HOUSE BILL No. 1211

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-1-23; 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 and, if it determines a nonstandardized facility is necessary, to give notice of the determination and, upon petition by registered voters, submit the question of the construction of the facility to a referendum.

Effective: July 1, 2002.

Whetstone, Liggett, Thompson

January 10, 2002, read first time and referred to Committee on Education.

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Introduced

Second Regular Session 112th General Assembly (2002)

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 2001 General Assembly.

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HOUSE BILL No. 1211

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

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

SECTION 1. IC 20-1-23 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 23. School Building Plans

Sec. 1. The department shall develop a series of standardized plans for new school facilities. The plans must be for school facilities of different:

(1) sizes based upon pupil enrollment; and

(2) types, including grade levels.

Sec. 2. The plans developed under this chapter must be based on designs for school facilities that:

(1) are economical to construct and maintain;

(2) are energy efficient;

(3) provide for efficient long term maintenance;

(4) provide adequately for the health and safety of pupils and teachers; and

(5) comply with federal and state laws.

Sec. 3. The department may employ or contract with architects, engineers, and other professionals to develop plans under this chapter.

Sec. 4. The department may modify plans developed under this chapter when necessary.

Sec. 5. Before a plan developed under this chapter may be provided to a school corporation, the plan must:

(1) include specifications for materials and labor; and

(2) be ready to be bid for construction.

Sec. 6. The department shall:

(1) notify each school corporation of the plans developed under this chapter; and

(2) make the plans available to a school corporation upon request.

SECTION 2. IC 20-5-2-2, AS AMENDED BY P.L.286-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. In carrying out the school purposes of each school corporation, its governing body acting on its behalf shall have the following specific powers:

(1) In the name of the school corporation, to sue and be sued and to enter into contracts in matters permitted by applicable law.

(2) To take charge of, manage, and conduct the educational affairs of the school corporation and to establish, locate, and provide the necessary schools, school libraries, other libraries where permitted by law, other buildings, facilities, property, and equipment therefor.

(2.5) To appropriate from the general fund an amount, not to exceed the greater of three thousand dollars ($3,000) per budget year or one dollar ($1) per pupil, not to exceed twelve thousand five hundred dollars ($12,500), based upon the school corporation's previous year's average daily membership (as defined in IC 21-3-1.6-1.1) for the purpose of promoting the best interests of the school corporation by:

(A) the purchase of meals, decorations, memorabilia, or awards;

(B) provision for expenses incurred in interviewing job applicants; or

(C) developing relations with other governmental units.

(3) **Subject to IC 20-5-52.5,** to acquire, construct, erect, maintain, hold, and to contract for such construction, erection, or maintenance of such real estate, real estate improvements, or any interest in either, as the governing body deems necessary for

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

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

(5) To sell or exchange any of such real or personal property or interest therein, which in the opinion of the governing body is not necessary for school purposes, in accordance with IC 20-5-5, to demolish or otherwise dispose of such property if, in the opinion of the governing body, it is not necessary for school purposes and is worthless, and to pay the expenses for such demolition or

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disposition.

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

(A) civic or public purposes; or

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

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

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

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employment, and discharge of teachers shall, however, be subject to and governed by the laws relating to employment, contracting, compensation, and discharge of teachers. The compensation, terms of employment, and discharge of bus drivers shall be subject to and shall be governed by any laws relating to employment, contracting, compensation, and discharge of bus drivers. The forms and procedures relating to the use of computer and data processing equipment in handling the financial affairs of such school corporation shall be submitted to the state board of accounts for approval to the end that such services shall be used by the school corporation when the governing body determines that it is in the best interests of the school corporation while at the same time providing reasonable accountability for the funds expended.

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

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

(10) To provide a lunch program for a part or all of the students attending the schools of the school corporation, including but not limited to the establishment of kitchens, kitchen facilities, kitchen equipment, lunch rooms, the hiring of the necessary personnel to operate such program, and the purchase of any material and supplies therefor, charging students for the operational costs of such lunch program, fixing the price per meal or per food item. To operate such lunch program as an extracurricular activity, subject to the supervision of the governing body. To participate in any surplus commodity or lunch aid program.

(11) To purchase textbooks, to furnish them without cost or to

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rent them to students, to participate in any textbook aid program, all in accordance with applicable law.

(12) To accept students transferred from other school corporations and to transfer students to other school corporations in accordance with applicable law.

(13) To levy taxes, to make budgets, to appropriate funds, and to disburse the money of the school corporation in accordance with the laws applicable thereto. To borrow money against current tax collections and otherwise to borrow money, in accordance with IC 20-5-4.

(14) To purchase insurance or to establish and maintain a program of self-insurance relating to the liability of the school corporation or its employees in connection with motor vehicles or property and for any additional coverage to the extent permitted and in accordance with IC 34-13-3-20. To purchase additional insurance or to establish and maintain a program of self-insurance protecting the school corporation and members of the governing body, employees, contractors, or agents of the school corporation from any liability, risk, accident, or loss related to any school property, school contract, school or school related activity, including but not limited to the purchase of insurance or the establishment and maintenance of a self-insurance program protecting such persons against false imprisonment, false arrest, libel, or slander for acts committed in the course of their employment, protecting the school corporation for fire and extended coverage and other casualty risks to the extent of replacement cost, loss of use, and other insurable risks relating to any property owned, leased, or held by the school corporation. To:

(A) participate in a state employee health plan under IC 5-10-8-6.6;

(B) purchase insurance; or

(C) establish and maintain a program of self-insurance;

to benefit school corporation employees, which may include accident, sickness, health, or dental coverage, provided that any plan of self-insurance shall include an aggregate stop-loss provision.

(15) To make all applications, to enter into all contracts, and to sign all documents necessary for the receipt of aid, money, or property from the state government, the federal government, or from any other source.

(16) To defend any member of the governing body or any employee of the school corporation in any suit arising out of the

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

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

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

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

SECTION 3. IC 20-5-52.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 52.5. School Building Construction

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

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proposes to build.

Sec. 2. After examining the plans acquired under section 1 of this chapter, the governing body shall make one of the following determinations:

(1) The plans are adequate to meet the needs of the school corporation and will be followed in the construction of the new facility.

(2) The plans are not adequate to meet the needs of the school corporation and therefore new plans must be developed.

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

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

(1) That a determination under section 2(2) of this chapter has been made.

(2) That the construction of a new school facility not based upon plans developed under IC 20-1-22 is proposed. The notice must include a description of the proposed facility and the governing body's estimate of the cost of construction. The governing body is not required to base an estimate under this subdivision upon an architect's bid ready plans.

(3) That the question of whether the facility should be constructed may be submitted to a referendum. The notice must summarize the petition and referendum procedure set forth in this chapter.

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

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

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

Sec. 8. Following certification, the county election board shall submit the question of the proposed construction to a referendum at the next election. The question shall be submitted to the

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registered voters of the school corporation by placement on the ballot in the form prescribed by IC 3-10-9-4 and must state:

"Shall the _____ school corporation construct a _____ (insert a description of the facility here) facility at an estimated cost of _____ (insert the estimated cost here)?".

Sec. 9. After a referendum under this chapter, the governing body may proceed with the construction of the facility only if a majority of the voters voting on the question vote in favor of the construction of the facility.

SECTION 4. [EFFECTIVE JULY 1, 2002] **(a) The department of education shall develop the school facility plans required under IC 20-1-23, as added by this act, not later than June 30, 2003.**

(b) This SECTION expires July 1, 2003.

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