

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 239 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 3-10-9-7 IS ADDED TO THE INDIANA CODE
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2010]: **Sec. 7. (a) This section applies to an election conducted
6 after June 30, 2010, that includes a public question on the ballot as
7 provided by this chapter. However, this section does not apply to
8 a referendum held under IC 36-1.5-4 (reorganization of political
9 subdivisions by referendum).**
10 **(b) At least fifteen percent (15%) of the registered voters must
11 vote in the election in order for the vote on the public question to
12 be certified as provided by IC 3-12-4-9.**
13 SECTION 2. IC 3-12-4-9 IS AMENDED TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2010]: **Sec. 9. (a) This subsection applies to:**
15 (1) a local or school board office with an election district located
16 entirely within one (1) county, except for an office for which a
17 declaration of candidacy is filed with the election division under
18 IC 3-8-2; and
19 (2) a political party office, such as precinct committeeman or state
20 convention delegate, elected at a primary election.
21 After the county election board has tabulated the vote, the board shall
22 declare the candidate receiving the highest number of votes for each
23 office to be elected.
24 **(b) The county election board shall tabulate the votes cast for and
25 against each local public question placed on the ballot by the county
26 election board under IC 3-10-9-2 and, if the local public question is
27 placed on the ballot only in that county, declare the public question
28 approved or rejected.**
29 **(c) The county election board shall tabulate the votes cast for and
30 against each public question voted on by the electorate of the whole
31 state.**

1 (d) **Subject to the requirements of IC 3-10-9-7**, the board shall
 2 certify the election results in a statement prepared by the circuit court
 3 clerk.

4 SECTION 3. IC 3-12-4-10 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) The statement
 6 prepared under section 9 of this chapter must contain:

- 7 (1) the name of each candidate;
 8 (2) the elected offices;
 9 (3) the total number of votes received by each candidate;
 10 (4) the total number of votes received by each candidate and cast
 11 for and against each public question in each precinct; ~~and~~
 12 (5) the total number of votes cast at the election; **and**
 13 **(6) a statement as to whether:**
 14 **(A) the requirements of IC 3-10-9-7 have been met; and**
 15 **(B) the vote on each local public question is certified.**

16 (b) Notwithstanding IC 33-37-5-1, upon request by a candidate, the
 17 circuit court clerk shall prepare a copy of the statement for the
 18 candidate at a fee not to exceed twenty-five cents (\$0.25) per page.

19 SECTION 4. IC 3-12-5-2 IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Whenever a candidate is
 21 elected:

- 22 (1) to a local or school board office other than:
 23 (A) one for which a town clerk-treasurer issues a certificate of
 24 election under IC 3-10-7-34; or
 25 (B) one commissioned by the governor under IC 4-3-1-5; or
 26 (2) a precinct committeeman or state convention delegate;

27 the circuit court clerk shall, when permitted under section 16 of this
 28 chapter, prepare and deliver to the candidate on demand a certificate
 29 of the candidate's election.

30 (b) This subsection applies to a local or school board office
 31 described in subsection (a) with an election district located in more
 32 than one (1) county and a local public question placed on the ballot in
 33 more than one (1) county. The circuit court clerk of the county that
 34 contains the greatest percentage of the population of the election
 35 district shall, upon demand of the candidate or a person entitled to
 36 request a recount of the votes cast on a public question under
 37 IC 3-12-12:

- 38 (1) obtain the certified statement of the votes cast for that office
 39 or on that question that was prepared under IC 3-12-4-9 from the
 40 circuit court clerk in each other county in which the election
 41 district is located;
 42 (2) tabulate the total votes cast for that office or on that question
 43 as shown on the certified statement of each county in the election
 44 district; and
 45 (3) issue a certificate of election to the candidate when permitted
 46 under section 16 of this chapter, or **if the requirements of**
 47 **IC 3-10-9-7 were met**, a certificate declaring the local public

1 question approved or rejected.

2 SECTION 5. IC 4-31-4-3 IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) This section does not apply
4 to either of the following:

- 5 (1) A permit holder who satisfies all of the following:
- 6 (A) The permit holder was issued a permit before January 2,
7 1996.
 - 8 (B) The permit holder conducted live racing before January 2,
9 1996.
 - 10 (C) The permit holder is currently operating under the permit.
- 11 (2) A person who satisfies all of the following:
- 12 (A) The person was issued a satellite facility license before
13 January 2, 1996.
 - 14 (B) The person operated a satellite facility before January 2,
15 1996.
 - 16 (C) The person is currently operating the satellite facility
17 under the license.

18 (b) This section applies if either of the following apply:

- 19 (1) Both of the following are satisfied:
- 20 (A) An ordinance is adopted under section 2 or 2.5 of this
21 chapter.
 - 22 (B) The ordinance requires the voters of the county to approve
23 either of the following:
 - 24 (i) The conducting of horse racing meetings in the county.
 - 25 (ii) The operation of a satellite facility in the county.
 - 26 (2) A local public question is required to be held under section
27 2.7 of this chapter following the filing of a petition with the
28 circuit court clerk:
 - 29 (A) signed by at least the number of registered voters of the
30 county required under IC 3-8-6-3 to place a candidate on the
31 ballot; and
 - 32 (B) requesting that the local public question set forth in
33 subsection (d) be placed on the ballot.

34 (c) Notwithstanding any other provision of this article, the
35 commission may not issue a recognized meeting permit under
36 IC 4-31-5 to allow the conducting of or the assisting of the conducting
37 of a horse racing meeting unless the voters of the county in which the
38 property is located have approved conducting recognized meetings in
39 the county.

40 (d) For a local public question required to be held under subsection
41 (c), the county election board shall place the following question on the
42 ballot in the county during the next general election:

43 "Shall horse racing meetings at which pari-mutuel wagering
44 occurs be allowed in _____ County?"

45 (e) Notwithstanding any other provision of this article, the
46 commission may not issue a satellite facility license under IC 4-31-5.5
47 to operate a satellite facility unless the voters of the county in which the

1 satellite facility will be located approve the operation of the satellite
2 facility in the county.

3 (f) For a local public question required to be held under subsection
4 (e), the county election board shall place the following question on the
5 ballot in the county during the next general election:

6 "Shall satellite facilities at which pari-mutuel wagering occurs be
7 allowed in _____ County?".

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

11 (h) **Subject to the requirements of IC 3-10-9-7**, the circuit court
12 clerk of a county holding an election under this chapter shall certify the
13 results determined under IC 3-12-4-9 to the commission and the
14 department of state revenue.

15 (i) If a public question is placed on the ballot under subsection (d)
16 or (f) in a county and the voters of the county do not vote in favor of the
17 public question **or the requirements of IC 3-10-9-7 are not met**, a
18 second public question under that subsection may not be held in the
19 county for at least two (2) years. If the voters of the county vote to
20 reject the public question **or the requirements of IC 3-10-9-7 are not**
21 **met** a second time, a third or subsequent public question under that
22 subsection may not be held in the county until the general election held
23 during the tenth year following the year of the previous public question
24 held under that subsection.

25 SECTION 6. IC 4-33-6-19 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 19. (a) This section
27 applies to:

- 28 (1) a county contiguous to the Ohio River;
29 (2) a county containing a historic hotel district; and
30 (3) a county contiguous to Lake Michigan that has a population
31 of less than four hundred thousand (400,000).

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

- 34 (1) issue a license under this article to allow a riverboat to operate
35 in the county; or
36 (2) enter into a contract with an operating agent under
37 IC 4-33-6.5;

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

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

1 "Shall riverboat gambling be permitted in ____ County?".

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

5 (e) **Subject to the requirements of IC 3-10-9-7**, the clerk of the
6 circuit court of a county holding an election under this chapter shall
7 certify the results determined under IC 3-12-4-9 to the commission and
8 the department of state revenue.

