

**CONFERENCE COMMITTEE REPORT  
DIGEST FOR EHB 1238**

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

**Synopsis:** Advocacy with 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. Provides that a political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of the petition and remonstrance process. (Under current law, such a prohibition applies under the capital projects referendum statutes.) 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. Prohibits a person or organization that provides goods or services to a school corporation under contract from spending money to promote a position on a school corporation's capital project petition and remonstrance, capital project referendum, or referendum tax levy, unless: (1) the person is an employee of the school corporation whose employment is governed by a collective bargaining contract or employment contract; or (2) the person or organization has a contract with a school corporation solely for the use of the school corporation's facilities. 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. Prohibits an employee of a school corporation from initiating discussion of a petition and remonstrance or referendum at a meeting between a teacher and parents of a student regarding the student's performance or behavior at school. Provides that an official of a political subdivision who is authorized to discuss or advocate for or against a petition or remonstrance or a referendum may be assisted by an employee of the political subdivision. Removes the county fiscal body from the school referendum levy process. Provides that the county fiscal body is not required to certify the referendum question. Repeals a superseded provision. **(This conference committee report is the same as the Senate-passed**

**version of EHB 1238 (reprinted March 23, 2011), except that IC 6-1.1-20-10(d) (SECTION 3), IC 6-1.1-20-10.1(d) (SECTION 4), and IC 20-46-1-20(c) (SECTION 10) concerning prohibitions on making expenditures to promote a position on a referendum or petition and remonstrance are modified to resemble the House passed versions in HB 1238 (reprinted February 11, 2011), with an additional exception to these prohibitions on spending money to promote a position on a referendum or a petition and remonstrance for employees of a school corporation governed by a collective bargaining contract or an employment contract.)**

**Effective:** Upon passage; July 1, 2011.

## CONFERENCE COMMITTEE REPORT

**MADAM PRESIDENT:**

*Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1238 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 6-1.1-20-3.1, AS AMENDED BY SEA 295-2011,
- 3 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]: Sec. 3.1. (a) This section applies only to the
- 5 following:
- 6 (1) A controlled project (as defined in section 1.1 of this chapter
- 7 as in effect June 30, 2008) for which the proper officers of a
- 8 political subdivision make a preliminary determination in the
- 9 manner described in subsection (b) before July 1, 2008.
- 10 (2) An elementary school building, middle school building, or
- 11 other school building for academic instruction that:
- 12 (A) is a controlled project;
- 13 (B) will be used for any combination of kindergarten through
- 14 grade 8;
- 15 (C) will not be used for any combination of grade 9 through
- 16 grade 12; and
- 17 (D) will not cost more than ten million dollars (\$10,000,000).
- 18 (3) A high school building or other school building for academic
- 19 instruction that:
- 20 (A) is a controlled project;
- 21 (B) will be used for any combination of grade 9 through grade
- 22 12;

- 1 (C) will not be used for any combination of kindergarten  
 2 through grade 8; and  
 3 (D) will not cost more than twenty million dollars  
 4 (\$20,000,000).
- 5 (4) Any other controlled project that:  
 6 (A) is not a controlled project described in subdivision (1), (2),  
 7 or (3); and  
 8 (B) will not cost the political subdivision more than the lesser  
 9 of the following:  
 10 (i) Twelve million dollars (\$12,000,000).  
 11 (ii) An amount equal to one percent (1%) of the total gross  
 12 assessed value of property within the political subdivision  
 13 on the last assessment date, if that amount is at least one  
 14 million dollars (\$1,000,000).
- 15 (b) A political subdivision may not impose property taxes to pay  
 16 debt service on bonds or lease rentals on a lease for a controlled project  
 17 without completing the following procedures:  
 18 (1) The proper officers of a political subdivision shall:  
 19 (A) publish notice in accordance with IC 5-3-1; and  
 20 (B) send notice by first class mail to the circuit court clerk and  
 21 to any organization that delivers to the officers, before January  
 22 1 of that year, an annual written request for such notices;  
 23 of any meeting to consider adoption of a resolution or an  
 24 ordinance making a preliminary determination to issue bonds or  
 25 enter into a lease and shall conduct a public hearing on a  
 26 preliminary determination before adoption of the resolution or  
 27 ordinance.  
 28 (2) When the proper officers of a political subdivision make a  
 29 preliminary determination to issue bonds or enter into a lease for  
 30 a controlled project, the officers shall give notice of the  
 31 preliminary determination by:  
 32 (A) publication in accordance with IC 5-3-1; and  
 33 (B) first class mail to the circuit court clerk and to the  
 34 organizations described in subdivision (1)(B).  
 35 (3) A notice under subdivision (2) of the preliminary  
 36 determination of the political subdivision to issue bonds or enter  
 37 into a lease for a controlled project must include the following  
 38 information:  
 39 (A) The maximum term of the bonds or lease.  
 40 (B) The maximum principal amount of the bonds or the  
 41 maximum lease rental for the lease.  
 42 (C) The estimated interest rates that will be paid and the total  
 43 interest costs associated with the bonds or lease.  
 44 (D) The purpose of the bonds or lease.  
 45 (E) A statement that any owners of property within the  
 46 political subdivision or registered voters residing within the  
 47 political subdivision who want to initiate a petition and  
 48 remonstrance process against the proposed debt service or  
 49 lease payments must file a petition that complies with  
 50 subdivisions (4) and (5) not later than thirty (30) days after  
 51 publication in accordance with IC 5-3-1.

