

HOUSE BILL No. 1378

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-1-22; IC 20-5-2-2; IC 20-5-52.5.

Synopsis: School facilities standardized plans. Requires the department of education to develop and make available to school corporations standardized plans for new school facilities that are ready to be bid for construction. Requires a school corporation that proposes to build a new facility to determine whether a standardized plan meets the needs of the school corporation. Requires a school corporation that wishes to build a school facility that differs from a standardized plan to give notice of this determination and, upon petition by registered voters, submit the question of the construction of the facility to a referendum.

Effective: July 1, 1998.

Whetstone, Liggett, Kuzman

January 13, 1998, read first time and referred to Committee on Education.

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Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

HOUSE BILL No. 1378

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 20-1-22 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]:
4 **Chapter 22. School Building Plans**
5 **Sec. 1. The department shall develop a series of standardized**
6 **plans for new school facilities. The plans must be for school**
7 **facilities of different:**
8 (1) sizes based upon pupil enrollment; and
9 (2) types, including grade levels.
10 **Sec. 2. The plans developed under this chapter must be based**
11 **on designs for school facilities that comply with the following**
12 **criteria:**
13 (1) Are economical to construct and maintain.
14 (2) Are energy efficient.
15 (3) Provide for efficient long term maintenance.
16 (4) Provide adequately for the health and safety of pupils and
17 teachers.



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- 1 **(5) Federal and state laws.**
- 2 **Sec. 3. The department may employ or contract with**
 3 **architects, engineers, and other professionals to develop plans**
 4 **under this chapter.**
- 5 **Sec. 4. The department may modify plans developed under this**
 6 **chapter when necessary.**
- 7 **Sec. 5. Before a plan developed under this chapter may be**
 8 **provided to a school corporation, the plan must:**
- 9 **(1) include specifications for materials and labor; and**
 10 **(2) be ready to be bid for construction.**
- 11 **Sec. 6. The department shall:**
- 12 **(1) notify each school corporation of the plans developed**
 13 **under this chapter; and**
- 14 **(2) make the plans available to a school corporation upon**
 15 **request.**
- 16 **SECTION 2. IC 20-5-2-2 IS AMENDED TO READ AS**
 17 **FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. In carrying out the**
 18 **school purposes of each school corporation, its governing body acting**
 19 **on its behalf shall have the following specific powers:**
- 20 **(1) In the name of the school corporation, to sue and be sued and**
 21 **to enter into contracts in matters permitted by applicable law.**
- 22 **(2) To take charge of, manage, and conduct the educational**
 23 **affairs of the school corporation and to establish, locate, and**
 24 **provide the necessary schools, school libraries, other libraries**
 25 **where permitted by law, other buildings, facilities, property, and**
 26 **equipment therefor.**
- 27 **(2.5) To appropriate from the general fund an amount, not to**
 28 **exceed the greater of three thousand dollars (\$3,000) per budget**
 29 **year or one dollar (\$1) per pupil, not to exceed twelve thousand**
 30 **five hundred dollars (\$12,500), based upon the school**
 31 **corporation's previous year's average daily membership (as**
 32 **defined in IC 21-3-1.6-1.1) for the purpose of promoting the best**
 33 **interests of the school corporation by:**
- 34 **(A) the purchase of meals, decorations, memorabilia, or**
 35 **awards;**
- 36 **(B) provision for expenses incurred in interviewing job**
 37 **applicants; or**
- 38 **(C) developing relations with other governmental units.**
- 39 **(3) Subject to IC 20-5-52.5, to acquire, construct, erect,**
 40 **maintain, hold, and to contract for such construction, erection, or**
 41 **maintenance of such real estate, real estate improvements, or any**
 42 **interest in either, as the governing body deems necessary for**

