66.0145 Spending on referenda. (1) In this section, "local governmental unit" means a political subdivision of this state, a special purpose district in this state, an agency or corporation of a political subdivision or special purpose district, or a combination or subunit of any of the foregoing. (2)

(2) A local governmental unit may not use local governmental unit funds or other local governmental unit resources to advocate for the approval or disapproval of any referendum question submitted to the local governmental unit's electors by the local governmental unit or by any other local governmental unit.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2555/1dn
PG:kmg:jf

8 M E S
2

Senator Reynolds:

This version of the bill applies to local governmental units, including cities and villages. If this bill becomes law, it could be challenged by cities and villages as a violation of their constitutional and statutory home rule powers. Article XI, section 3 of the Wisconsin Constitution, as well as ss. 61.34 (5) and 62.11 (5) of the statutes, and numerous decisions of the Wisconsin Supreme Court give cities and villages extensive home rule authority. This constitutional provision "makes a direct grant of legislative power to municipalities" by authorizing them to determine their own local affairs, subject to the constitution and legislative enactments of statewide concern. (See *State ex rel. Michalek v. LeGrand*, 77 Wis. 2d 520, 526 (1977), citing *State ex rel. Ekern v. City of Milwaukee*, 190 Wis. 633, 637 (1926).)

The provision also stands for the proposition that the state legislature is limited "in its enactments in the field of local affairs of cities and villages" (*Michalek*, 526 citing *Ekern*, 638) and cannot prohibit a city or village from acting in an area that solely involves local affairs and that is not a matter of statewide concern. It could be argued that this bill, to the extent that it prohibits cities and villages from spending their own funds to advocate for or against referenda which, in many cases, could involve only local issues, impacts only local affairs and not matters of statewide concern, thus violating Article XI, section 3 of the constitution.

You should know that even if this amendment becomes law, cities and villages may not be subject to its provisions. In some cases, if a state law intrudes on an area of local concern, a city may elect not to be governed by the law. (See *Ekern*, 642.)

Although it is difficult to predict how a court would rule should this bill become law and should a legal challenge be filed, I thought you should at least be aware of these issues. Please let me know if you have any questions.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2555/2dn
PG&MES:kmg:jf

July 11, 2003

Senator Reynolds:

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