



February 19, 2019

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## SENATE BILL No. 246

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DIGEST OF SB 246 (Updated February 18, 2019 5:13 pm - DI 133)

**Citations Affected:** IC 3-10; IC 4-33; IC 6-1.1; IC 8-1.5; IC 20-23; IC 20-46; IC 36-1; IC 36-5.

**Synopsis:** Local public questions. Provides that except as otherwise specifically provided by a statute, a local public question may be placed on the ballot only at the following elections: (1) A general election. (2) A municipal general election, but only if the election district for the public question is contained entirely within a municipality. Makes conforming changes.

**Effective:** January 1, 2020.

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### Doriot, Spartz, Gaskill

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January 3, 2019, read first time and referred to Committee on Elections.  
February 18, 2019, reported favorably — Do Pass.

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SB 246—LS 6694/DI 75





February 19, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## SENATE BILL No. 246

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

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

1       SECTION 1. IC 3-10-1-19, AS AMENDED BY P.L.21-2016,  
2       SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JANUARY 1, 2020]: Sec. 19. (a) The ballot for a primary election shall  
4       be printed in substantially the form described in this section for all the  
5       offices for which candidates have qualified under IC 3-8.

6       (b) The following shall be printed as the heading for the ballot for  
7       a political party:

8       "OFFICIAL PRIMARY BALLOT

9       \_\_\_\_\_ Party (insert the name of the political party)".

10       (c) The following shall be printed immediately below the heading  
11       required by subsection (b) or be posted in each voting booth as  
12       provided in IC 3-11-2-8(b):

13       (1) For paper ballots, print: "To vote for a person, make a voting  
14       mark (X or ✓) on or in the box before the person's name in the  
15       proper column."

16       (2) For optical scan ballots, print: "To vote for a person, darken or  
17       shade in the circle, oval, or square (or draw a line to connect the

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arrow) that precedes the person's name in the proper column."

(3) For optical scan ballots that do not contain a candidate's name, print: "To vote for a person, darken or shade in the oval that precedes the number assigned to the person's name in the proper column."

(4) For electronic voting systems, print: "To vote for a person, touch the screen (or press the button) in the location indicated."

(d) Local public questions shall be placed on the primary election ballot after the heading and the voting instructions described in subsection (c) (if the instructions are printed on the ballot) and before the offices described in subsection (g):

(e) The local public questions described in subsection (d) shall be placed as follows:

(1) In a separate column on the ballot if voting is by paper ballot:

(2) After the heading and the voting instructions described in subsection (c) (if the instructions are printed on the ballot) and before the offices described in subsection (g); in the form specified in IC 3-11-13-11 if voting is by ballot card.

(3) As provided by either of the following if voting is by an electronic voting system:

(A) On a separate screen for a public question:

(B) After the heading and the voting instructions described in subsection (c) (if the instructions are printed on the ballot) and before the offices described in subsection (g); in the form specified in IC 3-11-14-3.5.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question;  
if required by law.)

"Shall (insert public question)?"

☐ YES

☐ NO

(g) (d) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.



(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.

(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.

(C) Judge of the probate court.

(D) Prosecuting attorney.

(E) Circuit court clerk.

(4) County offices:

(A) County auditor.

(B) County recorder.

(C) County treasurer.

(D) County sheriff.

(E) County coroner.

(F) County surveyor.

(G) County assessor.

(H) County commissioner. This clause applies only to a county that is not subject to IC 36-2-2.5.

(I) Single county executive. This clause applies only to a county that is subject to IC 36-2-2.5.

(J) County council member.

(5) Township offices:

(A) Township assessor (only in a township referred to in IC 36-6-5-1(d)).

(B) Township trustee.

(C) Township board member.

(D) Judge of the small claims court.

(E) Constable of the small claims court.

(6) City offices:

(A) Mayor.

(B) Clerk or clerk-treasurer.

(C) Judge of the city court.

(D) City-county council member or common council member.

(7) Town offices:

(A) Clerk-treasurer.

(B) Judge of the town court.

(C) Town council member.

~~(h)~~ (e) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection ~~(g)~~: (d):



(1) Precinct committeeman.

(2) State convention delegate.

(~~h~~) **(f)** The local offices to be elected at the primary election shall be placed on the primary election ballot after the offices described in subsection (~~h~~) **(e)**.

(~~h~~) **(g)** The offices described in subsection (~~h~~) **(f)** shall be placed as follows:

(1) In a separate column on the ballot if voting is by paper ballot.

(2) After the offices described in subsection (~~h~~) **(e)** in the form specified in IC 3-11-13-11 if voting is by ballot card.

(3) Either:

(A) on a separate screen for each office; ~~or public question;~~ or

(B) after the offices described in subsection (~~h~~) **(e)** in the form specified in IC 3-11-14-3.5;

if voting is by an electronic voting system.

SECTION 2. IC 3-10-1-19.5, AS AMENDED BY P.L.21-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 19.5. Notwithstanding section 19 of this chapter, the county election board may alter the prescribed ballot order to place the names of the candidates for the following offices before the names of the candidates for county judicial offices:

(1) Prosecuting attorney.

(2) Clerk of the circuit court.

(3) The county offices listed in section ~~19(g)(4)~~ **19(d)(4)** of this chapter.

SECTION 3. IC 3-10-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 29. The canvass of votes cast in a primary election shall, as far as applicable, be made in the same manner and by the same officers as the canvass at a general election. The tally sheet upon which the count has been entered shall be included in the returns of the election. Each precinct election board shall, on blanks provided for that purpose, make full and accurate returns of the votes cast for each candidate ~~and on each public question~~ unless votes were cast on a ballot card voting system that is not designed to allow the counting and tabulation of votes by the precinct election board. The board shall set forth in the return, opposite the name of each candidate, ~~and public question;~~ the number of votes cast for the candidate. ~~and for or against each public question.~~ The tabular statement must contain the following information, with the names of candidates ~~and public questions~~ arranged in the order in which they appear upon the official ballot:

(1) The name of the precinct.



(2) The name of the township (or ward).

(3) The name of the county.

(4) The name of the party of the candidates for Representative in Congress.

SECTION 4. IC 3-10-1-31.3, AS AMENDED BY P.L.74-2017, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 31.3. (a) This subsection applies to a primary election within an election district in which more than one (1) political party chooses the party's nominees or in which a nonpartisan ballot is available for a voter to vote for an office. ~~or on a public question.~~ A voter whose political party is not recorded on the poll list as required under section 24 of this chapter shall be shown on the voter's registration record as having cast an unknown ballot in that primary.

