



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

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

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

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

8 (d) Local public questions shall be placed on the primary election  
 9 ballot after the heading and the voting instructions described in  
 10 subsection (e) (if the instructions are printed on the ballot) and before  
 11 the offices described in subsection (g).

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

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

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

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

21 (A) On a separate screen for a public question.

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

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

28 (The explanatory text for the public question,  
 29 if required by law.)

30 "Shall (insert public question)?"

31  YES

32  NO

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

35 (1) Federal and state offices:

36 (A) President of the United States.

37 (B) United States Senator.

38 (C) Governor.

39 (D) United States Representative.

40 (2) Legislative offices:

41 (A) State senator.

42 (B) State representative.





(1) Precinct committeeman.  
(2) State convention delegate.

(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).

(g) The offices described in subsection (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 (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 (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.



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

18 (1) whose political party recorded on the poll list is not the  
19 political party conducting a primary within the election district;  
20 (2) who is indicated on the poll list as having requested a  
21 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.

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

31 (1) Each candidate of each political party.  
32 (2) Each public question voted on at the primary election.  
33 (3) (2) Each candidate for election to a political party office

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

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



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

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

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

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

11                   (1) a county contiguous to the Ohio River;  
12                   (2) a county containing a historic hotel district; and  
13                   (3) a county contiguous to Lake Michigan that has a population  
14 of less than four hundred thousand (400,000).

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

38 (d) The department of local government finance shall review the  
39 language of the public question to evaluate whether the description of  
40 the controlled project is accurate and is not biased against either a vote  
41 in favor of the controlled project or a vote against the controlled  
42 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:



3 (2) Third class cities.  
4 (3) Towns.

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

25 (1) that is signed by at least the number of the registered voters of  
26 the municipality required under IC 3-8-6-3 to place a candidate on  
27 the ballot; and  
28 (2) that requests the legislative body to submit the question of  
29 removal from commission jurisdiction to the registered voters of  
30 the municipality at the next election **permitted under**  
31 **IC 3-10-9-3(a).**

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

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

41 "Shall the municipally owned utility be taken out of the  
42 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



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

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

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

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

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

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

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

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

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

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

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

42 "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:



10 (e) 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:

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

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

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:

(1) clearly state that the election is called to afford the registered voters an opportunity to approve or reject a proposal for the 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 liability of the

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

40 the election will be held.  
41 (f) A special (d) An election referred to in at which a public



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

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

9 (2) paid:

10 (A) from the school corporation's operations fund not  
 11 otherwise appropriated of; and  
 12 (B) without appropriation by,  
 13 each component school corporation.

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

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

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

29 (1) the July 1; or  
 30 (2) the January 1;

31 that next follows the date of publication of the notice referred to in  
 32 subsection (h). (b).

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

36 (j) (h) An action:

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

39 (2) to declare that a community school corporation:

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

41 (B) is not validly existing; or

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



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

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

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

21                   (1) township;  
 22                   (2) town; or  
 23                   (3) city;

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

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

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

39                   (e) (d) The governing body of each school corporation in which an  
 40 election is held is bound by the majority vote of those voting. However,  
 41 if the election falls within a period of not more than six (6) months  
 42 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.~~



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

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

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

21           (1) sixty (60) days before a special election to be held in May (if  
 22           the special election is to be held in May); or  
 23           (2) on August 1. (if the special election is to be held in  
 24           November).

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

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

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

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

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

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



1 county election board.

at the next election permitted under IC 3-10-9-3(a).

(4) The eligible municipality shall pay the costs of holding the special election.

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:

(i) the county treasurer;

(ii) the legislative body and executive of the eligible municipality; and

(iii) the legislative body and executive of each township that 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:

(1) The legislative body of the eligible municipality may, within one (1) year after the ~~special~~ election, submit a petition to one (1) or more adjacent townships requesting an adjacent township to accept the transfer of the territory of the eligible municipality that is within the transferor township.

(2) The legislative body of an adjacent township that receives a petition under subdivision (1) may adopt a resolution accepting the transfer of the territory of the eligible municipality that is within the transferor township and specifying the date on which the transfer is effective. However, the legislative body of the adjacent township may adopt a resolution accepting the transfer of the territory of the eligible municipality only within the one (1) year period following the date on which the legislative body



1                   receives the petition.

2                   (3) If the legislative body of the eligible municipality submits a

3                   petition to one (1) or more adjacent townships under subdivision

4                   (1) within one (1) year after the ~~special~~ election, but a resolution

5                   accepting the transfer of the territory of the eligible municipality

6                   within the transferor township is not adopted by the legislative

7                   body of an adjacent township within the one (1) year period

8                   following the date on which the last legislative body of a township

9                   receives such a petition:

10                  (A) the territory of the eligible municipality may not be

11                  transferred under this chapter; and

12                  (B) a subsequent ~~special~~ election under this chapter may not

13                  be held in the eligible municipality.