9 (f) If a public question under this section is placed on the ballot in
10 a county and the voters of the county do not vote in favor of permitting
11 riverboat gambling under this article **or the requirements of**
12 **IC 3-10-9-7 are not met**, a second public question under this section
13 may not be held in that county for at least two (2) years. If the voters of
14 the county vote to reject riverboat gambling **or the requirements of**
15 **IC 3-10-9-7 are not met** a second time, a third or subsequent public
16 question under this section may not be held in that county until the
17 general election held during the tenth year following the year that the
18 previous public question was placed on the ballot.

19 SECTION 7. IC 4-33-6-20 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 20. (a) This section
21 applies to a city that:

22 (1) has a population of less than one hundred thousand (100,000);
23 and

24 (2) is located in a county contiguous to Lake Michigan that has a
25 population of more than four hundred thousand (400,000) but less
26 than seven hundred thousand (700,000).

27 (b) Notwithstanding any other provision of this article, the
28 commission may not issue a license under this article to allow a
29 riverboat to operate from a city to which this section applies unless the
30 voters of the city have approved the conducting of gambling games on
31 riverboats in the city.

32 (c) If the legislative body of the city approves the docking of a
33 riverboat under section 19 of this chapter, or if at least the number of
34 the registered voters of the city required under IC 3-8-6-3 for a petition
35 to place a candidate on the ballot sign a petition submitted to the circuit
36 court clerk requesting that a local public question concerning riverboat
37 gaming be placed on the ballot, the county election board shall place
38 the following question on the ballot in the city during the next general
39 election:

40 "Shall licenses be issued to permit riverboat gambling in the City
41 of _____?".

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

45 (e) **Subject to the requirements of IC 3-10-9-7**, the clerk of the
46 circuit court of a county holding an election under this chapter shall
47 certify the results determined under IC 3-12-4-9 to the commission and

1 the department of state revenue.

2 (f) If a public question under this section is placed on the ballot in
3 a city and the voters of the city do not vote in favor of permitting
4 riverboat gambling under this article **or the requirements of**
5 **IC 3-10-9-7 are not met**, another public question under this section
6 may not be held in that city for at least two (2) years."

7 Page 54, line 23, delete "The" and insert "**Subject to the**
8 **requirements of IC 3-10-9-7, the**".

9 Page 54, line 32, after "If" insert "**the requirements of IC 3-10-9-7**
10 **are not met or**".

11 Page 65, between lines 32 and 33, begin a new paragraph and insert:
12 "SECTION 55. IC 8-1.5-2-5, AS AMENDED BY P.L.103-2008,
13 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2010]: Sec. 5. (a) Each appraiser appointed as provided by
15 section 4 of this chapter must:

16 (1) by education and experience, have such expert and technical
17 knowledge and qualifications as to make a proper appraisal and
18 valuation of the property of the type and nature involved in the
19 sale;

20 (2) be a disinterested person; and

21 (3) not be a resident or taxpayer of the municipality.

22 (b) The appraisers shall:

23 (1) be sworn to make a just and true valuation of the property; and

24 (2) return their appraisal, in writing, to the municipal legislative
25 body within the time fixed by the ordinance or resolution
26 appointing them.

27 (c) If all three (3) appraisers cannot agree as to the appraised value,
28 the appraisal, when signed by two (2) of the appraisers, constitutes a
29 good and valid appraisal.

30 (d) If, after the return of the appraisal by the appraisers to the
31 legislative body, the legislative body decides to proceed with the sale
32 or disposition of the nonsurplus municipally owned utility property, the
33 legislative body shall, not later than forty-five (45) days after the return
34 of the appraisal, hold a public hearing to do the following:

35 (1) Review and explain the appraisal.

36 (2) Receive public comment on the proposed sale or disposition
37 of the nonsurplus municipally owned utility property.

38 (3) Adopt an ordinance providing for the sale or disposition of the
39 nonsurplus municipally owned utility property. The legislative
40 body is not required to adopt an ordinance under this subdivision
41 if, after the hearing, the legislative body determines it is not in the
42 interest of the municipality to proceed with the sale or disposition.

43 Notice of the hearing shall be published in the manner prescribed by
44 IC 5-3-1.

45 (e) The hearing on the ordinance providing for sale or disposition
46 may not be held for thirty (30) days after notice is given as required by
47 subsection (d).

- 1 (f) If:
 2 (1) the legislative body adopts an ordinance under subsection
 3 (d)(3); and
 4 (2) within the thirty (30) day period described in subsection (e),
 5 at least the number of the registered voters of the municipality
 6 required under IC 3-8-6-3 for a petition to place a candidate on
 7 the ballot sign and present a petition to the legislative body
 8 opposing the sale or disposition;

9 the legislative body shall submit the question as to whether the sale or
 10 disposition shall be made to the voters of the municipality at a special
 11 or general election. In submitting the public question to the voters, the
 12 legislative body shall certify the question to the county election board
 13 of the county containing the greatest percentage of population of the
 14 municipality under IC 3-10-9-3. The county election board shall adopt
 15 a resolution setting forth the text of the public question and shall
 16 submit the question as to whether the sale or disposition shall be made
 17 to the voters of the municipality at a special or general election on a
 18 date specified by the municipal legislative body. Pending the results of
 19 an election under this subsection, the municipality may not take further
 20 action to sell or dispose of the property as provided in the ordinance.

21 (g) **Subject to the requirements of IC 3-10-9-7**, if a majority of the
 22 voters voting on the question vote for the sale or disposition, the
 23 legislative body shall proceed to sell the property as provided in the
 24 ordinance.

25 (h) If a majority of the voters voting on the question vote against the
 26 sale or disposition **or the requirements of IC 3-10-9-7 are not met**,
 27 the sale may not be made.

- 28 (i) If:
 29 (1) the legislative body adopts an ordinance under subsection
 30 (d)(3); and
 31 (2) after the expiration of thirty (30) days as provided in
 32 subsection (e), a petition is not filed;

33 the municipal legislative body may proceed to sell the property as
 34 provided in the ordinance.

35 SECTION 56. IC 8-1.5-3-3 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The legislative
 37 body of a municipality may, by ordinance, provide for the control of
 38 any or all of its municipally owned utilities by:

- 39 (1) the municipal works board;
 40 (2) a board consisting of the members of the municipal legislative
 41 body;
 42 (3) a utility service board established under subsection (f) or
 43 established before January 1, 1983, under IC 8-1-2-100
 44 (repealed); or
 45 (4) the board of directors of a department of waterworks
 46 established under IC 8-1.5-4.

47 The legislative body of a third class city also may adopt an ordinance

1 under this subsection to provide for the control of any or all of its storm
 2 water facilities by a board described in subdivisions (1) through (4). An
 3 ordinance granting control of any or all of a third class city's storm
 4 water facilities to a board described in this subsection may be separate
 5 from or combined with an ordinance granting control of the third class
 6 city's municipally owned utilities to a board described in this
 7 subsection.

8 (b) If, at the time an ordinance is adopted under subsection (a) to
 9 grant control of any or all of a third class city's storm water facilities to
 10 a board described in subsection (a) the third class city has a department
 11 of storm water management under IC 8-1.5-5, the ordinance must
 12 specify a procedure for the transition of control of the affected storm
 13 water facilities from the board of directors of the department of storm
 14 water management to the board described in subsection (a).

15 (c) The registered voters of a municipality may file a petition
 16 addressed to the legislative body requesting that the question of the
 17 creation of a utility service board be submitted to a referendum. The
 18 petition must be signed by at least the number of the registered voters
 19 of the municipality required under IC 3-8-6-3 to place a candidate on
 20 the ballot.

21 (d) Within thirty (30) days after a petition is filed, the municipal
 22 clerk shall certify to the legislative body and to the county election
 23 board that a sufficient petition has been filed.

24 (e) Following certification, the legislative body shall submit the
 25 question of the creation of a utility service board to a referendum at the
 26 next election. The question shall be submitted to the registered voters
 27 of the municipality by placement on the ballot in the form prescribed
 28 by IC 3-10-9-4 and must state:

29 "Shall the legislative body of the municipality of _____
 30 adopt an ordinance providing for the appointment of a utility service
 31 board to operate _____ (Insert name of utility here)?"