- 1 (F) With respect to bonds issued or a lease entered into to  
 2 open:  
 3 (i) a new school facility; or  
 4 (ii) an existing facility that has not been used for at least  
 5 three (3) years and that is being reopened to provide  
 6 additional classroom space;  
 7 the estimated costs the school corporation expects to incur  
 8 annually to operate the facility.
- 9 (G) A statement of whether the school corporation expects to  
 10 appeal for a new facility adjustment (as defined in  
 11 IC 20-45-1-16 (repealed) before January 1, 2009) for an  
 12 increased maximum permissible tuition support levy to pay the  
 13 estimated costs described in clause (F).
- 14 (H) The political subdivision's current debt service levy and  
 15 rate and the estimated increase to the political subdivision's  
 16 debt service levy and rate that will result if the political  
 17 subdivision issues the bonds or enters into the lease.
- 18 (4) After notice is given, a petition requesting the application of  
 19 a petition and remonstrance process may be filed by the lesser of:  
 20 (A) one hundred (100) persons who are either owners of  
 21 property within the political subdivision or registered voters  
 22 residing within the political subdivision; or  
 23 (B) five percent (5%) of the registered voters residing within  
 24 the political subdivision.
- 25 (5) The state board of accounts shall design and, upon request by  
 26 the county voter registration office, deliver to the county voter  
 27 registration office or the county voter registration office's  
 28 designated printer the petition forms to be used solely in the  
 29 petition process described in this section. The county voter  
 30 registration office shall issue to an owner or owners of property  
 31 within the political subdivision or a registered voter residing  
 32 within the political subdivision the number of petition forms  
 33 requested by the owner or owners or the registered voter. Each  
 34 form must be accompanied by instructions detailing the  
 35 requirements that:  
 36 (A) the carrier and signers must be owners of property or  
 37 registered voters;  
 38 (B) the carrier must be a signatory on at least one (1) petition;  
 39 (C) after the signatures have been collected, the carrier must  
 40 swear or affirm before a notary public that the carrier  
 41 witnessed each signature; and  
 42 (D) govern the closing date for the petition period.
- 43 Persons requesting forms may be required to identify themselves  
 44 as owners of property or registered voters and may be allowed to  
 45 pick up additional copies to distribute to other owners of property  
 46 or registered voters. Each person signing a petition must indicate  
 47 whether the person is signing the petition as a registered voter  
 48 within the political subdivision or is signing the petition as the  
 49 owner of property within the political subdivision. A person who  
 50 signs a petition as a registered voter must indicate the address at  
 51 which the person is registered to vote. A person who signs a

1 petition as an owner of property must indicate the address of the  
2 property owned by the person in the political subdivision.

3 (6) Each petition must be verified under oath by at least one (1)  
4 qualified petitioner in a manner prescribed by the state board of  
5 accounts before the petition is filed with the county voter  
6 registration office under subdivision (7).

