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# HOUSE BILL No. 1317

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-18.5-7; IC 20-14.

**Synopsis:** Conversion to Class 1 public library status. Allows a town and a township that: (1) are the only participants in a library services authority established before April 1, 2004; and (2) meet certain population or assessed valuation requirements; to convert the library services authority to a Class 1 public library. Provides that the library services authority's board of directors may recommend any of its members or any other qualified person for appointment to the new library district's board. Provides that the budget of the authority remains in effect until a budget and tax levy are adopted under the procedures for Class 1 libraries. Requires the new district's board to give annual notice of the proposed budget and property tax levy to the town council, township trustee, and township board before the public hearing on the proposed budget and tax levy. Establishes procedures to determine the maximum permissible ad valorem property tax levies of the new library district, the town, and the township for the first budget year after the conversion.

**Effective:** Upon passage.

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### Ruppel, Wolkins

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January 15, 2004, read first time and referred to Committee on Appointments and Claims.

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Introduced

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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## HOUSE BILL No. 1317



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

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

1 SECTION 1. IC 6-1.1-18.5-7, AS AMENDED BY P.L.90-2002,  
2 SECTION 163, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A civil taxing unit is not  
4 subject to the levy limits imposed by section 3 of this chapter for an  
5 ensuing calendar year if the civil taxing unit did not adopt an ad  
6 valorem property tax levy for the immediately preceding calendar year.  
7 (b) If under subsection (a) a civil taxing unit is not subject to the  
8 levy limits imposed under section 3 of this chapter for a calendar year,  
9 the civil taxing unit shall refer its proposed budget, ad valorem  
10 property tax levy, and property tax rate for that calendar year to the  
11 local government tax control board established by section 11 of this  
12 chapter before the tax levy is advertised. The local government tax  
13 control board shall then review and make a recommendation to the  
14 department of local government finance on the civil taxing unit's  
15 budget, ad valorem property tax levy, and property tax rate for that  
16 calendar year. The department of local government finance shall make  
17 a final determination of the civil taxing unit's budget, ad valorem



1 property tax levy, and property tax rate for that calendar year. However,  
 2 **except for a public library district established under 20-14-2-3.5,**  
 3 a civil taxing unit may not impose a property tax levy for a year if the  
 4 unit did not exist as of March 1 of the preceding year.

5 SECTION 2. IC 20-14-2-3 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.(a) **Except as**  
 7 **otherwise allowed under section 3.5 of this chapter,** the legislative  
 8 body of a municipality, township, county, or part of a county, any of  
 9 which is not already taxed for public library purposes, that has:

10 (1) a population of at least ten thousand (10,000); or

11 (2) an assessed valuation that is at least as high as:

12 (A) the median of the most recent certified assessed valuation  
 13 of the ten (10) library taxing districts closest in population to  
 14 ten thousand (10,000), **if the action under subsection (b) or**  
 15 **section 3.5(b) of this chapter is initiated before April 1,**  
 16 **2004; or**

17 (B) **the lowest of the most recent certified assessed**  
 18 **valuations determined for the ten (10) library taxing**  
 19 **districts closest in population to ten thousand (10,000), if**  
 20 **the action under subsection (b) or section 3.5(b) of this**  
 21 **chapter is initiated after March 31, 2004;**

22 may establish a public library for the residents of that municipality,  
 23 township, county, or part of the county **under the procedures set forth**  
 24 **in this section.**

25 (b) The establishment of the public library may be initiated either  
 26 by:

27 (1) the legislative body passing a written resolution; or

28 (2) the filing of a petition with the legislative body that has been  
 29 signed by at least twenty percent (20%) of the registered voters of  
 30 the municipality, township, county, or part of a county, as  
 31 determined by the last preceding general election.

32 (c) If a petition is filed under subsection (b)(2), then within ten (10)  
 33 days after the filing, the municipality, township, county, or part of a  
 34 county shall give notice of the filing of the petition in two (2)  
 35 newspapers of general circulation in the county, one (1) of which is  
 36 published in the municipality where the library is to be located, if a  
 37 newspaper is published in the municipality.