32 (f) **Subject to the requirements of IC 3-10-9-7**, if a majority of the
 33 voters voting on the question vote for the creation of a utility service
 34 board, the legislative body shall, by ordinance, establish a utility
 35 service board consisting of not less than three (3) nor more than seven
 36 (7) members. Not more than two-thirds (2/3) of the members may be
 37 of the same political party. All members must be residents of the area
 38 served by the board. The ordinance must provide for:

39 (1) a majority of the members to be appointed by the executive
 40 and a minority of the members to be appointed by the legislative
 41 body;

42 (2) the terms of the members, which may not exceed four (4)
 43 years, with initial terms prescribed so that the members' terms will
 44 be staggered;

45 (3) the salaries, if any, to be paid to the members; and

46 (4) the selection by the board of a chairman, who shall not be
 47 considered the head of a department for purposes of IC 36-4-9-2.

1 (g) The registered voters of the municipality may also file a petition
 2 requesting that the question of the abolition of the utility service board
 3 be submitted to a referendum. The procedure for filing of the petition
 4 and the referendum is the same as that prescribed by subsections (c)
 5 through (e).

6 **(h) If the requirements of IC 3-10-9-7 are not met by a**
 7 **referendum held under this section, the legislative body may not**
 8 **create or abolish a utility service board under this section as a**
 9 **result of the referendum.**

10 SECTION 57. IC 8-1.5-3-9 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) This subsection
 12 applies to a municipally owned utility that before June 1, 1987, was
 13 taken out of the jurisdiction of the commission for the approval of rates
 14 and charges. A utility to which this subsection applies is removed from
 15 the jurisdiction of the commission for approval of the issuance of
 16 stocks, bonds, notes, or other evidence of indebtedness.

17 (b) Except as provided in subsection (a), a municipal legislative
 18 body that wants to be taken out of the jurisdiction of the commission
 19 for approval of rates and charges and of the issuance of stocks, bonds,
 20 notes, or other evidence of indebtedness may submit the following
 21 public question to the registered voters of the municipality at the next
 22 election in the form prescribed by IC 3-10-9-4:

23 "Shall the municipally owned utility be taken out of the
 24 jurisdiction of the utility regulatory commission for approval of
 25 rates and charges and of the issuance of stocks, bonds, notes, or
 26 other evidence of indebtedness?"

27 (c) A municipal legislative body shall certify the public question to
 28 the county election board of the county that contains the greatest
 29 percentage of population of the municipality under IC 3-10-9-3 and
 30 submit the question under subsection (b) if it receives a petition that:

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

34 (2) requests that the municipally owned utility be removed from
 35 the jurisdiction of the commission for approval of rates and
 36 charges and of the issuance of stocks, bonds, notes, or other
 37 evidence of indebtedness.

38 (d) **Subject to the requirements of IC 3-10-9-7**, if a majority of
 39 those voting favor taking the municipally owned utility out of the
 40 jurisdiction of the commission, the utility:

41 (1) is removed from the jurisdiction of the commission for
 42 approval of rates and charges and of the issuance of stocks, bonds,
 43 notes, or other evidence of indebtedness; and

44 (2) shall mail written notice of the withdrawal from commission
 45 jurisdiction to the commission within thirty (30) days after the
 46 utility's withdrawal.

47 **(e) If the requirements of IC 3-10-9-7 are not met, the**

1 **municipally owned utility may not be taken out of the jurisdiction**
2 **of the utility regulatory commission for approval of rates and**
3 **charges and of the issuance of stocks, bonds, notes, or other**
4 **evidence of indebtedness.**

5 SECTION 58. IC 8-1.5-3-9.1 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9.1. (a) This section
7 applies to the following:

- 8 (1) Water utilities that are owned or operated by second class
- 9 cities.
- 10 (2) Third class cities.
- 11 (3) Towns.

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

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

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

- 32 (1) that is signed by at least the number of the registered voters of
- 33 the municipality required under IC 3-8-6-3 to place a candidate on
- 34 the ballot; and
- 35 (2) that requests the legislative body to submit the question of
- 36 removal from commission jurisdiction to the registered voters of
- 37 the municipality at the next election.

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

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

46 "Shall the municipally owned utility be taken out of the
47 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 to the
4 commission at least ten (10) days before the date of the election.

5 (f) **Subject to the requirements of IC 3-10-9-7**, if a majority of
6 those voting on the question described in subsection (e) favor taking
7 the municipally owned utility out of the jurisdiction of the commission,
8 the utility is removed from the jurisdiction of the commission for
9 approval of rates and charges and of the issuance of stocks, bonds,
10 notes, or other evidences of indebtedness.

11 (g) If the legislative body receives a petition in proper form under
12 subsection (d), the ordinance does not take effect until after removal is
13 approved by a majority of those voting. If a majority of those voting
14 vote against removal **or the requirements of IC 3-10-9-7 are not met**,
15 the utility remains under the jurisdiction of the commission and the
16 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 SECTION 59. IC 8-1.5-3-9.5 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9.5. (a) This section
31 applies to municipally owned utilities that are withdrawn from
32 commission jurisdiction under section 9 of this chapter, including a
33 municipally owned utility described in section 9(a) of this chapter.

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

40 "Shall the municipally owned utility be returned to the jurisdiction
41 of the utility regulatory commission for approval of rates and
42 charges and of the issuance of stocks, bonds, notes, or other
43 evidence of indebtedness?".

44 (c) A municipal legislative body shall certify the public question to
45 the county election board of the county that contains the greatest
46 percentage of population of the municipality under IC 3-10-9-3. The
47 county election board shall submit the question under subsection (b) if

1 it receives a petition that:

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

5 (2) requests that the municipally owned utility be returned to the
6 jurisdiction of the commission for approval of rates and charges
7 and of the issuance of stocks, bonds, notes, or other evidence of
8 indebtedness.

9 (d) **Subject to the requirements of IC 3-10-9-7**, if a majority of
10 those voting favor returning the municipally owned utility to the
11 jurisdiction of the commission, the utility is returned to the jurisdiction
12 of the commission for approval of rates and charges and of the issuance
13 of stocks, bonds, notes, or other evidence of indebtedness. If a majority
14 of those voting disapprove of returning the municipally owned utility
15 to the jurisdiction of the commission **or the requirements of**
16 **IC 3-10-9-7 are not met**, an election may not be conducted on the
17 public question of returning to the jurisdiction of the commission for
18 four (4) years from the date of the last election on that public question.

19 (e) The public question of returning to the jurisdiction of the
20 commission may not be submitted to the registered voters of the
21 municipality at an election conducted within four (4) years after the
22 date the municipally owned utility was last withdrawn from
23 commission jurisdiction.

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

27 SECTION 60. IC 8-1.5-3-9.6 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9.6. (a) This section
29 applies to municipally owned utilities that are withdrawn from
30 commission jurisdiction under section 9.1 of this chapter.

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

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

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

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

47 (c) If the municipal legislative body fails to adopt the ordinance

1 described in subsection (b) within ninety (90) days after receipt of the
 2 petition, the public question of the return to commission jurisdiction
 3 shall be submitted to the registered voters of the municipality if the
 4 legislative body receives a second petition:

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

8 (2) that requests the legislative body to submit the question of the
 9 return to commission jurisdiction to the registered voters of the
 10 municipality at the next election; and

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

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

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

21 "Shall the municipally owned utility be returned to the jurisdiction
 22 of the utility regulatory commission for the approval of rates and
 23 charges and of the issuance of stocks, bonds, notes, or other
 24 evidence of indebtedness?".

25 The legislative body shall mail written notice of the referendum to the
 26 commission at least ten (10) days before the date of the election.

27 (e) **Subject to the requirements of IC 3-10-9-7**, if a majority of
 28 those voting on the question described in subsection (d) favor returning
 29 the municipally owned utility to the jurisdiction of the commission, the
 30 utility is returned to the jurisdiction of the commission for approval of
 31 rates and charges and of the issuance of stocks, bonds, notes, or other
 32 evidence of indebtedness. If a majority of those voting disapprove of
 33 returning the municipally owned utility to the jurisdiction of the
 34 commission **or the requirements of IC 3-10-9-7 are not met**, an
 35 election may not be conducted on the public question of returning to
 36 the jurisdiction of the commission for four (4) years from the date of
 37 the last election on that public question.

