



April 8, 2011

ENGROSSED
SENATE BILL No. 495

DIGEST OF SB 495 (Updated April 6, 2011 12:18 pm - DI 109)

Citations Affected: IC 20-26.

Synopsis: Lawsuits by school corporations. Prohibits the governing body of a school corporation from using funds received from the state to bring or join in an action against the state unless the school corporation is challenging an adverse decision by a state agency, board, or commission.

Effective: July 1, 2011.

Kruse, Yoder, Banks

(HOUSE SPONSORS — BEHNING, FRIZZELL)

January 13, 2011, read first time and referred to Committee on Education and Career Development.

February 14, 2011, amended, reported favorably — Do Pass.

February 15, 2011, read second time, ordered engrossed.

February 16, 2011, engrossed.

February 17, 2011, read third time, passed. Yeas 33, nays 16.

HOUSE ACTION

March 28, 2011, read first time and referred to Committee on Education.

April 7, 2011, reported — Do Pass.

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ES 495—LS 7417/DI 71+



April 8, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 495



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 20-26-5-4, AS AMENDED BY P.L.182-2009(ss),
- 2 SECTION 316, IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2011]: Sec. 4. In carrying out the school
- 4 purposes of a school corporation, the governing body acting on the
- 5 school corporation's behalf has the following specific powers:
- 6 (1) In the name of the school corporation, to sue and be sued and
- 7 to enter into contracts in matters permitted by applicable law.
- 8 **However, a governing body may not use funds received from**
- 9 **the state to bring or join in an action against the state, unless**
- 10 **the governing body is challenging an adverse decision by a**
- 11 **state agency, board, or commission.**
- 12 (2) To take charge of, manage, and conduct the educational affairs
- 13 of the school corporation and to establish, locate, and provide the
- 14 necessary schools, school libraries, other libraries where
- 15 permitted by law, other buildings, facilities, property, and
- 16 equipment.
- 17 (3) To appropriate from the school corporation's general fund an

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ES 495—LS 7417/DI 71+



1 amount, not to exceed the greater of three thousand dollars
2 (\$3,000) per budget year or one dollar (\$1) per pupil, not to
3 exceed twelve thousand five hundred dollars (\$12,500), based on
4 the school corporation's previous year's ADM, to promote the best
5 interests of the school corporation through:

- 6 (A) the purchase of meals, decorations, memorabilia, or
- 7 awards;
- 8 (B) provision for expenses incurred in interviewing job
- 9 applicants; or
- 10 (C) developing relations with other governmental units.

11 (4) To:

- 12 (A) Acquire, construct, erect, maintain, hold, and contract for
- 13 construction, erection, or maintenance of real estate, real estate
- 14 improvements, or an interest in real estate or real estate
- 15 improvements, as the governing body considers necessary for
- 16 school purposes, including buildings, parts of buildings,
- 17 additions to buildings, rooms, gymnasiums, auditoriums,
- 18 playgrounds, playing and athletic fields, facilities for physical
- 19 training, buildings for administrative, office, warehouse, repair
- 20 activities, or housing school owned buses, landscaping, walks,
- 21 drives, parking areas, roadways, easements and facilities for
- 22 power, sewer, water, roadway, access, storm and surface
- 23 water, drinking water, gas, electricity, other utilities and
- 24 similar purposes, by purchase, either outright for cash (or
- 25 under conditional sales or purchase money contracts providing
- 26 for a retention of a security interest by the seller until payment
- 27 is made or by notes where the contract, security retention, or
- 28 note is permitted by applicable law), by exchange, by gift, by
- 29 devise, by eminent domain, by lease with or without option to
- 30 purchase, or by lease under IC 20-47-2, IC 20-47-3, or
- 31 IC 20-47-5.

- 32 (B) Repair, remodel, remove, or demolish, or to contract for
- 33 the repair, remodeling, removal, or demolition of the real
- 34 estate, real estate improvements, or interest in the real estate
- 35 or real estate improvements, as the governing body considers
- 36 necessary for school purposes.

- 37 (C) Provide for conservation measures through utility
- 38 efficiency programs or under a guaranteed savings contract as
- 39 described in IC 36-1-12.5.

- 40 (5) To acquire personal property or an interest in personal
- 41 property as the governing body considers necessary for school
- 42 purposes, including buses, motor vehicles, equipment, apparatus,

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1 appliances, books, furniture, and supplies, either by cash purchase
 2 or under conditional sales or purchase money contracts providing
 3 for a security interest by the seller until payment is made or by
 4 notes where the contract, security, retention, or note is permitted
 5 by applicable law, by gift, by devise, by loan, or by lease with or
 6 without option to purchase and to repair, remodel, remove,
 7 relocate, and demolish the personal property. All purchases and
 8 contracts specified under the powers authorized under subdivision
 9 (4) and this subdivision are subject solely to applicable law
 10 relating to purchases and contracting by municipal corporations
 11 in general and to the supervisory control of state agencies as
 12 provided in section 6 of this chapter.

