

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Appropriations, to which was referred House Bill No. 1238, 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:

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
2 "SECTION 1. IC 6-1.1-20-3.1, AS AMENDED BY P.L.41-2010,
3 SECTION 2, AND AS AMENDED BY P.L.113-2010, SECTION 33,
4 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
5 [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This section applies
6 only to the following:
7 (1) A controlled project (as defined in section 1.1 of this chapter
8 as in effect June 30, 2008) for which the proper officers of a
9 political subdivision make a preliminary determination in the
10 manner described in subsection (b) before July 1, 2008.
11 (2) An elementary school building, middle school building, or
12 other school building for academic instruction that:
13 (A) is a controlled project;
14 (B) will be used for any combination of kindergarten through
15 grade 8;
16 (C) will not be used for any combination of grade 9 through
17 grade 12; and
18 (D) will not cost more than ten million dollars (\$10,000,000).
19 (3) A high school building or other school building for academic
20 instruction that:
21 (A) is a controlled project;

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

- 1 maximum lease rental for the lease.
- 2 (C) The estimated interest rates that will be paid and the total
3 interest costs associated with the bonds or lease.
- 4 (D) The purpose of the bonds or lease.
- 5 (E) A statement that any owners of ~~real~~ property within the
6 political subdivision or registered voters residing within the
7 political subdivision who want to initiate a petition and
8 remonstrance process against the proposed debt service or
9 lease payments must file a petition that complies with
10 subdivisions (4) and (5) not later than thirty (30) days after
11 publication in accordance with IC 5-3-1.
- 12 (F) With respect to bonds issued or a lease entered into to
13 open:
- 14 (i) a new school facility; or
15 (ii) an existing facility that has not been used for at least
16 three (3) years and that is being reopened to provide
17 additional classroom space;
- 18 the estimated costs the school corporation expects to incur
19 annually to operate the facility.
- 20 (G) A statement of whether the school corporation expects to
21 appeal for a new facility adjustment (as defined in
22 IC 20-45-1-16 (**repealed**) before January 1, 2009) for an
23 increased maximum permissible tuition support levy to pay the
24 estimated costs described in clause (F).
- 25 (H) The political subdivision's current debt service levy and
26 rate and the estimated increase to the political subdivision's
27 debt service levy and rate that will result if the political
28 subdivision issues the bonds or enters into the lease.
- 29 (4) After notice is given, a petition requesting the application of
30 a petition and remonstrance process may be filed by the lesser of:
- 31 (A) one hundred (100) persons who are either owners of ~~real~~
32 property within the political subdivision or registered voters
33 residing within the political subdivision; or
34 (B) five percent (5%) of the registered voters residing within
35 the political subdivision.
- 36 (5) The state board of accounts shall design and, upon request by
37 the county voter registration office, deliver to the county voter
38 registration office or the county voter registration office's
39 designated printer the petition forms to be used solely in the
40 petition process described in this section. The county voter
41 registration office shall issue to an owner or owners of ~~real~~
42 property within the political subdivision or a registered voter

1 residing within the political subdivision the number of petition
 2 forms requested by the owner or owners or the registered voter.
 3 Each form must be accompanied by instructions detailing the
 4 requirements that:

5 (A) the carrier and signers must be owners of ~~real~~ property or
 6 registered voters;

7 (B) the carrier must be a signatory on at least one (1) petition;

8 (C) after the signatures have been collected, the carrier must
 9 swear or affirm before a notary public that the carrier
 10 witnessed each signature; and

11 (D) govern the closing date for the petition period.

12 Persons requesting forms may be required to identify themselves
 13 as owners of ~~real~~ property or registered voters and may be
 14 allowed to pick up additional copies to distribute to other ~~property~~
 15 owners of ~~property~~ or registered voters. Each person signing a
 16 petition must indicate whether the person is signing the petition
 17 as a registered voter within the political subdivision or is signing
 18 the petition as the owner of ~~real~~ property within the political
 19 subdivision. A person who signs a petition as a registered voter
 20 must indicate the address at which the person is registered to vote.
 21 A person who signs a petition as ~~a real an owner of~~ property
 22 ~~owner~~ must indicate the address of the ~~real~~ property owned by the
 23 person in the political subdivision.