(b) This subsection applies to a primary election within an election district in which only one (1) political party chooses its nominees and a nonpartisan ballot is not available. A voter:

(1) whose political party recorded on the poll list is not the political party conducting a primary within the election district;

(2) who is indicated on the poll list as having requested a nonpartisan ballot; or

(3) whose political party is not recorded on the poll list as required under section 24 of this chapter;

shall be shown on the voter's registration record as having cast a ballot for the political party choosing that political party's nominees in that primary election.

SECTION 5. IC 3-10-1-32, AS AMENDED BY P.L.179-2011, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 32. Primary election returns must contain the whole number of votes cast for each of the following:

(1) Each candidate of each political party.

~~(2) Each public question voted on at the primary election.~~

~~(3)~~ (2) Each candidate for election to a political party office.

SECTION 6. IC 3-10-9-3, AS AMENDED BY P.L.225-2011, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 3. (a) **Except as otherwise specifically provided by a statute, a local public question may be placed on the ballot only at the following elections:**

(1) A general election.

(2) A municipal general election, but only if the election district for the public question is contained entirely within a municipality.



(b) If a local public question must be certified to an election board by law, that certification must occur ~~no not~~ later than noon

(1) ~~seventy-four (74) days before a primary election if the public question is to be placed on the primary or municipal primary election ballot; or~~

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

SECTION 7. IC 4-33-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 19. (a) This section applies to:

(1) a county contiguous to the Ohio River;

(2) a county containing a historic hotel district; and

(3) a county contiguous to Lake Michigan that has a population of less than four hundred thousand (400,000).

(b) Notwithstanding any other provision of this article, the commission may not:

(1) issue a license under this article to allow a riverboat to operate in the county; or

(2) enter into a contract with an operating agent under IC 4-33-6.5;

unless the voters of the county have approved the conducting of gambling games on riverboats in the county.

(c) If the docking of a riverboat in the county is approved by an ordinance adopted under section 18 of this chapter, or if at least the number of the registered voters of the county required under IC 3-8-6-3 for a petition to place a candidate on the ballot sign a petition submitted to the circuit court clerk requesting that a local public question concerning riverboat gaming be placed on the ballot, the county election board shall place the following question on the ballot in the county ~~during at the next primary or general election~~ **permitted under IC 3-10-9-3(a):**

"Shall riverboat gambling be permitted in \_\_\_\_ County?".

(d) A public question under this section shall be placed on the ballot in accordance with IC 3-10-9 and must be certified in accordance with IC 3-10-9-3.

(e) The ~~clerk of the~~ circuit court **clerk** of a county holding an election under this chapter shall certify the results determined under IC 3-12-4-9 to the commission and the department of state revenue.

(f) If a public question under this section is placed on the ballot in a county and the voters of the county do not vote in favor of permitting riverboat gambling under this article, a second public question under this section may not be held in that county for at least two (2) years. If





the voters of the county vote to reject riverboat gambling a second time, a third or subsequent public question under this section may not be held in that county until the ~~general election held during the~~ tenth year following the year that the previous public question was placed on the ballot.

SECTION 8. IC 6-1.1-20-3.6, AS AMENDED BY P.L.246-2017, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 3.6. (a) Except as provided in sections 3.7 and 3.8 of this chapter, this section applies only to a controlled project described in section 3.5(a) of this chapter.

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

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

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

The public question must appear on the ballot in the form approved by the county election board. If the political subdivision proposing to issue bonds or enter into a lease is located in more than one (1) county, the county election board of each county shall jointly approve the form of the public question that will appear on the ballot in each county. The form approved by the county election board may differ from the language certified to the county election board by the county auditor. If the county election board approves the language of a public question under this subsection, the county election board shall submit the language to the department of local government finance for review.

(d) The department of local government finance shall review the language of the public question to evaluate whether the description of the controlled project is accurate and is not biased against either a vote in favor of the controlled project or a vote against the controlled project. The department of local government finance may either



1 approve the ballot language as submitted or recommend that the ballot  
 2 language be modified as necessary to ensure that the description of the  
 3 controlled project is accurate and is not biased. The department of local  
 4 government finance shall certify its approval or recommendations to  
 5 the county auditor and the county election board not more than ten (10)  
 6 days after the language of the public question is submitted to the  
 7 department for review. If the department of local government finance  
 8 recommends a modification to the ballot language, the county election  
 9 board shall, after reviewing the recommendations of the department of  
 10 local government finance, submit modified ballot language to the  
 11 department for the department's approval or recommendation of any  
 12 additional modifications. The public question may not be certified by  
 13 the county auditor under subsection (e) unless the department of local  
 14 government finance has first certified the department's final approval  
 15 of the ballot language for the public question.

16 (e) The county auditor shall certify the finally approved public  
 17 question under IC 3-10-9-3 to the county election board of each county  
 18 in which the political subdivision is located. The certification must  
 19 occur not later than noon

20 ~~(1) seventy-four (74) days before a primary election if the public~~  
 21 ~~question is to be placed on the primary or municipal primary~~  
 22 ~~election ballot; or~~

23 ~~(2) August 1, if the public question is to be placed on the general~~  
 24 ~~or municipal election ballot.~~

25 Subject to the certification requirements and deadlines under this  
 26 subsection and except as provided in subsection (j), the public question  
 27 shall be placed on the ballot at the next ~~primary election, general~~  
 28 ~~election or municipal election~~ **permitted under IC 3-10-9-3(a)** in  
 29 which all voters of the political subdivision are entitled to vote.  
 30 However, if a ~~primary election, general election or municipal election~~  
 31 ~~will not be held during the first year in which the public question is~~  
 32 ~~eligible to be placed on the ballot under this section and if the political~~  
 33 ~~subdivision requests the public question to be placed on the ballot at a~~  
 34 ~~special election, the public question shall be placed on the ballot at a~~  
 35 ~~special election to be held on the first Tuesday after the first Monday~~  
 36 ~~in May or November of the year. The certification must occur not later~~  
 37 ~~than noon seventy-four (74) days before a special election to be held in~~  
 38 ~~May (if the special election is to be held in May) or noon on August 1.~~  
 39 ~~(if the special election is to be held in November). The fiscal body of~~  
 40 ~~the political subdivision that requests the special election shall pay the~~  
 41 ~~costs of holding the special election. The county election board shall~~  
 42 ~~give notice under IC 5-3-1 of a special election conducted under this~~



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

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

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

8 (2) The department of local government finance.