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1 school purposes, including but not limited to buildings, parts of
2 buildings, additions to buildings, rooms, gymnasiums,
3 auditoriums, playgrounds, playing and athletic fields, facilities
4 for physical training, buildings for administrative, office,
5 warehouse, repair activities, or housing of school owned buses,
6 landscaping, walks, drives, parking areas, roadways, easements
7 and facilities for power, sewer, water, roadway, access, storm
8 and surface water, drinking water, gas, electricity, other utilities
9 and similar purposes, by purchase, either outright for cash (or
10 under conditional sales or purchases money contracts providing
11 for a retention of a security interest by seller until payment is
12 made or by notes where such contract, security retention, or note
13 is permitted by applicable law), by exchange, by gift, by devise,
14 by eminent domain, by lease with or without option to purchase,
15 or by lease under IC 21-5-10, IC 21-5-11, or IC 21-5-12. To
16 repair, remodel, remove, or demolish any such real estate, real
17 estate improvements, or interest in either, as the governing body
18 deems necessary for school purposes, and to contract therefor.
19 To provide for energy conservation measures through utility
20 energy efficiency programs or under a guaranteed energy savings
21 contract as described in IC 36-1-12.5.

22 (4) To acquire such personal property or any interest therein as
23 the governing body deems necessary for school purposes,
24 including but not limited to buses, motor vehicles, equipment,
25 apparatus, appliances, books, furniture, and supplies, either by
26 outright purchase for cash, or under conditional sales or
27 purchase money contracts providing for a security interest by the
28 seller until payment is made or by notes where such contract,
29 security, retention, or note is permitted by applicable law, by
30 gift, by devise, by loan, or by lease with or without option to
31 purchase and to repair, remodel, remove, relocate, and demolish
32 such personal property. All purchases and contracts delineated
33 under the powers given under subdivision (3) and this
34 subdivision shall be subject solely to applicable law relating to
35 purchases and contracting by municipal corporations in general
36 and to the supervisory control of agencies of the state as
37 provided in section 3 of this chapter.

38 (5) To sell or exchange any of such real or personal property or
39 interest therein, which in the opinion of the governing body is
40 not necessary for school purposes, in accordance with IC 20-5-5,
41 to demolish or otherwise dispose of such property if, in the
42 opinion of the governing body, it is not necessary for school

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1 purposes and is worthless, and to pay the expenses for such
2 demolition or disposition.

3 (6) To lease any school property for a rental which the governing
4 body deems reasonable or to permit the free use of school
5 property for:

6 (A) civic or public purposes; or

7 (B) the operation of a school age child care program for
8 children aged five (5) through fourteen (14) years that
9 operates before or after the school day, or both, and during
10 periods when school is not in session;

11 if the property is not needed for school purposes. Under this
12 subdivision, the governing body may enter into a long term lease
13 with a nonprofit corporation, community service organization, or
14 other governmental entity, if the corporation, organization, or
15 other governmental entity will use the property to be leased for
16 civic or public purposes or for a school age child care program.
17 However, if the property subject to a long term lease is being
18 paid for from money in the school corporation's debt service
19 fund, then all proceeds from the long term lease shall be
20 deposited in that school corporation's debt service fund so long
21 as the property has not been paid for. The governing body may,
22 at its option, use the procedure specified in IC 36-1-11-10 in
23 leasing property under this subdivision.

24 (7) To employ, contract for, and discharge superintendents,
25 supervisors, principals, teachers, librarians, athletic coaches
26 (whether or not they are otherwise employed by the school
27 corporation and whether or not they are licensed under
28 IC 20-6.1-3), business managers, superintendents of buildings
29 and grounds, janitors, engineers, architects, physicians, dentists,
30 nurses, accountants, teacher aides performing noninstructional
31 duties, educational and other professional consultants, data
32 processing and computer service for school purposes, including
33 but not limited to the making of schedules, the keeping and
34 analyzing of grades and other student data, the keeping and
35 preparing of warrants, payroll, and similar data where approved
36 by the state board of accounts as provided below, and such other
37 personnel or services, all as the governing body considers
38 necessary for school purposes. To fix and pay the salaries and
39 compensation of such persons and such services. To classify
40 such persons or services and to adopt schedules of salaries or
41 compensation. To determine the number of such persons or the
42 amount of services thus employed or contracted for. To

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1 determine the nature and extent of their duties. The
2 compensation, terms of employment, and discharge of teachers
3 shall, however, be subject to and governed by the laws relating
4 to employment, contracting, compensation, and discharge of
5 teachers. The compensation, terms of employment, and
6 discharge of bus drivers shall be subject to and shall be governed
7 by any laws relating to employment, contracting, compensation,
8 and discharge of bus drivers. The forms and procedures relating
9 to the use of computer and data processing equipment in
10 handling the financial affairs of such school corporation shall be
11 submitted to the state board of accounts for approval to the end
12 that such services shall be used by the school corporation when
13 the governing body determines that it is in the best interests of
14 the school corporation while at the same time providing
15 reasonable accountability for the funds expended.

