February 1, 2011

HOUSE BILL No. 1238

DIGEST OF HB 1238 (Updated January 26, 2011 4:05 pm - DI 109)

Citations Affected: IC 6-1.1; IC 20-46.

Synopsis: Advocacy with public funds. Provides that a school corporation, its officials, and its employees are restricted in various ways from promoting a position on a public question subject to a referendum that would authorize an increase in the school corporation's property tax levy. Provides that if an organized community group invites the superintendent of a school corporation or the superintendent's designee to speak at an event of the organized community group, the superintendent or the superintendent's designee may promote a position on a public question subject to a referendum during the speaking engagement. Provides that the superintendent or the superintendent's designee may be assisted in promoting a position on a public question at an event of an organized group by an employee of the school corporation, the treasurer of the school corporation, or a member of the governing body. Provides that if the voters of a school corporation approve a referendum tax levy, another referendum tax levy previously approved by the voters of the school corporation and in effect on the date of the most recently conducted referendum, if any, is rescinded effective the day before the new referendum tax levy goes into effect.

Effective: July 1, 2011.

Noe

January 12, 2011, read first time and referred to Committee on Education.
January 31, 2011, reported — Do Pass.

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February 1, 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.

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HOUSE BILL No. 1238

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

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

SECTION 1. IC 6-1.1-20-10.1, AS AMENDED BY P.L.182-2009(ss), SECTION 149, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10.1. (a) This section applies only to a political subdivision that, after June 30, 2008, adopts an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease subject to sections 3.5 and 3.6 of this chapter.

(b) **Except as otherwise provided in this section,** during the period beginning with the adoption of the ordinance or resolution and continuing through the day on which a local public question is submitted to the voters of the political subdivision under section 3.6 of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the local public question by doing any of the following:

(1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the local

public question, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.

(2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the local public question. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney, an architect, a registered professional engineer, a construction manager, or a financial adviser for professional services provided with respect to a controlled project.

(3) Using an employee to promote a position on the local public question during the employee's normal working hours or paid overtime, or otherwise compelling an employee to promote a position on the local public question at any time.

(4) In the case of a school corporation, promoting a position on a local public question by:

(A) using students to transport written materials to their residences or in any way directly involving students in a school organized promotion of a position; ~~or~~

(B) including a statement within another communication sent to the students' residences; **or**

(C) discussing the local public question at a meeting between a teacher and parents of a student regarding the student's performance or behavior at school.

However, this section does not prohibit **an official or** an employee of the political subdivision from carrying out duties with respect to a local public question that are part of the normal and regular conduct of the ~~employee's~~ **individual's** office or agency, **including the furnishing of factual information regarding the local public question in response to inquiries from any person.**

(c) The staff and employees of a school corporation may not personally identify a student as the child of a parent or guardian who supports or opposes a controlled project subject to a local public question held under section 3.6 of this chapter.

(d) A person or an organization that has a contract or arrangement (whether formal or informal) with a school corporation for the use of any of the school corporation's facilities may not spend any money to promote a position on a local public question. A person or an organization that violates this subsection commits a Class A infraction.

(e) **Except as provided in subsection (h),** an attorney, an architect, a registered professional engineer, a construction manager, or a financial adviser for professional services provided with respect to a

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controlled project may not spend any money to promote a position on a local public question. A person who violates this subsection:

(1) commits a Class A infraction; and

(2) is barred from performing any services with respect to the controlled project.

(f) An elected or appointed public official of the political subdivision may personally advocate for or against a position on the local public question so long as it is not done by using public funds.

(g) A student may use school equipment or facilities to report or editorialize about a local public question as part of the news coverage of the referendum by student newspaper or broadcast.

(h) If an attorney, an architect, a registered professional engineer, a construction manager, or a financial adviser for professional services provided with respect to a controlled project resides in the political subdivision proposing the controlled project, the attorney, architect, registered professional engineer, construction manager, or financial adviser may spend an amount not to exceed one hundred dollars ($100) to promote a position on a local public question.

