



February 4, 2011

SENATE BILL No. 384

DIGEST OF SB 384 (Updated February 3, 2011 11:45 am - DI 73)

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

Synopsis: Local referenda and petition and remonstrances. Provides that the ballot language for a capital project referendum must first be approved by the department of local government finance (DLGF). (Under current law, the DLGF makes recommendations concerning the ballot language.) Provides that the language of a school referendum levy question to be submitted to voters must first be approved by the DLGF. Provides that if a referendum levy is approved by the voters in a school corporation in a calendar year, another referendum levy question may not be placed on the ballot in the school corporation in the following calendar year. Provides that if a school corporation imposes a referendum levy approved in a referendum, the school corporation may not simultaneously impose more than one additional referendum levy approved in a subsequent referendum. Provides that advocacy or discussion by certain officials concerning a petition and remonstrance or referendum is allowed and is not considered a use of public funds. Provides that during the period beginning with the adoption of a resolution by a school corporation to place a school levy referendum question 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.

Effective: July 1, 2011.

Charbonneau

January 11, 2011, read first time and referred to Committee on Appropriations.
February 3, 2011, amended, reported favorably — Do Pass.

SB 384—LS 6341/DI 73+



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February 4, 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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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 6-1.1-20-3.6, AS AMENDED BY P.L.113-2010,
2 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 3.6. (a) Except as provided in sections 3.7 and 3.8
4 of this chapter, this section applies only to a controlled project
5 described in section 3.5(a) of this chapter.

6 (b) If a sufficient petition requesting the application of the local
7 public question process has been filed as set forth in section 3.5 of this
8 chapter, a political subdivision may not impose property taxes to pay
9 debt service on bonds or lease rentals on a lease for a controlled project
10 unless the political subdivision's proposed debt service or lease rental
11 is approved in an election on a local public question held under this
12 section.

13 (c) Except as provided in subsection (j), the following question shall
14 be submitted to the eligible voters at the election conducted under this
15 section:

16 "Shall _____ (insert the name of the political subdivision)
17 issue bonds or enter into a lease to finance _____ (insert

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1 a brief description of the controlled project), which is estimated
 2 to cost not more than _____ (insert the total cost of the project)
 3 and is estimated to increase the property tax rate for debt service
 4 by _____ (insert increase in tax rate as determined by the
 5 department of local government finance)?".

6 The public question must appear on the ballot in the form approved by
 7 the county election board. If the political subdivision proposing to issue
 8 bonds or enter into a lease is located in more than one (1) county, the
 9 county election board of each county shall jointly approve the form of
 10 the public question that will appear on the ballot in each county. The
 11 form approved by the county election board may differ from the
 12 language certified to the county election board by the county auditor.
 13 If the county election board approves the language of a public question
 14 under this subsection after June 30, 2010, the county election board
 15 shall submit the language to the department of local government
 16 finance for review. The department of local government finance shall
 17 review the language of the public question to evaluate whether the
 18 description of the controlled project is accurate and is not biased
 19 against either a vote in favor of the controlled project or a vote against
 20 the controlled project. The department of local government finance
 21 may **either approve the ballot language as submitted or** recommend
 22 that the ballot language be ~~used as submitted or recommend~~
 23 ~~modifications to the ballot language~~ **modified** as necessary to ensure
 24 that the description of the controlled project is accurate and is not
 25 biased. The department of local government finance shall ~~send~~ **certify**
 26 its **approval or** recommendations to the **county auditor and the**
 27 county election board not more than ten (10) days after the language of
 28 the public question is submitted to the department for review. **If the**
 29 **department of local government finance recommends a**
 30 **modification to the ballot language, the county election board shall,**
 31 after reviewing the recommendations of the department of local
 32 government finance, ~~under this subsection, the county election board~~
 33 ~~shall take final action to approve~~ **submit modified** ballot language. The
 34 finally adopted ballot language may differ from the recommendations
 35 made by ~~to~~ the department of local government finance ~~for the~~
 36 **department's approval or recommendation of any additional**
 37 **modifications. The public question may not be certified by the**
 38 **county auditor under subsection (d) unless the department of local**
 39 **government finance has first certified the department's final**
 40 **approval of the ballot language for the public question.**