13 (6) To sell or exchange real or personal property or interest in real
 14 or personal property that, in the opinion of the governing body, is
 15 not necessary for school purposes, in accordance with IC 20-26-7,
 16 to demolish or otherwise dispose of the property if, in the opinion
 17 of the governing body, the property is not necessary for school
 18 purposes and is worthless, and to pay the expenses for the
 19 demolition or disposition.

20 (7) To lease any school property for a rental that the governing
 21 body considers reasonable or to permit the free use of school
 22 property for:

- 23 (A) civic or public purposes; or
- 24 (B) the operation of a school age child care program for
 25 children who are at least five (5) years of age and less than
 26 fifteen (15) years of age that operates before or after the school
 27 day, or both, and during periods when school is not in session;
 28 if the property is not needed for school purposes. Under this
 29 subdivision, the governing body may enter into a long term lease
 30 with a nonprofit corporation, community service organization, or
 31 other governmental entity, if the corporation, organization, or
 32 other governmental entity will use the property to be leased for
 33 civic or public purposes or for a school age child care program.
 34 However, if payment for the property subject to a long term lease
 35 is made from money in the school corporation's debt service fund,
 36 all proceeds from the long term lease must be deposited in the
 37 school corporation's debt service fund so long as payment for the
 38 property has not been made. The governing body may, at the
 39 governing body's option, use the procedure specified in
 40 IC 36-1-11-10 in leasing property under this subdivision.

41 (8) To:
 42 (A) Employ, contract for, and discharge superintendents,

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1 supervisors, principals, teachers, librarians, athletic coaches
 2 (whether or not they are otherwise employed by the school
 3 corporation and whether or not they are licensed under
 4 IC 20-28-5), business managers, superintendents of buildings
 5 and grounds, janitors, engineers, architects, physicians,
 6 dentists, nurses, accountants, teacher aides performing
 7 noninstructional duties, educational and other professional
 8 consultants, data processing and computer service for school
 9 purposes, including the making of schedules, the keeping and
 10 analyzing of grades and other student data, the keeping and
 11 preparing of warrants, payroll, and similar data where
 12 approved by the state board of accounts as provided below,
 13 and other personnel or services as the governing body
 14 considers necessary for school purposes.
 15 (B) Fix and pay the salaries and compensation of persons and
 16 services described in this subdivision.
 17 (C) Classify persons or services described in this subdivision
 18 and to adopt schedules of salaries or compensation.
 19 (D) Determine the number of the persons or the amount of the
 20 services employed or contracted for as provided in this
 21 subdivision.
 22 (E) Determine the nature and extent of the duties of the
 23 persons described in this subdivision.
 24 The compensation, terms of employment, and discharge of
 25 teachers are, however, subject to and governed by the laws
 26 relating to employment, contracting, compensation, and discharge
 27 of teachers. The compensation, terms of employment, and
 28 discharge of bus drivers are subject to and governed by laws
 29 relating to employment, contracting, compensation, and discharge
 30 of bus drivers. The forms and procedures relating to the use of
 31 computer and data processing equipment in handling the financial
 32 affairs of the school corporation must be submitted to the state
 33 board of accounts for approval so that the services are used by the
 34 school corporation when the governing body determines that it is
 35 in the best interest of the school corporation while at the same
 36 time providing reasonable accountability for the funds expended.
 37 (9) Notwithstanding the appropriation limitation in subdivision
 38 (3), when the governing body by resolution considers a trip by an
 39 employee of the school corporation or by a member of the
 40 governing body to be in the interest of the school corporation,
 41 including attending meetings, conferences, or examining
 42 equipment, buildings, and installation in other areas, to permit the

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1 employee to be absent in connection with the trip without any loss
2 in pay and to reimburse the employee or the member the
3 employee's or member's reasonable lodging and meal expenses
4 and necessary transportation expenses. To pay teaching personnel
5 for time spent in sponsoring and working with school related trips
6 or activities.

7 (10) To transport children to and from school, when in the
8 opinion of the governing body the transportation is necessary,
9 including considerations for the safety of the children and without
10 regard to the distance the children live from the school. The
11 transportation must be otherwise in accordance with applicable
12 law.