38 (f) The public question of returning to the jurisdiction of the
 39 commission may not be submitted to the registered voters of the
 40 municipality at an election conducted within four (4) years after the
 41 date the municipally owned utility was last withdrawn from
 42 commission jurisdiction. In addition, a petition requesting the adoption
 43 of an ordinance under subsection (b) may not be submitted within four
 44 (4) years after the date the municipally owned utility was last
 45 withdrawn from commission jurisdiction.

46 (g) If a municipally owned utility is returned to commission
 47 jurisdiction under this section, the municipal legislative body shall mail

- 1 written notice to the commission."
 2 Page 66, between lines 9 and 10, begin a new paragraph and insert:
 3 "SECTION 62. IC 20-23-4-21, AS ADDED BY P.L.1-2005,
 4 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2010]: Sec. 21. (a) If the chairperson of the county committee
 6 does not receive the certification or combined certifications under
 7 section 20(f) of this chapter not later than ninety (90) days after the
 8 receipt by the county committee of the plan referred to in section 20(a)
 9 of this chapter, the judge of the circuit court of the county from which
 10 the county committee submitting the plan was appointed shall:
 11 (1) certify the public question under IC 3-10-9-3; and
 12 (2) order the county election board to conduct a special election
 13 in which the registered voters residing in the proposed community
 14 school corporation may vote to determine whether the corporation
 15 will be created.
 16 (b) If:
 17 (1) a primary election at which county officials are nominated; or
 18 (2) a general election at which county officials are elected;
 19 and for which the question can be certified in compliance with
 20 IC 3-10-9-3 is to be held not later than six (6) months after the receipt
 21 by the chairperson of the county committee of the plan referred to in
 22 section 20(a) of this chapter, regardless of whether the ninety (90) day
 23 period referred to in subsection (a) has expired, the judge shall order
 24 the county election board to conduct the special election to be held in
 25 conjunction with the primary or general election.
 26 (c) If a primary or general election will not be held in the six (6)
 27 month period referred to in subsection (b), the special election shall be
 28 held:
 29 (1) not earlier than sixty (60) days; and
 30 (2) not later than one hundred twenty (120) days;
 31 after the expiration of the ninety (90) day period referred to in
 32 subsection (a).
 33 (d) The county election board shall give notice under IC 5-3-1 of the
 34 special election referred to in subsection (a).
 35 (e) The notice referred to in subsection (d) of a special election
 36 must:
 37 (1) clearly state that the election is called to afford the registered
 38 voters an opportunity to approve or reject a proposal for the
 39 formation of a community school corporation;
 40 (2) contain:
 41 (A) a general description of the boundaries of the community
 42 school corporation as set out in the plan;
 43 (B) a statement of the terms of adjustment of:
 44 (i) property;
 45 (ii) assets;
 46 (iii) debts; and
 47 (iv) liabilities;

- 1 of an existing school corporation that is to be divided in the
 2 creation of the community school corporation;
 3 (C) the name of the community school corporation;
 4 (D) the number of members comprising the board of school
 5 trustees; and
 6 (E) the method of selecting the board of school trustees of the
 7 community school corporation; and
 8 (3) designate the date, time, and voting place or places at which
 9 the election will be held.
- 10 (f) A special election referred to in subsection (a) is under the
 11 direction of the county election board in the county. The election board
 12 shall take all steps necessary to carry out the special election. If the
 13 special election is not conducted at a primary or general election, the
 14 cost of conducting the election is:
- 15 (1) charged to each component school corporation embraced in
 16 the community school corporation in the same proportion as the
 17 component school corporation's assessed valuation is to the total
 18 assessed valuation of the community school corporation; and
 19 (2) paid:
- 20 (A) from any current operating fund not otherwise
 21 appropriated of; and
 22 (B) without appropriation by;
 23 each component school corporation.
- 24 If a component school corporation is to be divided and its territory
 25 assigned to two (2) or more community corporations, the component
 26 school corporation's cost of the special election is in proportion to the
 27 corporation's assessed valuation included in the community school
 28 corporation.
- 29 (g) The county election board shall place the public question on the
 30 ballot in the form prescribed by IC 3-10-9-4. The public question must
 31 state "Shall the (here insert name) community school corporation be
 32 formed as provided in the Reorganization Plan of the County
 33 Committee for the Reorganization of School Corporations?". Except as
 34 otherwise provided in this chapter, the election is governed by IC 3.
- 35 (h) **Subject to the requirements of IC 3-10-9-7**, if a majority of the
 36 votes cast at a special election referred to in subsection (a) on the
 37 public question are in favor of the formation of the corporation, a
 38 community school corporation is created and takes effect on the earlier
 39 of:
- 40 (1) the July 1; or
 41 (2) the January 1;
- 42 that next follows the date of publication of the notice referred to in
 43 subsection (d). **If the requirements of IC 3-10-9-7 are not met, the**
 44 **community school corporation may not be created.**
- 45 (i) If a public official fails to perform a duty required of the official
 46 under this section within the time prescribed in this section, the
 47 omission does not invalidate the proceedings taken under this section.

- 1 (j) An action:
- 2 (1) to contest the validity of the formation or creation of a
- 3 community school corporation under this section;
- 4 (2) to declare that a community school corporation:
- 5 (A) has not been validly formed or created; or
- 6 (B) is not validly existing; or
- 7 (3) to enjoin the operation of a community school corporation;
- 8 may not be instituted later than thirty (30) days after the date of the
- 9 special election referred to in subsection (a).

10 SECTION 63. IC 20-23-6-5, AS AMENDED BY P.L.1-2006,
 11 SECTION 315, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) If a petition is filed in one (1)
 13 or more of the school corporations protesting consolidation as provided
 14 in this chapter by the legal voters of any school corporation the
 15 governing body of which proposes to consolidate, the governing body
 16 in each school corporation in which a protest petition is filed shall
 17 certify the public question to each county election board of the county
 18 in which the school corporation is located. The county election board
 19 shall call an election of the voters of the school corporation to
 20 determine if a majority of the legal voters of the corporation is in favor
 21 of consolidating the school corporations.

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

- 27 (1) township;
- 28 (2) town; or
- 29 (3) city;

30 the notice shall be published in the nearest newspaper published in the
 31 county or counties, that on a day and at an hour to be named in the
 32 notice, the polls will be open at the usual voting places in the various
 33 precincts in the corporation for taking the vote of the legal voters upon
 34 whether the school corporation shall be consolidated with the other
 35 school corporations joining in the resolution.

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

40 (d) Notice shall be given not later than thirty (30) days after the
 41 petition is filed. The election shall be held not less than ten (10) days
 42 or more than twenty (20) days after the last publication of the notice.

43 (e) **Subject to the requirements of IC 3-10-9-7**, the governing
 44 body of each school corporation in which an election is held is bound
 45 by the majority vote of those voting. However, if the election falls
 46 within a period of not more than six (6) months before a primary or
 47 general election, the election shall be held concurrently with the

1 primary or general election.

2 (f) If a majority of those voting in any one (1) school corporation
3 votes against the plan of consolidation **or the requirements of**
4 **IC 3-10-9-7 are not met**, the plan fails. However, the failure does not
5 prevent any or all the school corporations from taking further initial
6 action for the consolidation of school corporations under this chapter.

7 (g) Whenever twenty percent (20%) of the legal voters residing in
8 any school corporation, jointly with twenty percent (20%) of the legal
9 voters in each of one (1) or more other school corporations:

10 (1) prepare a resolution; and

11 (2) petition the trustees of their respective school corporations to
12 consolidate the school corporations, as set out in the resolution;
13 each governing body petitioned shall call the school election provided
14 for in this chapter in its school corporations.