7 (7) Each petition must be filed with the county voter registration  
8 office not more than thirty (30) days after publication under  
9 subdivision (2) of the notice of the preliminary determination.

10 (8) The county voter registration office shall determine whether  
11 each person who signed the petition is a registered voter. The  
12 county voter registration office shall, not more than fifteen (15)  
13 business days after receiving a petition, forward a copy of the  
14 petition to the county auditor. Not more than ten (10) business  
15 days after receiving the copy of the petition, the county auditor  
16 shall provide to the county voter registration office a statement  
17 verifying:

18 (A) whether a person who signed the petition as a registered  
19 voter but is not a registered voter, as determined by the county  
20 voter registration office, is the owner of property in the  
21 political subdivision; and

22 (B) whether a person who signed the petition as an owner of  
23 property within the political subdivision does in fact own  
24 property within the political subdivision.

25 (9) The county voter registration office shall, not more than ten  
26 (10) business days after receiving the statement from the county  
27 auditor under subdivision (8), make the final determination of the  
28 number of petitioners that are registered voters in the political  
29 subdivision and, based on the statement provided by the county  
30 auditor, the number of petitioners that own property within the  
31 political subdivision. Whenever the name of an individual who  
32 signs a petition form as a registered voter contains a minor  
33 variation from the name of the registered voter as set forth in the  
34 records of the county voter registration office, the signature is  
35 presumed to be valid, and there is a presumption that the  
36 individual is entitled to sign the petition under this section. Except  
37 as otherwise provided in this chapter, in determining whether an  
38 individual is a registered voter, the county voter registration office  
39 shall apply the requirements and procedures used under IC 3 to  
40 determine whether a person is a registered voter for purposes of  
41 voting in an election governed by IC 3. However, an individual is  
42 not required to comply with the provisions concerning providing  
43 proof of identification to be considered a registered voter for  
44 purposes of this chapter. A person is entitled to sign a petition  
45 only one (1) time in a particular petition and remonstrance  
46 process under this chapter, regardless of whether the person owns  
47 more than one (1) parcel of real property, mobile home assessed  
48 as personal property, or manufactured home assessed as personal  
49 property, or a combination of those types of property within the  
50 subdivision and regardless of whether the person is both a  
51 registered voter in the political subdivision and the owner of

1 property within the political subdivision. Notwithstanding any  
2 other provision of this section, if a petition is presented to the  
3 county voter registration office within forty-five (45) days before  
4 an election, the county voter registration office may defer acting  
5 on the petition, and the time requirements under this section for  
6 action by the county voter registration office do not begin to run  
7 until five (5) days after the date of the election.

8 (10) The county voter registration office must file a certificate and  
9 each petition with:

10 (A) the township trustee, if the political subdivision is a  
11 township, who shall present the petition or petitions to the  
12 township board; or

13 (B) the body that has the authority to authorize the issuance of  
14 the bonds or the execution of a lease, if the political  
15 subdivision is not a township;

16 within thirty-five (35) business days of the filing of the petition  
17 requesting a petition and remonstrance process. The certificate  
18 must state the number of petitioners that are owners of property  
19 within the political subdivision and the number of petitioners who  
20 are registered voters residing within the political subdivision.

21 If a sufficient petition requesting a petition and remonstrance process  
22 is not filed by owners of property or registered voters as set forth in this  
23 section, the political subdivision may issue bonds or enter into a lease  
24 by following the provisions of law relating to the bonds to be issued or  
25 lease to be entered into.

26 **(c) This subsection applies only to a political subdivision that,**  
27 **after April 30, 2011, adopts an ordinance or a resolution making a**  
28 **preliminary determination to issue bonds or enter into a lease**  
29 **subject to this section and section 3.2 of this chapter. A political**  
30 **subdivision may not artificially divide a capital project into**  
31 **multiple capital projects in order to avoid the requirements of this**  
32 **section and section 3.2 of this chapter.**

33 SECTION 2. IC 6-1.1-20-3.6, AS AMENDED BY P.L.113-2010,  
34 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 UPON PASSAGE]: Sec. 3.6. (a) Except as provided in sections 3.7 and  
36 3.8 of this chapter, this section applies only to a controlled project  
37 described in section 3.5(a) of this chapter.

