

HOUSE BILL No. 1088

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-20-3.1; IC 6-1.1-20-3.2.

Synopsis: Petition and remonstrance procedure. Changes the petition and remonstrance process applicable to debt service or lease rentals paid from local property taxes so that a property taxpayer can file the taxpayer's position on the proposed debt service or lease rental in the county auditor's office in person or by mail. Provides that for purposes of Indiana's public records law, a taxpayer's position on the proposed debt service or lease rental filed with the county auditor is confidential. (Under current law the petition and remonstrance process is conducted through circulation of petitions in the political subdivision proposing to issue the debt or enter into the lease and the signatures of taxpayers are public record.) Provides that for purposes of the petition and remonstrance process, a person is considered to be an owner of real property if the person is shown as the owner of the real property in the county transfer books on the assessment date. Provides rules to determine who may exercise the rights of an owner
(Continued next page)

Effective: July 1, 1998.

Frenz

January 6, 1998, read first time and referred to Committee on Ways and Means.



Digest Continued

of real property under the petition and remonstrance procedure. (The introduced version of this bill was prepared by the interim study committee on state and local government issues.)



Introduced

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

HOUSE BILL No. 1088

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

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

- 1 SECTION 1. IC 6-1.1-20-3.1, AS AMENDED BY P.L.56-1997,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 3.1. (a) **For purposes of this section and section
4 3.2 of this chapter, a person is considered to be an owner of real
5 property if the person is shown as the owner of the real property in
6 the transfer books under IC 6-1.1-5 on the assessment date.**
7 (b) **The following may exercise the rights of the owner of real
8 property under this section and section 3.2 of this chapter:**
9 (1) **If the owner of the real property is an individual, the
10 individual may exercise rights under this section and section 3.2
11 of this chapter.**
12 (2) **If real property is held in common, in joint tenancy, or by
13 the entireties, each tenant may exercise rights under this
14 section and section 3.2 of this chapter.**
15 (3) **If the owner of the real property is a partnership, any of the**



1 partners may exercise the rights of the partnership under this
 2 section and section 3.2 of this chapter. If title to the real
 3 property is held in the name of any or all of the partners, each
 4 named partner may exercise rights under this section and
 5 section 3.2 of this chapter.

6 (4) If the owner of the real property is a corporation, an
 7 individual designated in writing by the board of directors of the
 8 corporation may exercise the corporation's rights under this
 9 section and section 3.2 of this chapter.

10 (5) If the owner of the real property is a trust, a trustee may
 11 exercise the rights of the trust under this section and section 3.2
 12 of this chapter.

13 (6) If the owner of the real property is a person other than a
 14 person described in subdivisions (1) through (5), the person
 15 may exercise rights under this section and section 3.2 of this
 16 chapter through an individual who is an agent designated in
 17 writing by the person in the manner that Indiana law permits
 18 the person to designate an agent.

19 (c) A political subdivision may not impose property taxes to pay debt
 20 service or lease rentals without completing the following procedures:

21 (1) The proper officers of a political subdivision shall:

22 (A) publish notice in accordance with IC 5-3-1; and

23 (B) send notice by first class mail to any organization that
 24 delivers to the officers, before January 1 of that year, an annual
 25 written request for such notices;

26 of any meeting to consider adoption of a resolution or an ordinance
 27 making a preliminary determination to issue bonds or enter into a
 28 lease and shall conduct a public hearing on a preliminary
 29 determination before adoption of the resolution or ordinance.

30 (2) When the proper officers of a political subdivision make a
 31 preliminary determination to issue bonds or enter into a lease, the
 32 officers shall give notice of the preliminary determination by:

33 (A) publication in accordance with IC 5-3-1; and

34 (B) first class mail to the organizations described in subdivision
 35 (1)(B).

36 (3) A notice under subdivision (2) of the preliminary determination
 37 of the political subdivision to issue bonds or enter into a lease must
 38 include the following information:

39 (A) The maximum term of the bonds or lease.