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

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

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

17 (2) Another public question under this section on the same or a  
 18 substantially similar project may not be submitted to the voters  
 19 earlier than:

20 (A) except as provided in clause (B), seven hundred (700)  
 21 days after the date of the public question; or

22 (B) three hundred fifty (350) days after the date of the election,  
 23 if a petition that meets the requirements of subsection (m) is  
 24 submitted to the county auditor.

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

27 (j) A political subdivision may not divide a controlled project in  
 28 order to avoid the requirements of this section and section 3.5 of this  
 29 chapter. A person that owns property within a political subdivision or  
 30 a person that is a registered voter residing within a political subdivision  
 31 may file a petition with the department of local government finance  
 32 objecting that the political subdivision has divided a controlled project  
 33 into two (2) or more capital projects in order to avoid the requirements  
 34 of this section and section 3.5 of this chapter. The petition must be filed  
 35 not more than ten (10) days after the political subdivision gives notice  
 36 of the political subdivision's decision under section 3.5 of this chapter  
 37 or a determination under section 5 of this chapter to issue bonds or  
 38 enter into leases for a capital project that the person believes is the  
 39 result of a division of a controlled project that is prohibited by this  
 40 subsection. If the department of local government finance receives a  
 41 petition under this subsection, the department shall, not later than thirty  
 42 (30) days after receiving the petition, make a final determination on the



1 issue of whether the political subdivision divided a controlled project  
2 in order to avoid the requirements of this section and section 3.5 of this  
3 chapter. If the department of local government finance determines that  
4 a political subdivision divided a controlled project in order to avoid the  
5 requirements of this section and section 3.5 of this chapter and the  
6 political subdivision continues to desire to proceed with the project, the  
7 political subdivision may appeal the determination of the department  
8 of local government finance to the Indiana board of tax review. A  
9 political subdivision shall be considered to have divided a capital  
10 project in order to avoid the requirements of this section and section  
11 3.5 of this chapter if the result of one (1) or more of the subprojects  
12 cannot reasonably be considered an independently desirable end in  
13 itself without reference to another capital project. This subsection does  
14 not prohibit a political subdivision from undertaking a series of capital  
15 projects in which the result of each capital project can reasonably be  
16 considered an independently desirable end in itself without reference  
17 to another capital project.

18 (k) This subsection applies to a political subdivision for which a  
19 petition requesting a public question has been submitted under section  
20 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of  
21 the political subdivision may adopt a resolution to withdraw a  
22 controlled project from consideration in a public question. If the  
23 legislative body provides a certified copy of the resolution to the county  
24 auditor and the county election board not later than sixty-three (63)  
25 days before the election at which the public question would be on the  
26 ballot, the public question on the controlled project shall not be placed  
27 on the ballot and the public question on the controlled project shall not  
28 be held, regardless of whether the county auditor has certified the  
29 public question to the county election board. If the withdrawal of a  
30 public question under this subsection requires the county election  
31 board to reprint ballots, the political subdivision withdrawing the  
32 public question shall pay the costs of reprinting the ballots. If a political  
33 subdivision withdraws a public question under this subsection that  
34 would have been held at a special election and the county election  
35 board has printed the ballots before the legislative body of the political  
36 subdivision provides a certified copy of the withdrawal resolution to  
37 the county auditor and the county election board, the political  
38 subdivision withdrawing the public question shall pay the costs  
39 incurred by the county in printing the ballots. If a public question on a  
40 controlled project is withdrawn under this subsection, a public question  
41 under this section on the same controlled project or a substantially  
42 similar controlled project may not be submitted to the voters earlier



1 than three hundred fifty (350) days after the date the resolution  
2 withdrawing the public question is adopted.

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

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

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

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

14 (4) The maximum principal amount of the bonds or the maximum  
15 lease rental for the lease.

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

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

19 (7) In the case of a controlled project proposed by a school  
20 corporation:

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

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

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

25 (m) If a majority of the eligible voters voting on the public question  
26 vote in opposition to the public question, a petition may be submitted  
27 to the county auditor to request that the limit under subsection  
28 (h)(2)(B) apply to the holding of a subsequent public question by the  
29 political subdivision. If such a petition is submitted to the county  
30 auditor and is signed by the lesser of:

31 (1) five hundred (500) persons who are either owners of property  
32 within the political subdivision or registered voters residing  
33 within the political subdivision; or

34 (2) five percent (5%) of the registered voters residing within the  
35 political subdivision;

36 the limit under subsection (h)(2)(B) applies to the holding of a second  
37 public question by the political subdivision and the limit under  
38 subsection (h)(2)(A) does not apply to the holding of a second public  
39 question by the political subdivision.

40 SECTION 9. IC 8-1.5-3-9.1, AS AMENDED BY P.L.163-2013,  
41 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 JANUARY 1, 2020]: Sec. 9.1. (a) This section applies to the following:



(1) Water utilities that are owned or operated by second class cities.

(2) Third class cities.

(3) Towns.

(b) In addition to section 9 of this chapter, a municipally owned utility to which this section applies may be removed from the jurisdiction of the commission for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness, if the municipal legislative body adopts an ordinance removing the utility from commission jurisdiction. The municipal legislative body shall, at least thirty (30) days before the final vote on the ordinance, mail written notice of the meeting to all ratepayers of the utility and to the commission. For a second class city the municipal legislative body must hold two (2) public meetings before the final vote on an ordinance removing the utility from commission jurisdiction may be adopted. An explanation of the removal process must be provided at each public meeting under this section. Each public meeting must be held in a different location.

(c) The ordinance described in subsection (b) takes effect sixty (60) days after adoption by the municipal legislative body.

(d) The question of removal from commission jurisdiction shall be submitted to the registered voters of the municipality if, within the sixty (60) day period described in subsection (c), the legislative body receives a petition:

(1) that is signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot; and

(2) that requests the legislative body to submit the question of removal from commission jurisdiction to the registered voters of the municipality at the next election **permitted under IC 3-10-9-3(a).**

The municipal legislative body shall certify the public question in subsection (e) to the county election board of the county that contains the greatest percentage of population of the municipality under IC 3-10-9-3.