38 (d) Within ten (10) days after the publication of the petition, any  
 39 registered voter in the municipality, township, county, or part of a  
 40 county where the public library is proposed to be established may file  
 41 with the respective municipality, township, or county a remonstrance  
 42 that:

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- 1 (1) is signed by registered voters in the municipality, township,
- 2 county, or part of the county where the public library is proposed
- 3 to be established; and
- 4 (2) states that those registered voters who have signed the
- 5 remonstrance are opposed to the establishment of the public
- 6 library.
- 7 (e) The following apply to a petition that is filed under subsection
- 8 (b)(2) or a remonstrance that is filed under subsection (d):
- 9 (1) The petition or remonstrance must show the following:
- 10 (A) The date on which each person signed the petition or
- 11 remonstrance.
- 12 (B) The residence of each person on the date the person signed
- 13 the petition or remonstrance.
- 14 (2) The petition or remonstrance must include an affidavit of the
- 15 person circulating the petition or remonstrance stating that each
- 16 signature on the petition or remonstrance:
- 17 (A) was affixed in the person's presence; and
- 18 (B) is the true signature of the person who signed the petition
- 19 or remonstrance.
- 20 (3) Several copies of the petition or remonstrance may be
- 21 executed. The total of the copies constitute a petition or
- 22 remonstrance. A copy must include an affidavit as described in
- 23 subdivision (2). Any signer may file the petition, remonstrance,
- 24 or any copy. All copies constituting a petition or remonstrance
- 25 must be filed on the same day.
- 26 (4) The clerk of the circuit court in the county where the
- 27 municipality, township, county, or part of a county where the
- 28 public library that is proposed to be established is located shall do
- 29 the following:
- 30 (A) If a name appears more than one (1) time on a petition or
- 31 on a remonstrance, the clerk shall strike any duplicates of the
- 32 name until the name appears only one (1) time on a petition or
- 33 a remonstrance, or both (if the person signed both a petition
- 34 and a remonstrance).
- 35 (B) Strike the name from either the petition or the
- 36 remonstrance of a person who:
- 37 (i) signed both the petition and the remonstrance; and
- 38 (ii) personally, in the clerk's office, makes a voluntary
- 39 written and signed request for the clerk to strike the person's
- 40 name from the petition or the remonstrance.
- 41 (C) Not more than fifteen (15) days after a petition or
- 42 remonstrance is filed, certify the number of signatures on the

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petition or remonstrance that:  
(i) are not duplicates; and  
(ii) represent persons who are registered voters in the municipality, township, county, or part of a county where the public library is proposed to be established, on the day the persons signed the petition or remonstrance.  
(D) Establish a record of the clerk's certification in the clerk's office and file the original petition, the original remonstrance, if any, and a copy of the clerk's certification with the legislative body of the municipality, township, or county.

The clerk of the circuit court may only strike a person's name from a petition or a remonstrance as set forth in clauses (A) and (B).

(f) At its first meeting, held at least ten (10) days after the publication of the petition, the legislative body shall compare the petition and any remonstrance. When a remonstrance has not been filed or a greater number of voters have signed the petition than have signed the remonstrance against the establishment of the public library, the legislative body shall establish by written resolution the public library with a library district coextensive with the boundaries of the unit or part of a county, whichever is applicable. The establishment of the public library is effective as of the date the written resolution is passed. The legislative body shall file a copy of the resolution within five (5) days:

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

(g) The legislative body shall give notice to all officials who have the power to appoint members of the library board for the new public library under IC 20-14-2.5-4, and these officials shall appoint the library board for the new public library under IC 20-14-2.5-4 as soon as possible after their notification.

(h) When an equal or greater number of registered voters have signed a remonstrance against the establishment of the public library than the number who have signed the petition in favor of the establishment of the public library, then the legislative body shall dismiss the petition. Another petition to establish a public library may not be initiated until one (1) year after the date the legislative body dismissed the latest unsuccessful petition.

