
SENATE BILL No. 384

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-20; IC 20-46-1.

Synopsis: Local referenda and petition and remonstrances. Specifies that a school corporation may not adopt a resolution to place an operating levy referendum on the ballot if the property tax levy to be imposed under that referendum would be imposed in one or more years in which another property tax levy is imposed under a previously approved operating levy referendum. Provides that during the period beginning with the adoption of a resolution by a school corporation to place an operating levy referendum on the ballot and continuing through the day on which the referendum is submitted to the voters, the school corporation may not promote a position on the referendum by taking certain actions. Specifies that a person or an organization that has a contract or arrangement 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 referendum. Specifies that in the case of a school operating levy referendum or a referendum or petition and remonstrance on a capital project, an elected or appointed official of the political subdivision (including a school corporation) may at any time: (1) personally advocate for or against a position on the referendum or petition or remonstrance; or (2) discuss the referendum or petition or remonstrance with any individual, group, or organization or personally advocate for or against a position on the referendum or petition or remonstrance before any individual, group, or organization; so long as it is not done by using public funds.

Effective: July 1, 2011.

Charbonneau

January 11, 2011, read first time and referred to Committee on Appropriations.

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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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SENATE BILL No. 384



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

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

1 SECTION 1. IC 6-1.1-20-10, AS AMENDED BY P.L.182-2009(ss),
2 SECTION 148, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) This section applies to a
4 political subdivision that adopts an ordinance or a resolution making
5 a preliminary determination to issue bonds or enter into a lease. During
6 the period commencing with the adoption of the ordinance or
7 resolution and, if a petition and remonstrance process is commenced
8 under section 3.2 of this chapter, continuing through the sixty (60) day
9 period commencing with the notice under section 3.2(b)(1) of this
10 chapter, the political subdivision seeking to issue bonds or enter into
11 a lease for the proposed controlled project may not promote a position
12 on the petition or remonstrance by doing any of the following:

13 (1) Allowing facilities or equipment, including mail and
14 messaging systems, owned by the political subdivision to be used
15 for public relations purposes to promote a position on the petition
16 or remonstrance, unless equal access to the facilities or equipment
17 is given to persons with a position opposite to that of the political



1 subdivision.

2 (2) Making an expenditure of money from a fund controlled by

3 the political subdivision to promote a position on the petition or

4 remonstrance or to pay for the gathering of signatures on a

5 petition or remonstrance. This subdivision does not prohibit a

6 political subdivision from making an expenditure of money to an

7 attorney, an architect, registered professional engineer, a

8 construction manager, or a financial adviser for professional

9 services provided with respect to a controlled project.

10 (3) Using an employee to promote a position on the petition or

11 remonstrance during the employee's normal working hours or paid

12 overtime, or otherwise compelling an employee to promote a

13 position on the petition or remonstrance at any time.

14 (4) In the case of a school corporation, promoting a position on a

15 petition or remonstrance by:

16 (A) using students to transport written materials to their

17 residences or in any way directly involving students in a

18 school organized promotion of a position; or

19 (B) including a statement within another communication sent

20 to the students' residences.

21 However, this section does not prohibit an employee of the political

22 subdivision from carrying out duties with respect to a petition or

23 remonstrance that are part of the normal and regular conduct of the

24 employee's office or agency.

25 (b) A person may not solicit or collect signatures for a petition or

26 remonstrance on property owned or controlled by the political

27 subdivision.

28 (c) The staff and employees of a school corporation may not

29 personally identify a student as the child of a parent or guardian who

30 supports or opposes a petition or remonstrance.

31 (d) A person or an organization that has a contract or arrangement

32 (whether formal or informal) with a school corporation for the use of

33 any of the school corporation's facilities may not spend any money to

34 promote a position on the petition or remonstrance. A person or an

35 organization that violates this subsection commits a Class A infraction.

36 (e) An attorney, an architect, registered professional engineer, a

37 construction manager, or a financial adviser for professional services

38 provided with respect to a controlled project may not spend any money

39 to promote a position on the petition or remonstrance. A person who

40 violates this subsection:

41 (1) commits a Class A infraction; and

42 (2) is barred from performing any services with respect to the

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controlled project.