41 (d) The county auditor shall certify the finally approved public
 42 question described in subsection (c) under IC 3-10-9-3 to the county

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1 election board of each county in which the political subdivision is
2 located. The certification must occur not later than noon:

- 3 (1) sixty (60) days before a primary election if the public question
- 4 is to be placed on the primary or municipal primary election
- 5 ballot; or
- 6 (2) August 1 if the public question is to be placed on the general
- 7 or municipal election ballot.

8 Subject to the certification requirements and deadlines under this
 9 subsection and except as provided in subsection (j), the public question
 10 shall be placed on the ballot at the next primary election, general
 11 election, or municipal election in which all voters of the political
 12 subdivision are entitled to vote. However, if a primary election, general
 13 election, or municipal election will not be held during the first year in
 14 which the public question is eligible to be placed on the ballot under
 15 this section and if the political subdivision requests the public question
 16 to be placed on the ballot at a special election, the public question shall
 17 be placed on the ballot at a special election to be held on the first
 18 Tuesday after the first Monday in May or November of the year. The
 19 certification must occur not later than noon sixty (60) days before a
 20 special election to be held in May (if the special election is to be held
 21 in May) or noon on August 1 (if the special election is to be held in
 22 November). However, in 2009, a political subdivision may hold a
 23 special election under this section on any date scheduled for the special
 24 election if notice of the special election was given before July 1, 2009,
 25 to the election division of the secretary of state's office as provided in
 26 IC 3-10-8-4. The fiscal body of the political subdivision that requests
 27 the special election shall pay the costs of holding the special election.
 28 The county election board shall give notice under IC 5-3-1 of a special
 29 election conducted under this subsection. A special election conducted
 30 under this subsection is under the direction of the county election
 31 board. The county election board shall take all steps necessary to carry
 32 out the special election.

33 (e) The circuit court clerk shall certify the results of the public
34 question to the following:

- 35 (1) The county auditor of each county in which the political
- 36 subdivision is located.
- 37 (2) The department of local government finance.

38 (f) Subject to the requirements of IC 6-1.1-18.5-8, the political
39 subdivision may issue the proposed bonds or enter into the proposed
40 lease rental if a majority of the eligible voters voting on the public
41 question vote in favor of the public question.

42 (g) If a majority of the eligible voters voting on the public question

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1 vote in opposition to the public question, both of the following apply:
 2 (1) The political subdivision may not issue the proposed bonds or
 3 enter into the proposed lease rental.
 4 (2) Another public question under this section on the same or a
 5 substantially similar project may not be submitted to the voters
 6 earlier than one (1) year after the date of the election.
 7 (h) IC 3, to the extent not inconsistent with this section, applies to
 8 an election held under this section.
 9 (i) A political subdivision may not artificially divide a capital
 10 project into multiple capital projects in order to avoid the requirements
 11 of this section and section 3.5 of this chapter.
 12 (j) This subsection applies to a political subdivision for which a
 13 petition requesting a public question has been submitted under section
 14 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of
 15 the political subdivision may adopt a resolution to withdraw a
 16 controlled project from consideration in a public question. If the
 17 legislative body provides a certified copy of the resolution to the county
 18 auditor and the county election board not later than forty-nine (49) days
 19 before the election at which the public question would be on the ballot,
 20 the public question on the controlled project shall not be placed on the
 21 ballot and the public question on the controlled project shall not be
 22 held, regardless of whether the county auditor has certified the public
 23 question to the county election board. If the withdrawal of a public
 24 question under this subsection requires the county election board to
 25 reprint ballots, the political subdivision withdrawing the public
 26 question shall pay the costs of reprinting the ballots. If a political
 27 subdivision withdraws a public question under this subsection that
 28 would have been held at a special election and the county election
 29 board has printed the ballots before the legislative body of the political
 30 subdivision provides a certified copy of the withdrawal resolution to
 31 the county auditor and the county election board, the political
 32 subdivision withdrawing the public question shall pay the costs
 33 incurred by the county in printing the ballots. If a public question on a
 34 controlled project is withdrawn under this subsection, a public question
 35 under this section on the same controlled project or a substantially
 36 similar controlled project may not be submitted to the voters earlier
 37 than one (1) year after the date the resolution withdrawing the public
 38 question is adopted.
 39 (k) If a public question regarding a controlled project is placed on
 40 the ballot to be voted on at a public question under this section, the
 41 political subdivision shall submit to the department of local
 42 government finance, at least thirty (30) days before the election, the