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

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

48 "Shall \_\_\_\_\_ (insert the name of the political subdivision)  
49 issue bonds or enter into a lease to finance \_\_\_\_\_ (insert  
50 a brief description of the controlled project), which is estimated  
51 to cost not more than \_\_\_\_\_ (insert the total cost of the project)

1 and is estimated to increase the property tax rate for debt service  
 2 by \_\_\_\_\_ (insert increase in tax rate as determined by the  
 3 department of local government finance)?".

4 The public question must appear on the ballot in the form approved by  
 5 the county election board. If the political subdivision proposing to issue  
 6 bonds or enter into a lease is located in more than one (1) county, the  
 7 county election board of each county shall jointly approve the form of  
 8 the public question that will appear on the ballot in each county. The  
 9 form approved by the county election board may differ from the  
 10 language certified to the county election board by the county auditor.  
 11 If the county election board approves the language of a public question  
 12 under this subsection, ~~after June 30, 2010~~; the county election board  
 13 shall submit the language to the department of local government  
 14 finance for review.

15 **(d) This subsection applies to ballot language submitted by the**  
 16 **county election board under subsection (c) before May 1, 2011.** The  
 17 department of local government finance shall review the language of  
 18 the public question to evaluate whether the description of the  
 19 controlled project is accurate and is not biased against either a vote in  
 20 favor of the controlled project or a vote against the controlled project.  
 21 The department of local government finance may recommend that the  
 22 ballot language be used as submitted or recommend modifications to  
 23 the ballot language as necessary to ensure that the description of the  
 24 controlled project is accurate and is not biased. The department of local  
 25 government finance shall send its recommendations to the county  
 26 election board not more than ten (10) days after the language of the  
 27 public question is submitted to the department for review. After  
 28 reviewing the recommendations of the department of local government  
 29 finance under this subsection, the county election board shall take final  
 30 action to approve ballot language. The finally adopted ballot language  
 31 may differ from the recommendations made by the department of local  
 32 government finance.

33 **(e) This subsection applies to ballot language submitted by the**  
 34 **county election board under subsection (c) after April 30, 2011.**  
 35 **The department of local government finance shall review the**  
 36 **language of the public question to evaluate whether the description**  
 37 **of the controlled project is accurate and is not biased against either**  
 38 **a vote in favor of the controlled project or a vote against the**  
 39 **controlled project. The department of local government finance**  
 40 **may either approve the ballot language as submitted or**  
 41 **recommend that the ballot language be modified as necessary to**  
 42 **ensure that the description of the controlled project is accurate and**  
 43 **is not biased. The department of local government finance shall**  
 44 **certify its approval or recommendations to the county auditor and**  
 45 **the county election board not more than ten (10) days after the**  
 46 **language of the public question is submitted to the department for**  
 47 **review. If the department of local government finance recommends**  
 48 **a modification to the ballot language, the county election board**  
 49 **shall, after reviewing the recommendations of the department of**  
 50 **local government finance, submit modified ballot language to the**  
 51 **department for the department's approval or recommendation of**

1 **any additional modifications. The public question may not be**  
 2 **certified by the county auditor under subsection (f) unless the**  
 3 **department of local government finance has first certified the**  
 4 **department's final approval of the ballot language for the public**  
 5 **question.**

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

10 (1) sixty (60) days before a primary election if the public question  
 11 is to be placed on the primary or municipal primary election  
 12 ballot; or

13 (2) August 1 if the public question is to be placed on the general  
 14 or municipal election ballot.

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

40 ~~(e)~~ **(g)** The circuit court clerk shall certify the results of the public  
 41 question to the following:

42 (1) The county auditor of each county in which the political  
 43 subdivision is located.

44 (2) The department of local government finance.

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

49 ~~(g)~~ **(i)** If a majority of the eligible voters voting on the public  
 50 question vote in opposition to the public question, both of the following  
 51 apply:

1 (1) The political subdivision may not issue the proposed bonds or  
2 enter into the proposed lease rental.

3 (2) Another public question under this section on the same or a  
4 substantially similar project may not be submitted to the voters  
5 earlier than one (1) year after the date of the election.