(e) If the legislative body receives a petition described in subsection (d) in the proper form, the legislative body shall submit the following public question to the registered voters of the municipality at the next election **permitted under IC 3-10-9-3(a)** in the form prescribed by IC 3-10-9-4:

"Shall the municipally owned utility be taken out of the jurisdiction of the Indiana utility regulatory commission for the



1 approval of rates and charges and of the issuance of stocks, bonds,  
2 notes, or other evidence of indebtedness?".

3 The legislative body shall mail written notice of the ~~referendum~~ **public**  
4 **question** to the commission at least ten (10) days before the date of the  
5 election.

6 (f) If a majority of those voting on the question described in  
7 subsection (e) favor taking the municipally owned utility out of the  
8 jurisdiction of the commission, the utility is removed from the  
9 jurisdiction of the commission for approval of rates and charges and of  
10 the issuance of stocks, bonds, notes, or other evidences of  
11 indebtedness.

12 (g) If the legislative body receives a petition in proper form under  
13 subsection (d), the ordinance does not take effect until after removal is  
14 approved by a majority of those voting. If a majority of those voting  
15 vote against removal, the utility remains under the jurisdiction of the  
16 commission and the ordinance does not take effect.

17 (h) In addition to the notice required by subsection (b), if the  
18 municipal legislative body adopts the ordinance, described in  
19 subsection (b), the municipal legislative body shall mail written notice  
20 of the withdrawal from commission jurisdiction to the commission  
21 within thirty (30) days after the ordinance becomes effective.

22 (i) Notwithstanding this section or section 9 of this chapter, the  
23 commission may require a municipally owned utility that generates  
24 electric power to provide information to the permanent forecasting  
25 group under IC 8-1-8.5-3.5.

26 (j) This section does not affect the obligations of a municipally  
27 owned utility under IC 8-1-2.3, IC 8-1-8.5, IC 8-1-22.5, or  
28 IC 8-1.5-3-14.

29 (k) Notwithstanding subsection (a) and the procedure set forth in  
30 section 9 of this chapter, if a city adopts an ordinance under this section  
31 before January 1, 2013, to remove the city's municipally owned electric  
32 utility from the jurisdiction of the commission for the approval of rates  
33 and charges and of the issuance of stocks, bonds, notes, or other  
34 evidence of indebtedness, the removal of the city's municipally owned  
35 electric utility from the commission's jurisdiction for the approval of  
36 rates and charges and of the issuance of stocks, bonds, notes, or other  
37 evidence of indebtedness is effective for all purposes and is legalized  
38 and validated.

39 SECTION 10. IC 8-1.5-3-9.5 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 9.5. (a) This  
41 section applies to municipally owned utilities that are withdrawn from  
42 commission jurisdiction under section 9 of this chapter, including a



1 municipally owned utility described in section 9(a) of this chapter.

2 (b) A municipal legislative body that wants to return a municipally  
3 owned utility to the jurisdiction of the commission for approval of rates  
4 and charges and of the issuance of stocks, bonds, notes, or other  
5 evidence of indebtedness may submit the following public question to  
6 the registered voters of the municipality at the next election **permitted**  
7 **under IC 3-10-9-3(a)** in the form prescribed by IC 3-10-9-4:

8 "Shall the municipally owned utility be returned to the jurisdiction  
9 of the utility regulatory commission for approval of rates and  
10 charges and of the issuance of stocks, bonds, notes, or other  
11 evidence of indebtedness?"

12 (c) A municipal legislative body shall certify the public question to  
13 the county election board of the county that contains the greatest  
14 percentage of population of the municipality under IC 3-10-9-3. The  
15 county election board shall submit the question under subsection (b) if  
16 it receives a petition that:

17 (1) is signed by at least the number of the registered voters of the  
18 municipality required under IC 3-8-6-3 to place a candidate on the  
19 ballot; and

20 (2) requests that the municipally owned utility be returned to the  
21 jurisdiction of the commission for approval of rates and charges  
22 and of the issuance of stocks, bonds, notes, or other evidence of  
23 indebtedness.

24 (d) If a majority of those voting favor returning the municipally  
25 owned utility to the jurisdiction of the commission, the utility is  
26 returned to the jurisdiction of the commission for approval of rates and  
27 charges and of the issuance of stocks, bonds, notes, or other evidence  
28 of indebtedness. If a majority of those voting disapprove of returning  
29 the municipally owned utility to the jurisdiction of the commission, an  
30 election may not be conducted on the public question of returning to  
31 the jurisdiction of the commission for four (4) years from the date of  
32 the last election on that public question.

33 (e) The public question of returning to the jurisdiction of the  
34 commission may not be submitted to the registered voters of the  
35 municipality at an election conducted within four (4) years after the  
36 date the municipally owned utility was last withdrawn from  
37 commission jurisdiction.

38 (f) If a municipally owned utility is returned to the jurisdiction of the  
39 commission under this section, the municipal legislative body shall  
40 mail written notice to the commission.

41 SECTION 11. IC 8-1.5-3-9.6 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 9.6. (a) This





section applies to municipally owned utilities that are withdrawn from commission jurisdiction under section 9.1 of this chapter.

(b) The municipal legislative body may adopt an ordinance returning the municipally owned utility to the jurisdiction of the commission for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness if it receives a petition:

(1) that is signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot; and

(2) that requests the legislative body to adopt an ordinance returning the municipally owned utility to the jurisdiction of the commission.

If the municipal legislative body fails to adopt an ordinance under this subsection within ninety (90) days after receipt of the petition, a petition requesting the adoption of an ordinance to return to commission jurisdiction may not be submitted for four (4) years from the date the last petition was submitted under this subsection.

(c) If the municipal legislative body fails to adopt the ordinance described in subsection (b) within ninety (90) days after receipt of the petition, the public question of the return to commission jurisdiction shall be submitted to the registered voters of the municipality if the legislative body receives a second petition:

(1) that is signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot;

(2) that requests the legislative body to submit the question of the return to commission jurisdiction to the registered voters of the municipality at the next election **permitted under IC 3-10-9-3(a)**; and

(3) that is submitted to the legislative body after the expiration of the ninety (90) day period described in this subsection.

The municipal legislative body shall certify the public question described in subsection (d) to the county election board of the county that contains the greatest percentage of population of the municipality under IC 3-10-9-3.