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

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

31 (8) The county voter registration office shall determine whether
 32 each person who signed the petition is a registered voter. The
 33 county voter registration office shall, not more than fifteen (15)
 34 business days after receiving a petition, forward a copy of the
 35 petition to the county auditor. Not more than ten (10) business
 36 days after receiving the copy of the petition, the county auditor
 37 shall provide to the county voter registration office a statement
 38 verifying:

39 (A) whether a person who signed the petition as a registered
 40 voter but is not a registered voter, as determined by the county
 41 voter registration office, is the owner of ~~real~~ property in the
 42 political subdivision; and

1 (B) whether a person who signed the petition as an owner of
2 *real* property within the political subdivision does in fact own
3 *real* property within the political subdivision.

4 (9) The county voter registration office shall, not more than ten
5 (10) business days after receiving the statement from the county
6 auditor under subdivision (8), make the final determination of the
7 number of petitioners that are registered voters in the political
8 subdivision and, based on the statement provided by the county
9 auditor, the number of petitioners that own *real* property within
10 the political subdivision. Whenever the name of an individual
11 who signs a petition form as a registered voter contains a minor
12 variation from the name of the registered voter as set forth in the
13 records of the county voter registration office, the signature is
14 presumed to be valid, and there is a presumption that the
15 individual is entitled to sign the petition under this section. Except
16 as otherwise provided in this chapter, in determining whether an
17 individual is a registered voter, the county voter registration office
18 shall apply the requirements and procedures used under IC 3 to
19 determine whether a person is a registered voter for purposes of
20 voting in an election governed by IC 3. However, an individual is
21 not required to comply with the provisions concerning providing
22 proof of identification to be considered a registered voter for
23 purposes of this chapter. A person is entitled to sign a petition
24 only one (1) time in a particular petition and remonstrance
25 process under this chapter, regardless of whether the person owns
26 more than one (1) parcel of real property, *mobile home assessed*
27 *as personal property, or manufactured home assessed as*
28 *personal property, or a combination of those types of property*
29 within the subdivision and regardless of whether the person is
30 both a registered voter in the political subdivision and the owner
31 of *real* property within the political subdivision. Notwithstanding
32 any other provision of this section, if a petition is presented to the
33 county voter registration office within forty-five (45) days before
34 an election, the county voter registration office may defer acting
35 on the petition, and the time requirements under this section for
36 action by the county voter registration office do not begin to run
37 until five (5) days after the date of the election.

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

40 (A) the township trustee, if the political subdivision is a
41 township, who shall present the petition or petitions to the
42 township board; or

1 (B) the body that has the authority to authorize the issuance of
 2 the bonds or the execution of a lease, if the political
 3 subdivision is not a township;
 4 within thirty-five (35) business days of the filing of the petition
 5 requesting a petition and remonstrance process. The certificate
 6 must state the number of petitioners that are owners of *real*
 7 property within the political subdivision and the number of
 8 petitioners who are registered voters residing within the political
 9 subdivision.

10 If a sufficient petition requesting a petition and remonstrance process
 11 is not filed by owners of *real* property or registered voters as set forth
 12 in this section, the political subdivision may issue bonds or enter into
 13 a lease by following the provisions of law relating to the bonds to be
 14 issued or lease to be entered into.

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

22 SECTION 2. IC 6-1.1-20-3.6, AS AMENDED BY P.L.113-2010,
 23 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 UPON PASSAGE]: Sec. 3.6. (a) Except as provided in sections 3.7 and
 25 3.8 of this chapter, this section applies only to a controlled project
 26 described in section 3.5(a) of this chapter.

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

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

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

1 department of local government finance)?".

2 The public question must appear on the ballot in the form approved by

3 the county election board. If the political subdivision proposing to issue

4 bonds or enter into a lease is located in more than one (1) county, the

5 county election board of each county shall jointly approve the form of

6 the public question that will appear on the ballot in each county. The

7 form approved by the county election board may differ from the

8 language certified to the county election board by the county auditor.

9 If the county election board approves the language of a public question

10 under this subsection, ~~after June 30, 2010~~, the county election board

11 shall submit the language to the department of local government

12 finance for review.

13 **(d) This subsection applies to ballot language submitted by the**

14 **county election board under subsection (c) before May 1, 2011.** The

15 department of local government finance shall review the language of

16 the public question to evaluate whether the description of the

17 controlled project is accurate and is not biased against either a vote in

18 favor of the controlled project or a vote against the controlled project.

19 The department of local government finance may recommend that the

20 ballot language be used as submitted or recommend modifications to

21 the ballot language as necessary to ensure that the description of the

22 controlled project is accurate and is not biased. The department of local

23 government finance shall send its recommendations to the county

24 election board not more than ten (10) days after the language of the

25 public question is submitted to the department for review. After

26 reviewing the recommendations of the department of local government

27 finance under this subsection, the county election board shall take final

28 action to approve ballot language. The finally adopted ballot language

29 may differ from the recommendations made by the department of local

30 government finance.