40 (B) The maximum principal amount of the bonds or the
 41 maximum lease rental for the lease.

42 (C) The estimated interest rates that will be paid and the total



- 1 interest costs associated with the bonds or lease.
 2 (D) The purpose of the bonds or lease.
 3 (E) A statement that any owners of real property within the
 4 political subdivision who want to initiate a petition and
 5 remonstrance process against the proposed debt service or lease
 6 payments must file a petition that complies with subdivisions (4)
 7 and (5) not later than thirty (30) days after publication in
 8 accordance with IC 5-3-1.
 9 (4) After notice is given, a petition requesting the application of a
 10 petition and remonstrance process may be filed by the lesser of:
 11 (A) two hundred fifty (250) owners of real property within the
 12 political subdivision; or
 13 (B) ten percent (10%) of the owners of real property within the
 14 political subdivision.
 15 (5) Each petition must be verified under oath by at least one (1)
 16 qualified petitioner in a manner prescribed by the state board of
 17 accounts before the petition is filed with the county auditor under
 18 subdivision (6).
 19 (6) Each petition must be filed with the county auditor not more than
 20 thirty (30) days after publication under subdivision (2) of the notice
 21 of the preliminary determination.
 22 (7) The county auditor must file a certificate and each petition with:
 23 (A) the township trustee, if the political subdivision is a
 24 township, who shall present the petition or petitions to the
 25 township board; or
 26 (B) the body that has the authority to authorize the issuance of
 27 the bonds or the execution of a lease, if the political subdivision
 28 is not a township;
 29 within fifteen (15) business days of the filing of the petition
 30 requesting a petition and remonstrance process. The certificate must
 31 state the number of petitioners that are owners of real property
 32 within the political subdivision.
 33 (d) If a sufficient petition requesting a petition and remonstrance
 34 process is not filed by owners of real property as set forth in this section,
 35 the political subdivision may issue bonds or enter into a lease by
 36 following the provisions of law relating to the bonds to be issued or lease
 37 to be entered into.
 38 SECTION 2. IC 6-1.1-20-3.2, AS AMENDED BY P.L.56-1997,
 39 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 1998]: Sec. 3.2. (a) If a sufficient petition requesting the
 41 application of a petition and remonstrance process has been filed as set
 42 forth in section 3.1 of this chapter, a political subdivision may not impose



1 property taxes to pay debt service or lease rentals without completing the
2 following procedures:

3 (1) The ~~proper officers of~~ **auditor of the county in which** the
4 political subdivision **is located** shall give notice of the applicability
5 of the petition and remonstrance process by **doing all of the**
6 **following:**

7 (A) Publication of **notice** in accordance with IC 5-3-1. ~~and The~~
8 **notice must contain the information described in subdivision**
9 **(2).**

10 (B) **Mailing the notice** by first class mail to the organizations
11 described in section 3.1(1)(B) of this chapter. **that deliver to**
12 **the county auditor, before January 1 of that year, an annual**
13 **written request for such notices.**

14 (C) **Placing an advertisement, other than the legal notice**
15 **required in clause (A), in a publication in which notices may**
16 **be published under IC 5-3-1. The advertisement must**
17 **contain the information described in subdivision (3)**

18 (2) A notice under ~~this subdivision~~ **subdivision (1)(A)** must include
19 **the following information:**

20 (A) **The name of the political subdivision proposing to issue**
21 **the debt or enter into the lease.**

22 (B) **The maximum principal amount of the debt or the**
23 **maximum lease rental for the lease.**

24 (C) A statement that ~~any owners~~ **an owner** of real property
25 within the political subdivision who ~~want~~ **wants** to petition in
26 favor of or remonstrate against the proposed debt service or lease
27 payments must file ~~petitions and remonstrances in compliance~~
28 ~~with subdivisions (2) through (4)~~ **not earlier than the owner's**
29 **position on the proposed debt service or lease payment**
30 **beginning and ending on dates set forth in the notice. The**
31 **beginning date in the notice must be thirty (30) days or later**
32 **than after publication under subdivision (1)(A) and the**
33 **ending date must be sixty (60) days after publication. in**
34 ~~accordance with IC 5-3-1.~~