(d) If the legislative body receives a petition described in subsection (c) in the proper form, the legislative body shall submit the following public question to the registered voters of the municipality at the next election **permitted under IC 3-10-9-3(a)** in the form prescribed by IC 3-10-9-4:

"Shall the municipally owned utility be returned to the jurisdiction



1 of the utility regulatory commission for the approval of rates and  
 2 charges and of the issuance of stocks, bonds, notes, or other  
 3 evidence of indebtedness?".

4 The legislative body shall mail written notice of the ~~referendum~~ **public**  
 5 **question** to the commission at least ten (10) days before the date of the  
 6 election.

7 (e) If a majority of those voting on the question described in  
 8 subsection (d) favor returning the municipally owned utility to the  
 9 jurisdiction of the commission, the utility is returned to the jurisdiction  
 10 of the commission for approval of rates and charges and of the issuance  
 11 of stocks, bonds, notes, or other evidence of indebtedness. If a majority  
 12 of those voting disapprove of returning the municipally owned utility  
 13 to the jurisdiction of the commission, an election may not be conducted  
 14 on the public question of returning to the jurisdiction of the  
 15 commission for four (4) years from the date of the last election on that  
 16 public question.

17 (f) The public question of returning to the jurisdiction of the  
 18 commission may not be submitted to the registered voters of the  
 19 municipality at an election conducted within four (4) years after the  
 20 date the municipally owned utility was last withdrawn from  
 21 commission jurisdiction. In addition, a petition requesting the adoption  
 22 of an ordinance under subsection (b) may not be submitted within four  
 23 (4) years after the date the municipally owned utility was last  
 24 withdrawn from commission jurisdiction.

25 (g) If a municipally owned utility is returned to commission  
 26 jurisdiction under this section, the municipal legislative body shall mail  
 27 written notice to the commission.

28 SECTION 12. IC 20-23-4-21, AS AMENDED BY P.L.244-2017,  
 29 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JANUARY 1, 2020]: Sec. 21. (a) If the chairperson of the county  
 31 committee does not receive the certification or combined certifications  
 32 under section 20(f) of this chapter not later than ninety (90) days after  
 33 the receipt by the county committee of the plan referred to in section  
 34 20(a) of this chapter, the judge of the circuit court of the county from  
 35 which the county committee submitting the plan was appointed shall:

- 36 (1) certify the public question under IC 3-10-9-3; and
- 37 (2) order the county election board to ~~conduct a special election~~  
 38 **in which place the public question on the ballot at the next**  
 39 **election permitted under IC 3-10-9-3(a) at which** registered  
 40 voters residing in the proposed community school corporation  
 41 may vote to determine whether the corporation will be created.

42 ~~(b) If:~~



1           (1) a primary election at which county officials are nominated; or  
 2           (2) a general election at which county officials are elected  
 3 and for which the question can be certified in compliance with  
 4 IC 3-10-9-3 is to be held not later than six (6) months after the receipt  
 5 by the chairperson of the county committee of the plan referred to in  
 6 section 20(a) of this chapter; regardless of whether the ninety (90) day  
 7 period referred to in subsection (a) has expired; the judge shall order  
 8 the county election board to conduct the special election to be held in  
 9 conjunction with the primary or general election:

10           (c) If a primary or general election will not be held in the six (6)  
 11 month period referred to in subsection (b); the special election shall be  
 12 held:

13           (1) not earlier than sixty (60) days; and

14           (2) not later than one hundred twenty (120) days;

15 after the expiration of the ninety (90) day period referred to in  
 16 subsection (a):

17           (d) (b) The county election board shall give notice under IC 5-3-1  
 18 of the special election a **public question** referred to in subsection (a).

19           (e) (c) The notice referred to in subsection (d) (b) of a **special**  
 20 **election public question** must:

21           (1) clearly state that the election is called to afford the registered  
 22 voters an opportunity to approve or reject a proposal for the  
 23 formation of a community school corporation;

24           (2) contain:

25           (A) a general description of the boundaries of the community  
 26 school corporation as set out in the plan;

27           (B) a statement of the terms of adjustment of:

28           (i) property;

29           (ii) assets;

30           (iii) debts; and

31           (iv) liabilities;

32 of an existing school corporation that is to be divided in the  
 33 creation of the community school corporation;

34           (C) the name of the community school corporation;

35           (D) the number of members comprising the board of school  
 36 trustees; and

37           (E) the method of selecting the board of school trustees of the  
 38 community school corporation; and

39           (3) designate the date, time, and voting place or places at which  
 40 the election will be held.

41           (f) A **special** (d) **An election referred to in at which a public**  
 42 **question is submitted to the voters under** subsection (a) is under the



direction of the county election board in the county. ~~The election board shall take all steps necessary to carry out the special election. If the special election is not conducted at a primary or general election the cost of conducting the election is:~~

(1) charged to each component school corporation embraced in the community school corporation in the same proportion as the component school corporation's assessed valuation is to the total assessed valuation of the community school corporation; and

(2) paid:

(A) from the school corporation's operations fund not otherwise appropriated of; and

(B) without appropriation by;

each component school corporation.

If a component school corporation is to be divided and its territory assigned to two (2) or more community corporations, the component school corporation's cost of the special election is in proportion to the corporation's assessed valuation included in the community school corporation.

(g) (e) The county election board shall place the public question on the ballot in the form prescribed by IC 3-10-9-4. The public question must state "Shall the (here insert name) community school corporation be formed as provided in the Reorganization Plan of the County Committee for the Reorganization of School Corporations?". Except as otherwise provided in this chapter, the election is governed by IC 3.

(h) (f) If a majority of the votes cast at a ~~special election referred to in subsection (a)~~ on the public question are in favor of the formation of the corporation, a community school corporation is created and takes effect on the earlier of:

(1) the July 1; or

(2) the January 1;

that next follows the date of publication of the notice referred to in subsection ~~(d)~~: (b).

(i) (g) If a public official fails to perform a duty required of the official under this section within the time prescribed in this section, the omission does not invalidate the proceedings taken under this section.

(j) (h) An action:

(1) to contest the validity of the formation or creation of a community school corporation under this section;

(2) to declare that a community school corporation:

(A) has not been validly formed or created; or

(B) is not validly existing; or

(3) to enjoin the operation of a community school corporation;



may not be instituted later than thirty (30) days after the date of the ~~special~~ election referred to in subsection (a).