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1 following information regarding the proposed controlled project for
2 posting on the department's Internet web site:

3 (1) The cost per square foot of any buildings being constructed as
4 part of the controlled project.

5 (2) The effect that approval of the controlled project would have
6 on the political subdivision's property tax rate.

7 (3) The maximum term of the bonds or lease.

8 (4) The maximum principal amount of the bonds or the maximum
9 lease rental for the lease.

10 (5) The estimated interest rates that will be paid and the total
11 interest costs associated with the bonds or lease.

12 (6) The purpose of the bonds or lease.

13 (7) In the case of a controlled project proposed by a school
14 corporation:

15 (A) the current and proposed square footage of school building
16 space per student;

17 (B) enrollment patterns within the school corporation; and

18 (C) the age and condition of the current school facilities.

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

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

37 (2) Making an expenditure of money from a fund controlled by
38 the political subdivision to promote a position on the petition or
39 remonstrance or to pay for the gathering of signatures on a
40 petition or remonstrance. This subdivision does not prohibit a
41 political subdivision from making an expenditure of money to an
42 attorney, an architect, registered professional engineer, a

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1 construction manager, or a financial adviser for professional
 2 services provided with respect to a controlled project.
 3 (3) Using an employee to promote a position on the petition or
 4 remonstrance during the employee's normal working hours or paid
 5 overtime, or otherwise compelling an employee to promote a
 6 position on the petition or remonstrance at any time.
 7 (4) In the case of a school corporation, promoting a position on a
 8 petition or remonstrance by:
 9 (A) using students to transport written materials to their
 10 residences or in any way directly involving students in a
 11 school organized promotion of a position; or
 12 (B) including a statement within another communication sent
 13 to the students' residences.
 14 However, this section does not prohibit an employee of the political
 15 subdivision from carrying out duties with respect to a petition or
 16 remonstrance that are part of the normal and regular conduct of the
 17 employee's office or agency.
 18 (b) A person may not solicit or collect signatures for a petition or
 19 remonstrance on property owned or controlled by the political
 20 subdivision.
 21 (c) The staff and employees of a school corporation may not
 22 personally identify a student as the child of a parent or guardian who
 23 supports or opposes a petition or remonstrance.
 24 (d) A person or an organization that has a contract or arrangement
 25 (whether formal or informal) with a school corporation for the use of
 26 any of the school corporation's facilities may not spend any money to
 27 promote a position on the petition or remonstrance. A person or an
 28 organization that violates this subsection commits a Class A infraction.
 29 (e) An attorney, an architect, registered professional engineer, a
 30 construction manager, or a financial adviser for professional services
 31 provided with respect to a controlled project may not spend any money
 32 to promote a position on the petition or remonstrance. A person who
 33 violates this subsection:
 34 (1) commits a Class A infraction; and
 35 (2) is barred from performing any services with respect to the
 36 controlled project.
 37 (f) **Notwithstanding any other law, an elected or appointed public**
 38 **official of the political subdivision (including any school board**
 39 **member and school corporation superintendent), a school**
 40 **corporation assistant superintendent, or a chief school business**
 41 **official of a school corporation may at any time:**
 42 (1) personally advocate for or against a position on the petition or