14                  (4) If the legislative body of the eligible municipality does not

15                  submit a petition to one (1) or more adjacent townships under

16                  subdivision (1) within one (1) year after the ~~special~~ election:

17                  (A) the territory of the eligible municipality may not be

18                  transferred under this chapter; and

19                  (B) a subsequent ~~special~~ election under this chapter may not

20                  be held in the eligible municipality.

21                  SECTION 18. IC 36-1-1.5-10, AS ADDED BY P.L.234-2013,

22                  SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

23                  JANUARY 1, 2020]: Sec. 10. If less than two-thirds (2/3) of the voters

24                  voting ~~in a special election on the public question~~ under this chapter

25                  vote "yes" on the public question: ~~under this chapter~~:

26                  (1) the territory of the eligible municipality may not be transferred

27                  under this chapter; and

28                  (2) a subsequent ~~special~~ election under this chapter may not be

29                  held in the eligible municipality.

30                  SECTION 19. IC 36-5-1-8, AS AMENDED BY P.L.216-2015,

31                  SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

32                  JANUARY 1, 2020]: Sec. 8. (a) The county executive may approve a

33                  petition for incorporation only if it finds all of the following:

34                  (1) That the proposed town is used or will, in the reasonably

35                  foreseeable future, be used generally for commercial, industrial,

36                  residential, or similar purposes.

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

38                  (3) That the proposed town includes enough territory to allow for

39                  reasonable growth in the foreseeable future.

40                  (4) That a substantial majority of the property owners in the

41                  proposed town have agreed that at least six (6) of the following

42                  municipal services should be provided on an adequate basis:



- (A) Police protection.
- (B) Fire protection.
- (C) Street construction, maintenance, and lighting.
- (D) Sanitary sewers.
- (E) Storm sewers.
- (F) Health protection.
- (G) Parks and recreation.
- (H) Schools and education.
- (I) Planning, zoning, and subdivision control.
- (J) One (1) or more utility services.
- (K) Stream pollution control or water conservation.

(5) That the proposed town could finance the proposed municipal services with a reasonable tax rate, using the current assessed valuation of properties as a basis for calculation.

(6) That incorporation is in the best interest of the territory involved. This finding must include a consideration of:

- (A) the expected growth and governmental needs of the area surrounding the proposed town;
- (B) the extent to which another unit can more adequately and economically provide essential services and functions; and
- (C) the extent to which the incorporators are willing to enter into agreements under IC 36-1-7 with the largest neighboring municipality, if that municipality has proposed such agreements.

(b) If the county executive determines that the petition satisfies the requirements set forth in subsection (a), the county executive may do any of the following:

- (1) Adopt an ordinance under section 10.1 of this chapter incorporating the town.
- (2) Deny the petition.
- (3) Adopt a resolution to place a public question concerning the incorporation on the ballot at ~~an~~ **the next election permitted under IC 3-10-9-3(a).** The county executive shall request a date for the election as follows:

(A) If the county executive requests the public question be on the same date as a general election or primary election:

- (i) the resolution must state that the election is to be on the same date as a general or primary election; and must be certified in accordance with IC 3-10-9-3; and
- (ii) the election must be held on the date of the next general election or primary election, whichever is earlier; at which the question can be placed on the ballot under IC 3-10-9-3.



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

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

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

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

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

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

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

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

40                     The petitioners shall submit proof of publication of the notice to the  
 41 circuit court clerk of each county in which the proposed town is  
 42 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



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

3                   (1) The circuit court clerk of the county.  
 4                   (2) The office of the secretary of state.

5 (e) Except as provided in subsection (f), dissolution occurs:  
 6                   (1) at least sixty (60) days after certification under IC 3-12-4-9;  
 7                   and  
 8                   (2) when the certification is filed under subsection (d).

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

15 (g) When a town is dissolved under this section:  
 16                   (1) the territory included within the town when the ordinance was  
 17 adopted becomes a part of the consolidated city;  
 18                   (2) the books and records of the town become the property of the  
 19 county executive;  
 20                   (3) the property owned by the town after payment of debts and  
 21 liabilities shall be disposed of by the county executive; and  
 22                   (4) the county executive shall deposit any proceeds remaining  
 23 after payment of debts and liabilities into the county general fund.

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

26                   ~~(i) Notwithstanding subsection (f) as that subsection existed on  
 27 December 31, 2009, a dissolution that took effect January 2, 2010,  
 28 because of the application of subsection (f), as that subsection existed  
 29 on December 31, 2009, is instead considered to take effect January 1,  
 30 2010, without any additional action being required.~~

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

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

38                   (1) The proposed number of legislative body members, which  
 39 must be at least three (3) and not more than seven (7).  
 40                   (2) The date of the general **election or** municipal **or** special  
 41 **general** election at which the public question will appear on the  
 42 ballot.



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

(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**