SECTION 13. IC 20-23-6-5, AS AMENDED BY P.L.169-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 5. (a) If a petition is filed in one (1) or more of the school corporations protesting consolidation as provided in this chapter by the ~~legal~~ voters of any school corporation the governing body of which proposes to consolidate, the governing body in each school corporation in which a protest petition is filed shall certify the public question to each county election board of the county in which the school corporation is located. The county election board shall ~~call an election of the place~~ **a public question on the ballot at the next election permitted under IC 3-10-9-3(a) asking the** voters of the school corporation ~~to determine if a majority of the legal voters of the corporation is in favor of consolidating the school corporations.~~

(b) If a protest is filed in more than one (1) school corporation, the elections shall be held on the same day. Each county election board shall give notice by publication once each week for two (2) consecutive weeks in a newspaper of general circulation in the school corporation. If a newspaper is not published in the:

- (1) township;
- (2) town; or
- (3) city;

the notice shall be published in the nearest newspaper published in the county or counties, **stating that on a day and at an hour to be named in the notice, the polls will be open at the usual voting places in the various precincts in the corporation for taking the vote of the legal a public question will be on the ballot asking the** voters ~~upon~~ whether the school corporation shall be consolidated with the other school corporations joining in the resolution.

(~~c~~) **The public question shall be placed on the ballot in the form provided by IC 3-10-9-4 and must state: "Shall (insert name of school corporation) be consolidated with (insert names of other school corporations)?"**.

(~~d~~) **(c)** Notice shall be given not later than thirty (30) days after the petition is filed. The election shall be held not less than ten (~~10~~) days or more than twenty (20) days after the last publication of the notice: **before the date of the election.**

(~~e~~) **(d)** The governing body of each school corporation in which an election is held is bound by the majority vote of those voting. ~~However, if the election falls within a period of not more than six (6) months before a primary or general election, the election shall be held~~



1 concurrently with the primary or general election:

2 ~~(f)~~ (e) If a majority of those voting in any one (1) school corporation  
3 votes against the plan of consolidation, the plan fails. However, the  
4 failure does not prevent any or all the school corporations from taking  
5 further initial action for the consolidation of school corporations under  
6 this chapter.

7 SECTION 14. IC 20-23-6-6, AS AMENDED BY P.L.244-2017,  
8 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JANUARY 1, 2020]: Sec. 6. (a) ~~On the day and hour named in the~~  
10 ~~notice filed under section 5 of this chapter, polls shall be opened and~~  
11 ~~the votes of the registered voters shall be taken upon the public~~  
12 ~~question of consolidating school corporations:~~ The election **at which**  
13 **the public question is placed on the ballot under section 5 of this**  
14 **chapter** shall be governed by IC 3, except as provided in this chapter.

15 (b) The county election board shall conduct the election. The public  
16 question shall be placed on the ballot in the form prescribed by  
17 IC 3-10-9-4 and must state "Shall (here insert the names of the school  
18 corporations that the resolution proposes to consolidate) be  
19 consolidated into a consolidated school corporation?".

20 (c) A brief statement of the provisions in the resolution for  
21 appointment or election of a governing body may be placed on the  
22 ballot in the form prescribed by IC 3-10-9-4. A certificate of the votes  
23 cast for and against the consolidation of the school corporations shall  
24 be filed with:

25 (1) the governing body of the school corporations subject to the  
26 election;

27 (2) the state superintendent; and

28 (3) the county recorder of each county in which a consolidated  
29 school corporation is located;

30 together with a copy of the resolution.

31 (d) If a majority of the votes cast at each of the elections is in favor  
32 of the consolidation of two (2) or more school corporations, the trustees  
33 of the school corporations shall proceed to consolidate the schools and  
34 provide the necessary buildings and equipment. In any school  
35 corporation where a petition was not filed and an election was not held,  
36 the failure on the part of the voters to file a petition for an election shall  
37 be considered to give the consent of the voters of the school  
38 corporation to the consolidation as set out in the resolution.

39 (e) ~~If the special election is not conducted at a primary or general~~  
40 ~~election the expense of the election shall be borne by the school~~  
41 ~~corporation or each of the school corporations subject to the election~~  
42 ~~and shall be paid out of the school corporation's operations fund:~~



SECTION 15. IC 20-46-1-14, AS AMENDED BY P.L.85-2017, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 14. ~~(a)~~ The referendum shall be held ~~in at~~ the next ~~primary election, general election or municipal election~~ **permitted under IC 3-10-9-3(a)** in which all the registered voters who are residents of the appellant school corporation are entitled to vote after certification of the question under IC 3-10-9-3. The certification of the question must occur not later than noon

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

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

(b) ~~However, if a primary election, general election or municipal election will not be held during the first year in which the public question is eligible to be placed on the ballot under this chapter and if the appellant school corporation requests the public question to be placed on the ballot at a special election, the public question shall be placed on the ballot at a special election to be held on the first Tuesday after the first Monday in May or November of the year. The certification must occur not later than noon~~

(1) ~~sixty (60) days before a special election to be held in May (if the special election is to be held in May); or~~

(2) on August 1. (if the special election is to be held in November).

(c) ~~If the referendum is not conducted at a primary election, general election or municipal election the appellant school corporation in which the referendum is to be held shall pay all the costs of holding the referendum.~~

SECTION 16. IC 36-1-1.5-8, AS ADDED BY P.L.234-2013, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 8. The following apply if the voters of an eligible municipality file a sufficient petition under section 7 of this chapter:

(1) The clerk of the eligible municipality shall certify the petition to the county election board.