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

6 so long as it is not done by using public funds. **Advocacy or discussion**
 7 **allowed under this subsection is not considered a use of public**
 8 **funds. However, this subsection does not authorize or apply to**
 9 **advocacy or discussion by a school board member, superintendent,**
 10 **assistant superintendent, or school business official to or with**
 11 **students that occurs during the regular school day.**

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

19 (b) During the period beginning with the adoption of the ordinance
 20 or resolution and continuing through the day on which a local public
 21 question is submitted to the voters of the political subdivision under
 22 section 3.6 of this chapter, the political subdivision seeking to issue
 23 bonds or enter into a lease for the proposed controlled project may not
 24 promote a position on the local public question by doing any of the
 25 following:

26 (1) Allowing facilities or equipment, including mail and
 27 messaging systems, owned by the political subdivision to be used
 28 for public relations purposes to promote a position on the local
 29 public question, unless equal access to the facilities or equipment
 30 is given to persons with a position opposite to that of the political
 31 subdivision.

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

39 (3) Using an employee to promote a position on the local public
 40 question during the employee's normal working hours or paid
 41 overtime, or otherwise compelling an employee to promote a
 42 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 any other law, an elected or appointed public**
30 **official of the political subdivision (including any school board**
31 **member and school corporation superintendent), a school**
32 **corporation assistant superintendent, or a chief school business**
33 **official of a school corporation may at any time:**

34 (1) personally advocate for or against a position on the local
35 public question; or

36 (2) **discuss the public question with any individual, group, or**
37 **organization or otherwise personally advocate for or against**
38 **a position on the public question before any individual, group,**
39 **or organization;**

40 so long as it is not done by using public funds. **Advocacy or discussion**
41 **allowed under this subsection is not considered a use of public**
42 **funds. However, this subsection does not authorize or apply to**

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1 **advocacy or discussion by a school board member, superintendent,**
2 **assistant superintendent, or school business official to or with**
3 **students that occurs during the regular school day.**

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

7 SECTION 4. IC 20-46-1-8, AS AMENDED BY P.L.41-2010,
8 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2011]: Sec. 8. (a) Subject to this chapter, the governing body
10 of a school corporation may adopt a resolution to place a referendum
11 under this chapter on the ballot for either of the following purposes:

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

15 (2) The governing body of the school corporation determines that
16 a referendum tax levy under this chapter should be imposed to
17 replace property tax revenue that the school corporation will not
18 receive because of the application of the credit under
19 IC 6-1.1-20.6.

20 (b) The governing body of the school corporation shall certify a
21 copy of the resolution to the department of local government finance,
22 **and the including the language for the question required by section**
23 **10 of this chapter. The department of local government finance**
24 **shall review the language for compliance with section 10 of this**
25 **chapter and either approve or reject the language. The department**
26 **shall send its decision to the governing body of the school**
27 **corporation not more than ten (10) days after the resolution is**
28 **submitted to the department. If the language is approved, the**
29 **governing body of the school corporation shall certify a copy of the**
30 **resolution, including the language for the question and the**
31 **department's approval, to:**

32 (1) the county fiscal body (for informational purposes only);
33 and

34 (2) the circuit court clerk;
35 of each county in which the school corporation is located.

36 SECTION 5. IC 20-46-1-19.5 IS ADDED TO THE INDIANA
37 CODE AS A NEW SECTION TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2011]: Sec. 19.5. (a) **If a referendum is**
39 **approved by the voters in a school corporation under this chapter**
40 **in a calendar year, another referendum may not be placed on the**
41 **ballot in the school corporation under this chapter in the following**
42 **calendar year.**

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1 (b) Notwithstanding any other provision of this chapter and in
2 addition to the restriction specified in subsection (a), if a school
3 corporation imposes in a calendar year a referendum levy
4 approved in a referendum under this chapter, the school
5 corporation may not simultaneously impose in that calendar year
6 more than one (1) additional referendum levy approved in a
7 subsequent referendum under this chapter.

