

# STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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**TO:** Local Officials  
**FROM:** Brian E. Bailey, Commissioner BEB  
**RE:** Changes to Controlled Projects Provisions under HEA 1086-2010 (Public Law 113-2010)  
**DATE:** June 23, 2010

## Introduction

This memorandum provides guidance on amendments to the Indiana Code regarding controlled projects. These changes to the law were made as part of HEA 1086-2010. This guidance is intended to be an aid in understanding changes to the law and is not to be construed as a substitute for the law.

### Notice to Circuit Court Clerk (Effective July 1, 2010)

According to the changes, when a political subdivision issues public notices in accordance with IC 5-3-1 during the steps related to controlled projects financing, the political subdivision must send the notice by first class mail to the circuit court clerk in addition to any organization that delivers an annual written request for such notices to the political subdivision. This notice includes notice of intent to hold the preliminary determination hearing, the notice of preliminary determination, the notice of the applicability of the petition and remonstrance process, and the notice of the referendum process. *IC 6-1.1-20-3.1(b)(1)*.

### Option for Referendum Instead of Petition/Remonstrance (Effective Upon Passage)

HEA 1086-2010 also allows the political subdivision to adopt a resolution to place a referendum question for a controlled project on the ballot instead of going through the petition and remonstrance process. The fiscal body of the political subdivision must adopt a resolution by the date the subdivision makes the preliminary determination and must certify the resolution to the county election board in each county in which the political subdivision is located. *IC 6-1.1-20-3.8*.

### Department Review of Project Description (Effective Upon Passage)

Finally, the legislation contains a provision that if the county election board approves the language of a public question after June 30, 2010, the county election board shall submit the language to the Department of Local Government Finance ("Department") for review. The Department will "evaluate whether the description of the controlled project is accurate and is not biased against either a vote in favor of the controlled project or a vote against the controlled project."

After review, the Department “may recommend that the ballot language be used as submitted or recommend modifications to the ballot language as necessary to ensure that the description of the controlled project is accurate and is not biased.”

The Department must complete its review within ten (10) days of receipt, and after reviewing the Department’s recommendations, the county election board shall take final action to approve ballot language.

The finally adopted ballot language may differ from the recommendations made by the Department. *IC 6-1.1-20-3.6.*

**Contact Information**

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