31 **(e) This subsection applies to ballot language submitted by the**

32 **county election board under subsection (c) after April 30, 2011.**

33 **The department of local government finance shall review the**

34 **language of the public question to evaluate whether the description**

35 **of the controlled project is accurate and is not biased against either**

36 **a vote in favor of the controlled project or a vote against the**

37 **controlled project. The department of local government finance**

38 **may either approve the ballot language as submitted or**

39 **recommend that the ballot language be modified as necessary to**

40 **ensure that the description of the controlled project is accurate and**

41 **is not biased. The department of local government finance shall**

42 **certify its approval or recommendations to the county auditor and**

1 **the county election board not more than ten (10) days after the**
 2 **language of the public question is submitted to the department for**
 3 **review. If the department of local government finance recommends**
 4 **a modification to the ballot language, the county election board**
 5 **shall, after reviewing the recommendations of the department of**
 6 **local government finance, submit modified ballot language to the**
 7 **department for the department's approval or recommendation of**
 8 **any additional modifications. The public question may not be**
 9 **certified by the county auditor under subsection (f) unless the**
 10 **department of local government finance has first certified the**
 11 **department's final approval of the ballot language for the public**
 12 **question.**

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

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

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

1 IC 5-3-1 of a special election conducted under this subsection. A
 2 special election conducted under this subsection is under the direction
 3 of the county election board. The county election board shall take all
 4 steps necessary to carry out the special election.

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

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

9 (2) The department of local government finance.

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

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

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

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

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

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

27 ~~(j)~~ **(l)** This subsection applies to a political subdivision for which a
 28 petition requesting a public question has been submitted under section
 29 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of
 30 the political subdivision may adopt a resolution to withdraw a
 31 controlled project from consideration in a public question. If the
 32 legislative body provides a certified copy of the resolution to the county
 33 auditor and the county election board not later than forty-nine (49) days
 34 before the election at which the public question would be on the ballot,
 35 the public question on the controlled project shall not be placed on the
 36 ballot and the public question on the controlled project shall not be
 37 held, regardless of whether the county auditor has certified the public
 38 question to the county election board. If the withdrawal of a public
 39 question under this subsection requires the county election board to
 40 reprint ballots, the political subdivision withdrawing the public
 41 question shall pay the costs of reprinting the ballots. If a political
 42 subdivision withdraws a public question under this subsection that

1 would have been held at a special election and the county election
 2 board has printed the ballots before the legislative body of the political
 3 subdivision provides a certified copy of the withdrawal resolution to
 4 the county auditor and the county election board, the political
 5 subdivision withdrawing the public question shall pay the costs
 6 incurred by the county in printing the ballots. If a public question on a
 7 controlled project is withdrawn under this subsection, a public question
 8 under this section on the same controlled project or a substantially
 9 similar controlled project may not be submitted to the voters earlier
 10 than one (1) year after the date the resolution withdrawing the public
 11 question is adopted.

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

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

34 SECTION 3. IC 6-1.1-20-10, AS AMENDED BY P.L.182-2009(ss),
 35 SECTION 148, IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) This section applies to a
 37 political subdivision that adopts an ordinance or a resolution making
 38 a preliminary determination to issue bonds or enter into a lease. **Except**
 39 **as otherwise provided in this section**, during the period commencing
 40 with the adoption of the ordinance or resolution and, if a petition and
 41 remonstrance process is commenced under section 3.2 of this chapter,
 42 continuing through the sixty (60) day period commencing with the

1 notice under section 3.2(b)(1) of this chapter, the political subdivision
2 seeking to issue bonds or enter into a lease for the proposed controlled
3 project may not promote a position on the petition or remonstrance by
4 doing any of the following:

5 (1) Allowing facilities or equipment, including mail and
6 messaging systems, owned by the political subdivision to be used
7 for public relations purposes to promote a position on the petition
8 or remonstrance, unless equal access to the facilities or equipment
9 is given to persons with a position opposite to that of the political
10 subdivision.

11 (2) Making an expenditure of money from a fund controlled by
12 the political subdivision to promote a position on the petition or
13 remonstrance or to pay for the gathering of signatures on a
14 petition or remonstrance. This subdivision does not prohibit a
15 political subdivision from making an expenditure of money to an
16 attorney, an architect, registered professional engineer, a
17 construction manager, or a financial adviser for professional
18 services provided with respect to a controlled project.