(i) If an organized community group invites the superintendent of a school corporation or the superintendent's designee to speak at an event of the organized community group, the superintendent or the superintendent's designee may promote a position on a local public question in the course of the speaking engagement. In addition, an employee of the school corporation, the treasurer of the school corporation, or a member of the governing body may assist the superintendent or the superintendent's designee in presenting information on the local public question during the speaking engagement, if requested to do so by the superintendent or the superintendent's designee.

SECTION 2. IC 20-46-1-11, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. **(a)** The voters in a referendum may not approve a levy that is imposed for more than seven (7) years. However, a levy may be reimposed or extended under this chapter.

(b) If the voters of a school corporation approve a levy in a referendum under this chapter, another levy approved by the voters of the school corporation in a previous referendum under this chapter and in effect on the date the most recent referendum under this chapter is held in the school corporation, if any, is rescinded effective the day before the most recently approved levy takes effect.

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SECTION 3. IC 20-46-1-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 20. (a) Except as otherwise provided in this section, during the period beginning with the adoption of the resolution and continuing through the day on which a public question is submitted to the voters of the school corporation under section 14 of this chapter, the school corporation seeking to impose a referendum tax levy may not promote a position on the public question by doing any of the following:**

(1) Allowing facilities or equipment, including mail and messaging systems, owned by the school corporation to be used for public relations purposes to promote a position on the public question, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the school corporation.

(2) Making an expenditure of money from a fund controlled by the school corporation to promote a position on the public question. This subdivision does not prohibit a school corporation from making an expenditure of money to an attorney or a financial adviser for professional services provided on issues involved with the public question.

(3) Using an employee to promote a position on the public question during the employee's normal working hours or paid overtime, or otherwise compelling an employee to promote a position on the public question at any time.

(4) Promoting a position on the public question by:

(A) using students to transport written materials to their residences or in any way directly involving students in a school organized promotion of a position;

(B) including a statement within another communication sent to the students' residences; or

(C) discussing the public question at a meeting between a teacher and parents of a student regarding the student's performance or behavior at school.

However, this section does not prohibit an official or employee of the school corporation from carrying out duties with respect to the public question that are part of the normal and regular conduct of the individual's office or agency, including the furnishing of factual information regarding the public question in response to inquiries from any person.

(b) The staff and employees of a school corporation may not personally identify a student as the child of a parent or guardian

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who supports or opposes a public question subject to a referendum under this chapter.

(c) A person or an organization that has a contract or arrangement (whether formal or informal) with a school corporation for the use of any of the school corporation's facilities may not spend any money to promote a position on a public question subject to a referendum under this chapter. A person or an organization that violates this subsection commits a Class A infraction.

(d) Except as provided in subsection (g), an attorney or a financial adviser who provides professional services on issues involved with a public question subject to a referendum under this chapter may not spend any money to promote a position on the public question. A person who violates this subsection:

(1) commits a Class A infraction; and

(2) is barred from performing any services for issues involved with the public question or the referendum.

(e) An elected or appointed public official of the school corporation may personally advocate for or against a position on a public question subject to a referendum under this chapter so long as it is not done by using public funds.

(f) A student may use school equipment or facilities to report or editorialize about a public question subject to a referendum under this chapter as part of the news coverage of the public question or the referendum by a student newspaper or broadcast.

(g) If an attorney or a financial adviser who provides professional services on issues involved with a public question subject to a referendum under this chapter, the attorney or financial adviser may spend an amount not to exceed one hundred dollars ($100) to promote a position on the public question.

(h) If an organized community group invites the superintendent of a school corporation or the superintendent's designee to speak at an event of the organized community group, the superintendent or the superintendent's designee may promote a position on a public question subject to a referendum under this chapter in the course of the speaking engagement. In addition, an employee of the school corporation, the treasurer of the school corporation, or a member of the governing body may assist the superintendent or the superintendent's designee in presenting information on the public question during the speaking engagement, if requested to do so by the superintendent or the superintendent's designee.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1238, 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 12, nays 1.

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