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

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

11 ~~(j)~~ (l) This subsection applies to a political subdivision for which a  
12 petition requesting a public question has been submitted under section  
13 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of  
14 the political subdivision may adopt a resolution to withdraw a  
15 controlled project from consideration in a public question. If the  
16 legislative body provides a certified copy of the resolution to the county  
17 auditor and the county election board not later than forty-nine (49) days  
18 before the election at which the public question would be on the ballot,  
19 the public question on the controlled project shall not be placed on the  
20 ballot and the public question on the controlled project shall not be  
21 held, regardless of whether the county auditor has certified the public  
22 question to the county election board. If the withdrawal of a public  
23 question under this subsection requires the county election board to  
24 reprint ballots, the political subdivision withdrawing the public  
25 question shall pay the costs of reprinting the ballots. If a political  
26 subdivision withdraws a public question under this subsection that  
27 would have been held at a special election and the county election  
28 board has printed the ballots before the legislative body of the political  
29 subdivision provides a certified copy of the withdrawal resolution to  
30 the county auditor and the county election board, the political  
31 subdivision withdrawing the public question shall pay the costs  
32 incurred by the county in printing the ballots. If a public question on a  
33 controlled project is withdrawn under this subsection, a public question  
34 under this section on the same controlled project or a substantially  
35 similar controlled project may not be submitted to the voters earlier  
36 than one (1) year after the date the resolution withdrawing the public  
37 question is adopted.

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

- 44 (1) The cost per square foot of any buildings being constructed as  
45 part of the controlled project.
- 46 (2) The effect that approval of the controlled project would have  
47 on the political subdivision's property tax rate.
- 48 (3) The maximum term of the bonds or lease.
- 49 (4) The maximum principal amount of the bonds or the maximum  
50 lease rental for the lease.
- 51 (5) The estimated interest rates that will be paid and the total

1 interest costs associated with the bonds or lease.

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

3 (7) In the case of a controlled project proposed by a school  
4 corporation:

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

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

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

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

22 (1) ~~Allowing~~ **Using** facilities or equipment, including mail and  
23 messaging systems, owned by the political subdivision ~~to be used~~  
24 ~~for public relations purposes~~ to promote a position on the petition  
25 or remonstrance, unless equal access to the facilities or equipment  
26 is given to persons with a position opposite to that of the political  
27 subdivision.

28 (2) Making an expenditure of money from a fund controlled by  
29 the political subdivision to promote a position on the petition or  
30 remonstrance or to pay for the gathering of signatures on a  
31 petition or remonstrance. This subdivision does not prohibit a  
32 political subdivision from making an expenditure of money to an  
33 attorney, an architect, registered professional engineer, a  
34 construction manager, or a financial adviser for professional  
35 services provided with respect to a controlled project.

36 (3) Using an employee to promote a position on the petition or  
37 remonstrance during the employee's normal working hours or paid  
38 overtime, or otherwise compelling an employee to promote a  
39 position on the petition or remonstrance at any time. **However, if**  
40 **a person described in subsection (f) is advocating for or**  
41 **against a position on the petition or remonstrance or**  
42 **discussing the petition or remonstrance as authorized under**  
43 **subsection (f), an employee of the political subdivision may**  
44 **assist the person in presenting information on the petition or**  
45 **remonstrance, if requested to do so by the person described in**  
46 **subsection (f).**

47 (4) In the case of a school corporation, promoting a position on a  
48 petition or remonstrance by:

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

- 1 (B) including a statement within another communication sent  
 2 to the students' residences; or  
 3 **(C) initiating discussion of the petition and remonstrance**  
 4 **process at a meeting between a teacher and parents of a**  
 5 **student regarding the student's performance or behavior**  
 6 **at school. However, if the parents initiate a discussion of**  
 7 **the petition and remonstrance process at the meeting, the**  
 8 **teacher may acknowledge the issue and direct the parents**  
 9 **to a source of factual information on the petition and**  
 10 **remonstrance process.**

11 However, this section does not prohibit an **official or** employee of the  
 12 political subdivision from carrying out duties with respect to a petition  
 13 or remonstrance that are part of the normal and regular conduct of the  
 14 **official's or** employee's office or agency, **including the furnishing of**  
 15 **factual information regarding the petition and remonstrance in**  
 16 **response to inquiries from any person.**

17 (b) A person may not solicit or collect signatures for a petition or  
 18 remonstrance on property owned or controlled by the political  
 19 subdivision.