16 (8) Notwithstanding the appropriation limitation in subdivision
17 (2.5), when the governing body by resolution deems a trip by an
18 employee of the school corporation or by a member of the
19 governing body to be in the interest of the school corporation,
20 including but not limited to attending meetings, conferences, or
21 examining equipment, buildings, and installation in other areas,
22 to permit such employee to be absent in connection with such
23 trip without any loss in pay and to refund to such employee or to
24 such member his reasonable hotel and board bills and necessary
25 transportation expenses. To pay teaching personnel for time
26 spent in sponsoring and working with school related trips or
27 activities.

28 (9) To transport children to and from school, when in the opinion
29 of the governing body such transportation is necessary, including
30 but not limited to considerations for the safety of such children
31 and without regard to the distance they live from the school, such
32 transportation to be otherwise in accordance with the laws
33 applicable thereto.

34 (10) To provide a lunch program for a part or all of the students
35 attending the schools of the school corporation, including but not
36 limited to the establishment of kitchens, kitchen facilities,
37 kitchen equipment, lunch rooms, the hiring of the necessary
38 personnel to operate such program, and the purchase of any
39 material and supplies therefor, charging students for the
40 operational costs of such lunch program, fixing the price per
41 meal or per food item. To operate such lunch program as an
42 extracurricular activity, subject to the supervision of the

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- 1 governing body. To participate in any surplus commodity or
2 lunch aid program.
- 3 (11) To purchase textbooks, to furnish them without cost or to
4 rent them to students, to participate in any textbook aid program,
5 all in accordance with applicable law.
- 6 (12) To accept students transferred from other school
7 corporations and to transfer students to other school corporations
8 in accordance with applicable law.
- 9 (13) To levy taxes, to make budgets, to appropriate funds, and to
10 disburse the money of the school corporation in accordance with
11 the laws applicable thereto. To borrow money against current tax
12 collections and otherwise to borrow money, in accordance with
13 IC 20-5-4.
- 14 (14) To purchase insurance or to establish and maintain a
15 program of self-insurance relating to the liability of the school
16 corporation or its employees in connection with motor vehicles
17 or property and for any additional coverage to the extent
18 permitted and in accordance with IC 34-4-16.5-18. To purchase
19 additional insurance or to establish and maintain a program of
20 self-insurance protecting the school corporation and members of
21 the governing body, employees, contractors, or agents of the
22 school corporation from any liability, risk, accident, or loss
23 related to any school property, school contract, school or school
24 related activity, including but not limited to the purchase of
25 insurance or the establishment and maintenance of a
26 self-insurance program protecting such persons against false
27 imprisonment, false arrest, libel, or slander for acts committed
28 in the course of their employment, protecting the school
29 corporation for fire and extended coverage and other casualty
30 risks to the extent of replacement cost, loss of use, and other
31 insurable risks relating to any property owned, leased, or held by
32 the school corporation. To purchase insurance or to establish and
33 maintain a program of self-insurance to benefit school
34 corporation employees, which may include accident, sickness,
35 health, or dental coverage, provided that any plan of
36 self-insurance shall include an aggregate stop-loss provision.
- 37 (15) To make all applications, to enter into all contracts, and to
38 sign all documents necessary for the receipt of aid, money, or
39 property from the state government, the federal government, or
40 from any other source.
- 41 (16) To defend any member of the governing body or any
42 employee of the school corporation in any suit arising out of the

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1 performance of his duties for or employment with, the school
 2 corporation, provided the governing body by resolution
 3 determined that such action was taken in good faith. To save any
 4 such member or employee harmless from any liability, cost, or
 5 damage in connection therewith, including but not limited to the
 6 payment of any legal fees, except where such liability, cost, or
 7 damage is predicated on or arises out of the bad faith of such
 8 member or employee, or is a claim or judgment based on his
 9 malfeasance in office or employment.