19 (3) Using an employee to promote a position on the petition or
20 remonstrance during the employee's normal working hours or paid
21 overtime, or otherwise compelling an employee to promote a
22 position on the petition or remonstrance at any time. **However, if**
23 **a person described in subsection (f) is advocating for or**
24 **against a position on the petition or remonstrance or**
25 **discussing the petition or remonstrance as authorized under**
26 **subsection (f), an employee of the political subdivision may**
27 **assist the person in presenting information on the petition or**
28 **remonstrance, if requested to do so by the person described in**
29 **subsection (f).**

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

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

35 (B) including a statement within another communication sent
36 to the students' residences; ~~or~~

37 **(C) initiating discussion of the petition and remonstrance**
38 **process at a meeting between a teacher and parents of a**
39 **student regarding the student's performance or behavior**
40 **at school. However, if the parents initiate a discussion of**
41 **the petition and remonstrance process at the meeting, the**
42 **teacher may acknowledge the issue and direct the parents**

1 **to a source of factual information on the petition and**
 2 **remonstrance process.**

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

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

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 petition or remonstrance.

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

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

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

28 (f) **Notwithstanding any other law**, an elected or appointed public
 29 official of the political subdivision **(including any school board**
 30 **member and school corporation superintendent), a school**
 31 **corporation assistant superintendent, or a chief school business**
 32 **official of a school corporation** may at any time:

- 33 (1) personally advocate for or against a position on the petition or
- 34 remonstrance; **or**
- 35 (2) **discuss the petition or remonstrance with any individual,**
- 36 **group, or organization or personally advocate for or against**
- 37 **a position on the petition or remonstrance before any**
- 38 **individual, group, or organization;**

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

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

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

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

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

23 (2) Making an expenditure of money from a fund controlled by
 24 the political subdivision to promote a position on the local public
 25 question. This subdivision does not prohibit a political
 26 subdivision from making an expenditure of money to an attorney,
 27 an architect, a registered professional engineer, a construction
 28 manager, or a financial adviser for professional services provided
 29 with respect to a controlled project.

30 (3) Using an employee to promote a position on the local public
 31 question during the employee's normal working hours or paid
 32 overtime, or otherwise compelling an employee to promote a
 33 position on the local public question at any time. **However, if a**
 34 **person described in subsection (f) is advocating for or against**
 35 **a position on the local public question or discussing the local**
 36 **public question as authorized under subsection (f), an**
 37 **employee of the political subdivision may assist the person in**
 38 **presenting information on the local public question, if**
 39 **requested to do so by the person described in subsection (f).**

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

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

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

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

35 (f) **Notwithstanding any other law**, an elected or appointed public
 36 official of the political subdivision **(including any school board**
 37 **member and school corporation superintendent), a school**
 38 **corporation assistant superintendent, or a chief school business**
 39 **official of a school corporation may at any time:**

- 40 (1) personally advocate for or against a position on the local
 41 public question; **or**
 42 (2) **discuss the public question with any individual, group, or**

1 **organization or otherwise personally advocate for or against**
 2 **a position on the public question before any individual, group,**
 3 **or organization;**

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

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

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

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

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

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

41 (1) the county fiscal body (for informational purposes only);
 42 **and**

- 1 **(2) the circuit court clerk;**
 2 of each county in which the school corporation is located.
- 3 SECTION 6. IC 20-46-1-13, AS AMENDED BY P.L.146-2008,
 4 SECTION 498, IS AMENDED TO READ AS FOLLOWS
 5 [EFFECTIVE UPON PASSAGE]: Sec. 13. Each ~~county~~ **circuit court**
 6 clerk shall, upon receiving the question certified by the ~~county fiscal~~
 7 **body governing body of a school corporation** under this chapter, call
 8 a meeting of the county election board to make arrangements for the
 9 referendum.
- 10 SECTION 7. IC 20-46-1-15, AS AMENDED BY P.L.146-2008,
 11 SECTION 500, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE UPON PASSAGE]: Sec. 15. Each county election board
 13 shall cause:
- 14 (1) the question certified to the circuit court clerk by the ~~county~~
 15 **fiscal body governing body of a school corporation** to be placed
 16 on the ballot in the form prescribed by IC 3-10-9-4; and
- 17 (2) an adequate supply of ballots and voting equipment to be
 18 delivered to the precinct election board of each precinct in which
 19 the referendum is to be held.
- 20 SECTION 8. IC 20-46-1-17, AS AMENDED BY P.L.146-2008,
 21 SECTION 501, IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE UPON PASSAGE]: Sec. 17. Each precinct election
 23 board shall count the affirmative votes and the negative votes cast in
 24 the referendum and shall certify those two (2) totals to the county
 25 election board of each county in which the referendum is held. The
 26 circuit court clerk of each county shall, immediately after the votes cast
 27 in the referendum have been counted, certify the results of the
 28 referendum to the ~~county fiscal body. Upon receiving the certification~~
 29 ~~of all the votes cast in the referendum, the county fiscal body shall~~
 30 ~~promptly certify the result of the referendum to the~~ department of local
 31 government finance. If a majority of the individuals who voted in the
 32 referendum voted "yes" on the referendum question:
- 33 (1) the ~~county fiscal body~~ **department of local government**
 34 **finance** shall promptly notify the school corporation that the
 35 school corporation is authorized to collect, for the calendar year
 36 that next follows the calendar year in which the referendum is
 37 held, a levy not greater than the amount approved in the
 38 referendum;
- 39 (2) the levy may be imposed for the number of calendar years
 40 approved by the voters following the referendum for the school
 41 corporation in which the referendum is held; and
- 42 (3) the school corporation shall establish a fund under