13 (11) To provide a lunch program for a part or all of the students
14 attending the schools of the school corporation, including the
15 establishment of kitchens, kitchen facilities, kitchen equipment,
16 lunch rooms, the hiring of the necessary personnel to operate the
17 lunch program, and the purchase of material and supplies for the
18 lunch program, charging students for the operational costs of the
19 lunch program, fixing the price per meal or per food item. To
20 operate the lunch program as an extracurricular activity, subject
21 to the supervision of the governing body. To participate in a
22 surplus commodity or lunch aid program.

23 (12) To purchase textbooks, to furnish textbooks without cost or
24 to rent textbooks to students, to participate in a textbook aid
25 program, all in accordance with applicable law.

26 (13) To accept students transferred from other school corporations
27 and to transfer students to other school corporations in accordance
28 with applicable law.

29 (14) To make budgets, to appropriate funds, and to disburse the
30 money of the school corporation in accordance with applicable
31 law. To borrow money against current tax collections and
32 otherwise to borrow money, in accordance with IC 20-48-1.

33 (15) To purchase insurance or to establish and maintain a
34 program of self-insurance relating to the liability of the school
35 corporation or the school corporation's employees in connection
36 with motor vehicles or property and for additional coverage to the
37 extent permitted and in accordance with IC 34-13-3-20. To
38 purchase additional insurance or to establish and maintain a
39 program of self-insurance protecting the school corporation and
40 members of the governing body, employees, contractors, or agents
41 of the school corporation from liability, risk, accident, or loss
42 related to school property, school contract, school or school

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1 related activity, including the purchase of insurance or the
 2 establishment and maintenance of a self-insurance program
 3 protecting persons described in this subdivision against false
 4 imprisonment, false arrest, libel, or slander for acts committed in
 5 the course of the persons' employment, protecting the school
 6 corporation for fire and extended coverage and other casualty
 7 risks to the extent of replacement cost, loss of use, and other
 8 insurable risks relating to property owned, leased, or held by the
 9 school corporation. To:

10 (A) participate in a state employee health plan under
 11 IC 5-10-8-6.6 or IC 5-10-8-6.7;

12 (B) purchase insurance; or

13 (C) establish and maintain a program of self-insurance;
 14 to benefit school corporation employees, including accident,
 15 sickness, health, or dental coverage, provided that a plan of
 16 self-insurance must include an aggregate stop-loss provision.

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

21 (17) To defend a member of the governing body or any employee
 22 of the school corporation in any suit arising out of the
 23 performance of the member's or employee's duties for or
 24 employment with, the school corporation, if the governing body
 25 by resolution determined that the action was taken in good faith.
 26 To save any member or employee harmless from any liability,
 27 cost, or damage in connection with the performance, including the
 28 payment of legal fees, except where the liability, cost, or damage
 29 is predicated on or arises out of the bad faith of the member or
 30 employee, or is a claim or judgment based on the member's or
 31 employee's malfeasance in office or employment.

32 (18) To prepare, make, enforce, amend, or repeal rules,
 33 regulations, and procedures:

34 (A) for the government and management of the schools,
 35 property, facilities, and activities of the school corporation, the
 36 school corporation's agents, employees, and pupils and for the
 37 operation of the governing body; and

38 (B) that may be designated by an appropriate title such as
 39 "policy handbook", "bylaws", or "rules and regulations".

40 (19) To ratify and approve any action taken by a member of the
 41 governing body, an officer of the governing body, or an employee
 42 of the school corporation after the action is taken, if the action

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1 could have been approved in advance, and in connection with the
2 action to pay the expense or compensation permitted under
3 IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12, and
4 IC 20-48-1 or any other law.
5 (20) To exercise any other power and make any expenditure in
6 carrying out the governing body's general powers and purposes
7 provided in this chapter or in carrying out the powers delineated
8 in this section which is reasonable from a business or educational
9 standpoint in carrying out school purposes of the school
10 corporation, including the acquisition of property or the
11 employment or contracting for services, even though the power or
12 expenditure is not specifically set out in this chapter. The specific
13 powers set out in this section do not limit the general grant of
14 powers provided in this chapter except where a limitation is set
15 out in IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12,
16 and IC 20-48-1 by specific language or by reference to other law.

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COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 495, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 9, delete "state." and insert "**state, unless the governing body is challenging an adverse decision by a state agency, board, or commission.**".

and when so amended that said bill do pass.

(Reference is to SB 495 as introduced.)

KRUSE, Chairperson

Committee Vote: Yeas 6, Nays 2.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred Senate Bill 495, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BEHNING, Chair

Committee Vote: yeas 11, nays 0.

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