10 (17) To prepare, make, enforce, amend, or repeal rules,
 11 regulations, and procedures for the government and management
 12 of the schools, property, facilities, and activities of the school
 13 corporation, its agents, employees, and pupils and for the
 14 operation of its governing body, which rules, regulations, and
 15 procedures may be designated by any appropriate title such as
 16 "policy handbook", "bylaws", or "rules and regulations".

17 (18) To ratify and approve any action taken by any member of
 18 the governing body, any officer of the governing body, or by any
 19 employee of the school corporation after such action is taken, if
 20 such action could have been approved in advance, and in
 21 connection therewith to pay any expense or compensation
 22 permitted under IC 20-5-1 through IC 20-5-6 or any other law.

23 (19) To exercise any other power and make any expenditure in
 24 carrying out its general powers and purposes provided in this
 25 chapter or in carrying out the powers delineated in this section
 26 which is reasonable from a business or educational standpoint in
 27 carrying out school purposes of the school corporation, including
 28 but not limited to the acquisition of property or the employment
 29 or contracting for services, even though such power or
 30 expenditure shall not be specifically set out herein. The specific
 31 powers set out in this section shall not be construed to limit the
 32 general grant of powers provided in this chapter except where a
 33 limitation is set out in IC 20-5-1 through IC 20-5-6 by specific
 34 language or by reference to other law.

35 SECTION 3. IC 20-5-52.5 IS ADDED TO THE INDIANA CODE
 36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 1998]:

38 **Chapter 52.5. School Building Construction**

39 **Sec. 1. Whenever a governing body determines that it is**
 40 **necessary to construct a new school facility, the governing body**
 41 **shall acquire from the department the plans developed under**
 42 **IC 20-1-22 for a facility of the size and type the governing body**



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1 proposes to build.

2 **Sec. 2.** After examining the plans acquired under section 1 of
3 this chapter, the governing body shall determine that the plans are:

- 4 (1) adequate to meet the needs of the school corporation and
5 will be followed in the construction of the new facility; or
6 (2) not adequate to meet the needs of the school corporation
7 and new plans must be developed.

8 **Sec. 3.** If the governing body makes a determination under
9 section 2(1) of this chapter, the governing body may proceed with
10 the construction of the facility in the manner provided by law.

11 **Sec. 4.** If the governing body makes a determination under
12 section 2(2) of this chapter, the governing body must give notice of
13 the following under IC 5-3-1:

- 14 (1) That a determination under section 2(2) of this chapter
15 has been made.
16 (2) A description of the proposed facility and the governing
17 body's estimate of the cost of construction. The governing
18 body is not required to base an estimate under this
19 subdivision upon an architect's bid-ready plans.
20 (3) The petition and referendum procedure provided under
21 this chapter.

22 **Sec. 5.** The registered voters of a school corporation may file
23 a petition addressed to the governing body requesting that the
24 question of the construction of the proposed school facility be
25 submitted to a referendum. The petition must be signed by at least
26 ten percent (10%) of the registered voters of the school
27 corporation. A petition under this section must be filed with the
28 governing body not later than ninety (90) days after notice is given
29 under section 4 of this chapter.

30 **Sec. 6.** Not later than thirty (30) days after a petition is filed
31 under section 5 of this chapter, the governing body shall certify to
32 the county election board that a petition has been filed.

33 **Sec. 7.** IC 3 governs a referendum held under this chapter.

34 **Sec. 8.** Following certification, the county election board shall
35 submit the question of the proposed construction to a referendum
36 at the next election. The question shall be submitted to the
37 registered voters of the school corporation by placement on the
38 ballot in the form prescribed by IC 3-10-9-4 and must state:

39 "Shall the _____ school corporation construct a
40 _____ (Insert description of facility here) facility at an
41 estimated cost of _____ (Insert estimated cost here)?"

42 **Sec. 9.** If a majority of the voters voting on the question vote

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1 **in favor of the construction of the facility, the governing body may**
2 **proceed with the construction.**

3 SECTION 4. [EFFECTIVE JULY 1, 1998] (a) **The department**
4 **of education shall develop the school facility plans required under**
5 **IC 20-1-22, as added by this act, not later than June 30, 2000.**

6 (b) **This SECTION expires July 1, 2000.**

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