SECTION 3. IC 20-14-2-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) A town and a township that:**

- (1) are the only participants in a library services authority**

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1 established under IC 20-14-8 before April 1, 2004;  
 2 (2) independently or together meet the requirements of  
 3 section 3(a) of this chapter; and  
 4 (3) propose to convert the library services authority to a Class  
 5 1 library district;  
 6 may use the procedures under this section to establish a public  
 7 library for the residents of the town and township.  
 8 (b) If a town and township to which this section applies propose  
 9 to convert a library services authority to a Class 1 public library  
 10 district, the town council of the town and the township trustee and  
 11 township board of the township shall hold a public hearing on the  
 12 proposed conversion. At least thirty (30) days before the hearing,  
 13 public notice shall be given in a newspaper of general circulation  
 14 in the county in which the administrative office of the library  
 15 services authority is located.  
 16 (c) Not later than thirty (30) days after the hearing under  
 17 subsection (b), any registered voter in the town or township may  
 18 file with the respective town council, township trustee, or township  
 19 board a remonstrance that:  
 20 (1) is signed by registered voters in the town or township; and  
 21 (2) states that the registered voters who have signed the  
 22 remonstrance are opposed to the establishment of the public  
 23 library.  
 24 (d) The following apply to a remonstrance that is filed under  
 25 subsection (c):  
 26 (1) The remonstrance must show the following:  
 27 (A) The date on which each person signed the  
 28 remonstrance.  
 29 (B) The residence address of each person on the date the  
 30 person signed the remonstrance.  
 31 (2) The remonstrance must include an affidavit of the person  
 32 circulating the remonstrance stating that each signature on  
 33 the remonstrance:  
 34 (A) was affixed in the person's presence; and  
 35 (B) is the true signature of the person who signed the  
 36 remonstrance.  
 37 (3) Several copies of the remonstrance may be executed. The  
 38 total of the copies constitute a remonstrance. A copy must  
 39 include an affidavit as described in subdivision (2). Any  
 40 person who signs the remonstrance or any copy may file the  
 41 remonstrance or any copy. All copies constituting a  
 42 remonstrance must be filed on the same day.

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**(4) The clerk of the circuit court in the county in which the administrative office of the library services authority is located shall do the following:**

**(A) If a name appears more than one (1) time on a remonstrance, the clerk shall strike any duplicates of the name until the name appears only one (1) time on the remonstrance.**

**(B) Not more than fifteen (15) days after a remonstrance is filed, certify the number of signatures on the remonstrance that:**

- (i) are not duplicates; and**
- (ii) represent persons who are registered voters in the town or township, on the date on which the persons signed the remonstrance.**

**(C) Establish a record of the clerk's certification in the clerk's office and file the original remonstrance, if any, and a copy of the clerk's certification with the town council, township trustee, and township board.**

**The clerk of the circuit court may only strike a person's name from a remonstrance as set forth in clause (A).**

**(e) If a remonstrance is filed, the town council, township trustee, and township board shall review the remonstrance.**

**(f) If a remonstrance has not been filed or after the remonstrances have been reviewed, the town and township may convert the library services authority to a Class 1 library district if the board of directors of the library services authority passes the following resolution of conversion:**

**" \_\_\_\_\_ Library Services Authority, by action of its board of directors, resolves to convert to a Class 1 library district subject to IC 20-14-2 and IC 20-14-2.5."**

**The resolution of conversion must describe the territory included in the library district.**

**(g) The resolution of conversion must be signed by a majority of the board of directors of the library services authority. Not later than five (5) days after the resolution is adopted, the board of directors shall file a copy of the resolution:**

- (1) in the office of the county recorder in the county in which the administrative office of the library services authority is located; and**
- (2) with the Indiana state library.**

**(h) The board of directors of the library services authority shall give notice of the conversion to all officials who have appointive**

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1 powers under IC 20-14-2.5. The officials shall appoint a library  
 2 board for the public library district, subject to IC 20-14-2.5-10.5.  
 3 Members of the board of directors of the library services authority  
 4 being converted:

5 (1) continue to serve as library board members until a  
 6 majority of the new library board has been appointed and the  
 7 new appointees have taken an oath of office to serve on the  
 8 board; and

9 (2) may serve as members on the new library board if  
 10 appointed by an appointing authority under  
 11 IC 20-14-2.5-10.5.

