

# STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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**TO: All School Officials; County Election Officials; Circuit Court Clerks; County Auditors**

**FROM: Wesley R. Bennett, Commissioner**

**RE: Legislation on School Safety Referenda and Funding, Senate Enrolled Act 127-2019**

**DATE: July 9, 2019**

This memorandum describes the changes made by Senate Enrolled Act 127-2019 ("SEA 127"), signed into law by Governor Holcomb on May 6, 2019. This is intended only as an informative bulletin and is not a substitute for reading the law.

## **I. School Safety Measures to be included in Controlled Project, IC 6-1.1-20-3.5(d)**

Section 1 of SEA 127 adds new subsection IC 6-1.1-20-3.5(d). Under this amendment, in addition to the requirements described in IC 6-1.1-20-3.5(b) for a proposed controlled project, a school corporation must include in the proposed controlled project any capital improvements necessary to complete any capital improvement components addressed in the most recent

(1) threat assessment of the buildings within the school corporation; or

(2) school safety plan described in IC 20-26-18.2-2(b);

if those components have not been completed or require additional funding to be completed.

This section is effective July 1, 2019.

## **II. School Safety Referendum Tax Levy & Fund**

Sections 8 through 12 of SEA 127 describe the school safety referendum tax levy ("school safety levy"). A school safety levy that is approved by a majority of voters in a referendum is exempt from the property tax caps under IC 6-1.1-20.6-9.5.

Generally, the process for initiating this referendum follows the same process as the operating referendum tax levy under IC 20-46-1. As such, there will be largely nothing new to implement different from the operating referendum. Differences and procedures that should be taken note of with regard to the school safety levy are as follows.

### 1. School board resolution and Department of Local Government (“Department”) approval

The school board resolution to have a school safety levy put to a referendum may only be adopted if the school board determined that a levy should be imposed for measures to improve school safety as described in IC 20-40-20-6(a).

The proposed ballot question is subject to Department review, subject to procedures and deadlines similar to the operating referendum. The school board must also forward the resolution to the county council and the circuit court clerk for each county in which the school corporation resides.

The proposed ballot question must follow this form:

“For the \_\_\_\_ (insert number) calendar year or years immediately following the holding of the referendum, shall the school corporation impose a property tax rate that does not exceed \_\_\_\_\_ (insert amount) cents (\$0.\_\_\_\_) (insert amount) on each one hundred dollars (\$100) of assessed valuation and that is in addition to all other property taxes imposed by the school corporation for the purpose of funding \_\_\_\_\_ (insert short description of purposes)?”

The number of years that a school safety levy may be imposed may not exceed eight (8) years. However, a school safety levy may be extended. Also, the rate stated in the proposed ballot question may not exceed ten cents (\$0.10).

### 2. Conducting the referendum & promoting a position on the referendum

The procedures for placing the school safety levy question on the ballot, the conduct of the referendum, and vote tallying are identical to those for the operating referendum. In addition, the restrictions on promoting a position on a school safety levy referendum (described in IC 20-46-9-21) mirror the restrictions for an operating referendum (IC 20-46-1-20).

### 3. Actions following a successful referendum

If a majority approve the proposed question, the Department shall notify the school corporation that the school corporation is authorized to impose the school safety levy in the following calendar year. The school corporation shall then establish a school safety referendum tax levy fund, described in part 6, below.

The county auditor shall distribute proceeds collected from an allocation area (as defined in IC 6-1.1-21.2-3) that are attributable to property taxes imposed after being approved by the voters in a referendum to the school corporation for which the referendum was conducted. The amount distributed shall be treated as part of the referendum levy for purposes of setting the school corporation’s tax rates.

A school safety levy may not be considered in determining the school corporation’s state tuition support distribution under IC 20-43 or in determining any other property tax levy imposed by the school corporation.

#### 4. Extending a school safety levy

A school safety levy may be extended by a referendum, using the same process for the original school safety levy. The resolution must be adopted and the referendum voted upon before December 31 of the final year the school safety levy will be imposed. The number of years a school safety levy may be extended cannot be more than the number of years the levy was originally approved.

