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# SENATE BILL No. 379

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-12.

**Synopsis:** Municipal library reorganization. Provides that subject to the approval of voters in a referendum, a public library for which at least 95% of the library district territory is located in one municipality may be reorganized as a municipal library department. Specifies that a referendum on the reorganization of such a library may be placed on the ballot if the holding of the referendum is approved by the library board and by the legislative body of the municipality. Specifies that if the referendum is approved, the public library ceases to be a separate political subdivision and an independent taxing unit, and is instead a municipal library department of the municipality. Specifies the membership of the library board of the municipal library department. Provides that the municipal library board shall appoint the head of the municipal library department, subject to the approval of the legislative body of the municipality. Provides that if the referendum is approved, all territory within the municipality is a library special taxing district, and that to the extent that the boundaries of the library district included territory outside the municipality, that territory is also part of the municipal library department and the library special taxing district. Specifies that any territory annexed by such a municipality becomes part of the library special taxing district of the municipality, regardless of whether the annexed territory is already part of another library district. Provides that, with certain exceptions, a municipal library department has the powers and duties of a Class 1 public library. Provides that the municipal fiscal body exercises the fiscal and appropriation powers otherwise granted to a library board. Requires the department of local government finance to establish a separate  
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**Effective:** July 1, 2013.

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## Walker

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January 10, 2013, read first time and referred to Committee on Local Government.

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Digest Continued

maximum permissible property tax levy for the library special taxing district. Specifies that for three years after the reorganization, the property tax rate imposed in the library special taxing district may not exceed the property tax rate imposed for the public library in the year preceding the year in which the municipal library department is established. Requires the municipal library department to submit an annual budget to the municipal fiscal body in the same manner as other departments of the municipality.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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## SENATE BILL No. 379

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 36-12-1-4.5 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2013]: **Sec. 4.5. "Municipal library department" means a**
- 4 **municipal library department established under IC 36-12-4.5.**
- 5 SECTION 2. IC 36-12-1-5, AS ADDED BY P.L.1-2005, SECTION
- 6 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 7 2013]: Sec. 5. "Public library" means **the following:**
- 8 (1) A municipal corporation that:
- 9 (†) (A) provides library services; and
- 10 (‡) (B) is organized under:
- 11 (A) (i) IC 36-12-2;
- 12 (B) (ii) IC 36-12-4;
- 13 (C) (iii) IC 36-12-5;
- 14 (D) (iv) IC 36-12-6; or
- 15 (E) (v) IC 36-12-7.



1           **(2) Subject to IC 36-12-4.5-10(3), a municipal library**  
2           **department established under IC 36-12-4.5.**

3           SECTION 3. IC 36-12-1-9, AS ADDED BY P.L.1-2005, SECTION  
4           49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
5           2013]: Sec. 9. Public libraries are classified as: ~~either:~~

6           (1) Class 1 libraries, which comprise:  
7                 (A) all public libraries established after March 13, 1947; and  
8                 (B) all public libraries established before March 14, 1947, that  
9                 have filed a resolution of conversion under section 10 of this  
10                chapter; ~~or~~

11           (2) Class 2 public libraries, which comprise all public libraries  
12           established before March 14, 1947, that have not filed a  
13           resolution of conversion under section 10 of this chapter; **or**

14           **(3) municipal library departments.**

15           SECTION 4. IC 36-12-2-3, AS ADDED BY P.L.1-2005, SECTION  
16           49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
17           2013]: Sec. 3. (a) The corporate boundaries of the public library must  
18           be described in the resolution of establishment, conversion, transfer, or  
19           merger filed:

20                 (1) in the office of the county recorder in the county where the  
21                 administrative office of the public library is located; and  
22                 (2) with the Indiana state library.

23           (b) If the corporate boundaries of a unit and a Class 1 public library  
24           are coextensive, territory annexed by the unit becomes part of the  
25           library district if the annexed territory is not already part of another  
26           library district. **As provided in IC 36-12-4.5-10(2), any territory**  
27           **annexed by a municipality having a municipal library department**  
28           **under IC 36-12-4.5 becomes part of the library special taxing**  
29           **district of the municipality, regardless of whether the annexed**  
30           **territory is already part of another library district.** Whenever a  
31           public library annexes territory under this subsection, the library board  
32           shall file a statement describing the annexed territory:

33                 (1) in the office of the county recorder in the county where the  
34                 administrative office of the public library is located; and  
35                 (2) with the Indiana state library.