12 (i) A conversion under this section is effective upon:

13 (1) the filing of the resolution under subsection (g);

14 (2) the appointment of the new library board under  
 15 IC 20-14-2.5; and

16 (3) the taking of the oath of office by the new library board  
 17 under IC 20-14-2.5-13.

18 (j) The budget adopted by the library services authority, under  
 19 IC 20-14-9-8 and in effect at the time of the conversion, remains in  
 20 effect and is renewed for the new library district until a budget, tax  
 21 levy, and tax rate are finally adopted and fixed in accordance with  
 22 the procedures for Class 1 libraries under IC 20-14-3-10. Subject  
 23 to subsection (l), if the conversion is effective under subsection (i)  
 24 before September 1 of a year, the new library board shall adopt a  
 25 budget and fix a tax levy and tax rate for the ensuing budget year  
 26 under IC 20-14-3-10. If:

27 (1) the conversion is effective under subsection (i) after  
 28 August 31 of a year; or

29 (2) the new library board fails to:

30 (A) give the notices required under IC 20-14-3-10(b) and  
 31 subsection (k); or

32 (B) finally adopt the budget and fix the tax levy and tax  
 33 rate not later than September 20;

34 the most recent annual appropriations, and the budget adopted by  
 35 the library services authority, under IC 20-14-9-8 and in effect at  
 36 the time of the conversion, are renewed for the new library district  
 37 in the ensuing calendar year.

38 (k) This subsection first applies in the first year in which the  
 39 library board adopts a budget and fixes a tax rate and tax levy  
 40 under IC 20-14-3-10. Each year, in addition to:

41 (1) providing the published notices to taxpayers required  
 42 under IC 20-14-3-10(b); and

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1           (2) holding the hearing required under IC 6-1.1-17-3;  
 2 the library board shall give mailed notice of the proposed budget  
 3 and property tax levy to the town council, the township trustee,  
 4 and the town board at least ten (10) days before the public hearing  
 5 required under IC 6-1.1-17-3. The town council, township trustee,  
 6 and township board may submit comments to the library board  
 7 concerning the proposed budget and property tax levy before the  
 8 final adoption of the budget and property tax levy by the library  
 9 board.

10           (l) This subsection applies in the first year in which the library  
 11 board adopts a budget and fixes a tax rate and tax levy under  
 12 IC 20-14-3-10 for the ensuing calendar year. The library district's  
 13 maximum permissible ad valorem property tax levy for the ensuing  
 14 calendar year equals the amount determined in STEP FOUR of the  
 15 following STEPS:

16           **STEP ONE: Determine the product of:**

17           **(A) the total amount of:**

- 18           (i) the town's pro rata share of the budget adopted by the
- 19           library services authority under IC 20-14-9-8 and in
- 20           effect for the current calendar year; plus
- 21           (ii) the township's pro rata share of the budget adopted
- 22           by the library services authority under IC 20-14-9-8 and
- 23           in effect for the current calendar year; multiplied by

24           **(B) the assessed value growth quotient for the library**  
 25           **district for the ensuing calendar year, as determined under**  
 26           **IC 6-1.1-18.5-2.**

27           **STEP TWO: Determine the lesser of:**

- 28           **(A) one and fifteenth hundredths (1.15); or**
- 29           **(B) the quotient (rounded to the nearest ten-thousandth**  
 30           **(0.0001)) of:**

- 31           (i) the assessed value of all taxable property subject to
- 32           the library district's ad valorem property tax levy for the
- 33           ensuing calendar year; divided by
- 34           (ii) the assessed value of all taxable property that is
- 35           subject to the library district's ad valorem property tax
- 36           levy for the ensuing calendar year and that is contained
- 37           within the geographic area that was subject to the
- 38           township's ad valorem property tax levy in the preceding
- 39           calendar year or the town's ad valorem property tax levy
- 40           in the preceding calendar year or subject to both the
- 41           town's and the township's ad valorem property tax levy
- 42           in the preceding calendar year.

