

HOUSE BILL No. 1238

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-20-10.1; IC 20-46-1.

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by the voters of the school corporation and in effect on the date of the most recently conducted referendum, if any, is rescinded effective the day before the new referendum tax levy goes into effect.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.

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January 12, 2011, read first time and referred to Committee on Education.

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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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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:

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 15 (1) commits a Class A infraction; and
16 (2) is barred from performing any services for issues involved
17 with the public question or the referendum.

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

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

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

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

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