8 SECTION 6. IC 20-46-1-20 IS ADDED TO THE INDIANA CODE
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2011]: **Sec. 20. (a) During the period beginning with the adoption
11 of a resolution by the governing body of a school corporation to
12 place a referendum under this chapter on the ballot and continuing
13 through the day on which the referendum is submitted to the
14 voters, the school corporation may not promote a position on the
15 referendum by doing any of the following:**

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

22 (2) Making an expenditure of money from a fund controlled
23 by the school corporation to promote a position on the
24 referendum.

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

29 (4) Promoting a position on the referendum by:
30 (A) using students to transport written materials to their
31 residences or in any way directly involving students in a
32 school organized promotion of a position; or
33 (B) including a statement within another communication
34 sent to the students' residences.

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

39 (b) The staff and employees of a school corporation may not
40 personally identify a student as the child of a parent or guardian
41 who supports or opposes the referendum.

42 (c) A person or an organization that has a contract or

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1 arrangement (whether formal or informal) with a school
 2 corporation for the use of any of the school corporation's facilities
 3 may not spend any money to promote a position on a referendum.
 4 A person or an organization that violates this subsection commits
 5 a Class A infraction.

6 (d) Notwithstanding any other law, an elected or appointed
 7 school board member or a school corporation superintendent,
 8 school corporation assistant superintendent, or chief school
 9 business official of a school corporation may at any time:

10 (1) personally advocate for or against a position on a
 11 referendum; or

12 (2) discuss the referendum with any individual, group, or
 13 organization or personally advocate for or against a position
 14 on a referendum before any individual, group, or
 15 organization;

16 so long as it is not done by using public funds. Advocacy or
 17 discussion allowed under this subsection is not considered a use of
 18 public funds. However, this subsection does not authorize or apply
 19 to advocacy or discussion by a school board member,
 20 superintendent, assistant superintendent, or school business official
 21 to or with students that occurs during the regular school day.

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

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COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 384, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-20-3.6, AS AMENDED BY P.L.113-2010, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3.6. (a) Except as provided in sections 3.7 and 3.8 of this chapter, this section applies only to a controlled project described in section 3.5(a) of this chapter.

(b) If a sufficient petition requesting the application of the local public question process has been filed as set forth in section 3.5 of this chapter, a political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project unless the political subdivision's proposed debt service or lease rental is approved in an election on a local public question held under this section.

(c) Except as provided in subsection (j), the following question shall be submitted to the eligible voters at the election conducted under this section:

"Shall _____ (insert the name of the political subdivision) issue bonds or enter into a lease to finance _____ (insert a brief description of the controlled project), which is estimated to cost not more than _____ (insert the total cost of the project) and is estimated to increase the property tax rate for debt service by _____ (insert increase in tax rate as determined by the department of local government finance)?"

The public question must appear on the ballot in the form approved by the county election board. If the political subdivision proposing to issue bonds or enter into a lease is located in more than one (1) county, the county election board of each county shall jointly approve the form of the public question that will appear on the ballot in each county. The form approved by the county election board may differ from the language certified to the county election board by the county auditor. If the county election board approves the language of a public question under this subsection after June 30, 2010, the county election board shall submit the language to the department of local government finance for review. The department of local government finance shall review the language of the public question to evaluate whether the description of the controlled project is accurate and is not biased

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against either a vote in favor of the controlled project or a vote against the controlled project. The department of local government finance may **either approve the ballot language as submitted or** recommend that the ballot language be ~~used as submitted or recommend modifications to the ballot language~~ **modified** as necessary to ensure that the description of the controlled project is accurate and is not biased. The department of local government finance shall ~~send~~ **certify** its **approval or** recommendations to the **county auditor and the** county election board not more than ten (10) days after the language of the public question is submitted to the department for review. **If the department of local government finance recommends a modification to the ballot language, the county election board shall, after reviewing the recommendations of the department of local government finance, under this subsection, the county election board shall take final action to approve submit modified** ballot language. The finally adopted ballot language may differ from the recommendations made by ~~to the department of local government finance for the department's approval or recommendation of any additional modifications.~~ **The public question may not be certified by the county auditor under subsection (d) unless the department of local government finance has first certified the department's final approval of the ballot language for the public question.**