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1           **STEP THREE: Determine the greater of the amount**  
2           **determined in STEP TWO or one (1).**  
3           **STEP FOUR: Multiply the amount determined in STEP ONE**  
4           **by the amount determined in STEP THREE.**  
5           **The library district's maximum ad valorem property tax levy for**  
6           **any year following the first calendar year for which the library**  
7           **board fixes a budget, tax rate, and tax levy under IC 20-14-3-10,**  
8           **shall be determined under IC 6-1.1-18.5.**  
9           **(m) This subsection applies in the first year in which the library**  
10          **board adopts a budget and fixes a tax rate and tax levy under**  
11          **IC 20-14-3-10 for the ensuing calendar year. The town's maximum**  
12          **permissible ad valorem property tax levy for the ensuing calendar**  
13          **year shall be reduced by the product of:**  
14               **(1) the maximum permissible ad valorem property tax levy**  
15               **for the library district for the ensuing calendar year, as**  
16               **determined under STEP FOUR of subsection (l); multiplied**  
17               **by**  
18               **(2) the quotient of:**  
19                       **(A) the town's pro rata share of the budget adopted by the**  
20                       **library services authority under IC 20-14-9-8 and in effect**  
21                       **for the current calendar year; divided by**  
22                       **(B) the total budget adopted by the library services**  
23                       **authority under IC 20-14-9-8 and in effect for the current**  
24                       **calendar year.**  
25          **(n) This subsection applies in the first year in which the library**  
26          **board adopts a budget and fixes a tax rate and tax levy under**  
27          **IC 20-14-3-10 for the ensuing calendar year. The township's**  
28          **maximum permissible ad valorem property tax levy for the ensuing**  
29          **calendar year shall be reduced by the product of:**  
30               **(1) the maximum permissible ad valorem property tax levy**  
31               **for the library district for the ensuing calendar year, as**  
32               **determined under STEP FOUR of subsection (l); multiplied**  
33               **by**  
34               **(2) the quotient of:**  
35                       **(A) the township's pro rata share of the budget adopted by**  
36                       **the library services authority under IC 20-14-9-8 and in**  
37                       **effect for the current calendar year; divided by**  
38                       **(B) the total budget adopted by the library services**  
39                       **authority under IC 20-14-9-8 and in effect for the current**  
40                       **calendar year.**  
41            **SECTION 4. IC 20-14-2.5-4, AS AMENDED BY P.L.50-2000,**  
42            **SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**

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1 UPON PASSAGE]: Sec. 4. Except as provided in section 9.5 of this  
 2 chapter, and subject to ~~section~~ **sections 10 and 10.5** of this chapter,  
 3 seven (7) members of a library board shall be appointed as follows:

4 (1) One (1) member appointed by the executive of the county in  
 5 which the library district is located, or if the district is located in  
 6 more than one (1) county, jointly by the executives of the  
 7 respective counties.

8 (2) One (1) member appointed by the fiscal body of the county in  
 9 which the library district is located, or if the district is located in  
 10 more than one (1) county, jointly by the fiscal bodies of the  
 11 respective counties.

12 (3) Three (3) members appointed by the school board of the  
 13 school corporation serving the library district. However, if there  
 14 is more than one (1) school corporation serving the library  
 15 district:

16 (A) two (2) members shall be appointed by the school board  
 17 of the school corporation in which the principal offices of the  
 18 public library are located; and

19 (B) one (1) member shall be appointed by a majority vote of  
 20 the presidents of the school boards of the other school  
 21 corporations.

22 (4) One (1) member appointed under section 5(1), 6(b)(1), 7(1),  
 23 8(1), or 9(1), of this chapter, as applicable.