(2) ~~A special election on~~ The public question shall be held in the eligible municipality in the manner prescribed by IC 3-10-8-6. ~~The special election shall be held on a date that:~~

(A) is determined by the legislative body of the eligible municipality; and

(B) is not more than one (1) year after the date on which the clerk of the eligible municipality certifies the petition to the



- 1            ~~county election board.~~  
 2            **at the next election permitted under IC 3-10-9-3(a).**  
 3            (3) The clerk of the eligible municipality shall give notice of the  
 4            ~~special~~ election by publication in the manner prescribed by  
 5            IC 5-3-1.  
 6            ~~(4) The eligible municipality shall pay the costs of holding the~~  
 7            ~~special election.~~  
 8            ~~(5)~~ (4) The county election board shall place the following  
 9            question on the ballot in the eligible municipality:  
 10            "Shall the territory of \_\_\_\_\_ (insert the name of the  
 11            eligible municipality) be transferred from \_\_\_\_\_  
 12            (insert the name of the transferor township) to an adjacent  
 13            township?"  
 14            ~~(6)~~ (5) After the ~~special~~ election on the public question is held,  
 15            the county election board:  
 16            (A) shall file with the clerk of the eligible municipality the  
 17            results of the ~~special~~ election for each precinct of the eligible  
 18            municipality in the manner prescribed by IC 3-12-4; and  
 19            (B) shall certify a copy of the results of the ~~special~~ election to:  
 20            (i) the county auditor;  
 21            (ii) the legislative body and executive of the eligible  
 22            municipality; and  
 23            (iii) the legislative body and executive of each township that  
 24            includes territory of the eligible municipality.  
 25            SECTION 17. IC 36-1-1.5-9, AS ADDED BY P.L.234-2013,  
 26            SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27            JANUARY 1, 2020]: Sec. 9. The following apply if at least two-thirds  
 28            (2/3) of the voters voting **in a special election on the public question**  
 29            under this chapter vote "yes" on the public question. ~~under this chapter:~~  
 30            (1) The legislative body of the eligible municipality may, within  
 31            one (1) year after the ~~special~~ election, submit a petition to one (1)  
 32            or more adjacent townships requesting an adjacent township to  
 33            accept the transfer of the territory of the eligible municipality that  
 34            is within the transferor township.  
 35            (2) The legislative body of an adjacent township that receives a  
 36            petition under subdivision (1) may adopt a resolution accepting  
 37            the transfer of the territory of the eligible municipality that is  
 38            within the transferor township and specifying the date on which  
 39            the transfer is effective. However, the legislative body of the  
 40            adjacent township may adopt a resolution accepting the transfer  
 41            of the territory of the eligible municipality only within the one (1)  
 42            year period following the date on which the legislative body





receives the petition.

(3) If the legislative body of the eligible municipality submits a petition to one (1) or more adjacent townships under subdivision (1) within one (1) year after the ~~special~~ election, but a resolution accepting the transfer of the territory of the eligible municipality within the transferor township is not adopted by the legislative body of an adjacent township within the one (1) year period following the date on which the last legislative body of a township receives such a petition:

(A) the territory of the eligible municipality may not be transferred under this chapter; and

(B) a subsequent ~~special~~ election under this chapter may not be held in the eligible municipality.

(4) If the legislative body of the eligible municipality does not submit a petition to one (1) or more adjacent townships under subdivision (1) within one (1) year after the ~~special~~ election:

(A) the territory of the eligible municipality may not be transferred under this chapter; and

(B) a subsequent ~~special~~ election under this chapter may not be held in the eligible municipality.

SECTION 18. IC 36-1-1.5-10, AS ADDED BY P.L.234-2013, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 10. If less than two-thirds (2/3) of the voters voting in a ~~special election on the public question~~ under this chapter vote "yes" on the public question: ~~under this chapter~~:

(1) the territory of the eligible municipality may not be transferred under this chapter; and

(2) a subsequent ~~special~~ election under this chapter may not be held in the eligible municipality.

SECTION 19. IC 36-5-1-8, AS AMENDED BY P.L.216-2015, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 8. (a) The county executive may approve a petition for incorporation only if it finds all of the following:

(1) That the proposed town is used or will, in the reasonably foreseeable future, be used generally for commercial, industrial, residential, or similar purposes.

(2) That the proposed town is reasonably compact and contiguous.

(3) That the proposed town includes enough territory to allow for reasonable growth in the foreseeable future.

(4) That a substantial majority of the property owners in the proposed town have agreed that at least six (6) of the following municipal services should be provided on an adequate basis:



- 1 (A) Police protection.
- 2 (B) Fire protection.
- 3 (C) Street construction, maintenance, and lighting.
- 4 (D) Sanitary sewers.
- 5 (E) Storm sewers.
- 6 (F) Health protection.
- 7 (G) Parks and recreation.
- 8 (H) Schools and education.
- 9 (I) Planning, zoning, and subdivision control.
- 10 (J) One (1) or more utility services.
- 11 (K) Stream pollution control or water conservation.
- 12 (5) That the proposed town could finance the proposed municipal
- 13 services with a reasonable tax rate, using the current assessed
- 14 valuation of properties as a basis for calculation.
- 15 (6) That incorporation is in the best interest of the territory
- 16 involved. This finding must include a consideration of:
- 17 (A) the expected growth and governmental needs of the area
- 18 surrounding the proposed town;
- 19 (B) the extent to which another unit can more adequately and
- 20 economically provide essential services and functions; and
- 21 (C) the extent to which the incorporators are willing to enter
- 22 into agreements under IC 36-1-7 with the largest neighboring
- 23 municipality, if that municipality has proposed such
- 24 agreements.
- 25 (b) If the county executive determines that the petition satisfies the
- 26 requirements set forth in subsection (a), the county executive may do
- 27 any of the following:
- 28 (1) Adopt an ordinance under section 10.1 of this chapter
- 29 incorporating the town.
- 30 (2) Deny the petition.
- 31 (3) Adopt a resolution to place a public question concerning the
- 32 incorporation on the ballot at **an the next election permitted**
- 33 **under IC 3-10-9-3(a). The county executive shall request a date**
- 34 **for the election as follows:**
- 35 (A) If the county executive requests the public question be on
- 36 the same date as a general election or primary election:
- 37 (i) the resolution must state that the election is to be on the
- 38 same date as a general or primary election; and must be
- 39 certified in accordance with IC 3-10-9-3; and
- 40 (ii) the election must be held on the date of the next general
- 41 election or primary election; whichever is earlier; at which
- 42 the question can be placed on the ballot under IC 3-10-9-3.



(B) If a petition contains a request for a special election, the county executive may request that the public question concerning the incorporation will be on the ballot of a special election. An election may be considered a special election only if it is conducted on a date other than the date of a general election or primary election. The date of the special election must be:

- (i) at least seventy-four (74) and not more than one hundred four (104) days after the notice of the election is filed under IC 3-10-8-4; and
- (ii) not later than the next general election or primary election, whichever is earlier.

