

TODD NOVAK

STATE REPRESENTATIVE • 51ST ASSEMBLY DISTRICT

(608) 266-7502
Toll-Free: (888) 534-0051
Rep.Novak@legis.wi.gov

P.O. Box 8953
Madison, WI 53708-8953

April 20, 2017

AB 95

Thank you Chairman Thiesfeldt and members of the committee for holding a hearing on AB95, which allows a school board member to refuse to take their salary.

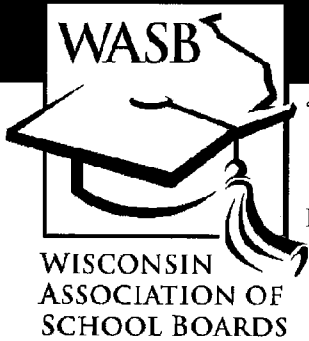
Current law allows a city, village, town or county board members to file a waiver to refuse to take their salary or only take a partial salary. There is no provision in the law to allow a school board member to do the same.

It is common for school board members, especially in the rural areas, to give their salary back to the school district. However, the only option available to a school board member is to receive their paycheck and sign it back over to the school district. The school board member still must report their salary as income and pay taxes on this income even though they returned the money.

This bill allows them the option to file a waiver as other elected officials are allowed to do and not receive a paycheck at all. This bill was put forward by Senator Marklein and myself at the request of school board members and school superintendents. It is essentially a technical fix by adding school board members to existing law.

Thank you.

Todd Novak
State Representative – 51st District Assembly District



"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, Assembly Committee on Education
FROM: Dan Rossmiller, WASB Government Relations Director
DATE: April 20, 2017
RE: SUPPORT for ASSEMBLY BILL 95 AS AMENDED BY ASSEMBLY AMENDMENT 1,
relating to authorizing a school board member to refuse his or her salary,

The Wisconsin Association of School Boards (WASB) supports Assembly Bill 95 with the addition of Assembly Amendment 1.

Assembly Bill 95 would provide a statutory mechanism to allow a school board member or school board member-elect to officially refuse the salary that he or she is entitled to receive for his or her service as a school board member and not incur any state or federal income tax liability on that salary. Other local government elected officials (i.e., city, village, town or county elected officials) were provided with a similar mechanism through the enactment of 2007 Wisconsin Act 49.

Currently, because no statutory mechanism similar to 2007 Act 49 exists for school board members, a school board member who "refuses" his or her salary must include the amount of the salary in their taxable income when they file their tax return and must pay state and federal income taxes on that salary even though they did not actually receive the money. Under current law, school board members who elect to "refuse" their salary and who itemize their deductions can potentially offset their income tax liability by donating the "refused" salary to the school district or to another recognized charity but this works only to the extent a board member is able to itemize deductions on their federal income tax return.

Under the bill as originally introduced, in order to refuse his or her salary, a school board member or member-elect must send written notification to the school district clerk and treasurer. To be valid, the school board member or member-elect must send the notification within 30 days after the certification of the individual's election or at least 30 days before the start of the individual's next taxable year.

After Assembly Bill 95 was introduced we researched the bill further and discovered the bill needed to be amended to address and avoid unintended and unwanted income tax consequences that could potentially befall a board member under a federal income tax law doctrine known as *constructive receipt*. An individual deemed to have "constructively received" income could still be liable for income taxes on that income even if they have declared their intention to refuse that income. Complicating matters, some federal tax court decisions appear to have held that the "constructive receipt" of any income from a particular source in a given tax year could render all other income received from the same source in that same year taxable. To prevent this situation from arising, and to prevent a board member acting under AB 95 from getting an unwanted and unexpected tax "surprise," Assembly Amendment 1 provides that a school board member or member-elect must notify the school district clerk and treasurer in writing ***before they perform any duties that would be considered school board service.***

Passing AB 95 as amended by Assembly Amendment 1 will simplify and clarify matters for any school board member who wishes to refuse their salary and avoid income tax consequences. Under the bill, the school board member would neither receive the salary nor be able to direct where the salary amount should be sent. The money would simply remain within the school district with no tax consequences for the member who refuses the salary.

We encourage you to support Assembly Bill 95 with Assembly Amendment 1 added.