(d) The county auditor shall certify the finally approved public question described in subsection (c) under IC 3-10-9-3 to the county election board of each county in which the political subdivision is located. The certification must occur not later than noon:

- (1) sixty (60) days before a primary election if the public question is to be placed on the primary or municipal primary election ballot; or
- (2) August 1 if the public question is to be placed on the general or municipal election ballot.

Subject to the certification requirements and deadlines under this subsection and except as provided in subsection (j), the public question shall be placed on the ballot at the next primary election, general election, or municipal election in which all voters of the political subdivision are entitled to vote. However, if a primary election, general election, or municipal election will not be held during the first year in which the public question is eligible to be placed on the ballot under this section and if the political subdivision requests the public question to be placed on the ballot at a special election, the public question shall be placed on the ballot at a special election to be held on the first Tuesday after the first Monday in May or November of the year. The

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certification must occur not later than noon sixty (60) days before a special election to be held in May (if the special election is to be held in May) or noon on August 1 (if the special election is to be held in November). However, in 2009, a political subdivision may hold a special election under this section on any date scheduled for the special election if notice of the special election was given before July 1, 2009, to the election division of the secretary of state's office as provided in IC 3-10-8-4. The fiscal body of the political subdivision that requests the special election shall pay the costs of holding the special election. The county election board shall give notice under IC 5-3-1 of a special election conducted under this subsection. A special election conducted under this subsection is under the direction of the county election board. The county election board shall take all steps necessary to carry out the special election.

(e) The circuit court clerk shall certify the results of the public question to the following:

- (1) The county auditor of each county in which the political subdivision is located.
- (2) The department of local government finance.

(f) Subject to the requirements of IC 6-1.1-18.5-8, the political subdivision may issue the proposed bonds or enter into the proposed lease rental if a majority of the eligible voters voting on the public question vote in favor of the public question.

(g) If a majority of the eligible voters voting on the public question vote in opposition to the public question, both of the following apply:

- (1) The political subdivision may not issue the proposed bonds or enter into the proposed lease rental.
- (2) Another public question under this section on the same or a substantially similar project may not be submitted to the voters earlier than one (1) year after the date of the election.

(h) IC 3, to the extent not inconsistent with this section, applies to an election held under this section.

(i) A political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of this section and section 3.5 of this chapter.

(j) This subsection applies to a political subdivision for which a petition requesting a public question has been submitted under section 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of the political subdivision may adopt a resolution to withdraw a controlled project from consideration in a public question. If the legislative body provides a certified copy of the resolution to the county auditor and the county election board not later than forty-nine (49) days

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before the election at which the public question would be on the ballot, the public question on the controlled project shall not be placed on the ballot and the public question on the controlled project shall not be held, regardless of whether the county auditor has certified the public question to the county election board. If the withdrawal of a public question under this subsection requires the county election board to reprint ballots, the political subdivision withdrawing the public question shall pay the costs of reprinting the ballots. If a political subdivision withdraws a public question under this subsection that would have been held at a special election and the county election board has printed the ballots before the legislative body of the political subdivision provides a certified copy of the withdrawal resolution to the county auditor and the county election board, the political subdivision withdrawing the public question shall pay the costs incurred by the county in printing the ballots. If a public question on a controlled project is withdrawn under this subsection, a public question under this section on the same controlled project or a substantially similar controlled project may not be submitted to the voters earlier than one (1) year after the date the resolution withdrawing the public question is adopted.