36           If the territory annexed by a unit is already a part of another library  
37           district, the territory remains a part of the other library district unless  
38           the library boards of both public libraries pass a resolution of transfer  
39           under section 4 of this chapter.

40           SECTION 5. IC 36-12-4.5 IS ADDED TO THE INDIANA CODE  
41           AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
42           JULY 1, 2013]:

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**Chapter 4.5. Municipal Library Departments**

**Sec. 1. (a) The purpose of this chapter is to provide certain public libraries and municipalities the option of:**

- (1) reorganizing as provided in this chapter; and**
- (2) establishing a municipal library department.**

**(b) This chapter contains full and complete authority for the establishment and operation of a municipal library department.**

**(c) Except as provided in this chapter, no law, procedure, proceeding, publication, notice, consent, approval, order, or act by a political subdivision or any officer, department, agency, or instrumentality of the state or of a political subdivision is required for the reorganization of a qualified library under this chapter and the establishment and operation of a municipal library department.**

**(d) This chapter shall be liberally construed to carry out the purposes of this chapter.**

**(e) Except as otherwise specifically provided by law, to the extent this chapter is inconsistent with any other law, this chapter controls, and compliance with this chapter must be treated as compliance with the conflicting law.**

**(f) This chapter does not prohibit the reorganization or merger of a public library under any other law other than this chapter.**

**Sec. 2. As used in this chapter, "eligible municipality" means a municipality containing at least ninety-five percent (95%) of the territory of a qualified library.**

**Sec. 3. As used in this chapter, "municipal library department" means a municipal library department established under this chapter in the reorganization of a qualified library.**

**Sec. 4. As used in this chapter, "qualified library" means a public library for which at least ninety-five percent (95%) of the public library's territory is located in one (1) municipality.**

**Sec. 5. Subject to the approval of voters in a public question under section 7 of this chapter, a qualified library may be reorganized under this chapter as a municipal library department.**

**Sec. 6. (a) A public question to provide for the reorganization of a qualified library may be initiated under this section by the library board of the qualified library and the legislative body of the eligible municipality in which the qualified library is located.**

**(b) If the library board of a qualified library adopts a resolution approving the holding of a public question under this chapter, the clerk of the qualified library shall certify the resolution to the county election board.**

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1 (c) If the legislative body of the eligible municipality in which  
2 the qualified library is located adopts an ordinance approving the  
3 holding of a public question under this chapter, the clerk of the  
4 eligible municipality shall certify the resolution to the county  
5 election board.

6 (d) If a county election board receives a resolution certified  
7 under subsection (b) and not more than one (1) year later receives  
8 an ordinance certified under subsection (c), the county election  
9 board shall place a public question concerning the reorganization  
10 of the qualified library and the establishment of a municipal  
11 library department on the ballot in accordance with IC 3-10-9 at  
12 the first regularly scheduled general election that will occur at least  
13 sixty (60) days after the county election board receives both the  
14 certified resolution and the certified ordinance.

15 Sec. 7. (a) If authorized by section 6 of this chapter, a public  
16 question shall be placed on the ballot in all precincts containing  
17 territory of the qualified library, in substantially the following  
18 form:

19 (1) The following question, in the case of a qualified library  
20 for which at least ninety-five percent (95%) but less than one  
21 hundred percent (100%) of the public library's territory is  
22 located in one (1) municipality:

23 "Shall:

24 (A) the \_\_\_\_\_ Public Library (insert the  
25 name of the public library) be dissolved as a separate  
26 unit of government and instead be reorganized as a  
27 municipal library department of \_\_\_\_\_  
28 (insert the name of the municipality)? and

29 (B) all territory within \_\_\_\_\_ (insert the  
30 name of the municipality), regardless of the library  
31 district in which the territory is currently located,  
32 become territory of the municipal library department of  
33 \_\_\_\_\_ (insert the name of the  
34 municipality)?".

35 (2) The following question, in the case of a qualified library  
36 for which one hundred percent (100%) of the public library's  
37 territory is located in one (1) municipality:

38 "Shall the \_\_\_\_\_ Public Library (insert the  
39 name of the public library) be dissolved as a separate unit  
40 of government and instead be reorganized as a municipal  
41 library department of \_\_\_\_\_ (insert the  
42 name of the municipality)?".