35 (D) **A statement that an owner of real property may file the**
36 **owner's position on the proposed debt service or lease**
37 **payment in the county auditor's office.**

38 (E) **A statement that an owner of real property may file the**
39 **owner's position on the proposed debt service or lease**
40 **payment during the hours stated in the notice. The notice**
41 **must state all of the following hours:**



- 1 (i) The normal business hours of the county auditor's
 2 office.
- 3 (ii) At least three (3) hours on at least two (2) dates that
 4 the county auditor's office will remain open after the
 5 county auditor's normal office hours to receive filings
 6 from owners of real property under this section. At least
 7 two (2) of the dates stated under this item must be in
 8 different weeks.
- 9 (iii) At least three (3) hours on at least two (2) Saturdays
 10 that the county auditor's office will remain open to receive
 11 filings from owners of real property under this section.
- 12 (F) A statement that an owner of real property may file the
 13 owner's position on the proposed debt service or lease
 14 payment by mail. The statement must describe the
 15 procedures set forth in subsection (b) by which an owner of
 16 real property may file the owner's position by mail.
- 17 (G) A statement that a real property owner's position on the
 18 proposed debt service or lease payment filed in the county
 19 auditor's office is confidential and may not be revealed by
 20 the county auditor under Indiana law.
- 21 (3) The advertisement placed under subdivision (1)(C) must
 22 satisfy the following:
- 23 (A) The advertisement must contain all the information
 24 described in subdivision (2).
- 25 (B) The advertisement must be placed in that part of the
 26 publication containing articles or stories of general interest.
- 27 (C) The advertisement may not be placed in that part of the
 28 publication containing legal notices published under
 29 IC 5-3-1.
- 30 (D) The size and placement of the advertisement must make
 31 advertisement easily seen on the page on which it is placed.
- 32 (E) The advertisement must be published one (1) time:
- 33 (i) the week before the petition and remonstrance process
 34 begins; and
- 35 (ii) each week during which the owners of real property
 36 may file their positions on the proposed debt service or
 37 lease payments.
- 38 ~~(2)~~ (4) Not earlier than thirty (30) days or later than sixty (60) days
 39 after the notice under subdivision (1) is given,
- 40 (A) petitions (described in subdivision (3)) in favor of the bonds
 41 or lease; and
- 42 ~~(B)~~ remonstrances (described in subdivision (3)) against the



1 bonds or lease;

2 may be filed by an owner or owners of real property within the

3 political subdivision. Each signature on a petition must be dated and

4 the date of signature may not be before the date on which the

5 petition and remonstrance forms may be issued under subdivision

6 (3). A petition described in clause (A) or a remonstrance described

7 in clause (B) must be verified in compliance with subdivision (4)

8 before the petition or remonstrance is filed with the county auditor

9 under subdivision (4).

10 (3) The state board of accounts shall design and, upon request by the

11 county auditor, deliver to the county auditor or the county auditor's

12 designated printer the petition and remonstrance forms to be used

13 solely in the petition and remonstrance process described in this

14 section. The county auditor shall issue to an owner or owners of real

15 property within the political subdivision the number of petition or

16 remonstrance forms requested by the owner or owners. Each form

17 must be accompanied by instructions detailing the requirements that:

18 (A) the carrier and signers must be owners of real property;

19 (B) the carrier must be a signatory on at least one (1) petition;

20 (C) after the signatures have been collected, the carrier must

21 swear or affirm before a notary public that the carrier witnessed

22 each signature; and

23 (D) govern the closing date for the petition and remonstrance

24 period.

25 Persons requesting forms may not be required to identify themselves

26 and may be allowed to pick up additional copies to distribute to

27 other property owners. The county auditor may not issue a petition

28 or remonstrance form earlier than twenty-nine (29) days after the

29 notice is given under subdivision (1). The county auditor shall

30 certify the date of issuance on each petition or remonstrance form

31 that is distributed under this subdivision: **an owner of real**

32 **property within the political subdivision may file the owner's**

33 **position on the proposed debt service or lease payment:**

34 (A) at the county auditor's office during the hours stated in

35 the notice as required in subdivision (2); or

36 (B) by mail under the procedures described in subsection

37 (c).