15 (h) Notice of the election shall be published within thirty (30) days
16 after the filing of the resolution with the governing body of the school
17 corporation where it is last filed. However, if any of the petitioned
18 governing bodies agrees to the consolidation as set out in the
19 resolution, an election in that school corporation may not be required
20 under the resolution.

21 (i) Notice as set out in this section shall be given, and a protest
22 requesting an election may be filed in conformity with section 3 of this
23 chapter.

24 SECTION 64. IC 20-23-6-6, AS AMENDED BY P.L.2-2006,
25 SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2010]: Sec. 6. (a) On the day and hour named in the notice
27 filed under section 5 of this chapter, polls shall be opened and the votes
28 of the registered voters shall be taken upon the public question of
29 consolidating school corporations. The election shall be governed by
30 IC 3, except as provided in this chapter.

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

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

41 (1) the governing body of the school corporations subject to the
42 election;

43 (2) the state superintendent; and

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

46 together with a copy of the resolution.

47 (d) **Subject to the requirements of IC 3-10-9-7**, if a majority of the

1 votes cast at each of the elections is in favor of the consolidation of two
 2 (2) or more school corporations, the trustees of the school corporations
 3 shall proceed to consolidate the schools and provide the necessary
 4 buildings and equipment. **If the requirements of IC 3-10-9-7 are not**
 5 **met, the school corporations may not be consolidated.** In any school
 6 corporation where a petition was not filed and an election was not held,
 7 the failure on the part of the voters to file a petition for an election shall
 8 be considered to give the consent of the voters of the school
 9 corporation to the consolidation as set out in the resolution.

10 (e) If the special election is not conducted at a primary or general
 11 election, the expense of the election shall be borne by the school
 12 corporation or each of the school corporations subject to the election
 13 and shall be paid out of the school general fund.

14 SECTION 65. IC 20-23-7-2, AS ADDED BY P.L.1-2005,
 15 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2010]: Sec. 2. (a) In any county or adjoining counties at least
 17 two (2) school corporations, including school townships, school towns,
 18 school cities, consolidated school corporations, joint schools,
 19 metropolitan school districts, township school districts, or community
 20 school corporations, regardless of whether the consolidating school
 21 corporations are of the same or of a different character, may
 22 consolidate into one (1) metropolitan school district. Subject to
 23 subsection (h), the consolidation must be initiated by following either
 24 of the following procedures:

25 (1) The township trustee, board of school trustees, board of
 26 education, or other governing body (the trustee, board, or other
 27 governing body is referred to elsewhere in this section as the
 28 "governing body") of each school corporation to be consolidated
 29 shall:

30 (A) adopt substantially identical resolutions providing for the
 31 consolidation; and

32 (B) publish a notice setting out the text of the resolution one
 33 (1) time under IC 5-3-1.

34 The resolution must set forth any provision for staggering the
 35 terms of the board members of the metropolitan school district
 36 elected under this chapter. If, not more than thirty (30) days after
 37 publication of the resolution, a petition of protest, signed by at
 38 least twenty percent (20%) of the registered voters residing in the
 39 school corporation is filed with the clerk of the circuit court of
 40 each county where the voters who are eligible to sign the petition
 41 reside, a referendum election shall be held as provided in
 42 subsection (c).

43 (2) Instead of the adoption of substantially identical resolutions in
 44 each of the proposed consolidating school corporations under
 45 subdivision (1), a referendum election under subsection (c) shall
 46 be held on the occurrence of all of the following:

47 (A) At least twenty percent (20%) of the registered voters

1 residing in a particular school corporation sign a petition
2 requesting that the school corporation consolidate with another
3 school corporation (referred to in this subsection as "the
4 responding school corporation").
5 (B) The petition described in clause (A) is filed with the clerk
6 of the circuit court of each county where the voters who are
7 eligible to sign the petition reside.
8 (C) Not more than thirty (30) days after the service of the
9 petition by the clerk of the circuit court to the governing body
10 of the responding school corporation under subsection (b) and
11 the certification of signatures on the petition occurs under
12 subsection (b), the governing body of the responding school
13 corporation adopts a resolution approving the petition and
14 providing for the consolidation.
15 (D) An approving resolution has the same effect as the
16 substantially identical resolutions adopted by the governing
17 bodies under subdivision (1), and the governing bodies shall
18 publish the notice provided under subdivision (1) not more
19 than fifteen (15) days after the approving resolution is adopted.
20 However, if a governing body that is a party to the
21 consolidation fails to publish notice within the required fifteen
22 (15) day time period, a referendum election still must be held
23 as provided in subsection (c).
24 If the governing body of the responding school corporation does
25 not act on the petition within the thirty (30) day period described
26 in clause (C), the governing body's inaction constitutes a
27 disapproval of the petition request. If the governing body of the
28 responding school corporation adopts a resolution disapproving
29 the petition or fails to act within the thirty (30) day period, a
30 referendum election as described in subsection (c) may not be
31 held and the petition requesting the consolidation is defeated.
32 (b) Any petition of protest under subsection (a)(1) or a petition
33 requesting consolidation under subsection (a)(2) must show in the
34 petition the date on which each person has signed the petition and the
35 person's residence on that date. The petition may be executed in several
36 counterparts, the total of which constitutes the petition. Each
37 counterpart must contain the names of voters residing within a single
38 county and shall be filed with the clerk of the circuit court of the
39 county. Each counterpart must have attached to it the affidavit of the
40 person circulating the counterpart that each signature appearing on the
41 counterpart was affixed in that person's presence and is the true and
42 lawful signature of each person who made the signature. Any signer
43 may file the petition or any counterpart of the petition. Each signer on
44 the petition may before and may not after the filing with the clerk
45 withdraw the signer's name from the petition. A name may not be
46 added to the petition after the petition has been filed with the clerk.
47 After the receipt of any counterpart of the petition, each circuit court

1 clerk shall certify:

- 2 (1) the number of persons signing the counterpart;
 3 (2) the number of persons who are registered voters residing
 4 within that part of the school corporation located within the
 5 clerk's county, as disclosed by the voter registration records in the
 6 office of the clerk or the board of registration of the county, or
 7 wherever registration records may be kept;
 8 (3) the total number of registered voters residing within the
 9 boundaries of that part of the school corporation located within
 10 the county, as disclosed in the voter registration records; and
 11 (4) the date of the filing of the petition.

12 Certification shall be made by each clerk of the circuit court not more
 13 than thirty (30) days after the filing of the petition, excluding from the
 14 calculation of the period any time during which the registration records
 15 are unavailable to the clerk, or within any additional time as is
 16 reasonably necessary to permit the clerk to make the certification. In
 17 certifying the number of registered voters, the clerk of the circuit court
 18 shall disregard any signature on the petition not made within the ninety
 19 (90) days immediately before the filing of the petition with the clerk as
 20 shown by the dates set out in the petition. The clerk of the circuit court
 21 shall establish a record of the certification in the clerk's office and shall
 22 serve the original petition and a copy of the certification on the county
 23 election board under IC 3-10-9-3 and the governing bodies of each
 24 affected school corporation. Service shall be made by mail or manual
 25 delivery to the governing bodies, to any officer of the governing bodies,
 26 or to the administrative office of the governing bodies, if any, and shall
 27 be made for all purposes of this section on the day of the mailing or the
 28 date of the manual delivery.

29 (c) The county election board in each county where the proposed
 30 metropolitan school district is located, acting jointly where the
 31 proposed metropolitan school district is created and where it is located
 32 in more than one (1) county, shall cause any referendum election
 33 required under either subsection (a)(1) or (a)(2) to be held in the entire
 34 proposed metropolitan district at a special election. The special election
 35 shall be not less than sixty (60) days and not more than ninety (90) days
 36 after the service of the petition of protest and certification by each clerk
 37 of the circuit court under subsection (a)(1) or (a)(2) or after the
 38 occurrence of the first action requiring a referendum under subsection
 39 (a)(2). However, if a primary or general election at which county
 40 officials are to be nominated or elected, or at which city or town
 41 officials are to be elected in those areas of the proposed metropolitan
 42 school district that are within the city or town, is to be held after the
 43 sixty (60) days and not more than six (6) months after the service or the
 44 occurrence of the first action, each election board may hold the
 45 referendum election with the primary or general election.