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1 (b) Except as otherwise provided in this chapter, IC 3 applies to  
 2 the election at which a public question under this chapter is  
 3 considered.

4 (c) The county election board shall certify the results of a public  
 5 question under this chapter to the following:

6 (1) The library board of the qualified library named in the  
 7 public question.

8 (2) The executive and the legislative body of the eligible  
 9 municipality named in the public question.

10 (3) The executive and fiscal body of each county containing  
 11 territory of the qualified library or the eligible municipality.

12 (4) The Indiana library and historical board.

13 (5) The department of local government finance.

14 Sec. 8. (a) This subsection applies to a qualified library for  
 15 which at least ninety-five percent (95%) but less than one hundred  
 16 percent (100%) of the public library's territory is located in one (1)  
 17 municipality. The reorganization of the qualified library as a  
 18 municipal library department is approved only if both of the  
 19 following conditions are satisfied:

20 (1) A majority of the voters who:

21 (A) vote on the public question;

22 (B) reside within a precinct containing territory of the  
 23 eligible municipality; and

24 (C) do not reside within a precinct containing territory of  
 25 the qualified library;

26 vote to approve the public question.

27 (2) A majority of the voters who:

28 (A) vote on the public question; and

29 (B) reside within a precinct containing both territory of the  
 30 eligible municipality and territory of the qualified library;

31 vote to approve the public question.

32 (b) This subsection applies to a qualified library for which one  
 33 hundred percent (100%) of the public library's territory is located  
 34 in one (1) municipality. The reorganization of a qualified library as  
 35 a municipal library department is approved only if a majority of  
 36 the voters who vote on the public question vote to approve the  
 37 public question.

38 Sec. 9. If a public question held under this chapter is not  
 39 approved by voters, another public question concerning the  
 40 reorganization of the qualified library as a municipal library  
 41 department may not be placed on the ballot under this chapter at  
 42 the next general election.

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1           **Sec. 10. The following apply if the reorganization of a qualified**  
2 **library as a municipal library department is approved in a public**  
3 **question under this chapter:**

4           **(1) On January 1 of the second year following the year in**  
5 **which the public question is approved:**

6           **(A) the qualified library is no longer a separate political**  
7 **subdivision and is no longer an independent taxing unit;**

8           **(B) the qualified library becomes the municipal library**  
9 **department of the eligible municipality;**

10           **(C) the term of each member of the library board of the**  
11 **qualified library is terminated, and the members of the**  
12 **municipal library board for the municipal library**  
13 **department shall be appointed as provided in section 10.5**  
14 **of this chapter, with the powers and duties specified in this**  
15 **chapter;**

16           **(D) the municipal library board shall appoint the head of**  
17 **the municipal library department, subject to the approval**  
18 **of the legislative body of the municipality;**

19           **(E) all:**

20           **(i) assets;**

21           **(ii) debts;**

22           **(iii) property rights;**

23           **(iv) equipment;**

24           **(v) records;**

25           **(vi) personnel; and**

26           **(vii) contracts;**

27           **of the library board of the qualified library are transferred**  
28 **to the municipal library board of the municipal library**  
29 **department; and**

30           **(F) the municipal library board has the powers and duties**  
31 **specified in this chapter.**

32           **(2) After the date on which the municipal library department**  
33 **is established, all territory within the corporate boundaries of**  
34 **the municipality having the municipal library department is**  
35 **a library special taxing district. If the corporate boundaries**  
36 **of the municipality include any territory of a library district**  
37 **other than the qualified library on the date the municipal**  
38 **library department is established, that part of the territory of**  
39 **the other library district ceases to be part of the other district,**  
40 **and that territory is transferred to the territory of the**  
41 **municipal library department and becomes part of the library**  
42 **special taxing district of the municipal library department. To**

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1 the extent that the corporate boundaries of the library district  
 2 of the qualified library included territory outside the  
 3 boundaries of the municipality, that territory is also part of  
 4 the library special taxing district. Any territory annexed by a  
 5 municipality having a municipal library department under  
 6 this chapter becomes part of the library special taxing district  
 7 of the municipality, regardless of whether the annexed  
 8 territory is already part of another library district. If  
 9 territory annexed by the municipality is part of another  
 10 library district, that territory ceases to be part of the other  
 11 library district and becomes part of the library special taxing  
 12 district of the municipality as provided in this subdivision.