(k) If a public question regarding a controlled project is placed on the ballot to be voted on at a public question under this section, the political subdivision shall submit to the department of local government finance, at least thirty (30) days before the election, the following information regarding the proposed controlled project for posting on the department's Internet web site:

- (1) The cost per square foot of any buildings being constructed as part of the controlled project.
- (2) The effect that approval of the controlled project would have on the political subdivision's property tax rate.
- (3) The maximum term of the bonds or lease.
- (4) The maximum principal amount of the bonds or the maximum lease rental for the lease.
- (5) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.
- (6) The purpose of the bonds or lease.
- (7) In the case of a controlled project proposed by a school corporation:
 - (A) the current and proposed square footage of school building space per student;
 - (B) enrollment patterns within the school corporation; and
 - (C) the age and condition of the current school facilities."

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Page 3, line 2, delete "subsection (a)(3)," and insert "**any other law,**".

Page 3, line 4, after "superintendent)" insert "**, a school corporation assistant superintendent, or a chief school business official of a school corporation**".

Page 3, line 11, after "funds." insert "**Advocacy or discussion allowed under this subsection is not considered a use of public funds. However, this subsection does not authorize or apply to advocacy or discussion by a school board member, superintendent, assistant superintendent, or school business official to or with students that occurs during the regular school day.**".

Page 4, line 29, delete "subsection (b)(3)," and insert "**any other law,**".

Page 4, line 31, after "superintendent)" insert "**, a school corporation assistant superintendent, or a chief school business official of a school corporation**".

Page 4, line 38, after "funds." insert "**Advocacy or discussion allowed under this subsection is not considered a use of public funds. However, this subsection does not authorize or apply to advocacy or discussion by a school board member, superintendent, assistant superintendent, or school business official to or with students that occurs during the regular school day.**".

Page 4, delete line 42, begin a new paragraph and insert:

"SECTION 4. IC 20-46-1-8, AS AMENDED BY P.L.41-2010, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) Subject to this chapter, the governing body of a school corporation may adopt a resolution to place a referendum under this chapter on the ballot for either of the following purposes:

- (1) The governing body of the school corporation determines that it cannot, in a calendar year, carry out its public educational duty unless it imposes a referendum tax levy under this chapter.
- (2) The governing body of the school corporation determines that a referendum tax levy under this chapter should be imposed to replace property tax revenue that the school corporation will not receive because of the application of the credit under IC 6-1.1-20.6.

(b) The governing body of the school corporation shall certify a copy of the resolution to the department of local government finance, ~~and the~~ **including the language for the question required by section 10 of this chapter. The department of local government finance shall review the language for compliance with section 10 of this chapter and either approve or reject the language. The department**

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shall send its decision to the governing body of the school corporation not more than ten (10) days after the resolution is submitted to the department. If the language is approved, the governing body of the school corporation shall certify a copy of the resolution, including the language for the question and the department's approval, to:

- (1) the county fiscal body (for informational purposes only);
- and
- (2) the circuit court clerk;

of each county in which the school corporation is located.

SECTION 5. IC 20-46-1-19.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 19.5. (a) If a referendum is approved by the voters in a school corporation under this chapter in a calendar year, another referendum may not be placed on the ballot in the school corporation under this chapter in the following calendar year.**

(b) Notwithstanding any other provision of this chapter and in addition to the restriction specified in subsection (a), if a school corporation imposes in a calendar year a referendum levy approved in a referendum under this chapter, the school corporation may not simultaneously impose in that calendar year more than one (1) additional referendum levy approved in a subsequent referendum under this chapter."

Page 5, delete lines 1 through 22.

Page 6, line 21, delete "subsection (a)(3)," and insert "any other law,".

Page 6, line 22, after "superintendent" insert ", school corporation assistant superintendent, or chief school business official of a school corporation".

Page 6, line 30, after "funds." insert "Advocacy or discussion allowed under this subsection is not considered a use of public funds. However, this subsection does not authorize or apply to advocacy or discussion by a school board member, superintendent,

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assistant superintendent, or school business official to or with students that occurs during the regular school day."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 384 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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