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John H. Ashley, Executive Director

TO: Members, Assembly Committee on Education
FROM: Dan Rossmiller, Government Relations Director
Chris Kulow, Government Relations Specialist
RE: Assembly Bill 299, relating to allowing a school board member to serve as a volunteer coach or extracurricular activity supervisor.
DATE: September 10, 2015

The Wisconsin Association of School Boards (WASB) supports Assembly Bill 299 which is based on WASB Resolution 6.22, approved by Delegates to the 2015 WASB Delegate Assembly in January.

Every child deserves to have adult mentors and positive role models, and it is often difficult to locate adults willing to assist as coaches or advisors of student extracurricular activities. While this situation occurs in many school districts, it is particularly true in many smaller, rural districts. There are, however, school board members across the state of Wisconsin who would be willing to serve in such a capacity but are currently prevented from doing so by the doctrine of incompatibility of offices or positions.

The doctrine of incompatibility is a common law doctrine that bars a person from holding two offices where one office is superior to the other, so that the duties exercised under each might conflict to the detriment of the public, or where the nature and duties of two offices are such that public policy considerations bar one person from discharging the duties of both offices.

The former Wisconsin Ethics Board has stated that a board member serving as a volunteer coach for the district appears to violate the doctrine of incompatibility. The Attorney General has also stated that it is generally not sound policy for a school district to employ one of its board members in any capacity. While these opinions have assumed the situation involves a board member serving in a paid position they still raise doubts that this bill would address.

This bill would create an expressed exception to the doctrine of incompatibility of offices in order to allow a school board member to act as a volunteer coach or as a supervisor for an extracurricular activity, provided the school board member: a) does not receive compensation for coaching or supervising the extracurricular activity; b) agrees to abstain from voting on issues substantially and directly related to the activity he or she coaches or supervises; and c) the school board receives the results of a criminal background investigation of the school board member.

The state of Michigan has enacted a similar exemption in state law for school board members to serve in these roles.

This bill is not intended to elevate the status of a school board member who wishes to volunteer with district extracurricular activities but merely to remove a legal impediment that currently prevents them from serving in such a volunteer capacity.

The WASB believes school board members who are willing to dedicate their time to volunteer service in their school district should not be denied the opportunity to serve as both a board member and a volunteer with extracurricular activities if they are qualified and if provisions are in place that prevent any question of a conflict of interest. We are confident the conditions on such volunteer service laid out in the bill are sufficient to accomplish this.



NANCY VANDERMEER

STATE REPRESENTATIVE • 70TH ASSEMBLY DISTRICT

TO: Honorable Members of the Assembly Committee on Education

FROM: State Representative Nancy VanderMeer

DATE: September 10, 2015

SUBJECT: Testimony in Support of AB 299

Thank you Chairman Thiesfeldt and members of the Assembly Committee on Education for holding a hearing on Assembly Bill 299 today. As the author of this legislation, along with Senator Lassa, I am pleased to testify before you and to take any questions that committee members may have.

Currently, in Wisconsin, unless a specific exception exists in statute, a person is prohibited from holding two or more public positions when the duties of each might conflict. The legislation we are proposing would create an exception for school board members.

Assembly Bill 299 will enable school board members to also serve as unpaid volunteer coaches of an extracurricular activity in their school district. I want to emphasize the unpaid aspect, this legislation specifically states that school board members cannot receive any compensation for the coaching or supervising they do.

In addition, this legislation sets forward restrictions to guard against any potential conflicts of interest for any school board member who serves as a volunteer coach, including abstaining from any vote, except the district budget, that involves the activity they coach or supervise.

Furthermore, I want to stress the main reason this legislation is important and worthy of your support. It benefits rural schools districts. This is a result of a request by a local rural school board member and I believe it will be a valuable tool for school districts in finding qualified volunteer coaches and supervisors for all the extracurricular activities available for our students.

In closing, I ask that you join Senator Lassa and myself, along with the Wisconsin Association of School Boards (WASB) in support of this effort to provide another valuable tool for our school districts.

Thank you for the opportunity to testify here today, I would be happy to answer any questions you may have at this time.



JULIE LASSA

STATE SENATOR

Testimony on Assembly Bill 299
Senate Committee on Education
Thursday, September 10, 2015
417 North

Chairman Thiesfeldt and committee members, thank you for the opportunity to present testimony in support of Assembly Bill 299, which Representative VanderMeer and I have introduced on behalf of a school board member in our district. This is a simple bill that would permit elected school board members, as long as certain parameters are followed, to serve as volunteer coaches or extracurricular activity supervisors in the school districts they represent. This bill will help smaller school districts find qualified coaches and supervisors for students looking to participate in extracurricular activities and allow school board members an additional way to participate in school district activities.

This bill is necessary as elected school board members are currently prohibited from serving as volunteer coaches or unpaid extracurricular activity supervisors for their school districts due to the common law doctrine of incompatibility. This doctrine bars a person from holding two or more public positions when the duties of each might conflict unless specifically allowed by statute. This bill would allow school board members to hold these types of positions and creates safeguards to protect against possible conflicts of interest. It would require school board members who are serving as unpaid coaches or supervisors to abstain from voting on issues directly related to the activity they volunteer to supervise, except for the whole budget. It also requires that the school board receive the results of criminal background checks of school board members before they can fill such volunteer roles. These parameters will help ensure that school board members continue to serve on the board in an unbiased capacity and that their roles as unpaid coaches or supervisors will not affect their duties on the school board.

In researching this legislation with the National Conference of State Legislatures, we found that Michigan passed a similar law after a school district had to disband a junior varsity team because they lacked a coach. We also worked with the Wisconsin Association of School Boards in crafting this proposal, which is similar to a resolution approved by its 2015 Delegate Assembly.

AB 299 has bi-partisan support in its co-sponsorship, and I hope you will give it your support as well. I am happy to be joined today by Representative Nancy VanderMeer on behalf of our constituent, Nancy McCoy, a Tomah Area School District board member and possible future volunteer cross country coach; Nancy is, unfortunately, unable to be here today to discuss some of the real-world implications of this legislation.