If the public question is on the ballot of a special election the petitioners shall pay the costs of holding the special election. If the county executive adopts a resolution under this subdivision, the county executive shall file the resolution and the petition with the circuit court clerk of each county that contains any part of the territory sought to be incorporated.

(c) After a resolution is filed with a circuit court clerk under subsection (b)(3), the circuit court clerk shall certify the resolution to the county election board. The county election board shall place the following public question on the ballot:

"Shall (insert a description of the territorial boundaries) be incorporated as a town?"

Only the registered voters residing within the territory of the proposed town may vote on the public question.

(d) Not earlier than sixty (60) days and not later than thirty (30) days before the election, the petitioners shall publish a notice in accordance with IC 5-3-1 in each county where the proposed town is located. The notice must include the following:

- (1) A description of the boundaries of the proposed town and the quantity of land contained in the territory of the proposed town.
- (2) The information provided under section 3(3) through 3(6) of this chapter.
- (3) The name, telephone number, and electronic mail address (if available) of the contact person for the petitioners.
- (4) A statement that the petition is available for inspection and copying in the office of the circuit court clerk of each county where the proposed town is located.

The petitioners shall submit proof of publication of the notice to the circuit court clerk of each county in which the proposed town is located. A defect in the form of the notice does not invalidate the



1 petition.

2 (e) If a majority of the voters residing within the territory of the  
3 proposed town:

4 (1) vote "no" on the public question, the territory is not  
5 incorporated as a town, and a new petition for incorporation may  
6 not be filed within the period set forth in section 9 of this chapter;  
7 or

8 (2) vote "yes" on the public question, the county executive of each  
9 county in which the proposed town is located shall adopt an  
10 ordinance under section 10.1 of this chapter.

11 (f) The circuit court clerk shall certify the results of a public  
12 question under this section to the following:

13 (1) The county executive of each county in which the proposed  
14 incorporated territory is located.

15 (2) The county auditor of each county in which the proposed  
16 incorporated territory is located.

17 (3) The department of local government finance.

18 (4) The department of state revenue.

19 (5) The state board of accounts.

20 (6) The office of the secretary of state.

21 (7) The office of census data established by IC 2-5-1.1-12.2.

22 (8) The election division.

23 SECTION 20. IC 36-5-1.1-10.6, AS AMENDED BY P.L.113-2010,  
24 SECTION 128, IS AMENDED TO READ AS FOLLOWS  
25 [EFFECTIVE JANUARY 1, 2020]: Sec. 10.6. (a) This section applies  
26 to included towns.

27 (b) The dissolution of a town under this section may be instituted by  
28 filing a petition with the county board of registration. The petition must  
29 be signed by at least the number of the registered voters of the town  
30 required to place a candidate on the ballot under IC 3-8-6-3. The  
31 petition must be filed not later than June 1 of a year in which a general  
32 **election** or municipal **general** election will be held.

33 (c) If a petition meets the criteria set forth in subsection (b), the  
34 county board of registration shall certify the public question to the  
35 county election board under IC 3-10-9-3. The county election board  
36 shall place the question of dissolution on the ballot provided for voters  
37 in the included town at the first general **election** or municipal **general**  
38 election following certification. The question shall be placed on the  
39 ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the  
40 town of \_\_\_\_\_ dissolve?".

41 (d) If the public question is approved by a majority of the voters  
42 voting on the question, the county election board shall file a copy of the



certification prepared under IC 3-12-4-9 concerning the public question described by this section with the following:

(1) The circuit court clerk of the county.

(2) The office of the secretary of state.

(e) Except as provided in subsection (f), dissolution occurs:

(1) at least sixty (60) days after certification under IC 3-12-4-9; and

(2) when the certification is filed under subsection (d).

(f) A dissolution under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution under this section that would otherwise take effect during the year preceding a year in which the federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(g) When a town is dissolved under this section:

(1) the territory included within the town when the ordinance was adopted becomes a part of the consolidated city;

(2) the books and records of the town become the property of the county executive;

(3) the property owned by the town after payment of debts and liabilities shall be disposed of by the county executive; and

(4) the county executive shall deposit any proceeds remaining after payment of debts and liabilities into the county general fund.

(h) The dissolution of a town under this section does not affect the validity of a contract to which the town is a party.

~~(i) Notwithstanding subsection (f) as that subsection existed on December 31, 2009; a dissolution that took effect January 2, 2010, because of the application of subsection (f); as that subsection existed on December 31, 2009; is instead considered to take effect January 1, 2010; without any additional action being required.~~

SECTION 21. IC 36-5-2-4.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 4.2. (a) This section applies to the alteration of the number of members of a legislative body.

(b) The legislative body may adopt a resolution to submit a public question on the number of legislative body members to the voters of the town. The resolution must state the following:

(1) The proposed number of legislative body members, which must be at least three (3) and not more than seven (7).

(2) The date of the general **election or** municipal **or special general** election at which the public question will appear on the ballot.



(3) That the following question will be placed on the ballot in the form provided by IC 3-10-9-4:

"Shall the number of town council members be increased (or decreased, if applicable) from \_\_\_\_\_ (insert the current number of members provided for) to \_\_\_\_\_ (insert the number of members proposed in the resolution)?"

(c) IC 3 applies to an election conducted under subsection (b). If the county election board will conduct the election at which the public question will be submitted, the question must be certified to the board under IC 3-10-9-3.

(d) If a majority of the votes cast on the question under subsection (b) are in the negative, the legislative body may not adopt a resolution under subsection (b) for at least one (1) year following the date the prior resolution was adopted.

(e) If a majority of votes cast on the question under subsection (b) are in the affirmative, the legislative body shall adopt an ordinance at its next regular meeting following the election altering the number of legislative body members to the number specified in the public question. The legislative body may also alter existing districts and establish new districts in the manner prescribed by IC 36-5-1-10.1. An ordinance adopted under this subsection becomes effective January 1 following its adoption.

(f) If the number of legislative body members is increased, the legislative body shall fill any resulting vacancy under IC 3-13-9-4. The legislative body may fill the vacancy before the ordinance described in subsection (e) takes effect. However, a town legislative body member appointed under this subsection does not assume office until the beginning of the term specified in section 3 of this chapter.



COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred Senate Bill No. 246, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 246 as introduced.)

WALKER, Chairperson

Committee Vote: Yeas 6, Nays 3

SB 246—LS 6694/DI 75