20 (c) The staff and employees of a school corporation may not  
 21 personally identify a student as the child of a parent or guardian who  
 22 supports or opposes a petition or remonstrance.

23 **(d) This subsection does not apply to:**

- 24 **(1) a personal expenditure to promote a position on a petition**  
 25 **and remonstrance by an employee of a school corporation**  
 26 **whose employment is governed by a collective bargaining**  
 27 **contract or an employment contract; or**  
 28 **(2) an expenditure to promote a position on a petition and**  
 29 **remonstrance by a person or an organization that has a**  
 30 **contract or an arrangement with the school corporation solely**  
 31 **for the use of the school corporation's facilities.**

32 A person or an organization that has a contract or **an** arrangement  
 33 (whether formal or informal) with a school corporation ~~for the use of~~  
 34 **any of the school corporation's facilities to provide goods or services**  
 35 **to the school corporation** may not spend any money to promote a  
 36 position on the petition or remonstrance. A person or an organization  
 37 that violates this subsection commits a Class A infraction.

38 (e) An attorney, an architect, registered professional engineer, a  
 39 construction manager, or a financial adviser for professional services  
 40 provided with respect to a controlled project may not spend any money  
 41 to promote a position on the petition or remonstrance. A person who  
 42 violates this subsection:

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

46 **(f) Notwithstanding any other law, an elected or appointed public**  
 47 **official of the political subdivision (including any school board**  
 48 **member and school corporation superintendent), a school**  
 49 **corporation assistant superintendent, or a chief school business**  
 50 **official of a school corporation may at any time:**

- 51 **(1) personally advocate for or against a position on the petition or**

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

26 (1) ~~Allowing~~ **Using** 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. **However, if a**  
 43 **person described in subsection (f) is advocating for or against**  
 44 **a position on the local public question or discussing the local**  
 45 **public question as authorized under subsection (f), an**  
 46 **employee of the political subdivision may assist the person in**  
 47 **presenting information on the local public question, if**  
 48 **requested to do so by the person described in subsection (f).**

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

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

1 residences or in any way ~~directly~~ involving students in a  
 2 school organized promotion of a position; ~~or~~  
 3 (B) including a statement within another communication sent  
 4 to the students' residences; ~~or~~  
 5 **(C) initiating discussion of the local public question at a**  
 6 **meeting between a teacher and parents of a student**  
 7 **regarding the student's performance or behavior at school.**  
 8 **However, if the parents initiate a discussion of the local**  
 9 **public question at the meeting, the teacher may**  
 10 **acknowledge the issue and direct the parents to a source of**  
 11 **factual information on the local public question.**

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

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

22 (d) **This subsection does not apply to:**  
 23 **(1) a personal expenditure to promote a position on a local**  
 24 **public question by an employee of a school corporation whose**  
 25 **employment is governed by a collective bargaining contract**  
 26 **or an employment contract; or**  
 27 **(2) an expenditure to promote a position on a local public**  
 28 **question by a person or an organization that has a contract or**  
 29 **an arrangement (whether formal or informal) with the school**  
 30 **corporation solely for the use of the school corporation's**  
 31 **facilities.**

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

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

43 (1) commits a Class A infraction; and  
 44 (2) is barred from performing any services with respect to the  
 45 controlled project.

46 (f) **Notwithstanding any other law,** an elected or appointed public  
 47 official of the political subdivision **(including any school board**  
 48 **member and school corporation superintendent), a school**  
 49 **corporation assistant superintendent, or a chief school business**  
 50 **official of a school corporation may at any time:**

51 (1) personally advocate for or against a position on the local

1 public question; or

2 **(2) discuss the public question with any individual, group, or**  
 3 **organization or otherwise personally advocate for or against**  
 4 **a position on the public question before any individual, group,**  
 5 **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 (g) A student may use school equipment or facilities to report or  
 13 editorialize about a local public question as part of the news coverage  
 14 of the referendum by student newspaper or broadcast.