The proposed ballot question on extending a school safety levy must follow this form, to be reviewed by the Department:

“For the \_\_\_\_ (insert number) calendar year or years immediately following the holding of the referendum, shall the school corporation continue to impose a property tax rate that does not exceed \_\_\_\_\_ (insert amount) cents (\$0.\_\_\_\_) (insert amount) on each one hundred dollars (\$100) of assessed valuation and that is in addition to all other property taxes imposed by the school corporation for the purpose of funding \_\_\_\_\_ (insert short description of purposes)?

The tax rate requested in this referendum was originally approved by the voters in the \_\_\_\_\_ (insert name of the school corporation) in \_\_\_\_\_ (insert the year in which the referendum tax levy was approved).”

#### 5. Limitations on successive referenda & on operating referenda

Per IC 20-46-1-8 and 19.5, amended by sections 10 and 11 of SEA 127, if a school safety levy referendum is successful, a moratorium is then placed from a school board initiating an operating referendum under IC 20-46-1 for three (3) calendar years.

*For example, a school corporation holds a school safety referendum for the May 2020 primary election. A majority of voters approve the referendum. For 2020, 2021, and 2022, the school corporation may not initiate an operating referendum. The school corporation may conduct an operating referendum starting in 2023.*

In addition, limitations on successive referenda (described in IC 20-46-9-20) mirrors the limitations for an operating referendum (see IC 20-46-1-19.5).

#### 6. School Safety Referendum Tax Levy Fund, IC 20-40-20

Section 8 of SEA 127 adds IC 20-40-20 as a new chapter, effective July 1, 2019. Upon a successful school safety levy referendum, the school board shall establish a school safety referendum tax levy fund. Property tax collections from this levy shall be deposited in the fund.

Money in the fund may only be used for the following purposes:

- To employ or compensate a school resource officer or school resource officers.
- To establish or fund a school safety office.
- To conduct a threat assessment of a school building.
- To create or update a school safety plan.
- To develop or update school emergency response systems.

- To purchase equipment to improve the safety of a school building, school grounds, or school buses.
- To pay capital expenses to improve the safety of a school building.
- To establish and administer programs to address youth specific mental illness, addiction, anger management, bullying, and school violence.
- To develop and administer professional development programs for teachers, administrators, and other school employees designed to improve school safety and reduce violence.

Money may be transferred to the education fund, operations fund, or school safety debt service fund (described below) to pay for these expenses. Expenditures must be included in a school's safety plan.

Finally, local law enforcement must participate in development of a school safety plan, development or updates to school emergency response systems, and determination of capital expenses that would improve the safety of a school building.

#### 7. School Safety Levy Referendum Debt Service Fund, IC 20-40-21

Finally, section 9 of SEA 127 adds IC 20-40-21 as a new chapter, effective July 1, 2019. In addition to a school safety referendum tax levy fund, a school board must also create a school safety referendum debt service fund if a school safety levy referendum was successful. This fund consists of any amounts transferred from a school corporation's school safety referendum tax levy fund, described above. This fund may only be used to pay for the school corporation's debt service on bonds or obligations issued or incurred to pay for school safety referendum tax levy purposes described in IC 20-40-20-6(a).

#### 8. Effective date & the 2019 municipal election

This new chapter is effective July 1, 2019. It is possible for a school safety levy referendum to be certified to the county election board by August 1, 2019. Therefore, the duties and requirements therein can be first implemented for the November 5, 2019, municipal election (or special election, as the case may be). However, as the law will not go into effect until July 1, 2019, there is no law by which a school board, county official, or the Department can take the applicable action prior to that date.

### **IV. Indiana Secured School Fund Grants, IC 10-21-1-2**

Section 3 of SEA 127 amends IC 10-21-1-2 so that, under new subsection (b), a school corporation or charter school may use money received from an Indiana secured school fund matching grant to provide a response to a threat in a manner the school corporation or charter school sees fit, including firearms training or other self-defense training.

#### **Contact Information**

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