46 (d) Notice of the special election shall be given by each election
 47 board by publication under IC 5-3-1.

1 (e) Except where it conflicts with this section or cannot be
 2 practicably applied, IC 3 applies to the conduct of the referendum
 3 election. If the referendum election is not conducted at a primary or
 4 general election, the cost of conducting the election shall be charged to
 5 each component school corporation included in the proposed
 6 metropolitan school district in the same proportion as its assessed
 7 valuation bears to the total assessed valuation of the proposed
 8 metropolitan school district and shall be paid from any current
 9 operating fund of each component school corporation not otherwise
 10 appropriated, without appropriation.

11 (f) The question in the referendum election shall be placed on the
 12 ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the
 13 school corporations of _____ be formed into one (1) metropolitan
 14 school district under IC 20-23-7?" (in which blanks the respective
 15 name of the school districts concerned will be inserted).

16 (g) If:

17 (1) a protest petition with the required signatures is not filed after
 18 the adoption of substantially identical resolutions of the governing
 19 bodies providing for or approving the consolidation as described
 20 in subsection (a)(1); or

21 (2) **subject to the requirements of IC 3-10-9-7**, a referendum
 22 election occurs in the entire proposed metropolitan district and a
 23 majority of the voters in each proposed consolidating school
 24 corporation vote in the affirmative;

25 a metropolitan school district is created and comes into existence in the
 26 territory subject to the provisions and under the conditions described
 27 in this chapter. The boundaries include all of the territory within the
 28 school corporations, and it shall be known as "Metropolitan School
 29 District of _____, Indiana" (the name of the district concerned will
 30 be inserted in the blank). The name of the district shall be decided by
 31 a majority vote of the metropolitan governing board of the metropolitan
 32 school district at the first meeting. The metropolitan governing board
 33 of the new metropolitan school district shall be composed and elected
 34 under this chapter. The failure of any public official or body to perform
 35 any duty within the time provided in this chapter does not invalidate
 36 any proceedings taken by that official or body, but this provision shall
 37 not be construed to authorize a delay in the holding of a referendum
 38 election under this chapter.

39 (h) If the governing body of a school corporation is involved in a
 40 consolidation proposal under subsection (a)(1) or (a)(2) that fails to
 41 result in a consolidation **or the requirements of IC 3-10-9-7 are not**
 42 **met**, the:

43 (1) governing body of the school corporation may not initiate a
 44 subsequent consolidation with another school corporation under
 45 subsection (a)(1); and

46 (2) residents of the school corporation may not file a petition
 47 requesting a consolidation with another school corporation under

1 subsection (a)(2);
 2 for one (1) year after the date on which the prior consolidation proposal
 3 failed.

4 SECTION 66. IC 20-23-7-12, AS AMENDED BY P.L.1-2007,
 5 SECTION 143, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) As used in this section,
 7 "county" means the county in which the school township is located.

8 (b) As used in this section, "school township" means a school
 9 township in Indiana that:

10 (1) for the last full school semester immediately preceding:

11 (A) the adoption of a preliminary resolution by the township
 12 trustee and the township board under subsection (f); or

13 (B) the adoption of a resolution of disapproval by the township
 14 trustee and the township board under subsection (g);

15 had an ADM of at least six hundred (600) students in
 16 kindergarten through grade 12 in the public schools of the school
 17 township; or

18 (2) is part of a township in which there were more votes cast for
 19 township trustee outside the school township than inside the
 20 school township in the general election at which the trustee was
 21 elected and that preceded the adoption of the preliminary or
 22 disapproving resolution.

23 (c) As used in this section, "township board" means the township
 24 board of a township in which the school township is located.

25 (d) As used in this section, "township trustee" means the township
 26 trustee of the township in which the school township is located.

27 (e) In a school township, a metropolitan school district may be
 28 created by complying with this section. A metropolitan school district
 29 created under this section shall have the same boundaries as the school
 30 township. After a district has been created under this section, the
 31 school township that preceded the metropolitan school district is
 32 abolished. The procedures or provisions governing the creation of a
 33 metropolitan school district under another section of this chapter do not
 34 apply to the creation of a district under this section. After a
 35 metropolitan school district is created under this section, the district
 36 shall, except as otherwise provided in this section, be governed by and
 37 operate in accordance with this chapter governing the operation of a
 38 metropolitan school district as established under section 2 of this
 39 chapter.

40 (f) Except as provided in subsection (g), a metropolitan school
 41 district provided for in subsection (e) may be created in the following
 42 manner:

43 (1) The township trustee shall call a meeting of the township
 44 board. At the meeting, the township trustee and a majority of the
 45 township board shall adopt a resolution that a metropolitan school
 46 district shall be created in the school township. The township
 47 trustee shall then give notice:

- 1 (A) by two (2) publications one (1) week apart in a newspaper
 2 of general circulation published in the school township; or
 3 (B) if there is no newspaper as described in clause (A), in a
 4 newspaper of general circulation in the county;
 5 of the adoption of the resolution setting forth the text of the
 6 resolution.
- 7 (2) On the thirtieth day after the date of the last publication of the
 8 notice under subdivision (1) and if a protest has not been filed, the
 9 township trustee and a majority of the township board shall
 10 confirm their preliminary resolution. If, however, on or before the
 11 twenty-ninth day after the date of the last publication of the
 12 notice, a number of registered voters of the school township,
 13 equal to five percent (5%) or more of the number of votes cast in
 14 the school township for secretary of state at the last preceding
 15 general election for that office, sign and file with the township
 16 trustee a petition requesting an election in the school township to
 17 determine whether or not a metropolitan school district must be
 18 created in the township in accordance with the preliminary
 19 resolution, then an election must be held as provided in
 20 subsection (h). The preliminary resolution and confirming
 21 resolution provided in this subsection shall both be adopted at a
 22 meeting of the township trustee and township board in which the
 23 township trustee and each member of the township board received
 24 or waived a written notice of the date, time, place, and purpose of
 25 the meeting. The resolution and the proof of service or waiver of
 26 the notice shall be made a part of the records of the township
 27 board.
- 28 (g) Except as provided in subsection (f), a metropolitan school
 29 district may also be created in the following manner:
- 30 (1) A number of registered voters of the school township, equal
 31 to five percent (5%) or more of the votes cast in the school
 32 township for secretary of state at the last general election for that
 33 office, shall sign and file with the township trustee a petition
 34 requesting the creation of a metropolitan school district under this
 35 section.
- 36 (2) The township trustee and a majority of the township board
 37 shall, not more than ten (10) days after the filing of a petition:
- 38 (A) adopt a preliminary resolution that a metropolitan school
 39 district shall be created in the school township and proceed as
 40 provided in subsection (f); or
 41 (B) adopt a resolution disapproving the creation of the district.
- 42 (3) If either the township trustee or a majority of township board
 43 members vote in favor of disapproving the resolution, an election
 44 must be held to determine whether or not a metropolitan school
 45 district shall be created in the school township in the same
 46 manner as is provided in subsection (f) if an election is requested
 47 by petition.

1 (h) An election required under subsection (f) or (g) may, at the
 2 option of the township trustee, be held either as a special election or in
 3 conjunction with a primary or general election to be held not more than
 4 one hundred twenty (120) days after the filing of a petition under
 5 subsection (f) or the adoption of the disapproving resolution under
 6 subsection (g). The township trustee shall certify the question to the
 7 county election board under IC 3-10-9-3 and give notice of an election:

8 (1) by two (2) publications one (1) week apart in a newspaper of
 9 general circulation in the school township; or

10 (2) if a newspaper described in subdivision (1) does not exist, in
 11 a newspaper of general circulation published in the county.