38 (4) The petitions and remonstrances must be verified in the manner

39 prescribed by the state board of accounts and filed with the county

40 auditor within the sixty (60) day period described in subdivision (2)

41 in the manner set forth in section 3.1 of this chapter relating to

42 requests for a petition and remonstrance process: (5) If an owner of



1 **real property in the political subdivision appears in the county**
 2 **auditor's office to file the owner's position on the proposed debt**
 3 **service or lease payment during any time set forth in the notice**
 4 **given under subdivision (2), the county auditor must do the**
 5 **following:**

6 **(A) Verify both of the following:**

7 **(i) The individual's identity.**

8 **(ii) From the transfer books kept under IC 6-1.1-5, that**
 9 **the individual is an owner of real property in the political**
 10 **subdivision on the assessment date.**

11 **(B) Give the individual a copy of the form described in**
 12 **subdivision (6) and an envelope in which the individual can**
 13 **place a completed form.**

14 **(C) Make a note in the county auditor's records relating to**
 15 **the petition and remonstrance procedure that the individual**
 16 **has been given a form to mark.**

17 **(D) Instruct the individual to do the following after the**
 18 **individual has marked the form:**

19 **(i) Place the form in the envelope provided.**

20 **(ii) Seal the envelope.**

21 **(iii) Return the envelope to the individual designated by**
 22 **the county auditor to receive the envelope.**

23 **(E) Provide a place in the county auditor's office where the**
 24 **individual may mark the form in secret.**

25 **(F) After the individual has marked the form, receive the**
 26 **envelope from the individual and maintain the envelope in**
 27 **a secure place in the county auditor's office until forms may**
 28 **be opened under this section.**

29 **(6) A petition and remonstrance form must contain**
 30 **substantially the following information:**

31 **(A) A statement identifying the proposed debt service or**
 32 **lease payment. The statement required by this clause must**
 33 **state either of the following:**

34 **(i) The maximum principal amount of the debt.**

35 **(ii) The maximum lease rental for the lease.**

36 **(B) A place on the form for an individual to indicate support**
 37 **for the proposed debt service or lease payment.**

38 **(C) A place on the form for an individual to indicate**
 39 **opposition to the proposed debt service or lease payment.**

40 **(D) An instruction informing an individual marking the**
 41 **form that the individual may indicate either support for, or**
 42 **opposition to, the proposed debt service or lease payment.**



- 1 **The instruction must inform an individual marking the form**
 2 **that the form is void if the individual indicates both support**
 3 **for and opposition to the proposed debt service or lease**
 4 **payment.**
- 5 **The places on the form to record support for or opposition to**
 6 **the proposed debt service or lease payment must have equal**
 7 **prominence on the form.**
- 8 **(7) A form or an envelope given under this section to an owner**
 9 **of real property may not be marked to identify the individual**
 10 **who uses the form to record the individual's position on the**
 11 **proposed debt service or lease payment.**
- 12 **(8) On the day after the last day that an owner of real property**
 13 **may file the owner's position on the proposed debt service or**
 14 **lease payment, the county auditor shall do all of the following:**
- 15 **(A) Open all the envelopes.**
- 16 **(B) Determine both of the following:**
- 17 **(i) The number of forms recording support for the**
 18 **proposed debt service or lease payment.**
- 19 **(ii) The number of forms recording opposition to the**
 20 **proposed debt service or lease payment.**
- 21 **(C) Securely keep all of the forms for two (2) years after the**
 22 **date that forms are opened under this subdivision.**
- 23 ~~(5) (9) The county auditor must file a certificate and the petition or~~
 24 ~~remonstrance with the body of the political subdivision charged with~~
 25 ~~issuing bonds or entering into leases shall certify to the executive~~
 26 ~~of the political subdivision the results determined under~~
 27 ~~subdivision (8) within fifteen (15) business days of the filing of a~~
 28 ~~petition or remonstrance under subdivision (4), whichever applies;~~
 29 ~~containing ten thousand (10,000) signatures or less. The county~~
 30 ~~auditor may take an additional five (5) days to review and certify the~~
 31 ~~petition or remonstrance for each additional five thousand (5,000)~~
 32 ~~signatures up to a maximum of sixty (60) days. The certificate must~~
 33 ~~state the number of petitioners and remonstrators that are owners of~~
 34 ~~real property within the political subdivision. **determination of the**~~
 35 ~~**results.**~~
- 36 ~~(6) (10) If a greater number of owners of real property within the~~
 37 ~~political subdivision sign a remonstrance than the number that~~
 38 ~~signed a petition, file forms in opposition to the proposed debt~~
 39 ~~service or lease payments than file forms in support of the~~
 40 ~~proposed debt service or lease payments:~~
- 41 **(A) the bonds petitioned for may not be issued or the lease**
 42 **petitioned for may not be entered into; and**