(f) **Notwithstanding subsection (a)(3)**, an elected or appointed public official of the political subdivision **(including any school board member and school corporation superintendent)** may **at any time:**

(1) personally advocate for or against a position on the petition or remonstrance; **or**

(2) **discuss the petition or remonstrance with any individual, group, or organization or personally advocate for or against a position on the petition or remonstrance before any individual, group, or organization;**

so long as it is not done by using public funds.

SECTION 2. 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) 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.

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

- 3 (A) using students to transport written materials to their
- 4 residences or in any way directly involving students in a
- 5 school organized promotion of a position; or
- 6 (B) including a statement within another communication sent
- 7 to the students' residences.

8 However, this section does not prohibit an employee of the political
9 subdivision from carrying out duties with respect to a local public
10 question that are part of the normal and regular conduct of the
11 employee's office or agency.

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

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

21 (e) An attorney, an architect, a registered professional engineer, a
22 construction manager, or a financial adviser for professional services
23 provided with respect to a controlled project may not spend any money
24 to promote a position on a local public question. A person who violates
25 this subsection:

- 26 (1) commits a Class A infraction; and
- 27 (2) is barred from performing any services with respect to the
- 28 controlled project.

29 (f) **Notwithstanding subsection (b)(3), an elected or appointed**
30 **public official of the political subdivision (including any school board**
31 **member and school corporation superintendent) may at any time:**

- 32 (1) personally advocate for or against a position on the local
- 33 public question; or
- 34 (2) **discuss the public question with any individual, group, or**
- 35 **organization or otherwise personally advocate for or against**
- 36 **a position on the public question before any individual, group,**
- 37 **or organization;**

38 so long as it is not done by using public funds.

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

42 SECTION 3. IC 20-46-1-8, AS AMENDED BY P.L.41-2010,

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1 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2011]: Sec. 8. (a) Subject to this chapter, the governing body
3 of a school corporation may adopt a resolution to place a referendum
4 under this chapter on the ballot for either of the following purposes:

5 (1) The governing body of the school corporation determines that
6 it cannot, in a calendar year, carry out its public educational duty
7 unless it imposes a referendum tax levy under this chapter.

8 (2) The governing body of the school corporation determines that
9 a referendum tax levy under this chapter should be imposed to
10 replace property tax revenue that the school corporation will not
11 receive because of the application of the credit under
12 IC 6-1.1-20.6.

13 (b) The governing body of the school corporation shall certify a
14 copy of the resolution to the department of local government finance
15 and the county fiscal body of each county in which the school
16 corporation is located.

17 (c) **A school corporation may not adopt a resolution to place a
18 referendum under this chapter on the ballot if the property tax
19 levy to be imposed under that referendum would be imposed in one
20 (1) or more years in which another property tax levy is imposed
21 under a referendum previously approved by the voters under this
22 chapter.**

23 SECTION 4. IC 20-46-1-20 IS ADDED TO THE INDIANA CODE
24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
25 1, 2011]: Sec. 20. (a) **During the period beginning with the adoption
26 of a resolution by the governing body of a school corporation to
27 place a referendum under this chapter on the ballot and continuing
28 through the day on which the referendum is submitted to the
29 voters, the school corporation may not promote a position on the
30 referendum by doing any of the following:**

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

37 (2) **Making an expenditure of money from a fund controlled
38 by the school corporation to promote a position on the
39 referendum.**

40 (3) **Using an employee to promote a position on the
41 referendum during the employee's normal working hours or
42 paid overtime, or otherwise compelling an employee to**

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promote a position on the referendum at any time.

(4) Promoting a position on the referendum 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.**

However, this section does not prohibit an employee of the school corporation from carrying out duties with respect to a referendum that are part of the normal and regular conduct of the employee's office or agency.

(b) 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 the referendum.

(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 referendum. A person or an organization that violates this subsection commits a Class A infraction.

(d) Notwithstanding subsection (a)(3), an elected or appointed school board member or a school corporation superintendent may at any time:

- (1) personally advocate for or against a position on a referendum; or**
- (2) discuss the referendum with any individual, group, or organization or personally advocate for or against a position on a referendum before any individual, group, or organization;**

so long as it is not done by using public funds.

(e) 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 a student newspaper or broadcast.

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