13 (3) Except to the extent inconsistent with this chapter, a public  
 14 library that is reorganized as a municipal library department  
 15 under this chapter has the powers and duties of a Class 1  
 16 public library. However:

17 (A) the municipal fiscal body shall exercise the fiscal and  
 18 appropriation powers otherwise granted by this article to  
 19 a library board, including the powers under IC 36-12-3-9,  
 20 IC 36-12-3-10, IC 36-12-3-12, IC 36-12-3-15, IC 36-12-3-16,  
 21 IC 36-12-3-16.5, IC 36-12-3-17, IC 36-12-3-18, and  
 22 IC 36-12-12;

23 (B) the exercise of a power under IC 36-12-3-11 by the  
 24 municipal library board is subject to approval by the  
 25 municipal fiscal body;

26 (C) the municipal library board may contract to provide or  
 27 receive library service from a municipal corporation under  
 28 IC 36-12-3-7 only if the contract is approved by the  
 29 municipal fiscal body;

30 (D) the lease of library property under IC 36-12-10 by the  
 31 municipal library board must be approved by the  
 32 municipal fiscal body;

33 (E) the municipal library department may not merge with  
 34 another public library under IC 36-12-4;

35 (F) the municipal library department may expand in the  
 36 same manner that a Class 1 public library may expand  
 37 under IC 36-12-5, subject to approval of the municipal  
 38 fiscal body; and

39 (G) except as specifically provided in this chapter, the  
 40 provisions of IC 36-12-2 concerning appointments to and  
 41 membership of library boards do not apply to the library  
 42 board of the municipal library department.

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1 (4) The department of local government finance shall  
 2 establish a separate maximum permissible ad valorem  
 3 property tax levy for the library special taxing district. The  
 4 initial maximum permissible ad valorem property tax levy for  
 5 the library special taxing district is equal to:

6 (A) the sum of the maximum permissible ad valorem  
 7 property tax levy for the qualified library for the year  
 8 preceding the year in which the municipal library  
 9 department is established, plus (if any territory is  
 10 transferred to the special taxing district of the municipal  
 11 library department from another library district under  
 12 subdivision (2) on the date the municipal library is  
 13 established), the result of the maximum permissible ad  
 14 valorem property tax levy for the other library for the  
 15 most recent assessment date before the transfer, multiplied  
 16 by a fraction equal to:

17 (i) the assessed value (for the most recent assessment  
 18 date before the transfer) of the territory that is  
 19 transferred from another library district; divided by

20 (ii) the assessed value (for the most recent assessment  
 21 date before the transfer) of the entire territory of that  
 22 other library district; multiplied by

23 (B) the assessed value growth quotient determined under  
 24 IC 6-1.1-18.5-2 for the year in which the municipal library  
 25 department is established.

26 (5) Notwithstanding any other law, for the first three (3) years  
 27 in which a property tax rate is imposed in the library special  
 28 taxing district for the municipal library district general fund,  
 29 the property tax rate imposed for the municipal library  
 30 district general fund may not exceed the property tax rate  
 31 imposed for the qualified library's general fund in the year  
 32 preceding the year in which the municipal library department  
 33 is established.

34 (6) The maximum permissible ad valorem property tax levy  
 35 for the library special taxing district shall be adjusted  
 36 annually in the manner set forth in IC 6-1.1-18.5.

37 (7) Beginning with property taxes first due and payable for  
 38 the year in which the municipal library department is  
 39 established, the municipal fiscal body shall adopt a budget for  
 40 the municipal library department and shall impose the  
 41 property tax levy for the library special taxing district.

42 Sec. 10.5. (a) Five (5) members shall be appointed to the

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**municipal library board as follows:**

**(1) One (1) member shall be appointed by the executive of the municipality.**

**(2) Three (3) members shall be appointed by the legislative body of the municipality.**

**(3) One (1) member shall be appointed by the governing body of the school corporation that contains the largest part of the territory of the municipality.**

**(b) The term of a member of the municipal library board is four (4) years. A member may continue to serve on the municipal library board after the member's term expires until the member's successor is appointed.**

**(c) A member of the municipal library board may be removed at any time by the appointing authority for cause.**

**(d) A member of the municipal library board shall serve without compensation.**

**Sec. 11. (a) A municipal library department:**

**(1) shall prepare and submit an annual budget to the municipal fiscal body in the same manner as other departments of the municipality; and**

**(2) is limited in all expenditures to the appropriations made for the municipal library department by the municipal fiscal body.**