24 (5) One (1) member appointed under section 5(2), 6(b)(2), 7(2),  
 25 8(2), or 9(2) of this chapter, as applicable.

26 SECTION 5. IC 20-14-2.5-10.5 IS ADDED TO THE INDIANA  
 27 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
 28 **[EFFECTIVE UPON PASSAGE]: Sec. 10.5. (a) This section applies**  
 29 **to the appointment of members to a library board of a library**  
 30 **district that is established by the conversion of a library services**  
 31 **authority under IC 20-14-2-3.5.**

32 **(b) In its notice of conversion to all officials who have appointive**  
 33 **powers under this chapter, as required by IC 20-14-2-3.5(h), the**  
 34 **board of directors of the library services authority being converted**  
 35 **may recommend for appointment to the new library board:**

36 **(1) one (1) or more members of the board of directors of the**  
 37 **library services authority; or**

38 **(2) one (1) or more other persons;**

39 **if, in the opinion of the board of directors, the board member or**  
 40 **other person recommended is qualified and will serve the interests**  
 41 **of the new library district.**

42 **(c) In making an appointment to the new library board, an**

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appointing authority shall follow any recommendation received under subsection (b) if the appointing authority agrees that the board member or other person recommended is qualified and will serve the interests of the new library district.

(d) If a member of the board of directors of the library services authority is appointed to the board of the new library district, the member's service on the board of directors of the library services authority may not be considered in determining the number of consecutive terms the member may serve on the library board for the new library district under IC 20-14-2.5-3.

SECTION 6. IC 20-14-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Any qualified entity that is a participant in the library services authority may withdraw from the authority by any recorded act of that qualified entity:

- (1) after it has made provisions for the payment and performance of its obligations; and
- (2) upon notification to the library services authority, six (6) months before the end of the fiscal year in which it is participating in the library services authority, that it is discontinuing its participation in the library services authority.

(b) Upon discontinuing participation in the library services authority, the discontinuing qualified entity relinquishes its rights to any funds, supplies, materials, equipment, or other real or personal property held by or belonging to the authority and in which the qualified entity had a right by virtue of its participation, unless provision to the contrary is made by the official action of the board of directors.

(c) Upon the receipt of notification to discontinue participation and the satisfaction of all obligations by the withdrawing participant, the board of directors shall officially note the withdrawal and shall file notice of the resulting change in the joint agreement:

- (1) in the office of the recorder of the county in which the authority's principal place of business is located; and
- (2) with the Indiana state library.

(d) The library services authority is dissolved when:

- (1) the board of directors of the authority votes to dissolve it;
- (2) such action is de facto by the notice of discontinuance of participation by the next to last remaining participant; **or**
- (3) there is an excessive number of private qualified entities participating in the authority; **or**
- (4) the library services authority is converted to a Class 1 library district under IC 20-14-2-3.5.**

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1 Upon the occurrence of any of these conditions, the board of directors  
 2 shall dispose of the assets by division among the participants at the  
 3 time of dissolution and in the proportion and in the manner determined  
 4 by the board of directors. **However, if dissolution occurs under**  
 5 **subdivision (4), the assets of the library services authority become**  
 6 **the assets of the new Class 1 library district.**

7 (e) The dissolution does not take effect until all legal and fiscal  
 8 obligations of the library services authority have been satisfied and an  
 9 official record of the dissolution is filed in the office of the recorder of  
 10 the county in which the authority's principal place of business is  
 11 located. Until such satisfaction of obligations has occurred and the  
 12 record of dissolution has been filed, the final members of the authority  
 13 shall continue to be members. **In the case of a dissolution described**  
 14 **in subsection (d)(4), the resolution of conversion required under**  
 15 **IC 20-14-2-3.5 serves as the record of dissolution, and the**  
 16 **dissolution of the library services authority takes effect on the date**  
 17 **the conversion is effective under IC 20-14-2-3.5(i).**

18 SECTION 7. **An emergency is declared for this act.**

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