1 **(B)** the proper officers of the political subdivision may not make
 2 a preliminary determination to issue bonds or enter into a lease
 3 for the controlled project ~~defeated by the petition and~~
 4 ~~remonstrance process~~ under this section or any other controlled
 5 project that is not substantially different within one (1) year after
 6 the date of the county auditor's certificate under subdivision ~~(5)~~:
 7 **(9)**.

8 Withdrawal of a petition carries the same consequences as a defeat
 9 of the petition.

10 ~~(7)~~ **(11)** After a political subdivision has gone through the petition
 11 and remonstrance process set forth in this section, the political
 12 subdivision is not required to follow any other remonstrance or
 13 objection procedures under any other law relating to bonds or leases
 14 designed to protect owners of real property within the political
 15 subdivision from the imposition of property taxes to pay debt service
 16 or lease rentals. However, the political subdivision must still receive
 17 the approval of the state board of tax commissioners required by
 18 IC 6-1.1-18.5-8 or IC 6-1.1-19-8.

19 **(b) The county auditor shall supply the following to an owner of**
 20 **real property who requests to file the owner's position on the**
 21 **proposed debt service or lease payment by mail:**

22 **(1) One (1) petition and remonstrance form described in**
 23 **subsection (a)(6).**

24 **(2) An envelope in which to seal the form supplied under**
 25 **subdivision (1).**

26 **(3) An acknowledgment form on which the owner acknowledges**
 27 **to a notary public that the owner marked the form and sealed**
 28 **it in the envelope. The acknowledgment form must contain the**
 29 **following information:**

30 **(A) The name of the owner.**

31 **(B) The address of the owner.**

32 **(C) Other information required by the county auditor to**
 33 **verify that the individual is eligible to file a position on the**
 34 **proposed debt service or lease payment.**

35 **(4) A return envelope in which the envelope described in**
 36 **subdivision (2) and the acknowledgment form is returned to the**
 37 **county auditor.**

38 **(5) Instructions for the owner for completing and returning the**
 39 **form to the county auditor. The instructions must contain the**
 40 **following information:**

41 **(A) The information described in subsection (c)(2) through**
 42 **(c)(6).**