15 SECTION 5. IC 20-46-1-8, AS AMENDED BY P.L.41-2010,  
 16 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 UPON PASSAGE]: Sec. 8. (a) Subject to this chapter, the governing  
 18 body of a school corporation may adopt a resolution to place a  
 19 referendum under this chapter on the ballot for either of the following  
 20 purposes:

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

24 (2) The governing body of the school corporation determines that  
 25 a referendum tax levy under this chapter should be imposed to  
 26 replace property tax revenue that the school corporation will not  
 27 receive because of the application of the credit under  
 28 IC 6-1.1-20.6.

29 (b) The governing body of the school corporation shall certify a  
 30 copy of the resolution to the department of local government finance,  
 31 ~~and the~~ **including (in the case of a resolution certified to the**  
 32 **department of local government finance after April 30, 2011) the**  
 33 **language for the question required by section 10 of this chapter. In**  
 34 **the case of a resolution certified to the department of local**  
 35 **government finance after April 30, 2011, the department shall**  
 36 **review the language for compliance with section 10 of this chapter**  
 37 **and either approve or reject the language. The department shall**  
 38 **send its decision to the governing body of the school corporation**  
 39 **not more than ten (10) days after the resolution is submitted to the**  
 40 **department. If the language is approved, the governing body of the**  
 41 **school corporation shall certify a copy of the resolution, including**  
 42 **the language for the question and the department's approval, to:**

43 **(1) the county fiscal body (for informational purposes only);**

44 **and**

45 **(2) the circuit court clerk;**

46 of each county in which the school corporation is located.

47 SECTION 6. IC 20-46-1-13, AS AMENDED BY P.L.146-2008,  
 48 SECTION 498, IS AMENDED TO READ AS FOLLOWS  
 49 [EFFECTIVE UPON PASSAGE]: Sec. 13. Each ~~county circuit court~~  
 50 clerk shall, upon receiving the question certified by the ~~county fiscal~~  
 51 ~~body~~ **governing body of a school corporation** under this chapter, call

1 a meeting of the county election board to make arrangements for the  
2 referendum.

3 SECTION 7. IC 20-46-1-15, AS AMENDED BY P.L.146-2008,  
4 SECTION 500, IS AMENDED TO READ AS FOLLOWS  
5 [EFFECTIVE UPON PASSAGE]: Sec. 15. Each county election board  
6 shall cause:

- 7 (1) the question certified to the circuit court clerk by the ~~county~~  
8 **fiscal body governing body of a school corporation** to be placed  
9 on the ballot in the form prescribed by IC 3-10-9-4; and
- 10 (2) an adequate supply of ballots and voting equipment to be  
11 delivered to the precinct election board of each precinct in which  
12 the referendum is to be held.

13 SECTION 8. IC 20-46-1-17, AS AMENDED BY P.L.146-2008,  
14 SECTION 501, IS AMENDED TO READ AS FOLLOWS  
15 [EFFECTIVE UPON PASSAGE]: Sec. 17. Each precinct election  
16 board shall count the affirmative votes and the negative votes cast in  
17 the referendum and shall certify those two (2) totals to the county  
18 election board of each county in which the referendum is held. The  
19 circuit court clerk of each county shall, immediately after the votes cast  
20 in the referendum have been counted, certify the results of the  
21 referendum to the ~~county fiscal body~~. Upon receiving the certification  
22 of all the votes cast in the referendum, the county fiscal body shall  
23 promptly certify the result of the referendum to the department of local  
24 government finance. If a majority of the individuals who voted in the  
25 referendum voted "yes" on the referendum question:

- 26 (1) the ~~county fiscal body~~ **department of local government**  
27 **finance** shall promptly notify the school corporation that the  
28 school corporation is authorized to collect, for the calendar year  
29 that next follows the calendar year in which the referendum is  
30 held, a levy not greater than the amount approved in the  
31 referendum;
- 32 (2) the levy may be imposed for the number of calendar years  
33 approved by the voters following the referendum for the school  
34 corporation in which the referendum is held; and
- 35 (3) the school corporation shall establish a fund under  
36 IC 20-40-3-1.