12 The notice must provide that on a day and time named in the notice, the
 13 polls shall be opened at the usual voting places in the various precincts
 14 in the school township for the purpose of taking the vote of the
 15 registered voters of the school township regarding whether a
 16 metropolitan school district shall be created in the township. The
 17 election shall be held not less than twenty (20) days and not more than
 18 thirty (30) days after the last publication of the notice unless a primary
 19 or general election will be conducted not more than six (6) months after
 20 the publication. In that case, the county election board shall place the
 21 public question on the ballot at the primary or general election. If the
 22 election is to be a special election, the township trustee shall give
 23 notice not more than thirty (30) days after the filing of the petition or
 24 the adoption of the disapproving resolution.

25 (i) On the day and time named in the notice, the polls shall be
 26 opened and the votes of the voters shall be taken regarding whether a
 27 metropolitan school district shall be created in the school township.
 28 IC 3 governs the election except as otherwise provided in this chapter.
 29 The county election board shall conduct the election. The public
 30 question shall be placed on the ballot in the form prescribed by
 31 IC 3-10-9-4 and must state, "Shall a metropolitan school district under
 32 IC 20-23-7 be formed in the _____ School Township of
 33 _____ County, Indiana?". The name of the school township
 34 shall be inserted in the blanks.

35 (j) The votes cast in the election shall be canvassed at a place in the
 36 school township determined by the county election board. **Subject to**
 37 **the requirements of IC 3-10-9-7**, the certificate of the votes cast for
 38 and against the creation of a metropolitan school district shall be filed
 39 in the records of the township board and recorded with the county
 40 recorder. **If the requirements of IC 3-10-9-7 are not met, a**
 41 **metropolitan school corporation may not be created.** If the special
 42 election is not conducted at a primary or general election, the school
 43 township shall pay the expense of holding the election out of the school
 44 general fund that is appropriated for this purpose.

45 (k) A metropolitan school district shall, subject to section 7 of this
 46 chapter, be created on the thirtieth day after the date of the adoption of
 47 the confirming resolution under subsection (f) or an election held under

1 subsection (h). If a public official fails to do the official's duty within
 2 the time prescribed in this section, the failure does not invalidate the
 3 proceedings taken under this section. An action to contest the validity
 4 of the creation of a metropolitan school district under this section or to
 5 enjoin the operation of a metropolitan school district may not be
 6 instituted later than the thirtieth day following the date of the adoption
 7 of the confirming resolution under subsection (f) or of the election held
 8 under subsection (h). Except as provided in this section, an election
 9 under this subsection may not be held sooner than twelve (12) months
 10 after another election held under subsection (h).

11 (l) A metropolitan school district is known as "The Metropolitan
 12 School District of _____ Township, _____ County,
 13 Indiana". The first metropolitan board of education in a metropolitan
 14 school district created under this section consists of five (5) members.
 15 The township trustee and the township board members are ex officio
 16 members of the first board, subject to the laws concerning length of
 17 their respective terms of office, manner of election or appointment, and
 18 the filling of vacancies applicable to their respective offices. The ex
 19 officio members serve without compensation or reimbursement for
 20 expenses, other than that which they may receive from their respective
 21 offices. The township board shall, by a resolution recorded in its
 22 records, appoint the fifth member of the metropolitan board of
 23 education. The fifth member shall meet the qualifications of a member
 24 of a metropolitan board of education under this chapter, with the
 25 exception of the board member district requirements provided in
 26 sections 4, 5, and 8 of this chapter.

27 (m) A fifth board member shall be appointed not more than fifteen
 28 (15) days after the date of the adoption of the confirming resolution
 29 under subsection (f)(2) or an election held under subsection (h). The
 30 first board shall hold its first meeting not more than fifteen (15) days
 31 after the date when the fifth board member is appointed or elected, on
 32 a date established by the township board in the resolution in which it
 33 appoints the fifth board member. The first board shall serve until July
 34 1 following the election of a metropolitan school board at the first
 35 primary election held more than sixty (60) days following the creation
 36 of the metropolitan school district.

37 (n) After the creation of a metropolitan school district under this
 38 section, the president of the metropolitan school board of the district
 39 shall serve as a member of the county board of education and perform
 40 the duties on the county board of education that were previously
 41 performed by the township trustee. The metropolitan school board and
 42 superintendent of the district may call upon the assistance of and use
 43 the services provided by the county superintendent of schools. This
 44 subsection does not limit or take away the powers, rights, privileges, or
 45 duties of the metropolitan school district or the board or superintendent
 46 of the district provided in this chapter.

47 SECTION 67. IC 20-23-8-19, AS ADDED BY P.L.1-2005,

1 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2010]: Sec. 19. (a) A plan shall be adopted in the following
3 circumstances:

4 (1) At the expiration of one hundred twenty (120) days after the
5 publication of notice by the governing body if:

6 (A) the governing body has initiated or approved the plan;

7 (B) a petition has not been filed either protesting the plan or
8 setting forth an alternative plan; and

9 (C) the state board has reviewed and certified the plan.

10 (2) If only one (1) plan is on the ballot and, **subject to the**
11 **requirements of IC 3-10-9-7**, it receives more affirmative than
12 negative votes, the plan is adopted at the expiration of thirty (30)
13 days following the special election.

14 (3) If more than one (1) plan is on the ballot **and subject to the**
15 **requirements of IC 3-10-9-7**, the plan receiving the most votes
16 is adopted at the expiration of thirty (30) days after the special
17 election.

18 (b) The plan is effective:

19 (1) at the time provided in the plan; or

20 (2) if a time is not provided or if the time provided is inapplicable
21 due to the lapse of time of the proceedings under this chapter,
22 either on the January 1 or July 1 following the time of adoption of
23 the plan.

24 **(c) If the requirements of IC 3-10-9-7 are not met, the plan may**
25 **not be adopted.**

26 SECTION 68. IC 20-26-8-2, AS ADDED BY P.L.1-2005,
27 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2010]: Sec. 2. (a) If:

29 (1) a petition is filed with:

30 (A) the clerk of a municipality; or

31 (B) the trustee of any township;

32 that is signed by at least ten percent (10%) of the number of
33 voters voting at the last general election held in the city; or

34 (2) a petition is presented that contains the signatures of at least
35 one hundred (100) freeholders living in a town or township;

36 that sets forth a question in the form prescribed by IC 3-10-9-4 and a
37 date for an election on the question, the question of exercising the
38 powers granted for any of the purposes enumerated in section 1 of this
39 chapter shall be submitted to the electors of the municipalities or
40 townships.

41 (b) The clerk or trustee shall certify the public question to the
42 county election board of each county in which the school corporation
43 is located. The county election board shall place the public question on
44 the ballot at the first primary or general election conducted after
45 certification under IC 3-10-9-3. If the first primary or general election
46 will be conducted more than six (6) months after certification, the
47 county election board shall conduct the election not later than thirty

1 (30) days after certification.
 2 (c) **Subject to the requirements of IC 3-10-9-7**, if a majority of the
 3 votes cast upon the question are affirmative:
 4 (1) the board of school trustees of the municipality; or
 5 (2) the school trustee of the school township;
 6 shall exercise the powers in accordance with the petition under this
 7 chapter.

8 **(d) If the requirements of IC 3-10-9-7 are not met:**
 9 **(1) the board of school trustees of the municipality; or**
 10 **(2) the school trustee of the school township;**
 11 **may not exercise the powers in accordance with the petition under**
 12 **this chapter.**

13 SECTION 69. IC 20-46-1-9, AS AMENDED BY P.L.146-2008,
 14 SECTION 496, IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2010]: Sec. 9. A referendum tax levy under this
 16 chapter may be put into effect only if **the requirements of IC 3-10-9-7**
 17 **are met and** a majority of the individuals who vote in a referendum
 18 that is conducted in accordance with this section and sections 10
 19 through 19 of this chapter approves the appellant school corporation's
 20 making a levy for the ensuing calendar year.