- 1 **(B) That the owner should not mark the petition and**
 2 **remonstrance form or the envelope in which the form is**
 3 **sealed in a way that identifies the owner.**
- 4 **(c) Instead of appearing at the county auditor's office, an owner**
 5 **of real property may file the owner's position on the proposed debt**
 6 **service or lease payment by mail if the owner follows the following**
 7 **procedure:**
- 8 **(1) The owner must request from the county auditor in writing**
 9 **a form on which to record the owner's position on the proposed**
 10 **debt service or lease payment.**
- 11 **(2) The owner must request a form not earlier than thirty days**
 12 **(30) days or later than fifty (50) days after the date notice is**
 13 **published under subsection (a)(1)(A).**
- 14 **(3) The owner must mark the form to indicate the owner's**
 15 **position on the proposed debt service or lease payment.**
- 16 **(4) The owner must place the form in the envelope provided**
 17 **and seal the envelope.**
- 18 **(5) The owner must acknowledge before a notary public that**
 19 **the owner marked the form and sealed it in the envelope**
 20 **provided.**
- 21 **(6) The owner must place the sealed envelope and the notarized**
 22 **acknowledgment into the return envelope provided by the**
 23 **county auditor and seal the envelope.**
- 24 **(7) The return envelope must be returned to the county**
 25 **auditor's office not later than sixty (60) days after the notice**
 26 **published under subsection (a)(1)(A). The owner of real**
 27 **property is responsible for paying postage.**
- 28 **(d) If the county auditor receives a petition and remonstrance**
 29 **form completed under subsection (c), the county auditor shall do the**
 30 **following:**
- 31 **(1) The county auditor shall open the return envelope.**
- 32 **(2) If the return envelope is received later than sixty (60) days**
 33 **after the date notice is published under subsection (a)(1)(A), the**
 34 **county auditor shall do the following:**
- 35 **(A) Mark the envelope inside the return envelope,**
 36 **"Returned After Deadline".**
- 37 **(B) Attach the acknowledgment form to the inside envelope.**
- 38 **(C) Make a note in the county auditor's records relating to**
 39 **the petition and remonstrance procedure that the auditor**
 40 **has received a petition and remonstrance form from the**
 41 **individual identified on the acknowledgment form.**
- 42 **(D) Keep the envelope with the acknowledgment form**



- 1 securely for two (2) years after the date that forms are
 2 counted under subsection (a)(8). An envelope described in
 3 this clause may not be opened except under court order.
 4 **(3) If the return envelope is received not later than sixty (60)**
 5 **days after the notice is published under subsection (a)(1)(A),**
 6 **the auditor shall do the following:**
 7 **(A) Examine the acknowledgment form.**
 8 **(B) If the acknowledgment form is incomplete or there are**
 9 **marks on the envelope to indicate the identity of the**
 10 **individual who marked the petition and remonstrance form,**
 11 **the county auditor shall do the following:**
 12 **(i) Note the defect on the envelope inside the return**
 13 **envelope.**
 14 **(ii) Attach the acknowledgment form to the inside**
 15 **envelope.**
 16 **(iii) Make a note in the county auditor's records relating**
 17 **to the petition and remonstrance procedure that the**
 18 **auditor has received a petition and remonstrance form**
 19 **from the individual identified on the acknowledgment**
 20 **form.**
 21 **(iv) Keep the envelope with the acknowledgment form**
 22 **securely for two (2) years after the date that forms are**
 23 **counted under subsection (a)(8). An envelope described in**
 24 **this clause may not be opened except under court order.**
 25 **(C) If the acknowledgment form is complete and there are**
 26 **no marks on the envelope to indicate the identity of the**
 27 **individual who marked the petition and remonstrance form,**
 28 **the county auditor must do the following:**
 29 **(i) Place the envelope with other envelopes received in the**
 30 **county auditor's office under subsection (a)(6) to be**
 31 **counted under subsection (a)(8).**
 32 **(ii) Make a note in the county auditor's records relating to**
 33 **the petition and remonstrance procedure that the auditor**
 34 **has received a petition and remonstrance form from the**
 35 **individual identified on the acknowledgment form.**
 36 **(iii) Keep the acknowledgment form securely for two (2)**
 37 **years after the date that forms are counted under**
 38 **subsection (a)(8).**
 39 **(e) For purposes of IC 5-14-3, the position of an owner of real**
 40 **property filed under this section is confidential.**
 41 **(f) Regardless of the results of the petition and remonstrance**
 42 **process, the political subdivision that proposed the debt service or**



1 **lease payments shall pay all costs incurred by the county auditor in**
2 **administering the petition and remonstrance process. The county**
3 **auditor must document those costs to the political subdivision.**