37 SECTION 9. IC 20-46-1-19.5 IS ADDED TO THE INDIANA  
38 CODE AS A NEW SECTION TO READ AS FOLLOWS  
39 [EFFECTIVE JULY 1, 2011]: Sec. 19.5. (a) **If a referendum is**  
40 **approved by the voters in a school corporation under this chapter**  
41 **in a calendar year, another referendum may not be placed on the**  
42 **ballot in the school corporation under this chapter in the following**  
43 **calendar year.**

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

51 SECTION 10. IC 20-46-1-20 IS ADDED TO THE INDIANA

1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 2011]: **Sec. 20. (a) Except as otherwise**  
 3 **provided in this section, during the period beginning with the**  
 4 **adoption of a resolution by the governing body of a school**  
 5 **corporation to place a referendum under this chapter on the ballot**  
 6 **and continuing through the day on which the referendum is**  
 7 **submitted to the voters, the school corporation may not promote**  
 8 **a position on the referendum by doing any of the following:**

9 (1) Using facilities or equipment, including mail and  
 10 messaging systems, owned by the school corporation to  
 11 promote a position on the referendum, unless equal access to  
 12 the facilities or equipment is given to persons with a position  
 13 opposite to that of the school corporation.

14 (2) Making an expenditure of money from a fund controlled  
 15 by the school corporation to promote a position on the  
 16 referendum.

17 (3) Using an employee to promote a position on the  
 18 referendum during the employee's normal working hours or  
 19 paid overtime, or otherwise compelling an employee to  
 20 promote a position on the referendum at any time. However,  
 21 if a person described in subsection (d) is advocating for or  
 22 against a position on the referendum or discussing the  
 23 referendum as authorized under subsection (d), an employee  
 24 of the school corporation may assist the person in presenting  
 25 information on the referendum, if requested to do so by the  
 26 person described in subsection (d).

27 (4) Promoting a position on the referendum by:

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

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

33 (C) initiating discussion of the referendum at a meeting  
 34 between a teacher and parents of a student regarding the  
 35 student's performance or behavior at school. However, if  
 36 the parents initiate a discussion of the referendum at the  
 37 meeting, the teacher may acknowledge the issue and direct  
 38 the parents to a source of factual information on the  
 39 referendum.

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

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

49 (c) This subsection does not apply to:

50 (1) a personal expenditure to promote a position on a local  
 51 public question by an employee of a school corporation whose

1           **employment is governed by a collective bargaining contract**  
 2           **or an employment contract; or**

3           **(2) an expenditure to promote a position on a local public**  
 4           **question by a person or an organization that has a contract or**  
 5           **an arrangement (whether formal or informal) with the school**  
 6           **corporation solely for the use of the school corporation's**  
 7           **facilities.**

8           **A person or an organization that has a contract or arrangement**  
 9           **(whether formal or informal) with a school corporation to provide**  
 10           **goods or services to the school corporation may not spend any**  
 11           **money to promote a position on the petition or remonstrance. A**  
 12           **person or an organization that violates this subsection commits a**  
 13           **Class A infraction.**

14           (d) Notwithstanding any other law, an elected or appointed school  
 15           board member or a school corporation superintendent, school  
 16           corporation assistant superintendent, or chief school business official  
 17           of a school corporation may at any time:

18           (1) personally advocate for or against a position on a referendum;  
 19           or

20           (2) discuss the referendum with any individual, group, or  
 21           organization or personally advocate for or against a position on a  
 22           referendum before any individual, group, or organization;

23           so long as it is not done by using public funds. Advocacy or discussion  
 24           allowed under this subsection is not considered a use of public funds.  
 25           However, this subsection does not authorize or apply to advocacy or  
 26           discussion by a school board member, superintendent, assistant  
 27           superintendent, or school business official to or with students that  
 28           occurs during the regular school day.

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

32           SECTION 11. IC 20-46-1-12 IS REPEALED [EFFECTIVE UPON  
 33           PASSAGE].

34           SECTION 12. **An emergency is declared for this act.**

(Reference is to EHB 1238 as reprinted March 23, 2011.)

**Conference Committee Report**  
**on**  
**Engrossed House Bill 1238**

**S**igned by:

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Representative Noe  
Chairperson

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Senator Charbonneau

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Representative Thompson

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Senator Mishler

**House Conferees**

**Senate Conferees**