1 IC 20-40-3-1.

2 SECTION 9. IC 20-46-1-19.5 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2011]: **Sec. 19.5. (a) If a referendum is**
5 **approved by the voters in a school corporation under this chapter**
6 **in a calendar year, another referendum may not be placed on the**
7 **ballot in the school corporation under this chapter in the following**
8 **calendar year.**

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

16 SECTION 10. IC 20-46-1-20 IS ADDED TO THE INDIANA
17 CODE AS A NEW SECTION TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2011]: **Sec. 20. (a) Except as otherwise**
19 **provided in this section, during the period beginning with the**
20 **adoption of a resolution by the governing body of a school**
21 **corporation to place a referendum under this chapter on the ballot**
22 **and continuing through the day on which the referendum is**
23 **submitted to the voters, the school corporation may not promote**
24 **a position on the referendum by doing any of the following:**

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

31 (2) **Making an expenditure of money from a fund controlled**
32 **by the school corporation to promote a position on the**
33 **referendum.**

34 (3) **Using an employee to promote a position on the**
35 **referendum during the employee's normal working hours or**
36 **paid overtime, or otherwise compelling an employee to**
37 **promote a position on the referendum at any time. However,**
38 **if a person described in subsection (d) is advocating for or**
39 **against a position on the referendum or discussing the**
40 **referendum as authorized under subsection (d), an employee**
41 **of the school corporation may assist the person in presenting**
42 **information on the referendum, if requested to do so by the**

- 1 **person described in subsection (d).**
- 2 **(4) Promoting a position on the referendum by:**
- 3 **(A) using students to transport written materials to their**
- 4 **residences or in any way involving students in a school**
- 5 **organized promotion of a position;**
- 6 **(B) including a statement within another communication**
- 7 **sent to the students' residences; or**
- 8 **(C) initiating discussion of the referendum at a meeting**
- 9 **between a teacher and parents of a student regarding the**
- 10 **student's performance or behavior at school. However, if**
- 11 **the parents initiate a discussion of the referendum at the**
- 12 **meeting, the teacher may acknowledge the issue and direct**
- 13 **the parents to a source of factual information on the**
- 14 **referendum.**

15 **However, this section does not prohibit an official or employee of**

16 **the school corporation from carrying out duties with respect to a**

17 **referendum that are part of the normal and regular conduct of the**

18 **official's employee's office or agency, including the furnishing of**

19 **factual information regarding the referendum in response to**

20 **inquiries from any person.**

21 **(b) The staff and employees of a school corporation may not**

22 **personally identify a student as the child of a parent or guardian**

23 **who supports or opposes the referendum.**

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

25 **arrangement (whether formal or informal) with a school**

26 **corporation for the use of any of the school corporation's facilities**

27 **may not spend any money to promote a position on a referendum.**

28 **A person or an organization that violates this subsection commits**

29 **a Class A infraction.**

30 **(d) Notwithstanding any other law, an elected or appointed**

31 **school board member or a school corporation superintendent,**

32 **school corporation assistant superintendent, or chief school**

33 **business official of a school corporation may at any time:**

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

40 **so long as it is not done by using public funds. Advocacy or**

41 **discussion allowed under this subsection is not considered a use of**

42 **public funds. However, this subsection does not authorize or apply**

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

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

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

9 SECTION 12. **An emergency is declared for this act."**

10 Delete pages 2 through 6.

11 Re-number all SECTIONS consecutively.

(Reference is to HB 1238 as reprinted February 11, 2011.)

and when so amended that said bill do pass .

Committee Vote: Yeas 12, Nays 1.

Senator Kenley, Chairperson