**(b) The municipal library board shall appoint the head of the municipal library department, subject to the approval of the legislative body of the municipality.**

**(c) Notwithstanding IC 36-12-2-22, the fiscal officer of the municipality is the treasurer of the municipal library department.**

**The fiscal officer of the municipality:**

**(1) is the official custodian of all library funds;**

**(2) is responsible for the proper safeguarding and accounting of all library funds;**

**(3) shall issue warrants approved by the library board in payment of expenses lawfully incurred on behalf of the municipal library department; and**

**(4) shall make financial reports of library funds and present the reports to the library board and the municipal fiscal body each month.**

**The municipal legislative body may prescribe additional powers and duties of the fiscal officer of the municipality as necessary to carry out the powers and duties of the municipal library department.**

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1       **Sec. 12. (a) The reorganization of a qualified library as a**  
2 **municipal library department under this chapter does not**  
3 **invalidate any resolutions, fees, schedules, or other actions adopted**  
4 **or taken by the library board of the qualified library before the**  
5 **establishment of the municipal library department.**

6       **(b) After the establishment of a municipal library department,**  
7 **any reference in a deed, lease, contract, or other official document**  
8 **or instrument to the library board of the qualified library is**  
9 **considered a reference to the municipal library board of the**  
10 **municipal library department.**

11       **Sec. 13. (a) On the date the municipal library department is**  
12 **established, the municipality having the municipal library**  
13 **department shall assume and is responsible for paying all**  
14 **indebtedness or lease rental obligations of the qualified library**  
15 **incurred before the establishment of the municipal library**  
16 **department. However, the municipality may levy property taxes to**  
17 **pay indebtedness or lease rental obligations assumed under this**  
18 **section only in the former territory of the library district, as that**  
19 **library district existed before the establishment of the municipal**  
20 **library district. The former territory of the library district, as that**  
21 **library district existed before the establishment of the metropolitan**  
22 **library district, comprises a taxing district for the payment of the**  
23 **indebtedness or lease rental obligations assumed under this section.**  
24 **Once the indebtedness or lease rental obligations are paid, this**  
25 **taxing district is abolished.**

26       **(b) Notwithstanding any other law, to assume and pay**  
27 **indebtedness or lease rental obligations under this section, the**  
28 **municipality is not required to comply with any other statutory**  
29 **procedures or approvals that apply when a local government entity**  
30 **incurs indebtedness or lease rental obligations.**

31       **(c) The rights of a trustee, bondholder, or leaseholder with**  
32 **respect to any:**

33               **(1) indebtedness or lease rental obligations assumed under**  
34 **this section; or**

35               **(2) bond resolution, trust agreement or indenture, security**  
36 **agreement, purchase agreement, or other undertaking with**  
37 **respect to indebtedness or lease rental obligations assumed**  
38 **under this section;**

39 **remain the same, although the powers, duties, agreements, and**  
40 **liabilities of the library board of the qualified library have been**  
41 **transferred to the municipality and the municipal library board,**  
42 **and the municipality is considered to have assumed all powers,**

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duties, agreements, and liabilities.

**Sec. 14. During the period after the public question is approved and before the establishment of the municipal library department, the library board of the qualified library may not enter into a contract with a term that extends beyond the date on which the municipal library department will be established, unless the contract is approved by the fiscal body of the eligible municipality.**

**Sec. 15. The following apply if any territory is transferred to the special taxing district of the municipal library department from another library district under section 10(2) of this chapter on the date the municipal library is established:**

**(1) The department of local government finance shall adjust the maximum permissible ad valorem property tax levy of that other library district to reflect the transfer of the territory.**

**(2) If on the date the municipal library is established the other library district has any outstanding indebtedness, the taxpayers of the territory transferred from the other library district remain liable for a proportionate share of the outstanding indebtedness. The amount that those taxpayers remain liable for is equal to:**

**(A) the total amount of the outstanding indebtedness; multiplied by**

**(B) a fraction equal to:**

**(i) the total assessed value of the territory transferred, as determined for the most recent assessment date before the transfer; divided by**

**(ii) the total assessed value of the other library district, as determined for the most recent assessment date before the transfer.**

**Notwithstanding any other law or property tax limitation, the municipality shall levy property taxes as necessary to make any annual debt payments under this subsection as the indebtedness becomes due. However, the municipality may levy property taxes to pay the indebtedness only within the area transferred from the other library district.**

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