

SENATE BILL No. 495

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-26-5-4.

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.

Effective: July 1, 2011.

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

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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. 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.**
- 10 (2) To take charge of, manage, and conduct the educational affairs of
- 11 the school corporation and to establish, locate, and provide the
- 12 necessary schools, school libraries, other libraries where
- 13 permitted by law, other buildings, facilities, property, and
- 14 equipment.
- 15 (3) To appropriate from the school corporation's general fund an
- 16 amount, not to exceed the greater of three thousand dollars
- 17 (\$3,000) per budget year or one dollar (\$1) per pupil, not to



1 exceed twelve thousand five hundred dollars (\$12,500), based on
 2 the school corporation's previous year's ADM, to promote the best
 3 interests of the school corporation through:
 4 (A) the purchase of meals, decorations, memorabilia, or
 5 awards;
 6 (B) provision for expenses incurred in interviewing job
 7 applicants; or
 8 (C) developing relations with other governmental units.
 9 (4) To:
 10 (A) Acquire, construct, erect, maintain, hold, and contract for
 11 construction, erection, or maintenance of real estate, real estate
 12 improvements, or an interest in real estate or real estate
 13 improvements, as the governing body considers necessary for
 14 school purposes, including buildings, parts of buildings,
 15 additions to buildings, rooms, gymnasiums, auditoriums,
 16 playgrounds, playing and athletic fields, facilities for physical
 17 training, buildings for administrative, office, warehouse, repair
 18 activities, or housing school owned buses, landscaping, walks,
 19 drives, parking areas, roadways, easements and facilities for
 20 power, sewer, water, roadway, access, storm and surface
 21 water, drinking water, gas, electricity, other utilities and
 22 similar purposes, by purchase, either outright for cash (or
 23 under conditional sales or purchase money contracts providing
 24 for a retention of a security interest by the seller until payment
 25 is made or by notes where the contract, security retention, or
 26 note is permitted by applicable law), by exchange, by gift, by
 27 devise, by eminent domain, by lease with or without option to
 28 purchase, or by lease under IC 20-47-2, IC 20-47-3, or
 29 IC 20-47-5.
 30 (B) Repair, remodel, remove, or demolish, or to contract for
 31 the repair, remodeling, removal, or demolition of the real
 32 estate, real estate improvements, or interest in the real estate
 33 or real estate improvements, as the governing body considers
 34 necessary for school purposes.
 35 (C) Provide for conservation measures through utility
 36 efficiency programs or under a guaranteed savings contract as
 37 described in IC 36-1-12.5.
 38 (5) To acquire personal property or an interest in personal
 39 property as the governing body considers necessary for school
 40 purposes, including buses, motor vehicles, equipment, apparatus,
 41 appliances, books, furniture, and supplies, either by cash purchase
 42 or under conditional sales or purchase money contracts providing

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

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

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

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

39 (8) To:
 40 (A) Employ, contract for, and discharge superintendents,
 41 supervisors, principals, teachers, librarians, athletic coaches
 42 (whether or not they are otherwise employed by the school

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corporation and whether or not they are licensed under IC 20-28-5), 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 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 other personnel or services as the governing body considers necessary for school purposes.

(B) Fix and pay the salaries and compensation of persons and services described in this subdivision.

(C) Classify persons or services described in this subdivision and to adopt schedules of salaries or compensation.

(D) Determine the number of the persons or the amount of the services employed or contracted for as provided in this subdivision.

(E) Determine the nature and extent of the duties of the persons described in this subdivision.

The compensation, terms of employment, and discharge of teachers are, however, 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 are subject to and governed by 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 the school corporation must be submitted to the state board of accounts for approval so that the services are used by the school corporation when the governing body determines that it is in the best interest of the school corporation while at the same time providing reasonable accountability for the funds expended.

(9) Notwithstanding the appropriation limitation in subdivision (3), when the governing body by resolution considers 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 attending meetings, conferences, or examining equipment, buildings, and installation in other areas, to permit the employee to be absent in connection with the trip without any loss in pay and to reimburse the employee or the member the

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1 employee's or member's reasonable lodging and meal expenses
2 and necessary transportation expenses. To pay teaching personnel
3 for time spent in sponsoring and working with school related trips
4 or activities.
5 (10) To transport children to and from school, when in the
6 opinion of the governing body the transportation is necessary,
7 including considerations for the safety of the children and without
8 regard to the distance the children live from the school. The
9 transportation must be otherwise in accordance with applicable
10 law.
11 (11) To provide a lunch program for a part or all of the students
12 attending the schools of the school corporation, including the
13 establishment of kitchens, kitchen facilities, kitchen equipment,
14 lunch rooms, the hiring of the necessary personnel to operate the
15 lunch program, and the purchase of material and supplies for the
16 lunch program, charging students for the operational costs of the
17 lunch program, fixing the price per meal or per food item. To
18 operate the lunch program as an extracurricular activity, subject
19 to the supervision of the governing body. To participate in a
20 surplus commodity or lunch aid program.
21 (12) To purchase textbooks, to furnish textbooks without cost or
22 to rent textbooks to students, to participate in a textbook aid
23 program, all in accordance with applicable law.
24 (13) To accept students transferred from other school corporations
25 and to transfer students to other school corporations in accordance
26 with applicable law.
27 (14) To make budgets, to appropriate funds, and to disburse the
28 money of the school corporation in accordance with applicable
29 law. To borrow money against current tax collections and
30 otherwise to borrow money, in accordance with IC 20-48-1.
31 (15) To purchase insurance or to establish and maintain a
32 program of self-insurance relating to the liability of the school
33 corporation or the school corporation's employees in connection
34 with motor vehicles or property and for additional coverage to the
35 extent permitted and in accordance with IC 34-13-3-20. To
36 purchase additional insurance or to establish and maintain a
37 program of self-insurance protecting the school corporation and
38 members of the governing body, employees, contractors, or agents
39 of the school corporation from liability, risk, accident, or loss
40 related to school property, school contract, school or school
41 related activity, including the purchase of insurance or the
42 establishment and maintenance of a self-insurance program

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

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

10 (B) purchase insurance; or

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

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

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

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

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

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

38 (19) To ratify and approve any action taken by a member of the
 39 governing body, an officer of the governing body, or an employee
 40 of the school corporation after the action is taken, if the action
 41 could have been approved in advance, and in connection with the
 42 action to pay the expense or compensation permitted under

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

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