21 SECTION 70. IC 20-46-1-17, AS AMENDED BY P.L.146-2008,
 22 SECTION 501, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2010]: Sec. 17. Each precinct election board
 24 shall count the affirmative votes and the negative votes cast in the
 25 referendum and shall certify those two (2) totals to the county election
 26 board of each county in which the referendum is held. The circuit court
 27 clerk of each county shall, immediately after the votes cast in the
 28 referendum have been counted **and if the requirements of**
 29 **IC 3-10-9-7 have been met**, certify the results of the referendum to the
 30 county fiscal body. Upon receiving the certification of all the votes cast
 31 in the referendum, the county fiscal body shall promptly certify the
 32 result of the referendum to the department of local government finance.
 33 **If the requirements of IC 3-10-9-7 have been met and** a majority of
 34 the individuals who voted in the referendum voted "yes" on the
 35 referendum question:

36 (1) the county fiscal body shall promptly notify the school
 37 corporation that the school corporation is authorized to collect, for
 38 the calendar year that next follows the calendar year in which the
 39 referendum is held, a levy not greater than the amount approved
 40 in the referendum;
 41 (2) the levy may be imposed for the number of calendar years
 42 approved by the voters following the referendum for the school
 43 corporation in which the referendum is held; and
 44 (3) the school corporation shall establish a fund under
 45 IC 20-40-3-1.

46 SECTION 71. IC 20-46-1-19, AS AMENDED BY P.L.146-2008,
 47 SECTION 503, IS AMENDED TO READ AS FOLLOWS

1 [EFFECTIVE JULY 1, 2010]: Sec. 19. If **the requirements of**
 2 **IC 3-10-9-7 have not been met or** a majority of the persons who voted
 3 in the referendum did not vote "yes" on the referendum question:

4 (1) the school corporation may not make any levy for its
 5 referendum tax levy fund; and

6 (2) another referendum under this section may not be held for one

7 (1) year after the date of the referendum."

8 Page 82, line 8, delete "If" and insert "**Subject to the requirements**
 9 **of IC 3-10-9-7, if**".

10 Page 82, between lines 13 and 14, begin a new line blocked left and
 11 insert:

12 "**If the requirements of IC 3-10-9-7 are not met, the county election**
 13 **board may not prepare a certification under IC 3-12-4-9, and a**
 14 **dissolution under this section may not occur.**".

15 Page 82, between lines 39 and 40, begin a new paragraph and insert:

16 "SECTION 90. IC 36-5-2-4.2 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4.2. (a) This section
 18 applies to the alteration of the number of members of a legislative
 19 body.

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

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

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

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

29 "Shall the number of town council members be increased (or
 30 decreased, if applicable) from _____ (insert the current
 31 number of members provided for) to _____ (insert the
 32 number of members proposed in the resolution)?"

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

37 (d) If a majority of the votes cast on the question under subsection
 38 (b) are in the negative **or the requirements of IC 3-10-9-7 are not**
 39 **met**, the legislative body may not adopt a resolution under subsection
 40 (b) for at least one (1) year following the date the prior resolution was
 41 adopted.

42 (e) **Subject to the requirements of IC 3-10-9-7**, if a majority of
 43 votes cast on the question under subsection (b) are in the affirmative,
 44 the legislative body shall adopt an ordinance at its next regular meeting
 45 following the election altering the number of legislative body members
 46 to the number specified in the public question. The legislative body
 47 may also alter existing districts and establish new districts in the

1 manner prescribed by IC 36-5-1-10.1. An ordinance adopted under this
2 subsection becomes effective January 1 following its adoption.

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

9 Page 83, between lines 36 and 37, begin a new paragraph and insert:

10 "SECTION 93. IC 36-7-4-1212 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1212. ADVISORY.
12 Because long range planning studies of population, land use, schools,
13 recreation, and public ways involve substantial expenditures, a
14 township that joins with a municipality or county may not withdraw
15 from the joinder, unless:

16 (1) the municipality or county has consolidated on an area basis
17 its planning and zoning activity under other law; or

18 (2) a petition, requesting a referendum on the question "Shall the
19 township withdraw from joinder with (the municipality), or (the
20 county), for planning and zoning purposes?", is sent to the
21 township executive and is signed by at least the number of the
22 voters of the township required under IC 3-8-6-3 to place a
23 candidate on the ballot.

24 If the petition is received, the township executive shall certify the
25 petition to the county election board under IC 3-10-9-3. The board shall
26 place the question on a ballot to be submitted at the next general
27 election for the township in the form prescribed by IC 3-10-9-4. If the
28 township repays the amount expended for planning and zoning
29 purposes that exceeds the amount contributed by the township and,
30 **subject to the requirements of IC 3-10-9-7**, a majority of the voters
31 voting in the election vote in the affirmative, the township may
32 withdraw from its joinder with the municipality or county. **If the**
33 **requirements of IC 3-10-9-7 are not met, the township may not**
34 **withdraw from its joinder with the municipality or county based**
35 **on the results of the election."**

36 Page 115, between lines 13 and 14, begin a new paragraph and
37 insert:

38 "SECTION 100. IC 36-10-4-5 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) In a second class
40 city, the board may adopt a resolution to extend the boundaries of the
41 district to the county boundaries unless the county has already
42 established a park district under IC 36-10-3. The board must file a
43 certified copy of the resolution with the county auditor and county
44 treasurer. Notice of the adoption of the resolution shall be given by
45 publication once each week for two (2) weeks in accordance with
46 IC 5-3-1.

47 (b) Whenever the board has adopted a resolution under subsection

1 (a), remonstrances may be filed by the affected voters within ninety
2 (90) days after the last publication under subsection (a). Remonstrances
3 must be signed in ink by the voter in person and state the address of
4 each signer and that the signer is a registered voter. A person who signs
5 a remonstrance when he is not a registered voter commits a Class D
6 felony. More than one (1) voter may sign the same remonstrance.

7 (c) A vote on the public question shall be held if at least the number
8 of the registered voters of the county required under IC 3-8-6-3 to place
9 a candidate on the ballot file remonstrances under subsection (b) with
10 the county clerk protesting the extension of the district.

11 (d) The county clerk shall certify to the county election board in
12 accordance with IC 3-10-9-3 whether or not the required number of
13 registered voters of the county have filed remonstrances. If sufficient
14 remonstrances have been filed, the county election board shall publish
15 a notice of the election once a week for two (2) consecutive weeks in
16 accordance with IC 5-3-1-4, the first publication to be at least thirty
17 (30) days before the date of the election. The question presented to the
18 voters at the election shall be placed on the ballot in the form
19 prescribed by IC 3-10-9-4 and must state "Shall the county park district
20 be established?". The election is governed by IC 3 whenever not in
21 conflict with this chapter. **Subject to the requirements of**
22 **IC 3-10-9-7**, the county election board shall make a return of the votes
23 cast at the referendum.

24 (e) If a majority of the votes cast are against the extension of the
25 district **or the requirements of IC 3-10-9-7 are not met**, the district
26 is not extended. If sufficient remonstrances are not filed or if a majority
27 of the votes cast support the extension of the district, the district is
28 extended.

29 (f) The extension of the district is effective on January 1 of the year
30 following the adoption of the resolution or, if an election is held, on
31 January 1 of the year following the date of the election.

32 (g) A municipality that becomes part of a district by reason of the
33 extension of the district under this section may continue to establish,
34 maintain, and operate parks and other recreational facilities under any
35 other law. The parks and other recreational facilities shall be operated
36 by the municipality separate from the parks and other recreational
37 facilities under the jurisdiction of the board in the same manner as they
38 would be operated by the municipality if it was not within the district.

39 (h) The operation of separate parks or recreational facilities by a
40 municipality does not affect the obligation of property owners within
41 the municipality to pay all taxes imposed on property within the
42 district.

43 (i) The legislative body of a municipality may elect that the separate
44 parks or other recreational facilities of the municipality be maintained
45 or operated as a part of the district by adopting a resolution or an
46 ordinance to that effect. The separate park or other recreational facility
47 comes under the jurisdiction of the board at the time specified in the

- 1 resolution or ordinance."
- 2 Renumber all SECTIONS consecutively.
 (Reference is to SB 239 as printed January 29, 2010.)

Senator TAYLOR